

ADMONITION NO. 06-04

CLASSIFICATIONS:

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

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

Failure to Cooperate in a Bar Discipline Investigation [Mass. R. Prof. C. 8.4g]

Failure to Cooperate in a Bar Discipline Investigation [S.J.C. Rule 4:01, § 3]

SUMMARY:

In February 2003, the client, a firefighter, was forced to retire due to “atypical chest pain”. The client retained the respondent to modify his divorce agreement to reduce his alimony payments to his ex-wife, and he provided the respondent with a doctor’s letter. In February 2003, the respondent filed a complaint for modification, and a motion for temporary orders, seeking a reduction in alimony with the court.

After hearing, the motions were denied without prejudice, citing insufficient information. However, the client discontinued paying alimony because his income had been greatly reduced upon retirement, and he suffered a lapse in benefits.

In April 2003, the client's ex-wife filed a complaint for contempt, and in June 2003, the client's ex-wife filed a motion for attachment by trustee process. The trustee process was allowed in June 2003. By letters to the respondent, the client requested that the respondent update him on the status of the case and complained that she had failed to respond to his inquiries. The respondent failed to make contact with her client until the following year in July 2004.

In September 2004, the ex-wife's counsel filed a motion to compel seeking, among other things, the client's complete medical records. The motion was allowed. The respondent received the medical records, but failed to forward them to opposing counsel, and failed to inform her client of her inaction. The respondent ignored the client's subsequent calls and failed to withdraw from the representation.

After filing a complainant with the Office of the Bar Counsel, the client requested that the respondent withdraw from his case and return his file. The respondent still took no action.

The respondent did not cooperate with bar counsel's requests for information, and failed to appear pursuant to a subpoena. As a result, the Supreme Judicial Court entered an order of administrative suspension, after which the respondent filed with the court her notice of withdrawal and provided the file to the client.

During the relevant time period, the respondent had serious medical problems, underwent two surgeries and was responsible for her mother's care due to the sudden onset of dementia.

The respondent's failure to act with reasonable diligence and promptness in representing her client, and her failure to communicate with her client, is a violation of Mass. R. Prof. C. 1.3 and 1.4. The respondent's failure to respond to bar counsel's requests for information until after an order of administrative suspension entered violated Mass. R. Prof. C. 8.4(g) and Supreme Judicial Court Rule 4:01, § 3.

The respondent received an admonition for the above violations. In connection with this disposition, the respondent agreed to attend a CLE program designated by bar counsel.