

ORIGINAL

FILED

06/19/2019

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: PR 18-0516

IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 18-0516

FILED

JUN 18 2019

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana  
ORDER

IN THE MATTER OF DAVID S. FREEDMAN,  
An Attorney at Law,

Respondent.

On August 30, 2018, the Office of Disciplinary Counsel filed a formal disciplinary complaint against Montana attorney David S. Freedman in this matter. The Clerk of this Court served Freedman by certified mail with the Complaint and Citation to Appear. Freedman did not answer or appear. His default was entered January 22, 2019. The disciplinary complaint may be reviewed by any interested persons in the office of the Clerk of this Court.

The Commission on Practice held a hearing on the complaint on April 17, 2019, at which Freedman did not appear. On May 3, 2019, the Commission submitted to this Court its Findings of Fact, Conclusions of Law, and Recommendation for Discipline. Freedman did not file any objections within the extended time allowed.

The present complaint against Freedman arises from his 2015 agreement with Joyce Warner and Amanda Warner to represent them in a personal injury action. Amanda signed a contingency fee agreement with Freedman on May 28, 2015. The Commission found that the Warners fired Freedman on September 20, 2017, when he failed to take any action on their behalf or to communicate with them. Freedman did not send the Warners any documents related to the case despite their request. On their own behalf, the Warners successfully negotiated a settlement with the insurance company within a short time after terminating

Freedman's representation. After the Warners submitted a complaint to the Office of Disciplinary Counsel (ODC), Freedman failed to respond to any of ODC's inquiries.

The Commission found that Freedman violated Rules 1.1 and 1.3 of the Montana Rules of Professional Conduct (M. R. Pro. Cond.) when he failed to negotiate an insurance settlement for his client after more than two years, and that he violated M. R. Pro. Cond. 1.4 when he failed to reasonably communicate with the Warners or keep them apprised about the status of the matter. The Commission found that Freedman also violated M. R. Pro. Cond. 1.4 and 1.16(d) when he failed to return documents related to his client's case and failed to respond to the Warners at all. Finally, the Commission found that Freedman violated M. R. Pro. Cond. 8.1 and Rule 8A(6) of the Montana Rules for Lawyer Disciplinary Enforcement (MRLDE) when he failed to respond to or to communicate at all with ODC.

The Commission's Findings of Fact recount Freedman's prior disciplinary history with this Court. The Court publicly censured Freedman on January 10, 2017, for his actions in three separate cases in which he admitted multiple violations of the Rules of Professional Conduct, including M. R. Pro. Cond. 1.1, 1.3, 1.4, 1.16(d), and 3.4(d). Because of Freedman's complete failure to appear or respond, the Commission was unable to determine or opine on any underlying reasons or explanation for his conduct. It concluded that Freedman's conduct "evidences someone who should not be privileged to practice law in this state."

The Commission recommends that, as a result of his conduct and disciplinary history and his multiple violations of the Montana Rules of Professional Conduct, Freedman be disbarred. The Commission also recommends that Freedman be ordered to pay the costs of these proceedings. As noted, Freedman has filed nothing in response to the Commission's findings and recommendation.

Having reviewed the record, the Court concludes that the Commission's findings of fact are sound and its conclusions of law are correct.

Based upon the foregoing,

IT IS HEREBY ORDERED:

1. The Commission's Findings of Fact, Conclusions of Law, and Recommendation are ACCEPTED and ADOPTED.

2. David S. Freedman is hereby disbarred from the practice of law in Montana, effective thirty days from the date of this Order. Freedman is directed to give notice of his disbarment to all clients he represents in pending matters, any co-counsel in pending matters, all opposing counsel and self-represented opposing parties in pending matters, and all courts in which he appears as counsel of record in pending matters, as required by Rule 30 of the MRLDE.

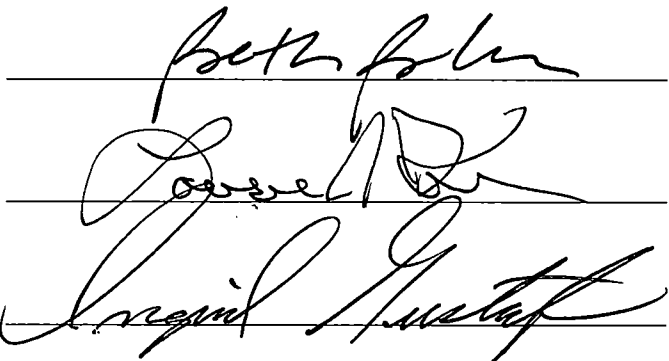
3. Freedman shall pay the costs of these proceedings subject to the provisions of Rule 9(A)(8), MRLDE, allowing objections to be filed to the statement of costs.

The Clerk of this Court is directed to serve a copy of this Order of Discipline upon David S. Freedman and to provide copies to Disciplinary Counsel; the Office Administrator for the Commission on Practice; the Clerks of all the District Courts of the State of Montana; each District Court Judge in the State of Montana; the Clerk of the Federal District Court for the District of Montana; the Clerk of the Circuit Court of Appeals of the Ninth Circuit; and the Executive Director of the State Bar of Montana.

DATED this 18<sup>th</sup> day of June, 2019.



Chief Justice



*Dir. Lb*

*James E. Rice*  
*James E. Rice*  
Justices