

**IN RE: PETER T. SARGENT****NO. BD-2013-117****S.J.C. Order of Term Suspension/Stayed entered by Justice Lenk on February 3, 2014.¹****SUMMARY²**

Peter T. Sargent (the respondent) was admitted to the practice of law in Massachusetts on June 28, 1994.

On or about October 4, 2010, the client engaged the respondent to represent her in a pending divorce proceeding filed by her husband. At the time the client engaged the respondent, she had physical custody of the daughter, and she and her husband shared legal custody. The husband sought full custody of the daughter, while the client's goal was to retain physical custody.

The court had appointed a GAL prior to the respondent's engagement. Shortly after the respondent was engaged, the GAL filed a report with the court. She recommended that the client retain physical custody of the couple's daughter. On March 10, 2011, the GAL filed an updated report in which she continued to recommend that the client retain physical custody of the daughter.

A trial of the matter in the probate court was ultimately scheduled for July of 2011. The respondent failed to interview potential witnesses, failed to adequately prepare his client to testify, failed to subpoena the GAL and failed to file a witness list within the time period set by the court. Because the respondent failed to file his witness list timely, the judge issued an order precluding the respondent from calling any witnesses other than the client.

The respondent also failed to provide responses to the husband's discovery. Consequently, the court issued orders precluding the respondent from introducing any evidence at trial that had been requested by the husband in the interrogatories and document requests. The respondent failed to inform the client that he had not responded to discovery requests and did not advise her about the court's preclusion orders.

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.

At trial on July 19, 2011, the husband's counsel successfully moved to exclude the GAL's reports because the GAL was not in court available for cross-examination. On November 3, 2011, the court awarded sole legal and sole physical custody of the client's daughter to the husband.

By failing to respond to discovery requests, failing to subpoena the GAL to testify at trial, failing to interview potential witnesses, failing to timely file witness lists, and failing to adequately prepare his client to testify in court, the respondent failed to provide competent and diligent representation to his client, in violation of Mass. R. Prof. C. 1.1 and 1.3; and failed to seek the lawful objectives of his client, in violation of Mass. R. Prof. C. 1.2(a).

By failing to inform his client that he had not responded to opposing counsel's discovery requests and as a result was precluded from introducing evidence related to the husband's discovery requests, the respondent failed to keep his client reasonably informed about the status of a matter and failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation, in violation of Mass. R. Prof. C. 1.4(a) and (b).

In mitigation, during the relevant time period, the respondent's sole assistant in the operation of his legal practice ceased being diligent, and failed to inform the respondent of deadlines, phone messages, and other communications.

This 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 three months, with the execution of the suspension stayed for six months (probationary period) with specified conditions, including that during the probationary period, the respondent arrange for an audit of his practice by the Law Office Management Assistance Program (LOMAP), timely comply with any recommendations made by the LOMAP auditor, and attend an ethics continuing education program designated by the Office of Bar Counsel. On December 10, 2013, the board voted to accept the stipulation of the parties and file an information with the Supreme Judicial Court recommending discipline as set out in the stipulation.

On February 3, 2014, the Court entered an order suspending the respondent for three months, with the execution of the suspension stayed for a probationary period of six months from the date of entry of the order, conditioned on compliance with the probationary conditions contained in the stipulation. The court further ordered that if the respondent fails to comply with any of the terms and conditions of the Order, bar counsel may petition the Court for immediate imposition of the three month suspension on the respondent.