

KELLY SCIBELLI

BBO # 649964

Public Reprimand No. 2023-2

**Order (public reprimand) entered by the Massachusetts Board of Bar Overseers of the
Supreme Judicial Court on February 6, 2023.**

The respondent stipulated to a public reprimand for neglect of a client matter and her disclosure of confidential information without her client's consent.

SUMMARY¹

The respondent was retained by a client to represent her in a divorce action in 2017. A trial in the divorce case was scheduled to begin on June 6, 2019. An assented to motion to continue the trial to a future date was allowed by the court. The court assigned a new trial date of August 18, 2020.

On January 14, 2020, the court issued a Pre-Trial Order requiring the parties to provide the opposing party and the court with their final trial witness lists and final proposed exhibit lists at least fourteen days prior to the trial date (i.e., August 4, 2020). By May of 2020, the client became concerned about the respondent's trial preparation and representation of her in the divorce matter. On June 4, 2020, the respondent filed a motion to withdraw which was denied by the court.

On August 1, 2020, the respondent sent an email to the client asking her to provide, within 48 hours, a list of specific exhibits the client wanted to use at the upcoming trial. The respondent also asked the client to organize the exhibits for the court and opposing counsel, make multiple copies of the documents, tab the documents and place them in binders by August 7, 2020. In order to do so, the respondent told the client she would drop off boxes containing the client's file to the client at her apartment and if the client was not at home, that the documents would be left with the doorman. The client responded that the documents were not safe with her because her husband had access to the apartment and that she did not have knowledge and experience to prepare the exhibit books which, she expressed, should be prepared by the respondent as her lawyer.

On August 4, 2020, the respondent dropped off three boxes of documents in the lobby of the client's apartment building. The doorman refused to accept the documents and they were left by the respondent on a table in the lobby of the building. The boxes of documents included confidential information contained therein. On August 4, 2020, the respondent filed a motion for reconsideration of her motion to withdraw as counsel. In the supporting affidavit filed by the respondent along with the motion, the respondent revealed confidential information relating to her representation of the client. The client did not consent to the disclosures.

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

The motion for reconsideration of the respondent's motion to withdraw was heard by the court on August 12, 2020. By that time, the client retained successor counsel to replace the respondent. The court allowed the respondent's motion to withdraw, in part, because of the court's concerns regarding the respondent's continuing representation. Successor counsel assumed representation of the client and ultimately achieved a settlement on favorable terms to the client.

The respondent's failure to prepare for trial, including her failure to prepare the exhibit books required for trial in August of 2020, violated Mass. R. Prof. C. 1.1, 1.2(a) and (c), and 1.3. The respondent's filing of a motion to withdraw and supporting affidavit that disclosed confidential information obtained in the representation of her client without her client's consent or authorization violated Mass. R. Prof. C. 1.6(a). The respondent's conduct in leaving the client's file in the lobby of the client's apartment and failure to make reasonable efforts to prevent unauthorized access to confidential information contained therein violated Mass. R. Prof. C. 1.6(c).

This matter came before the Board of Bar Overseers on a stipulation of the parties and a joint agreement to recommend discipline in the form of a public reprimand. On January 9, 2023, the Board of Bar Overseers voted to administer a public reprimand to the respondent.

