

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against JOHN W. BUNCH,
a Minnesota Attorney,
Registration No. 135823.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition upon the parties' agreement pursuant to Rules 10(a) and 12(a), Rules on Lawyers Professional Responsibility. The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on April 30, 1982. Respondent currently practices law in Plymouth, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Eicher Matter

1. John and Deborah Eicher are former tenants of a condominium unit owned by respondent. The Eichers moved out of respondent's condominium in the fall of 2001.
2. The Eichers filed a conciliation court case on September 16, 2002, against respondent in Hennepin County.
3. The Eichers' claim was for \$2,040.00 for the return of the damage deposit plus interests, penalties, and the reimbursement for labor and materials.

4. On October 28, 2002, respondent filed an affidavit in the conciliation court case. Respondent's affidavit states that he had a "counterclaim against [the Eichers] arising out of the same transaction or occurrence as [the Eichers'] claim, the amount of which is beyond the monetary jurisdiction [sic] of the conciliation court."

5. Respondent's October 28, 2002, affidavit also states that he "has commenced or will commence within 30 days an action against [the Eichers] in a court of competent jurisdiction."

6. In respondent's October 28, 2002, affidavit he requested that the conciliation court case filed by the Eichers be stricken, in accordance with Rule 510, General Rules of Practice for the District Courts.

7. Respondent did not commence an action against the Eichers within thirty (30) days.

8. Nearly five years later, on August 31, 2007, respondent filed a conciliation court case against the Eichers in Hennepin County.

9. Respondent's claim was for \$1,621.00 for "damages, unpaid late charges, unpaid utilities, prejudgment interest, and penalties under M.S.A. 504B.178, subd. 8, caused by and arising from [the Eichers'] rental of said premises."

10. Respondent's claim for damages in the 2007 conciliation court case did not exceed the jurisdictional amount for conciliation court, which is contrary to respondent's 2002 affidavit.

11. On December 10, 2007, the court held the conciliation court hearing in case no. 27-CO-07-0831023. The judicial officer found that respondent was entitled to zero dollars in the matter.

12. Respondent's conduct in failing to correct the statements in his October 28, 2002, affidavit once they became false, specifically that respondent's counterclaim against the Eichers exceeded the jurisdictional amount of conciliation court and that he would be commencing an action against the Eichers in a court of

competent jurisdiction within thirty days, violated Rule 3.3(a), Minnesota Rules of Professional Conduct (MRPC).

13. Respondent's failing to commence his action against the Eichers knowingly disobeyed an obligation under Rule 510, General Rules of Practice for the District Courts, in violation of Rule 3.4(c), MRPC.

14. Respondent's conduct of delaying bringing his action against the Eichers violated Rule 4.4(a), MRPC.

15. Respondent's conduct was prejudicial to the administration of justice in violation of Rule 8.4(d), MRPC.

WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: March 24, 2010.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 148416
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

and



MEGAN ENGELHARDT
ASSISTANT DIRECTOR
Attorney No. 329642