

DAVID M. BLUMENTHAL

BBO # 047140

Public Reprimand No. 2024-8

**Order (public reprimand) entered by the Massachusetts Board of Bar Overseers of the
Supreme Judicial Court on**

By stipulation, the respondent received a public reprimand for entering into an agreement to settle summary process actions against his client without obtaining his client's consent to settlement.

SUMMARY¹

The respondent was retained by a client in April of 2022 to defend two ongoing summary process actions filed by the client's landlord for back rent and possession. During the course of representation of the client, the respondent determined that the client had no viable defenses to his failure to pay rent. The matters were scheduled for trial by the court. The respondent notified the client of the trial date as well as the requirement that he appear for the trial. The client did not appear for the trial. Given the client's failure to appear for trial, the respondent was convinced that settlement of the matter was the best outcome for the client based upon the facts and determined that a default judgment would be a worse outcome than a settlement for a sum certain because a default would subject the client to fees and interest. The respondent agreed to settle the claims at the time of trial without the client's authority to settle the matters. The following day, after learning of the settlement, the client filed a *pro se* motion seeking relief from the judgment entered against him. The court scheduled the client's motion for hearing, the client failed to appear at the hearing and the court dismissed the motion.

In aggravation, the respondent had a history of prior discipline. In 2016, the respondent received a six-month suspension, and stayed for two years with an accounting probation. The underlying misconduct, however, was unrelated to the misconduct at issue. Instead, the prior misconduct related primarily to the respondent's real estate conveyancing practice and occurred between 1998 and 2014. Thus, the prior discipline had minimal weight in the sanction analysis based on the totality of circumstances.

The respondent's conduct in failing to obtain his client's authorization to enter into a stipulation for settlement of the summary process actions violated Mass. R. Prof. C. 1.2(a) and 1.4(a) and (b).

The parties filed a stipulation as to the misconduct and rules violations and jointly recommended to the Board of Bar Overseers ("Board") that the respondent received a public reprimand. On June 10, 2024, the Board voted to sanction the respondent by public reprimand.

¹ Compiled by the Massachusetts Board of Bar Overseers' Office of General Counsel based on the record of proceedings before the board.