

CAUSE NO. \_\_\_\_\_

COMMISSION FOR LAWYER  
DISCIPLINE,  
*Petitioner*

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IN THE DISTRICT COURT

vs.

\_\_\_\_\_ JUDICIAL DISTRICT

OMAR MAYNEZ-GRIJALVA,  
Respondent

EL PASO COUNTY, TEXAS

**ORIGINAL DISCIPLINARY PETITION**

TO THE HONORABLE SPECIALLY ASSIGNED JUDGE PRESIDING:

COMES NOW the COMMISSION FOR LAWYER DISCIPLINE, Petitioner, and would respectfully show the following:

**I.**

**DISCOVERY CONTROL PLAN**

Discovery proceedings in this cause should be conducted pursuant to a scheduling order entered by the Court pursuant to the agreement of the parties or as determined by the Court to be appropriately tailored to circumstances of this disciplinary action, pursuant to Tex.R.Civ.P. Rule 190.4.

**II.**

**PARTIES**

The Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a standing committee of the State Bar of Texas.

The Respondent, OMAR MAYNEZ-GRIJALVA, State Bar Number 24043807, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas. Respondent

may be served with citation at Chase Bank Building, 1533 N. Lee Trevino Drive, Suite 203, El Paso, Texas 79936.

### III.

#### **JURISDICTION AND VENUE**

The cause of action and the relief sought in this case are within the jurisdictional requirements of this Honorable Court.

Venue of this case is proper in El Paso County, Texas pursuant to Texas Rules of Disciplinary Procedure Rule 3.03, because El Paso County is the county of the Respondent's principal place of practice.

### IV.

#### **PROFESSIONAL MISCONDUCT**

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex.Govt.Code §81.001 *et seq.*, the Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaints which initiated this disciplinary action were filed by David S Romero and Truide Torres. The acts and omissions of Respondent, as hereinafter alleged, constitute professional misconduct.

### V.

#### **FACTUAL BACKGROUND**

##### ***ROMERO COMPLAINT***

Respondent represented Davie Romero on a personal injury claim. Ms. Romero agreed to settle her claim with Allstate Insurance and signed a Release of All Claims against the adverse driver and Allstate on May 30, 2019. Before Respondent provided Ms. Romero the net settlement funds that she was entitled to receive, he presented Ms. Romero with a Settlement Agreement and Mutual

Release ("Settlement Agreement") for her signature. The parties to the Settlement Agreement were Respondent and Davie Romero. There was no consideration paid to Ms. Romero for her release of all claims against Respondent contained in the Settlement Agreement and Respondent failed to notify Ms. Romero that she should seek the advice of independent counsel before signing the Settlement Agreement.

On December 21, 2018, Respondent was served with the grievance complaint filed by Davie Romero along with notice to respond in writing within thirty days after receipt. At Respondent's request, he was granted an extension of time to February 19, 2019 to serve a written response to the grievance. Respondent failed to timely furnish to the Office of the Chief Disciplinary Counsel any written response to the grievance filed by Davie Romero.

Respondent failed to comply with the investigatory subpoena served on Respondent and ordering Respondent to produce to Petitioner certain documents related to the claims of Davie Romero no later than May 31, 2019.

### ***TORRES COMPLAINT***

Hector Escobar was injured in a car accident on March 16, 2018. Following the death of Hector Escobar on or about June 4, 2017, Omar Maynez-Grijalva ("Respondent") represented Guadalupe M. Escobar and Jared Escobar, the wife and son of Hector Escobar, as claimants regarding the pending personal injury claim. An agreement to settle the claims was reached with State Farm in October 2018.

Prior to receiving the Escobar settlement funds from State Farm, Respondent had been notified that Injury Medical Clinic asserted an interest in the settlement funds for the medical services the Clinic provided to Hector Escobar after the accident. Respondent contends Guadalupe M. Escobar and Jared Escobar disputed any portion of the settlement was owed to Injury Medical

Clinic. After receiving the settlement funds, Respondent failed to deliver any portion of the settlement funds to Injury Medical Clinic and failed to hold the disputed portion of the settlement funds in trust until the dispute between Respondent's clients and Injury Medical Center was resolved.

State Farm provided a proposed Release to Respondent on or about October 19, 2018 regarding the Escobar injury claims. On October 19, 2018, Respondent returned to State Farm the signed Release bearing the purported signature of Hector Escobar, who was deceased.

On March 22, 2019, Respondent was served with the grievance complaint filed by Truide Torres on behalf of Injury Medical Clinic along with notice to respond in writing within thirty days after receipt. Respondent failed to timely furnish to the Office of the Chief Disciplinary Counsel any written response to the grievance filed by Truide Torres.

Respondent failed to comply with the investigatory subpoena served on Respondent and ordering Respondent to produce to Petitioner certain documents in this disciplinary proceeding no later than June 3, 2019.

## VI.

### **DISCIPLINARY RULES OF PROFESSIONAL CONDUCT VIOLATED**

The facts alleged herein constitute a violation of the following Texas Disciplinary Rules of Professional Conduct:

#### ***ROMERO COMPLAINT***

**Rule 1.08(a):** A lawyer shall not enter into a business transaction with a client unless: (1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed in a manner which can be reasonably understood by the client; (2) the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and (3) the client consents in writing thereto.

**Rule 8.04(a)(8):** A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

**Rule 8.01(b):** An applicant for admission to the bar, a petitioner for reinstatement to the bar, or a lawyer in connection with a bar admission application, a petition for reinstatement, or a disciplinary matter, shall not: fail to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admission, reinstatement, or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.05.

### ***TORRES COMPLAINT***

**Rule 1.14(b):** Upon receiving funds or other property in which a client or third person has an interest; a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

**Rule 1.14(c):** When in the course of representation a lawyer is in possession of funds or other property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interest. All funds in a trust or escrow account shall be disbursed only to those persons entitled to receive them by virtue of the representation or by law. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separated by the lawyer until the dispute is resolved, and the undisputed portion shall be distributed appropriately.

**Rule 8.04(a)(8):** A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

**Rule 8.04(a)(3):** A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

**Rule 8.01(b):** An applicant for admission to the bar, a petitioner for reinstatement to the bar, or a lawyer in connection with a bar admission application, a petition for reinstatement, or a disciplinary matter, shall not: fail to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admission, reinstatement, or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.05.

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent, that this Honorable Court determine and impose an appropriate sanction, including an order that Respondent pay reasonable attorneys' fees, costs of court and all expenses associated with this proceeding. Petitioner further prays for such other and additional relief, general or specific, at law or in equity, to which it may show itself entitled.

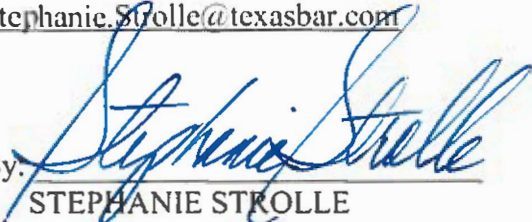
Respectfully submitted,

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By:

  
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ATTORNEYS FOR PETITIONER