

ADMONITION NO. 13-02

CLASSIFICATIONS:

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

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

Failing to Communicate Adequately with Client [Mass. R. Prof. C. 1.4(a) and (b)]

Withdrawal without Protecting Client [Mass. R. Prof. C. 1.16(d)]

SUMMARY:

In 2005, the respondent represented a client who was rear-ended in an automobile accident. The client was permanently disabled by the accident. The respondent filed a civil action on behalf of the client within the statute of limitations. The respondent failed to effect service, causing the case to be dismissed. The respondent was able to have the case reinstated, but it was dismissed again on December 15, 2009 when the respondent failed timely to respond to discovery requests.

The respondent did not inform the client of either dismissal. On December 17, 2010, the respondent filed an emergency motion to vacate the dismissal. The motion was untimely and was denied.

The respondent failed to respond to his client's requests for information concerning the status of the matter. The client contacted the court and learned that the matter had been dismissed. The client retained successor counsel and sent an email to the respondent directing him to send the client's file to the client's new lawyer. The respondent failed to send the file or otherwise respond to the client's request.

The client pursued a malpractice claim against the respondent. The respondent cooperated with successor counsel in reaching a satisfactory settlement of the malpractice claim.

The respondent's failure to diligently pursue the client's case violated Mass. R. Prof. C. 1.1 and 1.3. The respondent's failure to inform the client that the case had been dismissed violated Mass. R. Prof. C. 1.4(a) and (b). The respondent's failure to respond to the client's inquiries about the case violated Mass. R. Prof. C. 1.4. The respondent's failure to promptly return the file upon request violated Mass. R. Prof. C. 1.16(d).

AD NO. 13-02

Page Two

The respondent was admitted to the Bar of the Commonwealth in December 1985 and had no prior history of discipline. In mitigation of his misconduct, the respondent cooperated with successor counsel in the resolution of the malpractice claim. The respondent received an admonition for his misconduct.