

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand With Consent

2017-OLR-_____

Michael J. Anderson
Attorney at Law

Michael J. Anderson is a Wisconsin-licensed attorney, admitted to practice in 2000.

On July 8, 2014, a woman hired Anderson to represent her in a previously-filed federal civil rights suit against members of the Milwaukee Police Department. The woman paid Anderson advanced fees of \$1,700 on July 8, 2014, and \$400 on July 22, 2014 (totaling \$2,100).

On October 14, 2014, adverse counsel served Anderson with Defendants' First Set of Interrogatories and First Set of Requests for Production of Documents.

On November 13, 2014, Anderson called adverse counsel to request an extension until November 28, 2014, to respond to the defendants' discovery requests. Adverse counsel granted Anderson's extension request.

Anderson met with the client in her home on November 25, 2014. During this meeting, Anderson stated that his depression "was keeping him from putting 100% into [the] case." Despite her numerous subsequent calls to Anderson, the client did not receive any communication from him after the November 25, 2014 meeting.

Anderson states that from late 2014 well into 2015 he was suffering from a severe bout of depression that affected his ability to fulfill his duty to his client.

Anderson failed to provide the discovery responses by the extended November 28, 2014 deadline.

Adverse counsel sent a letter dated February 16, 2015 to Anderson requesting “full and complete responses signed by your client by Friday, February 20, 2015.” Anderson failed to respond to adverse counsel’s letter, and he failed to provide responses by Friday, February 20, 2015.

Adverse counsel filed Defendants’ Civil L.R. 7(h) Expedited Non-Dispositive Motion to Compel Discovery on March 5, 2015, requesting “that the Court enter an order compelling the Plaintiff to respond to the Defendants’ outstanding discovery requests or face dismissal of this action with prejudice pursuant to Rule 37(b) of the Federal Rules of Civil Procedure.” Anderson did not provide the client with a copy of this motion nor did he inform her of it.

At a hearing held March 30, 2015, the court granted the motion to compel discovery.

The court minutes state:

Counsel for the plaintiff told the court that while he had suffered some problems in communicating with his client, it was his fault that there had been no responses to the discovery demands. When the court asked why he’d not responded, counsel stated that he did not have an excuse. When the court asked whether the plaintiff wished to continue with prosecution of the action, counsel responded that that question was up in the air. The court told counsel that the plaintiff needed to decide whether she wished to continue this suit, and she needed to make that decision by April 17, 2015 or suffer dismissal of the case for lack of prosecution.

In its order issued April 6, 2015, the court ordered that if the plaintiff did not respond to the defendants’ discovery demands by April 17, 2015, counsel for the defendant could file an affidavit informing the court of that fact. It advised that upon receipt of such an affidavit, the court would dismiss the action for lack of prosecution. Anderson did not provide the client with a copy of this order nor did he inform her of it.

Anderson failed to provide the responses by April 17, 2015. Adverse counsel filed a declaration on April 22, 2015, stating the defendants had not been served with any responses to

their written discovery requests, and requesting the court dismiss the action with prejudice based on the plaintiff's failure to prosecute.

On April 24, 2015, the court dismissed the suit with prejudice. Anderson, without the client's knowledge or consent, entered into a stipulation regarding taxable costs on May 8, 2015. Under the stipulation, the plaintiff would not move to re-open or re-file the action or file a notice of appeal, and the defendants would not seek the costs and disbursements incurred.

On February 2, 2016, the client sent an email to Anderson, inquiring into the status of her case. Anderson replied approximately 30 minutes later informing the client that her case had been dismissed based on her refusal to comply with the defendants' discovery requests. In the email, Anderson stated:

Your case was dismissed because when we met that November you refused to give me answers to many of adverse counsel's written interrogatories, such as access to your social media accounts etc. They wanted to seek costs and attorney fees from you because if (sic) that, but I got them to drop that. Instead, the court dismissed the case based on your refusal to comply with their discovery requests. There was no valid reason for not giving them the info they sought, but you didn't want to, and I had no valid objection to their requests.

Anderson then agreed to refund the unearned portion of the \$2,100 advanced fee, and to further discuss the matter.

Anderson met with the client in her home on February 11, 2016, at which time he provided her client file, including an itemization of work performed. Anderson states he did not bill the client for any work performed after July 2014. About three weeks after the February 11, 2016 meeting, Anderson refunded a portion of the advanced fee.

By failing to advance the client's interests in the matter of her civil rights lawsuit, Anderson violated SCR 20:1.3, which states, "A lawyer shall act with reasonable diligence and promptness in representing a client."

