

**LEIGH CHERKAS
BBO # 555896**

**Order (Public Reprimand) entered by the Massachusetts Board of Bar Overseers of the
Supreme Judicial Court on July 29, 2022.**

SUMMARY¹

In February 2017, the respondent was appointed to represent “MW”, a minor, in an ongoing care and protection matter pending in the Hampden County Juvenile Court. In March 2017, the Department of Children & Families (“DCF”) was awarded temporary custody of MW. MW was removed from her biological mother and placed in a foster home. In November 2018, an attorney was appointed to represent the biological mother.

The biological mother sought to regain custody of MW or to have MW’s great-aunt adopt MW. The respondent, on behalf of MW, opposed the biological mother’s attempts at reunification or adoption by the great-aunt. The respondent instead supported the foster mother’s attempt to adopt MW. Consequently, MW’s care and protection case was highly contentious.

On a number of occasions between May and July 2020, the foster mother videotaped portions of supervised virtual visits between MW and her biological mother and great-aunt. The videotapes recorded the oral communication of the biological mother, the great-aunt and the DCF social worker supervising the visits without their knowledge or consent. The foster mother sent the videos to the respondent, who then forwarded them to a clinical psychologist. The clinical psychologist watched and listened to the videos and documented her observations in a report.

After the respondent filed the clinical psychologist’s report with the court, the biological mother filed a motion accusing the respondent of violating the Massachusetts wiretap statute, G.L. c. 272, § 99, and seeking leave to call the respondent as a witness. The court subsequently allowed the respondent’s motion to withdraw from the case.

The respondent stipulated that her use, in the care and protection matter, of videotapes that she should have known had been illegally obtained violated Mass. R. Prof. C. 8.4(d) (prohibiting conduct prejudicial to the administration of justice); and 8.4(h) (prohibiting other conduct reflecting adversely on lawyer’s fitness to practice).

The parties’ stipulation to the imposition of a public reprimand came before the Board at its meeting on July 12, 2022, where the Board voted to accept the stipulation and to issue an order of public reprimand. The Board issued the reprimand on July 29, 2022.

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