

## **ADMONITION NO. 03-09**

### **CLASSIFICATIONS:**

Conduct Involving Misrepresentation [Mass R. Prof. C.8.4(c)]

Conduct Prejudicial to the Administration of Justice [Mass R. Prof. C. 8.4(d)]

**SUMMARY:**

The respondent represented a client in a suit against the client's former lawyers. He filed a verified complaint on the client's behalf in July 1995. In August 1996, the respondent prepared a motion to amend the complaint to add the individual members of the former lawyers' law firm as defendants in the action and to add a new count to the complaint for an accounting. The client read and personally verified the amended complaint which was attached to the motion to amend.

In January 1997, the court allowed the motion to add the members of the law firm as defendants, but denied the request to add a count to the complaint. In about February or March, the respondent prepared a new verified amended complaint conforming to the court's ruling. In all respects other than the deletion of the count seeking an accounting, the new complaint was identical to the complaint the client had verified in August 1996.

The respondent sent the modified amended verified complaint to the client for his review and signature. When the respondent did not receive it back in time so that it could be filed in court in a timely manner, he attempted to reach the client by telephone. When the respondent was finally able to reach the client on the phone, they reviewed the contents of the amended verified complaint. The respondent understood that the client was unavailable to come to his office to personally sign the verified amended complaint. For this reason, the respondent obtained permission from the client to sign the complaint on the client's behalf as the client's free act and deed.

Opposing counsel brought a motion to dismiss the complaint when they discovered that the respondent had both signed the verified complaint on the client's behalf and notarized the client's purported signature on the verification. When the issue was brought before a judge, the respondent admitted his conduct and was sanctioned \$250, which he paid. The court denied the motion by the defendants to have the case dismissed because of the respondent's conduct as no one was prejudiced by the respondent's conduct.

By filing a verified amended complaint purporting to have been signed by his client under the pains and penalties of perjury, but which the respondent knew had not been signed by the client, and by falsely notarizing the client's purported signature, the respondent violated Mass. R. Prof. C. 8.4(c) (conduct involving misrepresentation) and Mass. R. Prof. C. 8.4(d) (conduct prejudicial to the administration of justice).

The respondent was admitted in 1971 and has no prior discipline. The respondent received an admonition for his misconduct in this matter.