

ADMONITION NO. 06-06

CLASSIFICATION:

Improper Contingent Fee [Mass. R. Prof. C. 1.5(c)]

SUMMARY:

On July 7, 2004, the client hired the respondent to represent him in a wrongful termination case against the client's former employer. The client had been employed with a local hospital as a phlebotomist. In drawing blood from a patient, he was stuck with a needle and underwent several months of testing before it was determined that he had not contracted HIV or hepatitis. As a result of this incident, the client began demanding that the hospital review and revise their safety procedures. According to the client, the hospital fired him in retaliation for his efforts to change safety procedures.

The respondent took over the case from the client's first attorney, who withdrew after working on the case for approximately one year because the client had rejected the attorney's advice concerning settlement. The respondent states that he and the client agreed to a contingent fee of one-third of the settlement amount plus expenses. The respondent, however, failed to execute a written agreement as required by Mass. R. Prof. C. 1.5(c). The case was settled for \$9,000 and the respondent sought to enforce his oral agreement with the client.

The respondent's failure to execute a written contingent fee agreement with the client constituted a violation of Mass. R. Prof. C. 1.5(c). The respondent received an admonition conditioned upon his attendance at a CLE course designated by Bar Counsel.