

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against JACQUELINE ELISE KALK,
a Minnesota Attorney,
Registration No. 388459.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

At the direction of a Lawyers Professional Responsibility Board Panel, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition.

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on January 15, 2008. Respondent currently practices law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

Adoption Matter

1. Respondent Jacqueline Kalk's¹ husband L.R.E. sought to legally adopt respondent's children from her prior marriage to Kevin Ward. Respondent and her husband first successfully obtained a name change for the two children, hereinafter identified as A.J.E. and B.D.E. Because respondent stated that she did not have a current mailing address for Ward and that she had sent notice to him by email, the

¹ Respondent uses her maiden name Kalk for her law practice. Respondent's prior married name was Ward, but upon her divorce she again took her maiden name. She subsequently remarried and uses her current husband's last name for most things other than her law practice.

court determined that notice was sufficient and allowed the name change without further notice of the proceeding to Ward.

2. Thereafter respondent sought to initiate an adoption proceeding with her husband. Adoption proceedings require service of the petition and notice of hearing upon the non-custodial parent, unless certain conditions are met that establish that the non-custodial parent has abandoned the children and cannot be found for service.

3. In support of a motion to be permitted to serve the petition and notice of hearing upon Ward by publication, respondent submitted an affidavit in which she stated under oath that "I do not know how to contact Kevin Ward." This statement was false.

4. Although respondent states that she did not have a current mailing address for Ward, she did have a current email account address and a current cell phone number. This information was not provided to the court.

5. The court, based upon respondent's affidavit, granted the motion to serve by publication, which was done. Ward did not appear for the hearing. Thereupon, the court granted the petition to adopt A.J.E. and B.D.E.

6. Several months later, Ward contacted respondent by phone. Respondent informed Ward that the children had been adopted.

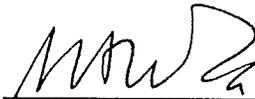
7. Ward, who resided in Texas at the time, retained Minnesota counsel and sought to reopen the adoption proceeding. By findings and order dated May 3, 2011, the court found that respondent "obtained an order for service by publication by intentionally representing a material fact to the court that she knew to be false. As a result, the order for service by publication was fraudulently obtained and therefore inherently invalid." By order dated July 25, 2011, the court reversed the adoption and dismissed the petition.

8. Respondent and her husband appealed the decision to the Minnesota Court of Appeals, which by unpublished opinion dated January 23, 2012,² affirmed the district court order, finding that “[respondent] committed fraud upon the court by requesting service by publication with a deficient affidavit containing a false statement.”

9. Respondent’s conduct in making a false statement of material fact to a court violated Rules 8.4(c) and (d), Minnesota Rules of Professional Conduct.

WHEREFORE, the Director respectfully prays for an order of this Court 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: Oct. 31, 2012.



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

² *In the Matter of the Petition of: J.E.E. and L.R.E. to Adopt A.J.E. and B.D.E.*, A11-1399 (Minn. Ct. App., Jan. 23, 2012).