



WILLIAM R. DIMENTO

Public Reprimand No. 2013-6

Order (public reprimand) entered by the Board on May 8, 2013.

SUMMARY¹

In April 2007, a client retained the respondent to represent her in a personal injury case. The client had been hit by a car in a parking lot and fractured her pelvis. Due to her advanced age and other medical conditions, she was hospitalized for over a month. The respondent did not have a personal injury background, and his legal practice consisted almost exclusively of land use matters. He had previously advised the client on land use, and due to this relationship, she retained the respondent to handle her personal injury matter.

The respondent filed suit, conducted discovery, and engaged in settlement discussions with the insurer for the defendant driver. While the negotiations were ongoing, the respondent did not obtain from Medicare an itemization of the medical expenses paid by Medicare related to the accident. In September 2008, the respondent settled the case with the insurer for \$150,000. Because Medicare had paid the client's medical expenses related to the accident, it was entitled to recover the amount it had paid out, pursuant to 42 U.S.C. § 1395y(b)(2)(B)(iii).

The insurer did not issue a settlement check because the respondent advised that he was attempting to settle the Medicare lien. The respondent mistakenly believed that the medical expenses paid by Medicare for the accident were significant and that the Medicare lien would reduce the settlement proceeds to little or nothing. Following the settlement, the respondent spoke to Medicare personnel, but due, in part, to his inexperience, he did not request an itemization of the medical expenses paid by Medicare for the accident, nor did he submit any settlement proposals to Medicare. As a result of his inaction, he did not settle the Medicare lien.

The client died in January 2009. The respondent filed a petition for administration, and the client's daughter was appointed administratrix in May 2009. From early 2009 until late 2012, the administratrix called the respondent repeatedly for information about the status of Medicare lien. The respondent repeatedly told her that he was working on resolving the lien and would soon have it resolved when, in fact, the respondent did not know how to settle the lien and took no meaningful steps toward resolution during this period. From late 2011 to late 2012, the respondent spoke to Medicare personnel about the lien on a few occasions, but still made no progress in resolving the lien.

In December 2012, the respondent hired an experienced personal injury attorney who was able to settle the Medicare lien immediately for \$3,688.31. In January 2013, the respondent received a settlement check from the insurer in the amount of \$146,311.69. The

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

respondent agreed to take a reduced fee of \$30,000 representing 20% of the overall settlement. After expenses, the estate received over \$115,000.

The respondent's failure to settle the Medicare lien from 2008 to 2012 was in violation of Mass. R. Prof. C. 1.1, 1.2(a), and 1.3. The respondent's failure to advise his client of his inability to settle the lien and his repeated misrepresentation to the client that he was working on the matter and would soon have it resolved was in violation of Mass. R. Prof. C. 8.4(c).

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 April 22, 2013, the board voted unanimously to accept the stipulation and impose the recommended discipline.