

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against MARK FRANCIS NOVAK,
a Minnesota Attorney,
Registration No. 304827.

**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 27, 2000. Respondent currently practices law in Fridley, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

1. Respondent was retained to represent a client in a post-dissolution child custody dispute.
2. A hearing was scheduled for March 3, 2014. Respondent called opposing counsel on February 24, 2014, and left a voicemail stating that he needed a continuance because his mother had passed away from breast cancer after having been ill for some period of time. Respondent stated that he needed to continue the March 3 hearing so that he could take care of funeral arrangements for his mother. Respondent's statement was false.

3. Opposing counsel agreed to the continuance based upon respondent's statement that his mother had passed away and asked respondent to contact the court's law clerk in order to obtain new hearing dates.

4. That same day, respondent called the court's law clerk and indicated that his mother had passed away from cancer. Respondent stated that opposing counsel agreed to a continuance and requested new hearing dates. The parties agreed to a new hearing date of May 15, 2014.

5. The opposing party later determined that respondent was scheduled to appear in court in other client matters during the week in which he alleged to be out of town handling his mother's funeral arrangements. In particular, respondent was scheduled for a hearing on the morning of March 3, 2014.

6. Opposing counsel called respondent after his client expressed concerns that respondent was not being truthful. Respondent falsely stated that he would be out of town attending the funeral and that other attorneys would be representing him or he had obtained continuances. Opposing counsel apologized for questioning respondent's veracity.

7. Opposing counsel later determined that respondent's mother was still alive and confronted respondent about his false statements. Respondent admitted the false statements.

8. Opposing counsel filed a motion for sanctions under Rule 11 and scheduled it to be heard at the May 15, 2014, hearing. Respondent admitted the misstatements and stipulated to a settlement, which was filed and approved by the court on May 15, 2014. Respondent paid opposing counsel and his client \$5,000 for attorney's fees and other damages.

9. Respondent's conduct violated Rules 3.3(a)(1), 4.1, and 8.4(c) and (d), Minnesota Rules of Professional Conduct.

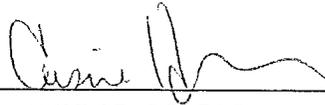
WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: July 17, 2014.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
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and



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