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McKinney's Consolidated Laws of New York Annotated [Currentness](#)

Judiciary Law [\(Refs & Annos\)](#)

Appendix

 Rules of Professional Conduct [Eff. April 1, 2009. as Amended to May 1, 2013.] [\(Refs & Annos\)](#)

 Maintaining the Integrity of the Profession

→ **Rule 8.4. Misconduct**

A lawyer or law firm shall not:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) engage in illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability:
 - (1) to influence improperly or upon irrelevant grounds any tribunal, legislative body or public official; or
 - (2) to achieve results using means that violate these Rules or other law;
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law;
- (g) unlawfully discriminate in the practice of law, including in hiring, promoting or otherwise determining conditions of employment on the basis of age, race, creed, color, national origin, sex, disability, marital status or sexual orientation. Where there is a tribunal with jurisdiction to hear a complaint, if timely brought, other than a Departmental Disciplinary Committee, a complaint based on unlawful discrimination shall be brought before such tribunal in the first instance. A certified copy of a determination by such a tribunal, which has become final and enforceable and as to which the right to judicial or appellate review has been exhausted, finding that the lawyer has engaged in an unlawful discriminatory practice shall constitute prima facie evidence of professional misconduct in a disciplinary proceeding; or

(h) engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer.

RESEARCH REFERENCES

Encyclopedias

[NY Jur. 2d, Attorneys at Law § 170](#), Fraud or Unfair Dealing.

[NY Jur. 2d, Attorneys at Law § 180](#), Generally; Attorney-Client Privilege.

[NY Jur. 2d, Attorneys at Law § 342](#), Misconduct Under Rules of Professional Conduct, Generally.

[NY Jur. 2d, Attorneys at Law § 356](#), Engaging in Unlawful Discriminatory Practices in Practice of Law.

[NY Jur. 2d, Attorneys at Law § 388](#), Counseling Client About Illegal or Fraudulent Transaction; Claiming Ability to Use Improper Influence.

[NY Jur. 2d, Attorneys at Law § 442](#), Dishonesty, Fraud, Deceit, or Misrepresentation Directed Towards Court.

[NY Jur. 2d, Attorneys at Law § 447](#), Dishonesty, Fraud, Deceit, or Misrepresentation Directed Towards Third Parties.

[NY Jur. 2d, Attorneys at Law § 455](#), Administrative Investigations and Proceedings.

[NY Jur. 2d, Attorneys at Law § 473](#), Burden of Proof, Presumptions and Inferences.

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[1](#). Validity

Disciplinary rule prohibiting lawyer from engaging “in any other conduct that adversely reflects on his fitness to practice law,” was not unconstitutionally vague as applied to experienced attorney who disobeyed subpoena to testify in ongoing trial, in that such attorney would certainly have been on notice that his conduct adversely reflected on his fitness to practice law. [Matter of Cohen \(1 Dept. 1988\) 139 A.D.2d 221, 530 N.Y.S.2d 830. Attorney And Client !\[\]\(d3fb9f94af8b26d1c844efa9a98805b0_img.jpg\)32\(4\)](#)

[2](#). Nondelegable duty

Attorney has nondelegable duty to client to exercise care in assuring proper service of client's legal process and, therefore, cannot evade legal responsibility for negligent performance of that duty by assigning task of service to independent contractor. [Kleeman v. Rheingold, 1993, 81 N.Y.2d 270, 598 N.Y.S.2d 149, 614 N.E.2d 712. Attorney And Client !\[\]\(5a132f13505a6571904d622757b7a8f0_img.jpg\)112](#)

3. Appearance of impropriety

In New York, a party moving for disqualification of an attorney need not demonstrate by direct evidence that there has been or will be a breach of a confidential relationship because an attorney must avoid the appearance of impropriety. [In re I Successor Corp., 2005, 321 B.R. 640. Attorney And Client 20.1](#)

In New York, in the disqualification context, there are two circumstances that raise the specter that a proceeding will be tainted with the appearance of impropriety: (1) when an attorney concurrently represents adverse interests, and (2) when an attorney successively represents adverse interests. [In re I Successor Corp., 2005, 321 B.R. 640. Attorney And Client 21](#)

In New York, the mere appearance of impropriety is not sufficient for attorney disqualification without the threat that the proceeding will be tainted. [In re I Successor Corp., 2005, 321 B.R. 640. Attorney And Client 19](#)

Attorney is duty bound to avoid not only fact, but also appearance of impropriety. [Poli v. Gara \(2 Dept. 1986\) 117 A.D.2d 786, 499 N.Y.S.2d 112. Attorney And Client 32\(4\)](#)

An attorney must avoid not only the fact, but even the mere appearance of impropriety and conflict of interest. [Flushing Sav. Bank v. FSB Properties, Inc. \(2 Dept. 1984\) 105 A.D.2d 829, 482 N.Y.S.2d 29. Attorney And Client 20.1](#)

Attorney must guard against not only fact, but also appearance of impropriety. [Lopez v. Precision Papers, Inc. \(2 Dept. 1984\) 99 A.D.2d 507, 470 N.Y.S.2d 678. Attorney And Client 32\(4\)](#)

4. Overzealous behavior

To go beyond mere disclosure of information relating to crime or fraud and to use attorney-client relationship to investigate client is violation of disciplinary rule requiring lawyer to represent client zealously. [U.S. v. Sabri, 1996, 973 F.Supp. 134. Attorney And Client 32\(7\)](#)

5. Public interest

An attorney should always maintain his integrity and not commit any act which would compromise his position in the community or be against the public interest. [Matter of Williams \(3 Dept. 1984\) 105 A.D.2d 974, 481 N.Y.S.2d 530. Attorney And Client 32\(4\)](#)

6. Confidential information

Disclosure of confidence and secrets of former clients in fraud action against them constitutes ethical violation,

where attorney has access to former clients' confidential and secret information that is directly and substantially related to fraud action, attorney is involved in action as either interested party or assistant counsel for plaintiffs, and attorney assists in developing legal theories presented in complaints and supplies substantial factual information. [Ackerman v. National Property Analysts, Inc., 1993, 887 F.Supp. 510. Attorney And Client 🔑32\(13\)](#)

Attorney engaged in conduct that was prejudicial to administration of justice and that adversely reflected on his fitness as an attorney by posting on his website information concerning confidential investigation into conduct of rival law firm. [In re Moran \(4 Dept. 2007\) 42 A.D.3d 272, 840 N.Y.S.2d 847, reinstatement granted 61 A.D.3d 1438, 877 N.Y.S.2d 709. Attorney And Client 🔑42](#)

Attorney's disclosure of confidences and secrets learned during course of his employment warranted censure, where disclosures occurred in context of civil litigation commenced by his former employer in which he was pro se litigant, attorney had sincere, although misguided, belief that disclosures were necessary and appropriate, and he had already incurred fines and sanctions in excess of \$500,000. [In re Lee \(4 Dept. 2006\) 32 A.D.3d 74, 821 N.Y.S.2d 682. Attorney And Client 🔑59.8\(1\)](#)

Attorney's transmittal to client of letter threatening to disclose confidential information concerning client's pending criminal matter, his directions to non-attorneys in his office to sign such letter and to deliver an unsigned letter to client's home, and his disclosure of confidential information to client's bank, violated attorney disciplinary rules prohibiting conduct adversely reflecting on attorney's fitness to practice law, conduct prejudicial to administration of justice, failure to adequately supervise employees, and failure to preserve client confidences and secrets, as well as rule making attorney responsible for conduct of his non-attorney employees. [In re Chatarpaul \(2 Dept. 2000\) 271 A.D.2d 76, 706 N.Y.S.2d 714. Attorney And Client 🔑42; Attorney And Client 🔑44\(1\)](#)

Lawyer who receives unsolicited information from an employee of an adversary's law firm regarding alteration of documents may not seek further information from the employee if that would exploit the adversary's confidences or secrets, and if criminal or fraudulent conduct is involved the lawyer should seek guidance from a judge or other authority as to the use, if any, of the information. N.Y.State Bar Ass'n, Ethics Op. 98-700.

A lawyer who mistakenly receives communications containing confidences or secrets has an obligation to promptly notify the sender, refrain from further reading or listening to the communication, and follow the sender's directions regarding destruction or return of the communication; a lawyer who in good faith believes that the communication may appropriately be used should submit the communication for in camera consideration by a tribunal. N.Y.City Bar Ass'n, Ethics Op. 2003-4.

7. Dishonesty, fraud, deceit, or misrepresentation--In general

Attorney's acceptance of representation of client in criminal matter when he knew or should have known that he was unable to provide meaningful representation, his failure to represent the client zealously, his failure to withdraw from representation when it became obvious that he should do so, and his collection of excessive fees from clients, failure to refund unearned fees, and his representation of both parties in a matrimonial matter without making required disclosures or obtaining consent violated professional rules, including those prohibiting conduct involving

dishonesty, fraud, deceit or misrepresentation, prohibiting entering into an agreement for, charging or collecting an illegal or excessive fee, prohibiting representing multiple clients with differing interests without disclosing the implications of the simultaneous representation and obtaining consent, and prohibiting the handling of a legal matter when he knew or should have known that he was not competent to handle. [In re Jayson \(4 Dept. 2007\) 39 A.D.3d 30, 832 N.Y.S.2d 696](#), reinstatement granted [90 A.D.3d 1590, 937 N.Y.S.2d 641](#). [Attorney And Client](#)  [44\(1\)](#)

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation by exerting undue persuasion over client and/or overreaching by acquiring or attempting to acquire an interest in her bank/securities accounts as joint owner and/or by power of attorney. [In re DeSousa \(2 Dept. 2006\) 36 A.D.3d 121, 826 N.Y.S.2d 306](#). [Attorney And Client](#)  [44\(2\)](#)

By knowingly and intentionally providing his client with the means to defraud school district and by engaging in such conduct for period of approximately 15 months, attorney engaged in conduct adversely reflecting upon his fitness to practice law in violation of Code of Professional Responsibility. [In re Katz \(2 Dept. 2006\) 31 A.D.3d 125, 815 N.Y.S.2d 663](#). [Attorney And Client](#)  [38](#)

Attorney's conduct in failing to satisfy a judgment against him for recovery of a pre-existing debt for photography work related to legal matters attorney was handling amounted to conduct which adversely reflected on his fitness to practice law, in violation of Code of Professional Responsibility. [In re Abrahams \(2 Dept. 2003\) 5 A.D.3d 21, 770 N.Y.S.2d 369](#), appeal dismissed [1 N.Y.3d 619, 777 N.Y.S.2d 13, 808 N.E.2d 1273](#), leave to appeal denied [3 N.Y.3d 601, 782 N.Y.S.2d 404, 816 N.E.2d 194](#). [Attorney And Client](#)  [38](#)

Attorney's provision of false and misleading explanation for correspondence itself in violation of professional rules amounted to violation of professional responsibility rules prohibiting dishonesty, fraud, deceit, or misrepresentation, and to conduct adversely reflecting on attorney's fitness to practice law. [In re Piepes \(2 Dept. 1999\) 259 A.D.2d 135, 692 N.Y.S.2d 716](#). [Attorney And Client](#)  [32\(14\)](#)

Failing to disclose during his representation of clients, who attorney represented in purchase of home, that credit specialist/mortgage broker and his business entities, whom clients relied on, were subject of investigation by state banking department that was based upon allegations of fraudulent activities and leading clients to believe that mortgage commitment had been arranged or was imminent when, in fact, no such arrangement had been made constituted engaging in conduct involving dishonesty and misrepresentation and conduct that adversely reflected on attorney's fitness to practice law in violation of Code of Professional Responsibility. [Matter of Losner \(2 Dept. 1995\) 217 A.D.2d 376, 636 N.Y.S.2d 804](#), leave to appeal denied [88 N.Y.2d 812, 649 N.Y.S.2d 380, 672 N.E.2d 606](#). [Attorney And Client](#)  [44\(1\)](#)

Failure of attorney who represented purchasers to advise them that merger of portion of lot containing carriage house with second lot purchased would not allow them to use carriage house as single-family dwelling would not support fraud claim absent evidence that attorney was aware or should have been aware that purchasers wanted to renovate and use carriage house as single-family dwelling and in light of survey and deed description which made clear that the two parcels were to be merged. [Botti v. Russell \(3 Dept. 1992\) 180 A.D.2d 947, 580 N.Y.S.2d 505](#), on subsequent appeal [225 A.D.2d 1016, 640 N.Y.S.2d 285](#). [Attorney And Client](#)  [114](#)

8. ---- Opinion, dishonesty, fraud, deceit, or misrepresentation

Attorneys' opinion letter, stating that sale of substantially all of client's assets would not violate any statute, was not a negligent misrepresentation; sale was supported by fair consideration, and letter contained only information called for in purchase/sale agreement. [Mega Group, Inc. v. Pechenik & Curro, P.C. \(3 Dept. 2006\) 32 A.D.3d 584, 819 N.Y.S.2d 796. Attorney And Client !\[\]\(6e934896f25e6ce1b0dbb50c23abc197_img.jpg\)26](#)

Purchaser of real property could not justifiably rely on alleged misrepresentations of vendor's attorney regarding lease and status of tenancy affecting the subject premises, and thus purchaser did not have actionable fraud claim against attorney; vendor had disclosed to purchaser that somebody other than vendor had a lease or other right to use or occupy the property, purchaser was aware of the tenants' existence based upon his own inspection of the property, and purchaser had duty to inquire whether there was a written lease and, if so, request a copy of the lease and other pertinent documents. [Adrien v. Estate of Zurita \(2 Dept. 2006\) 29 A.D.3d 498, 814 N.Y.S.2d 709. Attorney And Client !\[\]\(8b57f0e15e7dda24cf9977561475f640_img.jpg\)26](#)

Alleged oral representations made by vendor's attorney regarding future outcome of holdover proceeding against the tenants occupying the subject premises were mere expressions of opinion of present or future expectations upon which the purchaser could not justifiably rely, and thus purchaser's own failure to exercise due diligence, rather than attorney's alleged fraudulent misrepresentations, caused purchaser damages when the holdover proceeding was determined in favor of tenants. [Adrien v. Estate of Zurita \(2 Dept. 2006\) 29 A.D.3d 498, 814 N.Y.S.2d 709. Attorney And Client !\[\]\(4cafc60cd39da821525d7c6589540296_img.jpg\)26](#)

9. ---- Security issues, dishonesty, fraud, deceit, or misrepresentation

Attorney was guilty of having provided dishonest and deceptive responses in connection with his application to the New York State Unified Court System for a secure pass; attorney failed to fully disclose that he had been arrested in New Jersey for possession of marihuana and had pleaded guilty to disorderly conduct. [In re Spinner \(3 Dept. 2005\) 19 A.D.3d 803, 796 N.Y.S.2d 716, leave to appeal denied 5 N.Y.3d 708, 803 N.Y.S.2d 29, 836 N.E.2d 1152. Attorney And Client !\[\]\(f80254b170d0ecdc443847276e625120_img.jpg\)38](#)

10. ---- Fees and billing practices, dishonesty, fraud, deceit, or misrepresentation

Attorney's conduct, inter alia, in sharing legal fees with his father, who was a suspended attorney, without first making application to the court and providing notice to the client regarding the amount and manner of payment for legal services rendered and disbursements incurred by his father prior to the effective date of his suspension, violated state professional rule prohibiting an attorney from engaging in conduct that adversely reflected on his fitness as a lawyer, notwithstanding testimony of attorney's therapist, a licensed clinical social worker, and seven character witnesses and letters attesting to his reputation and personal integrity. [In re Adams \(2 Dept. 2007\) 42 A.D.3d 1, 833 N.Y.S.2d 645. Attorney And Client !\[\]\(8a8ea273bba45b658cf4779d37ab61e8_img.jpg\)37.1](#)

Special Referee's findings in sustaining charge that attorney engaged in pattern and practice of failing to timely file retainer and closing statements with Office of Court Administration (OCA) were supported by credible evidence adduced and reasonable inferences to be drawn therefrom. [In re Kronegold \(2 Dept. 2006\) 29 A.D.3d 236, 814 N.Y.S.2d 205. Attorney And Client 🔑53\(2\)](#)

Attorney's abuse of the Assigned Counsel Plan voucher system for personal gain constituted serious professional misconduct of engaging in conduct involving dishonesty, fraud, deceit or misrepresentation, collecting fees to which she was not entitled, engaging in conduct adversely affecting indigents' access to the courts, and engaging in conduct adversely reflecting on her fitness as a lawyer; attorney submitted fraudulent and inflated vouchers seeking legal fees for work she did not perform as an 18-B lawyer. [In re Goldman \(1 Dept. 2004\) 11 A.D.3d 178, 784 N.Y.S.2d 496. Attorney And Client 🔑41](#)

Attorney's admissions of false client billings, as well as auditor's report and other documentation substantiating improper billing, established that attorney engaged in professional misconduct which immediately threatened the public interest. [In re Pape \(1 Dept. 2004\) 10 A.D.3d 40, 779 N.Y.S.2d 37. Attorney And Client 🔑44\(2\)](#)

Special Referee properly sustained charge that attorney engaged in conduct involving fraud, dishonesty, deceit, or misrepresentation, where attorney admitted that she improperly solicited and accepted payments for legal services which should have been provided free of charge to clients of the not-for-profit corporation for which she worked. [In re Nwaigwe \(2 Dept. 2003\) 3 A.D.3d 66, 770 N.Y.S.2d 426. Attorney And Client 🔑38](#)

Attorney's conduct in filing retainer statement with Office of Court Administration, in which attorney falsely stated that personal injury case was referred based on attorney's general reputation rather than attorney's payment of referral fee to non-attorney, violated professional responsibility rules prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation and conduct prejudicial to administration of justice. [In re Quintana \(2 Dept. 2003\) 304 A.D.2d 197, 758 N.Y.S.2d 123. Attorney And Client 🔑42](#)

Attorney's charging and collection of cash payments as advance fees for work performed on an estate without informing Surrogate thereof as part of fee application amounted to conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of applicable attorney disciplinary rule. [In re Santangelo \(1 Dept. 2000\) 265 A.D.2d 69, 701 N.Y.S.2d 355, reinstatement granted 294 A.D.2d 122, 746 N.Y.S.2d 254. Attorney And Client 🔑32\(7\)](#)

Attorney's charging client for copy of transcript of criminal proceeding, which transcript client subsequently received free of charge pursuant to application for poor person relief, amounted to conduct involving dishonesty, deceit, fraud, and misrepresentation in violation of applicable rule of professional responsibility. [In re Scott \(2 Dept. 1999\) 263 A.D.2d 125, 699 N.Y.S.2d 95. Attorney And Client 🔑44\(1\)](#)

Attempting to gain larger contingency fee in personal injury action by forging retainer agreement and falsely stating expenses in closing statement filed with court constituted conduct involving dishonesty, fraud and deceit or misrepresentation, failure to promptly provide client with writing stating how fee would be calculated, and conduct prejudicial to the administration of justice. [Matter of Perrini \(1 Dept. 1997\) 232 A.D.2d 138, 662 N.Y.S.2d 445. Attorney And Client 🔑42; Attorney And Client 🔑44\(1\)](#)

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, and charged illegal or excessive fee, when he billed clients in connection with guardian ad litem who was never appointed. [Matter of Aaron \(2 Dept. 1997\) 232 A.D.2d 119, 662 N.Y.S.2d 511. Attorney And Client 🔑44\(1\)](#)

Attorney engaged in conduct that adversely reflected on his fitness to practice law when, in representing various lenders in foreclosure actions, he inflated his legal fees and expenses by charging for work not actually performed, by charging for excessive documents, and by using motions to discontinue foreclosure actions instead of stipulations in order to further increase his fees. [Matter of Aaron \(2 Dept. 1997\) 232 A.D.2d 119, 662 N.Y.S.2d 511. Attorney And Client 🔑44\(1\)](#)

11. ---- Collateral estoppel, dishonesty, fraud, deceit, or misrepresentation

Findings of hearing panel of disciplinary committee regarding attorney's fraud and deceit in negotiation and performance of agreement to exploit and market artist's name and designs and attorney's breach of his fiduciary duties to artist, together with panel's complete rejection of attorney's charges against artist, collaterally estopped attorney and psychiatrist from relitigation issues in breach of contract and fraud action against artist. [A to Z Associates v. Cooper, 1993, 161 Misc.2d 283, 613 N.Y.S.2d 512. Attorney And Client 🔑56](#)

12. ---- Attorney-client relationship, dishonesty, fraud, deceit, or misrepresentation

By filing false retainer statement, attorney violated rules of professional conduct that proscribed engaging in illegal conduct adversely reflecting on attorney's honesty, trustworthiness, or fitness as lawyer and engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. [In re Cellino \(4 Dept. 2005\) 21 A.D.3d 229, 798 N.Y.S.2d 600, reinstatement granted 37 A.D.3d 1206, 827 N.Y.S.2d 901. Attorney And Client 🔑41](#)

Attorney's notifying insurance company that he was representing a complainant in a personal injury action when no attorney-client relationship had been formed, and attorney's thwarting claimant's right to represent himself violated disciplinary rules prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation, and conduct that is prejudicial to the administration of justice. [In re Lillard \(1 Dept. 1999\) 255 A.D.2d 88, 689 N.Y.S.2d 474. Attorney And Client 🔑37.1; Attorney And Client 🔑42](#)

13. ---- Status of case, dishonesty, fraud, deceit, or misrepresentation

Attorney engaged in professional misconduct by making an untrue statement to Committee on Professional Standards concerning the reason a telephonic hearing in an immigration removal proceeding in which he participated had to be rescheduled, by neglecting the client's matter by being unprepared during the telephonic hearing, and by failing to provide an itemized bill in another client's matrimonial matter. [In re Rockmacher \(3 Dept. 2012\) 100 A.D.3d 1180, 956 N.Y.S.2d 583. Attorney and Client 🔑42; Attorney and Client 🔑44\(1\); Attorney and Client 🔑44\(2\)](#)

Attorney's false and/or misleading statement to client and/or her family members constituted conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Code of Professional Responsibility, where attorney's client, her daughter, and her cousin repeatedly inquired as to status of client's Medicaid application drafted by attorney, and attorney repeatedly falsely replied that application had been filed and was awaiting decision by local Department of Social Services (DSS). [In re Napolitano \(2 Dept. 2010\) 78 A.D.3d 18, 908 N.Y.S.2d 210. Attorney and Client !\[\]\(c3cffc168beb4396c1e1a5a6db5d66b0_img.jpg\)38; Attorney and Client !\[\]\(13409b34a63cac011137e2548a867c1f_img.jpg\)44\(1\)](#)

Attorney's false and/or misleading statement to counsel practicing elder law and retained by attorney's own client to determine status of client's application for Medicaid that attorney had drafted and allegedly filed constituted conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Code of Professional Responsibility, where counsel practicing elder law agreed to investigate cause of unusual delay in processing Medicaid application, attorney informed counsel that application had been filed on behalf of client but no decision had yet been made, counsel then ascertained from Department of Social Services (DSS) that agency had no record of any such application, and attorney failed to comply with counsel's request for proof, such as date-stamped letter, that application had been filed. [In re Napolitano \(2 Dept. 2010\) 78 A.D.3d 18, 908 N.Y.S.2d 210. Attorney and Client !\[\]\(ad6ab0b77b86612fcbfecc8e2418b31e_img.jpg\)38](#)

Attorney's false and/or misleading statement to client's family member constituted conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Code of Professional Responsibility, where attorney informed client's family member that attorney would file fair hearing request form to compel decision on client's Medicaid application, attorney then faxed to client's family member fair hearing request form that included typewritten statement that attorney had failed to issue final determination as to Medicaid eligibility in timely manner, and family member was misled by that document into believing that attorney was actively pursuing Medicaid application that he falsely stated had been filed on client's behalf. [In re Napolitano \(2 Dept. 2010\) 78 A.D.3d 18, 908 N.Y.S.2d 210. Attorney and Client !\[\]\(b3131996c2d47980618867ba93d92313_img.jpg\)38](#)

Foreign attorney licensed to practice as legal consultant in New York engaged in intentional fraud in violation of professional conduct rule, violated rule prohibiting legal consultant from holding himself out as member of state bar, and demonstrated lack of requisite good moral character and general fitness, warranting revocation of his license as legal consultant, where foreign attorney intentionally misrepresented his license to practice as legal consultant on various applications and forms submitted to courts by not qualifying his "admission" status, and therefore falsely and impermissibly held himself out as member of state bar. [In re Antoine \(1 Dept. 2010\) 74 A.D.3d 67, 899 N.Y.S.2d 41. Courts !\[\]\(0678d1887db22e3f6b52fe38cd7e7b5b_img.jpg\)55](#)

Allegations that attorney misrepresented status of and neglected clients' cases were sufficient to support finding of guilt of professional misconduct charged, despite fact that no facts were raised by the pleadings, where attorney failed to present evidence and appear in mitigation. [In re Passetti \(3 Dept. 2008\) 53 A.D.3d 1031, 862 N.Y.S.2d 408. Attorney And Client !\[\]\(8942d28dc4da2a769efbb41dc37c5a1c_img.jpg\)56](#)

Attorney, who was retained by client to represent her in matrimonial matter, neglected a legal matter entrusted to him and engaged in conduct prejudicial to the administration of justice and which adversely reflected on his fitness to practice law, in violation of professional rules; attorney filed client's divorce papers with incorrect index number, resulting in their being lost, and, after having client sign new papers and advising client they were re-submitted to

the court, attorney repeatedly advised client that he had been contacting the court regarding the status of her divorce, but client advised attorney that nothing was being done at court due to his failure to purchase a Request for Judicial Intervention. [In re Galluscio \(2 Dept. 2007\) 42 A.D.3d 264, 841 N.Y.S.2d 102. Attorney And Client](#) 🔑44(1)

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation and engaged in conduct that adversely reflected on his fitness as lawyer, in violation of Code of Professional Responsibility, when, in representing clients seeking to assert medical malpractice action, attorney did not file or serve summons and complaint and gave clients false updates on action that did not exist. [In re Quinn \(2 Dept. 2007\) 40 A.D.3d 34, 830 N.Y.S.2d 736. Attorney And Client](#) 🔑44(1)

Attorney who assumed client's representation in pending action arising from automobile accident engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation and engaged in conduct that adversely reflected on his fitness as lawyer, in violation of Code of Professional Responsibility, when, although he was allegedly unable to obtain the file or an executed consent-to-change-attorney form from client's former lawyer, attorney failed to advise client that nothing was being done on case and instead led client to believe that it was being handled, and also led client to believe that he had filed malpractice action against client's former attorney, even though he had not done so. [In re Quinn \(2 Dept. 2007\) 40 A.D.3d 34, 830 N.Y.S.2d 736. Attorney And Client](#) 🔑44(1)

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation and engaged in conduct that adversely reflected on his fitness as lawyer, in violation of Code of Professional Responsibility, when he led client to believe that lawsuit was pending, even though he had failed to commence action on client's behalf. [In re Quinn \(2 Dept. 2007\) 40 A.D.3d 34, 830 N.Y.S.2d 736. Attorney And Client](#) 🔑44(1)

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation and engaged in conduct that adversely reflected on his fitness as lawyer, in violation of Code of Professional Responsibility, when attorney advised client and attorney's law firm that he had obtained settlement offer in connection with automobile accident underlying client's representation, even though no such offer had been made. [In re Quinn \(2 Dept. 2007\) 40 A.D.3d 34, 830 N.Y.S.2d 736. Attorney And Client](#) 🔑38; [Attorney And Client](#) 🔑44(1)

In violation of Code of Professional Responsibility, attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation and engaged in conduct that adversely reflected on his fitness as lawyer when attorney told both client, who had retained his law firm with respect to slip-and-fall accident, and firm that \$30,000 settlement offer had been made, even though no such offer existed. [In re Quinn \(2 Dept. 2007\) 40 A.D.3d 34, 830 N.Y.S.2d 736. Attorney And Client](#) 🔑38; [Attorney And Client](#) 🔑44(1)

Attorney who, after failing to file proof of service in personal injury lawsuit, which resulted in its dismissal, misrepresented the status of the lawsuit to his client and eventually paid her a purported settlement amount from his own funds, was in violation of various provisions of the Code of Professional Responsibility. [In re Kohn \(3 Dept. 2007\) 38 A.D.3d 1052, 833 N.Y.S.2d 670. Attorney And Client](#) 🔑44(1)

Absence of evidence that, at the time he was asked about status of clients' case, attorney knew that lawyer to whom he had given case had not filed lawsuit and was not pursuing clients' claims precluded finding, in disciplinary pro-

ceedings, that attorney purposely misrepresented status of case to client. [In re Aranda \(1 Dept. 2006\) 32 A.D.3d 58, 817 N.Y.S.2d 245. Attorney And Client 🔑53\(2\)](#)

Finding that attorney misrepresented status of client's case could not be sustained, in disciplinary proceedings, when the record lacked any evidence contradicting attorney's claim that he orally communicated to client that client's state-law claim was time-barred, even though deference to findings of referee, who characterized attorney's testimony as "improbable," was warranted, inasmuch as disciplinary committee did not disprove that testimony. [In re Aranda \(1 Dept. 2006\) 32 A.D.3d 58, 817 N.Y.S.2d 245. Attorney And Client 🔑53\(2\)](#)

Attorney who, after being retained to represent a client in an annulment proceeding, falsely informed his client on at least one occasion that he had re-filed the proposed judgment of annulment, was guilty, in attorney disciplinary proceeding, of making false statements to a client regarding the status of a legal matter. [In re Haberman \(2 Dept. 2006\) 27 A.D.3d 66, 807 N.Y.S.2d 621. Attorney And Client 🔑44\(1\)](#)

Neglect of four legal matters and misrepresentations to clients as to status of cases, including fabrication of documents to give false impression that contested litigation was in progress, violated disciplinary rules prohibiting neglect of legal matters entrusted to lawyer, conduct adversely reflecting on lawyer's fitness as a lawyer, and conduct prejudicial to administration of justice. [In re O'Shea \(1 Dept. 2005\) 25 A.D.3d 203, 804 N.Y.S.2d 307. Attorney And Client 🔑44\(1\)](#)

Attorney's representation to medical malpractice client that defendant physicians had brought summary judgment motion, when they had not done so, amounted to willful conduct involving dishonesty, fraud, deceit, or misrepresentation, as well as conduct adversely reflecting upon her fitness to practice law, in violation of applicable professional conduct rules. [In re Vivas \(2 Dept. 1999\) 259 A.D.2d 153, 692 N.Y.S.2d 742. Attorney And Client 🔑44\(1\)](#)

Attorney's conduct of misrepresenting the status of case to clients, altering date on which clients' signatures were notarized on summons and complaint, and presenting to clients a fictitious order that purported to be the order of a Supreme Court Justice violated rule prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation, rule prohibiting conduct adversely reflecting on fitness to practice law, and rule prohibiting neglect of legal matter. [Matter of LeBlanc \(4 Dept. 1998\) 244 A.D.2d 1, 674 N.Y.S.2d 524, reinstatement granted 258 A.D.2d 973, 684 N.Y.S.2d 457. Attorney And Client 🔑41; Attorney And Client 🔑44\(1\)](#)

By filing affidavit, proof of claim, and affirmation with Bankruptcy Court which misrepresented his legal fees and expenses, attorney engaged in conduct prejudicial to administration of justice, knowingly made false statement of fact, engaged in conduct that adversely reflected on his fitness to practice law, and engaged in conduct involving fraud, dishonesty, deceit, and misrepresentation. [Matter of Aaron \(2 Dept. 1997\) 232 A.D.2d 119, 662 N.Y.S.2d 511. Attorney And Client 🔑41; Attorney And Client 🔑42](#)

14. ---- False statements, dishonesty, fraud, deceit, or misrepresentation

Suspended attorney's false answers to questions on application to renew his real estate broker license, about whether

any license had been revoked since his last renewal and whether he was exempt from the continuing education requirement as a member of the state bar, violated the rules of professional responsibility prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation and conduct adversely reflecting on a lawyer's fitness as a lawyer. [In re Drakes \(2 Dept. 2009\) 60 A.D.3d 153, 871 N.Y.S.2d 631. Attorney And Client 🔑38](#)

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation by making false or misleading sworn statements to grievance committee when, among other things, he denied assisting client in opening a securities account with attorney as joint tenants. [In re DeSousa \(2 Dept. 2006\) 36 A.D.3d 121, 826 N.Y.S.2d 306. Attorney And Client 🔑42](#)

Attorney made a false statement of material fact or law to third person, in violation of Rules of Professional Conduct, by sending letter, in divorce action in which attorney represented wife, to husband's broker advising him that all proceeds from sale of husband's home were to be held in escrow, despite absence of court order requiring escrow of proceeds. [In re Lowell \(1 Dept. 2004\) 14 A.D.3d 41, 784 N.Y.S.2d 69, appeal dismissed 4 N.Y.3d 846, 797 N.Y.S.2d 421, 830 N.E.2d 320, leave to appeal denied 5 N.Y.3d 708, 803 N.Y.S.2d 28, 836 N.E.2d 1151. Attorney And Client 🔑38](#)

Attorney's conduct in advising court that matter of sanction that was imposed against him in a previous case was in the appeals process constituted conduct involving dishonesty, fraud, deceit, or misrepresentation, as well as conduct which adversely reflected on his fitness to practice law, in violation of Code of Professional Responsibility; as of the date of attorney's statement, no appeal from the sanction order was pending. [In re Abrahams \(2 Dept. 2003\) 5 A.D.3d 21, 770 N.Y.S.2d 369, appeal dismissed 1 N.Y.3d 619, 777 N.Y.S.2d 13, 808 N.E.2d 1273, leave to appeal denied 3 N.Y.3d 601, 782 N.Y.S.2d 404, 816 N.E.2d 194. Attorney And Client 🔑42](#)

Evidence that attorney made false and misleading statements to Departmental Disciplinary Committee during its investigation of complaint against him supported charges that attorney violated professional rule prohibiting an attorney from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, and rule prohibiting an attorney from engaging in conduct that was prejudicial to the administration of justice. [In re Weinstein \(1 Dept. 2004\) 4 A.D.3d 29, 772 N.Y.S.2d 275, leave to appeal denied 3 N.Y.3d 608, 785 N.Y.S.2d 26, 818 N.E.2d 668. Attorney And Client 🔑42](#)

15. ---- Mismanagement of funds, dishonesty, fraud, deceit, or misrepresentation

Evidence that attorney double-billed his client, failed to preserve his client's funds, and intentionally converted his client's funds supported charges that attorney violated professional rule prohibiting misappropriation of client funds, rule prohibiting failure to preserve client funds, and rule prohibiting an attorney from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. [In re Weinstein \(1 Dept. 2004\) 4 A.D.3d 29, 772 N.Y.S.2d 275, leave to appeal denied 3 N.Y.3d 608, 785 N.Y.S.2d 26, 818 N.E.2d 668. Attorney And Client 🔑44\(2\)](#)

Suspension from the practice of law for a period of one year, rather than requested public censure, was appropriate discipline for attorney who, over course of three-month period misappropriated and comingled client funds, issued trust account check to cash, failed to maintain accurate bookkeeping records, and improperly entering into a busi-

ness relationship with a client; although attorney claimed that events had occurred during period when he was opening his first solo practice out of his home, that he had been unfamiliar with anything but corporate law, was flustered and uncertain, just making mistakes, his conduct was intentional and involved misuse of client funds, warranting suspension. [In re Collins \(2 Dept. 2012\) 100 A.D.3d 257, 952 N.Y.S.2d 616. Attorney and Client](#)  [59.13\(4\)](#)

Attorney's invasion of client's personal injury settlement proceeds held in attorney's escrow account, pending resolution of insurer's lien on settlement proceeds, was inadvertent result of attorney's depression and post-traumatic stress disorder (PTSD) from September 11th terrorist attacks near his office, not intentional conversion in violation of professional responsibility rule, and thus would be dismissed, since attorney had not willingly and knowingly acted with venal intent to defraud, deceive, or misrepresent. [In re Salo \(1 Dept. 2010\) 77 A.D.3d 30, 906 N.Y.S.2d 16. Attorney and Client](#)  [44\(2\)](#)

Attorney's deduction of legal fees from fictitious settlement offer in personal injury action and issuance of check to client from his escrow account, which held other clients' funds, violated rule of professional responsibility prohibiting misappropriation of funds. [In re Berkman \(2 Dept. 2008\) 55 A.D.3d 114, 863 N.Y.S.2d 701](#), appeal dismissed [11 N.Y.3d 851, 872 N.Y.S.2d 64, 900 N.E.2d 545](#), leave to appeal denied [12 N.Y.3d 703, 876 N.Y.S.2d 705, 904 N.E.2d 842. Attorney And Client](#)  [44\(2\)](#)

Attorney violated professional conduct rules prohibiting conduct involving fraud, deceit, or misrepresentation, conduct adversely reflecting on attorney's fitness as lawyer, and misappropriation or commingling of client funds when attorney computed his contingency fee based on gross settlement, contrary to requirement that fee be computed on net sum recovered, after deduction of certain expenses and disbursements related to prosecution of action. [In re Gruen \(2 Dept. 2008\) 55 A.D.3d 88, 863 N.Y.S.2d 733. Attorney And Client](#)  [44\(2\)](#)

Attorney's knowing and purposeful withdrawal of a portion of her client's funds from interest on lawyer account fund (IOLA) violated professional rule prohibiting attorneys from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, even if she knew that other funds would become available to compensate the client. [In re Abato \(2 Dept. 2008\) 51 A.D.3d 225, 853 N.Y.S.2d 660](#), reinstatement granted [60 A.D.3d 761, 873 N.Y.S.2d 910. Attorney And Client](#)  [44\(2\)](#)

Attorney who shielded his personal funds from Department of Taxation and Finance (DTF) levy by placing his business and personal funds in his client escrow account, and who improperly issued approximately 153 checks from the account totaling \$109,039.95 for his personal use, engaged in conduct involving dishonesty and fraud, conduct prejudicial to the administration of justice, and conduct adversely reflecting on his fitness as a lawyer, in violation of professional rules. [In re Goldsmith \(1 Dept. 2007\) 43 A.D.3d 158, 839 N.Y.S.2d 30. Attorney And Client](#)  [44\(2\)](#)

Six-month suspension was warranted based on attorney's violation of disciplinary rules prohibiting an attorney from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, engaging in conduct that was prejudicial to the administration of justice, engaging in conduct that adversely reflects on his fitness as a lawyer, failing to include an office address in his firm letterhead and in advertisements for legal services, entering into an arrangement for, charging or collecting a fee in a domestic relations matter without a signed written retainer agreement, neglect-

ing a legal matter entrusted to him, intentionally failing to carry out a contract of employment entered into with a client for professional services, misappropriating client funds and commingling such funds with personal funds, failing to maintain client funds in a special account separate from his business or personal accounts, and failing to pay to the client in a prompt manner as requested by the client funds in his possession that the client was entitled to receive, although attorney opened two bank accounts when he entered private practice and erroneously believed that one of the accounts was an attorney trust account, where, when bank subsequently withdrew funds from that account to rectify a shortage in the other account, client funds were depleted. [In re King \(4 Dept. 2006\) 36 A.D.3d 173, 829 N.Y.S.2d 291. Attorney And Client 🔑59.13\(3\); Attorney And Client 🔑59.13\(4\)](#)

Attorney's conduct in converting funds entrusted to him as a fiduciary, commingling client funds with personal funds, drawing a check to cash on his client trust account, failing to maintain required bookkeeping records for his client trust account, engaging in conflicts of interest, and in using professional letterhead containing false, deceptive, and/or misleading information warranted disbarment, notwithstanding attorney's apologetic and remorseful manner, alleged lack of venality, and his claim to have been ignorant of the applicable rules of conduct. [In re Onuaguluchi \(2 Dept. 2006\) 36 A.D.3d 4, 823 N.Y.S.2d 207, leave to appeal dismissed 9 N.Y.3d 916, 844 N.Y.S.2d 169, 875 N.E.2d 888. Attorney And Client 🔑59.14\(1\); Attorney And Client 🔑59.14\(2\)](#)

Attorney's conversion of client funds, wrongful withholding of real estate commission, acceptance of fees from clients for whom he performed no work and drawing of checks from his attorney trust account which were dishonored for insufficient funds, in order to support his addiction to heroin, constituted illegal conduct that adversely reflected on his honesty, trustworthiness or fitness as a lawyer, conduct involving dishonesty, fraud, deceit or misrepresentation, conduct prejudicial to administration of justice, conduct adversely reflecting on his fitness as a lawyer, neglect of legal matter entrusted to him, intentional failure to carry out contract of employment entered into with client for professional services, misappropriation of client funds, and failure to maintain required records of bank accounts. [In re Bax \(4 Dept. 2006\) 32 A.D.3d 88, 821 N.Y.S.2d 680. Attorney And Client 🔑44\(1\); Attorney And Client 🔑44\(2\)](#)

Misconduct, including conversion of client funds, engaging in illegal conduct and neglect of client matters, warranted two-year suspension, where misconduct occurred while attorney was addicted to heroin, prior to that addiction attorney was successful attorney and respected member of community, and been drug and alcohol free for nearly three years, attorney had expressed remorse for his misconduct, and he had made full restitution. [In re Bax \(4 Dept. 2006\) 32 A.D.3d 88, 821 N.Y.S.2d 680. Attorney And Client 🔑59.13\(3\); Attorney And Client 🔑59.13\(4\)](#)

Attorney's allowing balance in trust account to fall below amount of her clients' interests, depositing personal funds and fees into trust account, issuing checks drawn against account made payable to cash and to her mother, failing to maintain required bookkeeping records and to produce those records at request of Grievance Committee, accepting \$9,000 in cash on behalf of real estate client and depositing funds into her trust account, and failing to return funds to client after he discharged her was conduct involving dishonesty, fraud, deceit or misrepresentation, prejudicial to administration of justice and adversely reflecting on her fitness as a lawyer, and violated other disciplinary rules proscribing commingling client funds with personal funds, failing to maintain client funds in special account separate from her business or personal accounts, failing to identify special bank accounts in proper manner, failing to

maintain required records of bank accounts and failing to make required financial records available to Grievance Committee. [In re Mitchell \(4 Dept. 2006\) 32 A.D.3d 55, 818 N.Y.S.2d 367. Attorney And Client](#)  [44\(2\)](#)

Attorney's conduct in connection with funds in his escrow account violated disciplinary rule barring conduct involving fraud, dishonesty, deceit or misrepresentation; attorney induced investor in client to put up money to satisfy demands of client's creditor by falsely representing that there was an agreement with the creditor to settle the lien matter, then released investor's funds from the escrow account before obtaining release of liens, despite representing that the funds would remain in the account until he obtained a release. [In re Robson \(1 Dept. 2006\) 31 A.D.3d 163, 815 N.Y.S.2d 95](#), leave to appeal denied [7 N.Y.3d 830, 823 N.Y.S.2d 119, 856 N.E.2d 209. Attorney And Client](#)  [44\(2\)](#)

Attorney's misconduct in connection with funds in his escrow account, in violation of disciplinary rules barring fraud or misrepresentation and misappropriation of funds, supported determination that he also violated rule barring conduct that adversely reflects on fitness as a lawyer. [In re Robson \(1 Dept. 2006\) 31 A.D.3d 163, 815 N.Y.S.2d 95](#), leave to appeal denied [7 N.Y.3d 830, 823 N.Y.S.2d 119, 856 N.E.2d 209. Attorney And Client](#)  [44\(2\)](#)

Attorney engaged in conduct involving fraud, deceit, or misrepresentation, which adversely reflects on his fitness as a lawyer, in violation of Code of Professional Responsibility, when he transferred \$175,000 in personal funds from corporate account to escrow account, in an effort to conceal his personal assets and to shield them from execution by a potential judgment creditor. [In re Litwak \(2 Dept. 2006\) 30 A.D.3d 95, 813 N.Y.S.2d 468. Attorney And Client](#)  [44\(2\)](#)

Evidence that attorney failed to inform court that he had already collected a fee from his clients in guardianship proceeding, at time attorney applied to court for attorney fees to be charged against incompetents' funds, supported charges that attorney violated professional rule prohibiting an attorney from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, and rule prohibiting an attorney from engaging in conduct that was prejudicial to the administration of justice. [In re Weinstein \(1 Dept. 2004\) 4 A.D.3d 29, 772 N.Y.S.2d 275](#), leave to appeal denied [3 N.Y.3d 608, 785 N.Y.S.2d 26, 818 N.E.2d 668. Attorney And Client](#)  [42](#)

Attorney's actions in allowing balances in his attorney trust accounts to fall below amount of his clients' interests and allowing negative balances, issuing checks drawn against his attorney trust account payable to his own order, retaining interest earned on clients' funds, using clients' funds for personal purposes, and engaging in representation involving conflict of interest violated attorney disciplinary rules prohibiting conduct involving dishonesty, fraud, deceit or misrepresentation, conduct adversely reflecting on fitness as lawyer, representation in the face of various forms of conflict of interest, and multiple rules governing handling of client funds and attorney trust accounts. [In re Bissell \(4 Dept. 2003\) 305 A.D.2d 25, 762 N.Y.S.2d 709](#), reinstatement granted [27 A.D.3d 1200, 810 N.Y.S.2d 689. Attorney And Client](#)  [44\(1\)](#); [Attorney And Client](#)  [44\(2\)](#)

Attorney's misappropriation of funds in total amount of \$60,582 from his law firm's operating account violated disciplinary rules prohibiting illegal conduct adversely reflecting on honesty, trustworthiness, or fitness as lawyer, conduct involving dishonesty, fraud, deceit or misrepresentation, and conduct adversely reflecting on fitness as lawyer. [In re Trimboli \(4 Dept. 2003\) 304 A.D.2d 282, 762 N.Y.S.2d 192](#), reinstatement granted [27 A.D.3d 1199, 810](#)

[N.Y.S.2d 690. Attorney And Client](#)  [44\(2\)](#)

Attorney's failure to make certain that client funds were available to satisfy terms of retainer agreement he entered into with litigation counsel on behalf of his clients amounted to conduct involving dishonesty, fraud, deceit, or misrepresentation and conduct adversely reflecting on his fitness to practice law, in violation of applicable professional responsibility rules. [In re Zarro \(2 Dept. 2000\) 265 A.D.2d 103, 704 N.Y.S.2d 295. Attorney And Client](#)  [44\(2\)](#)

Writing checks against downpayment for real estate sale held in escrow, and misrepresenting status of escrow account to court and opposing counsel in action for return of downpayment, constituted conduct involving dishonesty, fraud, deceit, or misrepresentation, conduct prejudicial to the administration of justice, failure to preserve identity of funds belonging to third party, and failure to maintain appropriate records regarding escrow accounts. [Matter of Perini \(1 Dept. 1997\) 232 A.D.2d 138, 662 N.Y.S.2d 445. Attorney And Client](#)  [37.1](#); [Attorney And Client](#)  [42](#)

When conversion of funds belonging to client or third party occurs through mistake, carelessness, or failure to keep proper records, "venal intent" or "motive to convert" may be absent for purposes of disciplinary rule prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation. [Matter of Britton \(1 Dept. 1997\) 232 A.D.2d 17, 661 N.Y.S.2d 607. Attorney And Client](#)  [37.1](#); [Attorney And Client](#)  [44\(2\)](#)

Attorney's intent to replace funds belonging to third party which attorney has converted or absence of intent to permanently deprive client or third party of funds does not negate attorney's venal intent at time of conversion or otherwise excuse the wrongful conduct for purposes of disciplinary rule prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation. [Matter of Britton \(1 Dept. 1997\) 232 A.D.2d 17, 661 N.Y.S.2d 607. Attorney And Client](#)  [37.1](#)

Attorney acted with "venal intent" in knowingly taking funds belonging to third party that had been entrusted to him and converting them to his own personal use and, thus, attorney violated disciplinary rule prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation, despite attorney's intent to replace converted funds, repayment of funds, and cooperation with departmental disciplinary committee. [Matter of Britton \(1 Dept. 1997\) 232 A.D.2d 17, 661 N.Y.S.2d 607. Attorney And Client](#)  [37.1](#)

Attorney engaged in conduct involving fraud, deceit, and misrepresentation by falsely labeling several bank accounts as escrow accounts to prevent their invasion by creditors when accounts were not claimed to be accounts containing funds belonging to client or other third party. [Matter of Connolly \(2 Dept. 1996\) 225 A.D.2d 241, 650 N.Y.S.2d 275, appeal dismissed 89 N.Y.2d 1087, 660 N.Y.S.2d 554, 683 N.E.2d 19, leave to appeal denied 90 N.Y.2d 803, 661 N.Y.S.2d 179, 683 N.E.2d 1053. Attorney And Client](#)  [41](#)

Attorney did not violate disciplinary rule prohibiting dishonesty, fraud, deceit, or misrepresentation by depositing settlement checks into general business account, rather than escrow account, even though checks drawn on account were returned unpaid; there was no clear evidence suggesting intentional conversions for attorney's personal gain and benefit or discrediting attorney's contention that conversions and bad checks were attributable to inadvertence and shoddy bookkeeping. [Matter of Bartholomew \(3 Dept. 1993\) 195 A.D.2d 753, 600 N.Y.S.2d 336, reinstatement granted 234 A.D.2d 887, 652 N.Y.S.2d 554. Attorney And Client](#)  [37.1](#)

Attorney does not violate ethical rule prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation merely by permitting balance in improperly commingled account to fall below amount attorney is supposed to hold in escrow while using portion of account for attorney's own personal purposes absent finding of venal intent, i.e., scienter, deceit, intent to mislead, or knowing failure to correct misrepresentations which can be reasonably expected to induce detrimental reliance by another. [Matter of Altomerianos \(1 Dept. 1990\) 160 A.D.2d 96, 559 N.Y.S.2d 712. Attorney And Client 🔑44\(2\)](#)

Attorney violates disciplinary rule proscribing engaging in conduct involving dishonesty, fraud, deceit, and misrepresentation by negotiating check given to him by client for deposit in escrow account and unlawfully converting funds to attorney's own use, subsequently requesting client to authorize disbursement of purportedly escrowed funds, and failing to mention pending action by client to recover allegedly converted funds in response to questionnaire related to attorney's effort to seek reinstatement after suspension. [Matter of Solomon \(1 Dept. 1987\) 124 A.D.2d 36, 511 N.Y.S.2d 239. Attorney And Client 🔑42; Attorney And Client 🔑44\(2\)](#)

16. ---- Documents and reports, dishonesty, fraud, deceit, or misrepresentation

Attorney who filed a retainer statement with the Office of Court Administration (OCA), in which he falsely stated the source of the referral was "Client walked in to office," was guilty of filing a document with the OCA containing false and misleading information, in violation of the Code of Professional Responsibility; attorney had paid a non-lawyer for the referral. [In re Klafter \(2 Dept. 2004\) 11 A.D.3d 1, 782 N.Y.S.2d 108. Attorney And Client 🔑42](#)

Attorney's false and/or misleading statements to another counsel inquiring on behalf of attorney's own client as to her Medicaid application constituted conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Code of Professional Responsibility, where inquiring counsel had prepared deed and related documents transferring residence and adjoining property from attorney's client to her disabled husband in order for client to qualify for Medicaid, and counsel then inquired about status of Medicaid application allegedly drafted by client's attorney, who falsely reported that processing of application was taking long time due to government agency's repeated requests for additional information. [In re Napolitano \(2 Dept. 2010\) 78 A.D.3d 18, 908 N.Y.S.2d 210. Attorney and Client 🔑38](#)

Conduct of attorney who represented both buyer and seller in real estate transaction was deceitful, in violation of Disciplinary Rules of the Code of Professional Responsibility; attorney misrepresented nature of parties' agreement by altering land contract and then made that misrepresentation a matter of public record by filing contract. [In re McKelvey \(4 Dept. 2008\) 54 A.D.3d 24, 861 N.Y.S.2d 905. Attorney And Client 🔑41](#)

Attorney's backdating of client's immigration document submitted to two governmental agencies and false denials thereafter violated professional rules prohibiting dishonesty, fraud, deceit, or misrepresentation, conduct prejudicial to the administration of justice, and neglect of a client's matter, and rules concerning fitness to practice law and diligence. [In re Cohen \(1 Dept. 2007\) 40 A.D.3d 61, 831 N.Y.S.2d 141. Attorney And Client 🔑42; Attorney And Client 🔑44\(1\)](#)

Neglect of four legal matters and misrepresentations to clients as to status of cases, including fabrication of documents to give false impression that contested litigation was in progress, violated disciplinary rules prohibiting neglect of legal matters entrusted to lawyer, conduct adversely reflecting on lawyer's fitness as a lawyer, and conduct prejudicial to administration of justice. [In re O'Shea \(1 Dept. 2005\) 25 A.D.3d 203, 804 N.Y.S.2d 307. Attorney And Client](#)  [44\(1\)](#)

Attorney knowingly engaged in conduct involving dishonesty, in violation of Code of Professional Responsibility, through his alteration and submission of settlement documents to court without disclosing that his personal injury client had died three years earlier. [In re Becker \(1 Dept. 2005\) 24 A.D.3d 32, 804 N.Y.S.2d 4. Attorney And Client](#)  [41](#)

Attorney's act of sending Department of Social Services (DSS) a letter enclosing a purported "duplicate copy of a fair hearing request," which he allegedly sent to agency on behalf of his client prior to expiration of filing deadline for contesting discontinuance of nursing home medical benefits, amounted to making of a false statement of fact during the course of representing a client, in violation of Code of Professional Responsibility, given that attorney had not actually made a prior fair hearing request. [In re Robert \(2 Dept. 2004\) 10 A.D.3d 96, 779 N.Y.S.2d 236. Attorney And Client](#)  [42](#)

Attorney's conduct in preparing and mailing to opposing counsel fictitious income tax returns purporting to be returns prepared by his client, knowing that the returns would be filed, and failure to disclose to the court, opposing counsel, or his client that he falsified the returns and made misrepresentations to his client to conceal that fact, was conduct involving dishonesty, conduct which was prejudicial to administration of justice, and conduct which adversely reflected on attorney's fitness as a lawyer, in violation of Code of Professional Responsibility. [In re Fielitz \(4 Dept. 2003\) 3 A.D.3d 74, 772 N.Y.S.2d 768, reinstatement granted 16 A.D.3d 1179, 791 N.Y.S.2d 457. Attorney And Client](#)  [42](#)

Attorney's conduct, of forwarding to an insurance company an improperly executed general release of his client's injury claim, constituted conduct involving dishonesty, fraud, deceit, and misrepresentation, in violation of Code of Professional Responsibility; client was not present when release was notarized. [In re Nerenberg \(2 Dept. 2003\) 2 A.D.3d 1, 769 N.Y.S.2d 53. Attorney And Client](#)  [41](#)

Attorney's fabrication and submission for probate of will and supporting documents, undertaken on behalf of decedent's widow, amounted to illegal conduct involving moral turpitude, conduct involving dishonesty, fraud, deceit, or misrepresentation, conduct prejudicial to the administration of justice, conduct adversely reflecting on his fitness to practice law, knowingly assisting a client in illegal conduct, and illegal conduct, in violation of applicable professional responsibility rules. [In re Nolan \(2 Dept. 2000\) 268 A.D.2d 164, 706 N.Y.S.2d 704. Attorney And Client](#)  [41](#); [Attorney And Client](#)  [42](#)

Attorney's fabrication of notice of motion and motion and affidavits in support thereof, after having falsely informed client that defendants in client's malpractice action had filed motion for summary judgment and in response to client's request for copy of such motion, amounted to willful conduct involving dishonesty, fraud, deceit, or misre-

presentation, as well as conduct adversely reflecting upon her fitness to practice law, in violation of applicable professional conduct rules. [In re Vivas \(2 Dept. 1999\) 259 A.D.2d 153, 692 N.Y.S.2d 742. Attorney And Client](#)  [44\(1\)](#)

Attorney's mailing of letter to woman involved in altercation with his client, falsely informing her that his client's father had offered to amend his will to bequeath woman \$25,000 in exchange for her signed and notarized admission that she had initiated altercation and that attorney's client had acted in self-defense, amounted to violation of professional responsibility rules prohibiting dishonesty, fraud, deceit, or misrepresentation, and to conduct adversely reflecting on attorney's fitness to practice law. [In re Piepes \(2 Dept. 1999\) 259 A.D.2d 135, 692 N.Y.S.2d 716. Attorney And Client](#)  [32\(12\)](#)

Attorney's misconduct, which included complicity in submission of false and misleading medical reports, warranted four-year suspension, rather than public censure; attorney's misconduct included engaging in conduct involving fraud, deceit or misrepresentation, engaging in conduct reflecting adversely on his fitness to practice law, participating in creation or preservation of evidence known to be false, and intentionally assisting client in illegal or fraudulent conduct. [Matter of Janoff \(1 Dept. 1998\) 242 A.D.2d 27, 672 N.Y.S.2d 89](#), appeal dismissed [92 N.Y.2d 872, 677 N.Y.S.2d 775, 700 N.E.2d 315. Attorney And Client](#)  [59.13\(3\)](#)

Backdating letter submitted to bankruptcy court in representation of client after failing to timely file proof of claim constituted conduct involving dishonesty, fraud and deceit, or misrepresentation, conduct prejudicial to administration of justice, and neglect of legal matter. [Matter of Perrini \(1 Dept. 1997\) 232 A.D.2d 138, 662 N.Y.S.2d 445. Attorney And Client](#)  [41](#); [Attorney And Client](#)  [42](#); [Attorney And Client](#)  [44\(1\)](#)

Clients act of altering previous tax returns by "whiting out" imaginary children for whom he had taken a tax deduction would constitute fraud upon a tribunal only if the altered filings were (i) placed in evidence before the court, and (ii) material to the court's resolution of any issue in dispute, and counsel would be barred from reporting the fraud to the tribunal, as he learned of the fraud via privileged communication with the client. Nassau County Bar Ass'n, Ethics Op. 94-10.

17. ---- Signatures, dishonesty, fraud, deceit, or misrepresentation

Attorney's submission to district court of affirmations containing misrepresentations, and summonses and complaints which did not bear his true signature violated rule of professional responsibility prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation. [In re Shapiro \(2 Dept. 2008\) 55 A.D.3d 291, 863 N.Y.S.2d 784](#), reinstatement granted [63 A.D.3d 951, 880 N.Y.S.2d 534. Attorney And Client](#)  [42](#)

Attorney's submission to civil court of documents which did not bear his true signature, including verified complaints, motions for summary judgment, notices of trial, and affidavits of service of papers on opposing counsel, violated rule of professional responsibility prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation. [In re Shapiro \(2 Dept. 2008\) 55 A.D.3d 291, 863 N.Y.S.2d 784](#), reinstatement granted [63 A.D.3d 951, 880 N.Y.S.2d 534. Attorney And Client](#)  [42](#)

Attorney's submission to civil court of documents which did not bear his true signature, including verified complaints, motions for summary judgment, notices of trial, and affidavits of service of papers on opposing counsel, violated rule of professional responsibility prohibiting conduct prejudicial to the administration of justice. [In re Shapiro \(2 Dept. 2008\) 55 A.D.3d 291, 863 N.Y.S.2d 784](#), reinstatement granted [63 A.D.3d 951, 880 N.Y.S.2d 534](#). [Attorney And Client](#) 42

Attorney's submission to district court of affirmations containing misrepresentations, and summonses and complaints which did not bear his true signature violated rule of professional responsibility prohibiting conduct that would adversely reflects on lawyer's fitness as a lawyer. [In re Shapiro \(2 Dept. 2008\) 55 A.D.3d 291, 863 N.Y.S.2d 784](#), reinstatement granted [63 A.D.3d 951, 880 N.Y.S.2d 534](#). [Attorney And Client](#) 42

Attorney's submission to district court of affirmations containing misrepresentations, and summonses and complaints which did not bear his true signature violated rule of professional responsibility prohibiting conduct prejudicial to the administration of justice. [In re Shapiro \(2 Dept. 2008\) 55 A.D.3d 291, 863 N.Y.S.2d 784](#), reinstatement granted [63 A.D.3d 951, 880 N.Y.S.2d 534](#). [Attorney And Client](#) 42

Attorney's submission to civil court of documents which did not bear his true signature, including verified complaints, motions for summary judgment, notices of trial, and affidavits of service of papers on opposing counsel, violated rule of professional responsibility prohibiting conduct that would adversely reflects on lawyer's fitness as a lawyer. [In re Shapiro \(2 Dept. 2008\) 55 A.D.3d 291, 863 N.Y.S.2d 784](#), reinstatement granted [63 A.D.3d 951, 880 N.Y.S.2d 534](#). [Attorney And Client](#) 42

Attorney's submission to district court of two reply affirmations requiring his attestation, which, pursuant to his instructions, were signed by someone else violated rule of professional responsibility prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation. [In re Moroff \(2 Dept. 2008\) 55 A.D.3d 200, 863 N.Y.S.2d 800](#), reinstatement granted [63 A.D.3d 944, 880 N.Y.S.2d 537](#). [Attorney And Client](#) 42

Attorney's submission to civil court of documents requiring his attestation, which, pursuant to his instructions, were signed by someone else violated rule of professional responsibility prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation. [In re Moroff \(2 Dept. 2008\) 55 A.D.3d 200, 863 N.Y.S.2d 800](#), reinstatement granted [63 A.D.3d 944, 880 N.Y.S.2d 537](#). [Attorney And Client](#) 42

Conduct of attorney in engaging in submitting reply affirmations and other legal documents requiring his attestation, which were signed by another individual at his direction, warranted six month suspension from practice of law, in light of attorney's self-reporting of signature defects, lack of venality, prompt remedial actions, expressed remorse, cooperation with Grievance Committee and courts, relative youth and inexperience, and absence of any disciplinary history. [In re Moroff \(2 Dept. 2008\) 55 A.D.3d 200, 863 N.Y.S.2d 800](#), reinstatement granted [63 A.D.3d 944, 880 N.Y.S.2d 537](#). [Attorney And Client](#) 59.13(3)

Attorney's submission to district court of two reply affirmations requiring his attestation, which, pursuant to his in-

structions, were signed by someone else violated rule of professional responsibility prohibiting conduct that would adversely reflects on lawyer's fitness as a lawyer. [In re Moroff \(2 Dept. 2008\) 55 A.D.3d 200, 863 N.Y.S.2d 800](#), reinstatement granted [63 A.D.3d 944, 880 N.Y.S.2d 537](#). [Attorney And Client](#) 42

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Attorney's submission to civil court of documents requiring his attestation, which, pursuant to his instructions, were signed by someone else violated rule of professional responsibility prohibiting conduct prejudicial to the administration of justice. [In re Moroff \(2 Dept. 2008\) 55 A.D.3d 200, 863 N.Y.S.2d 800](#), reinstatement granted [63 A.D.3d 944, 880 N.Y.S.2d 537](#). [Attorney And Client](#) 42

Attorney violated professional conduct rules prohibiting conduct involving fraud, deceit, or misrepresentation, conduct prejudicial to administration of justice, and conduct adversely reflecting on attorney's fitness as lawyer by filing retainer and closing statements with Office of Court Administration that contained false and misleading information regarding identities of persons from whom attorney received referrals, did not accurately report attorney's actual disbursements, and were not personally signed by attorney, and by filing closing statements for certain clients which indicated that he had paid those clients settlement funds when he knew, or should have known, that he had not. [In re Gruen \(2 Dept. 2008\) 55 A.D.3d 88, 863 N.Y.S.2d 733](#). [Attorney And Client](#) 41; [Attorney And Client](#) 42

False signatures and false notarizations constitute violations of disciplinary rule prohibiting conduct involving dishonesty, fraud, deceit or misrepresentation, even if done with client's consent. [In re Larsen \(1 Dept. 2008\) 50 A.D.3d 41, 849 N.Y.S.2d 560](#). [Attorney And Client](#) 41

Attorney engaged in illegal conduct that adversely reflected on his honesty, trustworthiness, or fitness as lawyer by arranging for his employees to falsely notarize client's genuine signature on two medical records authorization forms and release form by transferring image of notary stamp and signature of notary onto forms. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411](#). [Attorney And Client](#) 41

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation by arranging for his employees to falsely notarize client's genuine signature on two medical records authorization forms and release form by transferring image of notary stamp and signature of notary onto forms. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411](#). [Attorney And Client](#) 41

Attorney engaged in other conduct that adversely reflected on his fitness as lawyer by arranging for his employees to falsely notarize client's genuine signature on two medical records authorization forms and release form by transferring image of notary stamp and signature of notary onto forms. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411. Attorney And Client 🔑41](#)

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation by not telling client of insurance company's settlement offer and that he caused his employees to forge her signature on release form and falsely notarized it using photocopy of notary stamp and by not notifying her when settlement funds were received. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411. Attorney And Client 🔑44\(2\)](#)

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation by not notifying one client of his receipt of \$40,000 settlement check in her favor, by having other client sign retainer agreement that gave attorney exclusive right to settle his claim without his approval, allowing his employees to forge client's signature on release form and affix false notary statement, and neglecting legal matter by not filing notice of claim with municipality. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411. Attorney And Client 🔑41; Attorney And Client 🔑44\(1\); Attorney And Client 🔑44\(2\)](#)

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation by having client sign retainer agreement that gave attorney right to settle claim without client's approval, instructing his employees to forge client's name and affix false notary statement to release form, and knowingly misrepresenting that client had duly executed release form in letter to insurance carrier. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411. Attorney And Client 🔑38; Attorney And Client 🔑41; Attorney And Client 🔑44\(1\)](#)

Attorney violated Code of Professional Responsibility, including provisions proscribing conduct involving dishonesty, deceit, or misrepresentation, conduct adversely reflecting on attorney's fitness, and failure to take reasonable remedial action to mitigate or avoid consequences of nonlawyer's misconduct, when attorney admitted being paid by debt collection agencies for use of her law firm name and failing to exercise any meaningful involvement, control, or supervision over debt collectors despite knowing they were engaging in illegal and abusive practices, and admitted that letters were sent to debtors over signature of fictitious person and on letterhead which did not list firm's office address, that she improperly held herself out as practicing law under trade name, and that she allowed nonlawyers to have signatory authority over escrow account and cash deposits to be made into account. [In re Lenahan \(4 Dept. 2006\) 34 A.D.3d 13, 824 N.Y.S.2d 826, reinstatement granted 81 A.D.3d 1385, 916 N.Y.S.2d 538. Attorney And Client 🔑38; Attorney And Client 🔑44\(2\)](#)

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation by notarizing signatures on medical authorizations on dates when his client did not sign forms in his presence. [In re Fauci \(1 Dept. 2006\) 28 A.D.3d 192, 811 N.Y.S.2d 38. Attorney And Client 🔑41](#)

Attorney counseled or assisted a client in conduct which she knew was illegal, criminal, or fraudulent, in violation of Rules of Professional Conduct, by having her divorce client sign fraudulent promissory notes and false certifications which attorney then filed with the court. [In re Lowell \(1 Dept. 2004\) 14 A.D.3d 41, 784 N.Y.S.2d 69, appeal dismissed 4 N.Y.3d 846, 797 N.Y.S.2d 421, 830 N.E.2d 320, leave to appeal denied 5 N.Y.3d 708, 803 N.Y.S.2d 28,](#)

[836 N.E.2d 1151. Attorney And Client](#) 41

Attorney violated Rules of Professional Conduct by having her secretary sign her paralegal's name on a certification and then filing the certification with the court without the paralegal's consent. [In re Lowell \(1 Dept. 2004\) 14 A.D.3d 41, 784 N.Y.S.2d 69](#), appeal dismissed [4 N.Y.3d 846, 797 N.Y.S.2d 421, 830 N.E.2d 320](#), leave to appeal denied [5 N.Y.3d 708, 803 N.Y.S.2d 28, 836 N.E.2d 1151. Attorney And Client](#) 41

Attorney knowingly assisted or induced another to violate Rules of Professional Conduct, in violation of Rules of Professional Conduct, by adding a sentence to a stipulation signed by her adversary in matrimonial case and directing another attorney who worked for her to sign the stipulation containing the addition and to file it with the court, without advising the adversary of the addition. [In re Lowell \(1 Dept. 2004\) 14 A.D.3d 41, 784 N.Y.S.2d 69](#), appeal dismissed [4 N.Y.3d 846, 797 N.Y.S.2d 421, 830 N.E.2d 320](#), leave to appeal denied [5 N.Y.3d 708, 803 N.Y.S.2d 28, 836 N.E.2d 1151. Attorney And Client](#) 41

Attorney's conduct, of signing his client's name to an insurance company's settlement draft, and depositing the draft into his attorney trust account, constituted conduct involving dishonesty, fraud, deceit, and misrepresentation, in violation of Code of Professional Responsibility; client never signed the draft. [In re Nerenberg \(2 Dept. 2003\) 2 A.D.3d 1, 769 N.Y.S.2d 53. Attorney And Client](#) 44(2)

Attorney's conduct of fraudulently occupying a rent-regulated apartment constituted professional misconduct, in violation of disciplinary rule prohibiting conduct involving dishonesty, fraud, deceit or misrepresentation, and rule prohibiting any other conduct adversely reflecting on the lawyer's fitness as a lawyer; attorney defrauded owner of apartment by occupying it for two years after the death of tenant of record and submitting rent checks bearing deceased tenant's name only and what purported to be deceased tenant's signature. [In re Bikman \(1 Dept. 2003\) 304 A.D.2d 162, 760 N.Y.S.2d 5](#), leave to appeal denied [100 N.Y.2d 506, 763 N.Y.S.2d 812, 795 N.E.2d 38. Attorney And Client](#) 37.1

Attorney's conduct of misrepresenting the status of case to clients, altering date on which clients' signatures were notarized on summons and complaint, and presenting to clients a fictitious order that purported to be the order of a Supreme Court Justice violated rule prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation, rule prohibiting conduct adversely reflecting on fitness to practice law, and rule prohibiting neglect of legal matter. [Matter of LeBlanc \(4 Dept. 1998\) 244 A.D.2d 1, 674 N.Y.S.2d 524](#), reinstatement granted [258 A.D.2d 973, 684 N.Y.S.2d 457. Attorney And Client](#) 41; [Attorney And Client](#) 44(1)

Signing client's name to verification of bill of particulars and having secretary notarize signature violated disciplinary rule prohibiting dishonesty, fraud, deceit, or misrepresentation, was prejudicial to administration of justice. [Matter of Chariff \(3 Dept. 1995\) 221 A.D.2d 719, 633 N.Y.S.2d 618](#), reinstatement denied [241 A.D.2d 621, 663 N.Y.S.2d 1006](#), reinstatement granted [246 A.D.2d 908, 667 N.Y.S.2d 320. Attorney And Client](#) 41; [Attorney And Client](#) 42

18. ---- Testimony, dishonesty, fraud, deceit, or misrepresentation

Attorney's false and/or misleading sworn testimony in connection with Grievance Committee's investigation of complaint that attorney falsely claimed that he filed client's Medicaid application constituted conduct involving dishonesty, fraud, deceit, or misrepresentation and/or conduct prejudicial to administration of justice, in violation of Code of Professional Responsibility, where attorney falsely testified that fair hearing form that he had faxed to client's attorney-in-fact regarding client's application for Medicaid was just sample form on which attorney had typed client's name, and he falsely stated that he would file form when case was opened by caseworker after submittal. [In re Napolitano \(2 Dept. 2010\) 78 A.D.3d 18, 908 N.Y.S.2d 210. Attorney and Client 🔑42](#)

Attorney's false and/or misleading sworn testimony in connection with Grievance Committee's investigation of complaint that attorney had falsely claimed to have filed client's Medicaid application constituted conduct involving dishonesty, fraud, deceit, or misrepresentation and/or conduct prejudicial to administration of justice, in violation of Code of Professional Responsibility, where attorney falsely testified that he never told client, her family members, or other counsel that he had filed Medicaid application or that he was awaiting administrative decision on application. [In re Napolitano \(2 Dept. 2010\) 78 A.D.3d 18, 908 N.Y.S.2d 210. Attorney and Client 🔑42](#)

Attorney's false and/or misleading sworn testimony in connection investigation of complaint about attorney for falsely asserting that he filed client's Medicaid application constituted conduct involving dishonesty, fraud, deceit, or misrepresentation and/or conduct prejudicial to administration of justice, in violation of Code of Professional Responsibility, where attorney admitted in sworn testimony that he did not file application, falsely claimed that he was never provided requested documentation regarding gift to client from her own parents, and falsely claimed that he was never provided proof that proceeds of that gift were transferred to client. [In re Napolitano \(2 Dept. 2010\) 78 A.D.3d 18, 908 N.Y.S.2d 210. Attorney and Client 🔑42](#)

Attorney's conduct of proffering a forged document as evidence and offering false testimony in support of the document, failing to satisfy judgment and sanctions, and commencing further legal proceedings in federal court despite a court order enjoining him from commencing any lawsuits related to the underlying action, constituted violations of Rules of Professional Conduct prohibiting conduct involving dishonesty, conduct prejudicial to the administration of justice, harassment, advancing an unwarranted claim, and using false evidence. [In re Truong \(1 Dept. 2003\) 2 A.D.3d 27, 768 N.Y.S.2d 450. Attorney And Client 🔑41; Attorney And Client 🔑42](#)

Attorney's admitted misrepresentations to clients concerning status of matters to which she was assigned, her failure to respond to disciplinary proceeding, and her false testimony claiming she had responded, constituted conduct involving dishonesty, fraud, deceit, or misrepresentation, failure to take appropriate steps to protect client interests, client neglect, and conduct adversely reflecting on her fitness to practice law and prejudicial to administration of justice, all in violation of professional conduct rules. [In re Sheidlower \(2 Dept. 1999\) 253 A.D.2d 222, 687 N.Y.S.2d 395. Attorney And Client 🔑42; Attorney And Client 🔑44\(1\)](#)

[19](#). ---- Affidavits, dishonesty, fraud, deceit, or misrepresentation

Attorney, who had been suspended for misconduct but who continued to represent clients, filed a false and misleading affidavit of compliance with court and with Grievance Committee, in violation of Code of Professional Respon-

sibility, when he filed an affidavit of compliance which falsely stated that he had complied with order of suspension. [In re Nerenberg \(2 Dept. 2007\) 45 A.D.3d 116, 843 N.Y.S.2d 91. Attorney And Client !\[\]\(e98fe3539845e3adab171914dbd47898_img.jpg\)42](#)

Attorney's conduct in submitting affidavit to federal district court to appear pro hac vice in a criminal case which falsely denied that attorney had been previously disciplined by a court before which he had been admitted violated professional rules prohibiting making a materially false statement in an application for admission to the bar, engaging in conduct involving dishonesty, fraud, deceit or misrepresentation, engaging in conduct prejudicial to the administration of justice, and engaging in conduct adversely reflecting on his fitness as a lawyer. [In re Brenner \(1 Dept. 2007\) 44 A.D.3d 160, 840 N.Y.S.2d 349. Attorney And Client !\[\]\(c60ce5f1586b7dcb9ed6bccf6949cf15_img.jpg\)42](#)

Attorney's false post-trial affidavit, denying any conversation with prospective jurors in matter in which he was a party, was conduct involving dishonesty, fraud, deceit or misrepresentation and conduct prejudicial to the administration of justice, in violation of disciplinary rules. [In re Heller \(1 Dept. 2004\) 9 A.D.3d 221, 780 N.Y.S.2d 314, leave to appeal denied 3 N.Y.3d 607, 785 N.Y.S.2d 25, 818 N.E.2d 667. Attorney And Client !\[\]\(57c18b879714b128ac3cf0d79c251988_img.jpg\)41](#)

Attorney's conduct in intentionally making several false statements to federal district court in his affidavit in opposition to summary judgment motion violated disciplinary rules prohibiting lawyers from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation, prohibiting lawyers from engaging in conduct prejudicial to administration of justice and prohibiting lawyers from knowingly making false statement of law or fact in representation of client. [Matter of Kramer \(1 Dept. 1997\) 235 A.D.2d 87, 664 N.Y.S.2d 1, leave to appeal denied 91 N.Y.2d 805, 668 N.Y.S.2d 560, 691 N.E.2d 632, leave to appeal dismissed 93 N.Y.2d 883, 689 N.Y.S.2d 425, 711 N.E.2d 639, certiorari denied 120 S.Ct. 169, 528 U.S. 869, 145 L.Ed.2d 143. Attorney And Client !\[\]\(9d1697e409fd6c0a20171c0ed29c9bf3_img.jpg\)42](#)

20. Prejudicial to administration of justice

Attorney's intentional failure to pay parking summonses for over two years constituted conduct prejudicial to the administration of justice in violation of disciplinary rule. [In re Caldwell \(1 Dept. 2006\) 27 A.D.3d 154, 809 N.Y.S.2d 59, leave to appeal dismissed 6 N.Y.3d 891, 817 N.Y.S.2d 626, 850 N.E.2d 673. Attorney And Client !\[\]\(3649eaa0d5fc3e4c9695ed86476856da_img.jpg\)45](#)

Attorney's conduct in filing with Surrogate's Court a petition for judicial settlement of account of estate, which petition failed to disclose that attorney had distributed advance commissions to executors of estate without court approval, violated attorney disciplinary rules prohibiting illegal conduct that adversely reflects on lawyer's honesty, trustworthiness, or fitness as lawyer, prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation, prohibiting conduct prejudicial to administration of justice, and prohibiting any other conduct that adversely reflects on lawyer's fitness as a lawyer. [In re Devine \(3 Dept. 2006\) 34 A.D.3d 1178, 824 N.Y.S.2d 784. Attorney And Client !\[\]\(2c23357b2ce30e79d586a996e0cfa785_img.jpg\)42](#)

Attorney's conduct of obscuring registration sticker on vehicle and placing his expired ALJ identification card on dashboard, ostensibly to discourage a traffic agent from issuing a summons for vehicle, violated disciplinary rules prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation and conduct prejudicial to the administration of justice. [In re Caldwell \(1 Dept. 2006\) 27 A.D.3d 154, 809 N.Y.S.2d 59, leave to appeal dismissed 6](#)

[N.Y.3d 891, 817 N.Y.S.2d 626, 850 N.E.2d 673. Attorney And Client](#) 45

Attorney's engaging in scheme to avoid parking summonses for his own vehicles and in deliberately failing to pay 167 summonses issued over a two-year period adversely reflected on his fitness as a lawyer in violation of disciplinary rule. [In re Caldwell \(1 Dept. 2006\) 27 A.D.3d 154, 809 N.Y.S.2d 59](#), leave to appeal dismissed [6 N.Y.3d 891, 817 N.Y.S.2d 626, 850 N.E.2d 673. Attorney And Client](#) 45

Attorney's failure to satisfy lawful monetary judgment entered against him for share of attorney fee relating to settlement was conduct prejudicial to administration of justice and conduct that adversely reflected on his fitness as a lawyer. [In re Sobolewski \(2 Dept. 2005\) 21 A.D.3d 188, 799 N.Y.S.2d 267. Attorney And Client](#) 42

Evidence that attorney who was representing vendors in real estate transaction had released down payment, which he was holding as escrowee, directly to sellers, in contravention of purchaser's attorney's instructions, and subsequently had conditioned agreement for return of down payment on purchaser's not pursuing professional misconduct complaint she had filed against attorney, warranted confirmation of special referee's findings of misappropriation of funds, engaging in conduct adversely reflecting on fitness, and conduct prejudicial to administration of justice. [In re Tartaglia \(2 Dept. 2005\) 20 A.D.3d 81, 798 N.Y.S.2d 458](#), leave to appeal denied [5 N.Y.3d 711, 804 N.Y.S.2d 35, 837 N.E.2d 734. Attorney And Client](#) 38; [Attorney And Client](#) 42

Attorney's failure to report his conviction for serious crimes to the Supreme Court, Appellate Division, demonstrated that attorney engaged in conduct prejudicial to the administration of justice and in conduct which adversely reflected on attorney's fitness to practice law, in violation of Code of Professional Responsibility. [In re Crowe \(2 Dept. 2004\) 3 A.D.3d 193, 770 N.Y.S.2d 754. Attorney And Client](#) 38; [Attorney And Client](#) 42

Attorney's conduct in assisting a teenaged girl in violating an order of protection that directed her to have no contact with him, by continuing to see her and by providing her with a cellular telephone to facilitate conduct, was illegal conduct adversely reflecting on attorney's honesty, conduct which was prejudicial to administration of justice, and conduct which adversely reflected on attorney's fitness as a lawyer, in violation of Code of Professional Responsibility. [In re Lane \(4 Dept. 2003\) 3 A.D.3d 69, 772 N.Y.S.2d 771. Attorney And Client](#) 42; [Attorney And Client](#) 45

Attorney engaged in conduct prejudicial to administration of justice within meaning of disciplinary rule when he provided false information to police in course of their investigation of an assault and murder of a police officer 24 years earlier, even if attorney's fabricated story did not hamper official investigation into the underlying crime or prejudice its prosecution. [In re Race \(1 Dept. 2002\) 296 A.D.2d 168, 744 N.Y.S.2d 29](#), modified [296 A.D.2d 328, 748 N.Y.S.2d 128](#), reinstatement granted [299 A.D.2d 243, 753 N.Y.S.2d 365. Attorney And Client](#) 42

Attorney's fabrication and submission for probate of will and supporting documents, undertaken on behalf of decedent's widow, amounted to illegal conduct involving moral turpitude, conduct involving dishonesty, fraud, deceit, or misrepresentation, conduct prejudicial to the administration of justice, conduct adversely reflecting on his fitness to practice law, knowingly assisting a client in illegal conduct, and illegal conduct, in violation of applicable professional responsibility rules. [In re Nolan \(2 Dept. 2000\) 268 A.D.2d 164, 706 N.Y.S.2d 704. Attorney And Client](#)

[🔑41; Attorney And Client 🔑42](#)

Attorney's conviction, on *Serrano* plea, of attempted petit larceny amounted to prima facie evidence of illegal, corrupt, and unethical conduct, conduct prejudicial to administration of justice, and conduct adversely reflecting on his fitness to practice law by being convicted of crime, in violation of applicable professional disciplinary rules. [In re McLoughlin \(2 Dept. 2000\) 265 A.D.2d 9, 703 N.Y.S.2d 265. Attorney And Client 🔑53\(2\)](#)

Attorney's orchestration of bogus transfer of assets to client in connection with bad-faith filing and prosecution of bankruptcy petition on client's behalf, and intentional misstatement of facts and creation of false evidence while knowingly assisting client in fraudulent conduct, amounted to conduct that harassed and maliciously injured third party, constituted dishonesty, fraud, deceit or misrepresentation, and was prejudicial to administration of justice. [In re Gelbwaks \(1 Dept. 1999\) 260 A.D.2d 47, 696 N.Y.S.2d 45. Attorney And Client 🔑37.1; Attorney And Client 🔑42](#)

Attorney engaged in conduct prejudicial to the administration of justice and adversely reflecting on his fitness to practice law in violation of disciplinary rules, where attorney charged client for time spent attempting to reverse sanction imposed on attorney personally. [Matter of Lebron \(2 Dept. 1998\) 246 A.D.2d 31, 675 N.Y.S.2d 378. Attorney And Client 🔑42; Attorney And Client 🔑44\(1\)](#)

21. Illegal conduct--In general

Attorney's affidavit in support of request for resignation from practice of law, in which attorney acknowledged that there was a disciplinary proceeding against him premised on his federal conviction for misprision of a felony, that he could not successfully defend himself against the charges, and that his resignation was voluntary, free from coercion or duress, and submitted with full knowledge of its implications, satisfied statutory criteria and would be accepted. [In re Bolan \(1 Dept. 2006\) 28 A.D.3d 172, 810 N.Y.S.2d 199. Attorney And Client 🔑59.12](#)

Evidence supported finding that attorney violated Disciplinary Rule providing that in representing a client, lawyer shall not counsel or assist client in conduct lawyer knows to be illegal or fraudulent, where during closing, purchasers hand-delivered approximately \$30,000 in cash to attorney's paralegal and agent, and attorney was aware cash payment was to assist his client in evading payment of required taxes in connection with subject real estate transaction. [Matter of Rosales \(2 Dept. 1993\) 190 A.D.2d 214, 598 N.Y.S.2d 302. Attorney And Client 🔑53\(2\)](#)

If an attorney places himself in such a situation that he is constrained to admit to the commission of a crime, it compromises his position in the community and constitutes conduct adversely reflecting on his fitness to practice law. [Matter of Williams \(3 Dept. 1984\) 105 A.D.2d 974, 481 N.Y.S.2d 530. Attorney And Client 🔑39](#)

It is improper for a lawyer to accept a retainer from an organization, known to be unlawful, and agrees in advance to defend its members when from time to time they are accused of crime arising out of its unlawful activities. ABA Opinion 281 (1952).

Where a client manifests an intention to commit a crime, a lawyer may not knowingly further that crime and should attempt to persuade the client to abandon prospective criminal acts. N.Y.State Bar Ass'n, Ethics Op. Bar Ass'n, Ethics Op. 84-562.

An attorney may not properly prepare usurious mortgage papers for a client since a lawyer can not aid a client in violating the law. N.Y.State Bar Ass'n, Ethics Op. 70-126.

Illegal conduct by an attorney is unethical conduct, with rare exceptions of inadvertent violations involving no moral turpitude. N.Y.State Bar Ass'n, Ethics Op. 78-479.

22. ---- Serious crimes, illegal conduct

Special Referee properly sustained charge that attorney had been convicted of a serious crime, as ground for attorney discipline; attorney pleaded guilty to federal felony of attempt to evade or defeat tax and was sentenced to a 42-month prison term and other penalties. [In re Uscinski \(2 Dept. 2006\) 36 A.D.3d 308, 826 N.Y.S.2d 375. Attorney And Client !\[\]\(f1d73e448c1fd3bf7b3c3929545023ac_img.jpg\)39](#)

Attorney who was convicted in federal court of conspiracy to commit mail fraud and wire fraud, eight counts of mail fraud, and three counts of wire fraud, was convicted of “serious crimes” within the meaning of statutory and regulatory provisions governing attorney conduct. [In re Fasciana \(1 Dept. 2006\) 36 A.D.3d 9, 823 N.Y.S.2d 132. Attorney And Client !\[\]\(f985c1b56f6a89991588bb83755d7e08_img.jpg\)39](#)

Attorney who pleaded guilty to violating statute prohibiting use of any false representation or statement, an unclassified misdemeanor, based on his representation, in his application to convert a building to condominium ownership, that there were no vacant or sublet units of any kind in the building, was guilty of committing a “serious crime” within the meaning of the Judiciary Law, and of engaging in conduct adversely reflecting on his fitness to practice law. [In re Schwartz \(2 Dept. 2005\) 18 A.D.3d 44, 794 N.Y.S.2d 389. Attorney And Client !\[\]\(67337fe6bf23598d4c837f80569dc56b_img.jpg\)39](#)

23. ---- Concealment of body, illegal conduct

Had attorney affirmatively advised client to conceal or dispose of body, he would have been counseling commission of a crime, impeding discovery of evidence, in violation of this rule. [People v. Fentress, 1980, 103 Misc.2d 179, 425 N.Y.S.2d 485. Attorney And Client !\[\]\(8f3ec3126694d835f2e1584652e390da_img.jpg\)32\(7\)](#)

24. ---- Extortion, illegal conduct

Extortion constitutes “illegal conduct involving moral turpitude” within meaning of attorney disciplinary rules. [Matter of Yao \(1 Dept. 1997\) 231 A.D.2d 346, 661 N.Y.S.2d 199. Attorney And Client !\[\]\(3271ad3f963d2e9d60af4e824e455014_img.jpg\)39](#)

25. ---- Surrogate parents, illegal conduct

Surrogate parenting contract may be prepared by attorney if it is determined it is not illegal. N.Y.State Bar Ass'n, Ethics Op. Bar Ass'n, Ethics Op. 87-584.

26. ---- Private adoptions, illegal conduct

A lawyer may handle private placement adoptions of children where the law regarding the validity of such adoptions is in apparent conflict. N.Y.State Bar Ass'n, Ethics Op. 68-68.

27. ---- Forgery, illegal conduct

Attorney engaged in conduct that adversely reflected on his honesty, trustworthiness, or fitness as lawyer by not telling client of insurance company's settlement offer and that he caused his employees to forge her signature on release form and falsely notarize it using photocopy of notary stamp and by not notifying her when settlement funds were received. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411.](#) [Attorney And Client](#) 44(2)

Attorney engaged in engaged in other conduct that adversely reflected on his fitness as lawyer by not telling client of insurance company's settlement offer and that he caused his employees to forge her signature on release form and falsely notarized it using photocopy of notary stamp and by not notifying her when settlement funds were received. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411.](#) [Attorney And Client](#) 44(2)

Attorney engaged in illegal conduct that adversely reflected on his honesty, trustworthiness, or fitness as lawyer by not notifying one client of his receipt of \$40,000 settlement check in her favor, by having other client sign retainer agreement that gave attorney exclusive right to settle his claim without his approval, allowing his employees to forge client's signature on release form and affix false notary statement, and neglecting legal matter by not filing notice of claim with municipality. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411.](#) [Attorney And Client](#) 41; [Attorney And Client](#) 44(1); [Attorney And Client](#) 44(2)

Attorney engaged in illegal conduct that adversely reflected on his honesty, trustworthiness, or fitness as lawyer by having client sign retainer agreement that gave attorney right to settle claim without client's approval, instructing his employees to forge client's name and affix false notary statement to release form, and knowingly misrepresenting that client had duly executed release form in letter to insurance carrier. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411.](#) [Attorney And Client](#) 38; [Attorney And Client](#) 41; [Attorney And Client](#) 44(1)

Federal felony of interstate transmittal of stolen money, to which attorney pleaded guilty, was essentially similar to New York felony of criminal possession of forged instrument in second degree, felony which warranted attorney's automatic disbarment. [In re Daly \(2 Dept. 2006\) 32 A.D.3d 176, 819 N.Y.S.2d 98.](#) [Attorney And Client](#) 39; [Attorney And Client](#) 59.14(6)

28. ---- Driving while intoxicated, illegal conduct

Attorney's conduct of operating a motor vehicle while intoxicated constituted engaging in conduct that adversely

reflected on his fitness as a lawyer. [In re Green \(2 Dept. 2006\) 32 A.D.3d 36, 817 N.Y.S.2d 386. Attorney And Client](#) 45

Attorney who pleaded guilty to misdemeanor offense of operating a motor vehicle while intoxicated was properly found to have engaged in conduct adversely reflecting on his fitness as a lawyer. [In re Bach \(2 Dept. 2005\) 20 A.D.3d 114, 796 N.Y.S.2d 382. Attorney And Client](#) 39

Special Referee, in disciplinary proceeding, properly sustained charge that attorney's convictions for driving while intoxicated and driving while impaired constituted conduct adversely reflecting on attorney's fitness as a lawyer. [In re Shichman \(2 Dept. 2005\) 20 A.D.3d 111, 796 N.Y.S.2d 369. Attorney And Client](#) 39

Attorney who pleaded guilty to charges of disorderly conduct, driving while intoxicated, and two traffic infractions, in satisfaction of two arrests involving multiple infractions and two misdemeanor charges of driving while intoxicated, was properly found to have engaged in conduct adversely reflecting on his fitness as a lawyer, in violation of the Code of Professional Responsibility. [In re McCarthy \(2 Dept. 2004\) 11 A.D.3d 162, 782 N.Y.S.2d 766. Attorney And Client](#) 39

29. Destruction of work product

Attorney did not act improperly when he destroyed photographs he had taken of the bodies of the victims of two homicides which his client had confessed to in the course of consultations with the attorney or when he destroyed the diagram which he had prepared based upon the client's description showing the physical location of the bodies and the record of the conversation with the client concerning the bodies. N.Y.State Bar Ass'n, Ethics Op. 78-479.

30. Duty to report wrongdoing

Genuine issues of material fact existed as to the nature of the relationships and the communications between debtors' attorneys, debtors and the party who agreed to lease and purchase debtors' property which bore on the determination as to whether attorneys had a duty to disclose the activities of debtors and lessee purchaser and as to whether attorneys had knowledge of alleged fraudulent activity of debtors and lessee purchaser at time when attorneys were under a duty to disclose such information and as to whether trustee relied upon the nondisclosure, precluding summary judgment in favor of trustee and attorneys on trustee's claim against attorneys for fraudulent concealment and also precluding summary judgment in favor of attorneys on lessee purchaser's cross claim alleging that attorneys intentionally did not inform lessee purchaser of his obligations pursuant to the bankruptcy laws and thus perpetrated a fraud upon lessee purchaser. [In re White, 1984, 42 B.R. 494. Federal Civil Procedure](#) 2486

Attorney's ethical duty to advance the interest of his or her client is circumscribed by an equally solemn duty to comply with the law and standards of professional conduct to prevent and disclose frauds upon the court. [People v. DePallo \(2 Dept. 2000\) 275 A.D.2d 60, 714 N.Y.S.2d 755](#), leave to appeal granted [96 N.Y.2d 734, 722 N.Y.S.2d 800, 745 N.E.2d 1023](#), habeas corpus denied [296 F.Supp.2d 282](#), affirmed [96 N.Y.2d 437, 729 N.Y.S.2d 649, 754 N.E.2d 751](#), error coram nobis denied [306 A.D.2d 419, 760 N.Y.S.2d 889](#), error coram nobis denied [50 A.D.3d](#)

[1155, 855 N.Y.S.2d 378. Attorney And Client](#)  [32\(6\)](#)

Mere suspicion of impropriety of the beneficiary of an estate or of possible laxity on the part of a welfare agency in pursuing its remedies does not require a lawyer for the executor of the estate to affirmatively communicate facts, on his own initiative, to the welfare agency, that may bear upon the status of the welfare recipient, unless the lawyer has reason to believe that the beneficiary withheld information required to be furnished by law, provided he gives the beneficiary the opportunity to furnish the information on his own. N.Y.State Bar Ass'n, Ethics Op. 71-207.

A lawyer appointed to represent an indigent defendant and who subsequently learns the client has intentionally misrepresented his financial eligibility may not report the client's misrepresentation to the court despite statutory authority, but must call upon the client to rectify the fraud, and if the client fails to do so the attorney should seek to withdraw from representation, but may not reveal the fraud unless ordered to do so by the court. Nassau County Bar Ass'n, Ethics Op. 03-1.

Attorney is not ethically required to report alleged illegal conduct testified to by adversary party-deponent, where the illegal conduct did not involve engaging in fraud upon a tribunal. Nassau County Bar Ass'n, Ethics Op. 94-20.

Counsel must report another attorney's wrongdoing unless knowledge of the wrongdoing was obtained as a confidence or secret of the client and the client objects. Counsel must also report an attorney's fraud upon a tribunal irrespective of whether the information has been learned as a client "confidence or secret". Nassau County Bar Ass'n, Ethics Op. 94-13.

Attorney would be obligated to inform tribunal that an individual who was the principal of the client corporation forged his mother's signature on a will which had been probated under representation by another attorney and that the will had been improperly witnessed, if the information, which had been received from a third party, and the circumstances under which it was received "clearly established" that the fraud had taken place. Nassau County 93-34.

An attorney is obliged to report to a tribunal the attorney's reasonable belief that a person has been or is practicing law as an attorney before that tribunal after having been disbarred. Nassau County 92-16.

Guardian ad Litem has duty to report suspected wrongdoing by conservator to court having jurisdiction over matter. Nassau County 91-11.

An attorney who "clearly believes" that the attorney's co-counsel and client have committed fraud on a tribunal in a transaction unrelated to the attorney's co-counsel duties and representation of the client, is obligated to report that fraud to the tribunal. Nassau County 93-41.

[31. Negligence](#)

Standard for evaluating whether attorney has been negligent is whether the attorney has exercised reasonable skill, care, attention, and prudence in representing his client. [Rejohn v. Serpe, 1984, 125 Misc.2d 148, 478 N.Y.S.2d 799.](#)

[Attorney And Client](#)  107[32. Discovery rules](#)

Attorney engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of Code of Professional Responsibility, by aiding his divorce client in the concealment of marital assets. [In re Davidson \(2 Dept. 2004\) 11 A.D.3d 11, 782 N.Y.S.2d 110](#), leave to appeal dismissed [7 N.Y.3d 741, 819 N.Y.S.2d 875, 853 N.E.2d 246. Attorney And Client](#)  41

Where the same insurance company insures plaintiff and defendant in a lawsuit, defense counsel hired by insurance company may not obtain plaintiff's insurance file from company in avoidance of rules of discovery. N.Y.State Bar Ass'n, Ethics Op. 88-596.

[33. Appellate documents](#)

Attorney's inclusion in appendix prepared for appeal of documentary evidence which attorney conceded had never been presented to trial court for consideration contravened both evidentiary and ethical standards. [Devellis v. Lucci \(2 Dept. 1999\) 266 A.D.2d 180, 697 N.Y.S.2d 337. Attorney And Client](#)  32(7)

An attorney, in the absence of any contractual obligation to prosecute an appeal, has no ethical obligation to file a Notice of Appeal, and may fulfill her ethical obligations to her client by fully advising the client of deadlines and other pertinent information relating to appeals, sufficiently in advance to allow the client to act. Nassau County 94-1.

[34. Lawful objectives of client](#)

Attorney violated requirement that he seek lawful objectives of client through reasonably available means permitted by law by arranging for his employees to falsely notarize client's genuine signature on two medical records authorization forms and release form by transferring image of notary stamp and signature of notary onto forms. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411. Attorney And Client](#)  41

Attorney violated requirement that he seek lawful objectives of client through reasonably available means permitted by law by not telling client of insurance company's settlement offer and that he caused his employees to forge her signature on release form and falsely notarized it using photocopy of notary stamp and by not notifying her when settlement funds were received. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411. Attorney And Client](#)  44(2)

Attorney violated requirement that he seek lawful objectives of client through reasonably available means permitted by law by not informing client of offer of settlement on his personal injury claim, settling claim without his consent, not informing client of receipt of settlement funds, not paying him his share of settlement proceeds for 11 months, paying medical vendor \$1,000 from settlement funds purportedly to satisfy medical lien without obtaining written

release from vendor, not informing client of offer to settle his separate property damage claim and settling that claim without client's consent, and not paying client of his share of those settlement proceeds. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411. Attorney And Client 🔑44\(2\)](#)

Attorney's refusal to execute, on behalf of counsel for his client's estate, deposition affidavit of subscribing witness with respect to will drafted by him and to signing of which he had served as witness, was without justification, caused unnecessary delay in probate, and amounted to conduct prejudicial to the administration of justice and contrary to lawful objectives of his client, in violation of applicable professional responsibility rule. [In re Spyropoulos \(2 Dept. 2000\) 265 A.D.2d 122, 704 N.Y.S.2d 137, leave to appeal denied 95 N.Y.2d 754, 711 N.Y.S.2d 156, 733 N.E.2d 228, reargument denied 95 N.Y.2d 888, 715 N.Y.S.2d 379, 738 N.E.2d 783. Attorney And Client 🔑42](#)

35. Power of court to discipline

Attorney may be disciplined for conduct other than professional malfeasance when such conduct reflects adversely upon legal profession and is not in accordance with high standards imposed upon members of bar. [Matter of Van De Loo \(3 Dept. 1997\) 240 A.D.2d 940, 659 N.Y.S.2d 899, leave to appeal denied 90 N.Y.2d 811, 666 N.Y.S.2d 99, 688 N.E.2d 1381. Attorney And Client 🔑45](#)

36. Circumvention of rules through others

By loaning money to clients through intermediaries, attorney circumvented disciplinary rule which prohibits attorneys, while representing a client in connection with contemplated or pending litigation, from advancing or guaranteeing financial assistance to a client beyond the expenses of litigation and thereby violated disciplinary rule prohibiting the circumventing of a disciplinary rule through the actions of another. [In re Moran \(4 Dept. 2007\) 42 A.D.3d 272, 840 N.Y.S.2d 847, reinstatement granted 61 A.D.3d 1438, 877 N.Y.S.2d 709. Attorney And Client 🔑37.1](#)

Attorneys circumvented rule of professional conduct prohibiting lawyer representing client in connection with contemplated or pending litigation from advancing or guaranteeing financial assistance to client beyond expenses of litigation, thereby violating rule proscribing the circumventing of disciplinary rule through actions of another, when attorneys arranged for establishment of, funded, and controlled company owned by one attorney's cousin so that they could continue loaning money to clients after learning that professional rules prevented them from loaning money to clients through their own company. [In re Cellino \(4 Dept. 2005\) 21 A.D.3d 229, 798 N.Y.S.2d 600, reinstatement granted 37 A.D.3d 1206, 827 N.Y.S.2d 901. Attorney And Client 🔑37.1](#)

Attorney may be disbarred for adopting general course of approving unethical conduct by client's employees, even though attorney did not actively participate. [In re Robinson \(1 Dept. 1912\) 151 A.D. 589, 136 N.Y.S. 548, affirmed 209 N.Y. 354, 103 N.E. 160.](#)

37. Political activity

An attorney employed by a municipal agency that is charged by law to investigate public corruption and has the

subpoena power to compel the attendance of witnesses, the production of documents and the authorization to refer matters for criminal prosecution, is subject to the same restrictions upon partisan political activity as are imposed upon assistant district attorneys pursuant to N.Y.State Bar Ass'n, Ethics Op. Bar Ass'n, Ethics Op. 683 (1996). N.Y.State Bar Ass'n, Ethics Op. 97-696.

[38. Recording of conversations](#)

Furniture manufacturer's counsel did not violate New York rule against attorney misrepresentations by having private investigators secretly tape conversations with terminated distributor's salespeople, in effort to gain evidence in trademark infringement suit; hiring of investigators to pose as consumers was accepted investigative technique, not misrepresentation. [Gidatex, S.r.L. v. Campaniello Imports, Ltd., 1999, 82 F.Supp.2d 119, 53 U.S.P.Q.2d 1008. Attorney And Client !\[\]\(601b98b71de866467fbdeacf1ccbac3e_img.jpg\)32\(14\)](#)

Primary concern of rule prohibiting clandestine taping by attorneys is with attorney's status as member of bar and expectation of conduct in dealing with others that flow from that status, i.e., candor and honesty; these interests are more appropriately monitored and enforced through disciplinary bodies rather than trial courts. [Miano v. AC & R Advertising, Inc., 1993, 148 F.R.D. 68, amended, adopted 834 F.Supp. 632. Attorney And Client !\[\]\(59a20289897cc4154a78df489f8e9fdd_img.jpg\)32\(7\)](#)

Conduct covered by ethical proscription prohibiting lawyer from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation including recording of conversation without other party's knowledge or consent does not turn upon whether person who is target of taping is party represented in matter in issue. [Miano v. AC & R Advertising, Inc., 1993, 148 F.R.D. 68, amended, adopted 834 F.Supp. 632. Attorney And Client !\[\]\(553fc0557dc55ddc76815ec83dfa644a_img.jpg\)32\(14\)](#)

A lawyer may tape a conversation without disclosure to all participants if the lawyer has a reasonable basis for believing that disclosure would impair a generally accepted societal good, but may not tape record conversations as a matter of routine practice. N.Y.City Bar Ass'n, Ethics Op. 2003-2.

[39. Electronic investigations](#)

A lawyer may not use computer software applications to surreptitiously examine and trace e-mail and other electronic documents; such conduct violates disciplinary rule protecting attorney-client confidentiality and rule prohibiting conduct involving dishonesty, fraud, deceit or misrepresentation as well as conduct prejudicial to the administration of justice. N.Y.State Bar Ass'n, Ethics Op. 01-749.

[40. Perjury](#)

Attorney's conduct in stating, under penalty of perjury, in a motion seeking leave to reappeal his prior appeal of sanction, that "he was never sanctioned before," constituted conduct which adversely reflected on his fitness to practice law, in violation of Code of Professional Responsibility, as attorney had been previously sanctioned for commencing and continuing a frivolous action. [In re Abrahams \(2 Dept. 2003\) 5 A.D.3d 21, 770 N.Y.S.2d 369, appeal dismissed 1 N.Y.3d 619, 777 N.Y.S.2d 13, 808 N.E.2d 1273, leave to appeal denied 3 N.Y.3d 601, 782 N.Y.S.2d](#)

[404, 816 N.E.2d 194. Attorney And Client 🔑42](#)

Attorney's conduct in affirming, under penalty of perjury, that he had not opposed an appeal relating to the issue of a previous sanction, constituted conduct which adversely reflected on his fitness to practice law, in violation of the Code of Professional Responsibility; attorney, in fact, submitted a brief that specifically addressed and argued in support of the sanction imposed. [In re Abrahams \(2 Dept. 2003\) 5 A.D.3d 21, 770 N.Y.S.2d 369](#), appeal dismissed [1 N.Y.3d 619, 777 N.Y.S.2d 13, 808 N.E.2d 1273](#), leave to appeal denied [3 N.Y.3d 601, 782 N.Y.S.2d 404, 816 N.E.2d 194. Attorney And Client 🔑42](#)

Instructing correction officer to testify falsely under oath in order to protect him from retaliation from other officers does not violate Disciplinary Rules proscribing illegal conduct involving moral turpitude or other conduct that adversely reflects on fitness to practice law. [Matter of Malone \(3 Dept. 1984\) 105 A.D.2d 455, 480 N.Y.S.2d 603](#), affirmed [65 N.Y.2d 772, 492 N.Y.S.2d 947, 482 N.E.2d 565. Attorney And Client 🔑42](#)

[41. Bar application](#)

Attorney's conduct in notarizing his own signature on his affidavit for admission to bar and his testimony before disciplinary committee that he did not affix notary signature violated disciplinary rules that prohibited making materially false statement in connection with application for admission to bar, engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, and engaging in conduct prejudicial to administration of justice. [In re Fauci \(1 Dept. 2006\) 28 A.D.3d 192, 811 N.Y.S.2d 38. Attorney And Client 🔑40; Attorney And Client 🔑42](#)

Attorney was guilty of having attempted to mislead and deceive the Committee on Professional Standards; attorney told Committee that he had disclosed his arrest and subsequent guilty plea on a separate sheet of paper which he stated he enclosed with his application for admission to the bar, and by stating that he had disclosed a prior criminal matter to an investigator in connection with his application to the New York State Unified Court System for a secure pass. [In re Spinner \(3 Dept. 2005\) 19 A.D.3d 803, 796 N.Y.S.2d 716](#), leave to appeal denied [5 N.Y.3d 708, 803 N.Y.S.2d 29, 836 N.E.2d 1152. Attorney And Client 🔑42](#)

Attorney's provision of legal and business services to a company, holding herself out as attorney on numerous occasions prior to admission to bar, and termination by her employer, all of which she deliberately failed to disclose on her application for admission to state bar, together with various threats against her former employer's marriage, business and life, violated disciplinary rules prohibiting failure to disclose material fact in connection with a bar application, conduct involving dishonesty, fraud, deceit or misrepresentation, and conduct adversely reflecting on her fitness to practice law, and amounted to crime of disorderly conduct. [In re Nurse \(1 Dept. 2000\) 276 A.D.2d 24, 714 N.Y.S.2d 73](#), reinstatement granted [294 A.D.2d 212, 746 N.Y.S.2d 255. Attorney And Client 🔑37.1; Attorney And Client 🔑39](#)

[42. Attorney registration requirements](#)

Attorney's failure to properly re-register with Office of Court Administration (OCA) and failure to comply with

Grievance Committee directive to re-register violated Code of Professional Responsibility. [In re Timbers \(2 Dept. 2005\) 18 A.D.3d 119, 794 N.Y.S.2d 428. Attorney And Client](#)  [42](#)

Attorney's failure to maintain his biennial attorney registration constituted conduct adversely reflecting on his fitness to practice law; attorney's check or checks in payment of his registration fee to the Office of Court Administration were returned due to insufficient funds. [In re Carey \(2 Dept. 2004\) 9 A.D.3d 57, 778 N.Y.S.2d 89. Attorney And Client](#)  [37.1](#)

Attorney's failure to maintain his biennial attorney registration constituted conduct adversely reflecting on his fitness to practice law; attorney submitted his registration statement and fee to the Office of Court Administration more than two years after deadline. [In re Carey \(2 Dept. 2004\) 9 A.D.3d 57, 778 N.Y.S.2d 89. Attorney And Client](#)  [37.1](#)

Attorney engaged in conduct prejudicial to administration of justice by failing to re-register with Office of Court Administration (OCA) as attorney and counselor-at-law. [In re Cronk \(2 Dept. 2008\) 52 A.D.3d 54, 856 N.Y.S.2d 186, 2008 N.Y. Slip Op. 03210.](#)

Attorney's failure to file biennial registration statement with Office of Court Administration (OCA) and to timely pay designated fee violated disciplinary rule prohibiting attorneys from engaging in conduct that is prejudicial to administration of justice. [In re Netusil \(2 Dept. 2008\) 52 A.D.3d 23, 857 N.Y.S.2d 652. Attorney And Client](#)  [37.1](#)

Attorney's conduct in neglecting legal matters, failing to refund legal fees to client, which debt was demonstrated by a judgment, and failure to renew registration and pay his biennial fees warranted immediate interim suspension from the practice of law, until disciplinary proceedings were concluded. [In re Kaplan \(1 Dept. 2008\) 49 A.D.3d 107, 850 N.Y.S.2d 19. Attorney And Client](#)  [48](#)

Attorney's failure to file her biennial registration statement and any applicable fee for that period violated professional rules prohibiting attorney's from engaging in conduct prejudicial to the administration of justice. [In re Frankel \(2 Dept. 2007\) 45 A.D.3d 52, 842 N.Y.S.2d 463. Attorney And Client](#)  [37.1](#)

Conduct of attorney in failing to file a biennial attorney registration statement and fee and in failing to cooperate with lawful demands of grievance committee thereafter warranted public censure for her professional misconduct, in light of attorney's expressed remorse, her cooperation with grievance committee through stipulation and hearing, and the fact that she eventually brought her attorney registration into compliance. [In re Frankel \(2 Dept. 2007\) 45 A.D.3d 52, 842 N.Y.S.2d 463. Attorney And Client](#)  [59.8\(1\)](#)

Attorney engaged in conduct prejudicial to the administration of justice, where attorney failed to re-register with the Office of Court Administration (OCA) as an attorney and counselor-at-law, even though he had been advised that a sua sponte complaint had been authorized based upon his failure to re-register as an attorney for the previous and/or current registration periods. [In re Horrell \(2 Dept. 2006\) 33 A.D.3d 19, 819 N.Y.S.2d 773. Attorney And Client](#)

 [38](#)

Attorney failed to comply with Grievance Committee's legitimate demands in connection with an investigation into his professional conduct and was thus guilty of professional misconduct; attorney failed to comply with Committee's directions that he re-register with the Office of Court Administration and submit proof of compliance and an answer explaining his failure to re-register, and attorney failed to contact the Committee in any manner. [In re Fontana \(2 Dept. 2006\) 32 A.D.3d 70, 817 N.Y.S.2d 388. Attorney And Client !\[\]\(b24c916560b9f61306da39645d78552c_img.jpg\) \[42\]\(#\)](#)

Attorney who failed, for five registration periods, to comply with statute requiring that he re-register with the Office of Court Administration and pay the required fee, was thus guilty of professional misconduct. [In re Fontana \(2 Dept. 2006\) 32 A.D.3d 70, 817 N.Y.S.2d 388. Attorney And Client !\[\]\(030805e781ca911e8f1e50e711428c55_img.jpg\) \[37.1\]\(#\)](#)

Attorney failed to comply with Grievance Committee's legitimate demands in connection with an investigation into her professional misconduct, and, thus, she was guilty of professional misconduct immediately threatening the public interest, where she did not comply with Committee's directions that she re-register with the Office of Court Administration, and submit a written answer explaining her failure to re-register. [In re Cave \(2 Dept. 2006\) 31 A.D.3d 42, 815 N.Y.S.2d 214. Attorney And Client !\[\]\(cc25d66a253e8abef973a3641007bae5_img.jpg\) \[42\]\(#\)](#)

Attorney's conduct of moving his business address and changing his business telephone number without notifying the Office of Court Administration (OCA) within 30 days, as required, his failure to re-register with OCA, and his failure to pay his biennial attorney registration fees for more than five years, constituted conduct prejudicial to the administration of justice, warranting disciplinary action. [In re Pierini \(1 Dept. 2005\) 21 A.D.3d 42, 797 N.Y.S.2d 65, motion granted 29 A.D.3d 73, 811 N.Y.S.2d 353. Attorney And Client !\[\]\(d21abd31184ed2dbd96671ce76bd3c8a_img.jpg\) \[37.1\]\(#\)](#)

Attorney's failure to reregister as an attorney with the Office of Court Administration, as required by statute, violated professional rules prohibiting conduct prejudicial to the administration of justice and adversely reflected on the lawyer's fitness as a lawyer. [In re Drakes \(2 Dept. 2004\) 5 A.D.3d 33, 773 N.Y.S.2d 77. Attorney And Client !\[\]\(2a126c2a36ebe27b46f0d45fbbc8bf84_img.jpg\) \[42\]\(#\)](#)

Public censure was warranted for attorney who was found to have engaged in three counts of professional misconduct for repeatedly failing to re-register with the Office of Court Administration regarding continuing legal education requirements for the current or previous registration period, or to file a change of address; although attorney suffered from depression, expressed remorse at her hearing, payed registration arrears, and demonstrated absence of harm to clients, attorney had failed to benefit from prior attempts to afford her leniency. [In re Behensky \(2 Dept. 2003\) 307 A.D.2d 138, 761 N.Y.S.2d 675. Attorney And Client !\[\]\(fdccd5f41cedaea49929c965d423cd9f_img.jpg\) \[59.8\\(1\\)\]\(#\)](#)

Evidence was sufficient to establish that attorney engaged in conduct which was prejudicial to the administration of justice and which adversely reflected on her fitness to practice law, where attorney failed to re-register with the Office of Court Administration regarding continuing legal education requirements for the current or previous registration period, or to file a change of address, despite numerous notices informing attorney of her obligation to do so. [In re Behensky \(2 Dept. 2003\) 307 A.D.2d 138, 761 N.Y.S.2d 675. Attorney And Client !\[\]\(9503f98ca25dae0acc783cc7bfa3022d_img.jpg\) \[37.1\]\(#\); Attorney And Client !\[\]\(8bb3f10c156aaf35e6b69a6437101d75_img.jpg\) \[53\\(2\\)\]\(#\)](#)

Attorney's repeated failure to comply with attorney registration requirements violated disciplinary rules prohibiting conduct prejudicial to administration of justice and conduct adversely reflecting on fitness as lawyer, as well as law and rules with respect to attorney registration. [In re Rinaldi \(4 Dept. 2003\) 304 A.D.2d 271, 761 N.Y.S.2d 755. Attorney And Client 🔑37.1; Attorney And Client 🔑42](#)

Attorney's repeated failure to comply with attorney registration requirements warranted censure, in light of attorney's expression of extreme remorse and satisfaction of outstanding attorney registration fees. [In re Rinaldi \(4 Dept. 2003\) 304 A.D.2d 271, 761 N.Y.S.2d 755. Attorney And Client 🔑58](#)

Failure to comply with attorney registration requirements and failure to cooperate with committee on professional standards warranted suspension from practice of law. [In re Hurtault \(3 Dept. 1999\) 267 A.D.2d 869, 700 N.Y.S.2d 524. Attorney And Client 🔑59.13\(1\)](#)

Failing to properly register as attorney with Office of Court Administration constituted conduct prejudicial to the administration of justice and adversely reflecting on attorney's fitness to practice law in violation of Code of Professional Responsibility. [Matter of Losner \(2 Dept. 1995\) 217 A.D.2d 376, 636 N.Y.S.2d 804, leave to appeal denied 88 N.Y.2d 812, 649 N.Y.S.2d 380, 672 N.E.2d 606. Attorney And Client 🔑42](#)

Failure to deny factual allegations of charge for not filing registration statement and not paying fee establishes violation of rule that prohibits conduct prejudicial to administration of justice. [Matter of Riccio \(3 Dept. 1987\) 131 A.D.2d 973, 517 N.Y.S.2d 791. Attorney And Client 🔑38](#)

43. Scierter

Disciplinary rule under which attorney commits professional misconduct by engaging in actions which adversely reflect on her fitness to practice law has no scierter requirement. [In re Latimore \(1 Dept. 1999\) 252 A.D.2d 217, 683 N.Y.S.2d 526, appeal and reargument denied 260 A.D.2d 170, 693 N.Y.S.2d 434, leave to appeal dismissed 93 N.Y.2d 995, 696 N.Y.S.2d 105, 718 N.E.2d 410. Attorney And Client 🔑37.1](#)

“Venal intent” is apparent element for violation of attorney disciplinary rule prohibiting lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. [Matter of Cohn \(3 Dept. 1993\) 194 A.D.2d 987, 600 N.Y.S.2d 501. Attorney And Client 🔑38](#)

44. Relationship to the court, agencies or other attorneys

Attorney's failure to timely file retainer and closing statements with Office of Court Administration violated professional conduct rules prohibiting conduct prejudicial to administration of justice and conduct adversely reflecting on attorney's fitness as lawyer. [In re Gruen \(2 Dept. 2008\) 55 A.D.3d 88, 863 N.Y.S.2d 733. Attorney And Client 🔑42](#)

Evidence that attorney, after denial of his application to be relieved as counsel, sent a letter to judge, copied to attorney's adversary, which contained statements that were either derogatory, undignified, or intemperate, supported finding, in attorney disciplinary proceeding, that attorney engaged in conduct prejudicial to the administration of justice and conduct that adversely reflected on his fitness to practice law. [In re Probst \(2 Dept. 2006\) 36 A.D.3d 216, 826 N.Y.S.2d 80. Attorney And Client !\[\]\(28b80d80f61867849e61c983ed29916a_img.jpg\) 42](#)

Attorney's motion for mandamus against clerk of court and letter to clerk of court constituted conduct prejudicial to administration of justice, failure to act competently, and undignified or discourteous conduct degrading to tribunal, in violation of disciplinary rules. [In re Williams \(1 Dept. 2006\) 33 A.D.3d 38, 819 N.Y.S.2d 508](#), leave to appeal dismissed in part, denied in part [8 N.Y.3d 858, 831 N.Y.S.2d 105, 863 N.E.2d 109](#), appeal dismissed [8 N.Y.3d 1007, 839 N.Y.S.2d 448, 870 N.E.2d 687](#), reargument denied [9 N.Y.3d 919, 844 N.Y.S.2d 173, 875 N.E.2d 892](#), certiorari denied [128 S.Ct. 2091, 553 U.S. 1018, 170 L.Ed.2d 817. Attorney And Client !\[\]\(0b9e2e386fe163003656c0c1fc02970c_img.jpg\) 42](#)

Attorney knowingly disobeyed an obligation under the rules of a tribunal and engaged in conduct prejudicial to administration of justice, in violation of Rules of Professional Conduct, by submitting to the court, in matrimonial matter in which she represented husband, an order concerning a psychological exam of parties' children without notifying wife's attorney of its terms. [In re Lowell \(1 Dept. 2004\) 14 A.D.3d 41, 784 N.Y.S.2d 69](#), appeal dismissed [4 N.Y.3d 846, 797 N.Y.S.2d 421, 830 N.E.2d 320](#), leave to appeal denied [5 N.Y.3d 708, 803 N.Y.S.2d 28, 836 N.E.2d 1151. Attorney And Client !\[\]\(1c66d28bceb5f8993d19d1bc5eed071f_img.jpg\) 42](#)

Attorney's failure to appear in court for contempt hearing and failure to diligently communicate with the court regarding his absence amounted to conduct prejudicial to the administration of justice, in violation of Code of Professional Responsibility. [In re Davidson \(2 Dept. 2004\) 11 A.D.3d 11, 782 N.Y.S.2d 110](#), leave to appeal dismissed [7 N.Y.3d 741, 819 N.Y.S.2d 875, 853 N.E.2d 246. Attorney And Client !\[\]\(7f50a65ef176fba5c4484a605d815a8e_img.jpg\) 42](#)

Attorney's failure to obey judge's order to appear with final accounting, with respect to client escrow account, constituted violation of court order and breach of attorney's fiduciary obligations, in violation of Code of Professional Responsibility. [In re Robert \(2 Dept. 2004\) 10 A.D.3d 96, 779 N.Y.S.2d 236. Attorney And Client !\[\]\(469fe3264811c530cbfecc2f0e3bf98a_img.jpg\) 44\(2\)](#)

Attorney's accusing court and clerk of prejudice and racism and making other disrespectful remarks, after receiving unfavorable ruling, violated disciplinary rules proscribing conduct prejudicial to administration of justice and undignified or discourteous conduct before tribunal. [In re Hayes \(1 Dept. 2004\) 7 A.D.3d 108, 777 N.Y.S.2d 120. Attorney And Client !\[\]\(f97bbb84d3e14c71f5666b6875b81b2f_img.jpg\) 42](#)

Attorney's failure to submit statements certifying his compliance with orders of United States Bankruptcy Court violated professional rules prohibiting conduct prejudicial to the administration of justice and adversely reflected on the lawyer's fitness as a lawyer. [In re Drakes \(2 Dept. 2004\) 5 A.D.3d 33, 773 N.Y.S.2d 77. Attorney And Client !\[\]\(a21b01b47c6e0feceab2bddfd6461ab4_img.jpg\) 42](#)

Attorney's conduct in failing to respond to discovery demands on behalf of his client, despite judge's order to do so, constituted disregard for the ruling of a tribunal and amounted to conduct adversely reflecting on attorney's fitness to practice law, in violation of the Code of Professional Responsibility. [In re Abrahams \(2 Dept. 2003\) 5 A.D.3d 21,](#)

[770 N.Y.S.2d 369](#), appeal dismissed [1 N.Y.3d 619](#), [777 N.Y.S.2d 13](#), [808 N.E.2d 1273](#), leave to appeal denied [3 N.Y.3d 601](#), [782 N.Y.S.2d 404](#), [816 N.E.2d 194](#). [Attorney And Client](#) 42

Attorney's conduct in advising opposing party that further deposition of his client would be subject to limitations, despite judge's order directing that attorney's client appear for deposition and that opposing party be permitted to ask all of the questions to which attorney had objected at a prior deposition, constituted disregard for the ruling of a tribunal and conduct which adversely reflected on attorney's fitness to practice law, in violation of the Code of Professional Responsibility. [In re Abrahams \(2 Dept. 2003\) 5 A.D.3d 21](#), [770 N.Y.S.2d 369](#), appeal dismissed [1 N.Y.3d 619](#), [777 N.Y.S.2d 13](#), [808 N.E.2d 1273](#), leave to appeal denied [3 N.Y.3d 601](#), [782 N.Y.S.2d 404](#), [816 N.E.2d 194](#). [Attorney And Client](#) 42

Evidence that attorney filed petition for appointment of counsel in guardianship proceeding without ensuring accuracy of relevant details of petition supported charge that attorney recklessly disregarded the truth in violation of professional rule prohibiting attorneys from engaging in conduct prejudicial to the administration of justice. [In re Weinstein \(1 Dept. 2004\) 4 A.D.3d 29](#), [772 N.Y.S.2d 275](#), leave to appeal denied [3 N.Y.3d 608](#), [785 N.Y.S.2d 26](#), [818 N.E.2d 668](#). [Attorney And Client](#) 42

Attorney's conduct in forwarding to insurer durable power of attorney purportedly executed by personal injury client after date of client's death warranted disbarment, despite attorney's youth and lack of prior disciplinary history. [In re Kuperman \(2 Dept. 2001\) 285 A.D.2d 200](#), [728 N.Y.S.2d 67](#), reinstatement granted [74 A.D.3d 1069](#), [902 N.Y.S.2d 388](#). [Attorney And Client](#) 59.14(1)

Attorney's failure to execute consent form requested by new counsel retained by former client amounted to conduct prejudicial to the administration of justice, in violation of professional responsibility rules. [In re McGinnis \(2 Dept. 2000\) 274 A.D.2d 269](#), [711 N.Y.S.2d 36](#). [Attorney And Client](#) 42

Attorney's refusal to execute, on behalf of counsel for his client's estate, deposition affidavit of subscribing witness with respect to will drafted by him and to signing of which he had served as witness, was without justification, caused unnecessary delay in probate, and amounted to conduct prejudicial to the administration of justice and contrary to lawful objectives of his client, in violation of applicable professional responsibility rule. [In re Spyropoulos \(2 Dept. 2000\) 265 A.D.2d 122](#), [704 N.Y.S.2d 137](#), leave to appeal denied [95 N.Y.2d 754](#), [711 N.Y.S.2d 156](#), [733 N.E.2d 228](#), reargument denied [95 N.Y.2d 888](#), [715 N.Y.S.2d 379](#), [738 N.E.2d 783](#). [Attorney And Client](#) 42

Making derogatory, undignified, and inexcusable statements to federal judge during telephone status conference was conduct adversely impinging on attorney's fitness to practice law. [In re Dinhofer \(1 Dept. 1999\) 257 A.D.2d 326](#), [690 N.Y.S.2d 245](#). [Attorney And Client](#) 38

Evidence established that attorney charged with filing frivolous malpractice action against fellow attorney whom he had retained to appear on his behalf, in attempt to persuade her to withdraw her small claims action against him for payment for the appearance, violated disciplinary rules prohibiting conduct prejudicial to administration of justice and conduct that adversely reflects on lawyer's fitness to practice law. [Matter of Gold \(2 Dept. 1996\) 220 A.D.2d 159](#), [642 N.Y.S.2d 926](#). [Attorney And Client](#) 53(2)

Evidence established that attorney charged with engaging in pattern of conduct designed to obstruct and unreasonably delay legal proceedings in dispute between himself and fellow attorney whom he had retained to appear on his behalf violated disciplinary rules prohibiting conduct prejudicial to administration of justice and conduct that adversely reflects on lawyer's fitness to practice law. [Matter of Gold \(2 Dept. 1996\) 220 A.D.2d 159, 642 N.Y.S.2d 926. Attorney And Client 🔑53\(2\)](#)

Attorney's conduct during deposition was unprofessional, condescending, rude, insulting, and obstructive, and thus warranted imposition of sanctions of \$1,000, where attorney consistently interrupted witness while witness was answering his questions and did not allow witness to finish his answer, was "um-hmm-ing" while witness was attempting to answer several questions, told opposing counsel to "shut up," and insinuated that opposing counsel coached his witness. [Cioffi v. Habberstad, 2008, 22 Misc.3d 839, 869 N.Y.S.2d 321. Attorney And Client 🔑24](#)

Attorney's conduct during deposition was offensive and unprofessional, and thus warranted imposition of sanctions of \$250, where attorney told opposing counsel to be silent, that "[y]ou're obviously in over your head," and to "[s]top whining." [Cioffi v. Habberstad, 2008, 22 Misc.3d 839, 869 N.Y.S.2d 321. Attorney And Client 🔑24](#)

Attorney may ethically use a standard real estate sales contract form prepared by a bar association and the New York Land Title Association, but any modifications to the form must be clearly evident to any reader; use of the standard form without clearly denoted the variations is misleading and constitutes misrepresentation in violation of the disciplinary rules. Nassau County Bar Ass'n, Ethics Op. 01-1

Where insured has contracted away the right to choose counsel, the insured's consent is not necessary when an insurance company retains a different attorney to handle a case on appeal; trial attorney's name should not be listed on appeal unless the attorney actually participated in the appeal. Nassau County Bar Ass'n, Ethics Op. 97-5.

45. Relationship to client

Attorney's failure to return client files, despite numerous requests, amounted to conduct prejudicial to administration of justice, conduct that adversely reflected on attorney's fitness as a lawyer, improper withdrawal from employment, and failure to promptly deliver to client properties in the possession of attorney which client was entitled to receive, in violation of Code of Professional Responsibility. [In re Cohen \(2 Dept. 2005\) 22 A.D.3d 89, 801 N.Y.S.2d 333. Attorney And Client 🔑44\(1\)](#)

No attorney-client relationship existed between attorney and client's heir following client's death, as was required for heir to recover damages for attorney's alleged legal malpractice in failing to name heir as substituted party in client's underlying medical malpractice action, notwithstanding heir's unilateral allegation that he was led to believe that attorney continued to represent the client's interests after death, where attorney could not have moved to have heir named as a substituted party in the underlying action, having never possessed authority to probate client's will. [Velasquez v. Katz \(2 Dept. 2007\) 42 A.D.3d 566, 840 N.Y.S.2d 410. Attorney And Client 🔑26](#)

Attorney's failure timely to turn over client files to client's new attorneys, on order of court, amounted to conduct adversely reflecting on attorney's fitness to practice law and prejudicial to administration of justice, in violation of applicable professional responsibility rules. [In re Pollack \(2 Dept. 2000\) 268 A.D.2d 153, 706 N.Y.S.2d 120. Attorney And Client](#) 38

Attorney's failure to keep complete and accurate records of financial transactions in handling estate violated attorney disciplinary rule requiring such records and reflected adversely on respondent's fitness to practice law. [In re Santangelo \(1 Dept. 2000\) 265 A.D.2d 69, 701 N.Y.S.2d 355](#), reinstatement granted [294 A.D.2d 122, 746 N.Y.S.2d 254. Attorney And Client](#) 32(7)

Attorney engaged in conduct that adversely reflected upon his fitness to practice law when he attempted to condition settlement of civil suit against client upon client's withdrawal of complaint of professional misconduct submitted to Grievance Committee. [Matter of Finn \(2 Dept. 1996\) 223 A.D.2d 333, 647 N.Y.S.2d 39. Attorney And Client](#) 44(1)

It is improper for an attorney, contrary to his client's request after a court hearing, to obtain and file a divorce decree in favor of a client. N.Y.State Bar Ass'n, Ethics Op. 69-115.

46. Neglect of client matters--In general

Attorney neglected legal matter entrusted to him, in violation of Code of Professional Responsibility, when, in representing clients in connection with denial of insurance coverage related to fire in their store, attorney failed to commence action against insurer within prescribed time under policy. [In re Quinn \(2 Dept. 2007\) 40 A.D.3d 34, 830 N.Y.S.2d 736. Attorney And Client](#) 44(1)

Attorney neglected client's legal matter in violation of Code of Professional Responsibility in representation arising out of automobile accident, inasmuch as attorney was to continue prosecuting action after alleged malpractice of client's former attorney resulted in dismissal of two of three named defendants, and to commence malpractice action against former attorney, but pending action was dismissed for lack of activity and no action was instituted against former attorney. [In re Quinn \(2 Dept. 2007\) 40 A.D.3d 34, 830 N.Y.S.2d 736. Attorney And Client](#) 44(1)

By failing to reschedule depositions in personal injury matter entrusted to him by his employer for four-year period, to appear at scheduled meetings with client and to respond to demand for bill of particulars and discovery requests in another personal injury matter, and to advance third personal injury matter, by advancing funds to client, and by failing to respond to letters from counsel for grievance committee during disciplinary investigation, attorney violated professional rules prohibiting lawyer from engaging in conduct prejudicial to administration of justice and adversely reflecting on his fitness, acquiring proprietary interest in cause of action or subject matter of litigation, advancing or guaranteeing financial assistance to client, neglecting legal matter entrusted to him, and intentionally failing to carry out contract of employment for professional services. [In re Friedman \(4 Dept. 2004\) 14 A.D.3d 153, 788 N.Y.S.2d 548. Attorney And Client](#) 42; [Attorney And Client](#) 44(1)

Attorney's failure to provide clients with elder law plan, as he had promised them in connection with their estate planning consultation, until after receiving notice of complaint from clients and death of one of clients, constituted neglect of a legal matter entrusted to attorney, in violation of Code of Professional Responsibility. [In re Robert \(2 Dept. 2004\) 10 A.D.3d 96, 779 N.Y.S.2d 236. Attorney And Client 44\(1\)](#)

Attorney's failure to request fair hearing before the Department of Social Services (DSS) on behalf of his client, as he had promised client he would do, within 60-day period permitted by law, constituted neglect of a legal matter entrusted to attorney, in violation of Code of Professional Responsibility. [In re Robert \(2 Dept. 2004\) 10 A.D.3d 96, 779 N.Y.S.2d 236. Attorney And Client 44\(1\)](#)

Evidence of 27 charges of professional misconduct, arising out of the attorney's representation of 15 clients, supported Hearing Panel's conclusion that attorney's conduct manifested a chronic pattern of neglect and total disregard of his obligations as an attorney. [In re Gentile \(1 Dept. 2004\) 7 A.D.3d 37, 774 N.Y.S.2d 522. Attorney And Client 44\(1\)](#)

Attorney's failure to provide release from personal injury complainant's worker's compensation insurance carrier, resulting in refusal to release settlement funds to attorney's client, amounted to neglect of entrusted legal matter in violation of Professional Responsibility rule. [In re McGinnis \(2 Dept. 2000\) 274 A.D.2d 269, 711 N.Y.S.2d 36. Attorney And Client 44\(1\)](#)

Attorney's failures timely to pay transfer taxes on behalf of real estate clients amounted to neglect of legal matters entrusted to him, in violation of applicable professional responsibility rule. [In re Ryan \(2 Dept. 2000\) 264 A.D.2d 128, 703 N.Y.S.2d 247. Attorney And Client 44\(1\)](#)

Attorney disciplinary rule prohibiting a lawyer from neglecting a legal matter entrusted to the lawyer did not encompass neglect of duties as co-trustee of a law firm profit-sharing plan. [In re Welt \(3 Dept. 1999\) 259 A.D.2d 833, 686 N.Y.S.2d 519. Attorney And Client 44\(1\)](#)

Attorney's decision to withdraw as plaintiff's counsel in three personal injury cases did not amount to pattern of neglect for disciplinary purposes, even when viewed in the light of prior admonition stemming from his delay in forwarding a file to new counsel. [In re Gould \(1 Dept. 1999\) 253 A.D.2d 233, 686 N.Y.S.2d 759. Attorney And Client 44\(1\)](#)

Neglecting real estate and bankruptcy client matters violated disciplinary rule prohibiting attorney neglect. [Matter of Haas \(3 Dept. 1997\) 237 A.D.2d 729, 654 N.Y.S.2d 479. Attorney And Client 44\(1\)](#)

Failing to provide clients with closing statement following closing of client's home, notwithstanding their repeated demands for one, constituted neglecting a legal matter entrusted to attorney and conduct adversely reflecting on attorney's fitness to practice law in violation of Code of Professional Responsibility. [Matter of Losner \(2 Dept. 1995\) 217 A.D.2d 376, 636 N.Y.S.2d 804, leave to appeal denied 88 N.Y.2d 812, 649 N.Y.S.2d 380, 672 N.E.2d 606. Attorney And Client 44\(1\)](#)

Disciplinary Committee failed to establish that probate attorney had neglected client's estate, notwithstanding attorney's more than three-year delay in settling estate, given evidence that delay was caused by intransigency of Farmers Home Administration (FmHA) in refusing to permit its mortgage to be assumed and in failing to purchase property or to foreclose on mortgage. [Matter of Slocum \(3 Dept. 1990\) 165 A.D.2d 926, 560 N.Y.S.2d 716. Attorney And Client !\[\]\(45de978c083f51256f6cff9c8d3203cd_img.jpg\)53\(2\)](#)

Failure to comply with demand for bill of particulars or demand for discovery and inspection and failure to provide client with requested update of status of litigation does not constitute neglect, where attorney actively pursues litigation in a number of respects and might reasonably believe that he has been dismissed as counsel by client previously. [Matter of Modjeska \(3 Dept. 1985\) 113 A.D.2d 998, 493 N.Y.S.2d 672. Attorney And Client !\[\]\(1ee18ed9aaec3f83a22314fc6c4e909b_img.jpg\)112](#)

Allowing mortgage checks to accumulate over one-and-one-half-year period in law office file without depositing them in bank, without adequate justification, is failure to act competently and thus constitutes neglect, and estate administrator's awareness that checks are not being deposited does not absolve attorney of his fiduciary responsibility to handle estate funds with highest degree of care. [Matter of Casey \(3 Dept. 1985\) 111 A.D.2d 979, 490 N.Y.S.2d 287. Attorney And Client !\[\]\(7981a10373b462de439a67b3b6f14328_img.jpg\)44\(1\)](#)

Attorney's decision not to institute formal foreclosure proceedings on behalf of estate was not neglect, where attempt to resolve problems with mortgage payments without resort to formal foreclosure proceedings produced good results. [Matter of Casey \(3 Dept. 1985\) 111 A.D.2d 979, 490 N.Y.S.2d 287. Attorney And Client !\[\]\(045cd8d47efe9de8120dbf0d15124123_img.jpg\)44\(1\)](#)

47. ---- Limitation period, neglect of client matters

Attorney neglected a legal matter entrusted to him, in violation of Code of Professional Responsibility, when attorney, in representing client in connection with slip-and-fall accident, learned during pretrial discovery that wrong store had been named as defendant and discontinued action, but failed to take steps to commence new action against correct defendant within limitations period. [In re Quinn \(2 Dept. 2007\) 40 A.D.3d 34, 830 N.Y.S.2d 736. Attorney And Client !\[\]\(f9d4baf0ad38b4acb4053fb5b36f3eee_img.jpg\)44\(1\)](#)

48. ---- Appeals, neglect of client matters

Attorney neglected a legal matter entrusted to him, in violation of Code of Professional Responsibility, by failing to perfect a client's appeal in criminal matter for more than five years after he was retained, despite repeated inquiries by counsel clerk of court. [In re Barbuto \(2 Dept. 2005\) 22 A.D.3d 57, 800 N.Y.S.2d 604. Attorney And Client !\[\]\(646869a5c9c88531ae41e50ad8af3b92_img.jpg\)44\(1\)](#)

49. ---- Failure to communicate, neglect of client matters

Attorney's failure to timely serve operating surgeon with summons and complaint in medical malpractice action and to communicate with client after settlement was reached violated rule of professional responsibility prohibiting a

lawyer from neglecting a legal matter entrusted to him. [In re Berkman \(2 Dept. 2008\) 55 A.D.3d 114, 863 N.Y.S.2d 701](#), appeal dismissed [11 N.Y.3d 851, 872 N.Y.S.2d 64, 900 N.E.2d 545](#), leave to appeal denied [12 N.Y.3d 703, 876 N.Y.S.2d 705, 904 N.E.2d 842](#). [Attorney And Client](#) 44(1)

Attorney's failure to marshal estate assets, to close estate in timely manner, and to respond to inquiries and requests for information made by grievance committee during disciplinary investigation constituted conduct prejudicial to administration of justice, conduct adversely reflecting on fitness as a lawyer, and neglect of a legal matter. [In re Migliaccio \(4 Dept. 2008\) 53 A.D.3d 18, 862 N.Y.S.2d 220](#). [Attorney And Client](#) 42; [Attorney And Client](#) 44(1)

Attorney violated Appellate Division attorney disciplinary rules by failing to appear at scheduled court proceedings and neglecting client cases, failing to communicate with her clients, opposing counsel and Supreme Court, Broome County, attempting to mislead and deceive said court and Committee on Professional Standards, failing to comply with court order, and failing to cooperate with Committee in its investigation. [In re Arnold \(3 Dept. 2008\) 50 A.D.3d 1448, 856 N.Y.S.2d 300](#), reinstatement granted [63 A.D.3d 1275, 879 N.Y.S.2d 349](#). [Attorney And Client](#) 42; [Attorney And Client](#) 44(1)

Attorney neglected a legal matter entrusted to him and engaged in conduct that was prejudicial to the administration of justice and/or adversely reflected on his fitness as a lawyer, in violation of professional rules, by failing to deliver legal papers to client for signature, even though six months had passed since attorney had advised client that he had legal papers for him to sign, and failing to respond to client's numerous written and telephone communications demanding that attorney forward the legal papers. [In re Gould \(2 Dept. 2007\) 45 A.D.3d 223, 843 N.Y.S.2d 110](#). [Attorney And Client](#) 44(1)

Attorney, who was retained by client to represent her in matrimonial matter, neglected a legal matter entrusted to him and engaged in conduct prejudicial to the administration of justice which adversely reflected on his fitness to practice law, in violation of professional rules; after advising client that papers would be filed with the court, attorney failed to respond to client's inquiries regarding the status of the matter, attorney subsequently advised client that he had checked with the court and that the papers were in the system, but attorney thereafter failed to respond to client's telephone inquiries or letters requesting her file and a refund after she learned from the court that nothing had been filed in her matter. [In re Galluscio \(2 Dept. 2007\) 42 A.D.3d 264, 841 N.Y.S.2d 102](#). [Attorney And Client](#) 44(1)

Attorney, who was retained by client to represent her in matrimonial matter, neglected a legal matter entrusted to him and engaged in conduct prejudicial to the administration of justice which adversely reflected on his fitness to practice law, in violation of professional rules; after informing client that divorce papers had been filed, attorney failed to return client's repeated telephone inquiries, and, after apprising client that the court had lost the paperwork and having client execute new papers, failed to return client's repeated telephone and written inquiries. [In re Galluscio \(2 Dept. 2007\) 42 A.D.3d 264, 841 N.Y.S.2d 102](#). [Attorney And Client](#) 44(1)

Attorney's failure to commence personal injury action on client's behalf within statute of limitation, and failure to respond to client's repeated inquiries in a diligent manner, constituted neglect of a legal matter entrusted to him, in

violation of professional responsibility rule. [In re Kalpakis \(2 Dept. 2005\) 18 A.D.3d 73, 793 N.Y.S.2d 441. Attorney And Client 🔑44\(1\)](#)

Attorney who, after being retained to represent a client in a criminal matter and entering appearances in the County Court, failed to further communicate with the Court, to appear on date scheduled for the argument of motions, or to appear before the judge as directed, was guilty of neglecting a legal matter entrusted to him, in violation of provisions of the Code of Professional Responsibility. [In re Hampden \(2 Dept. 2004\) 11 A.D.3d 17, 784 N.Y.S.2d 109. Attorney And Client 🔑44\(1\)](#)

Attorney's failure to take any action on client's behalf or to respond to client's repeated inquiries regarding the status of his matter and requests for an accounting and refund of unearned portion of his retainer constituted neglect of a legal matter entrusted to attorney, in violation of Code of Professional Responsibility. [In re Robert \(2 Dept. 2004\) 10 A.D.3d 96, 779 N.Y.S.2d 236. Attorney And Client 🔑44\(1\); Attorney And Client 🔑44\(2\)](#)

Attorney's failure to take deposition of client in personal injury action or to speak with client regarding status of her case for two years amounted to neglect of entrusted legal matter and failure to communicate with client for extended period, in violation of professional responsibility rules. [In re McGinnis \(2 Dept. 2000\) 274 A.D.2d 269, 711 N.Y.S.2d 36. Attorney And Client 🔑44\(1\)](#)

Attorney's admission, in connection with disciplinary proceedings against him in another state, that he accepted representation of and retainers from clients while performing little, if any, work on their cases, and that he failed to communicate with clients and to cooperate or respond to bar inquiries after complaints were filed, amounted to admissions of violations of professional responsibility rules prohibiting neglect of entrusted legal matters and intentional failure to seek client's lawful objectives. [In re Blumrosen \(1 Dept. 1999\) 253 A.D.2d 239, 687 N.Y.S.2d 357. Attorney And Client 🔑32\(7\)](#)

[50](#). ---- Failure to file documents, neglect of client matters

Attorney's failure, in uncontested matrimonial action, to submit a request for judicial intervention, which was necessary for matter to be processed by the court, constituted neglect of a legal matter entrusted to him. [In re Carey \(2 Dept. 2004\) 9 A.D.3d 57, 778 N.Y.S.2d 89. Attorney And Client 🔑44\(1\)](#)

Attorney neglected legal matter with which he was entrusted, in violation of Code of Professional Responsibility, where attorney represented client regarding filing of Medicaid application for long-term healthcare benefits, attorney advised client to transfer all her assets to her disabled husband, including marital residence, adjoining lot, and individual retirement account, causing her to incur tax liability of \$9,000, client's daughter returned to client \$35,000 gift that, if included in calculating client's assets, would have rendered her ineligible for Medicaid benefits for more than four months, client then transferred returned gift to husband, and attorney drafted but failed to file Medicaid application and failed to respond to inquiries by client's attorney-in-fact regarding status of application. [In re Napolitano \(2 Dept. 2010\) 78 A.D.3d 18, 908 N.Y.S.2d 210. Attorney and Client 🔑44\(1\)](#)

Attorney's failure to file note of issue or appear for compliance conference, resulting in discontinuance of client's personal injury case, violated professional rule prohibiting a lawyer from neglecting an entrusted legal matter. [In re Berkman \(2 Dept. 2008\) 55 A.D.3d 114, 863 N.Y.S.2d 701](#), appeal dismissed [11 N.Y.3d 851, 872 N.Y.S.2d 64, 900 N.E.2d 545](#), leave to appeal denied [12 N.Y.3d 703, 876 N.Y.S.2d 705, 904 N.E.2d 842](#). [Attorney And Client](#)  [44\(1\)](#)

Attorney neglected legal matter entrusted to him by not notifying one client of his receipt of \$40,000 settlement check in her favor, by having other client sign retainer agreement that gave attorney exclusive right to settle his claim without his approval, allowing his employees to forge client's signature on release form and affix false notary statement, and neglecting legal matter by not filing notice of claim with municipality. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411](#). [Attorney And Client](#)  [41](#); [Attorney And Client](#)  [44\(1\)](#); [Attorney And Client](#)  [44\(2\)](#)

Absence of evidence that, at the time he was asked about status of clients' case, attorney knew that lawyer to whom he had given case had not filed lawsuit and was not pursuing clients' claims precluded finding, in disciplinary proceedings, that attorney purposely misrepresented status of case to client. [In re Aranda \(1 Dept. 2006\) 32 A.D.3d 58, 817 N.Y.S.2d 245](#). [Attorney And Client](#)  [53\(2\)](#)

Attorney neglected client matters, as charged in disciplinary proceeding, given that attorney failed to file retainer statements in three client matters, did not properly supervise handling of those matters, and conceded that letter written to one client should have confirmed that statute of limitations had run on client's state-law claim. [In re Aranda \(1 Dept. 2006\) 32 A.D.3d 58, 817 N.Y.S.2d 245](#). [Attorney And Client](#)  [44\(1\)](#)

Attorney violated rule that prohibited attorney from neglecting medical malpractice action entrusted to him by not responding to client's request for information about case, not making timely application to restore case to calendar after court struck action from trial calendar 12 years after it had been commenced, and not submitting doctor's affidavit of merit to prevent complaint from being dismissed. [In re Fauci \(1 Dept. 2006\) 28 A.D.3d 192, 811 N.Y.S.2d 38](#). [Attorney And Client](#)  [44\(1\)](#)

Attorney who failed to timely file a petition for review of an immigration judge's decision at asylum proceeding and thereafter did not return client's deposit neglected a legal matter, failed to carry out a contract of employment with a client for professional services, and failed to refund promptly an unearned fee deposit, in violation of Code of Professional Responsibility. [In re Kleeffeld \(1 Dept. 2005\) 22 A.D.3d 94, 800 N.Y.S.2d 708](#). [Attorney And Client](#)  [44\(1\)](#); [Attorney And Client](#)  [44\(2\)](#)

Attorney's failure to timely file amended complaint on behalf of his client in breach of contract action and failure to refrain from entering into stipulations with opposing party's counsel to extend time to answer amended complaint, despite client's instructions to that effect, amounted to neglect of a legal matter entrusted to him, in violation of Code of Professional Responsibility. [In re Scher \(2 Dept. 2005\) 18 A.D.3d 57, 793 N.Y.S.2d 521](#). [Attorney And Client](#)  [44\(1\)](#)

Attorney's admission that he failed to respond to inquiries from clients in criminal matters, resulting in untimely

filing of notices of appeal in two such matters, failed to respond to correspondence and directives from the court regarding the criminal matters of five clients, and failed to comply with Grievance Committee's request that he provide written responses to client complaints during disciplinary investigation, established that attorney engaged in conduct prejudicial to administration of justice, engaged in conduct that adversely reflected on his fitness as a lawyer, and neglected a legal matter entrusted to him, in violation of Code of Professional Responsibility. [In re Lenkiewicz \(4 Dept. 2004\) 14 A.D.3d 151, 786 N.Y.S.2d 871. Attorney And Client 42; Attorney And Client 44\(1\)](#)

Attorney's conduct of failing to file fiduciary income tax returns on behalf of trust and failing to ensure the trust was funded with a check issued by executors from the estate account, constituted neglect of a legal matter entrusted to a lawyer, even if actions were taken solely as a trustee of an estate. [In re Teschner \(1 Dept. 2004\) 7 A.D.3d 46, 776 N.Y.S.2d 6, reinstatement granted 10 A.D.3d 561, 783 N.Y.S.2d 279. Attorney And Client 37.1](#)

Evidence was sufficient to find that attorney neglected matter entrusted to attorney, in violation of disciplinary rule; attorney failed to prosecute his client's personal injury case for more than four years, failed to inform him about status of his case despite numerous inquiries, failed to file complaint in case, and failed to respond to dismissal motion. [In re LeBow \(1 Dept. 2001\) 285 A.D.2d 28, 727 N.Y.S.2d 88. Attorney And Client 53\(2\)](#)

Attorney's failure to release client file upon proper demand, and his delay in doing so upon court order, constituted neglect of duties and obligations imposed upon him as lawyer for a client, in violation of applicable professional responsibility rules. [In re Ruden \(2 Dept. 2000\) 265 A.D.2d 25, 702 N.Y.S.2d 640. Attorney And Client 44\(1\)](#)

Attorney neglected legal matter entrusted to her, in violation of Code of Professional Responsibility, when she advised client that her relative's estate would be finalized but then failed to timely file "receipt and release" forms or to take steps to finalize the estate, and she failed to reply to client's repeated inquiries about status of matter over period of seven months. [Matter of Stiles \(2 Dept. 1998\) 242 A.D.2d 127, 674 N.Y.S.2d 375. Attorney And Client 44\(1\)](#)

Failing to file notice of appearance to transfer case from pro se calendar to general calendar, to communicate with opposing counsel, to appear at scheduled deposition, and to respond to opposing party's motion to strike answer such that summary judgment was granted in favor of opponent constituted neglect of legal matter entrusted to attorney and conduct adversely reflecting on attorney's fitness to practice law in violation of Code of Professional Responsibility. [Matter of Losner \(2 Dept. 1995\) 217 A.D.2d 376, 636 N.Y.S.2d 804, leave to appeal denied 88 N.Y.2d 812, 649 N.Y.S.2d 380, 672 N.E.2d 606. Attorney And Client 44\(1\)](#)

51. ---- Judgments, neglect of client matters

Attorney neglected legal matter entrusted to him in violation of Code of Professional Responsibility when, in handling case arising from automobile accident involving client's minor son, attorney failed to seek default judgment and performed no further work after filing summons and complaint to which no answer or motion was received in response. [In re Quinn \(2 Dept. 2007\) 40 A.D.3d 34, 830 N.Y.S.2d 736. Attorney And Client 44\(1\)](#)

Attorney neglected a legal matter entrusted to him, in violation of Code of Professional Responsibility, in connection with his representation of clients in their foreclosure action, given that attorney failed to convert to judgment, within one year, order granting clients' motion for summary judgment in lieu of complaint after debtor failed to make payments on promissory note that secured repayment of balance owing to clients after action was settled. [In re Quinn \(2 Dept. 2007\) 40 A.D.3d 34, 830 N.Y.S.2d 736. Attorney And Client !\[\]\(8b6ba4e01d044f020536a6874a89c057_img.jpg\)44\(1\)](#)

Attorney neglected legal matter entrusted to him, in violation of disciplinary rule, by failing to submit proposed judgment as directed by court. [In re Goll \(2 Dept. 2006\) 27 A.D.3d 131, 807 N.Y.S.2d 137. Attorney And Client !\[\]\(39fe6a447a07f214586d259b16ffba42_img.jpg\)44\(1\)](#)

By failing to produce proposed judgment of divorce and all necessary supporting documentation, as directed by court, attorney engaged in conduct prejudicial to administration of justice and disregarded standing direction of tribunal, in violation of disciplinary rules. [In re Goll \(2 Dept. 2006\) 27 A.D.3d 131, 807 N.Y.S.2d 137. Attorney And Client !\[\]\(2a4282dc455b24a8719bbd3b8683d6a8_img.jpg\)42](#)

Attorney who, after being retained to represent a client in an annulment proceeding, neglected the matter for more than seven years before filing a proposed judgment and then delayed more than four years more before correcting deficiencies in the filing, was guilty, in attorney disciplinary proceeding, of neglecting a legal matter entrusted to him. [In re Haberman \(2 Dept. 2006\) 27 A.D.3d 66, 807 N.Y.S.2d 621. Attorney And Client !\[\]\(5f5af4a3e3206e8486b585c4d9a19527_img.jpg\)44\(1\)](#)

52. Court appearances

Attorney engaged in conduct prejudicial to administration of justice and conduct adversely reflecting on his fitness as lawyer by not appearing with his client for scheduled court proceedings. [In re Cronk \(2 Dept. 2008\) 52 A.D.3d 54, 856 N.Y.S.2d 186. Attorney And Client !\[\]\(c056943f65a14c589b8e42bf09c6abf8_img.jpg\)44\(1\)](#)

53. Communication with clients

Attorney's actions in failing to communicate with client, failing to return client's numerous telephone calls whereby she had sought to obtain information about refund attorney had promised her and failing to inform client that he had vacated his law office and relocated it violated rule prohibiting attorneys from engaging in conduct that adversely reflected on their fitness to practice law. [Matter of Toler \(2 Dept. 1997\) 236 A.D.2d 145, 665 N.Y.S.2d 92. Attorney And Client !\[\]\(9f9ff697a2edff0fecc261374e901fcc_img.jpg\)44\(1\)](#)

Attorney's actions in failing to forward to client document relating to her legal claims and in failing to inform client that he had vacated his law office and relocated it violated rule prohibiting attorneys from engaging in conduct that adversely reflected on their fitness to practice law. [Matter of Toler \(2 Dept. 1997\) 236 A.D.2d 145, 665 N.Y.S.2d 92. Attorney And Client !\[\]\(482e2a8aae538884c893658a4dc9dc6e_img.jpg\)44\(1\)](#)

54. Bankruptcy

There is no ethical or professional impropriety in a lawyer's seeking relief in bankruptcy. N.Y.State Bar Ass'n, Ethics Op. 72-269.

It is not per se unethical for an attorney to file a personal bankruptcy petition. Nassau County Bar Ass'n, Ethics Op. 95-8.

A lawyer may seek relief in bankruptcy. Nassau County 88-47.

55. Failure to comply with court order

Attorney's failure to comply with bankruptcy court order directing him to refund to debtor all legal fees paid in light of attorney's failure to provide appropriate representation in debtor's bankruptcy matter and with orders fining attorney for his noncompliance violated the rules of professional responsibility prohibiting conduct prejudicial to the administration of justice and conduct adversely reflecting on a lawyer's fitness as a lawyer. [In re Drakes \(2 Dept. 2009\) 60 A.D.3d 153, 871 N.Y.S.2d 631. Attorney And Client 🔑42](#)

Attorney's failure to comply with contempt order amounted to conduct adversely reflecting on attorney's fitness to practice law and prejudicial to administration of justice, in violation of applicable professional responsibility rules. [In re Pollack \(2 Dept. 2000\) 268 A.D.2d 153, 706 N.Y.S.2d 120. Attorney And Client 🔑43](#)

Attorney's pattern of willful misconduct, including his failure to comply with court-ordered discovery demands and his refusal to withdraw from representation of client after being discharged, violated disciplinary rule prohibiting lawyers from engaging in any conduct that adversely reflects on lawyer's fitness to practice law. [Matter of Kramer \(1 Dept. 1997\) 235 A.D.2d 87, 664 N.Y.S.2d 1](#), leave to appeal denied [91 N.Y.2d 805, 668 N.Y.S.2d 560, 691 N.E.2d 632](#), leave to appeal dismissed [93 N.Y.2d 883, 689 N.Y.S.2d 425, 711 N.E.2d 639](#), certiorari denied [120 S.Ct. 169, 528 U.S. 869, 145 L.Ed.2d 143. Attorney And Client 🔑37.1; Attorney And Client 🔑44\(1\)](#)

Attorney's failure to make timely payment of sanctions ordered by Bankruptcy Court was conduct prejudicial to administration of justice and adversely reflected on his fitness to practice law. [Matter of Toler \(2 Dept. 1997\) 231 A.D.2d 223, 659 N.Y.S.2d 91. Attorney And Client 🔑42](#)

56. Failure to cooperate with disciplinary board

Attorney's failure to cooperate with an investigation of a complaint of professional misconduct constituted conduct prejudicial to the administration of justice and conduct adversely reflecting on his fitness to practice law; attorney failed to provide requested documentation regarding payment of his attorney registration fee. [In re Carey \(2 Dept. 2004\) 9 A.D.3d 57, 778 N.Y.S.2d 89. Attorney And Client 🔑42](#)

Attorney's failure to cooperate with an investigation of a complaint of professional misconduct constituted conduct prejudicial to the administration of justice and conduct adversely reflecting on his fitness to practice law; attorney

failed to provide a written answer to Grievance Committee's sua sponte complaint alleging that attorney had failed to maintain his attorney registration. [In re Carey \(2 Dept. 2004\) 9 A.D.3d 57, 778 N.Y.S.2d 89. Attorney And Client](#)  [42](#)

Attorney's failure to cooperate with an investigation of a complaint of professional misconduct constituted conduct prejudicial to the administration of justice and conduct adversely reflecting on his fitness to practice law; attorney failed to provide a written answer to a complaint. [In re Carey \(2 Dept. 2004\) 9 A.D.3d 57, 778 N.Y.S.2d 89. Attorney And Client](#)  [42](#)

Attorney's failure to cooperate with an investigation of a complaint of professional misconduct constituted conduct prejudicial to the administration of justice and conduct adversely reflecting on his fitness to practice law; attorney failed to provide requested documentation as to his efforts in an uncontested matrimonial action. [In re Carey \(2 Dept. 2004\) 9 A.D.3d 57, 778 N.Y.S.2d 89. Attorney And Client](#)  [42](#)

Allegation that attorney failed to cooperate with committee on professional standards was insufficient to support professional misconduct charge, despite fact that attorney failed to present evidence and appear in mitigation, where such charge relied on conditional admonition unauthorized by court rules governing disciplinary procedures. [In re Passetti \(3 Dept. 2008\) 53 A.D.3d 1031, 862 N.Y.S.2d 408. Attorney And Client](#)  [42](#)

Attorney's unexcused failure to timely comply with request by Grievance Committee for specified bookkeeping records relating to attorney's escrow account constituted professional misconduct independent of merits of underlying investigation. [In re Cronk \(2 Dept. 2008\) 52 A.D.3d 54, 856 N.Y.S.2d 186. Attorney And Client](#)  [42](#)

Attorney's failure to comply with legitimate demands of Grievance Committee in connection with disciplinary investigation into his professional misconduct as alleged by former client violated disciplinary rule prohibiting attorneys from engaging in conduct that is prejudicial to administration of justice. [In re Netusil \(2 Dept. 2008\) 52 A.D.3d 23, 857 N.Y.S.2d 652. Attorney And Client](#)  [42](#)

Attorney's failure to comply with legitimate demands of Grievance Committee in connection with disciplinary investigation into his professional misconduct as alleged by former client violated disciplinary rule prohibiting attorneys from engaging in conduct that adversely reflects on his fitness as a lawyer. [In re Netusil \(2 Dept. 2008\) 52 A.D.3d 23, 857 N.Y.S.2d 652. Attorney And Client](#)  [42](#)

Attorney's failure to comply with legitimate demands of Grievance Committee in connection with disciplinary investigation into his professional misconduct concerning failure to file biennial registration statement with Office of Court Administration (OCA) and to timely pay designated fee violated disciplinary rule prohibiting attorneys from engaging in conduct that is prejudicial to administration of justice. [In re Netusil \(2 Dept. 2008\) 52 A.D.3d 23, 857 N.Y.S.2d 652. Attorney And Client](#)  [42](#)

Attorney violated Appellate Division attorney disciplinary rules by failing to appear at scheduled court proceedings and neglecting client cases, failing to communicate with her clients, opposing counsel and Supreme Court, Broome

County, attempting to mislead and deceive said court and Committee on Professional Standards, failing to comply with court order, and failing to cooperate with Committee in its investigation. [In re Arnold \(3 Dept. 2008\) 50 A.D.3d 1448, 856 N.Y.S.2d 300](#), reinstatement granted [63 A.D.3d 1275, 879 N.Y.S.2d 349](#). [Attorney And Client](#) 42; [Attorney And Client](#) 44(1)

Attorney engaged in conduct that was prejudicial to the administration of justice and/or adversely reflected on his fitness as a lawyer, in violation of professional rules, by failing to cooperate with the lawful demands of the county bar association's grievance committee to timely submit an answer to client's complaint or to request an extension of time to do so. [In re Gould \(2 Dept. 2007\) 45 A.D.3d 223, 843 N.Y.S.2d 110](#). [Attorney And Client](#) 42

Attorney engaged in conduct that was prejudicial to the administration of justice and/or adversely reflected on his fitness as a lawyer, in violation of professional rules, by failing to cooperate with the lawful demands of the county bar association's grievance committee; after attorney had failed to file an answer to client's complaint in response to committee's demands to do so, committee once again directed attorney to file an answer and explain his failure to cooperate, but attorney once again failed to respond and further failed to obtain an extension of time to do so. [In re Gould \(2 Dept. 2007\) 45 A.D.3d 223, 843 N.Y.S.2d 110](#). [Attorney And Client](#) 42

Attorney's failure to cooperate with lawful demands of grievance committee following her failure to comply with attorney registration requirement violated professional rule prohibiting attorneys from engaging in conduct that reflected adversely on fitness to practice law. [In re Frankel \(2 Dept. 2007\) 45 A.D.3d 52, 842 N.Y.S.2d 463](#). [Attorney And Client](#) 42

Attorney engaged in conduct prejudicial to the administration of justice and which adversely reflected on his fitness to practice law, in violation of professional rules, by failing to timely cooperate with grievance committee's investigation of client complaint; attorney failed to respond to letters from committee directing him to respond, failed to comply with committee's subpoenas requesting client files. [In re Galluscio \(2 Dept. 2007\) 42 A.D.3d 264, 841 N.Y.S.2d 102](#). [Attorney And Client](#) 42

Attorney engaged in conduct prejudicial to the administration of justice which adversely reflected on his fitness to practice law, in violation of professional rules by failing to cooperate with the grievance committee's investigation of client's complaint; attorney failed to respond to committee's letters requesting his response within 15 days, he failed to respond to a letter sent to his home, which was returned "Unclaimed," and to letters sent to his office address demanding a written response within 10 days, and attorney failed to respond to letters sent to both his home and office addresses, advising that his continued non-cooperation would result in a motion for his interim suspension. [In re Galluscio \(2 Dept. 2007\) 42 A.D.3d 264, 841 N.Y.S.2d 102](#). [Attorney And Client](#) 42

Attorney's failure to provide any explanation for not timely filing and serving an answer to the disciplinary petition brought by Committee on Professional Standards, her failure to cooperate with the Committee in disclosing status reports concerning her representation of her client in custody matter, and her failure to pay stenographic charges for her subpoena examination violated professional rule prohibiting failure to cooperate with Committee's investigations. [In re Killian \(3 Dept. 2007\) 38 A.D.3d 994, 831 N.Y.S.2d 275](#), reinstatement denied [51 A.D.3d 1363, 859 N.Y.S.2d 497](#), suspension terminated [66 A.D.3d 1083, 885 N.Y.S.2d 447](#). [Attorney And Client](#) 42

Attorney engaged in conduct adversely reflecting on his fitness to practice law, by failing to comply with Grievance Committee's direction to submit detailed answer to complaint against him within 15 days. [In re Goll \(2 Dept. 2006\) 27 A.D.3d 131, 807 N.Y.S.2d 137. Attorney And Client](#)  [42](#)

Attorney's failure to properly cooperate with Grievance Committee in its investigation of complaint amounted to conduct prejudicial to administration of justice and conduct that adversely reflected on attorney's fitness as a lawyer, in violation of Code of Professional Responsibility. [In re Cohen \(2 Dept. 2005\) 22 A.D.3d 89, 801 N.Y.S.2d 333. Attorney And Client](#)  [42](#)

Attorney failed to cooperate with investigation into charges of misconduct, in violation of Code of Professional Responsibility, by repeatedly failing to submit answer to client's complaint, despite providing assurances that response would be forthcoming and having received extension of time to submit response. [In re Taliuaga \(2 Dept. 2005\) 21 A.D.3d 238, 800 N.Y.S.2d 30. Attorney And Client](#)  [42](#)

Attorney's failure to comply with Grievance Committee's directive to satisfy judgment against him was conduct prejudicial to administration of justice and conduct that adversely reflected on his fitness as a lawyer. [In re Sobolewski \(2 Dept. 2005\) 21 A.D.3d 188, 799 N.Y.S.2d 267. Attorney And Client](#)  [42](#)

Attorney's failure to timely respond, to appear for some examinations, or to submit relevant bank and bookkeeping records, billing records, and client files in grievance committee's investigation of complaint after committee learned that check drawn on attorney's Interest on Lawyer Account (IOLA) was returned due to insufficient funds constituted failure to cooperate in investigation of complaint that violated disciplinary rule proscribing conduct prejudicial to the administration of justice. [In re Dobkin \(2 Dept. 2005\) 21 A.D.3d 23, 801 N.Y.S.2d 324. Attorney And Client](#)  [42](#)

Attorney engaged in conduct prejudicial to the administration of justice and conduct that adversely reflected on his fitness as a lawyer by failing to cooperate with Grievance Committee in its investigation of complaint against him by timely responding to Committee's request for an answer, supplemental information, and contact to schedule conference. [In re Scher \(2 Dept. 2005\) 18 A.D.3d 57, 793 N.Y.S.2d 521. Attorney And Client](#)  [42](#)

Attorney who failed to submit an answer to two complaints forwarded to him by the Grievance Committee or to letter informing him that an investigation had been commenced based on his failure to cooperate, or to respond to follow-up letters and telephone messages, was guilty of failing to cooperate with the Grievance Committee, in violation of the Code of Professional Responsibility. [In re Hampden \(2 Dept. 2004\) 11 A.D.3d 17, 784 N.Y.S.2d 109. Attorney And Client](#)  [42](#)

Attorney engaged in conduct that adversely reflected on his fitness to practice law and was prejudicial to the administration of justice by failing to timely cooperate with demands of Grievance Committee, in violation of Code of Professional Responsibility. [In re Davidson \(2 Dept. 2004\) 11 A.D.3d 11, 782 N.Y.S.2d 110, leave to appeal dismissed 7 N.Y.3d 741, 819 N.Y.S.2d 875, 853 N.E.2d 246. Attorney And Client](#)  [42](#)

Attorney's refusals to respond to Disciplinary Committee's requests for information in regard to complaints of misappropriation of client funds which had been lodged against the attorney, or to respond to judicial subpoenas for records, constituted professional misconduct that threatened the public interest; conduct impeded Committee's investigation and evinced a shocking disregard for the judicial system. [In re Goldman \(1 Dept. 2004\) 7 A.D.3d 18, 777 N.Y.S.2d 89. Attorney And Client 🔑42](#)

Three charges, in attorney disciplinary proceeding, of failing to cooperate with Grievance Committee's investigations of professional misconduct, were properly sustained by Special Referee; attorney consistently failed to respond to Committee's requests for written responses to charges and for all material and documentation pertaining to a mailing which attorney purported to have sent to Committee. [In re Chisena \(2 Dept. 2004\) 5 A.D.3d 79, 774 N.Y.S.2d 89, appeal dismissed 3 N.Y.3d 656, 782 N.Y.S.2d 695, 816 N.E.2d 568. Attorney And Client 🔑42](#)

Attorney's failure to cooperate with legitimate investigations of the Grievance Committee into alleged professional misconduct violated professional rules prohibiting conduct prejudicial to the administration of justice and adversely reflected on the lawyer's fitness as a lawyer. [In re Drakes \(2 Dept. 2004\) 5 A.D.3d 33, 773 N.Y.S.2d 77. Attorney And Client 🔑42](#)

Evidence was sufficient to find that attorney engaged in conduct prejudicial to administration of justice in violation of disciplinary rule; attorney failed to cooperate with Disciplinary Committee's investigation of complaint by failing to answer disciplinary complaint for almost year and by not complying with subpoena duces tecum, which required him to produce case file, and to appear for deposition. [In re LeBow \(1 Dept. 2001\) 285 A.D.2d 28, 727 N.Y.S.2d 88. Attorney And Client 🔑53\(2\)](#)

Attorney's failure to respond to certified mailings from grievance committee in connection with its investigations of client complaints violated applicable professional responsibility rules. [In re McGinnis \(2 Dept. 2000\) 274 A.D.2d 269, 711 N.Y.S.2d 36. Attorney And Client 🔑42](#)

Attorney's failure to cooperate with disciplinary committee in its investigation of client complaint amounted to separate violation of professional responsibility rules. [In re Ruden \(2 Dept. 2000\) 265 A.D.2d 25, 702 N.Y.S.2d 640. Attorney And Client 🔑42](#)

Attorney's failure to file written answer to complaint as repeatedly requested by grievance committee, despite numerous extensions given to attorney for filing answer, violated professional responsibility rule requiring attorney to cooperate with disciplinary investigations. [In re Tighe \(2 Dept. 2000\) 263 A.D.2d 312, 704 N.Y.S.2d 79. Attorney And Client 🔑42](#)

Attorney's failure to cooperate with disciplinary investigations, and his conversion and misappropriation of client funds and bonds, warranted disbarment. [In re Davies \(2 Dept. 1999\) 253 A.D.2d 243, 687 N.Y.S.2d 659. Attorney And Client 🔑59.14\(2\)](#)

Attorney violated Code of Professional Responsibility by failing to properly cooperate with Grievance Committee in its investigation of disciplinary complaint against her, where attorney failed to reply to complaint despite three requests from Committee to do so. [Matter of Stiles \(2 Dept. 1998\) 242 A.D.2d 127, 674 N.Y.S.2d 375. Attorney And Client](#) 42

Attorney engaged in conduct prejudicial to administration of justice by failing to produce bank records and tax returns requested by grievance committee during its investigation of attorney. [Matter of Connolly \(2 Dept. 1996\) 225 A.D.2d 241, 650 N.Y.S.2d 275](#), appeal dismissed [89 N.Y.2d 1087, 660 N.Y.S.2d 554, 683 N.E.2d 19](#), leave to appeal denied [90 N.Y.2d 803, 661 N.Y.S.2d 179, 683 N.E.2d 1053. Attorney And Client](#) 42

Attorney's failure to cooperate with grievance committee by failing to comply with committee's lawful demands in connection with its investigation of numerous pending complaints against attorney constituted violation of Code of Professional Responsibility. [Matter of Sorid \(2 Dept. 1993\) 189 A.D.2d 377, 596 N.Y.S.2d 125. Attorney And Client](#) 42

[57. False documentation or statements to disciplinary board](#)

Attorney's false testimony at deposition before Departmental Disciplinary Committee was conduct involving dishonesty, fraud, deceit or misrepresentation and conduct prejudicial to the administration of justice; a neuropsychological test, presented as evidence that attorney suffered from memory loss when he denied misconduct during a deposition before the disciplinary committee, was not credible, and thus was insufficient to rebut charge that he gave false testimony at the deposition. [In re Heller \(1 Dept. 2004\) 9 A.D.3d 221, 780 N.Y.S.2d 314](#), leave to appeal denied [3 N.Y.3d 607, 785 N.Y.S.2d 25, 818 N.E.2d 667. Attorney And Client](#) 42; [Attorney And Client](#) 53(2)

Attorney's filing of false affidavit with Disciplinary Commission, indicating under oath that he had complied with provisions of order suspending him from practice of law, violated applicable professional responsibility rules. [In re Leff \(2 Dept. 2000\) 268 A.D.2d 37, 705 N.Y.S.2d 603. Attorney And Client](#) 42

Attorney's false statement to disciplinary committee, to effect that he never received cash advance fees with respect to work on an estate, amounted to conduct involving dishonesty, fraud, deceit or misrepresentation, as well as conduct prejudicial to the administration of justice, in violation of applicable attorney disciplinary rules. [In re Santangelo \(1 Dept. 2000\) 265 A.D.2d 69, 701 N.Y.S.2d 355](#), reinstatement granted [294 A.D.2d 122, 746 N.Y.S.2d 254. Attorney And Client](#) 32(7)

Attorney's false and misleading answer to a complaint of professional misconduct, submission of false and misleading documents to the Grievance Committee, and false and misleading testimony under oath to the legitimate inquiries of the Grievance Committee violated disciplinary rules relating to conduct involving fraud, deceit, and misrepresentation, conduct adversely reflecting on fitness to practice law, and obstruction of a disciplinary investigation. [In re Falow \(2 Dept. 1999\) 260 A.D.2d 120, 695 N.Y.S.2d 584. Attorney And Client](#) 42

[58. Sexual misconduct](#)

Attorney, who was convicted of District of Columbia crime of misdemeanor sexual abuse by way of sexual contact, was convicted of a serious crime involving moral turpitude, within the parameters of attorney disciplinary rules, where District of Columbia Court of Appeals concluded that evidence introduced at his trial was sufficient to infer that attorney acted with the specific intent to “abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.” [In re Harkins \(2 Dept. 2007\) 40 A.D.3d 114, 833 N.Y.S.2d 546. Attorney And Client !\[\]\(6b79cd5dde3668433fb7015d4fbf34a3_img.jpg\)39](#)

Attorney engaged in illegal conduct that adversely reflected on his fitness as a lawyer, in violation of attorney disciplinary rules, as evidenced by his guilty plea to sexual misconduct premised on having had sexual intercourse with an adult female without her consent. [In re Boxley \(3 Dept. 2004\) 8 A.D.3d 949, 780 N.Y.S.2d 37, reinstatement granted 27 A.D.3d 1006, 810 N.Y.S.2d 688. Attorney And Client !\[\]\(f1c6cbc058dfea4ba2a2b55c6ed6b047_img.jpg\)39](#)

Attorney who escorted a client to a nightclub and made two improper sexual advances to her was guilty of engaging in conduct with a client that adversely reflected on his fitness to practice law. [In re Arjune \(2 Dept. 2003\) 308 A.D.2d 139, 763 N.Y.S.2d 625. Attorney And Client !\[\]\(f48349a5847bc67534e713586b52eaa5_img.jpg\)44\(1\)](#)

Attorney's two sexual encounters with indigent client, whom he had been assigned to represent, demonstrated conduct prejudicial to administration of justice and reflected adversely on fitness to practice law. [Matter of Weinstock \(2 Dept. 1998\) 241 A.D.2d 1, 669 N.Y.S.2d 368. Attorney And Client !\[\]\(b2ab433931bef9c76490f5f7b0063233_img.jpg\)42](#)

Client did not have a cognizable claim against her attorney based on his violation of disciplinary rule prohibiting initiation of sexual relations between lawyer and client in a domestic relations matter where there was no evidence that attorney misused information disclosed by the client in any manner resulting in a detriment to her legal position or that he bartered his services for sex nor any proof of damages to the client by reason of erroneous, inadequate or laggardly legal advice or dilatory tactics by the lawyer in dealing with the matter entrusted to him. [Guiles v. Simser, 2005, 9 Misc.3d 1083, 804 N.Y.S.2d 904, affirmed 35 A.D.3d 1054, 826 N.Y.S.2d 484. Attorney And Client !\[\]\(e8c13760be80e290331c1bce7c2e6e28_img.jpg\)109](#)

[59. Controlled substances](#)

Possessing cocaine in violation of penal law and failing to report conviction to Departmental Disciplinary Committee and another state's bar violated disciplinary rules that require reporting of criminal convictions and that prohibit lawyer from engaging in illegal act involving moral turpitude, from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, and from engaging in conduct adversely reflecting on fitness to practice law. [Matter of Hildebrand \(1 Dept. 1996\) 221 A.D.2d 85, 643 N.Y.S.2d 105. Attorney And Client !\[\]\(41e29ae59cddf18f744f08adb6c68b04_img.jpg\)38](#)

Guilty plea to criminal possession of marihuana in the fourth degree does not involve a grave infringement of moral sentiment of the community for purpose of Disciplinary Rule governing legal conduct involving moral turpitude. [Matter of Higgins \(3 Dept. 1984\) 105 A.D.2d 462, 480 N.Y.S.2d 257. Attorney And Client !\[\]\(e47960738e6ea3789f6c775a7c00e3a4_img.jpg\)39](#)

Guilty plea to criminal possession of marihuana in the fourth degree is not conduct prejudicial to administration of

justice absent showing that it disadvantages a client or impedes or impairs the quality, command and fulfillment of one's professional obligations or impedes functioning of the judicial system. [Matter of Higgins \(3 Dept. 1984\) 105 A.D.2d 462, 480 N.Y.S.2d 257. Attorney And Client 🔑39](#)

60. Conflict of interests

Even if law firm retained by insurance carrier to represent its insured had an attorney-client relationship with both carrier and insured, there was no conflict of interest that prohibited law firm from investigating availability of excess insurance coverage for insured and seeing that timely notices of claim were served, where carrier and insured had shared interest in defeating claim against insured in underlying personal injury, and in securing a defense verdict. [Shaya B. Pacific, LLC v. Wilson, Elser, Moskowitz, Edelman & Dicker, LLP \(2 Dept. 2006\) 38 A.D.3d 34, 827 N.Y.S.2d 231. Attorney And Client 🔑21.5\(5\)](#)

Attorney engaged in conduct adversely reflecting on his fitness to practice as a lawyer by breaching his fiduciary duty by failing to advise client to seek advice of independent counsel and aiding her in the preparation of documents which bestowed a financial interest upon the attorney. [In re DeSousa \(2 Dept. 2006\) 36 A.D.3d 121, 826 N.Y.S.2d 306. Attorney And Client 🔑44\(1\); Attorney And Client 🔑44\(2\)](#)

Representing both vendors and purchaser in sale of motel property and failing to make appropriate disclosures to either vendors or purchaser concerning the dual representation was conduct that adversely reflected on attorney's fitness as a lawyer, entailed employment he should have declined as likely to involve him in representing differing interests, and entailed multiple employment likely to involve him in representing differing interests, in violation of disciplinary rules. [In re Rogoff \(4 Dept. 2006\) 31 A.D.3d 111, 818 N.Y.S.2d 366. Attorney And Client 🔑44\(1\)](#)

Evidence in New Jersey disciplinary proceeding that attorney had represented passenger in personal injury action arising from automobile accident, despite being aware that driver of passenger's vehicle, who he had previously represented, had been named as defendant in passenger's lawsuit was sufficient to support conflict of interest charge, so as to warrant reciprocal discipline in New York. [In re Dranov \(1 Dept. 2004\) 14 A.D.3d 156, 787 N.Y.S.2d 271. Attorney And Client 🔑60](#)

Evidence that attorney drafted a will for his client, naming himself executor and bequeathing client's entire estate to a charitable trust under his exclusive control as sole trustee, was not sufficient to support charge that attorney violated professional rule prohibiting an attorney from engaging in conduct adversely reflecting on his or her fitness as a lawyer. [In re Weinstein \(1 Dept. 2004\) 4 A.D.3d 29, 772 N.Y.S.2d 275, leave to appeal denied 3 N.Y.3d 608, 785 N.Y.S.2d 26, 818 N.E.2d 668. Attorney And Client 🔑44\(1\)](#)

Attorney violated disciplinary rules relating to dishonest conduct, conduct prejudicial to administration of justice, and impermissible conflicts of interest by assisting his father, also an attorney, to undertake the representation of estates during which father, though the use of a nominee, purchased estate property at low prices that allowed him to realize large profits on resale. [In re Falow \(2 Dept. 1999\) 260 A.D.2d 120, 695 N.Y.S.2d 584. Attorney And Client 🔑42; Attorney And Client 🔑44\(1\)](#)

Attorney engaged in conduct that adversely reflected upon his fitness to practice law when he borrowed large sum of money from mentally handicapped client at favorable interest rate, gave client unrecorded mortgage, failed to advise client to seek independent counsel, and took out another mortgage on same property without telling client and without informing lender of prior unrecorded mortgage. [Matter of Finn \(2 Dept. 1996\) 223 A.D.2d 333, 647 N.Y.S.2d 39. Attorney And Client 🔑44\(1\)](#)

Failure to disclose beneficial ownership in corporation for purpose of deceiving court and others concerning beneficial interest of client and his heirs in corporation, and conveyance of property owned by corporation, amounted to conduct involving dishonesty, deceit, and misrepresentation, conduct adversely reflecting on fitness to practice law, and acceptance of employment when professional judgment is affected by financial, business, and personal interest, all in violation of disciplinary rules. [Matter of Hahn \(4 Dept. 1993\) 195 A.D.2d 105, 606 N.Y.S.2d 933](#), reargument denied [1994 WL 72897](#), appeal dismissed [83 N.Y.2d 951, 615 N.Y.S.2d 872, 639 N.E.2d 412. Attorney And Client 🔑37.1; Attorney And Client 🔑42; Attorney And Client 🔑44\(1\)](#)

Attorney who, at sick and elderly client's request, had drafted will naming his mother-in-law as client's sole beneficiary engaged in conduct having "appearance of impropriety" and "adversely reflecting on fitness to practice law"; attorney should, at minimum, have insisted that other attorney participate in preparation or execution of will or involved disinterested third party who could later attest to voluntary nature of bequest. [Matter of Oliver \(3 Dept. 1988\) 142 A.D.2d 831, 530 N.Y.S.2d 890. Attorney And Client 🔑38](#)

An attorney's acceptance of a gift of \$45,000 from his client, without insisting that another attorney prepare the writing memorializing the gift or seeking the involvement of third party to attest to the voluntary nature of the transaction, and acceptance of a \$10,000 demand loan from the client, adversely reflected on the attorney's fitness to practice law. [Matter of Sherbunt \(3 Dept. 1987\) 134 A.D.2d 723, 520 N.Y.S.2d 885](#), reinstatement granted [149 A.D.2d 811, 540 N.Y.S.2d 755. Attorney And Client 🔑44\(1\)](#)

A lawyer certified as an independent hearing officer (IHO) by the State Commissioner of Education to hear disputes between school districts and parents of disabled students may also represent the parents in private practice in such hearings, but not in any school district in which the lawyer is an IHO, and not if the lawyer was an IHO in another school district concerning the same child and same disability, or if the IHO is concurrently appearing as a lawyer in a matter in which the inquiring lawyer is acting as the IHO. N.Y.State Bar Ass'n, Ethics Op. 03-767.

Ethical proscription of the practice of criminal law by a lawyer-legislator applies even if the legislator abstains from all votes affecting the district attorney's budget and publicly discloses his intent to abstain. N.Y.State Bar Ass'n, Ethics Op. 98-702.

61. Civil causes of action

An attorney's violation of a disciplinary rule does not generate a cause of action. [William Kaufman Organization, Ltd. v. Graham & James LLP \(1 Dept. 2000\) 269 A.D.2d 171, 703 N.Y.S.2d 439. Attorney And Client 🔑109](#)

Some of the conduct constituting a violation of an attorney disciplinary rule may also constitute evidence of malpractice by attorney. [William Kaufman Organization, Ltd. v. Graham & James LLP \(1 Dept. 2000\) 269 A.D.2d 171, 703 N.Y.S.2d 439. Attorney And Client 🔑129\(2\)](#)

In the absence of a contract with a client, an attorney's mere violation of a disciplinary rule will not sustain a breach of contract action. [William Kaufman Organization, Ltd. v. Graham & James LLP \(1 Dept. 2000\) 269 A.D.2d 171, 703 N.Y.S.2d 439. Attorney And Client 🔑109](#)

Allegations by former clients that law firm had submitted invoices for work performed by its attorneys in connection with underlying litigation arising from commercial transaction, including strategy discussions and settlement negotiations, and that law firm had represented parties on other side of transaction, stated claim for breach of contract; claim was not based solely on violation of attorney disciplinary rules, but on breaches of a contractual relationship in complex litigation. [William Kaufman Organization, Ltd. v. Graham & James LLP \(1 Dept. 2000\) 269 A.D.2d 171, 703 N.Y.S.2d 439. Attorney And Client 🔑129\(2\)](#)

A violation of a disciplinary rule does not itself generate a cause of action in favor of the affected client. [Guiles v. Simser, 2005, 9 Misc.3d 1083, 804 N.Y.S.2d 904, affirmed 35 A.D.3d 1054, 826 N.Y.S.2d 484. Attorney And Client 🔑109](#)

62. Settlement agreements

Attorney engaged in engaged in other conduct that adversely reflected on his fitness as lawyer by not notifying one client of his receipt of \$40,000 settlement check in her favor, by having other client sign retainer agreement that gave attorney exclusive right to settle his claim without his approval, allowing his employees to forge client's signature on release form and affix false notary statement, and neglecting legal matter by not filing notice of claim with municipality. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411. Attorney And Client 🔑41; Attorney And Client 🔑44\(1\); Attorney And Client 🔑44\(2\)](#)

Attorney engaged in engaged in other conduct that adversely reflected on his fitness as lawyer by having client sign retainer agreement that gave attorney right to settle claim without client's approval, instructing his employees to forge client's name and affix false notary statement to release form, and knowingly misrepresenting that client had duly executed release form in letter to insurance carrier. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411. Attorney And Client 🔑38; Attorney And Client 🔑41; Attorney And Client 🔑44\(1\)](#)

Attorney engaged in conduct that was prejudicial to the administration of justice and/or adversely reflected on his fitness as a lawyer, in violation of professional rules, by failing to make payments on his \$44,450 confession of judgment in malpractice action, in accordance with the payment schedule set forth in the stipulation of settlement. [In re Gould \(2 Dept. 2007\) 45 A.D.3d 223, 843 N.Y.S.2d 110. Attorney And Client 🔑42](#)

A lawyer may obtain and use a revocable power of attorney, either in a stand-alone document or as part of the re-

tainer agreement, that authorizes the lawyer to settle a case and endorse the client's name on the settlement check, provided the lawyer makes full disclosure to the client, only settles a case on terms agreed to in advance by the client or approved by the client, and promptly complies with the notice, record keeping and disbursement requirements of the disciplinary rules. N.Y.State Bar Ass'n, Ethics Op. 03-760.

63. Conduct during trial

Attorney's conduct, during a criminal trial, of making inappropriate facial expressions and engaging in inappropriate behavior in the presence of the jury, constituted violations of Disciplinary Rules prohibiting engaging in conduct prejudicial to the administration of justice and engaging in conduct adversely reflecting on her fitness as a lawyer. [In re Billingsley \(4 Dept. 2005\) 20 A.D.3d 123, 796 N.Y.S.2d 765. Attorney And Client !\[\]\(b949de964097edbe782e7e2bf92d70c2_img.jpg\)42](#)

64. Unauthorized practice of law

Suspended attorney engaged in the unauthorized practice of law in violation of rules of professional responsibility, where attorney agreed to represent a client in a refinancing transaction for a house after his suspension, attorney prepared a document in relation to the refinancing whereby client agreed that all proceeds of the loan would be held by the attorney and disbursed by him exclusively, attorney attended the closing and represented the legal interests of the client, and attorney deposited check for proceeds from the refinancing into his attorney escrow account. [In re Drakes \(2 Dept. 2009\) 60 A.D.3d 153, 871 N.Y.S.2d 631. Attorney And Client !\[\]\(d0404fead0df3e2b3ce553e59df6c870_img.jpg\)37.1](#)

Attorney who, after being suspended by the Appellate Division and the United States District Court for the Northern District of New York, engaged in the unauthorized practice of law, was guilty of serious professional misconduct. [In re Hall \(3 Dept. 2008\) 49 A.D.3d 1146, 854 N.Y.S.2d 580. Attorney And Client !\[\]\(1eabbc43df7f205fad5fd6919cc42f20_img.jpg\)37.1](#)

65. Pre-admission practice of law

Attorney held himself out as attorney before he had been licensed to practice law, adversely reflecting on his honesty, trustworthiness or fitness as a lawyer, by appearing at two court conferences and signing "so ordered" stipulation on behalf of client before he was admitted to practice law. [In re Fauci \(1 Dept. 2006\) 28 A.D.3d 192, 811 N.Y.S.2d 38. Attorney And Client !\[\]\(71ef225abb40f24ddb8e4a621505a7ff_img.jpg\)38](#)

66. Foreign attorneys, generally

In order to obtain revocation of foreign attorney's license to practice in New York as legal consultant, departmental disciplinary committee was required to follow same procedures as would be used in disciplinary proceedings against an attorney admitted to practice law in New York, i.e., committee was required to file formal disciplinary charges and hold a hearing before a referee on those charges; committee could not obtain immediate revocation of foreign attorney's license to practice as legal consultant on ground that there was uncontested evidence of professional misconduct which reflected adversely upon his moral character and general fitness. [In re Antoine \(1 Dept. 2007\) 46 A.D.3d 60, 844 N.Y.S.2d 221. Attorney And Client !\[\]\(d36d158613f845b8fa07c8447498699a_img.jpg\)47.1](#)

67. Ability to improperly influence court

Attorney's derogatory comments about a judge and his ability to influence the court, made in a private conversation with his client, did not warrant professional discipline, since they were uttered outside the precincts of a court. [In re Isaac \(1 Dept. 2010\) 76 A.D.3d 48, 903 N.Y.S.2d 349. Attorney and Client 🔑38; Attorney and Client 🔑42](#)

68. Defenses or mitigation

Attorney withdrew his client's funds from escrow account, without consent or authority, with venal intent necessary to establish violation of ethical rule prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation; attorney failed to show causal connection between his "severe depression" and conversion of client's funds that would negate his intent to defraud or deceive. [In re Gibbons \(1 Dept. 2002\) 294 A.D.2d 53, 742 N.Y.S.2d 49. Attorney And Client 🔑44\(2\)](#)

Evidence was sufficient to find that attorney's actions adversely reflected on his fitness to practice law for purposes of attorney disciplinary proceeding; attorney asserted non-credible defenses during disciplinary hearing instead of taking responsibility for his wrongdoing. [In re LeBow \(1 Dept. 2001\) 285 A.D.2d 28, 727 N.Y.S.2d 88. Attorney And Client 🔑53\(2\)](#)

Distracting and stressful intrusions do not excuse an attorney's duty to promptly and fully cooperate with Committee on Professional Standards. [In re Cannon \(3 Dept. 2001\) 284 A.D.2d 721, 727 N.Y.S.2d 704, reinstatement denied 301 A.D.2d 742, 752 N.Y.S.2d 912, reinstatement granted 6 A.D.3d 870, 774 N.Y.S.2d 449. Attorney And Client 🔑46](#)

Serious psychiatric problems of attorney's wife and serious developmental disability of attorney's son did not amount to extremely unusual mitigating circumstances warranting imposition of lesser sanction than presumptive sanction of disbarment for attorney's intentional conversion of client funds, where conversion occurred on 12 separate occasions, there was every indication that it would have continued but for client complaint, attorney was not truthful with his clients about what was happening with their escrow funds, and attorney did not sufficiently demonstrate a causal connection between his family's problems and the conversions. [In re Neufeld \(1 Dept. 2000\) 268 A.D.2d 1, 704 N.Y.S.2d 579. Attorney And Client 🔑59.5\(5\); Attorney And Client 🔑59.6](#)

Attorneys must attend to their clients' interests punctually and with vigor despite distracting and stressful intrusions from personal and family problems or advise their clients of their option to obtain other counsel, and such intrusions do not excuse attorney's obligation to promptly and fully cooperate with state bar Committee on Professional Standards. [Matter of Sexton \(3 Dept. 1996\) 231 A.D.2d 832, 647 N.Y.S.2d 587. Attorney And Client 🔑42; Attorney And Client 🔑44\(1\)](#)

Attorney who alleged that his misconduct was due to severe personal difficulties culminating in deep depression failed to demonstrate good cause to reopen disciplinary proceeding to allow submission of evidence of mitigating

circumstances after he had failed to cooperate or answer charges against him. [Matter of Barth \(1 Dept. 1996\) 218 A.D.2d 304, 638 N.Y.S.2d 447. Attorney And Client 55](#)

That actions may be taken in furtherance of client's interests, as opposed to acts of negligence or other attorney misconduct, does not affect determination of appropriate disciplinary measures, based on conduct of defense attorney involving willful, unlawful, and contumacious behavior in presence of court and other disruptive and insolent courtroom behavior; all attorneys, including criminal defense attorneys, are bound by **Lawyers' Code of Professional Responsibility** and disciplinary rules. [Matter of Giampa \(2 Dept. 1995\) 211 A.D.2d 212, 628 N.Y.S.2d 323](#), appeal dismissed, leave to appeal denied [86 N.Y.2d 731, 631 N.Y.S.2d 597, 655 N.E.2d 693](#), certiorari denied [116 S.Ct. 566, 516 U.S. 1009, 133 L.Ed.2d 491. Attorney And Client 59.5\(6\)](#)

While defense of justification may relieve attorney of criminal or civil liability for allegedly instructing witness to testify falsely under oath, defense does not necessarily render actions ethical or even in accord with due process strictures. [Matter of Malone \(3 Dept. 1984\) 105 A.D.2d 455, 480 N.Y.S.2d 603](#), affirmed [65 N.Y.2d 772, 492 N.Y.S.2d 947, 482 N.E.2d 565. Attorney And Client 32\(7\); Constitutional Law 4000](#)

69. Sanctions

In determining appropriate sanction in attorney disciplinary proceeding, consideration could not be given to those 50 to 70 clients who probably suffered harm due to attorney's closing of practice but did not file complaints, given absence of evidence supporting supposition of harm, but fact that attorney abandoned his practice without notifying his clients, most of whom were immigrants, and did not respond to any correspondence that was forwarded to his home was relevant. [In re Kuhnreich \(1 Dept. 2005\) 21 A.D.3d 1, 797 N.Y.S.2d 475. Attorney And Client 59.5\(6\)](#)

Attorney disciplinary sanctions serve both deterrent and punitive functions. [In re Law Firm of Wilens and Baker \(1 Dept. 2004\) 9 A.D.3d 213, 777 N.Y.S.2d 116. Attorney And Client 59.3](#)

Mere avoidance of monetary sanctions is not the standard of attorney conduct to be fostered; instead a lawyer should maintain high standards of proper conduct and should encourage fellow lawyers to do likewise. [Klein ex rel. Klein v. Seenauth, 1999, 180 Misc.2d 213, 687 N.Y.S.2d 889. Attorney And Client 32\(4\)](#)

70. Fines

Sanctions in amount of \$5,000, payable to Clients' Security Fund, would be imposed upon plaintiff's attorney for frivolously appealing from dismissal of action, which was identical to earlier action the dismissal of which had been affirmed. [Mate Picnic v. Seatrain Lines, Inc. \(1 Dept. 1993\) 189 A.D.2d 622, 592 N.Y.S.2d 346](#), leave to appeal denied [81 N.Y.2d 709, 599 N.Y.S.2d 804, 616 N.E.2d 159. Attorney And Client 24](#)

Financial sanctions for attorney's misconduct were properly imposed upon attorney alone, and not client, where attorney's actions were not compelled by any need to represent client's position, but, rather, reflected his own intemperate actions. [Principe v. Assay Partners, 1992, 154 Misc.2d 702, 586 N.Y.S.2d 182. Costs 2](#)

71. Censure--In general

Appropriate sanction for attorney who had violated rules of professional conduct by mismanagement of testamentary trust and client funds and failure to cooperate with Grievance Committee investigation was censure, given attorney's expression of remorse and her statement that, during the relevant time period, she suffered from anxiety and depression for which she has sought treatment, as well as fact that she had not intended to harm her clients or to benefit personally from the misconduct. [In re St. Thomas \(4 Dept. 2012\) 103 A.D.3d 130, 957 N.Y.S.2d 515. Attorney and Client](#)  [59.8\(1\)](#); [Attorney and Client](#)  [59.8\(2\)](#)

Accepting employment without obtaining clients' consent after full disclosure of attorney's own financial, business, property or personal interests that could have affected the exercise of his professional judgment, accepting employment when attorney knew he ought to be called as a witness on client's behalf and his testimony would be prejudicial to clients, engaging in conduct prejudicial to the administration of justice, and engaging in conduct that adversely reflected on his fitness to practice law warranted public censure. [In re Green \(2 Dept. 2006\) 36 A.D.3d 12, 827 N.Y.S.2d 67. Attorney And Client](#)  [59.8\(1\)](#)

72. ---- Comments, censure

Censure was appropriate measure of discipline to impose on attorney found to have engaged in conduct prejudicial to the administration of justice and conduct that adversely reflected on his fitness to practice law, by sending a letter, copied to attorney's adversary, to judge who denied his application to be relieved as counsel, which contained statements that were either derogatory, undignified, or intemperate. [In re Probst \(2 Dept. 2006\) 36 A.D.3d 216, 826 N.Y.S.2d 80. Attorney And Client](#)  [59.8\(1\)](#)

Considering reform measures taken by attorney and his firm, public censure of both attorney and his law firm was appropriate sanction where they engaged in a pattern of misconduct in which they acted in a rude and demeaning manner to clients in violation of the Code of Professional Responsibility. [In re Law Firm of Wilens and Baker \(1 Dept. 2004\) 9 A.D.3d 213, 777 N.Y.S.2d 116. Attorney And Client](#)  [44\(1\)](#); [Attorney And Client](#)  [59.8\(1\)](#)

Public censure was warranted by attorney's accusing court and clerk of prejudice and racism and making other disrespectful remarks, after receiving unfavorable ruling, in violation of disciplinary rules proscribing conduct prejudicial to administration of justice and undignified or discourteous conduct before tribunal, even though attorney had two prior admonitions, one for similar conduct, where suspension would effectively end career of attorney, who was 73 years old, single practitioner, and frequently represented clients with limited means. [In re Hayes \(1 Dept. 2004\) 7 A.D.3d 108, 777 N.Y.S.2d 120. Attorney And Client](#)  [59.8\(1\)](#)

73. ---- Courtroom behavior, censure

Censure was appropriate discipline to be imposed on attorney found to have violated two Disciplinary Rules by making inappropriate facial expressions and engaging in inappropriate behavior in the presence of the jury, where

numerous letters to the court attested to attorney's good character, and attorney previously had an unblemished record and had expressed remorse. [In re Billingsley \(4 Dept. 2005\) 20 A.D.3d 123, 796 N.Y.S.2d 765. Attorney And Client 59.8\(1\)](#)

[74.](#) ---- Confidential disclosures, censure

Attorney's disclosure of confidences and secrets learned during course of his employment warranted censure, where disclosures occurred in context of civil litigation commenced by his former employer in which he was pro se litigant, attorney had sincere, although misguided, belief that disclosures were necessary and appropriate, and he had already incurred fines and sanctions in excess of \$500,000. [In re Lee \(4 Dept. 2006\) 32 A.D.3d 74, 821 N.Y.S.2d 682. Attorney And Client 59.8\(1\)](#)

[75.](#) ---- Crimes, censure

Imposition of public censure on attorney, based on his criminal convictions of attempted assault and harassment, was appropriate sanction, rather than one-year suspension, where attorney had practiced law for 38 years with unblemished disciplinary record, served time in armed services, and presented numerous attestations as to his integrity and good character. [In re Caits \(1 Dept. 2010\) 77 A.D.3d 165, 907 N.Y.S.2d 9. Attorney and Client 59.8\(3\)](#)

Public censure was warranted by attorney's conviction for third-degree sexual abuse; conduct violated attorney disciplinary rule prohibiting illegal conduct reflecting adversely on attorney's honesty, trustworthiness, or fitness as a lawyer. [In re Najdovski \(1 Dept. 2005\) 18 A.D.3d 27, 794 N.Y.S.2d 307. Attorney And Client 39; Attorney And Client 59.8\(3\)](#)

[76.](#) ---- Driving while intoxicated, censure

Attorney's professional misconduct in being convicted of two alcohol-related offenses warranted sanction of censure; attorney pled guilty to traffic infraction of driving while ability was impaired, and less than four years later, attorney pled guilty to separate offense of driving while intoxicated. [In re Brody \(2 Dept. 2005\) 23 A.D.3d 94, 803 N.Y.S.2d 605. Attorney And Client 59.8\(3\)](#)

Public censure, and referral to the Lawyer's Assistance Program, was ordered for attorney found guilty, on basis of his guilty plea to charges of disorderly conduct, driving while intoxicated, and two traffic infractions, of violating disciplinary rule prohibiting engaging in conduct adversely reflecting on his fitness as a lawyer; attorney had no prior disciplinary history, had been involved in an alcohol treatment program, had paid all fines and complied with his conditions of probation, had admitted his mistakes, and had expressed remorse. [In re McCarthy \(2 Dept. 2004\) 11 A.D.3d 162, 782 N.Y.S.2d 766. Attorney And Client 59.8\(3\)](#)

[77.](#) ---- Fraud, censure

Given the circumstances and attorney's otherwise unblemished disciplinary record, censure was appropriate sanction

for attorney's professional misconduct in making an untrue statement to Committee on Professional Standards concerning the reason a telephonic hearing in an immigration removal proceeding in which he participated had to be rescheduled, by neglecting the client's matter by being unprepared during the telephonic hearing, and by failing to provide an itemized bill in another client's matrimonial matter. [In re Rockmacher \(3 Dept. 2012\) 100 A.D.3d 1180, 956 N.Y.S.2d 583. Attorney and Client](#)  [59.5\(5\)](#); [Attorney and Client](#)  [59.8\(1\)](#); [Attorney and Client](#)  [59.8\(2\)](#)

Public censure was warranted for attorney who committed two violations of the Code of Professional Responsibility by paying a non-lawyer for a referral and filing a false retainer statement with the Office of Court Administration (OCA), despite attorney's acceptance of responsibility, cooperation, good character, and financial pressures; attorney was arrested and pleaded guilty to violating statute prohibiting fifth-degree criminal solicitation. [In re Klafter \(2 Dept. 2004\) 11 A.D.3d 1, 782 N.Y.S.2d 108. Attorney And Client](#)  [59.8\(1\)](#)

Attorney against whom five charges of professional misconduct were sustained by special referee would be censured; charges alleged conduct involving dishonesty, fraud, deceit or misrepresentation to same client on four occasions as to statements regarding actions he said he had taken in bringing lawsuit that he knew were false at time he made them, and included attorney's neglect of legal matter entrusted to him by same client for failing to timely complete and submit motion. [In re Joyce \(2 Dept. 2004\) 3 A.D.3d 178, 771 N.Y.S.2d 171. Attorney And Client](#)  [59.8\(1\)](#)

Conduct including neglect of legal matter, failing to promptly return unearned fee, and providing false and misleading testimony under oath in matter not emanating from attorney-client relationship warrants censure. [Matter of Brenner \(2 Dept. 1994\) 201 A.D.2d 100, 615 N.Y.S.2d 432. Attorney And Client](#)  [59.8\(1\)](#)

78. ---- Mismanagement of funds, censure

Public censure was warranted by attorney's professional misconduct, which included violations of professional conduct rules by paying for referrals, by filing improper and failing to file timely retainer and closing statements, by computing contingency fee based on gross settlement, by failing to maintain ledger book or similar record of deposits into and withdrawals from his attorney escrow account, by failing to withdraw his legal fees from his attorney escrow account when earned, and by failure to maintain records and receipts evidencing his disbursements in personal injury cases, given that attorney had no prior disciplinary history. [In re Gruen \(2 Dept. 2008\) 55 A.D.3d 88, 863 N.Y.S.2d 733. Attorney And Client](#)  [59.8\(1\)](#); [Attorney And Client](#)  [59.8\(2\)](#)

Censure was appropriate disciplinary sanction for attorney's conduct in distributing advance commissions to executors of estate without court approval, and attorney's undisclosed conflict of interest and conversion of funds relating to attorney's loaning funds of estate to individual with whom attorney had ongoing business relationship. [In re Devine \(3 Dept. 2006\) 34 A.D.3d 1178, 824 N.Y.S.2d 784. Attorney And Client](#)  [59.8\(1\)](#)

Censure of attorney was warranted due to his use of attorney trust account as personal account, his failure to maintain records of account activity, his use of improper retainer agreement, and his failure to provide billing statements to his clients at least every 60 days, where attorney did not convert or commingle funds, performed work for which

his clients retained him, and did not harm any client. [In re Ohl \(4 Dept. 2006\) 31 A.D.3d 122, 817 N.Y.S.2d 794. Attorney And Client 🔑59.8\(2\)](#)

Public censure was warranted by attorney's repeated conduct of issuing checks to a Law Guardian, in a case in which he was involved, which were returned for insufficient funds; issuance of checks with actual or constructive knowledge that insufficient funds were present in the account constituted a repeated and ongoing disobedience of court directives, amounting to conduct adversely reflecting on attorney's fitness to practice law, conduct involving dishonesty, fraud, deceit, or misrepresentation, and conduct prejudicial to the administration of justice. [In re Najdovski \(1 Dept. 2005\) 18 A.D.3d 27, 794 N.Y.S.2d 307. Attorney And Client 🔑42; Attorney And Client 🔑59.8\(1\)](#)

Censure was warranted for attorneys, partners in a law firm, who committed nine violations of disciplinary rules; one partner's two improper withdrawals of funds from the firm trust account as legal fees, other partner's failure to be aware of those improprieties, and both partners' engagement in representation involving a conflict of interest, violated disciplinary rules prohibiting conflicts of interest, failure to maintain client funds in a special account, failure to pay funds promptly to a client, and failure to maintain required records of bank accounts. [In re Allen \(4 Dept. 2003\) 308 A.D.2d 143, 765 N.Y.S.2d 74. Attorney And Client 🔑59.8\(1\); Attorney And Client 🔑59.8\(2\)](#)

Attorney's issuance of checks from trust account on behalf of one client, drawn against funds of another client, and his commingling of clients' funds with personal funds, warranted censure, where attorney was attempting to assist client who was experiencing severe financial difficulties, had been assured by client that checks deposited into trust account were drawn against sufficient funds, did not permanently deprive any client of funds, corrected his accounting procedures, and had previously unblemished record. [In re Burd \(4 Dept. 2003\) 304 A.D.2d 277, 762 N.Y.S.2d 191. Attorney And Client 🔑59.8\(2\)](#)

Attorney's misconduct in issuing checks from his escrow account for client's benefit before clients' checks had been deposited into escrow account, in failing to designate account as attorney trust or escrow account, and in allowing balance of escrow account to fall below required amount warranted public censure. N.Y.Ct.Rules §§§§ 1200.3(a)(8) [DR 1-102, subd. A, par. 8], 1200.46(a), (b)(2), (d)(1, 2) [DR 9-102, subds. A, B, par. 2, D, pars. 1, 2]. [In re Rabine \(2 Dept. 1999\) 253 A.D.2d 144, 687 N.Y.S.2d 654. Attorney And Client 🔑59.8\(2\)](#)

[79. ---- Neglect of client matters, censure](#)

Given the circumstances and attorney's otherwise unblemished disciplinary record, censure was appropriate sanction for attorney's professional misconduct in making an untrue statement to Committee on Professional Standards concerning the reason a telephonic hearing in an immigration removal proceeding in which he participated had to be rescheduled, by neglecting the client's matter by being unprepared during the telephonic hearing, and by failing to provide an itemized bill in another client's matrimonial matter. [In re Rockmacher \(3 Dept. 2012\) 100 A.D.3d 1180, 956 N.Y.S.2d 583. Attorney and Client 🔑59.5\(5\); Attorney and Client 🔑59.8\(1\); Attorney and Client 🔑59.8\(2\)](#)

Engaging in conduct prejudicial to administration of justice, conduct adversely reflecting on fitness as a lawyer, and

neglect of a legal matter, in handling of estate and not responding to disciplinary inquiries, warranted censure. [In re Migliaccio \(4 Dept. 2008\) 53 A.D.3d 18, 862 N.Y.S.2d 220, Attorney And Client](#) 59.8(1)

Censure was warranted for attorney who admitted that she neglected client matters, failed to respond to requests for information from Grievance Committee and from administrator of fee arbitration program, failed to comply in a timely manner with attorney registration requirements and with requests from clients for unearned portions of retainer fees, and failed to comply with a court order resulted in a finding of contempt, notwithstanding that, at the time of the misconduct attorney suffered from episodic depression for which she has sought treatment, attorney made full restitution to her clients, no client was harmed as a result of her misconduct, and attorney took steps to ensure that the misconduct did not recur, including securing the assistance of another attorney to monitor her progress with her caseload. [In re Cunningham \(4 Dept. 2007\) 38 A.D.3d 138, 830 N.Y.S.2d 879, Attorney And Client](#) 59.8(1)

Attorney's failure to move formally, on proper papers, to be relieved of his representation in three personal injury cases was neglect, warranting public censure. [In re Gould \(1 Dept. 1999\) 253 A.D.2d 233, 686 N.Y.S.2d 759, Attorney And Client](#) 44(1); [Attorney And Client](#) 59.8(1)

Neglecting client in matrimonial matter warrants public censure, upon condition of refunding unearned portion of retainer, without regard to bankruptcy filing. [Matter of Marrin \(1 Dept. 1995\) 207 A.D.2d 239, 622 N.Y.S.2d 255, Attorney And Client](#) 59.17(3)

80. ---- Mitigating circumstances, censure

Censure was warranted for attorney who admitted, in disciplinary proceeding, to neglecting the matters of numerous clients, using a retainer form not in compliance with rules governing the conduct of attorneys in domestic relations matters, and failing to provide clients in domestic relations matters with billing statements at regular intervals; mitigating circumstances included fact that attorney had been overwhelmed with work after accepting responsibility for 93 legal files transferred from a suspended attorney, and that he did not act to benefit himself, harmed no clients, and cooperated with Grievance Committee. [In re Shapiro \(4 Dept. 2004\) 5 A.D.3d 52, 774 N.Y.S.2d 244, Attorney And Client](#) 58

Conduct of attorney who represented both buyer and seller in real estate transaction, namely, failing to make required disclosures regarding potential conflict of interest prior to obtaining consent, altering land contract that county refused to file because it did not contain description of real property by adding "see attached description" and appending survey to it, and filing altered contract, in violation of disciplinary rules, warranted censure, taking into consideration attorney's lengthy record of public service, when conduct occurred, fact that attorney was acting in accordance with wishes of clients, and attorney's expression of remorse. [In re McKelvey \(4 Dept. 2008\) 54 A.D.3d 24, 861 N.Y.S.2d 905, Attorney And Client](#) 59.8(1)

Public censure rather than more serious sanction was appropriate for attorney who had neglected two matters, one of which resulted in client's loss of workers' compensation benefits, even though attorney had received two prior admonitions; mitigation evidence included attorney's pro bono work, that attorney's wife's illness often caused him to

be absent from his office during time of misconduct, attorney's remorse for his non-venal wrongdoing, reduction in caseload and multiple alterations to attorney's office procedures to prevent future neglect, and attorney's amends to complainants. [In re Ioannou \(1 Dept. 2007\) 47 A.D.3d 65, 846 N.Y.S.2d 22. Attorney And Client 59.8\(1\)](#)

Attorney's failure to make written disclosures to his client with respect to risks and potential conflict of interest arising from business transaction or to obtain client's written consent with respect to business transaction warranted attorney's censure, where misconduct stemmed from business transaction that was entered into 17 years earlier, client was dead, and attorney had unblemished record after 34 years in practice. [In re Puleo \(4 Dept. 2007\) 46 A.D.3d 19, 850 N.Y.S.2d 724. Attorney And Client 59.8\(1\)](#)

Attorney's misconduct in neglecting client matters, failing to submit itemized bills to clients in domestic relations matters at regular intervals, and failing to participate in fee dispute arbitration warranted order of censure, despite evidence in mitigation including evidence that attorney suffered from major depression for which she had sought treatment, as well as from complications from prescribed medication, including medication prescribed for a condition that was misdiagnosed, and even though fee arbitration awards made in favor of attorney's clients had been satisfied. [In re Funda \(4 Dept. 2007\) 42 A.D.3d 10, 840 N.Y.S.2d 844. Attorney And Client 59.8\(1\)](#)

In view of the mitigating circumstances presented in attorney disciplinary proceeding, including attorney's otherwise distinguished career in private practice and as a public servant, and his hitherto unblemished disciplinary record, censure was appropriate sanction for attorney who, after failing to file proof of service in a personal injury lawsuit, which resulted in its dismissal, misrepresented the status of the lawsuit to his client and eventually paid her a purported settlement amount from his own funds. [In re Kohn \(3 Dept. 2007\) 38 A.D.3d 1052, 833 N.Y.S.2d 670. Attorney And Client 59.5\(5\); Attorney And Client 59.8\(1\)](#)

In light of proffered mitigating circumstances, public censure was appropriate measure of discipline to impose on attorney who engaged in professional misconduct by operating a motor vehicle while intoxicated; attorney, who fully admitted his mistake and took steps to change his lifestyle, enjoyed an excellent reputation in his firm and the community and had never been disciplined for professional misconduct. [In re Green \(2 Dept. 2006\) 32 A.D.3d 36, 817 N.Y.S.2d 386. Attorney And Client 59.5\(5\); Attorney And Client 59.8\(1\)](#)

Attorney's representation of both vendors and purchaser in real estate transaction warranted censure considering, in mitigation, facts that attorney undertook the dual representation at insistence of purchaser, had no financial interest in transaction and charged vendors and purchaser one half of his usual fee, as well as his cooperation with Grievance Committee and remorse for his misconduct, and, in aggravation, his previous letter of admonition for entering into business transaction with client without full disclosure, and letters of caution for conduct that included engaging in representation involving conflicts of interest. [In re Rogoff \(4 Dept. 2006\) 31 A.D.3d 111, 818 N.Y.S.2d 366. Attorney And Client 59.8\(1\)](#)

Sanction of public censure was warranted for attorney's professional misconduct, where there was mitigating evidence that she was deeply remorseful, she lacked venal intent, she cooperated with the Grievance Committee, she performed a vital service to her community, she had good character, and she had reorganized her office and moved to eliminate any future recurrences. [In re Telemaque \(2 Dept. 2006\) 30 A.D.3d 82, 813 N.Y.S.2d 180. Attorney And](#)

[Client](#)  [59.8\(2\)](#)

In light of the testimony of three character witnesses, public censure was appropriate measure of discipline to impose on attorney found to have neglected a legal matter and made false statements to his client regarding the status of the matter, despite his prior disciplinary history of a Letter of Admonition in the same matter and a Letter of Caution; witnesses were all attorneys who testified to disciplined attorney's good professional reputation and there were no other complaints against attorney. [In re Haberman \(2 Dept. 2006\) 27 A.D.3d 66, 807 N.Y.S.2d 621. Attorney And Client](#)  [59.8\(1\)](#)

Public censure was appropriate sanction for attorney's neglect of legal matter entrusted to him, premised on his failure to timely perfect a client's appeal in criminal matter; attorney had previously been issued letter of caution with respect to his handling of four criminal appeals, two of which were assigned matters, admonished for neglecting criminal matter entrusted to him, and issued a letter of caution, but attorney had expressed remorse, character witnesses had attested to his excellent reputation, and attorney had taken positive steps to eliminate any future recurrences. [In re Barbuto \(2 Dept. 2005\) 22 A.D.3d 57, 800 N.Y.S.2d 604. Attorney And Client](#)  [59.8\(1\)](#)

In light of attorney's lack of a disciplinary history and full cooperation with disciplinary authorities, and fact that his misconduct was not committed in the practice of law, public censure was appropriate sanction, in reciprocal disciplinary proceeding, for attorney reprimanded in New Jersey for conduct involving dishonesty, fraud, deceit or misrepresentation, arising out of his attempt to circumvent rent control rules for an apartment; public censure was New York equivalent of New Jersey reprimand. [In re Becker \(1 Dept. 2005\) 22 A.D.3d 29, 801 N.Y.S.2d 5. Attorney And Client](#)  [59.18](#)

Public censure was appropriate sanction for attorney found guilty of professional misconduct based on his perpetuation of client's lie in connection with arbitration matter; attorney expressed remorse, took responsibility for his actions, presented credible character and reputation testimony, and agreed that public censure was appropriate sanction. [In re Katz \(1 Dept. 2005\) 15 A.D.3d 1, 789 N.Y.S.2d 477. Attorney And Client](#)  [59.8\(1\)](#)

Censure was appropriate sanction for attorney found guilty of misconduct premised on his failure to respond to inquiries from clients in criminal matters, failure to respond to correspondence and directives from the court regarding the criminal matters of five clients, and failure to comply with Grievance Committee's request that he provide written responses to client complaints during disciplinary investigation; at time of misconduct, attorney suffered from adult attention deficit hyperactivity disorder, for which he had sought treatment. [In re Lenkiewicz \(4 Dept. 2004\) 14 A.D.3d 151, 786 N.Y.S.2d 871. Attorney And Client](#)  [59.8\(1\)](#)

Censure was warranted for attorney found to be guilty of 12 charges of professional misconduct, where attorney was a sole practitioner handling too many cases during a time of personal crisis; attorney had no prior disciplinary history, and he took corrective measures by closing his practice and seeking counseling. [In re Carey \(2 Dept. 2004\) 9 A.D.3d 57, 778 N.Y.S.2d 89. Attorney And Client](#)  [59.8\(1\)](#)

Public censure was appropriate discipline for attorney who admitted to engaging in professional misconduct of improperly soliciting and accepting payments for legal services which should have been provided free of charge to

clients of the not-for-profit corporation for which she worked; court considered substantial mitigating factors including financial pressure on attorney to assist her blind father, her involvement in activities providing assistance to orphans and to victims of domestic violence, and her lack of prior disciplinary history. [In re Nwaigwe \(2 Dept. 2003\) 3 A.D.3d 66, 770 N.Y.S.2d 426. Attorney And Client 🔑59.8\(1\)](#)

Public censure was appropriate sanction for attorney's misconduct in making erasures on documents in employment law case in which he represented plaintiff; while attorney's irresponsible and unprofessional conduct in connection with alleged spoliation of evidence was aggravated by his subsequent failure to cooperate with the Disciplinary Committee, there was no finding of venal intent, and there were significant factors in mitigation, including the aberrational nature of the incident, the lack of any disciplinary history, and attorney's prior good reputation. [In re Berger \(1 Dept. 2003\) 1 A.D.3d 83, 767 N.Y.S.2d 19. Attorney And Client 🔑59.8\(1\)](#)

Public censure was appropriate sanction for attorney's conduct in failing to maintain sufficient balance in client escrow accounts, failing to properly designate such accounts as client escrow accounts, permitting nonlawyers to have signing privileges on such accounts, and making disbursements from such accounts to "cash" rather than to named payees, where attorney's conduct was not venal, no client was harmed, attorney had long history of government service which resulted in his inexperience with escrow accounts, he had unblemished record, and he had taken remedial steps. [In re Carusona \(2 Dept. 2003\) 304 A.D.2d 200, 758 N.Y.S.2d 111. Attorney And Client 🔑59.8\(2\)](#)

Public censure was appropriate disciplinary sanction for attorney's conduct in paying referral fee to non-attorney and in filing document with Office of Court Administration falsely stating that the personal injury case had been referred based on attorney's general reputation, where attorney had no prior discipline, he had expressed remorse, he had excellent reputation in community, and he had been experiencing family and personal hardships. [In re Quintana \(2 Dept. 2003\) 304 A.D.2d 197, 758 N.Y.S.2d 123. Attorney And Client 🔑59.8\(1\)](#)

Attorney's misuse of her position as assistant district attorney in attempt to undermine traffic summons issued against her husband, also an attorney, at her husband's request, warranted public censure of both attorneys, in light of previously unblemished records of both attorneys, and their admission of wrongdoing, cooperation with investigation, and expressions of remorse and contrition. [In re Ross \(1 Dept. 2000\) 276 A.D.2d 91, 716 N.Y.S.2d 42. Attorney And Client 🔑59.8\(1\)](#)

Censure was appropriate sanction for attorney who, in providing legal services to elderly and infirm woman with whom he had personal relationship, violated disciplinary rules governing neglect of legal matters, conduct prejudicial to the administration of justice and failing to maintain records to preserve identity of funds, where attorney had unblemished disciplinary record and an excellent reputation for honesty, professionalism and moral character. [In re Essepian \(3 Dept. 1999\) 267 A.D.2d 769, 700 N.Y.S.2d 506. Attorney And Client 🔑59.8\(1\)](#)

Neglect, failure to maintain client communications, and failure to comply with directives by Committee on Professional Standards, warranted censure and requirement to submit semiannual reports from treating psychotherapist assessing continuing capacity to practice law, considering in aggravation that attorney had previously been suspended for six months from the practice of law, and in mitigation that he was undergoing treatment for depression. [Matter of Winsor \(3 Dept. 1997\) 242 A.D.2d 828, 661 N.Y.S.2d 886. Attorney And Client 🔑59.17\(3\)](#)

Attorney's neglect of client's postconviction motion and appeal from conviction, false representations about his actions and status of matter, and failure to refund unearned legal fee of \$15,000 despite due demand, warranted public censure, in light of substantial mitigating factors including fact that attorney had been suffering from severe depression during events forming basis for disciplinary action. [Matter of Chikofsky \(1 Dept. 1998\) 239 A.D.2d 86, 668 N.Y.S.2d 586. Attorney And Client](#)  [59.8\(1\)](#)

In view of mitigating circumstances, public censure was appropriate sanction for attorney who pleaded guilty to failing to make and timely file federal income tax returns and to failing to file a state return; attorney accepted full responsibility for conduct, federal court found that his conduct was an aberration brought on by mental stress resulting from wife's illness and financial reversals, attorney had been member of bar for 34 years with previously unblemished record, seven character witnesses testified to his reputation for honesty, integrity, and trustworthiness, and he had distinguished record of public service and dedication to community and charitable causes. [Matter of Hornstein \(1 Dept. 1997\) 232 A.D.2d 134, 660 N.Y.S.2d 578. Attorney And Client](#)  [59.8\(3\)](#)

Public censure of attorney was warranted for neglecting several separate divorce proceedings, failing to withdraw papers with incorrect statement, failing to comply with court order transferring action, withdrawing from employment without taking steps to avoid prejudice to client, and failing to cooperate with disciplinary investigations, considering in mitigation acceptance of responsibility, expressions of remorse, relative youth and inexperience, and steps taken to ameliorate problems. [Matter of Ackerman \(2 Dept. 1997\) 231 A.D.2d 192, 659 N.Y.S.2d 44. Attorney And Client](#)  [59.8\(1\)](#)

Handling legal matter without proper preparation, entering into fee arrangement in domestic relations matter without written retainer, failure to provide domestic relations client with statement of rights and responsibilities, and failure to cooperate with investigation warranted censure, in view of mitigation evidence offered by the attorney, including his deteriorating health, his marital problems, and deaths of his first wife, his father, and his present wife's father. [Matter of Eriksen \(2 Dept. 1997\) 231 A.D.2d 71, 659 N.Y.S.2d 71. Attorney And Client](#)  [59.8\(1\)](#)

Attorney's failure to deposit client's check into his attorney escrow or other account and failure to disclose that fact to opposing party's attorney, despite repeated demands for release of funds, warranted public censure, in light of seven prior sanctions, but considering also attorney's advanced age, expression of extreme remorse, impressive list of character witnesses, and many character witnesses. [Matter of Palmieri \(2 Dept. 1997\) 230 A.D.2d 190, 656 N.Y.S.2d 37. Attorney And Client](#)  [59.8\(2\)](#)

Censure was appropriate sanction for attorney who violated rules governing conduct that is prejudicial to administration of justice, neglect of legal matter entrusted, and conduct involving dishonesty, fraud, deceit and misrepresentation, but who offered mitigation evidence that he suffered from obstructive sleep apnea syndrome which affected his ability to practice law and for which he had since sought treatment, and that his family business was undergoing financial difficulties. [Matter of Axelrod \(4 Dept. 1996\) 225 A.D.2d 191, 649 N.Y.S.2d 273. Attorney And Client](#)  [59.8\(1\)](#)

Attorney's participation in overbilling scheme, which constituted misconduct involving dishonesty, fraud, deceit, or

misrepresentation that adversely reflected on his fitness to practice law, warranted public censure, where substantial mitigating factors were present, including lack of knowledge of overall scheme and subordinate level of participation therein, immediate acknowledgment of wrongdoing and sincere expression of remorse, complete and fruitful cooperation with authorities, suffering of significant consequences, and otherwise clean record and good moral character. [Matter of Segall \(1 Dept. 1996\) 218 A.D.2d 331, 638 N.Y.S.2d 444. Attorney And Client 59.8\(1\)](#)

81. Suspension--In general

Attorney's continued use of his attorney escrow account after being suspended from the practice of law, including the making of 31 deposits to the account and drawing of 44 checks against the account in the nine months following his suspension, violated rules of professional responsibility prohibiting conduct prejudicial to the administration of justice and conduct adversely reflecting on a lawyer's fitness as a lawyer. [In re Drakes \(2 Dept. 2009\) 60 A.D.3d 153, 871 N.Y.S.2d 631. Attorney And Client 44\(2\)](#)

Attorney engaged in acts constituting the practice of law in violation of court order which suspended him from practice, and thereby acted in violation of Code of Professional Responsibility, when he appeared at a real estate closing and represented client with respect to purchase of a home. [In re Nerenberg \(2 Dept. 2007\) 45 A.D.3d 116, 843 N.Y.S.2d 91. Attorney And Client 37.1](#)

Attorney's admissions and other evidence demonstrating that attorney used funds from client escrow account for personal use, including to support his drug habit, established misconduct that threatened the public interest and warranted interim suspension pending conclusion of disciplinary proceedings. [In re Crescenzi \(1 Dept. 2004\) 12 A.D.3d 74, 783 N.Y.S.2d 576. Attorney And Client 44\(2\); Attorney And Client 48](#)

In attorney disciplinary proceedings, attorney's failure to fully cooperate with disciplinary committee's investigation into 18 disciplinary complaints filed against him, failure to produce requested client files and trust account records, and failure to appear for three scheduled depositions before committee constituted serious misconduct, warranting suspension from the practice of law. [In re Lazaroni \(1 Dept. 2004\) 12 A.D.3d 17, 783 N.Y.S.2d 375. Attorney And Client 42; Attorney And Client 59.13\(1\)](#)

Attorney's misconduct in engaging in improper client billing warranted suspension of his license to practice law. [In re Pape \(1 Dept. 2004\) 10 A.D.3d 40, 779 N.Y.S.2d 37. Attorney And Client 59.13\(1\)](#)

Suspension from practice of law was warranted for attorney's refusal to respond to Disciplinary Committee's requests for information and refusal to respond to judicial subpoenas for records regarding complaints of misappropriation of client funds filed against attorney. [In re Goldman \(1 Dept. 2004\) 7 A.D.3d 18, 777 N.Y.S.2d 89. Attorney And Client 59.13\(1\)](#)

Attorney's persistent refusals to answer Disciplinary Committee's communications in regard to a complaint which had been lodged against the attorney, or to respond to judicial subpoenas, constituted professional misconduct that threatened the public interest, warranting his suspension from practice of law; conduct impeded Committee's inves-

tigation and evinced a shocking disregard for the judicial system. [In re Richard \(1 Dept. 2003\) 309 A.D.2d 262, 765 N.Y.S.2d 29. Attorney And Client 42; Attorney And Client 59.13\(1\)](#)

Attorney's continued maintenance of and drawing checks on interest on lawyer account (IOLA), signing of checks and documents identifying himself as attorney, depositing and holding client funds in IOLA account, and acceptance of checks identifying him as attorney, all during period of disciplinary suspension, violated order suspending him from practice of law, in violation of applicable professional responsibility rules. [In re Leff \(2 Dept. 2000\) 268 A.D.2d 37, 705 N.Y.S.2d 603. Attorney And Client 60](#)

Willful failure to cooperate with disciplinary committee in its investigation into attorney's resignation from another state bar while disciplinary proceeding was pending against attorney warranted suspension from practice of law, despite attorney's claim that medical condition prevented him from complying with committee's subpoena or responding to committee's letters, where attorney did not submit any evidence corroborating claimed disability and made no attempt to produce requested information. [Matter of Hickey \(1 Dept. 1997\) 231 A.D.2d 174, 658 N.Y.S.2d 312. Attorney And Client 59.18](#)

82. ---- Three-month, suspension

Relatively lenient three-month suspension of attorney was warranted, for material misrepresentations that attorney made to court and to opposing counsel, since no client had been involved and attorney had practiced law for approximately 50 years with unblemished record. [In re Gotbetter \(1 Dept. 2005\) 19 A.D.3d 1, 794 N.Y.S.2d 346. Attorney And Client 58](#)

Attorney's misconduct of neglect of civil matter for approximately nine years and failure to follow through with his repeated assurances to Departmental Disciplinary Committee, coupled with his disciplinary history involving neglect, via two Letters of Admonition, warranted three-month suspension, rather than private reprimand or censure, notwithstanding his mitigation evidence. [In re Militello \(1 Dept. 2010\) 76 A.D.3d 364, 907 N.Y.S.2d 472. Attorney and Client 59.13\(3\)](#)

Three-month suspension was appropriate disciplinary sanction for attorney who openly participated in immigration services business that engaged in unauthorized practice of law and accepted improper fees from non-clients, in violation of disciplinary rules prohibiting attorney from engaging in conduct adversely reflecting on fitness as attorney and aiding unauthorized practice of law, and requiring attorney to avoid influence by others than client, taking into consideration attorney's prior unblemished record and prompt remedial efforts to reconfigure law practice. [In re Lefkowitz \(1 Dept. 2007\) 47 A.D.3d 326, 848 N.Y.S.2d 76. Attorney And Client 59.13\(3\)](#)

Three-month suspension from practice of law was appropriate sanction for attorney found to have engaged in serious acts of dishonesty through his alteration and submission of settlement documents to court without disclosing that his personal injury client had died three years earlier. [In re Becker \(1 Dept. 2005\) 24 A.D.3d 32, 804 N.Y.S.2d 4. Attorney And Client 59.13\(3\)](#)

In light of two previous admonitions for neglect and the duration of the neglect on which the instant charges were based, three-month suspension was appropriate sanction for attorney found to have engaged in professional misconduct by neglecting legal matters entrusted to him, despite evidence that he suffered from psychological and personal problems, including alcoholism; attorney's neglect of estate continued after he ceased drinking, and his neglect of a client's divorce matter did not commence until after he had ceased drinking. [In re Teschner \(1 Dept. 2004\) 7 A.D.3d 46, 776 N.Y.S.2d 6](#), reinstatement granted [10 A.D.3d 561, 783 N.Y.S.2d 279](#). [Attorney And Client](#)  [59.13\(3\)](#)

Three-month suspension from practice of law was appropriate sanction for attorney who engaged in conduct prejudicial to administration of justice by providing false information to police in course of their investigation of an assault and murder of a police officer 24 years earlier. [In re Race \(1 Dept. 2002\) 296 A.D.2d 168, 744 N.Y.S.2d 29](#), modified [296 A.D.2d 328, 748 N.Y.S.2d 128](#), reinstatement granted [299 A.D.2d 243, 753 N.Y.S.2d 365](#). [Attorney And Client](#)  [59.13\(3\)](#)

Making derogatory, undignified, and inexcusable statements to federal judge during telephone status conference warranted three-month suspension from practice of law. [In re Dinhofer \(1 Dept. 1999\) 257 A.D.2d 326, 690 N.Y.S.2d 245](#). [Attorney And Client](#)  [59.13\(3\)](#)

[83](#). ---- Four-month, suspension

Four-month suspension was warranted for attorney's pattern of misconduct involving the neglect of two client matters and writing checks to "cash" from his escrow account on four occasions, and his previous reprimand for neglecting three other client matters and failing to withdraw from two matters; the passage of almost a year since Referee's hearing was not a "de facto" sanction, as asserted by attorney, since attorney continued to practice law during that time, and a portion of the delay was caused by attorney's own failure to stay in touch with his attorney, cooperate with him, and execute the stipulation agreed to. [In re Law \(1 Dept. 2007\) 39 A.D.3d 90, 830 N.Y.S.2d 527](#). [Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

[84](#). ---- Six-month, suspension

Six-month suspension from practice of law was appropriate sanction for attorney's professional misconduct, based on conviction, upon guilty plea, to endangering the welfare of a child, where attorney had previously been publicly censured by court as a result of a series of alcohol-related crimes and offenses in violation of the Vehicle and Traffic Law, and had failed to file records of his five convictions with court within 30 days, as required by Judiciary Law. [In re Wynne \(2 Dept. 2011\) 84 A.D.3d 118, 922 N.Y.S.2d 113](#). [Attorney and Client](#)  [59.13\(5\)](#)

Six month suspension from practice of law was appropriate measure of discipline for attorney's violations of Code of Professional Responsibility as result of his withdrawal of legal fees related to client from his attorney trust account during bankruptcy proceeding without court authorization and his procurement from his client of durable irrevocable power of attorney, coupled with interest, even though attorney's conduct substantially benefited his client and brought in \$3 million to her bankrupt estate, and attorney never exercised his authority under power of attorney in improper manner. [In re Miller \(2 Dept. 2010\) 76 A.D.3d 258, 907 N.Y.S.2d 218](#). [Attorney and Client](#)  [59.13\(3\)](#); [Attorney and Client](#)  [59.13\(4\)](#)

Six-month suspension from practice of law, rather than two-year suspension, disbarment, or public censure, was appropriate sanction for attorney's professional misconduct in making unwelcome sexual advances to his client, asking client for oral sex incident to his representation as trial counsel, and making suggestive comments to his secretary and inappropriately touching her, where 76-year-old attorney had a 50-year long and unblemished record practicing law, and his testimony revealed a disturbing lack of comprehension as to depth and extent of his misconduct. [In re Isaac \(1 Dept. 2010\) 76 A.D.3d 48, 903 N.Y.S.2d 349. Attorney and Client 59.13\(3\)](#)

Attorney's conduct in billing 89-year-old client on numerous occasions for work of nonlegal nature at rates for legal services, and in billing excessive number of hours for time spent on matters that were not necessary and/or should not have taken as long as billed warranted suspension from practice of law for period of six months. [In re Towns \(2 Dept. 2010\) 75 A.D.3d 93, 901 N.Y.S.2d 68, appeal dismissed 15 N.Y.3d 841, 909 N.Y.S.2d 15, 935 N.E.2d 807. Attorney and Client 59.13\(4\)](#)

Conduct of attorney in failing to comply with legitimate demands of Grievance Committee in connection with disciplinary investigations and in failing both to file biennial registration statement with Office of Court Administration (OCA) and to timely pay designated fee warranted six-month license suspension, although serious health problems beset attorney's family during investigations, and although attorney ultimately cooperated with Grievance Committee; attorney's disciplinary history was quite extensive. [In re Netusil \(2 Dept. 2008\) 52 A.D.3d 23, 857 N.Y.S.2d 652. Attorney And Client 59.13\(3\)](#)

Attorney's professional misconduct in engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, which included a knowing and purposeful withdrawal of a portion of her client's funds from interest on lawyer account fund (IOLA), warranted suspension from the practice of law for a period of six months, notwithstanding the lack of venality involved in attorney's actions, her cooperation with grievance committee's investigation, and fact that she was allegedly living through an "emotional hell" at the time she engaged in the subject misconduct. [In re Abato \(2 Dept. 2008\) 51 A.D.3d 225, 853 N.Y.S.2d 660, reinstatement granted 60 A.D.3d 761, 873 N.Y.S.2d 910. Attorney And Client 59.13\(4\)](#)

Conduct of attorney in failing to appear at scheduled court proceedings and neglecting client cases, failing to communicate with her clients, and failing to comply with court order, among other things, in violation of Appellate Division attorney disciplinary rules, warranted six-month suspension from practice of law to protect public, deter similar misconduct, and preserve reputation of bar, in light of two prior letters of admonition issued to attorney by Committee on Professional Standards, and taking into account favorable character affidavits submitted by attorney, as well as her affidavit and testimony in mitigation. [In re Arnold \(3 Dept. 2008\) 50 A.D.3d 1448, 856 N.Y.S.2d 300, reinstatement granted 63 A.D.3d 1275, 879 N.Y.S.2d 349. Attorney And Client 59.13\(3\)](#)

Six-month suspension was warranted for attorney who submitted affidavit to federal district court to appear pro hac vice in a criminal case, which falsely denied that attorney had been previously disciplined by a court before which he had been admitted, in violation of professional rules, notwithstanding that attorney had reputation as outstanding and experienced trial attorney and had over a period of approximately nine years worked on 20 pro bono cases. [In re Brenner \(1 Dept. 2007\) 44 A.D.3d 160, 840 N.Y.S.2d 349. Attorney And Client 59.13\(3\)](#)

Conduct of attorney in failing to communicate with out-of-state clients in mortgage refinancing, paying mortgage broker a fee to attend closing on his behalf, taking \$1,495 from loan proceeds as his fee, and failing to record mortgage until some five months after closing, which warranted six month suspension in out-of-state jurisdiction, warranted a reciprocal six-month suspension in forum state jurisdiction. [In re Roberson \(1 Dept. 2007\) 40 A.D.3d 69, 832 N.Y.S.2d 175. Attorney And Client 🔑59.18](#)

Six-month suspension was warranted for attorney who failed to cooperate with investigation by Committee on Professional Standards, but suspension would be stayed provided that attorney pay outstanding stenographic charges for her subpoena examination, file attorney registration statement, pay required registration fee, and not be the subject of further professional discipline during the period of the stayed suspension. [In re Killian \(3 Dept. 2007\) 38 A.D.3d 994, 831 N.Y.S.2d 275, reinstatement denied 51 A.D.3d 1363, 859 N.Y.S.2d 497, suspension terminated 66 A.D.3d 1083, 885 N.Y.S.2d 447. Attorney And Client 🔑59.17\(3\)](#)

Six-month suspension was warranted based on attorney's violation of disciplinary rules prohibiting an attorney from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, engaging in conduct that was prejudicial to the administration of justice, engaging in conduct that adversely reflects on his fitness as a lawyer, failing to include an office address in his firm letterhead and in advertisements for legal services, entering into an arrangement for, charging or collecting a fee in a domestic relations matter without a signed written retainer agreement, neglecting a legal matter entrusted to him, intentionally failing to carry out a contract of employment entered into with a client for professional services, misappropriating client funds and commingling such funds with personal funds, failing to maintain client funds in a special account separate from his business or personal accounts, and failing to pay to the client in a prompt manner as requested by the client funds in his possession that the client was entitled to receive, although attorney opened two bank accounts when he entered private practice and erroneously believed that one of the accounts was an attorney trust account, where, when bank subsequently withdrew funds from that account to rectify a shortage in the other account, client funds were depleted. [In re King \(4 Dept. 2006\) 36 A.D.3d 173, 829 N.Y.S.2d 291. Attorney And Client 🔑59.13\(3\); Attorney And Client 🔑59.13\(4\)](#)

Suspension from practice of law for six months was warranted as result of attorney's professional misconduct in disregarding and/or advising her client to disregard ruling made in course of village's enforcement of its zoning code regarding use and occupancy of storefront premises owned by attorney's client, and in making conflicting representations regarding location of her law office. [In re Hausch \(2 Dept. 2006\) 36 A.D.3d 141, 825 N.Y.S.2d 109, leave to appeal denied 8 N.Y.3d 801, 828 N.Y.S.2d 292, 861 N.E.2d 108. Attorney And Client 🔑59.13\(3\)](#)

Six-month suspension was appropriate discipline for attorney who failed to comply with Grievance Committee's legitimate demands in connection with an investigation into his professional conduct and failed, for five registration periods, to re-register with the Office of Court Administration and pay the required fee; attorney had previously received a Letter of Caution and an Admonition, and had continued to practice law despite his failure to re-register or to take any required Continuing Legal Education credits. [In re Fontana \(2 Dept. 2006\) 32 A.D.3d 70, 817 N.Y.S.2d 388. Attorney And Client 🔑59.13\(3\)](#)

Six-month suspension from practice of law was appropriate sanction for attorney's misconduct arising from his re-

presentation of two estates; although beneficiaries of estates incurred no loss as result of misconduct, attorney previously received letters of caution based upon similar misconduct. [In re Owens \(4 Dept. 2004\) 14 A.D.3d 124, 786 N.Y.S.2d 870](#), reinstatement granted [27 A.D.3d 1200, 810 N.Y.S.2d 689](#). [Attorney And Client](#) 59.13(3)

Six-month suspension was appropriate sanction for attorney who engaged in trial misconduct in three different cases by failing to follow scheduling orders, having several unexcused absences, and invoking, in bad faith, rule permitting a party to instruct a witness not to answer; court warnings, opportunities to comply, and even monetary sanctions did not deter attorney from engaging in such misconduct, but attorney was 70 years old, with only one other disciplinary incident, which occurred 28 years earlier. [In re Osborne \(1 Dept. 2003\) 1 A.D.3d 31, 766 N.Y.S.2d 33](#), appeal dismissed [1 N.Y.3d 565, 775 N.Y.S.2d 782, 807 N.E.2d 895](#), leave to appeal denied [1 N.Y.3d 510, 777 N.Y.S.2d 19, 808 N.E.2d 1278](#). [Attorney And Client](#) 59.13(3)

In light of substantial mitigating factors, six-month suspension was appropriate sanction for attorney, a city employee, who forged a memorandum authorizing a salary increase for himself, despite seriousness of conduct; conduct was aberrational, attorney admitted fault, cooperated with investigation, and expressed shame, humiliation and remorse, he had engaged in pro bono and public service, had a clean record, good moral character, and considerable character evidence, and he suffered substantial adverse personal and professional consequences. [In re Vasquez \(1 Dept. 2003\) 1 A.D.3d 16, 766 N.Y.S.2d 419](#). [Attorney And Client](#) 59.13(3)

Attorney's failure to prepare separation agreement for client, to respond to communications from client, to file motion in court for leave to withdraw as attorney of record for client who had retained him in criminal matter, or to cooperate with investigation of clients' complaints warranted suspension from practice of law for period of six months. [In re Sullivan \(3 Dept. 2002\) 298 A.D.2d 762, 749 N.Y.S.2d 308](#).

Neglect of client matters, given continued failure to pay restitution and prior disciplinary history, warranted suspension from practice of law for six months, with reinstatement conditioned on attorney's full restitution to subject clients of funds paid to retain his services. [Matter of Mannan \(1 Dept. 1997\) 233 A.D.2d 77, 662 N.Y.S.2d 506](#). [Attorney And Client](#) 59.13(3)

Subjecting former girlfriend to numerous harassing telephone calls over a period of time, posing as law clerk of federal court judge in order to harass his victim at law school she was attending, and obtaining information about victim from her school and making misrepresentations about her in attempt to discredit her warranted suspension from practice of law for six months. [Matter of Muller \(1 Dept. 1997\) 231 A.D.2d 296, 659 N.Y.S.2d 255](#). [Attorney And Client](#) 59.13(3)

85. ---- Nine-month, suspension

Attorney's neglect and inadequate preparation involving a legal matter, his persistent misrepresentations about the status of his client's case, and his prior admonition for similar misconduct warranted nine-month suspension; although client was prejudiced, misconduct was sufficiently limited in scope to permit a suspension of less than one year. [In re Berkman \(1 Dept. 2006\) 32 A.D.3d 39, 815 N.Y.S.2d 583](#). [Attorney And Client](#) 59.13(3)

86. ---- One year, suspension

Attorney's professional misconduct, including nine charges of neglecting legal matter with which he was entrusted by refusing to respond to client regarding her Medicaid application that attorney was retained to file, conduct involving dishonesty, fraud, deceit, or misrepresentation and/or conduct prejudicial to administration of justice based on attorney's repeated false claims that he had filed client's Medicaid application, and conduct adversely reflecting on attorney's fitness as lawyer by failing to comply with client's request for return of her file after she discharged attorney, warranted one-year suspension from practice of law for violations of Code of Professional Responsibility, despite attorney's lack of prior disciplinary history, since in context of attorney's neglect and lack of due diligence, his intent was to deceive and mislead client, her family, and other attorneys as to filing of Medicaid application. [In re Napolitano \(2 Dept. 2010\) 78 A.D.3d 18, 908 N.Y.S.2d 210. Attorney And Client 59.13\(3\)](#)

One-year suspension from practice of law was warranted as result of attorney's conduct in reviewing confidential documents belonging to his client in formulating advice for another attorney in matter adverse to client, even though client did not engage firm on that particular matter, and attorney received no compensation for his advice, showed profound remorse, cooperated with Disciplinary Committee, suffered devastating financial and personal consequences, and had otherwise unblemished 25-year career. [In re Caliguiri \(1 Dept. 2008\) 50 A.D.3d 90, 851 N.Y.S.2d 148. Attorney And Client 59.13\(3\)](#)

Attorney's conduct in lying to a client in an effort to conceal his neglect of personal injury cases and providing inaccurate testimony when deposed by the Disciplinary Committee warranted one-year suspension from the practice of law. [In re Nuzzo \(1 Dept. 2007\) 47 A.D.3d 125, 846 N.Y.S.2d 108, 2007 N.Y. Slip Op. 09135.](#)

Attorney violated Code of Professional Responsibility by aiding disbarred attorney in unauthorized practice of law, and thus was subject one year suspension from practice of law, despite attorney's claim that she believed disbarred attorney was admitted in other states at time of her application for his admission pro hac vice, where attorney allowed disbarred attorney access to her law office and computer in direct contravention of prior letter of caution. [In re Goel \(4 Dept. 2007\) 46 A.D.3d 26, 844 N.Y.S.2d 537, reargument denied 46 A.D.3d 1475, 847 N.Y.S.2d 487. Attorney And Client 37.1; Attorney And Client 59.13\(3\)](#)

Attorney's conduct in charging client excessive contingent fees in a non-litigation matter and in failing to specify a percentage or hourly fee that would accrue in the event of a pre-litigation settlement, in addition to attorney's disciplinary history relating to his failure to disclose a conflict of interest, warranted suspension from the practice of law for a period of one year, notwithstanding that client had signed the contingency retainer agreement at issue, client agreed to divide the fee, and client never made a demand for repayment of the fee. [In re Fisher \(2 Dept. 2007\) 44 A.D.3d 127, 840 N.Y.S.2d 401, reinstatement granted 66 A.D.3d 776, 886 N.Y.S.2d 343. Attorney And Client 59.13\(4\)](#)

Attorney's conduct, including a pattern of breaching fiduciary obligations to clients and a longstanding disregard of appropriate escrow practices, warranted, under totality of circumstances, a suspension from the practice of law within state for a period of one year, notwithstanding corrective measures taken by attorney to properly safeguard mo-

nies entrusted to him by his clients, the absence of venality and loss to any client, his health-related issues, his remorse, and other mitigating factors. [In re Adams \(2 Dept. 2007\) 42 A.D.3d 1, 833 N.Y.S.2d 645. Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

One-year suspension from practice of law was warranted as result of attorney's pattern of misconduct over three and half years involving neglect of eight client matters, even though attorney concealed his neglect by failing to inform client about status of nearly all of those matters, by making affirmative misrepresentation in one matter that case was still active, and by falsifying his firm's financial records to conceal his misconduct from his partner, where attorney fully cooperated with disciplinary committee, admitted relevant allegations of misconduct, expressed sincere remorse for his conduct, had no prior discipline, was no longer practicing law, and used \$38,000 of his own money to resolve problems he created. [In re Flynn \(1 Dept. 2007\) 39 A.D.3d 116, 830 N.Y.S.2d 531. Attorney And Client](#)  [59.13\(3\)](#)

Suspension of attorney's license to practice law for one year was warranted, rather than censure, on petition by state for reciprocal discipline against attorney based on attorney's suspension in federal disciplinary action, for attorney's stipulated conduct in federal district court that very well could have been considered intentional misrepresentations, although attorney stipulated only to conduct prejudicial to administration of justice. [In re Pu \(1 Dept. 2006\) 37 A.D.3d 56, 826 N.Y.S.2d 43, leave to appeal dismissed in part, denied in part 8 N.Y.3d 877, 832 N.Y.S.2d 487, 864 N.E.2d 617. Attorney And Client](#)  [59.18](#)

One-year suspension of attorney's license to practice law was appropriate sanction for his professional misconduct, which included neglect of legal matter entrusted to him, failure to communicate with client, failure to withdraw from employment when his physical or mental condition made it unreasonably difficult to carry out employment, and failure to cooperate with Committee on Professional Standards. [In re Sissman \(3 Dept. 2006\) 34 A.D.3d 978, 823 N.Y.S.2d 785. Attorney And Client](#)  [59.13\(3\)](#)

One-year suspension of attorney's license to practice law was appropriate sanction for attorney's misconduct in commingling funds entrusted to him in fiduciary capacity and using his attorney escrow account to evade a creditor; no client was hurt or prejudiced by attorney's conduct, attorney enjoyed good reputation for honesty and integrity among clients in community, and attorney entered into stipulation of settlement which required him to pay sum in various installments, but attorney's prior disciplinary history included letter of caution for failing to re-register with Office of Court Administration for seven-year period and an admonition for failing to timely re-register as attorney. [In re Jean-Baptiste \(2 Dept. 2006\) 33 A.D.3d 191, 819 N.Y.S.2d 571. Attorney And Client](#)  [59.13\(4\)](#)

Conduct of attorney, who over a two-year period billed approximately \$30,000 in personal, long distance telephone charges among a number of clients to avoid detection, warranted a one-year suspension, notwithstanding the fact that attorney was not motivated by financial gain, but rather by the desire to conceal how much time he had spent on personal matters as a result of his marital difficulties. [In re Carmody \(1 Dept. 2006\) 32 A.D.3d 173, 819 N.Y.S.2d 518. Attorney And Client](#)  [44\(2\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

Sanction of one-year suspension from practice of law was warranted by conduct of attorney, who was found guilty in disciplinary proceedings of four counts of neglect regarding three separate matters and failed to file requisite re-

tainer statements in each of those matters, as well as attorney's unwillingness to accept full responsibility for losing his clients' respective claims, questionable genuineness of attorney's remorse, and attorney's prior disciplinary history, notwithstanding attorney's reputation in the community, his cooperation with disciplinary committee, admission of misconduct, and reorganization of his law practice. [In re Aranda \(1 Dept. 2006\) 32 A.D.3d 58, 817 N.Y.S.2d 245. Attorney And Client](#)  [59.13\(3\)](#)

Trust account violations and other misconduct warranted one-year suspension, considering attorney's good character and reputation, her previously unblemished record, and fact that she had sought advice of counsel with respect to rules for trust accounts. [In re Mitchell \(4 Dept. 2006\) 32 A.D.3d 55, 818 N.Y.S.2d 367. Attorney And Client](#)  [59.13\(4\)](#)

One-year suspension was warranted for attorney's failure to submit a written response to a complaint of professional misconduct and to comply with the attorney registration requirements, although the misconduct occurred during a period of great upheaval in her personal life, and she sought out counseling to develop additional coping skills to maintain mandated responsibilities during times of extreme stress and disruption, where her prior disciplinary history consisted of a letter of caution based upon five complaints of failure to maintain client communication, and admonitions for neglect of a legal matter, failure to communicate with a client, and failure to cooperate with the grievance committee. [In re Cave \(2 Dept. 2006\) 31 A.D.3d 42, 815 N.Y.S.2d 214. Attorney And Client](#)  [59.13\(3\)](#)

One-year suspension from practice of law was appropriate sanction for attorney found to have engaged in misconduct arising from his out-of-state convictions for extortion and stalking, both of which involved harassing conduct toward abuse victim. [In re Van Aelstyn \(3 Dept. 2006\) 28 A.D.3d 1001, 813 N.Y.S.2d 268. Attorney And Client](#)  [59.13\(4\)](#)

One-year suspension from practice of law was appropriate sanction for attorney found guilty of misconduct premised on his failure to return client files despite numerous requests; attorney's disciplinary history consisted of letter of caution, dismissal with advisement, and letter of admonition, and while there was no evidence of any venality on attorney's part, attorney was given reasonable extensions of time to comply with requests for files. [In re Cohen \(2 Dept. 2005\) 22 A.D.3d 89, 801 N.Y.S.2d 333. Attorney And Client](#)  [59.13\(3\)](#)

Suspension of one year, rather than recommended six-month suspension, was warranted by attorney's misconduct, which included forging client's signature on two occasions, failing to cooperate with disciplinary committee, and failing to register as attorney and pay registration fees, by attorney's disregard of committee and rules of Office of Court Administration, and by her failure to reimburse her employer for costs incurred due to her misconduct, as she agreed. [In re Alviar \(1 Dept. 2005\) 21 A.D.3d 50, 797 N.Y.S.2d 86. Attorney And Client](#)  [59.13\(3\)](#)

One-year suspension of attorney's license to practice law was appropriate sanction for attorney found guilty of neglect of a legal matter entrusted to him and engaging in conduct prejudicial to the administration of justice and conduct that adversely reflected on his fitness as a lawyer; attorney had extensive disciplinary history, having received three letters of admonition for neglect, making intentional misrepresentations to a client, and failure to cooperate, as well as a letter of caution advising him not to use non-refundable retainer agreements and to either obey judicial orders to the letter or challenge them via appropriate legal means. [In re Scher \(2 Dept. 2005\) 18 A.D.3d 57, 793](#)

[N.Y.S.2d 521. Attorney And Client](#)  [59.13\(3\)](#)

One-year suspension from practice of law was appropriate sanction for attorney found guilty of misconduct premised on his deliberate alteration of original documents on file with court in landlord and tenant proceeding; attorney had previously been issued letter of reprimand for failing to promptly pay over to a complainant the entire down payment to which complainant was entitled upon his rejection of a contract, and a letter of admonition for failure to promptly pay over remainder of down payment, but attorney was sincere in repeatedly expressing his remorse and stating that he had learned a lesson and emphasized that there was never any intent to defraud or gain an unfair advantage. [In re Kasten \(2 Dept. 2005\) 16 A.D.3d 32, 790 N.Y.S.2d 700](#), reinstatement granted [100 A.D.3d 757, 956 N.Y.S.2d 892. Attorney And Client](#)  [59.13\(3\)](#)

Attorney's conduct in failing to timely file personal injury claim on behalf of clients, giving fraudulent documents to those clients as proof that he had commenced a lawsuit on their behalf, offering to compensate clients monetarily for their losses in relation to his legal malpractice without advising them to seek advice of independent counsel about the offer, providing false information and testifying falsely in connection with disciplinary investigation into his conduct, and failing to file required retainer statements warranted one-year suspension from practice of law. [In re Vourderis \(2 Dept. 2005\) 15 A.D.3d 72, 790 N.Y.S.2d 233. Attorney And Client](#)  [59.13\(3\)](#)

One-year suspension from the practice of law was warranted for attorney found guilty of multiple violations of disciplinary rules, despite alleged mitigating factor that he suffered from depression; there was no connection between his depression and his numerous acts of misconduct, and attorney's disciplinary history included a previous censure imposed on basis of repeated failure to comply with attorney registration requirements. [In re Rinaldi \(4 Dept. 2004\) 11 A.D.3d 53, 785 N.Y.S.2d 199. Attorney And Client](#)  [59.13\(3\)](#)

One-year suspension from practice of law, stayed on condition of compliance with certain requirements, was appropriate sanction for attorney who violated attorney disciplinary rules by converting client funds and issuing a check on his escrow account payable to cash; attorney's misconduct was caused by compulsive and pathological gambling induced by medication, numerous letters lauded his character and professionalism, his prior disciplinary record was unblemished, and he cooperated fully with the Committee on Professional Standards. [In re Mendelson \(3 Dept. 2004\) 9 A.D.3d 677, 780 N.Y.S.2d 801. Attorney And Client](#)  [59.17\(3\)](#)

One-year suspension from practice of law was appropriate discipline for attorney guilty of disciplinary violations based on his conviction for employing an individual to illegally solicit clients. [In re Birman \(2 Dept. 2004\) 7 A.D.3d 11, 776 N.Y.S.2d 69. Attorney And Client](#)  [59.13\(5\)](#)

Attorney's misconduct, including failure to safeguard funds entrusted to him as fiduciary by clients, repeatedly filing late retainer and closing statements with Office of Court Administration, and engaging in pattern of filing or causing to be filed inaccurate, incomplete, and/or misleading retainer statements, warranted suspension from practice for period of one year, rather than censure. [In re Spiridakis \(2 Dept. 2004\) 5 A.D.3d 63, 773 N.Y.S.2d 89. Attorney And Client](#)  [59.13\(4\)](#)

One-year suspension was appropriate sanction for attorney found to have engaged in four counts of professional

misconduct premised on his conviction for serious crimes and failure to report such conviction; attorney brought the matter to the Grievance Committee himself, fully cooperated with Committee's investigation, was remorseful, had not practiced law or held himself out as an attorney in the years since his conviction, had no other disciplinary history, and had been suspended from the practice of law since institution of disciplinary proceedings. [In re Crowe \(2 Dept. 2004\) 3 A.D.3d 193, 770 N.Y.S.2d 754. Attorney And Client](#)  [59.13\(5\)](#)

Suspension from the practice of law for a period of one year was appropriate discipline for attorney found to have engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, in connection with two attorney-client relationships, where attorney admitted to engaging in such conduct, attorney derived no financial benefit from his misrepresentations, attorney received psychological counseling and treatment, and his record was otherwise unblemished, except for a letter of admonition. [In re Morell \(2 Dept. 2003\) 307 A.D.2d 23, 761 N.Y.S.2d 266. Attorney And Client](#)  [59.13\(3\)](#)

One-year suspension from practice of law was appropriate discipline for attorney who engaged in conduct that adversely reflected upon his fitness to practice law by failing to maintain sufficient balance in master account of his attorney trust account, by making disbursements to cash from his attorney trust account, and by releasing negotiable escrow check in breach of his fiduciary responsibilities at time when funds it represented were not yet on deposit in his escrow account; misconduct occurred several years earlier, and did not involve conversion. [In re Tartaglia \(2 Dept. 2003\) 304 A.D.2d 240, 760 N.Y.S.2d 55. Attorney And Client](#)  [59.13\(4\)](#)

Attorney's conduct in failing to appropriately handle estate assets by depositing decedent's tax refund check into his attorney trust account without executrix's endorsement or consent, and by issuing a check from his attorney trust account payable to his own order without the consent of executrix warranted suspension from the practice of law for one year. [In re Cerbone \(2 Dept. 2002\) 295 A.D.2d 66, 742 N.Y.S.2d 110. Attorney And Client](#)  [59.13\(4\)](#)

Attorney's professional misconduct, including neglecting a legal matter entrusted to him, warranted a one-year suspension. [In re Birkett \(2 Dept. 2002\) 292 A.D.2d 57, 740 N.Y.S.2d 120.](#)

One-year suspension was warranted for neglecting clients, failure to account for funds of a client or third person in attorney's possession, permitting secretary to be authorized signatory on escrow account, failure to maintain complete records of clients' funds, failure to maintain accurate entries in attorney escrow account, failure to cooperate with Committee on Professional Standards, and failure to comply with rules of court requiring payment of stenographers' bills for examinations under oath and requiring filing of affidavit of compliance with order of suspension. [In re Cannon \(3 Dept. 2001\) 284 A.D.2d 721, 727 N.Y.S.2d 704, reinstatement denied 301 A.D.2d 742, 752 N.Y.S.2d 912, reinstatement granted 6 A.D.3d 870, 774 N.Y.S.2d 449. Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

Attorney's breach of her fiduciary duty as escrow attorney by failing to adequately supervise escrow account, and by signing several checks in blank while she was out of country, both of which contributed to her co-signatory's conversion of funds from account, and persistent failure to exercise supervision over real estate salespersons acting under her real estate broker's license, who were engaged in deceptive and fraudulent practices in sale of Florida real estate, warranted one-year suspension from practice of law. [In re Latimore \(1 Dept. 1999\) 252 A.D.2d 217, 683](#)

[N.Y.S.2d 526](#), appeal and reargument denied [260 A.D.2d 170](#), [693 N.Y.S.2d 434](#), leave to appeal dismissed [93 N.Y.2d 995](#), [696 N.Y.S.2d 105](#), [718 N.E.2d 410](#). [Attorney And Client](#)  [59.13\(4\)](#)

Attorney's misconduct in forming partnership with nonattorney, aiding nonattorney in unauthorized practice of law, permitting nonattorney to be signatory of attorney trust account, drawing checks on trust account payable to cash, and giving false and misleading testimony to Grievance Committee warranted one-year suspension from practice of law. [Matter of Takvorian \(2 Dept. 1998\) 240 A.D.2d 95](#), [670 N.Y.S.2d 211](#). [Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

Attorney's failure to adequately communicate with client seeking modification of child support obligation, and his failure to cooperate with bar investigative committee, warranted one-year suspension from practice of law, given his failure to provide full disclosure until threatened with interim suspension and commencement of disciplinary proceeding and his significant disciplinary history. [Matter of Lewis \(2 Dept. 1998\) 240 A.D.2d 49](#), [669 N.Y.S.2d 309](#). [Attorney And Client](#)  [59.13\(3\)](#)

One-year suspension was warranted for attorney's neglect of legal matters entrusted to him, failure to communicate with client and her new attorney, failure to refund unearned attorney fee, failure to cooperate with investigation of Grievance Committee, and failure to maintain proper registration as an attorney and counselor-at-law; there was substantial mitigation evidence regarding attorney's mental condition, and attorney had already been disbarred for two years but order of disbarment had been vacated. [Matter of McCormick \(2 Dept. 1997\) 232 A.D.2d 102](#), [661 N.Y.S.2d 651](#). [Attorney And Client](#)  [59.13\(3\)](#)

One-year suspension from practice was warranted for attorney who forged a document and made false representations to an administrative agency; attorney engaged in conduct that reflected adversely on his fitness to practice law where he falsely told Parking Violations Bureau and administrative law judge that his wife was pregnant and in hospital awaiting birth, he falsely completed documents indicating that his summonses were dismissed, signed judge's name to those false documents, and delivered false documents to Bureau in order to obtain tow release. [Matter of Donofrio \(1 Dept. 1997\) 231 A.D.2d 365](#), [661 N.Y.S.2d 206](#), reinstatement granted [254 A.D.2d 218](#), [681 N.Y.S.2d 749](#). [Attorney And Client](#)  [59.13\(3\)](#)

Attorney's failure to cooperate with legitimate investigation by Grievance Committee into alleged professional misconduct warranted one-year suspension from practice of law. [Matter of Singh \(2 Dept. 1997\) 230 A.D.2d 177](#), [654 N.Y.S.2d 165](#). [Attorney And Client](#)  [59.13\(3\)](#)

Notwithstanding mitigation evidence including expressions of remorse, assertions that attorney remained active in criminal defense bar, and numerous character references establishing that subject misconduct was an aberration, attorney's neglect of two assigned pro bono criminal appeals and failure to address repeated inquiries of Supreme Court, Appellate Division, concerning them constituted professional misconduct which could not be condoned and warranted one-year suspension from practice of law. [Matter of Granat \(2 Dept. 1996\) 219 A.D.2d 255](#), [641 N.Y.S.2d 678](#). [Attorney And Client](#)  [59.13\(3\)](#)

Fraudulently concealing assets from bankruptcy trustees by knowingly filing affidavit containing false information

in connection with application for legal fees in bankruptcy proceeding warrants suspension from practice of law for one year. [Matter of Pelland \(4 Dept. 1995\) 208 A.D.2d 71, 623 N.Y.S.2d 30](#), reinstatement granted [219 A.D.2d 882, 632 N.Y.S.2d 999](#). [Attorney And Client](#)  [59.13\(3\)](#)

Repeated failure to respond to grievance committee in connection with legitimate investigation is conduct prejudicial to administration of justice, adversely reflects on fitness to practice law, and warrants one-year suspension, despite previously unblemished record and full cooperation during hearing. [Matter of Posner \(2 Dept. 1994\) 201 A.D.2d 189, 615 N.Y.S.2d 442](#). [Attorney And Client](#)  [59.13\(3\)](#)

One-year suspension is appropriate sanction for attorney who gives false and misleading testimony in matter pending in Surrogate's Court, where attorney has prior unblemished record. [Matter of Schwarz \(2 Dept. 1994\) 200 A.D.2d 331, 615 N.Y.S.2d 697](#). [Attorney And Client](#)  [59.13\(3\)](#)

Submission by attorney of numerous altered and fraudulent bills and checks to receive reimbursement from insurance company for damages to home from storm and unrelated burglary warrants one-year suspension from practice of law. [Matter of Fornari \(1 Dept. 1993\) 190 A.D.2d 379, 599 N.Y.S.2d 545](#), reinstatement granted [208 A.D.2d 367, 618 N.Y.S.2d 1007](#). [Attorney And Client](#)  [59.13\(3\)](#)

Neglecting legal matters and abandoning clients warrants suspension for one year and until further order, regardless of statements in mitigation concerning illness and divorce. [Matter of Whitbread \(4 Dept. 1992\) 183 A.D.2d 347, 591 N.Y.S.2d 117](#). [Attorney And Client](#)  [59.13\(3\)](#)

[87](#). ---- Fifteen months, suspension

Fifteen-month suspension from practice of law was appropriate sanction for attorney's misconduct in participating in securities fraud, bribery, and money laundering scheme; wrongdoing occurred during brief period when attorney was relatively new to law and inexperienced in business, attorney's involvement in scheme was peripheral and was motivated in part by threat made against him by acquaintance who solicited his participation, and attorney was suffering from depression at time, ultimately cooperated extensively with government's prosecution of others involved in scheme, and maintained unblemished disciplinary record in more than 10 years since misconduct. [In re David \(1 Dept. 2004\) 3 A.D.3d 174, 771 N.Y.S.2d 125](#). [Attorney And Client](#)  [59.13\(5\)](#)

[88](#). ---- Eighteen months, suspension

Attorney's lending money to clients through intermediaries, referring to himself as trial specialist, and posting on his website information concerning confidential investigation into conduct of rival law firm warranted 18-month suspension from practice of law, given that he loaned money with the knowledge that it was prohibited and given his lack of remorse. [In re Moran \(4 Dept. 2007\) 42 A.D.3d 272, 840 N.Y.S.2d 847](#), reinstatement granted [61 A.D.3d 1438, 877 N.Y.S.2d 709](#). [Attorney And Client](#)  [59.13\(3\)](#)

Eighteen-month suspension was warranted for attorney who accepted representation of client in criminal matter

when he knew or should have known that he was unable to provide meaningful representation, failed to represent the client zealously, failed to withdraw from representation when it became obvious that he should have done so, collected excessive fees from clients, failed to refund unearned fees, and represented both parties in a matrimonial matter without making required disclosures or obtaining consent, notwithstanding that at the time of the misconduct attorney suffered from severe health problems. [In re Jayson \(4 Dept. 2007\) 39 A.D.3d 30, 832 N.Y.S.2d 696](#), reinstatement granted [90 A.D.3d 1590, 937 N.Y.S.2d 641](#). [Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

One and one-half year suspension, rather than public censure, was appropriate sanction for attorney's misconduct, which included his false testimony involving his brother's bar application, neglect of client matter, and notarizing client's medical authorizations when client was not present; although attorney did not have disciplinary record, he did not show remorse or take responsibility for his misconduct and he did not submit evidence of any participation in community, professional, or pro bono services. [In re Fauci \(1 Dept. 2006\) 28 A.D.3d 192, 811 N.Y.S.2d 38](#). [Attorney And Client](#)  [59.13\(3\)](#)

Appropriate sanction for attorney found to have engaged in misconduct by failing to adequately supervise two non-lawyer employees and neglecting four legal matters entrusted to him was 18 month suspension from practice of law; attorney had disciplinary history which included four letters of caution and one letter of admonition. [In re Jayson \(4 Dept. 2003\) 3 A.D.3d 80, 772 N.Y.S.2d 769](#). [Attorney And Client](#)  [59.13\(3\)](#)

[89](#). ---- Two years, suspension

Suspending attorney from legal practice for period of two years was warranted in attorney disciplinary proceedings arising from her professional misconduct, despite absence of harm to her clients and lack of venality, where attorney showed lack of basic understanding of her ethical obligations and engaged in serious professional misconduct by comingling personal and business funds with funds entrusted to her as fiduciary, failing to maintain required book-keeping records for her attorney escrow account, issuing checks from her escrow account prior to depositing client funds, failing to adequately supervise non-attorney employee, and improperly using trade name to describe her firm. [In re Mednik \(2 Dept. 2011\) 86 A.D.3d 196, 923 N.Y.S.2d 195](#). [Attorney and Client](#)  [59.13\(3\)](#); [Attorney and Client](#)  [59.13\(4\)](#)

Two-year suspension of attorney, former counsel to public administrator of county, was warranted by attorney's failure over several years to comply with Surrogates Court Procedure Act requirement for submission of affidavit of legal services as condition of receiving fee for services, by attorney's charging of excessive fees during same period, and by his handling legal matters without adequate preparation. [In re Rosenthal \(3 Dept. 2008\) 57 A.D.3d 1085, 868 N.Y.S.2d 820](#), leave to appeal denied [12 N.Y.3d 739, 876 N.Y.S.2d 347, 904 N.E.2d 501](#), certiorari denied [130 S.Ct. 90, 558 U.S. 820, 175 L.Ed.2d 29](#), reinstatement granted [88 A.D.3d 1052, 930 N.Y.S.2d 490](#). [Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

Suspension of attorney from practice of law for additional two years was warranted for serious professional misconduct, primarily associated with escrow account, notwithstanding absence of complaints by aggrieved clients and mitigation advanced, especially attorney's efforts at rehabilitation, where bank records revealed number of dis-

bursements for what appeared to be personal expenses and attorney did not fully account for discrepancies revealed by investigation by Grievance Committee. [In re Cronk \(2 Dept. 2008\) 52 A.D.3d 54, 856 N.Y.S.2d 186. Attorney And Client](#)  [59.13\(4\)](#)

Two-year suspension was warranted for attorney who engaged in conduct that was prejudicial to the administration of justice by failing to cooperate with the lawful demands of grievance committee and by failing to make payments on his \$44,450 confession of judgment in malpractice action, and who neglected a legal matter entrusted to him by failing to deliver legal papers to client for signature, in violation of professional rules, notwithstanding that three attorneys and one medical doctor, each of whom had known attorney for a substantial period of time, vouched for his integrity and good character. [In re Gould \(2 Dept. 2007\) 45 A.D.3d 223, 843 N.Y.S.2d 110. Attorney And Client](#)  [59.13\(3\)](#)

Attorney's taking of funds from his escrow account for his own use, which, if not for his claim to them, otherwise would have belonged to estate of attorney's recently deceased client warranted two-year suspension, rather than disbarment, since attorney's claim to funds was asserted openly and in good faith. [In re Zalk \(1 Dept. 2007\) 45 A.D.3d 42, 842 N.Y.S.2d 377](#), leave to appeal granted [9 N.Y.3d 958, 846 N.Y.S.2d 83, 877 N.E.2d 302](#), reversed [10 N.Y.3d 669, 862 N.Y.S.2d 305, 892 N.E.2d 369. Attorney And Client](#)  [59.13\(4\)](#)

Two-year suspension imposed on attorney in Ohio disciplinary proceeding, warranted reciprocal discipline in New York; it was alleged in one matter that attorney forged his client's signature or caused another to do so, and knowingly notarized and filed false documents with the court, subsequently neglected the matter and failed to carry out a contract of employment, and failed to cooperate in disciplinary investigation, attorney was charged in second matter with neglect, failure to carry out contract of employment, and failure to cooperate in disciplinary investigation, and attorney subsequently stipulated to all the allegations and that, at time of misconduct, he was suffering from serious mental illness. [In re Lowden \(1 Dept. 2007\) 44 A.D.3d 200, 841 N.Y.S.2d 247. Attorney And Client](#)  [59.18](#)

Two-year suspension was warranted for attorney who neglected three legal matters, failed to cooperate with the grievance committee's legitimate investigations into client complaints, and failed to cooperate with fee disputes committee and fee arbitration panel, notwithstanding that attorney ultimately made appropriate refunds to the clients and paid the fee arbitration award. [In re Galluscio \(2 Dept. 2007\) 42 A.D.3d 264, 841 N.Y.S.2d 102. Attorney And Client](#)  [59.13\(3\)](#)

Two-year suspension was warranted for attorney who converted his clients' funds and breached his fiduciary duty to preserve client funds entrusted to him by allowing escrow account balances to fall below his clients' interests therein on multiple occasions, notwithstanding that the time period of the misconduct coincided with attorney's and his wife's being stalked and threatened by his son, that his son committed suicide, that attorney had fully cooperated with the grievance committee, that attorney had admitted his mistakes in the handling of his escrow account and had undertaken remedial steps prior to his interim suspension, and that only one client leveled a grievance against attorney. [In re DiPietro \(2 Dept. 2007\) 42 A.D.3d 44, 835 N.Y.S.2d 635. Attorney And Client](#)  [59.13\(4\)](#)

Two-year suspension from practice of law was warranted as result of attorney's pattern and practice of failing to

cooperate with Grievance Committee's investigation of complaints of professional misconduct filed against him and his failure to re-register as attorney with Office of Court Administration (OCA). [In re Amato \(2 Dept. 2007\) 42 A.D.3d 32, 835 N.Y.S.2d 623. Attorney And Client 🔑59.13\(3\)](#)

Conduct of attorney in backdating client's immigration document submitted to two governmental agencies, and additional aggravating factors including her "pro forma responsibility" for what occurred on her watch without accepting any blame, continuous failure to acknowledge or express remorse for her conduct, and repeated lying about her involvement in the backdating of the document, warranted a two-year suspension, even though attorney did not seek to obtain personal gain from her actions. [In re Cohen \(1 Dept. 2007\) 40 A.D.3d 61, 831 N.Y.S.2d 141. Attorney And Client 🔑59.13\(3\)](#)

Attorney's conversion of funds entrusted to him as a fiduciary incident to his practice of law and failure to maintain required records for his attorney escrow account warranted his suspension from the practice of law for a period of two years, where no client suffered financial loss, that there was no venal intent, and attorney had undertaken appropriate remedial measures. [In re Greenberger \(2 Dept. 2006\) 34 A.D.3d 78, 818 N.Y.S.2d 586, reinstatement granted 74 A.D.3d 1197, 902 N.Y.S.2d 423. Attorney And Client 🔑59.13\(4\)](#)

Two-year suspension was warranted by conduct of attorney who, in violation of Code of Professional Responsibility, admitted being paid by debt collection agencies for use of her law firm name and failing to exercise any meaningful involvement, control, or supervision over debt collectors despite knowing that they were engaging in illegal and abusive practices, and admitted that letters were sent to debtors over signature of fictitious person and on letterhead which did not list firm's office address, that she improperly held herself out as practicing law under trade name, and that she allowed nonlawyers to have signatory authority over escrow account and permitted cash deposits to be made into account. [In re Lenahan \(4 Dept. 2006\) 34 A.D.3d 13, 824 N.Y.S.2d 826, reinstatement granted 81 A.D.3d 1385, 916 N.Y.S.2d 538. Attorney And Client 🔑59.13\(3\); Attorney And Client 🔑59.13\(4\)](#)

Two-year suspension from the practice of law was appropriate measure of discipline to impose upon attorney who had engaged in conduct prejudicial to the administration of justice by failing to re-register with the Office of Court Administration (OCA) as an attorney and counselor-at-law, where attorney's disciplinary history consisted of a letter of admonition emanating from his drafting wills for his maternal aunt and her husband and various conflicts involved therein, and his failure to answer in disciplinary proceeding showed apparent lack of value that he placed on his license to practice law. [In re Horrell \(2 Dept. 2006\) 33 A.D.3d 19, 819 N.Y.S.2d 773. Attorney And Client 🔑59.13\(3\)](#)

Conduct of attorney, who over a two-year period billed approximately \$30,000 in personal, long distance telephone charges among a number of clients to avoid detection, warranted a one-year suspension, notwithstanding the fact that attorney was not motivated by financial gain, but rather by the desire to conceal how much time he had spent on personal matters as a result of his marital difficulties. [In re Carmody \(1 Dept. 2006\) 32 A.D.3d 173, 819 N.Y.S.2d 518. Attorney And Client 🔑44\(2\); Attorney And Client 🔑59.13\(4\)](#)

Misconduct, including conversion of client funds, engaging in illegal conduct and neglect of client matters, warranted two-year suspension, where misconduct occurred while attorney was addicted to heroin, prior to that addic-

tion attorney was successful attorney and respected member of community, and been drug and alcohol free for nearly three years, attorney had expressed remorse for his misconduct, and he had made full restitution. [In re Bax \(4 Dept. 2006\) 32 A.D.3d 88, 821 N.Y.S.2d 680. Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

Suspension from practice of law for period of two years was warranted by conduct of attorney who pleaded guilty to criminal facilitation in the fourth degree and knowingly and intentionally provided client with means to defraud school district for period of approximately 15 months. [In re Katz \(2 Dept. 2006\) 31 A.D.3d 125, 815 N.Y.S.2d 663. Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(5\)](#)

Suspension from practice of law for two years was appropriate sanction for attorney who engaged in pattern and practice of failing to timely file retainer and closing statements with Office of Court Administration (OCA), and employed or paid non-lawyer to solicit retainers to perform legal services, where he had been issued letter of caution for failure to re-register with OCA. [In re Kronegold \(2 Dept. 2006\) 29 A.D.3d 236, 814 N.Y.S.2d 205. Attorney And Client](#)  [59.13\(3\)](#)

Attorney's failure to properly safeguard monies entrusted to him by his clients and to cooperate with lawful demands of grievance committee warranted suspension from the practice of law for two years, notwithstanding attorney's arguments in mitigation that disciplinary charges essentially arose from bookkeeping errors, that no client suffered monetary loss and there was no evidence of venality, that he obtained money from his mother to cover funds missing from his escrow account upon discovering shortfalls, and that he had instituted new recordkeeping procedures to prevent similar problems in the future. [In re Feiden \(2 Dept. 2006\) 29 A.D.3d 115, 812 N.Y.S.2d 618. Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

Neglect of four client matters, including affirmative misrepresentations as to status of the cases, warranted two-year suspension from practice of law, particularly in light of prior disciplinary proceeding and admonition based on neglect of a bankruptcy matter, notwithstanding evidence of psychological problems which may have caused or contributed to the misconduct. [In re O'Shea \(1 Dept. 2005\) 25 A.D.3d 203, 804 N.Y.S.2d 307. Attorney And Client](#)  [59.13\(3\)](#)

Two year suspension from practice of law was warranted for attorney's conversion of funds he received on behalf of clients and use of funds for personal purposes, commingling of personal funds with funds of his clients, failure to deposit funds into IOLA account or interest bearing account for benefit of his clients and third parties, failure to promptly remit client property, attempt to mislead and deceive Committee on Professional Standards, attempt to mislead and deceive his clients, failure to maintain complete records of his clients' funds, failure to produce bank records upon demand, and failure to cooperate with Committee in its investigation. [In re Di Stefano \(3 Dept. 2005\) 22 A.D.3d 951, 802 N.Y.S.2d 760. Attorney And Client](#)  [59.13\(4\)](#)

Conduct of attorney in improperly converting accrued interest on client funds, commingling personal funds with client funds, failing to maintain required records for attorney escrow account, failing to produce required bookkeeping records for attorney escrow account in relation to legitimate investigation by grievance committee, improperly holding himself out as being in partnership with suspended attorney, and taking legal fees from client without her

knowledge or consent, adversely reflected on attorney's fitness to practice law, and warranted two-year suspension. [In re Gross \(2 Dept. 2005\) 22 A.D.3d 156, 803 N.Y.S.2d 622. Attorney And Client 59.13\(4\)](#)

Attorney's failure to satisfy lawful monetary judgment entered against him and his failure to comply with Grievance Committee's directive to satisfy that judgment warranted two-year suspension. [In re Sobolewski \(2 Dept. 2005\) 21 A.D.3d 188, 799 N.Y.S.2d 267. Attorney And Client 59.13\(3\)](#)

Two-year suspension of attorney was warranted by attorney's neglect of four client matters, which was accompanied by failure to return unearned fees, and abandonment of his law practice for 14 months without notification to his clients, notwithstanding attorney's remorse and full cooperation in disciplinary proceeding, given attorney's disciplinary history involving neglect, his failure to document his claimed psychiatric problems or to explain how they caused his conduct, and his failure to present evidence of community or pro bono activities and character evidence. [In re Kuhnreich \(1 Dept. 2005\) 21 A.D.3d 1, 797 N.Y.S.2d 475. Attorney And Client 59.13\(3\)](#)

Two-year suspension from the practice of law was appropriate measure of discipline for attorney who neglected a legal matter entrusted to him and failed to cooperate with the Grievance Committee's investigation, despite attorney's favorable character evidence and his service to the Guyanese community; attorney had a lengthy history of sanctions for conduct identical to that at issue, for which he had received four Letters of Caution and five Admonitions, and he had also been issued a Public Reprimand by the Florida Bar. [In re Hampden \(2 Dept. 2004\) 11 A.D.3d 17, 784 N.Y.S.2d 109. Attorney And Client 59.13\(3\)](#)

Two-year suspension from practice of law was appropriate sanction for attorney's misconduct of converting client funds, neglecting legal matters, attempting to mislead and deceive Committee on Professional Standards, failing to communicate with his clients, failing to maintain required escrow account records, and failing to cooperate with Committee on Professional Standards; attorney had closed his practice since the conduct underlying the charges occurred, indicated that he and his family experienced various personal difficulties and health problems during time period, and sought continuing treatment from a therapist. [In re Reilly \(3 Dept. 2004\) 9 A.D.3d 736, 779 N.Y.S.2d 843. Attorney And Client 59.13\(3\); Attorney And Client 59.13\(4\)](#)

In view of the large number and repetitive nature of attorney's professional misconduct, and his failure to acknowledge the harm his neglect caused to numerous clients, two-year suspension from practice of law was warranted, in attorney disciplinary proceeding, even though attorney was the principal support of a wife and young son, had been diagnosed with psychological impairments, fully cooperated with Disciplinary Committee and expressed remorse; clients had suffered serious and permanent harm, and attorney had not paid judgments against him or refunded unearned fees. [In re Gentile \(1 Dept. 2004\) 7 A.D.3d 37, 774 N.Y.S.2d 522. Attorney And Client 59.13\(3\)](#)

Two year suspension from practice of law was warranted for attorney against whom three charges of professional misconduct, on basis of failure to cooperate with Grievance Committee's investigation, were sustained, despite his representation that he suffered from coronary artery disease and was the sole support of his wife, son, mother, and mother-in-law; attorney's prior disciplinary history consisted of two letters of caution, five letters of admonition, and a reprimand, revealing a pattern of failing to cooperate with the Committee. [In re Chisena \(2 Dept. 2004\) 5 A.D.3d 79, 774 N.Y.S.2d 89, appeal dismissed 3 N.Y.3d 656, 782 N.Y.S.2d 695, 816 N.E.2d 568. Attorney And Client](#)

 [59.13\(3\)](#)

Two-year suspension from practice of law was warranted for attorney against whom four charges of professional misconduct were properly sustained and one charge of professional misconduct was properly sustained in part, based on his repeated failures to comply with orders of the United States Bankruptcy Court, his failure to reregister as an attorney, and his failure to cooperate with an investigation; attorney's disciplinary history included four letters of caution and two admonitions, one of which was personally delivered. [In re Drakes \(2 Dept. 2004\) 5 A.D.3d 33, 773 N.Y.S.2d 77. Attorney And Client !\[\]\(576c2da912b3688c853f39b2f1ebf794_img.jpg\) 59.13\(3\)](#)

Under the totality of the circumstances, two-year suspension from practice of law was appropriate discipline for attorney found guilty of seven charges of professional misconduct arising out of his handling of escrow funds and failure to maintain required records, even though attorney, who had no prior disciplinary history, asked court to consider his lack of experience in running a law office, fact that no client was harmed, and fact that without legal income he would be unable to seek required medical treatment. [In re Rosenberg \(2 Dept. 2003\) 3 A.D.3d 52, 770 N.Y.S.2d 405, reinstatement granted 66 A.D.3d 785, 886 N.Y.S.2d 343. Attorney And Client !\[\]\(d186f2d056b647adb1109012977759b4_img.jpg\) 59.13\(4\)](#)

Attorney's conduct prejudicial to administration of justice and adversely reflecting on fitness as lawyer, as established by criminal contempt adjudication and evidence of other misconduct, including calling office of client and harassing staff between sixty and seventy times during a period of one and a half hours, warranted two-year suspension from practice of law, given consideration of totality of circumstances, including attorney's extensive pro bono activities. [In re Brecker \(2 Dept. 2003\) 309 A.D.2d 77, 764 N.Y.S.2d 455. Attorney And Client !\[\]\(dca936d53d3420176de550a9113dbc36_img.jpg\) 59.13\(3\); Attorney And Client !\[\]\(c86773664cdfc5ca146d3848ca25dee8_img.jpg\) 59.13\(5\)](#)

Attorney's actions in allowing balances in his attorney trust accounts to fall below amount of his clients' interests and allowing negative balances, issuing checks drawn against his attorney trust account payable to his own order, retaining interest earned on clients' funds, using clients' funds for personal purposes, and engaging in representation involving conflict of interest warranted two-year suspension from practice of law, where attorney corrected his accounting practices and did not permanently deprive any client of funds. [In re Bissell \(4 Dept. 2003\) 305 A.D.2d 25, 762 N.Y.S.2d 709, reinstatement granted 27 A.D.3d 1200, 810 N.Y.S.2d 689. Attorney And Client !\[\]\(cfcd6a28d31b72f810436f8052eca42c_img.jpg\) 59.13\(4\)](#)

Attorney's misappropriation of funds in total amount of \$60,582 from his law firm's operating account warranted two-year suspension from practice of law, where attorney made restitution and had previously unblemished disciplinary record, but attorney's submitted mitigation, namely, fact that he suffered from depression during period when theft occurred, had no causal link to thefts. [In re Trimboli \(4 Dept. 2003\) 304 A.D.2d 282, 762 N.Y.S.2d 192, reinstatement granted 27 A.D.3d 1199, 810 N.Y.S.2d 690. Attorney And Client !\[\]\(7ea23154e8814e92f438ec0192bc43a1_img.jpg\) 59.13\(4\)](#)

Attorney's misconduct in failing to satisfy several judgments against him, failing to cooperate with several investigations into allegations of his professional misconduct, failing to refund unearned legal fees, warranted suspension from the practice of law for a period of two years. [In re Simms \(2 Dept. 2002\) 296 A.D.2d 171, 743 N.Y.S.2d 161.](#)

Misconduct of attorney during his representation of client in post-divorce proceedings, including falsely representing to a bankruptcy judge that his client was terminally ill, which induced judge to order a distribution of

martial assets, failing to advise his client of distribution and converting the funds, amounted to conduct involving dishonesty, fraud, deceit, or misrepresentation, conduct prejudicial to administration of justice, conduct adversely reflecting on his fitness as a lawyer, and conduct in violation of numerous other disciplinary rules, and warranted two-year suspension from practice of law. [In re Dwyer \(4 Dept. 2001\) 285 A.D.2d 133, 727 N.Y.S.2d 229. Attorney And Client](#) 42; [Attorney And Client](#) 44(2); [Attorney And Client](#) 59.13(3); [Attorney And Client](#) 59.13(4)

Attorney's two sexual encounters with indigent client he had been assigned to represent, warranted two-year suspension, considering aberrational nature of attorney's misconduct, his previously unblemished record, highly favorable character evidence, his efforts in seeking professional therapy, and that he did not orchestrate and plan the encounters. [Matter of Weinstock \(2 Dept. 1998\) 241 A.D.2d 1, 669 N.Y.S.2d 368. Attorney And Client](#) 59.13(3)

Improperly withdrawing funds from law firm's special account to pay business or personal expenses, writing checks to cash from special account, commingling funds in special account, and failing to return client funds warrant two-year suspension from practice of law; mishandling of funds was result of carelessness, rather than any intent to convert, and respondent had unblemished disciplinary record, ultimately repaid funds belonging to firm's clients, and penalty comported with that imposed on law partner, who was more directly responsible for client funds that were misappropriated and who also neglected client matters. [Matter of Rabin \(1 Dept. 1998\) 239 A.D.2d 17, 667 N.Y.S.2d 368](#), as amended. [Attorney And Client](#) 59.13(4)

Eleven charges of professional misconduct arising from attorney's neglect of legal matters entrusted to him, failure to cooperate with disciplinary investigations, and failure to make prompt refund to client, warranted suspension from practice of law for period of two years under totality of circumstances, including prior disciplinary history of three letters of caution and letter of admonition, attorney's expressed remorse, candor, and pro bono activities, and problems attendant with high volume solo practice conducted without secretary. [Matter of Sherman \(2 Dept. 1997\) 235 A.D.2d 60, 663 N.Y.S.2d 615. Attorney And Client](#) 59.13(3)

Attorney's misconduct of being convicted of commercial bribery and engaging in conduct that adversely reflected on his fitness to practice law warranted two year suspension, despite mitigating circumstances including aberrational nature of his single act of misconduct, severe medical problems existing in his family, and fact that proposed payment of gratuity leading to his conviction was not for purpose of enhancing settlement of litigation, but to expedite its handling. [Matter of Pomerantz \(2 Dept. 1997\) 235 A.D.2d 36, 663 N.Y.S.2d 75. Attorney And Client](#) 59.13(5)

Two-year suspension was warranted for attorney whose failure to respond to court-ordered discovery requests or to provide authorizations for medical records resulted in client being precluded from introducing medical records at trial, and who failed to communicate with client prior to trial; considerations in imposing discipline included medical problems suffered by attorney's family, fact all disciplinary charges emanated from representation of one client, and counsel's disciplinary history including prior suspension and two letters of admonition. [Matter of Kaufman \(2 Dept. 1997\) 229 A.D.2d 208, 654 N.Y.S.2d 155. Attorney And Client](#) 59.13(3)

Misconduct adversely reflecting on fitness to practice law, in requesting client's fiancée to “provide” a woman for

him, and making sexual advances and engaging in sexual relations in the courthouse, warrants two-year suspension from practice. [Matter of Lieber \(1 Dept. 1994\) 205 A.D.2d 47, 617 N.Y.S.2d 460](#), reinstatement granted [248 A.D.2d 187, 685 N.Y.S.2d 610](#), reinstatement granted [251 A.D.2d 115, 675 N.Y.S.2d 481](#). [Attorney And Client](#)  [59.13\(3\)](#)

[90](#). ---- Two and one-half years, suspension

Sanction of suspension for two and one-half years, plus restitution, was warranted against attorney who engaged in broad range of misconduct in representing party in divorce proceeding, including false notarizations, disregard of court order, charging exorbitant fee, threatening her client to pursue that fee, and using client funds that were in dispute; disbarment was not warranted given mitigating factors including attorney's heretofore unblemished 28-year legal career, fact that attorney was 68 years old and suffering from variety of ailments, and attorney's acceptance of responsibility and remorse. [In re Larsen \(1 Dept. 2008\) 50 A.D.3d 41, 849 N.Y.S.2d 560](#). [Attorney And Client](#)  [59.5\(5\)](#); [Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

[91](#). ---- Three years, suspension

Sanction of three years' suspension, or until conclusion of probationary period, rather than disbarment, was warranted based on attorney's conviction for class A misdemeanor of attempted criminal sex act in the third degree, which arose from attorney's engaging in sexually explicit Internet conversations with presumed 13-year-old girl, actually an undercover police officer, followed by attempted meeting; no sexual contact was involved, and attorney proffered substantial mitigation evidence including acceptance of responsibility and efforts at rehabilitation. [In re Lever \(1 Dept. 2008\) 60 A.D.3d 37, 869 N.Y.S.2d 523](#). [Attorney And Client](#)  [59.13\(5\)](#)

Conduct of attorney in neglecting clients' cases, failing to supervise other attorneys in his office, failing to communicate with clients, and misappropriating client funds warranted three-year suspension from practice of law, in light of extensive prior disciplinary record, but taking into consideration his 50 years of practice as an attorney servicing innumerable clients, terminal illness and eventual demise of his wife, who had acted as an office manager for his practice, and recent reforms implemented by his office. [In re Berkman \(2 Dept. 2008\) 55 A.D.3d 114, 863 N.Y.S.2d 701](#), appeal dismissed [11 N.Y.3d 851, 872 N.Y.S.2d 64, 900 N.E.2d 545](#), leave to appeal denied [12 N.Y.3d 703, 876 N.Y.S.2d 705, 904 N.E.2d 842](#). [Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

Conduct of attorney in stealing client funds that resulted in his conviction of a serious crime, and numerous other acts of misconduct associated therewith, constituted serious misconduct which warranted three-year suspension and restitution, even though attorney, at the time of misconduct, suffered from serious health problems and attorney's secretary was convicted of petit larceny resulting from her theft of funds from trust account without attorney's knowledge. [In re Zito \(4 Dept. 2007\) 40 A.D.3d 134, 840 N.Y.S.2d 256](#). [Attorney And Client](#)  [59.13\(5\)](#)

Three-year suspension from practice of law was warranted following attorney's criminal conviction for attempting to possess sexual performance by child, despite medical expert's findings that attorney was not pedophile, posed no danger to children, and did not possess factors demonstrating likelihood of recidivism, where attorney possessed and attempted to transfer graphic images depicting child pornography, and attempted to conceal and destroy evidence

when confronted by State Police investigators. [In re St. Clair \(4 Dept. 2006\) 32 A.D.3d 170, 821 N.Y.S.2d 684. Attorney And Client](#)  [59.13\(5\)](#)

Three-year suspension was warranted for attorney's professional misconduct, although attorney cooperated throughout investigation, no client was harmed by her conduct, and she had an unblemished record in her approximately 17 years of practice, where attorney had an affirmative obligation and duty to verify that funds she was disbursing from her trust account had actually cleared and were present in the account, and her failure to ensure the transactional integrity of her trust account resulted in the misappropriation of funds she received incidental to her practice of law and was holding in her trust account, which were then improperly applied to the various client matters. [In re Iaquina-Snigur \(2 Dept. 2006\) 30 A.D.3d 67, 813 N.Y.S.2d 170, reinstatement granted 104 A.D.3d 767, 960 N.Y.S.2d 731. Attorney And Client](#)  [59.13\(4\)](#)

Attorney's professional misconduct involving dishonesty, fraud, deceit or misrepresentation and adversely reflecting on his fitness as a lawyer, in connection with loans he induced from clients through false representations, warranted three-year suspension and monetary restitution to clients. [In re Veski \(1 Dept. 2006\) 29 A.D.3d 250, 814 N.Y.S.2d 27. Attorney And Client](#)  [59.13\(3\)](#)

Three year suspension, rather than public censure, was appropriate sanction for attorney's misconduct, which included unlawful pre-admission practice of law, fraud in notarizing his own bar application, making repeated false testimony in that regard, and not answering new disciplinary complaint against him; although attorney did not have disciplinary record, he did not show remorse or take responsibility for his misconduct, and he did not submit evidence of any participation in community, professional, or pro bono services. [In re Fauci \(1 Dept. 2006\) 28 A.D.3d 192, 811 N.Y.S.2d 38. Attorney And Client](#)  [59.13\(3\)](#)

Attorney's engaging in scheme to avoid parking summonses for his own vehicles and in deliberately failing to pay 167 summonses issued over a two-year period, in violation of disciplinary rules prohibiting dishonesty, fraud, deceit, or misrepresentation, prohibiting conduct prejudicial to the administration of justice, and prohibiting conduct adversely reflecting on fitness as a lawyer, warranted a three-year suspension from practice of law. [In re Caldwell \(1 Dept. 2006\) 27 A.D.3d 154, 809 N.Y.S.2d 59, leave to appeal dismissed 6 N.Y.3d 891, 817 N.Y.S.2d 626, 850 N.E.2d 673. Attorney And Client](#)  [59.13\(3\)](#)

In light of attorney's gross abuse of his attorney escrow accounts, three-year suspension from practice of law was appropriate discipline, even though he acted with no venality, apologized for his errors, was now maintaining his escrow account in an appropriate manner, had no prior disciplinary history, and lacked experience. [In re Jones \(2 Dept. 2004\) 7 A.D.3d 101, 777 N.Y.S.2d 504, reinstatement granted 77 A.D.3d 752, 909 N.Y.S.2d 366. Attorney And Client](#)  [59.13\(4\)](#)

Three-year suspension from practice of law was appropriate discipline for attorney found to be guilty of eight charges of professional misconduct involving misuse of her interest on lawyer account (IOLA), even though she cooperated with Grievance Committee's investigation, retained an accountant to show her how to reconcile her books and review her reconciliations, was the only attorney in the county fluent in the Croatian language, performed numerous pro bono activities, and had an excellent reputation. [In re Frlan-Zovko \(2 Dept. 2004\) 7 A.D.3d 41, 775](#)

[N.Y.S.2d 324. Attorney And Client](#)  [59.13\(4\)](#)

Three-year suspension from practice of law was warranted for attorney found guilty of five charges of professional misconduct, including engaging in an improper business transaction with a client, engaging in conduct with a client that adversely reflected on attorney's fitness to practice law, failure to provide a matrimonial client with a statement of client's rights and responsibilities, failure to timely satisfy a lawful judgment, and failure to properly re-register as an attorney; attorney had a disciplinary history of a letter of caution and five admonitions, one of which was personally delivered. [In re Arjune \(2 Dept. 2003\) 308 A.D.2d 139, 763 N.Y.S.2d 625. Attorney And Client](#)  [59.13\(3\)](#)

Attorney's conversion and commingling of clients' funds, improper recordkeeping of escrow account, and disbursement of settlement proceeds to himself warranted suspension from practice of law for three years. [Matter of Elefterakis \(2 Dept. 1997\) 238 A.D.2d 7, 667 N.Y.S.2d 55. Attorney And Client](#)  [59.13\(4\)](#)

Attorney's unauthorized release of client funds from escrow account, issuance of checks from escrow account in excess of funds on deposit for particular transaction, commingling of personal and client funds in escrow account, and submitting false claim vouchers while acting as town attorney warranted three-year suspension from practice of law, rather than censure, although attorney did not use escrow funds for his own benefit. [Matter of Joyce \(2 Dept. 1997\) 236 A.D.2d 116, 665 N.Y.S.2d 430. Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

Conduct that included neglect of five client matters, commission of fraud upon two clients, and lying to disciplinary committee warranted suspension from practice of law for period of three years and until further order, given two prior admonitions in unrelated matters. [Matter of Betancourt \(1 Dept. 1997\) 232 A.D.2d 9, 661 N.Y.S.2d 208. Attorney And Client](#)  [59.13\(3\)](#)

Misconduct including neglect of legal matters, misrepresentations to client, grievance committee and others, and failure to maintain adequate funds in escrow account, following prior letter of admonition for neglect of legal matter, warranted suspension for three years, despite marital difficulties considered in mitigation and fact that one complainant sought to withdraw complaint following settlement [Matter of Hirsch \(2 Dept. 1997\) 231 A.D.2d 358, 661 N.Y.S.2d 233. Attorney And Client](#)  [59.13\(3\)](#); [Attorney And Client](#)  [59.13\(4\)](#)

Knowing submission of false medical reports to insurance companies and to litigation adversaries in connection with seven personal injury cases warranted three-year suspension from practice of law. [Matter of Lessoff \(1 Dept. 1997\) 231 A.D.2d 229, 659 N.Y.S.2d 254, appeal dismissed 90 N.Y.2d 930, 664 N.Y.S.2d 263, 686 N.E.2d 1358. Attorney And Client](#)  [59.13\(3\)](#)

Misconduct by attorney while acting as office manager for another lawyer's office, particularly issuing checks not authorized by lawyer and signing lawyer's name to checks, issuing some checks, including checks pre-signed by lawyer, to pay attorney's personal expenses, thus converting at least \$1,526 of lawyer's law office funds, and failing to accord Committee on Professional Standards full and prompt cooperation to which it was entitled during investigation of complaint, mitigated by personal and professional turmoil, including marital separation and allegations of professional misconduct leading to current three-year suspension, but aggravated by failure to show interest in fate as attorney, warranted extension of current suspension for additional two years. [Matter of Smith \(3 Dept. 1996\) 225](#)

[A.D.2d 807, 639 N.Y.S.2d 140. Attorney And Client](#)  [59.13\(3\)](#)

Misconduct including engaging in conduct adversely reflecting upon fitness to practice law and conduct involving dishonesty, fraud, deceit or misrepresentation, in connection with failure to repay loan from clients, warrants three-year suspension from practice. [Matter of Bigman \(2 Dept. 1995\) 208 A.D.2d 313, 622 N.Y.S.2d 980](#), leave to appeal denied [86 N.Y.2d 711, 635 N.Y.S.2d 948, 659 N.E.2d 771. Attorney And Client](#)  [59.13\(3\)](#)

[92](#). ---- Four years, suspension

Conduct of attorney in engaging in pattern of neglect involving five personal injury matters over ten-year period, deceiving clients and Disciplinary Committee to conceal his neglect, and falsely promising clients that he would work on their cases warranted four-year suspension, which was longer than norm of six months to three years in cases of multiple neglect, in light of attorney's long-term pattern of misconduct resulting in loss of three clients' claims to applicable statute of limitations, lying to clients and Committee, and failing to fully cooperate with Committee, combined with absence of any mitigating factors other than lack of prior discipline. [In re Topal \(1 Dept. 2010\) 77 A.D.3d 152, 906 N.Y.S.2d 559. Attorney and Client](#)  [59.13\(3\)](#)

Attorney's conduct warranted suspension for one-year period and until further court order, where attorney failed to reschedule depositions in personal injury matter entrusted to him by his employer for four-year period, to appear at scheduled meetings with client and to respond to demand for bill of particulars and discovery requests in another personal injury matter, and to advance third personal injury matter, he advanced funds to client, he failed to respond to letters from counsel for grievance committee during disciplinary investigation, and attorney did not document alleged health problems, did not express remorse, and previously received letter of caution for similar misconduct. [In re Friedman \(4 Dept. 2004\) 14 A.D.3d 153, 788 N.Y.S.2d 548. Attorney And Client](#)  [59.13\(3\)](#)

Attorney's misconduct, which included complicity in submission of false and misleading medical reports, warranted four-year suspension, rather than public censure; attorney's misconduct included engaging in conduct involving fraud, deceit or misrepresentation, engaging in conduct reflecting adversely on his fitness to practice law, participating in creation or preservation of evidence known to be false, and intentionally assisting client in illegal or fraudulent conduct. [Matter of Janoff \(1 Dept. 1998\) 242 A.D.2d 27, 672 N.Y.S.2d 89](#), appeal dismissed [92 N.Y.2d 872, 677 N.Y.S.2d 775, 700 N.E.2d 315. Attorney And Client](#)  [59.13\(3\)](#)

[93](#). ---- Five years, suspension

Attorney's engaging in the practice of law after he had been suspended and filing false affidavit of compliance with court order of suspension warranted five-year suspension from the practice of law. [In re Nerenberg \(2 Dept. 2007\) 45 A.D.3d 116, 843 N.Y.S.2d 91. Attorney And Client](#)  [59.13\(3\)](#)

Five-year suspension from the practice of law was appropriate measure of discipline to be imposed, in disciplinary proceeding, on attorney convicted of federal felony of attempt to evade or defeat tax, even though attorney had no disciplinary history in New York and offered various mitigating factors; offense involved willful evasion of income

taxes in an effort to hide money improperly transferred from attorney's client, and he subsequently lied to the government, putting it to extensive efforts to trace the money. [In re Uscinski \(2 Dept. 2006\) 36 A.D.3d 308, 826 N.Y.S.2d 375. Attorney And Client !\[\]\(b92afa65eab342d413230058e3c524dc_img.jpg\)59.13\(5\)](#)

Attorney's conduct in engaging in ex parte communications with an adverse party without permission or consent of that party's lawyer, entering into an agreement to accept \$2000 from the adverse party in exchange for information, and entering into an agreement to accept \$20,000 from the adverse party in exchange for a favorable settlement of litigation warranted five-year suspension from the practice of law. [In re Kiczales \(1 Dept. 2006\) 36 A.D.3d 276, 826 N.Y.S.2d 200. Attorney And Client !\[\]\(5f4e34a4e1e83b292058cbe5f3997bfb_img.jpg\)59.13\(3\)](#)

Suspension from the practice of law for five years was appropriate discipline for attorney who engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, engaged in conduct adversely reflecting on his fitness to practice as a lawyer, and engaged in an impermissible conflict of interest. [In re DeSousa \(2 Dept. 2006\) 36 A.D.3d 121, 826 N.Y.S.2d 306. Attorney And Client !\[\]\(27875a6d090b7978c997ca78ac00f770_img.jpg\)59.13\(3\)](#)

Five-year suspension from practice of law was appropriate sanction for attorney found guilty of converting funds entrusted to him as a fiduciary and failure to cooperate with investigation into charges of professional misconduct; attorney's prior disciplinary history included three letters of admonition, some of which related to neglect of client matters, two letters of caution, and a reprimand. [In re Taliuaga \(2 Dept. 2005\) 21 A.D.3d 238, 800 N.Y.S.2d 30. Attorney And Client !\[\]\(8534175faaec2d5a6f8c3c3e254f081b_img.jpg\)59.13\(4\)](#)

Suspension from practice of law for period of five years was warranted as result of attorney's decision to turn over control of his law firm to licensed mortgage lending institution, where attorney allowed non-attorney to conduct firm's business, permitted non-attorney to open attorney trust account in his name and make withdrawals without his supervision, allowed non-attorney to issue checks from his attorney escrow account, failed to maintain sufficient funds in his attorney trust account, and failed to exercise control over attorney escrow account. [In re Duboff \(2 Dept. 2005\) 21 A.D.3d 206, 799 N.Y.S.2d 92. Attorney And Client !\[\]\(b7542d62cb6a7bd7d42397bcf1e20425_img.jpg\)59.13\(3\)](#)

Attorney's violations of disciplinary rules by failing to cooperate in investigation of complaint, failing to produce required bank and bookkeeping records, misappropriating escrow funds, and failing to preserve escrow funds warranted five-year suspension. [In re Dobkin \(2 Dept. 2005\) 21 A.D.3d 23, 801 N.Y.S.2d 324. Attorney And Client !\[\]\(7f943232254914be527d4f7d03d1c130_img.jpg\)58](#)

Appropriate sanction for attorney found to have engaged in fifteen counts of professional misconduct was five year suspension from practice of law; attorney had engaged in pattern and practice of frivolous conduct, disregarding court orders and judgments, and providing misleading information to tribunals. [In re Abrahams \(2 Dept. 2003\) 5 A.D.3d 21, 770 N.Y.S.2d 369, appeal dismissed 1 N.Y.3d 619, 777 N.Y.S.2d 13, 808 N.E.2d 1273, leave to appeal denied 3 N.Y.3d 601, 782 N.Y.S.2d 404, 816 N.E.2d 194. Attorney And Client !\[\]\(682dde3521160ddfe03362254132dac4_img.jpg\)59.13\(3\)](#)

Deputy town attorney's conduct of giving false information to federal authorities conducting official investigation, giving false testimony under oath before federal Grand Jury, and making false statements in written answer to grievance committee involved dishonesty, fraud, deceit, or misrepresentation and/or conduct prejudicial to administration

of justice, and warranted suspension from practice of law for five years. [In re Redl \(2 Dept. 2003\) 308 A.D.2d 256, 766 N.Y.S.2d 210](#), leave to appeal dismissed [1 N.Y.3d 545, 775 N.Y.S.2d 241, 807 N.E.2d 291](#), leave to appeal denied [1 N.Y.3d 508, 777 N.Y.S.2d 17, 808 N.E.2d 1276](#). [Attorney And Client ██████42](#); [Attorney And Client ██████59.13\(3\)](#)

Five-year suspension from practice of law was warranted for attorney who misused his escrow account by improperly issuing checks to family members and for personal expenses, by converting funds entrusted to him to be held in escrow, and by issuing checks from trust account for funds in excess of those on deposit for his clients, where attorney received prior letter of caution for neglecting a legal matter and failing to provide client with statement of client's rights and responsibilities.. [In re Karpel \(2 Dept. 2003\) 307 A.D.2d 55, 761 N.Y.S.2d 263](#). [Attorney And Client ██████59.13\(4\)](#)

Imposition of five-year suspension of attorney was proper sanction for attorney who neglected matters, engaged in dishonest or deceitful conduct, and fabricated court documents; even if attorney's mitigating medical evidence that he engaged in behavior due to severe depression was rejected, attorney's misconduct affected small percentage of his cases and was not did not involve conversion of client funds or other aggravating factors, and in fact attorney paid a client \$60,000 of his own money that client would have been entitled to receive had attorney properly handled the client's case. [In re Furtzaig \(1 Dept. 2003\) 305 A.D.2d 7, 762 N.Y.S.2d 335](#). [Attorney And Client ██████58](#)

Engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, conduct that adversely reflected on fitness to practice law, and conduct prejudicial to the administration of justice, including misrepresentations and harassment of adversary, warranted suspension from practice of law for five years. [Matter of Klein \(2 Dept. 1997\) 231 A.D.2d 232, 660 N.Y.S.2d 136](#), appeal dismissed, leave to appeal denied [90 N.Y.2d 929, 664 N.Y.S.2d 262, 686 N.E.2d 1357](#), reargument denied [91 N.Y.2d 867, 668 N.Y.S.2d 563, 691 N.E.2d 635](#), certiorari denied [118 S.Ct. 2371, 524 U.S. 953, 141 L.Ed.2d 738](#). [Attorney And Client ██████59.13\(3\)](#)

Five-year suspension was warranted by attorney's misconduct in failing to make timely payment of sanctions ordered by Bankruptcy Court, in light of attorney's extensive disciplinary history. [Matter of Toler \(2 Dept. 1997\) 231 A.D.2d 223, 659 N.Y.S.2d 91](#). [Attorney And Client ██████59.13\(3\)](#)

Five-year suspension from practice of law is warranted by serious professional misconduct by continuing defiance of court orders, failure to comply with rules governing suspended attorneys, and unsubstantiated accusations that courts, Attorney General, and grievance committee are victimizing attorney because of race. [Matter of Maddox \(2 Dept. 1994\) 201 A.D.2d 24, 615 N.Y.S.2d 439](#), leave to appeal denied [84 N.Y.2d 948, 621 N.Y.S.2d 512, 645 N.E.2d 1211](#). [Attorney And Client ██████59.13\(3\)](#)

Misstating under oath conditions of promissory note for attorney fees and making false statements to grievance committee warrants five-year suspension. [Matter of Gabel \(2 Dept. 1994\) 201 A.D.2d 3, 615 N.Y.S.2d 698](#). [Attorney And Client ██████59.13\(3\)](#)

94. ---- Immediate suspension

Attorney's failure to cooperate with Department Disciplinary Committee's investigation into her alleged misuse of client funds warranted her immediate suspension from practice of law; although attorney gave limited cooperation by providing some answers to complaints and attending two depositions, she otherwise failed to cooperate by repeatedly failing to produce her bank statements, some client files and, despite repeated promises, two tax returns which were particularly relevant to the Committee's investigation. [In re Jobi \(1 Dept. 2008\) 56 A.D.3d 158, 866 N.Y.S.2d 58. Attorney And Client !\[\]\(b95805d2b7fc6bef10576db0580256f1_img.jpg\)48](#)

Department Disciplinary Committee sufficiently demonstrated that attorney was guilty of misconduct threatening the public interest, as required to support her immediate suspension from the practice of law in disciplinary case; bank records showed that attorney misused client funds held in escrow and possibly intentionally converted a down payment placed in escrow. [In re Jobi \(1 Dept. 2008\) 56 A.D.3d 158, 866 N.Y.S.2d 58. Attorney And Client !\[\]\(709f390d6469a8d4b40fea0ff3fbfcad_img.jpg\)48](#)

Immediate suspension of attorney was warranted due to his deliberate failure to comply with numerous demands of Departmental Disciplinary Committee, including defiance of a subpoena issued by court and failure to register with the Office of Court of Administration. [In re Lopez \(1 Dept. 2007\) 46 A.D.3d 99, 844 N.Y.S.2d 202. Attorney And Client !\[\]\(dfb61f5a70f03ec64aa6bce7cbd06811_img.jpg\)59.13\(1\)](#)

Attorney's mishandling of his escrow account was professional misconduct warranting his immediate interim suspension and appointment of receiver to act as cosignatory on his escrow account in order to protect his clients and monitor his account activity. [In re Berman \(1 Dept. 2007\) 45 A.D.3d 219, 842 N.Y.S.2d 423. Attorney And Client !\[\]\(41f93872898d70dc84d732728e4c52bb_img.jpg\)48; Receivers !\[\]\(8577cad2067f8354b11c0412a8bc3fa9_img.jpg\)14](#)

Immediate interim suspension was warranted for attorney who converted and/or misappropriated escrow funds, disregarded an order the United States Bankruptcy Court to remit escrow funds related to unconsummated real estate sales in which respondent represented the seller, which subsequently filed for bankruptcy, participated in a fraud by the simultaneous sale of the same property to two potential buyers, and who failed to cooperate with disciplinary committee's investigation by failing to answer three of the seven complaints against her and by failing to appear for several scheduled depositions or produce financial information and records pursuant to committee's subpoena. [In re Cherry \(1 Dept. 2007\) 39 A.D.3d 123, 830 N.Y.S.2d 84. Attorney And Client !\[\]\(b390b738f2a972b796b285754164f724_img.jpg\)48](#)

Pursuant to statutory and regulatory provisions governing attorney conduct, attorney who was convicted in federal court of conspiracy to commit mail fraud and wire fraud, eight counts of mail fraud, and three counts of wire fraud, would be immediately suspended from the practice of law and directed to show cause why a final order of censure, suspension or disbarment should not be made. [In re Fasciana \(1 Dept. 2006\) 36 A.D.3d 9, 823 N.Y.S.2d 132. Attorney And Client !\[\]\(36d9a1a98aa57a3ed4fa11cdb1d98833_img.jpg\)48](#)

Immediate suspension of attorney from practice of law pending consideration of charges of professional misconduct was warranted as result of his failure to cooperate with investigation of professional misconduct, where attorney failed to respond to allegations in complaint, failed to contact Departmental Disciplinary Committee in response to its many letters to him, failed to update his business and home addresses and telephone numbers, and was delinquent in his attorney registration fees. [In re Murawinski \(1 Dept. 2006\) 30 A.D.3d 129, 814 N.Y.S.2d 602. Attorney And](#)

[Client !\[\]\(b3916e34c98a9eb64ed7b131a1cd9fcf_img.jpg\)48](#)

Failure to cooperate with the disciplinary committee warrants immediate suspension from the practice of law. [In re Fauci \(1 Dept. 2006\) 28 A.D.3d 192, 811 N.Y.S.2d 38. Attorney And Client !\[\]\(54a9feb06e5d28faddd4a356f9cbb92d_img.jpg\)48](#)

Attorney's conduct of failing to respond to Disciplinary Committee's numerous letters seeking an answer to two complaints against him, to amend his business address and telephone number on his attorney registration forms, to re-register and pay his biennial registration fees, and to respond to suspension motion, constituted conduct demonstrating a willful noncompliance with a Committee investigation, and threatened the public interest, warranting attorney's immediate suspension from the practice of law. [In re Pierini \(1 Dept. 2005\) 21 A.D.3d 42, 797 N.Y.S.2d 65, motion granted 29 A.D.3d 73, 811 N.Y.S.2d 353. Attorney And Client !\[\]\(c6be14656d484ab71fb29869912f5f91_img.jpg\)37.1; Attorney And Client !\[\]\(e1e5eee3707d2aaa5098960f616b55d7_img.jpg\)42; Attorney And Client !\[\]\(b8ba086d0730045abc38f248240adf87_img.jpg\)59.13\(1\)](#)

Attorney's conduct of failing to produce all requested records in an investigation into his interest on lawyer account (IOLA), withdrawing funds from that account for purposes not authorized by his client, and making withdrawals from another IOLA account and failing to explain the circumstances of those withdrawals, warranted his suspension pending the conclusion of further disciplinary proceedings; attorney converted client funds for his own use and committed serious professional misconduct posing an immediate threat to the public interest. [In re Kohn \(1 Dept. 2005\) 18 A.D.3d 96, 794 N.Y.S.2d 370. Attorney And Client !\[\]\(5266f879c96ad7c31f38aa6a1d91e4b5_img.jpg\)48](#)

Sanction of immediate suspension of attorney was warranted as result of attorney's failure to cooperate with Departmental Disciplinary Committee's investigation and uncontested allegations of misconduct involving his former firm's client escrow funds; despite notification of complaint and repeated requests to answer complaint and produce certain records, as well as a judicial subpoena duces tecum demanding his appearance and production of records, attorney had not appeared, had not contacted Committee, had not produced any documents or records, and had not submitted any opposition to suspension motion. [In re Delio \(1 Dept. 2004\) 9 A.D.3d 160, 778 N.Y.S.2d 499. Attorney And Client !\[\]\(2271a90ad232f3c5529b69c76b6d5219_img.jpg\)59.13\(1\)](#)

Attorney's conduct evinced willful non-compliance with Departmental Disciplinary Committee's investigation, warranting his suspension from practice of law pending conclusion of disciplinary investigation; several clients filed complaints against attorney for neglecting case matters, and attorney neglected to respond to multiple Committee letters requesting answers to complaints, or in some cases, initially responded with excuses but did not follow up with actual answers, even though he admitted to receiving all but the first complaint. [In re Schulze \(1 Dept. 2003\) 1 A.D.3d 1, 765 N.Y.S.2d 851. Attorney And Client !\[\]\(e921c990b9f5f06c856e9d5d7f06f32c_img.jpg\)42; Attorney And Client !\[\]\(45b9e22e138a668a393b711f5618d359_img.jpg\)48](#)

Knowingly aiding convicted drug dealer in money laundering was conduct involving dishonesty, fraud, deceit or misrepresentation, conduct prejudicial to the administration of justice, and conduct that adversely reflects on fitness to practice law, warranting immediate suspension. [Matter of Rosa \(1 Dept. 1998\) 240 A.D.2d 42, 668 N.Y.S.2d 36. Attorney And Client !\[\]\(4b09627c6aee76709902ed296c8ddffd_img.jpg\)37.1; Attorney And Client !\[\]\(e0d590db2585380dc3d9f1363be6e37f_img.jpg\)42; Attorney And Client !\[\]\(fef4e0da97e63e1513c9c6e253863e9e_img.jpg\)59.13\(1\)](#)

Immediate suspension from practice of law was warranted, for attorney who conducted physical examinations on clients and who refused to acknowledge any impropriety in his actions. [Matter of Romano \(1 Dept. 1997\) 231](#)

[A.D.2d 299, 660 N.Y.S.2d 426. Attorney And Client 🔑48](#)

Order immediately suspending attorney from practice of law, due to noncooperation with investigation by Departmental Disciplinary Committee, was warranted by attorney's conduct in failing to respond to three complaints of misconduct, failing to appear for deposition before Committee despite four subpoenas, defaulting on instant motion, and failing to keep registration current. [Matter of Horoshko \(1 Dept. 1996\) 218 A.D.2d 339, 638 N.Y.S.2d 445. Attorney And Client 🔑59.13\(1\)](#)

Admission under oath of withdrawal of monies from estate accounts for personal use warrants immediate suspension pending outcome of disciplinary proceedings. [Matter of Glantz \(1 Dept. 1993\) 189 A.D.2d 271, 596 N.Y.S.2d 60. Attorney And Client 🔑48](#)

95. Disbarment--In general

Order of disbarment was warranted, even though attorney had not received prior admonitions, by ample evidence of pattern of serious disciplinary violations including neglect, failure to pay judgment to client, and giving clients forged court orders, combined with attorney's failure to cooperate in any way with Disciplinary Committee's investigation of misconduct complaints. [In re Day \(1 Dept. 2006\) 29 A.D.3d 240, 814 N.Y.S.2d 152. Attorney And Client 🔑59.14\(1\); Attorney And Client 🔑59.14\(2\)](#)

Attorney's pattern of improper conduct in which he directed at least three female clients to disrobe and physically examined them was so beyond the norm and so apparently uncontrollable that disbarment was the only appropriate sanction, with any readmission conditioned upon psychological evidence of fitness to practice law, especially considering that he had no personal relationship with the clients and that he continued his conduct even after being found guilty of a disciplinary violation. [Matter of Romano \(1 Dept. 1998\) 246 A.D.2d 152, 675 N.Y.S.2d 610. Attorney And Client 🔑59.14\(1\)](#)

Intentional conversion of client funds, "egregious" neglect of client matters, lying under oath to hearing panel, and failure to cooperate with investigation of case, warranted disbarment. [Matter of Lippman \(1 Dept. 1997\) 232 A.D.2d 69, 661 N.Y.S.2d 195. Attorney And Client 🔑59.14\(1\); Attorney And Client 🔑59.14\(2\)](#)

96. ---- Prior discipline, disbarment

Disbarment from the practice of law was appropriate sanction for attorney who, despite having been repeatedly disciplined for similar misconduct, persistently demonstrated apathetic and neglectful attitude towards representation of his clients by, inter alia, failure to communicate with clients and opposing counsel, failure to maintain attorney escrow account, charging an excessive fee, and failure to provide letter of engagement or enter into retainer agreement with client. [In re Hogan \(3 Dept. 2008\) 56 A.D.3d 887, 866 N.Y.S.2d 452. Attorney And Client 🔑59.14\(1\); Attorney And Client 🔑59.14\(2\)](#)

Disbarment was appropriate sanction for attorney who, after being suspended, engaged in the unauthorized practice

of law, particularly in light of his disciplinary record, which included a prior stayed suspension, an oral admonition, and three letters of admonition; disbarment was necessary to protect the public, deter similar misconduct, and preserve the reputation of the bar. [In re Hall \(3 Dept. 2008\) 49 A.D.3d 1146, 854 N.Y.S.2d 580. Attorney And Client](#)  [59.14\(1\)](#)

Attorney's preparation of divorce papers for former client while suspended from practice, acceptance of fee for that service, failure to reply to letters from Committee on Professional Standards investigating such misconduct, and failure to comply with attorney registration requirements warranted attorney's disbarment, in light of attorney's prior disciplinary record and lack of response in present disciplinary proceeding. [Matter of Rosenberg \(3 Dept. 1997\) 242 A.D.2d 829, 661 N.Y.S.2d 888. Attorney And Client](#)  [59.14\(1\)](#)

97. ---- Fraud, disbarment

Disbarment was appropriate sanction, rather than revocation, where attorney had engaged in pervasive pattern of affirmative misrepresentations and had not fully accepted responsibility for his serious misconduct; attorney had engaged in pattern of deceit on number of applications for regulatory licenses and employment contracts, in which he had lied about his prior disbarment and circumstances leading up to it, and he had made materially false statements and material omissions in his verified reinstatement application to court. [In re Grossman \(1 Dept. 2008\) 51 A.D.3d 135, 853 N.Y.S.2d 333, appeal dismissed 10 N.Y.3d 950, 862 N.Y.S.2d 462, 892 N.E.2d 855, leave to appeal denied 11 N.Y.3d 710, 868 N.Y.S.2d 602, 897 N.E.2d 1086. Attorney And Client](#)  [59.14\(1\)](#)

Attorney's deceptive misconduct, which included routine use of false notarizations, forgeries, and filing of false retainer and closing statements with Office of Court Administration (OCA), warranted disbarment; although attorney was only 32 years old and did not have disciplinary history, his misconduct was exacerbated by his systematic failure to keep records for his interest on lawyer accounts (IOLA) account, including transfers from his escrow to his business account, repeated use of overreaching retainer agreements which permitted him to settle cases without clients' knowledge or consent, and his failure to inform clients of his receipt of their settlement funds. [In re Boter \(1 Dept. 2007\) 46 A.D.3d 1, 842 N.Y.S.2d 411. Attorney And Client](#)  [59.14\(1\)](#); [Attorney And Client](#)  [59.14\(2\)](#)

Disbarment was appropriate sanction for conduct of attorney who submitted forged document to the court in landlord-tenant action and testified falsely in support thereof, given that attorney, instead of demonstrating remorse, had steadfastly refused to acknowledge that he committed any misconduct and was undeterred in frivolous and contemptuous conduct. [In re Truong \(1 Dept. 2005\) 22 A.D.3d 62, 800 N.Y.S.2d 12, leave to appeal dismissed 6 N.Y.3d 799, 812 N.Y.S.2d 32, 845 N.E.2d 464, reconsideration denied 6 N.Y.3d 842, 813 N.Y.S.2d 711, 846 N.E.2d 1222, reargument denied 7 N.Y.3d 742, 819 N.Y.S.2d 876, 853 N.E.2d 247. Attorney And Client](#)  [59.14\(1\)](#)

Neglect of numerous legal matters, engaging in misleading and deceiving conduct, and engaging in conduct involving dishonesty, fraud, deceit, and misrepresentation, together with failure to answer the petition or appear on petitioner's motion for a default judgment, evincing disregard for fate as an attorney, warrant disbarment. [In re Wheatley \(3 Dept. 2002\) 297 A.D.2d 872, 747 N.Y.S.2d 853.](#)

Disbarment was warranted against attorney for carrying concealed, loaded pistol while accompanying clients on debt collection mission to grocery store and for repeated dishonesty to Hearing Panel, in absence of mitigating factors. [Matter of Fruitbine \(1 Dept. 1997\) 233 A.D.2d 61, 663 N.Y.S.2d 156. Attorney And Client](#) 59.14(1)

98. ---- Illegal acts, disbarment

Attorney's federal convictions for conspiracy to commit securities fraud and securities fraud, which were essentially similar to the New York felony under the New York State insider trading statute, warranted automatic disbarment. [In re Cutillo \(1 Dept. 2011\) 86 A.D.3d 1, 923 N.Y.S.2d 73. Attorney and Client](#) 59.14(6)

Attorney's misconduct in committing extortion and engaging in frivolous litigation warranted disbarment, even though he had not been criminally prosecuted for extortion. [Matter of Yao \(1 Dept. 1998\) 250 A.D.2d 221, 680 N.Y.S.2d 546. Attorney And Client](#) 59.14(1)

Attorney's federal convictions for six counts of mail fraud, in connection with pervasive scheme to use United States Mail to defraud investors, demonstrated conduct which adversely reflected upon his fitness to practice law and involved dishonesty, fraud, deceit, or misrepresentation, and warranted disbarment. [Matter of Bunsis \(2 Dept. 1998\) 243 A.D.2d 226, 674 N.Y.S.2d 715. Attorney And Client](#) 38; [Attorney And Client](#) 59.14(4)

Participating in illegal kickback scheme involving city official, failing to report scheme to authorities, giving false information to authorities, and failing to respond to client's calls warrants disbarment. [Matter of Jochnowitz \(1 Dept. 1993\) 189 A.D.2d 342, 596 N.Y.S.2d 62. Attorney And Client](#) 59.14(1)

99. ---- Mismanagement of funds, disbarment

Attorney's intentional conversion of client funds to his own use and his total disregard of disciplinary proceedings against him warranted disbarment. [In re Melman \(1 Dept. 2006\) 30 A.D.3d 122, 812 N.Y.S.2d 517. Attorney And Client](#) 58

Disbarment was proper sanction for attorney's professional misconduct in failing to properly safeguard funds that had been entrusted to him as a fiduciary, improperly commingling his personal funds with funds entrusted to him as a fiduciary, and failing to maintain required bookkeeping records for his attorney escrow account, although his clients were paid the full amounts due them, where attorney remained a drug addict and he posed a substantial threat to the public notwithstanding his claims that he was no longer practicing law. [In re Jae-Bum Chung \(2 Dept. 2011\) 85 A.D.3d 74, 923 N.Y.S.2d 587. Attorney and Client](#) 59.14(2)

Disbarment of attorney was warranted for attorney's misconduct in improperly converting funds entrusted to him as a fiduciary, engaging in the unauthorized practice of law, improperly continuing to use his attorney escrow account after being suspended, making materially false statements on an application to renew his real estate broker license, and failing to comply with orders of bankruptcy court in violation of rules of professional responsibility; nature of attorney's misconduct was extensive and continuing, and attorney had been previously suspended and had received

four letters of caution and two admonitions. [In re Drakes \(2 Dept. 2009\) 60 A.D.3d 153, 871 N.Y.S.2d 631. Attorney And Client](#)  [59.14\(1\)](#); [Attorney And Client](#)  [59.14\(2\)](#)

Disbarment was warranted for attorney who shielded his personal funds from Department of Taxation and Finance (DTF) levy by placing his business and personal funds in his client escrow account, improperly issued approximately 153 checks from the account totaling \$109,039.95 for his personal use, and who failed to contest the charges against him or appear in the disciplinary proceedings. [In re Goldsmith \(1 Dept. 2007\) 43 A.D.3d 158, 839 N.Y.S.2d 30. Attorney And Client](#)  [59.14\(2\)](#)

Disbarment was warranted for attorney who committed multiple acts of deception, committed several improprieties involving his escrow account, abandoned his law practice for four months, converted client funds, failed to file important documents with federal immigration agency on behalf of vulnerable individuals, and failed to cooperate with disciplinary proceedings. [In re Comas \(1 Dept. 2007\) 40 A.D.3d 168, 833 N.Y.S.2d 55. Attorney And Client](#)  [59.14\(1\)](#); [Attorney And Client](#)  [59.14\(2\)](#)

New York attorney's misappropriation of client funds and related misconduct warranted disbarment, though misconduct arose from single client matter; misconduct involved proceedings before tribunals in both New York, in which state attorney was authorized to practice law, and in Florida, in which state he was not authorized to practice law, with attorney refusing to honor his stipulated agreement, with Florida State Bar's Unauthorized Practice of Law Committee, to make restitution to client as to settlement proceeds misappropriated by attorney, and with attorney acting with disdain as to Florida Supreme Court order effectively requiring restitution. [In re Ventura-Rosa \(1 Dept. 2007\) 39 A.D.3d 148, 831 N.Y.S.2d 123. Attorney And Client](#)  [59.14\(2\)](#)

Attorney's issuance of checks from his firm's attorney trust account after he had been suspended from practice of law, and other misconduct, warranted disbarment, in light of attorney's prior disciplinary history consisting of five Letters of Caution and three Letters of Admonition, in addition to five-year suspension he received in prior disciplinary proceeding. [In re Abrahams \(2 Dept. 2006\) 32 A.D.3d 44, 815 N.Y.S.2d 743. Attorney And Client](#)  [59.14\(2\)](#)

Disbarment was warranted for attorney who repeatedly and intentionally converted substantial client and third-party funds, initially attempted to mislead Disciplinary Committee in its investigation of his handling of those funds and failure to promptly return them, and continued to convert funds from one of his interest on lawyer accounts (IOLA) after he became aware that the Committee was investigating irregularities from his other IOLA account; attorney's submissions in mitigation were, at best, de minimis. [In re Kohn \(1 Dept. 2006\) 31 A.D.3d 203, 817 N.Y.S.2d 251. Attorney And Client](#)  [59.14\(2\)](#)

Attorney's misconduct in making misrepresentations that resulted in investor transferring funds to his escrow account as part of investment in client, and subsequent transfer of funds from the account without investor's consent warranted disbarment; attorney had prior instances of misconduct, and his unauthorized transfer resulted in investor losing \$6.2 million dollars and the virtual destruction of the value of its interest in client. [In re Robson \(1 Dept. 2006\) 31 A.D.3d 163, 815 N.Y.S.2d 95, leave to appeal denied 7 N.Y.3d 830, 823 N.Y.S.2d 119, 856 N.E.2d 209. Attorney And Client](#)  [59.14\(2\)](#)

Sanction of disbarment was warranted by attorney's systematic conversion, via variety of methods, of approximately \$185,000 of client and firm funds for his own personal use over five-year period, ending only when his acts were uncovered; attorney's offerings in mitigation did not present any extreme circumstances. [In re Pape \(1 Dept. 2006\) 31 A.D.3d 156, 817 N.Y.S.2d 49. Attorney And Client 🔑59.14\(2\)](#)

Disbarment was appropriate sanction for attorney found to have committed 48 violations of the Code of Professional Conduct, including mishandling and conversion of settlement money, permitting escrow account to fall below amount of money due to each of 22 clients, commingling personal funds with client funds, failing to properly maintain required bookkeeping records, and failing to file retainer and closing statements; misconduct was not an isolated incident, attorney offered no mitigating circumstances at hearing before Referee, and evidence supporting his motion for a lesser sanction did not include such unusual or uniquely compelling circumstances as to warrant mitigation. [In re Schuell \(1 Dept. 2006\) 27 A.D.3d 24, 808 N.Y.S.2d 201. Attorney And Client 🔑59.14\(2\)](#)

Attorney's failure to properly safeguard escrow funds, his commingling of personal funds with funds entrusted to him as fiduciary and his failure to maintain ledger book or similar record of deposits to and withdrawals from his interest on lawyer account (IOLA) warranted disbarment, in view of prior Admonitions for failure to re-register as attorney and failure to cooperate with Grievance Committee's investigation, Letter of Caution for aiding non-attorney in unauthorized practice of law, failure to supervise non-attorney staff, and failure to communicate with fellow attorney, and Letter of Caution for failure to re-register as attorney. [In re Biegelson \(2 Dept. 2005\) 25 A.D.3d 124, 803 N.Y.S.2d 144. Attorney And Client 🔑59.14\(2\)](#)

Disbarment was appropriate sanction for attorney found guilty of engaging in unauthorized practice of law in contravention of court's order of suspension, converting funds received on behalf of others during period of suspension, failing to file registration statement and pay registration fees required by statute, and failing to appear in disciplinary matter. [In re Rothenberg \(3 Dept. 2005\) 15 A.D.3d 772, 789 N.Y.S.2d 343. Attorney And Client 🔑59.14\(1\); Attorney And Client 🔑59.14\(2\)](#)

Disbarment was appropriate sanction for attorney found guilty of seven charges of professional misconduct, including engaging in conduct prejudicial to the administration of justice, commingling personal funds with client funds, engaging in conduct that adversely reflected on his fitness to practice law, and engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. [In re Davidson \(2 Dept. 2004\) 11 A.D.3d 11, 782 N.Y.S.2d 110, leave to appeal dismissed 7 N.Y.3d 741, 819 N.Y.S.2d 875, 853 N.E.2d 246. Attorney And Client 🔑59.14\(1\); Attorney And Client 🔑59.14\(2\)](#)

Attorney's conversion of client funds from escrow account, his commingling of personal funds and client funds in the account, and his cash withdrawals from the account warranted disbarment, despite absence of actual harm to any clients, the attorney's lack of venal intent, and his relative inexperience. [In re White \(2 Dept. 2004\) 9 A.D.3d 163, 779 N.Y.S.2d 92. Attorney And Client 🔑59.14\(2\)](#)

Sanction of disbarment was warranted for attorney's professional misconduct, including conversion of client's funds, where attorney had engaged in a pattern of deliberately false and deceptive conduct, including distortions of fact to

clients, courts, and Departmental Disciplinary Committee, and he had engaged in misrepresentations, lack of candor or remorse, and failure to acknowledge any misconduct throughout disciplinary proceedings. [In re Weinstein \(1 Dept. 2004\) 4 A.D.3d 29, 772 N.Y.S.2d 275](#), leave to appeal denied [3 N.Y.3d 608, 785 N.Y.S.2d 26, 818 N.E.2d 668. Attorney And Client](#)  [59.14\(2\)](#)

Attorney's use of trust account to conceal his personal funds from creditors and conversion of client funds by using trust account as personal bank account warranted disbarment, even though misconduct was limited to one account and funds were ultimately repaid. [In re McCann \(1 Dept. 2003\) 3 A.D.3d 5, 769 N.Y.S.2d 243. Attorney And Client](#)  [59.14\(2\)](#)

Under the totality of the circumstances, disbarment was warranted for attorney found guilty, in attorney disciplinary proceeding, of three serious charges of professional misconduct, including conversion of funds entrusted to him by clients, even though he was under treatment for an addiction to borrowing; attorney had a disciplinary history consisting of a letter of caution for using threats, harassing tactics, and abusive behavior toward, among others, a colleague and a party. [In re Mott \(2 Dept. 2003\) 309 A.D.2d 162, 765 N.Y.S.2d 383](#), leave to appeal denied [3 N.Y.3d 602, 782 N.Y.S.2d 406, 816 N.E.2d 196](#), certiorari denied [125 S.Ct. 621, 543 U.S. 1003, 160 L.Ed.2d 463](#), reinstatement granted [97 A.D.3d 683, 948 N.Y.S.2d 908. Attorney And Client](#)  [59.14\(2\)](#)

Attorney's misconduct, including substantial conversions from a client's funds and estate, fraudulently issuing checks on the estate account, neglect of the estate, and failure to cooperate with the investigation of the Committee on Professional Standards, warranted disbarment. [In re Phillips \(3 Dept. 2001\) 284 A.D.2d 897, 727 N.Y.S.2d 729.](#)

Disbarment was warranted for attorney's converting funds entrusted to attorney as fiduciary, failing to maintain record of all deposits into and withdrawals from escrow account, engaging in conduct prejudicial to administration of justice, engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, failing to provide Grievance Committee with required records pertaining to escrow account, failing to properly identify escrow account checks, engaging in a conflict of interest, failing to file a timely retainer statement, failing to file a timely closing statement, and engaging in conduct that adversely reflects on fitness to practice law. [Matter of Tems \(2 Dept. 1997\) 238 A.D.2d 65, 666 N.Y.S.2d 732. Attorney And Client](#)  [59.14\(1\)](#); [Attorney And Client](#)  [59.14\(2\)](#)

Disbarment was warranted for attorney's convictions of conspiracy and accessory after the fact, and for attorney's misconduct with respect to several client and personal matters, including, inter alia, violation of court directives to produce clients for depositions, conversion of client funds, solicitation of loan from client, and making of threat to "beat the living daylight" out of opposing counsel; attorney had a history of prior discipline and failed to cooperate with disciplinary investigations. [Matter of Pollack \(1 Dept. 1997\) 238 A.D.2d 1, 664 N.Y.S.2d 772. Attorney And Client](#)  [59.14\(4\)](#)

Intentional conversion of client funds to pay personal business expenses warranted disbarment, even if attorney intended to replenish the funds and did in fact pay back his clients. [Matter of Baumgarten \(1 Dept. 1997\) 236 A.D.2d 30, 663 N.Y.S.2d 568. Attorney And Client](#)  [59.14\(2\)](#)

Disbarment was warranted against attorney for intentionally converting client funds, making false representations to

court, making misrepresentations in depositions to Departmental Disciplinary Committee, sending escrow check to third party when he knew there were insufficient funds, violating court directive, and neglecting a legal matter, despite attorney's psychological problems, absent any evidence of causal connection. [Matter of Weiner \(1 Dept. 1997\) 233 A.D.2d 67, 663 N.Y.S.2d 153. Attorney And Client](#)  [59.14\(1\)](#); [Attorney And Client](#)  [59.14\(2\)](#)

Intentional conversion of client funds, "egregious" neglect of client matters, lying under oath to hearing panel, and failure to cooperate with investigation of case, warranted disbarment. [Matter of Lippman \(1 Dept. 1997\) 232 A.D.2d 69, 661 N.Y.S.2d 195. Attorney And Client](#)  [59.14\(1\)](#); [Attorney And Client](#)  [59.14\(2\)](#)

Attorney's misconduct in two real estate closing matters, one personal injury matter, and one eviction proceeding, giving rise to 18 disciplinary violations, including failure to deposit into IOLA account funds belonging to another person, failure to promptly pay or deliver property to third party, and conversion of client funds, warranted disbarment where attorney was under three-year suspension based on prior unrelated disciplinary proceeding involving conversion. [Matter of Pottinger \(2 Dept. 1997\) 232 A.D.2d 56, 662 N.Y.S.2d 126](#), leave to appeal denied [91 N.Y.2d 913, 669 N.Y.S.2d 256, 692 N.E.2d 126. Attorney And Client](#)  [59.14\(2\)](#)

Disbarment was appropriate sanction for attorney's misconduct in converting funds entrusted to him in fiduciary capacity and in failing to adequately safeguard such funds, by allowing his escrow account to become overdrawn on at least 41 separate occasions, for commingling personal and escrowed funds, and for failing to maintain ledger or similar record detailing his deposits and withdrawals from escrow account, notwithstanding lack of venality, steps taken by attorney to remedy his bookkeeping lapses, and emotional and medical problems from which attorney and his wife were suffering at time of his misconduct. [Matter of Fein \(2 Dept. 1997\) 230 A.D.2d 484, 658 N.Y.S.2d 67](#), leave to appeal denied [90 N.Y.2d 990, 665 N.Y.S.2d 954, 688 N.E.2d 1036. Attorney And Client](#)  [59.14\(2\)](#)

Attorney's repeated, intentional conversion of client funds for his own use, withdrawal of funds from escrow account by issuing and negotiating checks to cash, and neglect of client legal matters violated rule prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation, rule requiring that escrow funds be maintained intact, rule prohibiting withdrawals from escrow account to cash, and rule prohibiting conduct adversely reflecting on fitness to practice law, and warranted disbarment, in view of serious nature of misconduct and failure to contest charges. [Matter of Sam \(1 Dept. 1996\) 224 A.D.2d 119, 647 N.Y.S.2d 213. Attorney And Client](#)  [59.14\(2\)](#)

Disbarment was appropriate for attorney who, in representing executrix of estate, issued checks against estate funds, payable to himself, for amounts totaling \$399,320, where he did not enter into retainer agreement with executrix and did not submit any billing statements to her for his legal services, and where, after executrix had died, attorney neglected settlement of estate and benefited from the neglect by continuing to issue checks against estate funds, payable to himself. [Matter of Embser \(4 Dept. 1996\) 219 A.D.2d 156, 639 N.Y.S.2d 240. Attorney And Client](#)  [59.14\(1\)](#); [Attorney And Client](#)  [59.14\(2\)](#)

100. Reinstatement with censure

Reinstatement to the practice of law, with public censure, was warranted for attorney who was previously suspended following his guilty plea to violating statute prohibiting use of any false representation or statement, an unclassified

misdemeanor, based on his representation, in his application to convert a building to condominium ownership, that there were no vacant or sublet units of any kind in the building; despite pressure put on attorney by his clients, he was fully responsible for submitting documents that were not completely accurate. [In re Schwartz \(2 Dept. 2005\) 18 A.D.3d 44, 794 N.Y.S.2d 389. Attorney And Client 59.8\(3\); Attorney And Client 61](#)

Reinstatement to practice and censure, rather than continued suspension, was appropriate sanction after conviction in federal court for making false statement to federally-insured institution in connection with a loan, where there had been no prior disciplinary proceedings, where suspension in another state arising from same incident had ended, and where codefendant had already served comparable suspension and had been reinstated to practice. [Matter of Marcus \(2 Dept. 1998\) 240 A.D.2d 87, 669 N.Y.S.2d 350. Attorney And Client 59.8\(3\)](#)

Censure for professional misconduct and reinstatement to practice of law was warranted for attorney, who had been suspended pending charges, upon finding that he was guilty of professional misconduct immediately threatening public interest for failure to submit written answers to three complaints pending before Grievance Committee; attorney failed to comply with lawful demands of Grievance Committee in connection with investigations arising from complaint from individual, failure to reregister, and failure to cooperate in two investigations. [Matter of LiMandri \(2 Dept. 1997\) 229 A.D.2d 126, 652 N.Y.S.2d 758. Attorney And Client 59.8\(1\)](#)

Rules of Prof. Con., Rule 8.4 McK. Consol. Laws, Book 29 App., NY ST RPC Rule 8.4

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