

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against LAWRENCE WALTER ULANOWSKI,
a Minnesota Attorney,
Registration No. 316015.

**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 March 30, 2010, 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:

SIXTH COUNT

Frivolous Claims, Violation of Court Rules – Battey Matter

104. Respondent represented the plaintiffs in *Vernon M. Stordahl v. Gary R. Brewer, et al.*, a civil litigation matter.

105. The complaint contained five counts, each of which asserted a claim for an easement.

106. By letter dated February 27, 2009, opposing counsel advised respondent that each of the claims in the complaint was meritless, requested respondent to dismiss the claims, and advised respondent that, if he did not dismiss the claims, there would be a motion to dismiss and for sanctions.

107. Respondent did not dismiss any of the claims.

108. On or about April 16, 2009, opposing counsel served on respondent a notice of intent to seek sanctions.

109. Opposing counsel served and filed a motion for judgment on the pleadings and summary judgment. During the motion hearing, respondent attempted to withdraw some of the claims.

110. By amended order dated June 4, 2009, the court granted the motion, dismissed each count of the complaint and authorized the filing of "a post-judgment motion to seek recovery of attorneys' fees incurred"

111. Opposing counsel served and filed a motion seeking sanctions.

112. By letter dated June 11, 2009, respondent requested the court to allow a motion to amend, for reconsideration and/or for rehearing. That letter request was denied.

113. On or about August 21, 2009, respondent served and filed a notice to remove the assigned judge, the Honorable David R. Battey. The request stated that it was made "pursuant to Rule 26.03 Subd. 13 (4) of Minnesota Criminal Procedure [Minnesota Rules of Civil Procedure, Rule 63.03; Minnesota Rules of Juvenile Protection Procedure, Rule 7; Minnesota Rules of Juvenile Procedure, Rule 22; or Minnesota General Rules of Practice, Rules 106, 107]."

114. The notice to remove was frivolous:

- The Minnesota Rules of Criminal Procedure did not apply to this civil matter.
- The Minnesota Rules of Juvenile Protection Procedure did not apply to this civil matter.
- The Minnesota Rules of Juvenile Procedure did not apply to this civil matter.
- Minn. R. Gen. Prac. 107 did not apply to respondent's notice to remove the assigned judge, because this rule deals with challenges to an assigned referee. Respondent's notice to remove did not seek to remove an assigned referee.
- Minn. R. Gen. Prac. 106 did not apply to respondent's notice to remove, because this rule applies to motions for removal of a judge for

actual prejudice or bias. Respondent's notice to remove did not seek to remove Judge Battey for bias or prejudice and did not set forth any fact to support such a claim.

- Minn. R. Civ. P. 63.03 did not apply to respondent's notice to remove because this rule requires that a notice to remove must "be served and filed within ten days after the party receives notice of which judge or judicial officer is to preside at the trial or hearing, but not later than the commencement of the trial or hearing." Respondent's notice to remove was filed approximately seven months after the matter was assigned to Judge Battey.
- Minn. R. Civ. P. 63.03 also did not apply to this notice to remove because this rule further requires that a notice to remove must be filed before the start of a hearing on "a motion of any other proceeding of which the party had notice" Respondent's notice to remove was filed after Judge Battey had presided at multiple hearings of which respondent and his client had knowledge, and at which respondent appeared.

115. By order filed December 30, 2009, the court found each of respondent's claims in the complaint lacked a legal basis, lacked a factual basis and was frivolous. The court sanctioned respondent, personally, \$10,859.50. Respondent did not appeal this award. Upon information and belief, respondent has neither paid any portion thereof nor made any efforts to pay.

116. Respondent's conduct violated Rules 3.1, 3.4(c) and 8.4(d), Minnesota Rules of Professional Conduct (MRPC).

SEVENTH COUNT

Additional Non-Cooperation

117. On February 2, 2010, the Director mailed to respondent notice of investigation of a complaint filed by the Honorable David R. Battey regarding

respondent's conduct in *Stordahl v. Brewer*. The notice requested respondent to provide his complete written response to the complaint within 14 days of the date of the notice.

118. By letter dated February 8, 2010, respondent told the Director that respondent would not provide to the assigned Assistant Director a response to Judge Battey's complaint and requested that the matter be reassigned to a different lawyer.

119. As noted in the original petition for disciplinary action, respondent had made this statement on multiple occasions previously. Also on multiple occasions, the Director had advised respondent that the matter would not be reassigned and that respondent should cooperate fully.

120. By letter dated February 17, 2010, the Director advised respondent that the Director had received no response to Judge Battey's complaint and requested respondent to provide at that time the complete written response requested in the notice of investigation.

121. By letter dated February 24, 2010, respondent acknowledged receipt of the Director's February 17 letter regarding Judge Battey's complaint and requested a continuance to April 1, 2010, to respond. The request was based on work connected to court appearances in March, after the time in which to respond had elapsed. The requested extension was not made until after the time in which to respond had elapsed and a follow-up request had been made. The request was also made because respondent intended to file a complaint with the Board on Judicial Standards against Judge Battey. However, respondent's February 24 letter did not set forth any correlation between the conduct of Judge Battey about which respondent stated that he intended to complain and respondent's conduct which was the subject of the investigation.

122. By letter dated February 24, 2010, the Director advised respondent that the requested extension was not acceptable and requested respondent to provide at that time his complete written response as requested in the notice of investigation of Judge Battey's complaint. Respondent failed to respond.

123. Although the Director has waited more than two months for respondent to respond substantively to Judge Battey's complaint, respondent has not done so and has not otherwise provided any information or documents contradictory to the facts set forth in paragraphs 104 - 116, above.

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

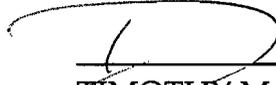
WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent from the practice of law or imposing otherwise appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: April 23, 2010.



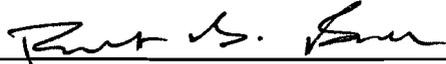
MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 148416
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

and



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: 4/26/10, 2010. 

ROBERT B. BAUER
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD