

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against RICHARD A. OHLSEN,
a Minnesota Attorney,
Registration No. 81176.

**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 22, 1976. Respondent currently practices law in Brainerd, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

A. On January 17, 1992, respondent was issued an admonition for client neglect, non-communication, and failure to explain a matter to the extent reasonably necessary to permit a client to make informed decisions regarding the representation in violation of Rules 1.3, 1.4(a) and (b), and 1.16(b)(3) and (d), Minnesota Rules of Professional Conduct (MRPC).

B. On July 12, 2001, respondent was issued an admonition for client neglect and non-communication in violation of Rules 1.3 and 1.4, MRPC.

FIRST COUNT

1. In late 1992 Mercedes Ochoa (Ochoa) was injured on the job while working as a migrant laborer at a farm in Grand Forks, North Dakota. On August 4, 1993, Ochoa retained respondent to represent her on claims stemming from her work-related injury. Respondent was the second attorney to handle Ochoa's case.

2. In 1995 respondent left his law firm in Grand Forks, North Dakota, and moved his practice to Brainerd, Minnesota. Respondent took Ochoa's case with him.

3. From October 1994 to April 20, 1995, respondent had no contact with Ochoa. On April 20, 1995, respondent sent Ochoa's interpreter, Monica Halvorson (Halvorson), a letter requesting that she translate a doctor's letter.

4. Thereafter, from April 1995 to June 30, 1997, respondent did not have any contact with Ochoa until he sent Halvorson a letter stating that Ochoa's case was still pending.

5. On June 17, 1998, Halvorson sent respondent a letter inquiring about the status of the case on behalf of Ochoa. Halvorson also stated in her letter that respondent failed to respond to several phone messages and a letter from Ochoa.

6. In September 1998 respondent served Ochoa's employer with a summons and complaint. On October 20, 1998, the opposing party served respondent with interrogatories. Respondent's answer was due on November 23, 1998. Respondent failed to respond.

7. On March 18, 1999, opposing counsel wrote to respondent requesting answers to the interrogatories. On June 2, 1999, opposing counsel wrote respondent again and gave him until June 17, 1999, to provide an answer or else they would file a motion to compel with the court. Respondent did not respond.

8. On or about July 2, 1999, respondent was served with a notice of motion and motion seeking sanctions for failure to comply with discovery requests. On

August 12, 1999, a hearing was held by telephone on the motion for sanctions. The court subsequently ordered respondent to provide executed answers to the interrogatories within 30 days. The court also sanctioned Ochoa \$300 for attorney's fees and expenses. On September 10, 1999, respondent served an answer to the opposing party's interrogatories. Respondent did not inform Ochoa of his failure to comply with discovery requests or provide her with a copy of the court's order sanctioning her. Respondent has not satisfied the court's \$300 sanction.

9. On or about May 25, 2000, respondent was served with a notice of motion and motion seeking partial summary judgment. Respondent did not file any documents in opposition to the motion and failed to appear at the hearing on July 5, 2000. Respondent also did not notify Ochoa of the motion for summary judgment. On July 7, 2000, the court issued an order granting partial summary judgment.

10. On May 22, 2001, respondent was served with a notice of deposition requiring Ochoa to appear for a deposition on June 2, 2001. Respondent failed to notify Ochoa of the deposition. Respondent failed to appear on Ochoa's behalf or provide the documents requested in the notice of deposition.

11. Ochoa's deposition was subsequently rescheduled to September 27, 2001. Respondent and Ochoa attended the deposition, however, respondent failed to provide requested medical documents. Respondent agreed to send opposing counsel the requested documentation but respondent ultimately failed to provide the documents.

12. After the September 27, 2001, deposition, respondent had no further contact with Ochoa. Over the next two years, Ochoa unsuccessfully attempted to contact respondent numerous times, including sending a letter by certified mail, which respondent signed for in January 2003.

13. On October 30, 2001, the court issued an order scheduling the matter for trial on November 13, 2001. On or about November 7, 2001, respondent filed a motion for continuance. The court continued the trial until April 2002.

14. On December 13, 2001, opposing counsel requested that respondent supplement his answer to include information on Ochoa's medical condition prior to 1995 and provide signed medical authorizations. Respondent failed to supplement his answer or provide executed medical authorizations.

15. On January 9, 2002, opposing counsel again filed a notice of motion and motion for sanctions for failure to comply with discovery requests. The motion hearing was scheduled for February 12, 2002.

16. Respondent failed to appear at the February 12, 2002, motion hearing. The court dismissed Ochoa's case with prejudice on February 19, 2002. Respondent did not inform Ochoa about the dismissal of her case.

17. Ochoa, unaware that her matter had been dismissed, requested Halvorson to inquire about the status of her case. Halvorson enlisted the assistance of another attorney, who called and wrote respondent in the summer of 2003 inquiring whether respondent continued to represent Ochoa. The attorney also requested a copy of the file for his review. Respondent failed to advise Ochoa that her case was dismissed. The statute of limitations has now expired on Ochoa's claim.

18. Respondent's abandonment of Ochoa's claim; non-communication; failure to notify Ochoa that her claim was dismissed with prejudice and that she was sanctioned by the court; failure to comply with discovery requests which resulted in Ochoa's claim being dismissed with prejudice and the court sanctioning Ochoa violated Rules 1.1, 1.3, 1.4, 3.2, 3.4(c), 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

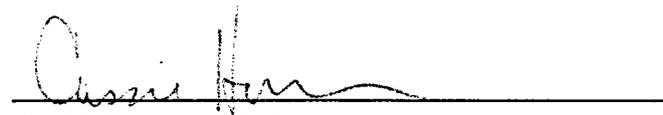
Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: November 23, 2004.



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