

ADMONITION NO. 25-08

CLASSIFICATION:

Withdrawal without Protecting Client or Refunding Unearned Fee or Expense [Mass. R. Prof. C. 1.16(d)]

SUMMARY:

In March 2023, a client retained the respondent to represent him in defense of a divorce action filed in the Hampden Probate and Family Court. The parties entered a fee agreement, pursuant to which the client agreed to pay the respondent a \$7,500 flat fee to represent him at all stages of the divorce proceedings. The client promptly paid the respondent this fee.

Over the next few months, the respondent performed some initial work on the client's case. The respondent prepared a draft of an answer and counterclaim. However, shortly afterwards, in July 2023, the divorce action was dismissed for the wife's failure to file a return of service.

The client and the respondent thereafter had several communications about next steps, including whether the client wanted to proceed with his own divorce action or perhaps pursue mediation as an alternative. The client ultimately declined both options and asked the respondent to pause services while he figured out what he wanted to do. On October 26, 2023, the client emailed the respondent and formally terminated the respondent. In his email, the client requested a refund of the unearned portion of his flat fee since the divorce action never went forward and the respondent, in any event, had done very little substantive work beyond drafting the answer and counterclaim (which was only 2 pages). The respondent did not provide a refund to the client.

Because the respondent failed to respond to the client's request for a refund, the client filed a complaint with bar counsel seeking assistance. Following bar counsel's intervention, the respondent refunded the unearned portion of the fee to the client.

By failing to promptly refund the unearned portion of the fee when the representation ended, the respondent violated Mass. R. Prof. C. 1.16(d).

The respondent was admitted to practice in 2015 and has no prior discipline. In this matter, the respondent received an admonition.