

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against YVONNE B. MOORE,  
a Minnesota Attorney,  
Registration No. 74895.  
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**PETITION FOR  
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

At the direction of a Lawyers Professional Responsibility Board Panel, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on May 24, 1963. Respondent currently practices law in Burnsville, Minnesota. Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

A. On November 20, 1997, the Minnesota Supreme Court affirmed an admonition issued to respondent for failing to attend a hearing, obtain a continuance or inform a client of the consequences of not attending a hearing in violation of Rules 1.1, 1.3, and 1.4, Minnesota Rules of Professional Conduct (MRPC).

B. On April 28, 1995, respondent agreed to enter into a stipulation for private probation for failing to place an advance fee payment into her client trust account, failing to return an unearned fee to a client, failing to provide an accounting of her billing, and failing to provide a client with a copy of a temporary restraining order in violation of Rules 1.4(a), 1.15(a), 1.15(b)(3) and (4), MRPC, as further interpreted by Lawyers Professional Responsibility Board Opinion No. 15 and Rule 1.16(d), MRPC.

C. On June 1, 1993, respondent was issued an admonition for demanding and receiving a \$300 fee without first securing approval or consent from the Social Security Administration, failing to promptly return client property, and non-communication in violation of Rules 1.4(a), 1.5(a), and 1.15(b)(4), MRPC.

FIRST COUNT

1. On September 17, 2001, attorney David VanSickle retained respondent to represent him in marital dissolution proceedings, involving child custody and visitation issues. (Exhibits 1 and 2.)

2. On November 9, 2001, respondent scheduled a hearing to determine parenting time with the court. The hearing was scheduled at respondent's request for December 26, 2001. (Exhibit 3.)

3. On December 7, 2001, respondent contacted the court and requested that the hearing be rescheduled pursuant to an agreement with opposing counsel. Per respondent's request, the hearing was moved to February 8, 2002. (Exhibit 3.)

4. Prior to the February 8, 2002, hearing date, respondent contacted the court and inquired whether the visitation hearing would take place as scheduled. The court informed respondent that the visitation hearing would take place as scheduled. (Exhibit 4.).

5. On either February 5 or 6, 2002, respondent contacted Gordon Glendenning (Glendenning), counsel for VanSickle's wife, and informed him that she would not be attending the hearing on February 8, 2002, because she was out of town that date. (Exhibit 5.) Glendenning then requested that the matter be continued, but respondent refused.

6. On February 6, 2002, respondent telephoned VanSickle and informed him that she would not be attending the hearing on February 8, 2002. VanSickle inquired whether he needed to attend the hearing and respondent advised him that he did not have to attend the hearing. Respondent did not advise VanSickle about the

repercussions for failing to attend a hearing. Based upon respondent's advice, VanSickle did not attend the hearing.

7. Respondent failed to attend the hearing on February 8, 2002. Respondent did not notify the court that she would not be attending the hearing or obtain a continuance.

8. Glendenning and VanSickle's wife prepared for and appeared at the visitation hearing. (Exhibit 5.) The court dismissed VanSickle's motion and ordered him to pay \$540 in attorney fees (\$135 an hour for 4 hours) for the costs incurred by his ex-wife. (Exhibit 4.) The court further ordered that VanSickle pay the amount in full before he would be permitted to file any further pleadings or motions. (Exhibit 4.)

9. On February 28, 2002, respondent withdrew from representation. (Exhibit 6.)

10. On May 13, 2002, VanSickle filed a conciliation court claim against respondent seeking reimbursement for the costs and attorney fees entered against him. After hearing testimony from both parties, the court found that VanSickle was "more credible in his testimony that he had every intention to appear for the hearing on February 8, 2002, but for [respondent] telling [VanSickle] his appearance [was] unnecessary." (Exhibit 7.)

11. The court further found that VanSickle had a significant interest in appearing at the hearing and the only reason that he would not have attended was due to his reliance on respondent's statement that he did not have to attend the hearing. (Exhibit 7.)

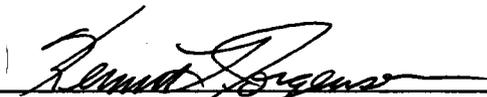
12. The court held that VanSickle was entitled to judgment in the amount of \$540 against respondent. (Exhibit 7.)

13. Respondent's advice to a client not to attend a hearing and subsequent failure to attend the hearing, obtain a continuance or inform a client of the consequences of failing to attend the hearing and respondent's failure to advise the court that she

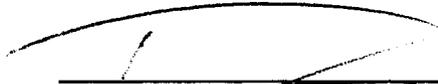
would not attend a hearing that had originally been rescheduled per respondent's request violated Rules 1.1, 1.3, 1.4, and 8.4(d), MRPC.

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: January 28, 2004.

  
KENNETH L. JORGENSEN  
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and

  
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