

People v. John W. McKendree. 25PDJ47. July 9, 2025.

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and suspended John W. McKendree (attorney registration number 01209) for one year and one day, all to be stayed upon McKendree's successful completion of a two-year period of probation, with conditions. McKendree's probation took effect on July 9, 2025.

A client hired McKendree in 2019 to represent the client in a discrimination case against her former employer. The fee agreement provided for a contingency fee as well as a minimum retainer of \$10,000.00. The fee agreement provided that the retainer was nonrefundable even though McKendree knew that Colo. RPC 1.5(g) prohibits nonrefundable retainers. In September 2019, the client paid the \$10,000.00 retainer to McKendree, who deposited the funds into his business account. Within a week, he recorded \$13,125.00 of work on the client's case.

McKendree also charged the client a \$1,500.00 cost retainer that the client was required to replenish as McKendree incurred costs. From September 2019 to December 2019, the client made three payments totaling \$7,500.00 for costs. McKendree deposited those funds into his trust account. The case ultimately resolved without the client receiving a cash resolution or settlement. During the case, McKendree billed \$3,176.12 in costs against the client's \$7,500.00 and thus should have refunded \$4,323.88 to the client when the case ended. But McKendree returned only \$3,200.87. He later refunded the remaining \$1,123.01 to the client. The client requested a full accounting of the costs that McKendree had billed. Rather than provide the client with this information, however, McKendree directed her to invoices McKendree previously sent.

Through this misconduct, McKendree violated Colo. RPC 1.5(f) (a lawyer does not earn fees until a benefit is conferred on the client or the lawyer performs a legal service); Colo. RPC 1.5(g) (a lawyer must not charge nonrefundable fees or retainers); Colo. RPC 1.15A(a) (a lawyer must hold client property separate from the lawyer's own property); Colo. RPC 1.15A(b) (on receiving funds or other property of a client, a lawyer must, upon the client's request, render a full accounting regarding such property); and Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

The case file is public per C.R.C.P. 242.41(a).