

**GERARD J. DUPONT****Public Reprimand No. 2013-16****Order (public reprimand) entered by the Board on August 29, 2013.****SUMMARY**¹

In April 2010, a former client of the respondent's filed a *pro se* complaint for modification of a prior divorce judgment. The respondent had not represented the client on the divorce. The ex-husband, through counsel, filed an answer to the complaint for modification and a counterclaim for modification. In May 2010, the court set a deadline for the completion of discovery and a pretrial conference date of January 10, 2011.

The respondent and his former client met on more than one occasion between April and June 2010 to discuss possible representation in the modification. The respondent advised the former client of his retainer and hourly rate. In July 2010, the client retained the respondent and paid him only a portion of the requested retainer. Despite this, the respondent began working on the matter and engaged in discovery. He encountered difficulty in obtaining some of the requested documents from his client.

The January 10, 2011 pre-trial conference was continued and held in March 2011, at which time trial was scheduled for October 2011. By summer 2011, the respondent reached the conclusion that his client did not have a strong case. In September 2011, the trial was rescheduled for December 27, 2011. By letter dated October 17, 2011, the client informed the respondent that she would not be able to attend court on December 27, 2011, because she would be out of town for several days at that time.

On or about December 20, 2011, the respondent and the client spoke on the telephone about the case. The respondent attempted to discourage the client from going forward on her complaint, and he advised her to seriously consider settling the case. At the time, the client insisted on going forward on the matter and told the respondent she was not interested in settling with her ex-husband. The respondent and the client also discussed the client's unavailability on December 27, 2011 due to her travel plans, and the respondent prepared a motion to continue the trial.

When opposing counsel would not consent, the respondent failed to file the motion to continue. The respondent's office advised the client by telephone that the respondent was having difficulty in getting the matter postponed. The respondent and opposing counsel engaged in settlement negotiations and by December 21, 2011 had reached a tentative agreement contingent upon the client's approval. On December 21, 2011, the respondent's office asked the client to come into the office the next day to review the proposed agreement

¹ Compiled by the Board of Bar Overseers based on the record of proceedings before the board.

with the respondent. The client did not appear for the meeting with the respondent, and he and his staff called the client but did not reach her, and she did not respond to their messages.

On December 22, 2011, the respondent prepared and filed a motion to withdraw, and he served his client by mail on that date. In support of his motion to withdraw, the respondent filed an affidavit that was critical of his client and revealed confidential information that went beyond what was necessary to support his withdrawal. He stated in his affidavit that the client had repeatedly refused to accept any advice of counsel, that she had refused to provide any substantial documents in response to discovery requests, that she had refused to meet with counsel and failed to keep a scheduled appointment or return telephone messages, and that she had subjected office staff to swearing and rudeness.

Absent objection, the court allowed the respondent's motion to withdraw, and advised the respondent in advance of the trial date that the motion would be allowed and that he would not be required to appear for trial. The respondent did not attempt to call or otherwise notify his client in advance of the trial date of the allowance of his motion to withdraw. On the date of trial, neither the respondent nor the client appeared for trial. The court held a trial and entered judgment in favor of the father.

The respondent's revelation of confidential information beyond that which was necessary and his withdrawal on the eve of trial without protecting his client's interests were in violation of Mass. R. Prof. C. 1.6(a) and 1.16(d).

The matter came before the Board of Bar Overseers on a stipulation of facts and disciplinary violations and a joint recommendation for discipline by a public reprimand. On August 26, 2013, the board voted unanimously to accept the stipulation and impose the recommended discipline.