

## **ADMONITION NO. 06-22**

### **CLASSIFICATIONS:**

Failing to Act Diligently [Mass. R. Prof. C. 1.3]

Failing to Communicate Adequately with Client [Mass. R. Prof. C. 1.4]

### **SUMMARY:**

The respondent was retained in 2002 to represent an out-of-state corporation as plaintiff in a contract dispute. The respondent promptly filed suit in superior court and made service on the defendant. The defendant filed an answer in January 2003. The respondent thereafter took no further action to prosecute the claim and was unaware that the suit was dismissed in 2004 for failure to pay an annual civil litigation assessment fee.

Commencing at least as of 2004 and continuing into 2005, the president of the client corporation and its in-house counsel repeatedly attempted, both by telephone and letter, to contact the respondent in order to ascertain the status of the lawsuit. In mid February 2005, the respondent spoke to counsel and said that he would respond as soon as he located the file. The client and counsel thereafter sent the respondent two more letters to which the respondent did not reply. Counsel therefore discharged the respondent in writing in April 2005. The respondent then telephoned counsel and advised him that he had located the file and that the civil complaint had been dismissed, but that the respondent would refile it.

When the lawsuit had not been refiled by September 2005, the client filed a complaint with bar counsel. After the complaint was filed, the respondent again offered to refile the lawsuit and, with the client's consent, did so in December 2005.

The respondent's conduct in failing to pursue the client's claim diligently and in failing to reply to the client's inquiries is in violation of Mass. R. Prof. C. 1.3 and 1.4. The respondent

accordingly received an admonition, conditioned upon attendance at a CLE course designated by Bar Counsel.