

**IN RE: MARK M. FREEMAN****NO. BD-2010-0117****S.J.C. Order of Term Suspension entered by Justice Botsford on December 22, 2011.¹**
(S.J.C. Judgment of Reinstatement with Conditions entered by Justice Botsford on July 9, 2012.)**SUMMARY²**

The respondent neglected a matter and failed to cooperate with bar counsel's investigation into the neglect, as follows.

On October 4, 2004, a client was seriously injured in a fall. She promptly retained the respondent to represent her in a personal injury case and signed a contingent fee agreement. On October 1, 2007, the respondent filed a civil complaint on the client's behalf against one defendant and shortly thereafter amended the complaint to add a second defendant. Thereafter, the respondent took no action to obtain service of process on either defendant, and in April 2008, the court entered a judgment of dismissal as to both defendants, stating that it appeared that service of process had not been completed upon the defendants. The respondent took no steps to vacate the judgment of dismissal.

From 2006 to 2010, the client called the respondent repeatedly to obtain information about the status of her case. The respondent was frequently non-responsive. When the respondent did speak with the client after the dismissal in April 2008, he did not advise her that her suit had been dismissed. In early 2010, approximately two years after the case had been dismissed, the respondent told the client that he would be getting a court date in six months and that he needed her to sign some medical release forms and would send them to her. He never sent any medical release forms to the client.

In September 2010, the client filed a complaint against the respondent with bar counsel. The respondent failed to cooperate with bar counsel's investigation, and on April 30, 2010, the Supreme Judicial Court for Suffolk County entered an order of immediate administrative suspension suspending him from the practice of law effective immediately upon entry of the order. The respondent did not comply with the Court's order of immediate administrative suspension.

The respondent's failure to complete service of process in the client's personal injury matter or to take any steps to vacate the judgment of dismissal was in violation of Mass. R. Prof. C. 1.1, 1.2(a), and 1.3. The respondent's failure to adequately communicate with the client throughout the representation, respond to her requests for information, and advise her that her suit had been dismissed was in violation of Mass. R. Prof. C. 1.4(a) and (b). The respondent's conduct in implying that the client's case was still pending after it had been dismissed constituted a misrepresentation in violation of Mass. R. Prof. C. 8.4(c).

¹ The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

² Compiled by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.

The respondent's conduct in knowingly failing without good cause to cooperate with bar counsel's investigation or to comply with the Court's order of immediate administrative suspension was in violation of Mass. R. Prof. C. 8.1(b), 8.4(d), (g), and (h), and S.J.C. Rule 4:01, § 3.

In mitigation, the respondent has suffered from severe depression since 1999, and it affected his handling of the client's matter and his response to bar counsel's investigation. The respondent began treatment with his current doctor in January 2011 and made good treatment progress, as evidenced by his compliance in October 2011 with the Court's administrative suspension order of April 30, 2010. Despite his progress, the respondent was not ready to resume practice in October 2011. The respondent has notified his malpractice carrier.

The matter came before the Board of Bar Overseers on a stipulation of facts and disciplinary violations and a joint recommendation that the respondent be suspended for six months, retroactive to October 21, 2011, the date of compliance with the administrative suspension order, and that he be required to petition for reinstatement before being allowed to resume the practice of law. On November 14, 2011, the board voted to recommend that the Supreme Judicial Court accept the parties' stipulation and joint recommendation for discipline. The Court so ordered on December 22, 2011.