Summary of SC100727, *In re: Paul Eric Petruska*
Original disciplinary proceeding
Argued and submitted January 8, 2025; opinion issued March 4, 2025

Attorneys: The chief disciplinary counsel, Laura E. Elsbury, represented her office in Jefferson City, (573) 635-7400. Petruska was represented by Michael P. Downey and Paige A.E. Tungate of Downey Law Group LLC in St. Louis, (314) 961-6644.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: The chief disciplinary counsel challenges a disciplinary hearing panel's decision recommending an attorney be placed on probation with a stayed suspension after the attorney attempted to settle a case without authorization and made misrepresentations to the court in the process. In a 6-1 decision written by Judge Robin Ransom, the Supreme Court of Missouri suspends the attorney indefinitely with no leave to apply for reinstatement for three years. The attorney is ineligible for probation because disbarment is the baseline sanction for his misconduct. Because mitigating factors outweigh those in aggravation, a downward departure from the baseline sanction is warranted, making an indefinite suspension appropriate.

Judge Paul C. Wilson dissents. He believes a three-year suspension is not necessary to protect the public and the integrity of the profession; therefore, he would allow the attorney to apply for reinstatement after one year.

Facts: From 2013 to 2020, Paul Eric Petruska was a chief trial attorney for Zurich Insurance Company. His law firm defended Zurich's insureds who were sued for claims covered by their insurance policies. Adjusters in the Zurich claims department, however, controlled the final decision regarding settlements. In July 2018, Petruska represented Zurich and its insured, an automobile dealership, in a case involving an automobile accident with a mother and her daughter. The injured parties (plaintiffs) sued the automobile dealership and the employee (defendants). As the parties proceeded with depositions, Petruska had difficulty locating the dealership's then-former employee. Petruska hired a private investigator to locate the former employee. The circuit court later awarded sanctions as a result of the former employee's failure to appear. Petruska did not inform the defendants or Zurich's claims department about the sanctions. At some point near the end of October 2019, Petruska met with plaintiffs' counsel to discuss settlement. It became apparent the plaintiffs would accept $120,000. Petruska e-mailed plaintiffs' counsel explicitly stating he had the authority to offer $120,000 but was trying to get "a little more." Petruska sent a follow-up e-mail stating he was unable to get more but he had the $120,000 they discussed. Plaintiffs accepted the settlement terms on the condition the defendants paid costs, including the sanctions. Petruska drafted a settlement agreement and release for each plaintiff, and the plaintiffs executed those agreements. Neither the adjuster, the claims department, nor the defendants gave Petruska authority to settle the lawsuit. The circuit court ordered the settlement paid by January 10, 2020. Petruska and plaintiffs' counsel signed the order. When Petruska failed to pay the settlement, the circuit court extended the date and threatened to add post-judgment interest. Plaintiffs' counsel repeatedly requested payment of the

settlement, and Petruska responded with lies and delay, including sending an empty envelop to the plaintiffs' law firm at one point. Petruska further lied to the claims department to get a check issued for $2,185 that he said was for expert expenses but really was to cover the sanctions amount and was sent to plaintiffs' counsel. Petruska continued to misrepresent to the Zurich adjuster that the lawsuit was ongoing. In February, the plaintiffs moved for civil contempt for failure to pay the settlement. Petruska attempted to obtain the settlement funds in advance of the scheduled contempt hearing, lying to the adjuster and even requesting the dealership forward him the settlement funds. When Zurich finally learned of the unauthorized settlement, it terminated Petruska and Zurich paid the settlement, including $5,000 more than the original settlement to compensate the plaintiffs for the difficulties and delays. The chief disciplinary counsel filed an information alleging Petruska violated multiple rules of professional conduct. After a hearing, a disciplinary panel found Petruska committed misconduct and recommended he be placed on probation for three years with a stayed suspension. Petruska accepted the recommendation, but the chief disciplinary counsel rejected it, arguing Petruska is ineligible for probation.

SUSPENDED.

Court en banc holds: (1) Petruska's admitted misconduct in failing to keep his clients informed and mispresenting to the parties and the court he was authorized to settle the case violated Rules 4-1.2(a), 4-1.3, 4-1.4, 4-3.3, and 4-8.4(c) and subjects him to discipline.

(2) Because disbarment is the baseline sanction for Petruska's misconduct, he is ineligible for probation under this Court's rules. Disbarment is generally appropriate when a lawyer, intending to deceive a court, makes a false statement and causes potentially serious injury to a party or a potentially significant adverse effect on the legal proceeding. In misrepresenting the parties had settled, Petruska acted with the purpose to have the circuit court remove the upcoming trial setting. His purpose was to end the litigation, even without the agreement of his clients. He made further misrepresentations with the purpose of maintaining the status quo so he could gain settlement authorization from his clients. Falsely representing there was a settlement caused the parties unnecessary delay and expense and unnecessary court involvement. Such actions demonstrate Petruska's requisite intent to deceive, warranting disbarment and preventing probation.

(3) Suspension is the appropriate discipline. Against the baseline sanction of disbarment, this Court considers aggravating and mitigating factors in assessing the appropriate discipline. In aggravation, Petruska acted with dishonest motive, engaged in a pattern of misconduct, and committed multiple offenses despite his substantial experience in the practice of law. In mitigation, however, Petruska has no previous disciplinary record, demonstrated commendable involvement in his community ,cooperated throughout the disciplinary process, and expressed remorse for his actions. It is also relevant the actions giving rise to Petruska's multiple violations involve a single, underlying matter. Because these mitigating factors outweigh those in aggravation, a downward departure from the baseline sanction is warranted.

Dissenting opinion by Judge Wilson: The author concurs with the principal opinion's findings and conclusions as to misconduct; however, the author believes a three-year suspension is greater than necessary to protect the public and the integrity of the profession. The author would permit Petruska to apply for reinstatement after one year.