

FILE NO. A09-2166

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against WILLIAM D. PAUL,  
a Minnesota Attorney,  
Registration No. 164811.  
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**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 November 23, 2009, 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:

FIFTH COUNT

Failure to Attend Hearing, Failure to Communicate Properly – Frestedt Matter

50. On or about January 28, 2010, John Frestedt contacted respondent about representation in a child support matter. That same day, respondent drove to Frestedt's house, met with Frestedt, and received a \$1,500 nonrefundable retainer to represent Frestedt. Also at that time, Frestedt provided to respondent paperwork, including the notice of a February 24, 2010, hearing, regarding Frestedt's child support obligations

which had been served previously on Frestedt. Frestedt also wanted respondent to move to have Frestedt's child support obligation reduced because of a reduction in Frestedt's income.

51. Respondent did not serve or file any papers in response to the motion or to seek a reduction of Frestedt's child support obligation.

52. The day before the hearing, respondent asked the county attorney's office if it would agree to a continuance of the February 24 hearing. Respondent was informed that the decision to continue the hearing must be made by the assigned magistrate and that if respondent made such a request the county attorney's office would not object.

53. Respondent failed to contact the magistrate to request a continuance of the hearing. Respondent also did not contact the mother of the child about whether she would agree to a continuance.

54. The hearing was scheduled on February 24 to begin at 2:00 p.m.

55. Approximately 9:00 a.m. on February 24 respondent telephoned Frestedt and left a voicemail for Frestedt that the hearing had been postponed and that Frestedt should not go to court that day. Based on respondent's advice, Frestedt did not appear in court. Respondent also failed to appear. The hearing was conducted in their absence.

56. Respondent's conduct violated Rules 1.1, 1.3, 3.4(c) and 8.4(d), Minnesota Rules of Professional Conduct (MRPC).

## SIXTH COUNT

### Failure to Comply with Court Rules – Kalligher Matter

57. In May 2008 Dennis and Darlene Kalligher retained respondent in matters relating to legal proceedings involving their daughter, Michelle. These proceedings

included an action by the St. Louis County Public Health and Human Services Department against Michelle and the fathers of her children.

58. In September 2008, findings of fact, conclusions of law and order establishing child support was issued.

59. On or about September 30, 2008, respondent on behalf of Dennis and Darlene filed a motion to intervene for visitation and to modify custody. The motion papers, however, did not state a date for a hearing on the motion and there was no affidavit of service. In light of the relief requested in respondent's motion, the court directed respondent to file a petition for custody.

60. On March 4, 2009, the court conducted a hearing on an unrelated motion by Michelle Kalligher for parenting time assistance. Respondent appeared at the hearing and requested his amended motion for intervention to be heard. Respondent had not, however, properly served the amended motion for intervention. At no time did respondent serve any of the other parties to the action with the amended motion for intervention. Respondent filed the amended motion for intervention on March 4, 2009, the same day of the hearing, but did not file an affidavit of service.

61. During that March 4 hearing, the court advised respondent that a new matter initiated by a petition for custody was the proper way to proceed with his clients' requested relief, and that thereafter there would be consolidation or joinder of the files. The court continued the matter to March 23, 2009.

62. On March 16, 2009, counsel for one of the parties provided to respondent notice of intent to seek sanctions if the motion was not withdrawn. Respondent did not withdraw the motion.

63. On March 26, 2009, the court denied the amended motion for intervention.

64. On April 2, 2009, a notice of motion and motion for sanctions, with supporting documents, was served and filed. Respondent filed a partial transcript of the March 4 hearing; otherwise, respondent made no response to the motion.

65. By order filed May 6, 2009, the court sanctioned respondent \$1,500 for the amended motion for intervention. The court ordered respondent to pay the sanction within 30 days of the date of the order. Respondent failed to do so.

66. By letter dated May 12, 2009, opposing counsel requested respondent to pay the sanction. Respondent did not do so at that time.

67. By letter dated July 16, 2009, opposing counsel requested respondent to pay the sanction by June 24, 2009, and advised respondent that, if respondent failed to do so, opposing counsel would pursue appropriate remedies, including a request for additional costs and attorneys' fees.

68. By letter dated July 24, 2009, and faxed to respondent that day, opposing counsel sent to respondent a draft of the affidavit counsel intended to use in support of a request for further relief if respondent did not pay the sanction that day. Respondent mailed a check that day.

69. Respondent's conduct violated Rules 3.4(c) and 8.4(d), MRPC.

#### SEVENTH COUNT

##### Improper Notarization – Viall Matter

70. Respondent represented Viall in a probate matter. Viall was the personal representative of his father's estate.

71. During the representation, respondent needed to prepare an affidavit of Viall. Respondent had Viall sign signature pages in blank.

72. Respondent prepared the affidavit and thereafter attached one of the pre-signed signature pages to the affidavit. At respondent's direction, the signature was notarized by a notary who did not witness Viall's signature.

73. Respondent's conduct violated Rule 8.4(c), MRPC.

### EIGHTH COUNT

#### Additional Failure to Cooperate

74. On May 17, 2010, the Director mailed to respondent's counsel notice of investigation of a complaint filed by John Frestedt against respondent. The notice requested respondent to provide his complete written response to the complaint and certain documents within 14 days of the date of the notice. Respondent failed to respond.

75. By letter to respondent's counsel dated June 3, 2010, the Director advised respondent that the Director had received from respondent none of the information or documents requested in the notice of investigation of Frestedt's complaint and requested respondent to provide in writing the information, and the documents, requested in the notice of investigation.

76. By letter dated June 11, 2010, respondent's paralegal stated to the Director that respondent had been very busy that week (i.e., the week of June 7-11, 2010) and that respondent would send his file from his representation of Mr. Frestedt to the Director the following Monday (i.e., June 24, 2010).

77. By letter dated June 16, 2010, respondent sent to the Director the documents requested in the notice of investigation of Frestedt's complaint. Respondent did not, however, provide his response to the complaint, which also was requested in the notice of investigation.

78. By letter to respondent's counsel dated June 21, 2010, the Director requested respondent to provide at that time his complete written response to the Frestedt complaint. Respondent failed to do so.

79. During a June 29, 2010, telephone conversation, respondent's counsel stated to an Assistant Director that respondent had told his counsel that he was working on his written response to the Frestedt complaint. Respondent did not then provide that written response.

80. On July 1, 2010, the Director mailed to respondent's counsel notice of investigation of a complaint filed by Aaron Bucci against respondent. The notice requested respondent to provide within 14 days of the date of the notice his complete written response to the complaint and his entire client file from his representation of Bucci. Respondent failed to respond.

81. By letter to respondent's counsel dated July 9, 2010, the Director advised respondent that the Director still had not received respondent's written response to the Frestedt complaint and requested respondent to provide his written response at that time. Respondent failed to respond.

82. To date, respondent has provided no response to Frestedt's complaint.

83. By letter to respondent's counsel dated July 19, 2010, the Director advised respondent that the Director had received from respondent no response to the Bucci complaint and none of the documents requested in the notice of investigation, and requested respondent to provide at that time the information and documents requested in the notice. Respondent failed to do so until July 27, 2010.

84. Respondent's conduct violated Rule 8.1(b), MRPC, and Rule 25, RLPR.

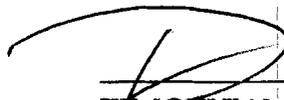
WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent from the practice of law or imposing appropriate discipline,

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.

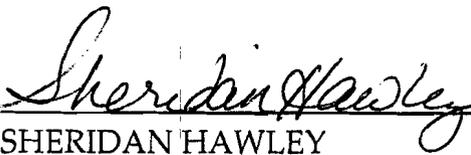
Dated: August 11, 2010.

  
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MARTIN A. COLE  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
Attorney No. 148416  
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and

  
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TIMOTHY M. BURKE  
SENIOR ASSISTANT DIRECTOR  
Attorney No. 19248x

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

Dated: 8/16, 2010.   
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SHERIDAN HAWLEY  
PANEL CHAIR, LAWYERS PROFESSIONAL  
RESPONSIBILITY BOARD