

ADMONITION NO. 00-09

CLASSIFICATIONS:

Knowingly Disobeying Rules of Tribunal [Mass. R. Prof. C. 3.4(c)]

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

SUMMARY:

The respondent terminated her representation of a client in December of 1998. The respondent sent the client a letter acknowledging that she owed the client a refund of the unearned portion of her retainer, and told the client that she would be paid in full by January 1, 1999. When the respondent failed to repay the balance of the retainer by March of 1999, the client filed a small claims suit. After the respondent failed to appear at the hearing, the court issued a default judgment in favor of the client. When the respondent failed to pay the judgment or to appear as ordered for the show cause hearing, a *capias* was issued.

By failing to comply with a court payment order and an order to appear for a show cause hearing, the respondent violated Rule 3.4(c) of the Massachusetts Rules of Professional Conduct. By failing to appear in court on two separate occasions and to pay a lawful court order, necessitating the issuance of a *capias*, the respondent violated Rule 8.4(d) of the Massachusetts Rules of Professional Conduct.

In mitigation, it was not clear that the respondent ever received the funds which were paid by the client as a retainer to her predecessor counsel. In addition, during the period in question the respondent was experiencing complications with her pregnancy for which she was put on bed rest. The respondent paid the client the amount of the court's payment order.

The respondent, who was admitted to practice in 1996 and had received no prior discipline, received an admonition for her conduct.