

**MITCHELL R. BARKER**

(Suspension)

On March 2, 2015, the Idaho Supreme Court issued a Disciplinary Order suspending Nampa attorney, Mitchell R. Barker, from the practice of law for a period of fifteen (15) months, with six (6) months of that suspension withheld and placing him on probation following any reinstatement.

The Idaho Supreme Court found that Mr. Barker violated I.R.P.C. 1.2(a) [Failure to abide by client's decisions concerning the objectives of representation and consult with the client as to means by which those objectives will be pursued], I.R.P.C. 1.3 [Failure to act with reasonable diligence and promptness], I.R.P.C. 1.4 [Failure to reasonably communicate with client] and I.R.P.C. 1.16(a)(2) [Failure to withdraw when the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client]. The Idaho Supreme Court's Disciplinary Order followed a stipulated resolution of an Idaho State Bar discipline case in which Mr. Barker admitted that he violated those Idaho Rules of Professional Conduct.

Mr. Barker's misconduct related to his defense of two clients in a civil case. Plaintiff claimed Mr. Barker's clients defaulted on loans secured by promissory notes and personal guarantees. Mr. Barker's clients initially represented themselves in the litigation and were facing a motion to deem requests for admissions admitted and a motion to compel discovery responses. The hearings on those motions were vacated based upon Mr. Barker's appearance. Plaintiff then filed a motion for summary judgment and scheduled a hearing. Mr. Barker did not file any opposition or objection to the motion for summary judgment, failed to provide any discovery

responses to Plaintiff and failed to appear at the hearing on the amended motion to compel. After that hearing, Plaintiff filed a separate civil action against Mr. Barker's clients and another entity controlled by them. That case was eventually consolidated with the other pending case. Mr. Barker then filed a motion to withdraw and affidavit in support stating that he had been suffering from personal health difficulties and had received notice that he had recently been determined to be disabled. He stated he was closing his law practice and that his illness interfered with his representation of his clients. The court granted the motion to withdraw. The clients eventually appeared with new counsel and the case was completed on the merits.

The Disciplinary Order requires that before he can be reinstated following his suspension, Mr. Barker must demonstrate that, medically and psychologically, he will be able to resume the practice of law in a fashion that will not be detrimental to the integrity of the Bar, to the administration of justice or against the public interest. The Disciplinary Order provides that the nine (9) month suspension will be served following Mr. Barker's current suspension, through February 29, 2016. Mr. Barker will serve a two (2) year probation following any reinstatement, subject to conditions of probation specified in the Order. Those conditions include that Mr. Barker will serve the additional six (6) month suspension if he admits or is found to have violated any of the Idaho Rules of Professional Conduct for which a public sanction is imposed for any conduct during the period of probation. Mr. Barker must also remain under his physician's care; comply with any treatment regimen prescribed by his physician and other health care providers; and provide monthly reports to Bar Counsel attesting that he is representing his clients consistent with his responsibilities under the Idaho Rules of Professional Conduct.

Inquiries about this matter may be directed to: Bar Counsel, Idaho State Bar, P.O. Box 895, Boise, Idaho 83701, (208) 334-4500.