

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against JULIA K. SATTERLEE RHODES,
a Minnesota Attorney,
Registration No. 307713.

**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 (RLPR). The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on April 13, 2001. Respondent currently practices law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

JaRonda Wilks Matter

1. On April 16, 2001, only three days after she was admitted to the practice of law, respondent agreed to represent JaRonda Wilks in a medical malpractice action against the surgeon who performed Wilks' surgery.

2. On May 9, 2001, respondent applied to Northern Settlement Funding Corp. (NSFC) seeking a cash advance for the purpose of retaining an expert witness in support of Wilks' malpractice claim.

3. On June 2, 2001, respondent advised Wilks to enter into an agreement with NSFC entitled "Transfer and Assignment of Proceeds and Security Agreement."

The terms of that agreement provided that, in return for payment of \$7,000.00, Wilks transferred and conveyed to NSFC all right, title and interest in the first \$26,495.00 of any recovery received in the malpractice action.

4. Respondent failed to adequately explore alternative means of obtaining financing for Wilks' medical malpractice action before advising her to enter into the agreement with NSFC.

5. Respondent improperly advised Wilks to enter into an onerous agreement with NSFC in order to advance respondent's own financial interests.

6. Respondent, as set forth below, misappropriated at least \$3,609.28 of the \$7,000 from NSFC to her own benefit.

7. On June 5, 2001, respondent had the \$7,000 from NSFC wire transferred to a checking account in her name. The account was not designated as a trust account. The amount of the actual deposit to the account was \$6,990, representing the \$7,000 minus a wire transfer fee.

8. By July 19, 2001, respondent had disbursed the entire \$7,000 as follows:

<u>Date</u>	<u>Payee</u>	<u>Amount Paid</u>	<u>Manner of Payment</u>
6/5/01	Wire transfer fee	\$10.00	Deducted from deposit
6/5/01	Julia Rhodes	1,000.00	Check
6/5/01	Julia Rhodes	3,000.00	Transfer to different account
6/12/01	Julia Rhodes	500.00	Check
6/19/01	Cindy Smith	330.00	Check
6/25/01	Cash	920.00	Check
6/27/01	Cash	500.00	Check
6/29/01	Cash	120.00	Check
6/29/01	Bank service charge	10.72	Deducted from account
7/2/01	Cash	420.00	Check
7/10/01	Cash	100.00	Check
7/19/01	Julia Rhodes	89.28	Debit memo

9. None of the \$7,000 received from NSFC was used for the purpose of retaining an expert witness. All of the \$7,000, except the nominal sums utilized to pay bank service charges, was paid either to respondent, Jesse Gant or Cindy Smith.

10. The payments to Cindy Smith were for secretarial services provided to respondent. Respondent has provided invoices purportedly from Smith but drafted by respondent reflecting \$830.00 in payments to Smith.

11. The payments to Jesse Gant were for research and investigation services. Respondent has provided invoices purportedly from Gant but drafted by respondent reflecting \$2,540 in payments to Gant. At the time the payments were made to Gant he was a Minnesota lawyer whose license to practice law had been suspended. Since that time, Gant's license to practice law has been reinstated and he now appears as co-counsel with respondent in Wilks' medical malpractice action. Respondent and Gant have agreed to split the contingent fee in Wilks' case on a 50-50 basis. The Wilks medical malpractice action is still pending.

12. In a letter to the Director dated September 6, 2001, but postmarked October 11, 2001, respondent purported to provide an accounting of the \$7,000 received from NSFC. Despite the fact that all of the NSFC funds had by then been disbursed, respondent accounted for only \$6,670.00, leaving the false impression that \$330 of the funds remained in trust. Additionally, while respondent represented that she had paid herself \$1,500 in fees, in fact she had disbursed \$3,609.28 to herself from the \$7,000. She further falsely represented that she had paid \$1,800 from the \$7,000 for an expert opinion report. As detailed in paragraph 8, no disbursement was ever made for an expert witness report.

13. Respondent's written fee agreement with Wilks provides only for the payment of a contingent fee and does not provide for the payment of any advance or hourly fees. The fee agreement does not provide for the payment of any fees unless there is a recovery or Wilks discharges respondent prior to recovery.

14. Respondent's conduct in the JaRonda Wilks matter violated Rules 1.1, 1.7(b), 1.15(a), 8.1(a)(1), and 8.4(c) Minnesota Rules of Professional Conduct (MRPC).

SECOND COUNT

Neglect and Failure to Communicate

Christina Johnson Matter

15. On September 10, 2002, Christina Johnson retained respondent to represent her in a child custody matter. Johnson paid respondent a \$1,000 retainer fee at the time of retention.

16. Respondent apparently provided some limited services on behalf of Johnson but, because of respondent's failure to cooperate in the disciplinary investigation (as more fully set forth below), the full extent of the services rendered is unknown. Johnson did sign some documents drafted by respondent, but respondent never provided Johnson with a copy of those documents.

17. After signing the documents drafted by respondent, Johnson called respondent repeatedly to inquire as to the status of the proceedings. Respondent failed to return those calls.

18. In late November or early December 2002 Johnson left a voice mail message for respondent discharging her and requesting a refund of the unearned portion of her retainer.

19. Thereafter Johnson left at least 12 messages for respondent inquiring about the refund of her retainer. Respondent returned two of those calls, both times promising that a portion of the retainer would be refunded.

20. On January 27, 2003, Johnson submitted a complaint against respondent to the Office of Lawyers Professional Responsibility. After submission of the complaint, respondent refunded \$300 of Johnson's retainer.

Valeria Brown Matter

21. On October 25, 2002, Valeria Brown retained respondent to represent her in a civil rights action.

22. Since that time respondent, despite repeated requests from Brown for information regarding the status of her matter, has only spoken with Brown on two occasions. On the first occasion Brown called to give respondent information regarding witnesses to be interviewed and on the second occasion Brown called to inquire whether the witnesses had been interviewed.

23. Respondent has not kept Brown reasonably informed about the status of her matter.

Mark Morral Matter

24. On September 28, 2002, Mark Morral retained respondent to represent him in a marriage dissolution action. Morral paid respondent a nonrefundable retainer of \$1,750.

25. Respondent apparently provided some limited services on behalf of Morral but, because of respondent's failure to cooperate in the disciplinary investigation (as more fully set forth below), the full extent of the services rendered is unknown. Morral did sign some documents drafted by respondent, but respondent never provided Morral with a copy of those documents.

26. From January through March, 2003 Morral made numerous attempts to contact respondent for the purpose of inquiring about the status of the dissolution. At first he was told that respondent had moved her offices, but was not given any information as to where she had moved. Later, when he was successful in contacting respondent, she told him that, due to personal problems, she did not have anything new to report.

27. On March 13, 2003, a case management conference was held in the dissolution action. Respondent did appear at this conference but was unprepared and failed to bring with her budget information that Morral had previously provided.

28. On March 31, 2003, respondent withdrew as counsel for Morral.

29. Respondent's conduct in the Johnson, Brown, and Morral matters violated Rules 1.3 and 1.4, MRPC.

THIRD COUNT

Failure to Cooperate in the Disciplinary Proceedings

30. On February 4, 2003, the Director mailed a notice of investigation to respondent in the Christina Johnson complaint, requesting respondent's written response within 14 days.

31. On February 26, 2003, having received no response, the Director again requested a response to the Christina Johnson complaint.

32. In a letter dated February 26, 2003, but received in an envelope postmarked March 3, 2003, respondent wrote to the Director's Office promising a written response by the next week.

33. On March 21, 2003, still having received no response, the Director again wrote to respondent requesting an immediate response to the Christina Johnson complaint.

34. Except as noted below, no response to the Christina Johnson complaint has been received from respondent.

35. On January 30, 2003, the Director mailed a notice of investigation to respondent in the Valeria Brown complaint, requesting a response within 14 days.

36. On February 26, 2003, having received no response, the Director again requested a response to the Valeria Brown complaint.

37. In a letter dated February 26, 2003, but received in an envelope postmarked March 3, 2003, respondent promised a written response by the next week.

38. On March 21, 2003, still having received no response, the Director again requested a response to the complaint of Valeria Brown.

39. Except as noted below, no response to the Valeria Brown complaint has been received from respondent.

40. On May 2, 2003, the Director mailed a notice of investigation to respondent in the Mark Morral complaint, requesting a written response within 14 days.

41. Except as noted below, no response to the Mark Morral complaint has been received from respondent.

42. On May 15, 2003, respondent wrote to the Director explaining that she had recently been experiencing emotional and physical difficulties that had delayed her response to the Director's inquiries. In that letter respondent said she was thinking about retaining an attorney to represent her and asked for a brief reprieve so that she might meet with the attorney.

43. On May 29, 2003, the Director wrote to respondent requesting the identity of the attorney she intended to hire or a telephone call or letter stating when a response to the complaints of Christina Johnson, Valeria Brown, and Mark Morral might be expected.

44. On July 10, 2003, respondent faxed a letter dated July 9, 2003, to the Director responding to the Johnson, Brown, and Morral complaints. The letter indicated that respondent was continuing to talk to attorneys about representing her but made no mention of the emotional or physical difficulties alluded to in respondent's previous letter.

45. Because respondent's July 10 fax contained little detail concerning the Johnson, Brown and Morral complaints, the Director wrote to respondent on July 14, 2003, asking for additional information in the Johnson, Brown, and Morral matters. That letter requested a response within two weeks.

46. On July 31, 2003, having received no response to the July 14 letter, the Director again wrote to respondent asking for a complete response to the July 14 letter within one week. In that letter respondent was urged to call for an extension of time to respond if she required an extension.

47. On October 1, 2003, the Director mailed a notice of investigation to respondent in the matter of the complaint of Ronnie A. Blair, requesting respondent's written response within 14 days.

48. On October 16, 2003, the Director wrote to respondent by fax and U.S. mail requesting a response to the Ronnie Blair complaint as well as the Director's letters of July 14 and July 31, 2003. That letter requested that respondent provide the information requested no later than October 21, 2003.

49. On October 23, 2003, the Director mailed a notice of investigation to respondent in the matter of the complaint of Gary L. Williams, requesting respondent's written response within 14 days.

50. As of the date of this petition, respondent has not provided a written response to the Director's July 14, July 31 and October 16, 2003, letters, to the October 1, 2003, notice of investigation in the Ronnie A. Blair complaint or the October 23, 2003, notice of investigation in the Gary Williams complaint.

51. On August 13, 2003, the Director mailed respondent charges of unprofessional conduct arising out of the Wilks, Christina Johnson, Valeria Brown, and Mark Morral matters. Together with the charges of unprofessional conduct the Director also served a notice of pre-hearing meeting setting the pre-hearing for September 17, 2003.

52. In an August 5, 2003, letter that was not received by the Director until September 10, 2003, respondent advised that she was unable to attend the September 17, 2003, pre-hearing meeting due to conflicting trial dates and that she was considering hiring counsel.

53. On September 17, 2003, the Director mailed respondent a notice of pre-hearing meeting rescheduling the pre-hearing to September 29, 2003, at 1:00 p.m.

54. Respondent did not appear at the pre-hearing meeting. Instead, she left a phone message at 3:28 p.m. on September 29th indicating that she had been admitted to the emergency room that morning.

55. On October 2, 2003, the Director mailed to respondent a notice of pre-hearing meeting rescheduling the pre-hearing for October 8, 2003, at 1:00 p.m. On October 7, 2003, at 2:12 p.m. respondent called the Director's Office and asked to reschedule the pre-hearing meeting because she was considering hiring counsel, William Wernz.

56. On October 8, 2003, the Director mailed to respondent a notice of pre-hearing meeting rescheduling the pre-hearing for October 23, 2003, at 1:00 p.m. On October 22, 2003, the Director received an e-mail from William Wernz indicating that he had not yet been retained to represent respondent. At 10:34 a.m. on October 23, 2003, the Director received a fax from respondent, apparently sent from Houston, Texas, stating that respondent would be unable to attend the pre-hearing meeting because she had just been released from the emergency room.

57. On October 31, 2003, the Director brought a motion to the panel chair for approval to file a petition based on respondent's flagrant non-cooperation. After service of this motion, respondent called the Director's office to discuss rescheduling of the pre-hearing meeting.

58. On November 4, 2003, the Director mailed respondent a notice of pre-hearing meeting rescheduling the pre-hearing for November 12, 2003 at 1:00 p.m. Respondent attended the pre-hearing meeting on that date.

59. Respondent's conduct in failing to respond to the Director's inquiries in the Johnson, Brown, Morral, Blair and Williams matters and in failing to appear for a

pre-hearing meeting until the fifth scheduled date for the meeting violated Rule 8.1(a)(3), MRPC, and Rule 25, RLPR.

WHEREFORE, the Director respectfully prays for an order of this Court disbarring or imposing otherwise 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: December 16, 2003.



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