

STATE OF WISCONSIN

IN SUPREME COURT

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST ERNESTO CHAVEZ,  
ATTORNEY AT LAW.

CASE CODE 30912

OFFICE OF LAWYER REGULATION,

CASE NO. 2014AP 569 -D

Complainant;

ERNESTO CHAVEZ,

Respondent.

**RECEIVED**

MAR 13 2014

CLERK OF SUPREME COURT  
OF WISCONSIN

---

**COMPLAINT**

---

NOW COMES the Wisconsin Supreme Court - Office of  
Lawyer Regulation (OLR) by Assistant Litigation Counsel  
Jonathan E. Hendrix, and alleges as follows:

1. OLR was established by the Wisconsin Supreme  
Court and operates pursuant to Supreme Court Rules. This  
Complaint is filed pursuant to SCR 22.11.

2. Respondent Ernesto Chavez (Chavez) is an  
attorney admitted to the State Bar of Wisconsin on  
September 27, 2000. Chavez's address on file with the  
State Bar of Wisconsin is Chavez Law Office LLC, 2158  
Atwood Ave. Ste. 204, Madison, WI 53704-5463. On

information and belief, Chavez resides at 1803 Bigelow Ave. NE, Olympia, WA 98506.

3. Chavez's professional disciplinary history consists of a 2008 private reprimand in a civil rights case. Two inmates hired Chavez to explore a civil claim against a prison. Chavez did not keep his clients informed of the status or the merits of their case, and did not respond to numerous requests for information. *Private Reprimand 08-34.*

#### **Regarding Crouse**

3. On April 21, 2009, Sheila Crouse (Crouse) and her husband Thomas Crouse hired Chavez to represent them in two appellate cases. Ms. Crouse gave Chavez case files at that meeting.

4. A few days after the meeting, Crouse paid Chavez \$1,500. Chavez did not have a written fee agreement with Crouse. Chavez placed the \$1,500 advanced fee in a non-trust account.

5. On November 15, 2009, Crouse terminated Chavez's representation in the appellate matters.

6. On November 17, 2009, Chavez informed Crouse that he would return her case files that day. Chavez never returned the files.

7. On December 4, 2009, Crouse filed a grievance against Chavez with OLR.

8. On April 6, 2010, Chavez executed a one-year diversion agreement with OLR concerning Crouse's grievance.

9. On July 18, 2011, OLR informed Chavez that it appeared he had breached the diversion agreement, and that OLR would continue investigating the Crouse grievance.

10. On information and belief, Chavez moved to Washington in August 2011. Chavez did not notify OLR or the State Bar of Wisconsin of his move at that time.

11. On September 21, 2011, OLR notified Chavez by mail to his office that he was required to respond to Crouse's grievance by October 13, 2011. OLR did not receive a response from Chavez. Almost a year later, the post office returned OLR's letter indicating that Chavez had moved and left no forwarding address.

12. On October 13, 2011, OLR sent a second notice to Chavez via certified and regular mail. This notice

required a response by October 24, 2011. OLR did not receive a response from Chavez. The post office returned both of OLR's letters.

13. On November 2, 2011, OLR sent a third notice to be personally served on Chavez. However, OLR's process server was unable to personally serve Chavez, despite trying to serve him at his last known office and home addresses, and leaving messages on his cell phone. At that time, OLR did not have any other valid address for Chavez.

14. On February 16, 2012, OLR moved the Supreme Court of Wisconsin for an Order to Show Cause why Chavez's Wisconsin law license should not be suspended for failure to cooperate with OLR in nine investigations, including the Crouse grievance. *OLR Investigations Concerning Chavez*, Case No. 2012XX203-D. On February 21, 2012, the Supreme Court of Wisconsin granted OLR's motion and ordered Chavez to show cause.

15. On April 23, 2012, the Court temporarily suspended Chavez's Wisconsin law license pursuant to SCR 22.03(4) for failure to cooperate with OLR.

COUNT ONE

16. By failing to provide a written fee agreement to Crouse when she paid an advanced fee of \$1,500 for his representation, Chavez violated SCR 20:1.5(b)(1) and (2).<sup>1</sup>

COUNT TWO

17. Upon receipt of \$1,500, specifically in anticipation of providing legal representation to Crouse, by failing to deposit those funds into his trust account, instead admittedly depositing the funds into his general account, and with no evidence that he intended to utilize the alternative fee placement measures permitted under SCR 20:1.15(b)(4m), Chavez violated SCR 20:1.15(b)(4).<sup>2</sup>

---

<sup>1</sup> SCR 20:1.5(b)(1) and (2) provide:

(1) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client in writing, except when the lawyer will charge a regularly represented client on the same basis or rate as in the past. If it is reasonably foreseeable that the total cost of representation to the client, including attorney's fees, will be \$1000 or less, the communication may be oral or in writing. Any changes in the basis or rate of the fee or expenses shall also be communicated in writing to the client.

(2) If the total cost of representation to the client, including attorney's fees, is more than \$1000, the purpose and effect of any retainer or advance fee that is paid to the lawyer shall be communicated in writing.

<sup>2</sup> SCR 20:1.15(b)(4) provides:

COUNT THREE

18. By failing to return Crouse's files to her, Chavez violated SCR 20:1.16(d).<sup>3</sup>

COUNT FOUR

19. By failing to respond to OLR, Chavez violated SCR 22.03(2) and (6), enforceable via SCR 20:8.4(h).<sup>4</sup>

---

Except as provided in par. (4m), unearned fees and advanced payments of fees shall be held in trust until earned by the lawyer, and withdrawn pursuant to sub. (g). Funds advanced by a client or 3rd party for payment of costs shall be held in trust until the costs are incurred.

<sup>3</sup> SCR 20:1.16(d) provides:

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

<sup>4</sup> SCR 20:8.4(h) provides: "It is professional misconduct for a lawyer to fail to cooperate in the investigation of a grievance filed with the office of lawyer regulation as required by . . . SCR 22.03(2) [or] SCR 22.03(6). . . ."

### Regarding Nelson and Sanderson

20. On January 23, 2010, Geri Nelson (Nelson) paid Chavez \$5,000 to represent her brother, Gregory Sanderson (Sanderson), in post-conviction proceedings.

21. Chavez deposited the \$5,000 into his business account.

22. On May 14, 2010, Chavez emailed Nelson that he had ordered transcripts and would send them to Sanderson's wife. Chavez had not ordered any transcripts.

23. Chavez made other false statements to Nelson and Sanderson's wife, including that he had contacted the social worker at Sanderson's prison to schedule a phone visit, and that he had drafted a brief. Chavez also promised to send Nelson a plan for representing Sanderson, but never did so.

24. On April 13, 2011, Nelson wrote to Chavez asking him to refund the \$5,000. In May of 2011, Chavez told Nelson that he would send her the brief, but would refund her if she did not approve of the brief. Chavez never sent Nelson a brief.

25. On May 23, 2011, Nelson filed a grievance with OLR against Chavez. Chavez told an intake investigator that Nelson was owed at least a partial refund. Sanderson joined this grievance against Chavez.

26. On September 7, 2011, OLR notified Chavez by mail to his office that he was required to respond to Nelson's grievance by September 30, 2011. OLR did not receive any response from Chavez. In August of 2012, the post office returned OLR's letter indicating that Chavez had moved and left no forwarding address.

27. On October 11, 2011, OLR sent a second notice to Chavez via certified and regular mail. This notice required a response by October 20, 2011. OLR did not receive a response and the post office returned both of OLR's letters.

28. On November 2, 2011, OLR sent a third notice to be personally served on Chavez. However, OLR's process server was unable to personally serve Chavez, despite trying to serve him at his last known office and home addresses, and leaving messages on his cell phone. At that time, OLR did not have any other valid address for Chavez.



29. On February 16, 2012, OLR moved the Supreme Court of Wisconsin for an Order to Show Cause why Chavez's Wisconsin law license should not be suspended for failure to cooperate with OLR in nine investigations, including the Nelson and Sanderson grievance. *OLR Investigations Concerning Chavez*, Case No. 2012XX203-D. On February 21, 2012, the Supreme Court of Wisconsin granted OLR's motion and ordered Chavez to show cause.

30. On April 23, 2012, the Court temporarily suspended Chavez's Wisconsin law license pursuant to SCR 22.03(4) for failure to cooperate with OLR.

31. In September of 2012, the Wisconsin Lawyers' Fund for Client Protection paid \$5,000 to Nelson as reimbursement of her legal fees.

#### COUNT FIVE

32. By failing to order any transcripts or take any post-conviction action on Sanderson's behalf, Chavez violated SCR 20:1.3.<sup>5</sup>

---

<sup>5</sup> SCR 20:1.3 provides: "A lawyer shall act with reasonable diligence and promptness in representing a client."

COUNT SIX

33. Having accepted \$5,000 from Nelson to pursue post-conviction proceedings, and in the absence of any evidence of having prepared any motions or documents on behalf of Sanderson, Chavez violated SCR 20:1.5(a).<sup>6</sup>

---

<sup>6</sup> SCR 20:1.5(a) provides:

A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

COUNT SEVEN

34. By failing to return any of Nelson's money, after admitting she was entitled to at least a partial refund, Chavez violated SCR 20:1.16(d).<sup>7</sup>

COUNT EIGHT

35. Upon receipt of \$5,000, specifically in anticipation of providing legal representation to Sanderson, by failing to deposit those funds into his trust account, instead admittedly depositing the funds into a non-trust account, and with no evidence that he intended to utilize the alternative fee placement measures permitted under SCR 20:1.15(b)(4m), Chavez violated SCR 20:1.15(b)(4).

COUNT NINE

36. By providing false information regarding case status, including that transcripts had been requested, that

---

<sup>7</sup> SCR 20:1.16(d) provides:

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

he had been attempting to set up a phone visit with Sanderson, and that he had a draft brief that he would provide to Nelson, **Chavez violated SCR 20:8.4(c).**<sup>8</sup>

COUNT TEN

37. By failing to respond to OLR's investigation of Nelson's and Sanderson's grievance, **Chavez violated SCR 22.03(2) and (6), enforceable via SCR 20:8.4(h).**

**Regarding Practice During Suspension**

38. In October of 2010, the Board of Bar Examiners (BBE) sent Chavez a standard Memorandum concerning Wisconsin mandatory continuing legal education (CLE) requirements for 2009-10.

39. On April 7, 2011, the BBE sent Chavez a Notice of Noncompliance, informing him that he would be automatically suspended from practicing law in Wisconsin on June 6, 2011 unless he complied with CLE requirements. Chavez did not comply with those requirements.

---

<sup>8</sup> **SCR 20:8.4(c) provides:** "It is professional misconduct for a lawyer to: . . . engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

40. On June 6, 2011, Chavez's Wisconsin law license was suspended for failure to comply with mandatory CLE reporting requirements.

41. On June 7, 2011, the BBE sent Chavez a Notice of Suspension.

#### Regarding Tschosik

42. In August of 2010, Chavez began representing Luke Tschosik (Tschosik) in *State v. Tschosik*, Dane County Case No. 10-CM-1741.

43. On June 6, 2011, Chavez's Wisconsin law license was suspended.

44. On June 28, 2011, Chavez sent emails to opposing counsel about a possible agreement in the case.

45. On June 29, 2011, Chavez appeared on Tschosik's behalf at a plea hearing in Dane County and indicated to the bailiff that he was ready to proceed. Tschosik had driven from Illinois for the hearing. Chavez had not notified the court, opposing counsel or his client of his suspension.

46. After the judge questioned Chavez's appearance, Chavez told the judge that there was a joint recommendation, so he would not be making any argument. The judge cancelled the hearing.

47. On July 26, 2011, Tschosik appeared without counsel, and the court discharged Chavez.

48. On August 10, 2011, OLR notified Chavez by mail that he was required to respond to OLR's request for information in the Tschosik matter by September 2, 2011. The post office returned OLR's letter indicating that Chavez had moved and left no forwarding address.

49. On September 7, 2011, OLR sent a second notice to Chavez via certified and regular mail. This notice required a response by September 16, 2011. OLR did not receive a response from Chavez, and the post office returned both of OLR's letters.

50. On November 2, 2011, OLR sent a third notice to be personally served on Chavez. However, OLR's process server was unable to personally serve Chavez, despite trying to serve him at his last known office and home

addresses, and leaving messages on his cell phone. At that time, OLR did not have any other valid address for Chavez.

51. On February 16, 2012, OLR moved the Supreme Court of Wisconsin for an Order to Show Cause why Chavez's Wisconsin law license should not be suspended for failure to cooperate with OLR in nine investigations, including its investigation of Chavez's representation in the *Tschosik* case. *OLR Investigations Concerning Chavez*, Case No. 2012XX203-D. On February 21, 2012, the Supreme Court of Wisconsin granted OLR's motion and ordered Chavez to show cause.

52. On April 23, 2012, the Court temporarily suspended Chavez's Wisconsin law license pursuant to SCR 22.03(4) for failure to cooperate with OLR.

#### COUNT ELEVEN

53. By failing to provide notice of his suspension to his client, the court, or opposing counsel, Chavez violated 22.26(1)(a), (b), and (c), enforceable via SCR 20:8.4(f).<sup>9</sup>

---

<sup>9</sup> SCR 22.26(1)(a), (b), and (c) provides:

(1) On or before the effective date of license suspension or revocation, an attorney whose license is suspended or revoked shall do all of the following:

COUNT TWELVE

54. By failing to withdraw from the case when he was suspended, Chavez violated SCR 20:1.16(a)(1).<sup>10</sup>

COUNT THIRTEEN

55. By telling the bailiff on June 29, 2011 that they were prepared to proceed, negotiating with the district attorney's office, and preparing to enter a plea on his client's behalf in *State v. Tschosik* while his law license

- 
- (a) Notify by certified mail all clients being represented in pending matters of the suspension or revocation and of the attorney's consequent inability to act as an attorney following the effective date of the suspension or revocation.
  - (b) Advise the clients to seek legal advice of their choice elsewhere.
  - (c) Promptly provide written notification to the court or administrative agency and the attorney for each party in a matter pending before a court or administrative agency of the suspension or revocation and of the attorney's consequent inability to act as an attorney following the effective date of the suspension or revocation. The notice shall identify the successor attorney of the attorney's client or, if there is none at the time notice is given, shall state the client's place of residence.

<sup>10</sup> SCR 20:1.16(a)(1) provides: "Except as stated in par. (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: . . . the representation will result in violation of the Rules of Professional Conduct or other law."



was suspended, Chavez violated SCR 31.10(1)<sup>11</sup> and 22.26(2),<sup>12</sup> which are enforced under the Rules of Professional Conduct via SCR 20:8.4(f).

#### COUNT FOURTEEN

56. By failing to respond to OLR, Chavez violated SCR 22.03(2) and (6), enforceable via SCR 20:8.4(h).

---

<sup>11</sup> SCR 31.10(1) provides:

If a lawyer fails to comply with the attendance requirement of SCR 31.02, fails to comply with the reporting requirement of SCR 31.03(1), or fails to pay the late fee under SCR 31.03(2), the board shall serve a notice of noncompliance on the lawyer. This notice shall advise the lawyer that the lawyer's state bar membership shall be automatically suspended for failing to file evidence of compliance or to pay the late fee within 60 days after service of the notice. The board shall certify the names of all lawyers so suspended under this rule to the clerk of the supreme court, all supreme court justices, all court of appeals and circuit court judges, all circuit court commissioners appointed under SCR 75.02(1) in this state, all circuit court clerks, all juvenile court clerks, all registers in probate, the executive director of the state bar of Wisconsin, the Wisconsin State Public Defender's Office, and the clerks of the federal district courts in Wisconsin. A lawyer shall not engage in the practice of law in Wisconsin while his or her state bar membership is suspended under this rule.

<sup>12</sup> SCR 22.26(2) provides:

An attorney whose license to practice law is suspended or revoked or who is suspended from the practice of law may not engage in this state in the practice of law or in any law work activity customarily done by law students, law clerks, or other paralegal personnel, except that the attorney may engage in law related work in this state for a commercial employer itself not engaged in the practice of law.

### Regarding Dennis

57. In May of 2011, Chavez filed an administrative appeal on behalf of Todd Dennis (Dennis) in *City of Brodhead v. Dennis*, Green County Case No. 11-CV-189.

58. On June 6, 2011, Chavez's Wisconsin law license was suspended.

59. On July 8, 2011, Chavez appeared at a final status teleconference in the *Dennis* case. After opposing counsel informed the judge that Chavez was suspended, Chavez admitted it. The court set a second scheduling conference for later that day.

60. After the first July, 2011 scheduling conference, Chavez tried to negotiate a resolution to the case with opposing counsel.

61. Chavez also appeared at the second telephone conference on July 8, 2011. The judge scheduled another telephone conference for July 15, 2011. The judge ordered Chavez to write to Dennis and tell him that opposing counsel would be calling Dennis directly on that date. Chavez did not obey the judge's order and did not inform his client.

62. On August 10, 2011, OLR notified Chavez by mail that he was required to respond to OLR's request for information in the Dennis matter by September 2, 2011. OLR received no response from Chavez, and the letter was not returned to OLR.

63. On September 7, 2011, OLR sent second notices to Chavez via first class and certified mail. These notices required a response by September 16, 2011. OLR did not receive a response from Chavez, and the post office returned both of OLR's letters.

64. On November 2, 2011, OLR sent a third notice to be personally served on Chavez. However, OLR's process server was unable to personally serve Chavez, despite trying to serve him at his last known office and home addresses, and leaving messages on his cell phone. At that time, OLR did not have any other valid address for Chavez.

65. On February 16, 2012, OLR moved the Supreme Court of Wisconsin for an Order to Show Cause why Chavez's Wisconsin law license should not be suspended for failure to cooperate with OLR in nine investigations, including its investigation of Chavez's representation in the *Dennis*

case. *OLR Investigations Concerning Chavez*, Case No. 2012XX203-D. On February 21, 2012, the Supreme Court of Wisconsin granted OLR's motion and ordered Chavez to show cause.

66. On April 23, 2012, the Court temporarily suspended Chavez's Wisconsin law license pursuant to SCR 22.03(4) for failure to cooperate with OLR.

COUNT FIFTEEN

67. By failing, prior to the first July 8, 2011 status conference, to provide notice of his suspension to adverse counsel or the court in *City of Brodhead v. Dennis*, Chavez violated 22.26(1)(c), enforceable via SCR 20:8.4(f).

COUNT SIXTEEN

68. By making an appearance on Dennis' behalf at the first July 8, 2011 status conference in *City of Brodhead v. Dennis*, and by thereafter attempting to negotiate an agreement with the prosecuting attorney while his law license was suspended, Chavez violated SCR 31.10(1) and SCR 22.26(2), enforceable via SCR 20:8.4(f).

COUNT SEVENTEEN

69. Having terminated his representation of Dennis as a result of his June 6, 2011 law license suspension, and having been ordered by the court in the course of a teleconference on July 8, 2011 to write a letter to Dennis informing him of a July 15, 2011 status conference, by thereafter failing to provide such information to Dennis, Chavez violated SCR 20:1.16(d) and SCR 20:3.4(c)<sup>13</sup>.

COUNT EIGHTEEN

70. By failing to respond to OLR, Chavez violated SCR 22.03(2) and (6), enforceable via SCR 20:8.4(h).

Regarding Bober

71. On June 6, 2011, Chavez's Wisconsin law license was suspended.

72. In July of 2011, Chavez represented Samuel Bober (Bober) in *State v. Bober*, Lafayette County Case No. 11-CF-23.

73. On July 11, 2011, Chavez waived Bober's preliminary hearing and filed a request for substitution.

---

<sup>13</sup> SCR 20:3.4(c) provides: "A lawyer shall not knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists."

Chavez did not notify his client, the court or opposing counsel of his suspension.

74. On August 10, 2011, OLR notified Chavez by mail that he was required to respond to OLR's questions regarding the Bober matter by September 2, 2011. OLR received no response from Chavez, and the post office did not return the letter to OLR.

75. On September 7, 2011, OLR sent a second notice to Chavez via certified and regular mail. This notice required a response by September 16, 2011. The post office returned both of OLR's letters.

76. On November 2, 2011, OLR sent a third notice to be personally served on Chavez. However, OLR's process server was unable to personally serve Chavez, despite trying to serve him at his last known office and home addresses, and leaving messages on his cell phone. At that time, OLR did not have any other valid address for Chavez.

77. On February 16, 2012, OLR moved the Supreme Court of Wisconsin for an Order to Show Cause why Chavez's Wisconsin law license should not be suspended for failure to cooperate with OLR in nine investigations, including its

investigation of Chavez's representation in the *Bober* case. *OLR Investigations Concerning Chavez*, Case No. 2012XX203-D. On February 21, 2012, the Supreme Court of Wisconsin granted OLR's motion and ordered Chavez to show cause.

78. On April 23, 2012, the Court temporarily suspended Chavez's Wisconsin law license pursuant to SCR 22.03(4) for failure to cooperate with OLR.

COUNT NINETEEN

79. By failing, prior to the July 11, 2011 preliminary hearing, to provide notice of his suspension to his client, adverse counsel, or the court in *State v. Bober*, Chavez violated SCR 22.26(1)(a), (b), and (c), enforceable via SCR 20:8.4(f).

COUNT TWENTY

80. By making an appearance on Bober's behalf at a July 11, 2011 preliminary hearing in *State v. Bober* while his law license was suspended, Chavez violated SCR 31.10(1) and 22.26(2), enforceable via SCR 20:8.4(f).

COUNT TWENTY-ONE

81. By failing to respond to OLR, Chavez violated SCR 22.03(2) and (6), enforceable via SCR 20:8.4(h).

### Regarding Boll

82. On April 2, 2011, Tara Boll (Boll) hired Chavez to represent her in a municipal traffic matter. She paid Chavez \$1,500 for the representation.

83. Between May and August of 2011, Chavez stopped updating Boll about her case. Boll left Chavez numerous voicemails.

84. On June 6, 2011, Chavez's Wisconsin law license was suspended.

85. On August 19, 2011, Chavez contacted Boll and told her that he could still represent her only if her case did not go to trial. Chavez admitted to Boll that his law license was suspended. Chavez told Boll that he was going to attend a case review appointment on August 22, 2011.

86. Between August 2011 and November 2011, Boll tried to contact Chavez several times, but had no communication with him. Chavez did not attend the August 22, 2011 hearing.

87. On November 2, 2011, OLR notified Chavez by regular and certified mail that he was required to respond to Boll's grievance by November 25, 2011. The post office



returned both of OLR's letters. At that time, OLR had no other valid address for Chavez.

88. On February 16, 2012, OLR moved the Supreme Court of Wisconsin for an Order to Show Cause why Chavez's Wisconsin law license should not be suspended for failure to cooperate with OLR in nine investigations, including its investigation of Chavez's representation of Boll. *OLR Investigations Concerning Chavez*, Case No. 2012XX203-D. On February 21, 2012, the Supreme Court of Wisconsin granted OLR's motion and ordered Chavez to show cause.

89. On or around March 14, 2012, the Wisconsin Lawyers' Fund for Client Protection approved payment of \$1,500 to Boll as reimbursement of her legal fees.

90. On April 23, 2012, the Court temporarily suspended Chavez's Wisconsin law license pursuant to SCR 22.03(4) for failure to cooperate with OLR.

COUNT TWENTY-TWO

91. By collecting a fee of \$1,500 as payment for all pre-trial services, then failing to fulfill his obligations under the fee agreement, Chavez violated SCR 20:1.5(a).

COUNT TWENTY-THREE

92. By failing to withdraw from the case when he was suspended, Chavez violated SCR 20:1.16(a)(1).

COUNT TWENTY-FOUR

93. By failing to provide notice of his suspension to his client, Chavez violated SCR 22.26(1)(a) and (b), enforceable via SCR 20:8.4(f).

COUNT TWENTY-FIVE

94. By telling Boll that he could continue to represent her as long as she did not go to trial, and telling her that he would attend her case review on August 22, 2011 while his law license was suspended, Chavez violated SCR 20:8.4(c).

COUNT TWENTY-SIX

95. By failing to respond to OLR, Chavez violated SCR 22.03(2) and (6), enforceable via SCR 20:8.4(h).

**Regarding Deckrosh and Burroughs**

96. On May 18, 2010, Teri Deckrosh (Deckrosh) hired Chavez to represent her son, John Burroughs (Burroughs), in a criminal appeal. Deckrosh signed a fee agreement and

paid Chavez \$2,000. Deckrosh gave Chavez another \$1,000 within the following month.

97. In July of 2010, Chavez met with Burroughs, who signed paperwork confirming that Chavez was to appeal his criminal conviction. That was their only meeting.

98. Chavez never filed a Notice of Intent to Pursue Postconviction Relief in Circuit Court, or an appeal in Court of Appeals.

99. On June 6, 2011, Chavez was administratively suspended. Chavez did not inform Deckrosh or Burroughs of his suspension and inability to handle Burroughs' appeal, or withdraw from representation.

100. On November 17, 2011, OLR notified Chavez by mail that he was required to respond to Deckrosh's and Burroughs' grievance by December 9, 2011. The post office returned that letter to OLR. At that time, OLR had no other valid address for Chavez.

101. On February 16, 2012, OLR moved the Supreme Court of Wisconsin for an Order to Show Cause why Chavez's Wisconsin law license should not be suspended for failure to cooperate with OLR in nine investigations, including its

investigation of Chavez's representation of Burroughs. OLR *Investigations Concerning Chavez*, Case No. 2012XX203-D. On February 21, 2012, the Supreme Court of Wisconsin granted OLR's motion and ordered Chavez to show cause.

102. On April 23, 2012, the Court temporarily suspended Chavez's Wisconsin law license pursuant to SCR 22.03(4) for failure to cooperate with OLR.

**COUNT TWENTY-SEVEN**

103. By failing to file notice in Circuit Court of Burroughs' intent to appeal, or an appeal in the Court of Appeals, or to otherwise further Burroughs' interests, Chavez violated SCR 20:1.3.

**COUNT TWENTY-EIGHT**

104. By collecting a fee of \$3,000, then failing to fulfill his obligations under the fee agreement, Chavez violated SCR 20:1.5(a).

**COUNT TWENTY-NINE**

105. By failing to withdraw from Burroughs' case when he was suspended, Chavez violated SCR 20:1.16(a)(1).

COUNT THIRTY

106. By failing to protect Burroughs' appellate rights after he ended his representation, Chavez violated SCR 20:1.16(d).

COUNT THIRTY-ONE

107. By failing to provide notice of his suspension to his client, Chavez violated SCR 22.26(1)(a) and (b), enforceable via SCR 20:8.4(f).

COUNT THIRTY-TWO

108. By failing to respond to OLR, Chavez violated SCR 22.03(2) and (6), enforceable via SCR 20:8.4(h).

**Regarding Gunn**

109. In May of 2010, James N. Gunn (Gunn) hired Chavez in anticipation of criminal charges being filed against him.

110. On May 18, 2010, Gunn signed a fee agreement and agreed to pay Chavez \$1,500 over time. Gunn paid Chavez at least \$1,000.

111. After his Wisconsin law license was suspended, Chavez offered to prepare papers for Gunn in a civil case for a fee, plus part of the settlement.

112. On September 26, 2011, Chavez told OLR that he was going to draft a complaint for Gunn, who would then appear *pro se*.

113. On October 18, 2011, OLR notified Chavez by regular and certified mail that he was required to respond to Gunn's grievance by November 7, 2011. The post office returned both of OLR's letters. At that time, OLR had no other valid address for Chavez.

114. On February 16, 2012, OLR moved the Supreme Court of Wisconsin for an Order to Show Cause why Chavez's Wisconsin law license should not be suspended for failure to cooperate with OLR in nine investigations, including its investigation of Chavez's representation of Gunn. *OLR Investigations Concerning Chavez*, Case No. 2012XX203-D. On February 21, 2012, the Supreme Court of Wisconsin granted OLR's motion and ordered Chavez to show cause.

115. On April 23, 2012, the Court temporarily suspended Chavez's Wisconsin law license pursuant to SCR 22.03(4) for failure to cooperate with OLR.

COUNT THIRTY-THREE

116. By failing to provide notice of his suspension to his client, and to advise his client to seek legal advice elsewhere, Chavez violated 22.26(1)(a) and (b), enforceable via SCR 20:8.4(f).

COUNT THIRTY-FOUR

117. By failing to respond to OLR, Chavez violated SCR 22.03(2) and (6), enforceable via SCR 20:8.4(h).

**Regarding Smith**

118. On March 29, 2011, Victoria Smith (Smith) was charged in three Adams County traffic cases.

119. In May of 2011, Smith hired Chavez to represent her in the Adams County cases. She signed a fee agreement and paid him \$500 as partial payment towards a flat fee. The agreement described pretrial and trial events through October 2011.

120. On May 31, 2011, Chavez wrote a letter confirming his representation and referring to the \$500 as part of his "retainer."

121. Chavez told Smith that he would appear at a June 27, 2011 in her cases.

122. Chavez never filed a notice of appearance, requested documents or took other actions on Smith's behalf.

123. On June 6, 2011, the BBE suspended Chavez's Wisconsin law license. Chavez had not told Smith of his impending, and then actual, suspension.

124. On June 27, 2011, Smith appeared in court for a return date, but Chavez did not appear. Opposing counsel informed Smith that Chavez had been suspended.

125. In late June and early July of 2011, Smith left Chavez several voicemails, but he did not return her calls.

126. On July 12, 2011, Smith called Chavez using a friend's phone, and Chavez answered. Chavez did not explain why he had not appeared in court, but said he would contact Smith again. Chavez has never contacted Smith since that conversation, returned Smith's case file or refunded any of Smith's fees.

127. On September 8, 2011, Smith filed a grievance with OLR against Chavez.

128. On November 2, 2011, OLR notified Chavez by regular and certified mail that he was required to respond



to Smith's grievance by November 25, 2011. The post office returned both of OLR's letters. At that time, OLR did not have another valid address for Chavez.

129. On February 16, 2012, OLR moved the Supreme Court of Wisconsin for an Order to Show Cause why Chavez's Wisconsin law license should not be suspended for failure to cooperate with OLR in nine investigations, including its investigation of Chavez's representation of Smith. *OLR Investigations Concerning Chavez*, Case No. 2012XX203-D. On February 21, 2012, the Supreme Court of Wisconsin granted OLR's motion and ordered Chavez to show cause.

130. On April 23, 2012, the Court temporarily suspended Chavez's Wisconsin law license pursuant to SCR 22.03(4) for failure to cooperate with OLR.

131. On or around September 19, 2012, the Wisconsin Lawyer's Fund for Client Protection paid \$500 to Smith as reimbursement of her legal fees.

#### COUNT THIRTY-FIVE

132. By accepting funds from Smith in May 2011, and presented a fee agreement that described pretrial and trial events through October 2011, knowing that he was subject to

an automatic license suspension at the close of business on June 6, 2011, with no apparent intention to remedy his CLE deficiencies prior to suspension, and with no notice to Smith of his impending suspension, Chavez violated SCR 20:8.4(c).

COUNT THIRTY-SIX

133. Prior to the June 6, 2011 suspension of his law license, by failing to inform Smith of relevant case developments, including the impending suspension of his license and his likely inability to appear on Smith's behalf at the June 27, 2011 proceeding in Circuit Court, Chavez violated SCR 20:1.4(a)(3)<sup>14</sup>.

COUNT THIRTY-SEVEN

134. By failing to, while his license was valid, enter an appearance in the Adams County matters, request discovery or otherwise further Smith's interests, Chavez violated SCR 20:1.3.

COUNT THIRTY-EIGHT

135. Having accepted \$500 from Smith, despite failing to perform any work on her behalf beyond the initial

---

<sup>14</sup> SCR 20:1.4(a)(3) provides: "A lawyer shall keep the client reasonably informed about the status of the matter."

introduction and consultation, Chavez violated SCR 20:1.5(a).

COUNT THIRTY-NINE

136. By failing to provide notice of his suspension to Smith following that suspension, Chavez violated 22.26(1)(a) and (b), enforceable via SCR 20:8.4(f).

COUNT FORTY

137. Subsequent to his June 6, 2011 license suspension and the consequent termination of his representation of Smith, by failing to respond to her inquiries regarding case status, particularly regarding his failure to appear in court on June 27, 2011; by failing to return Smith's case file; and failing to return any unearned portion of the advanced fee, Chavez violated SCR 20:1.16(d).

COUNT FORTY-ONE

138. By failing to respond to OLR's investigation of Smith's grievance, Chavez violated SCR 22.03(2) and (6), enforceable via SCR 20:8.4(h).

*WHEREFORE*, the Office of Lawyer Regulation asks the Supreme Court of Wisconsin to find Attorney Ernesto Chavez violated Supreme Court Rules as alleged in this Complaint;

to suspend Chavez's license to practice law in Wisconsin for one year; to order Chavez to pay restitution of \$3,000 to Deckrosh, \$1,500 to the Wisconsin Lawyers' Client Protection Fund (the Fund) for Boll, \$500 for Smith, and \$5,000 for Nelson; and to grant such other and further relief as may be just and equitable, including an award of costs.

Dated this 13<sup>th</sup> day of March, 2014.

OFFICE OF LAWYER REGULATION



JONATHAN E. HENDRIX  
Assistant Litigation Counsel  
State Bar No. 1047173

110 East Main Street, Room 315  
Madison, Wisconsin 53703  
Telephone: 608-266-8334