

IN RE: MICHELLE G. LEONE

S.J.C. Order of Term Suspension entered by Justice Cowin on April 1, 2003, with an effective date of May 1, 2003.¹

SUMMARY²

In 1996, the respondent was engaged in the private practice of law and she shared office space with a law firm in Waltham, MA. From time to time, the respondent performed legal services as an independent contractor for attorneys at the firm.

In May 1996, one of the attorneys in the firm (referring attorney), asked the respondent to assist him in defending his clients in a civil action filed in Stoughton District Court. The respondent met the clients and filed an appearance on their behalf in Stoughton District Court.

On April 14, 1997, before the pretrial conference, the respondent met with the referring attorney. The referring attorney informed the respondent that she was authorized to settle the matter for not more than \$1,500. The referring attorney instructed the respondent to contact him or the clients if this settlement was not acceptable, as she did not have settlement authority to settle beyond that amount.

On April 14, 1997, at the pretrial conference, the court sent the parties to a conciliation conference. Present at the conference before the conciliator were the respondent, the plaintiff and the plaintiff's attorney. The conciliator recommended a settlement of \$3,000, to be paid within ten days. The respondent excused herself from the conference in order to contact the clients for authority to settle the matter for \$3,000, with the payment in ten days. The respondent did not reach the clients and did not contact the referring attorney.

The respondent returned to the conciliation conference and falsely represented to the conciliator and opposing counsel that she had received authority to settle the matter for \$3,000, with the payment due in ten days. The respondent and the attorney for the plaintiff signed the agreement for judgment and reported the matter as settled to the court.

On the same date, the respondent informed the referring attorney of the terms of settlement. The referring attorney instructed the respondent to contact opposing counsel and to tell him that she did not have authority to settle and further instructed her to file a motion to rescind the agreement. The respondent agreed to take these steps but failed to do so. The respondent falsely represented to the referring attorney that she had left a message for opposing counsel informing him of the error.

At a hearing on plaintiff's motion to enforce the judgement, the respondent did not inform the court that she had no authority to settle. The court allowed the plaintiff's motion to enforce judgment. Plaintiff's attorney filed a writ of execution with the court. Plaintiff's attorney engaged the deputy sheriff to collect on the judgment by seizing the tools and equipment of the defendants.

In July 1997, the respondent filed a motion to vacate the judgment, a motion for reconsideration, a motion for hearing and exemption from seizure and supporting affidavits. The respondent signed the referring attorney's name to the motions without his express authority, and also signed his name to the certificates of service falsely certifying that the

attorney, rather than the respondent had served the motions on that date.

The respondent scheduled the motions for a hearing without notifying the referring attorney. The respondent, without notice to the referring attorney, asked an attorney unrelated to the firm to argue the clients' motions. The respondent did not appear on behalf of the clients at the motion hearing. The motions to vacate judgment and for relief were denied by the court.

The plaintiff filed a request for investigation with the Office of the Bar Counsel. In her response to bar counsel, the respondent falsely represented that she had full settlement authority at the pretrial conference and that she had not signed the referring attorney's name to the motions. The respondent paid the settlement due the plaintiff from her own funds.

The respondent's misrepresentation to the court and to opposing counsel that she had authority to settle the case violated S.J.C. Rule 3:07, Canon One, DR 1-102(A) (4), (5) and (6), Canon Seven, DR 7-101(A)(1), (2) and (3) and DR 7-102(A) (5). The respondent's conduct in signing the referring attorney's name to motions filed with the court and to certificates of service falsely certifying that he had served the motions, without notice of authority from the attorney violated Canon One, DR 1-102(A) (4) and (6). The respondent's misrepresentations to the Office of Bar Counsel that she had full authority to settle the case and that she had not signed the referring attorney's name to the motions filed with the court violated Canon One, DR 1-102(A) (4) and (6).

The matter came before the Board of Bar Overseers on a stipulation of facts and disciplinary violations and a joint recommendation for a one-year suspension. On February 10, 2003, the Board voted unanimously to accept the stipulation and to recommend the agreed-upon disposition to the Supreme Judicial Court. The Court so ordered on April 1, 2003.

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 before the Court.

Please direct all questions to webmaster@massbbo.org.

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