

ADMONITION NO. 06-05

CLASSIFICATIONS:

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

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

SUMMARY:

The respondent represented a wife in a divorce action. In January 1995, the respondent filed a complaint for divorce and a motion for temporary orders for the client. Pursuant to an agreement between the parties, the court ordered the husband to pay \$200 per week in spousal support, provide health insurance coverage, and contribute toward the wife's uninsured medical costs.

At a pretrial conference in the case in November 1995, the respondent requested a continuance so that she could retain an expert to review the husband's municipal employee pension benefits, the only asset of significance in the marriage. The court allowed the respondent's request and continued the case indefinitely until the respondent was ready to proceed on the pension issue.

After November 1995, however, the respondent took no action of substance in the case. In July 1997, the court sent notice that the case was being placed in inactive status pursuant to Probate Rule 408, because no activity had occurred in the case for over one year. Upon receipt of this notice, the respondent promptly requested an updated financial statement

from the husband, thereby restoring the case to the active docket. The court sent a second Rule 408 notice to the respondent in July 2000. The respondent did not respond or take action to restore the case to the active list after July 2000. In September 2001, the court dismissed the case, thereby terminating the existing temporary support and health insurance orders.

The respondent's client discovered that her case had been dismissed in October 2001, when her support payments ceased. The client went to the respondent's office to speak to the respondent about what had happened, but the respondent was in court. Thereafter, when the respondent contacted the client, the client informed the respondent that she had retained a new lawyer to represent her in her divorce case. The client's new lawyer filed a new complaint for divorce and a new request for temporary orders. In November 2001, the court entered new orders, reinstating the client's support order and health insurance coverage.

The respondent's neglect of the client's case between 1998 and 2001 violated Mass. R. Prof. C. Rule 1.3 (lawyer shall act with reasonable diligence and promptness). The respondent's failure to keep the client adequately informed about the status of the case violated Mass. R. Prof. C. Rule 1.4 (lawyer shall keep the client reasonably informed about the status of a case).

The respondent has no prior disciplinary history. The respondent received an admonition for her misconduct conditioned on her completion of a continuing legal education course to be specified by bar counsel.