

FILE NO. A12-740

STATE OF MINNESOTA

IN SUPREME COURT

-----  
In Re Petition for Disciplinary  
Action against THERESA A. FREEMAN,  
a Minnesota Attorney,  
Registration No. 150848.  
-----

**SUPPLEMENTARY 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 supplementary petition for disciplinary action pursuant to Rules 10(e) and 12(a), Rules on Lawyers Professional Responsibility (RLPR).

Respondent is currently the subject of a petition for disciplinary action. The Director has investigated further allegations of unprofessional conduct against respondent.

The Director alleges that respondent has committed the following additional unprofessional conduct warranting public discipline:

COUNT IV

Lack of Diligence and Failure to Communicate with Clients and  
Making a Misrepresentation to a Client

**Mark Nelson Matter**

145. On May 14, 2008, Mark Nelson retained respondent to represent him in a marital dissolution post-decree matter. Nelson paid respondent a \$1,000 retainer, together with \$125 for estimated costs. The retainer agreement called for periodic billing to be sent to Nelson.

146. In November 2008 Nelson asked respondent to call him. Shortly thereafter, Nelson received a letter from respondent stating she had been trying to contact him but had been unable to do so. In checking his caller I.D. and voice mail, Nelson did not find that respondent had in fact tried to call him.

147. Nelson tried communicating with respondent again in the first half of September 2009. Respondent did not return his call. By October 5, 2009, Nelson decided to terminate respondent's services and did so via email.

148. As of the date of the October 5, 2009, email message, Nelson had not received any invoices from respondent regarding the balance of his funds and the work respondent claimed to have done on his file. At the time of the October 5 email, Nelson asked for an itemization and balance. Respondent did not respond.

149. On November 11, 2009, Nelson again sent an email message to the law firm and asked for a detailed accounting of the funds he paid in retainer fees and for a return of any balance. Respondent did not respond. Nelson then filed an ethics complaint with the Director's Office.

150. On February 23, 2011, Nelson received from the Director's Office a copy of a document purported to be an invoice regarding his funds held by the Neff Law Firm. Nelson noted that the invoice did not document respondent's receipt of the \$1,125 paid by him in May 2008. The invoice indicated respondent's services were for a probate estate. In addition, the invoice showed an address in Eden Prairie. Nelson retained respondent for a post-decree matter, not probate, and he has never been associated with the address in Eden Prairie.

151. On or about March 19, 2011, Nelson received from respondent a copy of her response to his complaint, which was dated October 15, 2010. Respondent also enclosed a revised invoice. Although some of the basic information from the prior invoice had been corrected and the third page indicated Nelson paid \$1,125, the summary of account states

“attorney’s fees paid to date” but fails to give the date respondent removed Nelson’s funds from her trust account.

### **Tanya Enfield Matter**

152. On July 10, 2009, Tanya Enfield retained respondent to represent her in a Chapter 7 bankruptcy. Enfield paid respondent \$2,124, including \$1,750 for attorney’s fees, \$299 to file the bankruptcy petition and \$75 in estimated costs.

153. Respondent gave Enfield a multi-paged worksheet to complete. Enfield did her best to respond to the questions and to complete the forms. Enfield contacted respondent from time-to-time and brought updated information to respondent’s office.

154. Enfield paid the last of her retainer owed to respondent in December 2009. Enfield provided her updated financial information to respondent on January 13, 2010.

155. On July 1, 2010, Enfield sent respondent updated information, informed respondent of her current circumstances and asked that respondent contact her. Respondent did not contact Enfield.

156. Enfield again updated her financial information on October 12, 2010. As of October 2010 her bankruptcy petition had not been filed. Respondent told Enfield that if she paid respondent an additional \$300, respondent would expedite the filing of Enfield’s petition. Enfield paid the extra fee and updated her financial records on November 24, 2010. Enfield asked that the petition be filed that month. Enfield told respondent that she would be available any time to meet with respondent.

157. By December 2010 Enfield’s petition had still not been filed. Enfield was frustrated and asked respondent to refund her retainer and return her documents to her. On December 31, 2010, respondent filed Enfield’s petition for bankruptcy.

158. Enfield had a court appearance on February 2, 2011. On that date, the bankruptcy trustee asked for a copy of Enfield’s divorce decree. Enfield asked respondent to forward the document to the trustee, respondent then stated that she had already done so.

159. On March 29, 2011, Enfield again spoke with the trustee. The trustee stated he had sent respondent multiple letters requesting a copy of Enfield's decree, but respondent had failed to respond.

#### **Jeffrey Fredrickson Matter**

160. On August 3, 2009, Nicole and Jeffrey Fredrickson retained respondent to represent them in a Chapter 13 bankruptcy. They initially paid respondent \$2,199, including \$1,850 for attorney's fees, \$274 to file the bankruptcy petition and \$75 in estimated costs. They paid respondent in several installments with the final installment paid on March 8, 2010.

161. Fredrickson contacted respondent and left several messages for her to contact them.

162. Respondent failed to respond to most of Fredrickson's messages, but on May 17, 2010, Fredrickson received a letter from respondent stating that she had been trying to communicate with them, but had been unable to do so. This statement was not true. Neither Nicole nor Jeffrey Fredrickson received any letters, voice mail messages or emails from respondent.

163. Fredrickson was finally able to speak with respondent and scheduled a meeting for June 11, 2010. At the meeting, the Fredricksons learned respondent had not prepared a bankruptcy petition. Respondent told the Fredricksons that if they wanted the process expedited, they needed to pay her \$300 more. The Fredricksons paid respondent that amount and believed their petition would be promptly filed and collection activity would end.

164. The Fredricksons' bankruptcy was filed on July 16, 2010. However, in November 2010, the Fredricksons learned the trustee of their bankruptcy had rejected their bankruptcy plan. On January 7, 2011, the court denied the Fredricksons' Chapter 13 plan.

165. On February 1, 2011, Fredrickson wrote to respondent and asked respondent to get back to him that day. Respondent did not respond.

166. On February 21, 2011, Fredrickson again tried to contact respondent. Respondent's office assistant told him that respondent was stuck in the snow. At that point, Fredrickson terminated respondent's services and asked for a refund of his retainer.

167. Over the next six weeks the Fredricksons sent email messages to respondent regarding their refund. Respondent did not respond until April 1, 2011.

#### **Hoang Tran Matter**

168. In November 2009, Hoang Thuy Tran retained respondent to represent her in a Chapter 7 bankruptcy. Tran paid respondent a total of \$1,000, including the fee to file Tran's bankruptcy petition. Tran does not speak English and sought help from a relative to communicate with respondent.

169. Upon information and belief, respondent has failed to communicate with Tran about what sort of documents respondent needed from Tran to process Tran's bankruptcy.

#### **Deborah Asplund Matter**

170. In July 2010, Deborah Asplund retained respondent to represent her in a bankruptcy matter. Asplund paid respondent \$1,934. Respondent told Asplund she would file an emergency petition. Upon information and belief, respondent has not filed Asplund's emergency petition as of the date of this supplementary petition.

171. Asplund called respondent several times, but respondent failed to return her calls.

#### **Brenda Wilson Matter**

172. Brenda Wilson is a vulnerable adult who retained respondent on March 20, 2008, to file a Chapter 7 bankruptcy. Thereafter, respondent failed to return Wilson's calls. Wilson met with respondent on May 19, 2009. Respondent told Wilson it was Wilson's responsibility to call respondent and it was not respondent's responsibility to call Wilson.

173. Wilson had to update her documentation a second time due to respondent's failure to act diligently and failure to communicate with Wilson in a responsible manner.

174. On March 21, 2012, three years after Wilson retained respondent and several months after Wilson filed her complaint with this Office, respondent filed Wilson's petition and an order of discharge was filed on June 29, 2012.

**Jennifer Puls Matter**

175. At some time prior to April 2008, Jennifer Puls retained respondent to represent her in a bankruptcy matter. Puls paid respondent a retainer, but respondent failed to file Puls's petition. Puls then requested respondent return her money. Respondent failed to do so.

176. On February 28, 2012, Midland Funding, L.L.C. obtained a judgment against Puls in the amount of \$5,431.79. Puls called respondent to inform her of the judgment. The receptionist informed Puls that her bankruptcy had not been filed. Puls asked to have respondent call her. Respondent has failed to do so.

177. Respondent's pattern of failing to act with reasonable diligence in completing bankruptcy petitions violated Rule 1.3, Minnesota Rules of Professional Conduct (MRPC).

178. Respondent's pattern of failing to return client calls, failing to inform her clients about the status of their bankruptcies and failing to respond to reasonable requests for information violated Rule 1.4, MRPC.

179. Respondent's misrepresentation to Enfield violated Rule 8.4(c), MRPC.

COUNT V

Failure to Return Unused or Unearned Portions of Client Funds  
and Costs

**Jeffrey Fredrickson Matter**

180. On February 21, 2011, Fredrickson terminated respondent's services and asked for a refund of his retainer.

181. In an April 1, 2011, email message, respondent agreed to refund the Fredricksons \$1,850 of the retainer. Respondent has failed to return any unused or unearned portions of Fredrickson's funds and costs to Fredrickson.

**Deborah Asplund Matter**

182. On September 1, 2011, Asplund terminated respondent's services and requested respondent to return her retainer. Respondent has failed to return any unused or unearned portions of client funds and costs to Asplund.

**Jennifer Puls Matter**

183. Puls has requested respondent to provide her with a refund of her retainer. Respondent has failed to return any unused or unearned portions of client funds and costs to Puls.

184. Respondent's pattern of failing to return unearned, or unused, portions of client funds or costs violated Rule 1.15(c)(4), MRPC.

COUNT VI

Non-cooperation

185. As of the date of this supplementary petition, respondent has not provided a response to the Randolph complaint.

186. As of the date of this supplementary petition, respondent has not provided a response to the Tran complaint.

187. Respondent did not provide a response to the Asplund complaint until July 2, 2012. In her answer, respondent failed to explain why she continued to hold client funds when the client had requested her money be returned. Additionally, although respondent's response stated that respondent would provide the Director with evidence of communications with Asplund, respondent failed to provide any such documentation despite two requests from the Director.

188. Respondent did not provide a response to the Wilson complaint until July 2, 2012. Although respondent's response stated that respondent would provide the Director

with evidence of communications with Wilson, respondent failed to provide any such documentation despite two requests from the Director.

189. On May 24, 2012, the Director mailed notice of investigation to respondent's counsel with regard to a complaint filed by Jennifer Puls. Respondent failed to respond within fourteen days provided by the notice.

190. On June 8, 2012, the Director wrote to respondent's counsel stating respondent's answer to the Puls complaint had not been received. The Director requested respondent to respond by June 22, 2012. Respondent failed to do so.

191. On June 28, 2012, the Director wrote to respondent's counsel stating that respondent's answer to the Puls complaint had not been received. Respondent provided her response to the Puls complaint on July 2, 2012. Although respondent's response stated that respondent would provide the Director with evidence of communications with Puls, respondent failed to provide any such documentation despite two requests from the Director.

192. On July 12, 2012, the Director wrote to respondent's counsel asking respondent to provide the documentation that she stated she would provide in her responses to the Fredrickson, Asplund, Wilson, and Puls complaints. Additionally, the Director asked respondent to provide responses to the Randolph and Tran complaints and the trust account books and records that had been previously requested. The Director requested that respondent provide the documents and responses within ten days. As of the date of this supplementary petition, respondent has failed to reply.

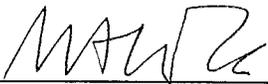
193. On July 26, 2012, the Director again wrote to respondent's counsel asking respondent to provide the documentation that she stated she would provide in her responses to the Fredrickson, Asplund, Wilson, and Puls complaints. Additionally, the Director asked respondent to provide responses to the Randolph and Tran complaints and the trust account books and records that had been previously requested. The Director

requested that respondent provide the documents and responses within ten days. As of the date of this supplementary petition, respondent has failed to reply.

194. Respondent's pattern of failing to cooperate with the Director's investigation violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

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.

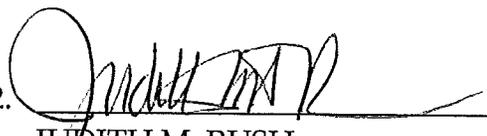
Dated: August 10, 2012.

  
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

This supplementary petition is approved for filing pursuant to Rule 10(e), RLPR, by the undersigned.

Dated: August 10, 2012.   
JUDITH M. RUSH  
BOARD CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD