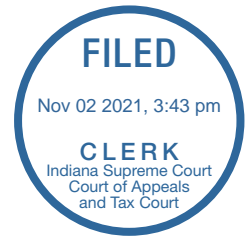


# In the Indiana Supreme Court

In the Matter of: Loren J. Comstock,  
Respondent

Supreme Court Case No.  
20S-DI-529



## Published Order Finding Misconduct and Imposing Discipline

Upon review of the report of the hearing officer, the Honorable James K. Snyder, who was appointed by this Court to hear evidence on the Indiana Supreme Court Disciplinary Commission's "Disciplinary Complaint," the Court finds that Respondent engaged in professional misconduct and imposes discipline on Respondent.

**Facts:** "Client" hired Respondent to pursue claims against her former employer ("IPL") and union ("IBEW") arising from the termination of Client's employment in October 2012, and Client paid Respondent a "flat fee" of \$10,000. Client's attempts to contact Respondent thereafter frequently were unsuccessful. In one instance where the two did communicate, Respondent advised Client the applicable statute of limitations for filing suit was two years. In October 2014 Respondent filed suit in federal court on behalf of Client against IPL and IBEW. The complaint alleged claims under the Labor Management Relations Act that were subject to a six-month statute of limitations.

IPL and IBEW moved to dismiss the complaint as untimely and for failure to state sufficient facts. Respondent moved for a two-month enlargement of time to respond, to March 1, 2015, citing his own health issues. The court did not rule on that motion, and Respondent did not file anything by March 1. After IPL renewed its motion on March 4, Respondent requested a new deadline of April 15, again citing health issues. Respondent did not file anything by April 15. Respondent still had not filed a response by August 31, when the court ordered him to file a response "forthwith." Nor had Respondent filed a response by September 3, when the court – in response to a motion from Respondent seeking clarification on "forthwith" – ordered him to file a response "immediately." Respondent filed a response on September 4. At no point during this sequence of events did Respondent advise Client of the motions to dismiss, his own health issues, or the reasons for the delays in Client's case.

After the court dismissed Client's complaint with prejudice, Respondent filed on Client's behalf a motion for relief from judgment, arguing his health issues amounted to excusable neglect. The same day, Respondent sent a letter to Client advising her of the dismissal and indicating his belief there was an issue for appeal; however, it does not appear Client ever received this letter, and Respondent made no other attempts to contact Client. Years later Client learned of the dismissal and, after several attempts, was able to contact Respondent. During that discussion and a subsequent one, Respondent promised to refund unearned fees, but he failed to do so.

Respondent has prior discipline for similar misconduct. *Matter of Comstock*, 664 N.E.2d 1165 (Ind. 1996). Respondent has not established that he earned any part of the \$10,000 retainer and he testified at the final hearing he is willing to refund the entire fee to Client. Following issuance of the hearing officer's report, Respondent filed with this Court a verified notice, with supporting documentation, that he has made partial restitution to Client in the amount of \$2,500.

**Violations:** The Court finds that Respondent violated these Indiana Professional Conduct Rules prohibiting the following misconduct:

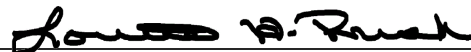
- 1.1: Failure to provide competent representation.
- 1.3: Failure to act with reasonable diligence and promptness.
- 1.4(a)(2): Failure to reasonably consult with a client about the means by which the client's objectives are to be accomplished.
- 1.4(a)(3): Failure to keep a client reasonably informed about the status of a matter.
- 1.4(a)(4): Failure to comply promptly with a client's reasonable requests for information.
- 1.16(a)(2): Failure to withdraw from representation when the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client.
- 1.16(d): Failure to refund advance payment of fees and expenses that have not been earned or incurred.

**Discipline:** For Respondent's professional misconduct, the Court **suspends Respondent from the practice of law in this state for a period of 120 days, effective December 14, 2021.** Respondent shall not undertake any new legal matters between service of this order and the effective date of the suspension, and Respondent shall fulfill all the duties of a suspended attorney under Admission and Discipline Rule 23(26).

The manner of Respondent's reinstatement following this 120-day period shall be conditional upon his making full restitution to Client. If Respondent fully refunds the \$7,500 balance owed to Client and files a verified accounting of same by March 29, 2022, he shall be automatically reinstated to the practice of law at the conclusion of the 120-day period of suspension. If Respondent does not make a full refund and file a verified accounting by March 29, 2022, then his suspension shall be served without automatic reinstatement, and Respondent may not thereafter resume practice until he has shown a refund has been made and has satisfied the requirements of Admission and Discipline Rule 23(18)(b).

The costs of this proceeding are assessed against Respondent. The hearing officer appointed in this case is discharged with the Court's appreciation.

Done at Indianapolis, Indiana, on 11/2/2021.



Loretta H. Rush  
Chief Justice of Indiana

All Justices concur.