

People v. Daniel Lawrence Mauk. 22PDJ004. January 21, 2022.

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and suspended Daniel Lawrence Mauk (attorney registration number 45099) for six months, all to be stayed upon the successful completion of a one-year period of probation, with conditions. The probation took effect January 21, 2022.

Mauk represented two clients in an employment dispute against their former employer, a medical practice. As a sixth-year associate, he filed the complaint in June 2018 but did not notify his clients of their duty to preserve evidence until more than a week thereafter. The opposing party counterclaimed that Mauk's clients had misappropriated trade secrets. Mauk included in initial disclosures all documents he had received from his clients at that time but did not disclose the existence of documents that he knew his clients had obtained while working for the opposing party. When the opposing party requested the evidence during discovery, Mauk made misleading statements regarding the location of the materials and his clients' ability to acquire and produce them. Further, although he knew that his clients' new employer had control of the materials, he did not attempt to obtain them.

Meanwhile, his clients had not fully disclosed to him certain evidence, including hand-written patient lists created by one of his clients and subsequently shredded; a spreadsheet in which the client's wife inputted data from the patient lists; and "lost" emails from a deactivated account belonging to his other client. When Mauk learned of the deactivated account, he did not attempt to determine if the emails were recoverable. He did not disclose the matter until the opposing party confronted him after it received third-party discovery containing emails from the account. Though he represented that the account was deactivated before litigation, records from the account provider suggested the service was disconnected after litigation was underway.

The opposing party eventually moved for discovery sanctions. Following a sanctions hearing, the court apportioned \$1.2 million in liability to Mauk, his co-counsel, and his clients. Judgment entered against Mauk and his co-counsel, who were jointly and severally liable for more than \$1.2 million, of which they shared a portion jointly and severally with their clients. Mauk has since settled with the opposing party, personally contributing to the settlement amount.

Through this conduct, Mauk violated Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 3.4(a) (a lawyer shall not unlawfully obstruct another party's access to evidence); and Colo. RPC 3.4(d) (a lawyer shall not fail to make a reasonably diligent effort to comply with an opposing party's legally proper discovery request).

The case file is public per C.R.C.P. 242.41(a)(2).