

In the United States Court of Federal Claims

In the Matter of:

James Ferrell

Attorney Discipline Case No. 13-11166

ORDER

On November 6, 2013, a complaint of attorney misconduct against James Ferrell was received by the Clerk of Court. The complaint was forwarded to the Clerk by Special Master George Hastings; the complaint was filed by petitioner Kimberly Parker in relation to her vaccine injury case before the Office of Special Masters. Ms. Parker alleged that as her attorney, Mr. Ferrell provided inadequate counsel by failing to communicate with her during the pendency of her claim or keep adequate records.

Pursuant to Rule 83.2(g)(2)(B) of the Rules of the United States Court of Federal Claims (RCFC), the complaint was referred by the Clerk to the court's Standing Panel on Attorney Discipline (Standing Panel) and assigned Case No. 13-11166. On May 1, 2014, the Standing Panel appointed a court staff attorney to investigate the allegations, pursuant to RCFC 83.2(g)(5).

Following the investigation, on October 19, 2015, the Standing Panel issued an Order to Show Cause in this matter. The Standing Panel held that 1) Mr. Ferrell's withdrawal from representing Ms. Parker did not comport with his responsibility pursuant to the principles expressed in the ABA Model Rules of Professional Conduct regarding attorney-client relationships, *see Model Rules of Prof'l Conduct* r. 1.16 (Am. Bar Ass'n 2013), and 2) Mr. Ferrell's conduct violated the express requirements of RCFC 83.1(c)(5). As a result, the Standing Panel directed Mr. Ferrell shall show cause, if any, why the Standing Panel should not impose a public reprimand pursuant to RCFC 83.2(d)(1)(C).

Rather than file a response to the order as required by RCFC 83.2(g)(8), Mr. Ferrell responded in a letter dated November 18, 2015, that was addressed to the court's Senior Staff Attorney. Upon review, the Standing Panel deemed the letter to be Mr. Ferrell's response to the Order to Show Cause required by the court's rules.

In his letter, Mr. Ferrell blames his former law firm for the underlying events that led petitioner Ms. Parker to lodge her complaint: Mr. Ferrell suggests that it was staff of the Robert G. Taylor & Associates, P.C. law firm who were responsible for the difficulties communicating with Ms. Parker, and it was the law firm that negotiated and cashed plaintiff's award check at the close of the litigation in question. However, Mr. Ferrell completely fails to address what led the Standing Panel to conclude that Mr.

Ferrell's conduct was unbecoming a member of the bar of this court: his failure to comply with professional conduct standards and this court's rules at the close of his representation of Ms. Parker. While it is admirable that Mr. Ferrell's awareness of the professional shortcomings of his former employer, Taylor & Associates, led him to sever his relationship with the firm, it does not absolve him of his personal professional obligations toward his clients. As he stated in his letter:

I do not recall being given the opportunity to review [the Motion for Attorney's Fees]. However, it was my understanding from discussions with Mr. Taylor's staff that a Motion to Withdraw had been filed and granted. I obviously should have personally consulted with PACER to confirm this. . . . I relied, all be it [sic] wrongfully, on members of Mr. Taylor's staff as to the status of the pleadings in these cases.

The purpose of the court's rules is to guide the conduct of individual attorneys, not business entities such as Mr. Ferrell's former firm. Mr. Ferrell does not contest the Standing Panel's finding that he failed to comply with RCFC 83.1(c)(5), which provides that when withdrawing as counsel, an attorney "may not withdraw the attorney's appearance except by leave of the court on motion and after notice is served on the attorney's client." As such, the Standing Panel concludes that Mr. Ferrell's conduct in this matter is conduct unbecoming a member of the bar of this court pursuant to RCFC 83.2(c)(5). Therefore,

IT IS ORDERED that the court will impose a public reprimand on Mr. Ferrell pursuant to RCFC 83.2(d)(1)(C). The Clerk is directed to post the accompanying Order on the court's website on the date of entry of this order.



JAMES F. MEROW
Judge



MARY ELLEN COSTER WILLIAMS
Judge



ELAINE D. KAPLAN
Judge

In the United States Court of Federal Claims

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James Ferrell

Attorney Discipline Case No. 13-11166

ORDER OF REPRIMAND

Upon consideration of the results of the court's investigation in this matter conducted pursuant to Rule 83.2(g)(5) of the Rules of the Court of Federal Claims (RCFC) and the November 18, 2015 response of James Ferrell to the Order to Show Cause issued by the Standing Panel on Attorney Discipline (Standing Panel) on October 19, 2015, the Standing Panel has concluded that James Ferrell should be publicly reprimanded for his conduct in this matter. Upon consideration of the record, the Standing Panel has determined that a public reprimand is the appropriate sanction for Mr. Ferrell's conduct in this matter. *See* RCFC, Rules 83.2(c)(5), (d)(1)(C) & (g)(7)(D).

On November 6, 2013, a complaint of attorney misconduct against James Ferrell was received by the Clerk of Court. The complaint was forwarded to the Clerk by a special master; the complaint was filed by a petitioner in relation to her vaccine injury case before the Office of Special Masters. Petitioner alleged that as her attorney, Mr. Ferrell had provided inadequate counsel by failing to communicate with her during the pendency of her claim or keep adequate records.

Pursuant to Rule 83.2(g)(2)(B), the complaint was referred by the Clerk to the court's Standing Panel and assigned Case No. 13-11166. On May 1, 2014, the Standing Panel appointed a court staff attorney to investigate the allegations pursuant to RCFC 83.2(g)(5).

Following investigation, on October 19, 2015, the Standing Panel issued an Order to Show Cause in this matter. The Standing Panel found that 1) Mr. Ferrell's withdrawal from representing plaintiff did not comport with his responsibility pursuant to the principles expressed in the ABA Model Rules of Professional Conduct regarding attorney-client relationships, *see Model Rules of Prof'l Conduct* r. 1.16 (Am. Bar Ass'n 2013), and 2) Mr. Ferrell's conduct violated the express requirements for withdrawal of counsel contained in RCFC 83.1(c)(5). As a result, the Standing Panel directed Mr. Ferrell to show cause, if any, why the Standing Panel should not impose a public reprimand pursuant to RCFC 83.2(d)(1)(C).

Upon review of the response proffered by Mr. Ferrell, the Standing Panel finds that Mr. Ferrell's failure to properly withdraw as counsel constitutes conduct unbecoming

a member of the bar of this court. His actions violated the express requirements of RCFC 83.1(c)(5), and further, did not comport with his responsibility under the principles expressed in Rule 1.16 of the ABA Model Rules of Professional Conduct regarding attorney-client relationships. Therefore,

IT IS ORDERED that the court hereby imposes a public reprimand on Mr. Ferrell pursuant to RCFC 83.2(d)(1)(C). The Clerk is directed to post this Order on the court's website on the date of entry of this order.



JAMES F. MEROW
Judge



MARY ELLEN COSTER WILLIAMS
Judge



ELAINE D. KAPLAN
Judge