

## **ADMONITION NO. 21-16**

### **CLASSIFICATIONS:**

Handling a Legal Matter when Not Competent or without Adequate Preparation [Mass. R. Prof. C. 1.1]

Conduct Adversely Reflecting on Fitness to Practice [Mass. R. Prof. C. 8.4(h)]

### **SUMMARY:**

The respondent, an experienced family law practitioner, had a long-time friend living in New York, who was engaged in a high conflict custody dispute with the mother of his child. In December of 2018, that dispute focused on parenting time over the holidays. The presiding court in New York had previously entered an order requiring shared time, pursuant to which the father was required to drive to and from New York and Massachusetts four times in the week encompassing Christmas and New Year's Day to spend time with his child. It was the father's position, however, that the parties had recently agreed to enter a stipulation to extend his parenting time to include the entire period between Christmas evening and New Year's Day and that the mother should share the burden of travel.

On December 23, 2018, the father picked up his child from the mother. After he left, there was a dispute over whether the existing court order controlled the visit or whether the father could keep his daughter throughout the holidays.

On December 24<sup>th</sup>, the father contacted the Respondent for what he characterized as an "emergency" situation. He claimed that the mother had threatened to call the police if he did not "return the child immediately," and asked the Respondent to correspond with the child's mother on his behalf. The respondent had not previously represented the father in the matter.

Relying only on what the father told her and provided to her, the respondent sent an email to the mother stating that it was her opinion that the father was authorized to keep the child over the holidays under the recent stipulation and that the father had filed a petition to change the custody arrangement. If the respondent had reviewed the relevant documents, she would have learned that a new stipulation regarding custody over the holidays had not yet been entered by the court and that the father was taking an action that likely violated the controlling custody order.

The mother was very distressed by the respondent's email and asked her lawyer from the prior proceeding to intervene in the situation. The lawyer immediately emailed the respondent objecting to the respondent's representations regarding the custody arrangement, at which point

the respondent withdrew from the matter. The mother thereafter acquiesced to allowing the child to stay with the father during the entire holiday period, but after picking up the child, filed a petition for contempt against the father for his actions. The parties ultimately settled the matter and agreed to a modification of the holiday schedule.

By sending a communication regarding a legal matter without fully ascertaining the facts, the respondent violated Mass. R. Prof. C. 1.1 and 8.4 (h). The respondent has no history of discipline. She received an admonition for her misconduct.