

IN THE SUPREME COURT OF THE STATE OF KANSAS

No. 102,925

In the Matter of KEVIN PETER SHEPHERD,  
*Respondent.*

ORDER GRANTING RESPONDENT'S MOTION TO MODIFY  
THE TERMS OF RESPONDENT'S PROBATION

In an order dated May 2, 2011, this court granted the respondent's motion to suspend the imposition of the remaining 2 years of his 3-year suspension from the practice of law and ordered reinstatement of the respondent's license to practice law in Kansas. However, the respondent's reinstatement was subject to several terms and conditions of supervised probation including the following condition, which was proposed by the respondent:

*"Professional Liability Insurance.* The respondent shall continue to maintain professional liability insurance."

On December 8, 2010, respondent filed a motion to modify the terms of his probation, specifically requesting that this court "lift the requirement that he carry professional liability insurance." In support of the motion, respondent attached an affidavit asserting that despite his good faith efforts to obtain professional liability insurance, he had been unable to do so and had resumed the practice of law without insurance in May 2011. Respondent further represented that he remains in compliance with all of the other conditions of his probation and that he continues practicing law under the supervision of his practice supervisor.

The Disciplinary Administrator responded to the motion, taking no position regarding the respondent's requested modification. Instead, the Disciplinary

Administrator indicated he would "be prepared to continue monitoring the Respondent's compliance with the conditions as imposed by the Court."

In light of the stated neutrality of the office of the Disciplinary Administrator regarding disposition of the respondent's motion as well as that office's willingness to continue monitoring the respondent's probation, a majority of the members of this court grant the respondent's motion to modify the terms of his probation to remove the requirement that he carry professional liability insurance. However, a minority of the court would find that the respondent has been engaged in the unauthorized practice of law since May 2011 based upon his failure to first obtain relief from the requirement in the probation order that he maintain professional liability insurance prior to resuming the practice of law.

IT IS THEREFORE ORDERED that this order shall be published in the official Kansas reports.

Effective this 29th day of February, 2012.