

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against LORI MAE MICHAEL,
a Minnesota Attorney,
Registration No. 312149.

**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 October 26, 2001. Respondent currently practices law in Apple Valley, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

1. In 2009, respondent was retained by Wayne "Shadow" Minto and Elizabeth Collins to represent them in tribal court in a child welfare matter involving their grandchild, "C.C.," who was born on May 29, 2006. Matthew K. Begeske represented C.C.'s mother, "T.C.," and Jessica Ryan represented the Prairie Island Indian Community's Family Services Department (FSD). Minto and Collins sought to intervene in the child welfare proceeding and also gain visitation rights.

2. In November 2009, the Honorable B.J. Jones considered Minto and Collins' motion for visitation rights with C.C. during the Thanksgiving holiday. Begeske and Ryan objected to the motion as procedurally deficient.

3. In an order dated November 13, 2009, Judge Jones noted that respondent failed to properly serve the motion on the other parties, but partially granted Minto and Collins' request for visitation. The court also appointed David W. Jacobsen, an attorney, to serve as guardian ad litem for C.C.

4. Judge Jones also expressed concern about "a concerted effort by [Minto and Collins] and [respondent] to circumvent this Court's jurisdiction" by filing a dependency action in state court when the tribal court still had jurisdiction over C.C., and that respondent had filed a copy of a transcript from the confidential tribal court proceedings in the state court matter.

5. Judge Jones amended the November 13, 2009, order on November 25, 2009. Judge Jones fined respondent \$100 and found her behavior "contemptuous" for alleging judicial bias in an email to the court on November 25, 2009. Respondent's email stated, "If this was any other party, I would ask, would the court be treating them the same?"

6. In December 2009, the court considered several motions by the parties, including a petition by Minto and Collins to be appointed as C.C.'s guardian and a motion by Begeske to disqualify respondent as counsel for Minto and Collins. Begeske alleged respondent had a conflict of interest because, while she was counsel for FSD in 2006, respondent handled a dependency/neglect action involving T.C. when she was a minor and pregnant with C.C.

7. In an order dated December 30, 2009, Judge Jones disqualified respondent as counsel for Minto and Collins (in trial court only) based on Rule 1.9, Minnesota Rules of Professional Conduct (MRPC), and *Jenson v. Touche Ross & Co.*, 335 N.W.2d 720

(Minn. 1983). Judge Jones also reversed an earlier denial of Minto and Collins' motion to intervene in the child welfare matter.

8. During a hearing held on March 25, 2010, Begeske made a motion to have the court address respondent's alleged violations of the court's December 30, 2009, order. The court issued an order to show cause on March 29, 2010, and scheduled a hearing for April 8, 2010. Respondent attended the hearing by phone after the court denied her request for a continuance. Begeske and Ryan attended in person.

9. Begeske alleged that respondent continued to act as counsel for Minto and Collins after being disqualified by: (1) emailing Jacobsen on March 21, 2010, to try and persuade him not to resign as guardian ad litem, and (2) contacting Assistant Goodhue County Attorney Erin L. Kuester in January 2010, stating Minto and Collins were her clients, to urge her to prosecute alleged sexual abuse against C.C. by T.C.

10. Respondent acknowledged emailing Jacobsen, but argued it arose out of her representation of Minto and Collins in a pending appeal to the tribal court or in a state court matter. Respondent also argued that it was protected by the attorney client privilege and should not have been disclosed by Jacobsen. Judge Jones did not accept respondent's explanation.

11. Respondent also denied contacting Kuester in January 2010. In respondent's answer to the complaint to the Director's Office, however, she acknowledged that, after the court hearing on April 8, 2010, Minto reminded her that she had spoken to Kuester in January 2010. Respondent did not promptly correct the false statement made to the court.

12. In an order dated April 23, 2010, Judge Jones found that respondent's email to Jacobsen and phone call to Kuester violated the court's December 30, 2009, order and Rule 1.16(d), MRPC. Judge Jones also found that respondent's denial during the April 8, 2010, hearing that she contacted Kuester in January 2010 was false and

violated Rule 3.3(a)(1), MRPC. Judge Jones found respondent in contempt of court and fined her \$200 as to each matter.

13. On May 14, 2010, respondent appealed Judge Jones' April 23, 2010, order to the tribal appellate court. On June 18, 2010, counsel for FSD filed a motion for dismissal of the appeal and for costs, fees, and sanctions against respondent, asserting the appeal was frivolous. On July 16, 2010, the tribal court of appeals dismissed the appeal as frivolous. The court did not impose sanctions against respondent.

14. Respondent's conduct violated Rules 1.16(d), 3.1, 3.3(a)(1), 3.4(c), and 8.4(c) and(d), MRPC.

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: May 29, 2012.



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