

**IN RE: LEONARD A. GLIONNA****NO. BD-2013-014****S.J.C. Order of Term Suspension entered by Justice Spina on March 4, 2013, with an effective date of April 3, 2013.<sup>1</sup>****SUMMARY<sup>2</sup>**

On February 2, 2000, a woman (the client) was in an accident while driving an automobile in Medford. She was hit from behind while stopped. She suffered pain in her back and incurred about \$7,000 in medical expenses and \$4,000 in lost wages. Medical records opined that she had aggravated a preexisting degenerative back. She also received physical therapy and claimed continuing pain and suffering from the accident.

On September 20, 2000, the client was involved in another automobile accident. She was again hit from behind while stopped. She suffered pain in her neck and underwent physical therapy. In this case, there was little damage to either vehicle and no permanent or continuing injury was documented. However, the client incurred about \$2,659 in medicals and thus met the minimum medical threshold for a bodily injury claim.

In both accidents, the at-fault drivers had minimum compulsory insurance of \$20,000 per person. The client had her own policy of underinsurance coverage in the amount of \$100,000 per person, \$300,000 per occurrence.

The client retained an attorney in connection with the first automobile accident. After the second accident, the client retained the same attorney to handle that case as well. That attorney (the first attorney) requested that the respondent assist him on the two cases. The respondent and the first attorney had separate offices and were not associated together in practice at any time.

Beginning in April 2000, the respondent worked on the two cases including making demands upon or negotiating with the insurance carriers.

On January 31, 2003, the respondent drafted and filed a civil complaint on behalf of the client in the Middlesex Superior Court in connection with the first accident. The respondent filled out and signed the civil action cover sheet and certification that he had notified the client of alternative dispute resolution. The respondent and the first attorney

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

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

each signed the complaint under his own signature block. The respondent took no action to serve process on the defendants except to assume that the first attorney would serve and file the papers. On June 2, 2003, the Superior Court entered a judgment of dismissal under Standing Order 1-88 for failure to serve process and file a return of service.

On September 19, 2003, a civil complaint was filed in the Lowell District Court in connection with the second accident. The respondent and the first attorney each signed the complaint under his own signature block. The respondent drafted and signed the Statement of Damages that was filed with the complaint. The respondent took no action to serve process on the defendants except to assume that the first attorney would serve and file the papers. On February 19, 2004, the Lowell District Court civil action was dismissed for failure to make timely service under Mass. R. Civ. P. Rule 4(j).

On divers times and occasions between February 2004 and January 2009, the client communicated with the respondent by phone and in person to inquire as to the status of her cases. At no time did the respondent research the status of the cases that he filed in the two courts, question the first attorney as to the status of the cases, attempt to conduct discovery or otherwise attempt to move the civil actions forward.

Between February 2004 and January 2009, the respondent repeatedly informed his client that the two cases were “progressing” and that civil cases take time to resolve. From April 30, 2007, until November 21, 2008, the respondent was on retirement status. At no time did the respondent withdraw his appearance for his client in the two cases or inform client that he was on retirement status or that or that any other attorney would be responsible for her cases. During the time that the respondent was on retirement status, the client attempted to locate the respondent’s office, but could not.

On or before July 2009, the client learned that her cases had been dismissed and retained successor counsel pursue a malpractice claim against the respondent. The parties reached a settlement in which the respondent agreed to pay to the client \$125,000.00. To date, the respondent has paid the client \$25,000.00.

The respondent’s failure to make service of process and to diligently prosecute and monitor his client’s two cases and his neglect of a legal matter entrusted to him, violated Mass. R. Prof. C. 1.2(a), 1.3. By failing to inform his client that he was on retirement status, the respondent violated Mass. R. Prof. C. 1.4(a) and (b). The respondent’s repeated assurances to his client that the cases were progressing, without adequate foundation or investigation, is conduct in violation of Mass. R. Prof. C. 1.4(a) and 8.4(h).

In aggravation, on March 18, 2000, the respondent received an admonition in two files for handling an immigration matter that he was not competent to handle and for failure

to timely draft and record a family trust. AD No. 00-11, 16 Mass. Att'y Disc. R. 465 (2000). On February 13, 2004, the respondent received a public reprimand for commingling, inadequate record-keeping and negligent misuse without intent to deprive, with medical mitigation 20 Mass. Att'y Disc. R. 164 (2004).

The parties stipulated to suspension for six months and one day. In addition, prior to reinstatement, the parties agreed that the respondent shall obtain and maintain for at least two years legal malpractice insurance with liability limits of at least \$500,000 per claim and \$1,000,000 in the aggregate and a deductible not to exceed \$10,000. On February 14, 2013, the Board of Bar Overseers voted to adopt the parties' stipulation and proposed sanction and to file an information with the Supreme Judicial Court recommending that the respondent be suspended from the practice of law for six months and one day with the agreed to condition. On March 4, 2013, the Court so ordered, effective in thirty days from the date of the order.