IN RE: EDWARD FRANCIS PASQUINA, JR.
NO. BD-2012-068

S.J.C. Order of Term Suspension/Stayed entered by Justice Duffly on November 27, 2012.[1]

SUMMARY[2]

On May 22, 2012, the New Hampshire Supreme Court Professional Conduct Committee (PCC) suspended the respondent, Edward Francis Pasquina, Jr., for six months, but stayed imposition of the suspension for one year, on a number of conditions. The conditions included that the respondent, who is not a member of the New Hampshire bar, not practice law or assist anyone else in the practice of law in connection with any case involving New Hampshire parties or claims and shall not appear in any such capacity before any court in New Hampshire; that the PCC order be reported to the Massachusetts Board of Bar Overseers; and that if the respondent subsequently moves for *pro hac vice* admission in New Hampshire at any time, he disclose the denial of his *pro hac vice* motion that resulted in the PCC's order, and the results of the PCC's proceedings.

The New Hampshire discipline resulted from the respondent's attempt to file a civil action for a client in the Hampton District Court in April of 2009. Because there was a statute of limitations issue looming, the respondent prepared a complaint and brought it to the Hampton courthouse on April 28. He was not permitted to file the complaint because he did not have a writ of summons, was not a New Hampshire lawyer and had no *pro hac vice* motion. He was advised by a judicial referee that the writ needed to be signed by a New Hampshire lawyer.

The respondent then talked with a New Hampshire lawyer, who gave him permission to sign his name to the writ of summons and told him to also file a *pro hac vice* motion. The respondent returned to the Hampton courthouse the next morning with a complaint in the New Hampshire lawyer's name but without a *pro hac vice* motion. In front of the clerk, the respondent filled out a form writ and signed the New Hampshire lawyer's name to it, with "asst" next to the signature meaning "assent". The clerk accepted the complaint for filing.

A month later, the respondent appeared with the New Hampshire lawyer before the Hampton District Court on an unrelated criminal case, with a *pro hac vice* motion designating the New Hampshire lawyer as local counsel. The judge held a conference in chambers on the circumstances of the filing of the civil case. The judge determined that the case had been improperly filed because the writ had not been signed by a New Hampshire lawyer, and he dismissed the civil case. The judge also denied the *pro hac vice* motion in the criminal case. The respondent advised the civil client of the dismissal of his case and that he could consult with malpractice counsel. The respondent then compensated the client in an amount satisfactory to the client.

The PCC concluded that in signing the New Hampshire lawyer's name to the writ when not admitted *pro hac vice*, the respondent had violated Rule 3.4(c) of the New Hampshire Rules of Professional Conduct. The PCC also concluded that the respondent had initially failed to cooperate with New Hampshire disciplinary counsel's investigation of the matter, in violation of Rule 8.1(b).

On August 1, 2012, bar counsel filed a petition for reciprocal discipline with the Supreme Judicial Court for Suffolk County. The parties filed a waiver of hearing and assent to the entry

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[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.

of an order of reciprocal discipline on November 2, 2012. On November 27, 2012, the Court (Duffly, J.) issued an order suspending the respondent for six months, with execution of the suspension stayed for one year from May 22, 2012, conditioned on the respondent's compliance with the conditions imposed by the PCC. The order also provided that after one year from the date of entry, the respondent may file an affidavit with bar counsel and the Court with proof of his successful completion of the above conditions and of the termination of the New Hampshire suspended suspension, and may request an order that he is no longer subject to the six-month suspension.