

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand with Consent

2013-OLR-6

PHILIP J. DAHLBERG, IV
Attorney at Law

Attorney Philip J. Dahlberg, IV, (Dahlberg), is an attorney licensed in the State of Wisconsin since 2000.

Following an automobile accident, a man and a woman hired Dahlberg to represent them in a personal injury claim against the driver of the other vehicle. The couple entered into a contingent fee agreement with Dahlberg. In connection with that accident, the woman incurred medical expenses in the amount of \$5,213.39 through her health care provider. The man incurred medical expenses in the amount of \$879.26 through a county general assistance medical program.

Dahlberg filed suit on October 7, 2007 against the driver of the other vehicle and other parties. Dahlberg proceeded to prepare his case for trial, but in January of 2009 learned that both his physician experts would be unavailable to testify in the case. Unable to present medical testimony supporting damages, Dahlberg settled each claim for \$2,500. On January 4, 2010, the man and the woman signed releases, and Dahlberg deposited a total of \$5,000 into his trust account.

Thereafter, Dahlberg initiated preliminary discussions with the health care provider and the county general assistance medical program to possibly reduce or waive their medical liens. However, Dahlberg did not complete the negotiations and the liens remained pending. In

addition, a county department of child support enforcement contacted Dahlberg in February of 2010 and advised Dahlberg that his client owed the county for outstanding child support, for which it also had a statutory lien on settlement proceeds. While the woman's health care provider and the county department of child support enforcement made offers to reduce or waive their liens, Dahlberg did not respond to their offers, nor did Dahlberg consult or communicate with either of his clients regarding the lien negotiations. Furthermore, Dahlberg did not respond to multiple requests for information from his clients regarding their case.

Since January of 2010, Dahlberg has not provided to his clients or to any third-party lien holder notice or delivery of any funds to which they may be entitled, nor has he taken any further action to resolve any disputes regarding the division of trust property in his possession. In addition, Dahlberg has not provided to his clients a written statement or accounting regarding the settlement proceeds received in connection with their lawsuit.

By failing to take meaningful steps over a two-year period to resolve outstanding liens (medical and child support) arising out of and in connection with the settlement of his clients' 2007 personal injury lawsuit, Dahlberg violated SCR 20:1.3, which provides, "A lawyer shall act with reasonable diligence and promptness in representing a client."

By failing to inform his clients regarding offers to settle outstanding liens, and, in addition, by failing to consult with his clients about these offers to settle their liens and obtain their informed consent regarding these offers or otherwise consult with his clients regarding the means by which their objectives were to be accomplished, Dahlberg violated SCR 20:1.2(a), which provides, in relevant part, "(a) Subject to pars. (c) and (d) a lawyer shall abide by a client's decisions concerning the objectives of the representation and, as required by SCR 20:1.4, shall consult with the client as to the means by which they are to be pursued." In addition,

Dahlberg violated SCR 20:1.4(a)(1) and (a)(2), which provide, “A lawyer shall (1) Promptly inform the client of any decision or circumstance with respect to which the client’s informed consent, as defined in SCR 20:1.0(f), is required by these rules” and “(2) Reasonably consult with the client about the means by which the client’s objectives are to be accomplished.”

By failing to keep his clients informed regarding the status of their settlement and the progress made in negotiating lien reductions, including offers to eliminate or significantly reduce lien amounts, Dahlberg violated SCR 20:1.4(a)(3), which provides, “(a) A lawyer shall . . . (3) keep the client reasonably informed about the status of a matter.” By failing to respond to his clients’ repeated requests for information regarding the settlement of their personal injury lawsuit, Dahlberg violated SCR 20:1.4(a)(4), which provides, “(a) A lawyer shall . . . (4) promptly comply with reasonable requests by the client for information.”

By failing to provide any kind of written statement or accounting to his clients regarding the settlement proceeds received in connection with their personal injury lawsuit, Dahlberg violated SCR 20:1.5(c), which provides, “(c) . . . Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and if there is a recovery, showing the remittance to the client and the method of its determination.”

By failing to promptly deliver to his client settlement funds to which she was entitled following an offer by her health care provider to waive or reduce its lien, and, in addition, by failing to deliver to his other client settlement funds to which he may be entitled following an offer by a county department of child support enforcement to waive or reduce its lien, and, furthermore, by failing to promptly deliver to the woman’s health care provider, the county general assistance medical program and the county department of child support enforcement settlement funds they were entitled to receive, or otherwise take additional steps to resolve any

disputes regarding the subject funds, Dahlberg violated SCR 20:1.15(d)(1), which provides, in relevant part, “(1) Notice and disbursement . . . Except as stated in this rule or otherwise permitted by law or by agreement with the client, the lawyer shall promptly deliver to the client or 3rd party any funds or other property that the client or 3rd party is entitled to receive.”

Respondent has two previous private reprimands, one imposed in 2007 and the other in 2008.

In accordance with SCR 22.09(3), Attorney Philip J. Dahlberg, IV, of Jackson, Wisconsin is hereby publicly reprimanded.

Dated this 18th day of February, 2013.

SUPREME COURT OF WISCONSIN

/s/ Richard C. Ninneman
Richard C. Ninneman, Referee