Supreme Court of Wisconsin

NO. 2024AP1452-D **OFFICE OF LAWYER REGULATION V. PATRICK J. RUPICH**

March 13, 2026

The Court has entered the following order:

This case is before the court following referee Jean A. Dimotto's report recommending that Attorney Patrick J. Rupich's license to practice law be suspended for 60 days and that he be ordered to pay $13,000 in restitution to two former clients—A.G. ($3,000) and M.M. ($10,000). The Office of Lawyer Regulation (OLR) alleged that Attorney Rupich committed eight counts of professional misconduct involving three separate client matters in his representation of A.G., M.M., and J.V.W. These allegations included two counts of charging an unreasonable fee contrary to SCR 20:1.5(a) as to A.G. and M.M., and two counts of failing to return unearned fees to A.G. and M.M., contrary to SCR 20:1.16(d). Neither party has filed an appeal; thus, the court reviews this matter pursuant to SCR 22.17(2).

The court has concerns with the factual and legal basis for four of the charged counts of misconduct and the factual basis for the recommended restitution award. Accordingly, the court directs that the parties shall submit written answers to the questions set forth below within 20 days from the date of this order.

By way of background, the court notes the following facts from the record. Count 2 of the complaint, relating to A.G., alleges: "By charging a fee of $11,333.22, based upon an hourly rate, when the agreed upon fee was a flat $3,000 to represent his client through the plea and sentencing phase of her case, and when the representation terminated before the agreed upon phase was reached, Rupich violated SCR 20:1.5(a)." Similarly, Count 5 of the complaint, relating to M.M., alleges: "By charging a fee of $20,799.99, based upon an hourly rate when the agreed upon fee was a flat $10,000 fee to represent his client through the plea and sentencing phase of her case, and when the representation

terminated before the agreed upon phase was reached, Rupich thereby violated SCR 20:1.5(a)." In the OLR's post-hearing brief, it asserted: "Wisconsin's ethics rules prohibit attorneys from using their regular hourly rate to determine the amount earned under flat fee agreements. SCR 20:1.0(dm)," that Attorney Rupich's "reporting to OLR of thousands of dollars of additional hourly legal fees for clients who had agreed to pay only preset flat fees constitutes misconduct," and that "Rupich could not rely on this hourly rate to calculate the value of his flat-fee services." (OLR Post-Hearing Br. 12, 21 22.) Further, Count 3 and Count 6 of the complaint allege that Attorney Rupich violated SCR 20:1.16(d) "[b]y failing to refund the unearned portion of the advanced, flat fee paid [by A.G. and M.M., respectively] to cover 'any motions, a guilty plea and sentencing[.]'" But, paragraph 12 of the complaint alleges: "Through his first few months of representing [A.G.], documentation produced by Rupich shows he worked regularly on the case, requesting discovery from prior counsel, the police, and the prosecutor; communicating status updates to [A.G.]; and negotiating with the district attorney."

Question 1: Did Attorney Rupich ever bill or submit an invoice to A.G. or M.M. indicating an amount owed that was higher than their flat-fee agreements?

Question 2: Is it the OLR's position that SCR 20:1.0(dm) not only prohibits an attorney from using a flat fee to "bill against an hourly rate," as specified in the rule, but also prohibits an attorney from using an hourly rate to determine the amount of a flat-fee that must be returned if representation is terminated prior to the completion of the objects set forth in the flat fee agreement? If so:

a. What is the legal authority for this position?; and

b. How does this position comport with the stance the OLR took in *In re Disciplinary Proceedings Against Boyd*, 2010 WI 41, ¶¶27-28, 324 Wis. 2d 688, 782 N.W.2d 718, and *In re Disciplinary Proceedings Against Din*, 2015 WI 4, 360 Wis. 2d 274, 282, 858 N.W.2d 654? In the latter case, the OLR asserted that "[w]hile a flat fee may not be billed against an hourly rate, it may be a good practice for a lawyer utilizing a flat fee to maintain documentation of the work performed and perhaps the time expended" as such information "can provide a basis for determining what portion of an advanced fee has been earned and how much was unearned." *See In re Disciplinary Proceedings Against Din*, No. 2012AP2695–D (OLR Resp. Br. at 7-8).

Question 3: Is it the OLR's position that Attorney Rupich did not earn any portion of the flat fees paid by A.G. and M.M., despite performing work on these matters?

Question 4: If an hourly rate cannot be used to determine what portion of an advanced flat fee has been earned and how much was unearned, what metric should be utilized to make such a determination, particularly when the agreement does not identify any specific "milestones" relating to when a portion of the fee is earned?

Question 5: What is the factual basis in the record for the referee's recommendation that the court order Attorney Rupich to pay restitution to A.G. and M.M. by refunding the entire amount of their advanced, flat fee payments?

IT IS ORDERED that the parties shall provide written responses to the above questions within 20 days of the date of this order;

IT IS FURTHER ORDERED that said responses shall be filed with the clerk of this court in the form of letter briefs or legal memoranda not to exceed 2000 words.

Samuel A. Christensen
Clerk of Supreme Court

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