

**IN THE SUPREME COURT FOR THE STATE OF IOWA  
NO. 19-1438**

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**IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD,  
Complainant-Appellee**

**vs.**

**ABRAHAM WATKINS,  
Respondent-Appellant.**

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**APPEAL FROM IOWA SUPREME COURT  
GRIEVANCE COMMISSION**

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**RESPONDENT/APPELLANT'S FINAL BRIEF AND REQUEST FOR  
ORAL ARGUMENT**

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## TABLE OF CONTENTS

<b>TABLE OF CONTENTS</b> .....	2
<b>TABLE OF AUTHORITIES</b> .....	4
<b>STATEMENT OF ISSUES</b> .....	6
<b>ROUTING STATEMENT</b> .....	6
<b>CASE STATEMENT</b> .....	6
<b>FACTS</b> .....	7
I. Background.....	7
II. Removal Proceedings .....	13
III. Facts underlying Ethical Violation .....	14
IV. Disputed Facts.....	21
<b>A PUBLIC REPRIMAND IS THE APPROPRIATE SANCTION</b> .....	23
I. Standard of Review.....	23
II. Introduction .....	23
III. Nature of violation .....	26
IV. Lack of evil intent .....	33
V. Mr. Watkins accepted responsibility for his actions and expressed remorse .....	35
VI. Conduct stemmed in part from alcoholism that Mr. Watkins has proactively addressed .....	37
VII. Conduct stemmed in part from marital issues that Mr. Watkins has proactively addressed.....	40
VIII. Conduct stemmed in part from personal boundary issues that Mr. Watkins has proactively addressed .....	43
IX. Mr. Watkins has completed continuing education .....	45
X. Mr. Watkins had nearly no experience in a professional setting.....	46
XI. Mr. Watkins has never been disciplined before; nor has he had any further ethical issues since 2016 .....	48
XII. Mr. Watkins provides legal representation to an underserved part of the community.....	48

XIII. Mr. Watkins has already been punished for his actions ... 49

XIV. The removal proceedings were a sufficient deterrent to other attorneys..... 51

**CONCLUSION** ..... 52

**ORAL ARGUMENT NOTICE**..... 53

**CERTIFICATE OF COMPLIANCE AND SERVICE** ..... 54

**TABLE OF AUTHORITIES**

Comm. on Prof'l Ethics & Conduct of the Iowa State Bar Ass'n v. Hill, 436 N.W.2d 57 (Iowa 1989) ..... 27

Committee on Professional Ethics & Conduct v. Vesole, 400 N.W.2d 591 (Iowa 1987)..... 23

*Faragher v. City of Boca Raton*, 118 S. Ct. 2275 (1998)..... 33

Farmland Foods, Inc. v. Dubuque Human Rights Comm'n, 672 N.W.2d 733 (Iowa 2003) ..... 31

Iowa Supreme Court Attorney Disciplinary Bd. v. Attorney Doe No. 792, 878 N.W.2d 189 (Iowa 2016)..... 30

Iowa Supreme Ct. Att'y Disciplinary Bd. v. Barnhill, 847 N.W.2d 466, (Iowa 2014) ..... 52

Iowa Supreme Ct. Att'y Disciplinary Bd. v. Bieber, 824 N.W.2d 514 (Iowa 2012) ..... 48

Iowa Supreme Court Attorney Disciplinary Bd. v. Cannon, 821 N.W.2d 873 (Iowa 2012) ..... 36

Iowa Supreme Ct. Att'y Disciplinary Bd. v. Clarity, 838 N.W.2d 648 (Iowa 2013) ..... 40

Iowa Supreme Court Attorney Disciplinary Bd. v. Hamer, 915 N.W.2d 302 (Iowa 2018)..... 23

Iowa Supreme Court Attorney Disciplinary Bd. v. Lickiss, 786 N.W.2d 860 (Iowa 2010)..... 45

Iowa Supreme Court Attorney Disciplinary Bd. v. Lubinus, 869 N.W.2d 546 (Iowa 2015) ..... 47

Iowa Supreme Court Attorney Disciplinary Bd. v. McGrath, 713 N.W.2d 682 (Iowa 2006) ..... 27, 30

Iowa Supreme Court Attorney Disciplinary Bd. v. Moothart, 860 N.W.2d 598 (Iowa 2015) ..... 23, 26, 27, 29

Iowa Supreme Court Attorney Disciplinary Bd. v. Monroe, 784 N.W.2d 784 (Iowa 2010) .....	29
Iowa Supreme Court Attorney Disciplinary Bd. v. Stansberry, 922 N.W.2d 591 (Iowa 2019) .....	27, 28, 29, 35, 37, 40
Iowa Supreme Court Attorney Disciplinary Bd. v. Turner, 918 N.W.2d 130 (Iowa 2018).....	41, 47
Iowa Supreme Court Bd. of Prof'l Ethics & Conduct v. Furlong, 625 N.W.2d 711 (Iowa 2001) .....	30
Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Hill, 540 N.W.2d 43 (Iowa 1995).....	27
Iowa Supreme Court Board of Professional Ethics and Conduct v. Leon, 602 N.W.2d 336 (Iowa 1999) .....	35
Iowa Supreme Court Bd. of Prof'l Ethics, Conduct v. Steffes, 588 N.W.2d 121 (Iowa 1999) .....	27, 30
Iowa Supreme Court Bd. of Prof'l Ethics & Conduct v. Tofflemire, 689 N.W.2d 83 (Iowa 2004) .....	37
<i>Nelson v. James H. Knight DDS, P.C.</i> , 834 N.W.2d 64 (Iowa 2013). 31	
<i>State v. Watkins</i> , 914 N.W.2d 827 (Iowa 2018).....	<i>in passim</i>

**RULES:**

Iowa Rule of Professional Conduct 32:8.4(g) .....	6, 32
Iowa Court Rule 36.16(2).....	7

**OTHER AUTHORITIES:**

<a href="https://www.thehawkeye.com/news/20180710/former-van-buren-county-attorney-says-he-will-resume-duties">https://www.thehawkeye.com/news/20180710/former-van-buren-county-attorney-says-he-will-resume-duties</a> .....	36, 37
<a href="https://en.wikipedia.org/wiki/Me_Too_movement">https://en.wikipedia.org/wiki/Me_Too_movement</a> .....	47

## **STATEMENT OF ISSUES**

- I. A public reprimand is the appropriate sanction in this case.

## **ROUTING STATEMENT**

Because this is a matter regarding attorney discipline, it must be retained by the Iowa Supreme Court. Iowa Ct. R. 35.10.

## **CASE STATEMENT**

This is an attorney ethics case involving Abraham Watkins. The Board filed a Complaint on December 18, 2018 alleging a violation of Iowa Rule of Professional Conduct 32:8.4(g). This case involves the same underlying facts as the removal action addressed by the Supreme Court in *State v. Watkins*, 914 N.W.2d 827 (Iowa 2018). The parties agreed to the rule violation and the case was submitted on a stipulated record, which included stipulated facts, mitigating factors, and aggravating circumstances. The Commission accepted that stipulation on June 4, 2019. The parties asked the Commission to uphold a Monitored Recovery Contract but did not otherwise reach an agreement on sanctions. The Commission issued its ruling on August 28, 2019, recommending a 30-day suspension and compliance with the terms and conditions of the Monitored Recovery Contract. Mr. Watkins timely appealed.

## **FACTS**

The following agreed-upon facts were set forth in the stipulation, which are binding on the Court per Iowa Court Rule 36.16(2). The stipulated facts regarding mitigating and aggravating factors are not repeated here, as they are addressed in the Argument section of the brief.

### **I. Background**

Mr. Watkins was sworn into the Iowa bar in May 2013. He had never worked as an attorney before. (App. 5 ¶ 4). Mr. Watkins opened a solo practice in Keosauqua, operating out of the first floor of the home he shared with his wife, Renee, and his daughters, who were born in June 2012 and May 2014. The family's kitchen, laundry, and one of their two bathrooms were on the main floor with the offices. (App. 5 ¶ 5 ).

Ms. Watkins—who had attended some college but also had no legal experience prior to the opening of the civil practice—worked closely with Mr. Watkins. She served as an office manager for his private practice and as the victim witness coordinator for the County Attorney's office. (App. 6 ¶ 6 ).

Mr. Watkins and Ms. Watkins hired Jasmin Wallingford as an assistant in September 2014. Ms. Wallingford was born in September 1994 and was twenty when she began working for Mr. Watkins. She was twenty-two at the time of the removal proceedings. (App. 6 ¶ 7) Ms. Wallingford had recently graduated from college and had never before worked in a law office. (App. 6 ¶ 8). Mr. Watkins and Ms. Watkins trained Ms. Wallingford as a legal assistant. (App. 6 ¶ 9 ).

Ms. Wallingford became very close friends with the Watkins family. Their relationships developed quickly because they were the only ones in the office and had to figure out together how to manage a rapidly-growing law practice and the County Attorney's office. (App. 6 ¶ 10 ). Ms. Wallingford would help the Watkins' daughters get ready in the morning. The children were often in the office since it was part of their home. Ms. Wallingford also assisted with other personal tasks for the Watkins. (App. 6 ¶ 11).

The office environment was close-knit, cheerful, and relaxed. (App. 6 ¶ 12) Ms. Wallingford once labeled herself an "honorary family member." She and Ms. Watkins would tell each other they loved one another. Ms. Wallingford and Mr. Watkins may have told each other they loved one another; Ms. Wallingford could not recall. (App. 6 ¶

13). Ms. Wallingford was familiar with Mr. Watkins' personality and knew that he could often be quite blunt. (App. 7¶ 14).

Ms. Wallingford socialized with both Mr. Watkins and Ms. Watkins outside of work and took trips out-of-town with the Watkins family, including at least two trips to an out-of-town waterpark where they stayed in a hotel. (App. 7¶ 15).

Mr. and Ms. Watkins also became close friends with Chris Kauffman. Mr. Kauffman encouraged Mr. Watkins to run for County Attorney. Mr. Watkins did so, running as a "no party" candidate. (App. 7¶ 16). Voters in Van Buren County elected Mr. Watkins to the position of County Attorney for a term beginning January 1, 2015, less than two years after he began practicing law. (App. 7 ¶ 17). When Mr. Watkins became County Attorney, he hired Ms. Wallingford to work part-time for the County Attorney's office in addition to working for his private office. (App. 7 ¶ 18)

Mr. Kauffman recommended one of his best friends, Virginia Barchman, as the person Mr. Watkins should hire as an assistant county attorney. In April of 2015, Mr. Watkins hired Virginia Barchman as assistant county attorney. (App. 7¶ 19). It soon became evident that Ms. Barchman and Mr. Watkins had a

significant personality conflict. (App. 7 ¶ 20). Ms. Wallingford began to look for other employment around this time because she was distressed by the increasing arguing in the office. (App. 7 ¶ 21).

The office grew busier during the summer of 2016. It was the most stressful period the young office had ever encountered. (App. 8 ¶ 22). The *Gaylord* criminal case that Mr. Watkins was prosecuting was a significant piece of the chaos; the trial began July 19, 2016, and concluded July 21, 2016, with a jury verdict of guilty on all six counts.<sup>1</sup> (App. 8 ¶ 23). After the trial, on July 26, 2016, Ms. Barchman and Mr. Watkins had a serious argument. (App. 8 ¶ 24). Due to ongoing conflict with Ms. Barchman, Mr. Watkins realized he would be unable to continue working with her. (App. 8 ¶ 25).

Mr. Watkins and Ms. Watkins' relationship also suffered during the summer of 2016. Mr. Watkins was drinking heavily during that period, though he did not drink during work hours. Ms. Watkins became increasingly frustrated with Mr. Watkins' drinking. They would argue about his drinking in the evenings and the acrimony would creep into the workday. (App. 8 ¶ 26).

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<sup>1</sup> The jury found the defendant guilty of a lesser-included felony offense on Count I.

On Friday, August 5, 2016, Ms. Watkins left with the children to visit her mother in North Carolina because she could no longer handle Mr. Watkins' drinking. (App. 8 ¶ 27). Ms. Wallingford was placed in the middle of Mr. and Ms. Watkins' argument on August 5, 2016. Ms. Wallingford offered to help with the children that day because Ms. Watkins was crying. (App. 8 ¶ 28).

Ms. Wallingford worked the rest of the day and when she left she told Mr. Watkins to call her if he needed anything. Mr. Watkins believed that Ms. Wallingford was sincerely worried about him. (App. 8 ¶ 29). Ms. Wallingford communicated with Ms. Watkins over the next few days, while Ms. Watkins was driving to North Carolina and after Ms. Watkins reached North Carolina. (App. 9 ¶ 30).

Ms. Watkins' departure made Mr. Watkins realize that he needed to quit drinking. He telephoned Chris Kauffman to help hold himself accountable and met with his doctor. Mr. Kauffman helped Mr. Watkins obtain medical care later that weekend. (App. 9 ¶ 31).

Mr. Watkins and Ms. Wallingford also communicated several times between the Friday when Ms. Watkins left and the Tuesday when Ms. Wallingford quit. Mr. Watkins also called Ms. Wallingford

from the emergency room to seek her help regarding paperwork he needed at the hospital. (App. 9 ¶ 32).

After leaving the hospital, Mr. Watkins contacted Hugh Grady from the Iowa Lawyers Assistance Program and met with Mr. Grady on August 10, 2016. (App. 9 ¶ 33). Mr. Grady recommended to Mr. Watkins that he see a counselor, attend Alcoholics Anonymous meetings, and maintain regular contact with Mr. Grady. (App. 9 ¶ 34).

Meanwhile, the office was left in the lurch by Ms. Watkins' departure. Mr. Watkins turned to Ms. Wallingford for support during this time. Ms. Watkins was also communicating with Ms. Wallingford, as a friend. (App. 10 ¶ 37).

Four days after Ms. Watkins left for North Carolina, on August 9, 2016, Ms. Wallingford resigned citing a "hostile work environment." (App. 10 ¶ 38). At Chris Kauffman's suggestion, Ms. Wallingford wrote down all of her complaints about Mr. Watkins. (App. 10 ¶ 39). Ms. Wallingford later retracted her resignation but was not rehired; she instead found employment with the Van Buren County Sheriff's Office. (App. 10 ¶ 40).

Ms. Watkins returned from North Carolina on August 19 or 20 and resumed working in the office. (App. 10 ¶ 41). Mr. Watkins and Ms. Watkins engaged in regular counseling to address their marital issues and their own personal issues. (App. 9 ¶ 36).

Mr. Watkins acted on Mr. Grady's recommendations. He has not consumed alcohol since August 5, 2016. Mr. Grady and Mr. Watkins' counselors corroborate that Mr. Watkins has not been drinking, to their knowledge. Mr. Watkins regularly attends Alcoholics Anonymous meetings. Mr. Watkins has maintained regular contact with Mr. Grady. (App. 9 ¶ 35).

## **II. Removal Proceedings**

On September 29, 2016, a petition was filed seeking the removal of Mr. Watkins from office. (App. 10 ¶ 42). By that time, Mr. Watkins had been sober for nearly two months and was working to recover from the disruption caused by Ms. Wallingford's resignation, his personal differences with Ms. Barchman, and Ms. Watkins' period of absence. Mr. Watkins and Ms. Watkins were working to mend their relationship. (App. 10 ¶ 43). The district court ordered Mr. Watkins removed from office on January 3, 2017, finding Mr. Watkins had committed misconduct or maladministration by engaging in sexual

harassment. (App. 10 ¶ 44). The Supreme Court ultimately reversed and Mr. Watkins was reinstated as County Attorney.

### **III. Facts underlying Ethical Violation**

When Ms. Wallingford resigned citing a “hostile work environment,” she was using that term as it relates to various types of behavior she found “hostile,” including the increasing arguing in the office, as well as the inappropriate comments Mr. Watkins had made to her. (App. 10 ¶ 45). Ms. Wallingford confirmed on cross-examination that she first had the thought that she was experiencing a “hostile work environment” when

the yelling . . . between Mr. and Mrs. Mr. Watkins became more frequent and it was very uncomfortable because I wasn’t sure if I should even be there when they were having their arguments ‘cuz it was personal matters, obviously.

She agreed that the “biggest factor” that made the office “hostile” was the arguing between Mr. Watkins and his wife, Ms. Watkins. (App. 11 ¶ 46). Ms. Wallingford described the atmosphere in the office as “tense” and “uncomfortable” because of “Mr. and Mrs. Watkins yelling at each other and then Mr. Watkins and Miss Barchman didn’t get along very well.” (App. 11 ¶ 47).

Ms. Wallingford testified that she was placed in the middle of the arguments between Ms. Barchman and Mr. Watkins because she shared an office with Ms. Barchman. (App. 11 ¶ 48). Ms. Wallingford was also frustrated with what she perceived as rudeness from Mr. Watkins. She made the decision to quit when Mr. Watkins made a rude comment about her father. When then asked if there were other reasons she was tired of Mr. Watkins, Ms. Wallingford elaborated:

He was rude at times and when I — at points when I would want to ask him a question on something, it would be a negative response and that was part of it, why I was done.

(App. 11 ¶ 49).

Ms. Wallingford grew to resent Mr. Watkins and found the environment in the office very stressful. She was irritated by the requests to complete menial tasks like getting lunch and running errands. (App. 11 ¶ 49).

Ms. Wallingford worked for Mr. Watkins for nearly two years. She described approximately ten sexually-related incidents/comments during that period. At least three of the incidents/comments occurred outside the workplace. (App. 12 ¶ 54). Ms. Wallingford never raised any concerns regarding sexually inappropriate behavior directly with Mr. Watkins or with Ms.

Watkins, despite said comments/incidents having made her embarrassed and uncomfortable. (App. 12 ¶ 53). All of Mr. Watkins' sexual comments occurred months before Ms. Wallingford decided to resign. (App. 12 ¶ 51). Ms. Wallingford still felt comfortable changing into work-out attire at the office and being around Mr. Watkins in her bathing suit. (App. 12 ¶ 55). Ms. Wallingford testified she felt very close to the Watkins family at least up until the spring of 2016. (App. 12 ¶ 52).

### OBJECTIONABLE CONDUCT

#### **A.**

When Ms. Wallingford began working solely for Mr. Watkins' private practice, she worked from 9:00 a.m. to 5:00 p.m. When Mr. Watkins became County Attorney, he extended the office hours to 8:00 a.m. to 5:30 p.m. Mr. Watkins kept less of a regular schedule. (App. 12 ¶ 56).

Ms. Wallingford possessed the office key and would arrive promptly to open the office and answer the phones. Usually when Ms. Wallingford arrived the Watkins family would still be sleeping. She would not announce herself when she arrived because she did not want to disturb them. (App. 12 ¶ 57).

Ms. Wallingford identified only two occasions when she had ever seen Mr. Watkins wearing boxer-briefs, both sometime in 2016. Both occasions occurred in the morning when Mr. Watkins walked downstairs to his kitchen to get coffee. (App. 13 ¶ 58).

Mr. Watkins does not remember these specific instances, but he does not deny that they occurred. (App. 13 ¶ 59).

Ms. Wallingford's desk was located by the door to the laundry room and kitchen. (App. 13 ¶ 60).

According to Ms. Wallingford, on one occasion Mr. Watkins did not stop and talk to her; he went straight to the kitchen and then returned upstairs. On the other occasion, he briefly stood by her desk to look at something on her computer. Ms. Wallingford recalled that she laughed or did something that drew Mr. Watkins' attention to her computer. Mr. Watkins did not stay long when he looked at her computer. He did not make any inappropriate comment. (App. 13 ¶ 61).

Ms. Wallingford could not remember when this occurred, but she estimated it happened within eight months prior to her trial testimony. On both of these occasions, Mr. Watkins then returned upstairs to finish dressing and came down fully dressed for the

workday. Mr. Watkins and Ms. Wallingford did not discuss the matter and proceeded with work as usual. (App. 13¶ 62 ).

Ms. Wallingford never told Mr. Watkins these occurrences made her uncomfortable or were inappropriate, though she said later after she quit working for Mr. Watkins that she did find them to be embarrassing and inappropriate. (App. 13 ¶ 63).

**B.**

Ms. Wallingford testified that, one day during work, Mr. Watkins commented that her “boobs were distracting him and . . . if [she] ever went clubbing, [she] should wear that shirt out.” (App. 14¶ 64). This is the only comment Ms. Wallingford ever recalled Mr. Watkins making about her body; he never commented on her breasts again. (App. 14¶ 65).

Mr. Watkins did not recall making this comment but does not deny it. (App. 14¶ 66). Ms. Wallingford’s work attire was sometimes inappropriate and Mr. Watkins’ comment to her was a poorly-worded suggestion that she should wear a more conservative shirt. (App. 14 ¶ 67).

**C.**

Mr. Watkins once commented to Ms. Wallingford that he would not like to see a particular woman naked. (App. 14 ¶ 68).

**D.**

Ms. Wallingford testified that Mr. Watkins made a sexually-related joke regarding a hardwood floor cleaner branded “Bona.” Mr. Watkins made this joke to his housekeepers while in Ms. Wallingford’s presence. (App. 14 ¶ 71).

**E.**

Ms. Wallingford testified: “At one point we were talking about winning the lottery and he said he just wished he had a wife that had sex with him all the time.” (App. 14 ¶ 69). Mr. Watkins did not recall making a comment about not having enough sex with his wife but acknowledged he “may have joked about it with [his] wife in front of [Ms. Wallingford].” (App. 14 ¶ 70).

**F.**

Chris Kauffman testified Mr. Watkins posed a question to him regarding a woman’s breasts: “You think those are real or is that a push-up bra?” Mr. Watkins made this comment to Kauffman at a birthday party for Mr. Watkins’ daughter in June 2016. (App. 15 ¶

72). Ms. Wallingford testified Mr. Watkins later repeated this comment to her and Ms. Watkins. (App. 15 ¶ 73).

**G.**

Ms. Barchman testified that she was in Mr. Watkins' office once, behind his desk, and Mr. Watkins showed her a waist-up nude photograph of Ms. Watkins. Ms. Watkins was pregnant in the photograph and covered in blue paint. (App. 15 ¶ 74). Ms. Watkins is an artist, and the photograph captures a time when Mrs. Mr. Watkins was working on project where she made an impression of her pregnant belly on a large canvas. (App. 15 ¶ 75). Ms. Barchman recalled that Mr. Watkins made the single comment, "Isn't my wife beautiful?" (App. 15 ¶ 76).

Mr. Watkins does not dispute that this occurred; he merely clarifies that, as he remembers it, the photograph was up on his computer screen one day when Ms. Barchman came into his office. App. 15 (¶ 77). He testified that Ms. Barchman saw the photograph inadvertently and that his comment, "Isn't my wife beautiful?" was intended to dispel the discomfort of Ms. Barchman viewing the photograph. (App. 15 ¶ 78 ).

**H.**

Ms. Wallingford spoke to Ms. Watkins about visiting a gynecologist. Ms. Watkins made a joke about Ms. Wallingford having a “broken vagina.” (App. 15 ¶ 79). Mr. Watkins later asked Ms. Wallingford whether “her vagina was still broke.” (App. 16 ¶ 80).

#### **IV. Disputed Facts**

The Commission’s factual findings included an allegation that Ms. Barchman observed Mr. Watkins in briefs. (App. 30 ¶ 19). Mr. Watkins disputes this allegation; this allegation was not in the stipulated facts. Ms. Barchman testified that she once observed Watkins wearing “knit briefs.” (App 86: 18). According to Ms. Barchman, Mr. Watkins walked through the office she shared with Ms. Wallingford, into the bathroom/laundry room. (App. 84:14). Ms. Barchman testified that when Mr. Watkins came downstairs, he commented, “Normally I would not come down like this.” (App. 84:13). Ms. Barchman claims she retorted, “Jasmin and I are not married to you. We don’t want to see you wearing your pajamas in the office.” (App. 84:19). Ms. Barchman claimed Ms. Wallingford was present on this occasion. (App. 84:11).

Mr. Watkins denies ever appearing in his boxer-briefs in Ms. Barchman’s presence. (App. 91:25, App. 94:16, App. 94:24, App.

95:4). Ms. Barchman's testimony on this issue is not credible. See also *Watkins*, 914 N.W.2d at 835 ("Barchman incorrectly reported . . . that Watkins refused to cooperate with alcohol treatment recommendations made by Grady."). One, Ms. Wallingford did not corroborate Ms. Barchman's testimony. Two, Ms. Barchman took issue with Mr. Watkins' attire as a general matter. As she stated at trial, "some of the shorts he wore that I considered to be maybe pajama bottoms, maybe those were underwear, maybe they weren't. I don't know. But I considered shorts/pajama bottoms to be too revealing, too, so it is all one to me." (App. 86:20). It is also odd that Ms. Barchman told Mr. Watkins she did not want to see him "wearing [his] pajamas" if he was wearing briefs. This calls into question the accuracy of Ms. Barchman's testimony.

In any event, Ms. Barchman's testimony does not suggest that Mr. Watkins intended his conduct to be sexual in nature. To the contrary, even according to Ms. Barchman, Watkins acknowledged his wardrobe was unusual. If, as Ms. Barchman recalls, Mr. Watkins went into the laundry room, the natural inference is that he needed to get clean clothes from his own laundry room. This would have been an innocuous event, not sexual harassment.

## **A PUBLIC REPRIMAND IS THE APPROPRIATE SANCTION**

### **I. Standard of Review**

Review is de novo. The final decision on the appropriate sanction belongs to the Supreme Court. *Iowa Supreme Court Attorney Disciplinary Bd. v. Hamer*, 915 N.W.2d 302, 315 (Iowa 2018).

Attorney disciplinary proceedings are not designed to punish, but rather to determine the fitness of an officer of [the] court to continue in that capacity, to insulate the courts and the public from those persons unfit to practice law, to protect the integrity of and the public confidence in our system of justice, and to deter other lawyers from engaging in similar acts or practices.

*Committee on Professional Ethics & Conduct v. Vesole*, 400 N.W.2d 591 (Iowa 1987). “[T]he form and extent of the sanction must necessarily be tailored to the specific facts and circumstances of each individual case.” *Iowa Supreme Court Attorney Disciplinary Bd. v. Moothart*, 860 N.W.2d 598, 615 (Iowa 2015) (internal quotation marks omitted). The Court accordingly must consider aggravating and mitigating circumstances when determining the appropriate sanction.

### **II. Introduction**

Mr. Watkins has not followed a traditional path. By nature, he is an unconventional person. He was born in Van Buren County,

Iowa, the seventh generation of his family to live there, but he moved to California as a child and completed high school there. He speaks Spanish fluently and has lived for extended periods in Spanish-speaking countries, including Costa Rica and Spain. Though he graduated from law school in 2004, he did not practice law until he joined the Iowa bar in May 2013. Prior to 2013, he supported himself primarily by playing poker.

In the summer of 2012, Mr. Watkins and his wife, Renee, decided to move from California to Iowa because they thought it would be a better environment in which to raise their new daughter. They came to Iowa with plans to open a hotel in Keosauqua. The lack of legal representation in Van Buren County, however, soon caught Mr. Watkins' attention. Van Buren County was an underserved legal market and Mr. Watkins saw great opportunity there for his family.

Upon being sworn into the Iowa bar, Mr. Watkins opened a solo practice in Keosauqua, operating out of the first floor of the home he shared with his family. Little over a year later, Mr. Watkins' friend Chris Kauffman convinced him to run for County Attorney. Mr. Watkins ran as a "no party" candidate and yet managed to win out over the incumbent Republican candidate. He began his term as a

part-time County Attorney for Van Buren County on January 1, 2015, less than two years after beginning his practice.

With his unique personality and background, Mr. Watkins flourished in the small community of Keosauqua. He is talkative, likable, unorthodox, informal, and a nonconformist. He did not shy away from the challenge of building a practice from scratch. He did not shy away from the challenge of becoming County Attorney. He took on these professional challenges with essentially no support or guidance. He did not wait until he was comfortable or established to take on new challenges; he dove in headfirst and learned on the fly. People were drawn to Mr. Watkins because he is so open and engaging, and his practice boomed.

But the characteristics that helped Mr. Watkins to so quickly build a successful practice and become County Attorney are also the characteristics that got him into trouble. These characteristics, when left unchecked and mixed with a dangerous combination of alcohol abuse and marital strife, led Mr. Watkins to do and say things that he now recognizes were inappropriate and deeply regrets.

Mr. Watkins has taken the issues identified in the removal action extremely seriously. The past three years have been a period

of intense challenge and personal growth for Mr. Watkins. Even before the initiation of the removal action, he was taking steps to address his alcoholism. That has been the foundation of his progress. Together with his wife, Mr. Watkins has also engaged in marital counseling. They have made changes to their life to set more workable boundaries and improve their relationship. Mr. Watkins is dedicated to improving and being the best father he can to his two young daughters. He continues to engage in individual counseling to address all aspects of his life, both personal and professional. Through this process, he has come to understand the seriousness of his actions and the impact his actions had on those around him.

Mr. Watkins continues to operate a successful solo practice in Keosauqua and has had no ethical issues since 2016. Given the unique circumstances of this case and the multifold mitigating factors, a public reprimand is the appropriate sanction for Mr. Watkins' mistakes.

### **III. Nature of violation**

In the 2015 *Moothart* decision, the Iowa Supreme Court summarized its caselaw regarding inappropriate sexual misconduct. The Court recognized the wide range in sanctions, from a public

reprimand to a three-year suspension. *Moothart*, 860 N.W.2d at 615–16. Most of the cases in this vein involve a lawyer-client relationship and sexual advances, and oftentimes actual sexual relations. See, e.g., *id.* at 608 (2.5-year suspension for sexually harassing five clients, having sex twice with one client, and paying another client for sex); *Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Hill*, 540 N.W.2d 43, 43 (Iowa 1995) (twelve-month suspension for making sexual advances toward client (a second offense)); *Comm. on Prof'l Ethics & Conduct of the Iowa State Bar Ass'n v. Hill*, 436 N.W.2d 57, 58 (Iowa 1989) (three-month suspension for accepting vulnerable client's offer to have sex in exchange for money). The cases also often involve vulnerable clients and deceit. See, e.g., *Iowa Supreme Court Attorney Disciplinary Bd. v. Stansberry*, 922 N.W.2d 591, 596 (Iowa 2019) (attorney lied about stealing coworkers underpants, taking pictures of undergarments, and deleting pictures from his phone); *Iowa Supreme Court Attorney Disciplinary Bd. v. McGrath*, 713 N.W.2d 682, 703 (Iowa 2006) (attorney exploited clients facing child custody and visitation issues and asserted clients had concocted allegations against him); *Iowa Supreme Court Bd. of Prof'l Ethics, Conduct v. Steffes*, 588 N.W.2d 121, 125 (Iowa 1999) (attorney took nude photos

of client facing numerous criminal charges, tried to manipulate the client to destroy the photographs, and “attempted to shift the focus to the bad character of his client”).

Mr. Watkins’ conduct was far less egregious than the conduct of any of those attorneys. Unlike nearly all the above-cited cases, Mr. Watkins has committed only one ethical violation. His conduct was not criminal. *Cf. Stansberry*, 922 N.W.2d at 599 (attorney guilty of theft and trespass; committed three ethical violations). None of the aggravating factors found in those disciplinary cases are present here. Mr. Watkins did not make a single sexual advance; his conduct involved an employee and close friend rather than a vulnerable client; his conduct was not pervasive or extreme; he did not attempt to obfuscate the facts; and he did not blame Ms. Wallingford for his conduct.

To begin, Mr. Watkins never “hit on” Ms. Wallingford. (App. 85:8–25); *see also Watkins*, 914 N.W.2d at 834 (“Barchman could not recall hearing Watkins ever make a single “come-on” line to any female employee or client.”); *id.* at 845 (noting most of Mr. Watkins’ inappropriate comments towards Ms. Wallingford did not concern Ms. Wallingford herself). He was not attempting to develop a sexual

relationship with Ms. Wallingford. (App. 16 ¶ 84). To the contrary, Mr. Watkins relied on Ms. Wallingford as a go-between for him and Ms. Watkins regarding their marital issues. He never touched Ms. Wallingford inappropriately, propositioned Ms. Wallingford, or used sexual language to criticize Ms. Wallingford. (App. 16: ¶ 84); (App 85:8–25). As the Court has recognized, ethical violations that are not predatory are less egregious. *Iowa Supreme Court Attorney Disciplinary Bd. v. Monroe*, 784 N.W.2d 784, 791 (Iowa 2010). Mr. Watkins’ actions were not predatory. Although Mr. Watkins held elected office at the time of some of the incidents, he did not attempt exploit his role to take advantage of Ms. Wallingford or any other person. *See Watkins*, 914 N.W.2d at 846 (“There is no evidence that Watkins sought to misuse his office or his position of power or authority to obtain anything from Wallingford or anyone else.”).

Indeed, this is the first “sexual harassment” disciplinary case before the Court that does *not* involve an attorney propositioning a client, touching a client, or taking some other inappropriate action for the attorney’s own sexual gratification. *Cf. Stansberry*, 922 N.W.2d at 597 (attorney took photos of and stole colleague’s underwear); *Moothart*, 860 N.W.2d at 602 (attorney asked client to

expose her breasts; asked staff member to perform lap dances; grabbed staff member's breasts and looked up her skirt); *McGrath*, 713 N.W.2d at 703 (attorney suggested sex-for-fees arrangement to two clients); *Iowa Supreme Court Bd. of Profl Ethics & Conduct v. Furlong*, 625 N.W.2d 711, 712 (Iowa 2001) (attorney gave client an uninvited kiss and inserted his tongue in her mouth); *Steffes*, 588 N.W.2d at 124–25 (attorney took nude photos of client). The bulk of Mr. Watkins' objectionable conduct consisted of one-off comments, most of which were intended to be humorous. There must be some tolerance for tasteless jokes when there is no evidence that the jokes were intended as come-ons or to be abusive. *Cf. Iowa Supreme Court Attorney Disciplinary Bd. v. Attorney Doe No. 792*, 878 N.W.2d 189, 194 (Iowa 2016) (recognizing attorney discipline is subject to First Amendment limitations).

Furthermore, Mr. Watkins' conduct was not pervasive. (App. 16: ¶ 86). Ms. Wallingford identified approximately ten sexually-related incidents/comments. (App. 16: ¶ 86). Ms. Wallingford worked for Mr. Watkins for nearly two years. App. 16: ¶ 86) At least three of the incidents/comments occurred outside the workplace. (App. 16: ¶ 86). When Ms. Wallingford saw Mr. Watkins in his boxer-briefs, it was

because he was going to his kitchen for coffee. (App. 13 ¶ 58). The sexual comments were “sporadic and often separated by long gaps in time.” *Farmland Foods, Inc. v. Dubuque Human Rights Comm’n*, 672 N.W.2d 733, 745 (Iowa 2003) (upholding dismissal of hostile work environment claim); (App. 16 ¶ 86). The conduct alleged occurred on the periphery and was not a feature of the office. (App. 16 ¶ 86). As Ms. Barchman testified, the workplace was not clouded by an air of sexual inappropriateness. (App 85:8–25).

Mr. Watkins acted in the context of a legitimate, close personal relationship. *See Watkins*, 914 N.W.2d at 845 (“The individuals in the office teased and played pranks on each other. Watkins, Renee, and Wallingford discussed intimate details of their lives with one another. They socialized with one another on a frequent basis, including at least one or two overnight trips that included the Watkinses’ children.”); *cf. Nelson v. James H. Knight DDS, P.C.*, 834 N.W.2d 64, 75–76 (Iowa 2013) (Cady, C.J., specially concurring) (noting a “practical change in an employment relationship [occurs] when a relationship extends beyond the workplace”). As the Iowa Supreme Court recognized, “many of the incidents [in the removal action] involved situations that occurred outside of the workplace or in the

context of Watkins' friendship with certain witnesses rather than in the office or in his official capacity as county attorney." *Watkins*, 914 N.W.2d at 845. "[M]any of the comments were not made during work but in various nonwork contexts such as at an evening dinner at Watkins' home, personal phone calls over the weekend, and at a birthday party for Watkins' daughter." *Id.* Those interactions thus must be set aside in analyzing this case. See Rule 32:8.4(g) (prohibiting "engag[ing] in sexual harassment or other unlawful discrimination *in the practice of law*" (emphasis added)).

Ms. Wallingford confirmed that none of the sexually-related incidents negatively impacted her working relationship with Mr. Watkins; they both moved on without missing a beat. (App. 79:12, App. 80:24). Ms. Wallingford continued to socialize with Mr. Watkins, change into her workout clothes at the office, and joke around with Mr. Watkins after most of the allegedly harassing comments occurred. (App. 81) (Ms. Wallingford worked out with Renee from February 2016 through the end of April 2016, and sporadically through the summer), (App. 82) (Ms. Wallingford attended Mr. Watkins' daughter's birthday party in June 2016 and Mr. Watkins attended Wallingford's boyfriend's birthday party in summer 2016)).

Ms. Wallingford testified she felt very close to the Watkins family at least up until the spring of 2016. (App. 75:5-21). In her resignation letter, Ms. Wallingford recognized she had “enjoyed the job, the people [she] had worked with, and the support [she] had received.” She characterized her employment as a “mostly positive experience.” (App. 16 ¶ 85)(App. 37).

#### **IV. Lack of evil intent**

Though Mr. Watkins does not contend that Ms. Wallingford invited or “consented to” any sexual comments, he subjectively believed that his sexual comments were made in jest in the context of their friendship. *Watkins*, 914 N.W.2d at 846 (“The testimony reveals that Watkins believed his sexual comments and jokes were made in the context of his personal relationship with Wallingford—because he believed that was the type of relationship they had: one in which they joked, teased, and made sarcastic remarks to one another in the office.”); *cf. Faragher v. City of Boca Raton*, 118 S. Ct. 2275, 2283 (1998) (noting that, in employment discrimination context, “simple teasing, offhand comments, and isolated incidents (unless extremely serious) will not amount to discriminatory changes in the terms and conditions of employment” (cleaned up)).

Mr. Watkins, Ms. Watkins, and Ms. Wallingford were friends who often socialized both outside of work and in the workplace. See *Watkins*, 914 N.W.2d at 845; (App. 38, 46-64); (App. 16 ¶ 82). Mr. Watkins believed himself to be social friends with Wallingford and intended any sexual comments as jokes or meaningless comments made in passing. (App. 93:1). Ms. Wallingford, in recounting two of the sexual comments made by Mr. Watkins, noted that he made the comments while laughing. (App. 77:1, App. 78:9).

Mr. Watkins did not realize his relationship with Ms. Wallingford had deteriorated. (App. 89:17). He explained, “I was not paying attention to Jasmin in [the summer of 2016]. I had too much going on and too many other things to worry about, including my marriage, apart from the legal work I had to do.” (App. 89:19 & 23). Mr. Watkins’ unawareness of the simmering tension evidences that he did not intend his actions to be malicious; he did not act purposefully to offend.

Mr. Watkins did not target Ms. Wallingford or intend to make her uncomfortable. (App. 16 ¶ 83). He did not intend his behavior to be harassing, but he failed to recognize the egregiousness of his actions and the negative impact his actions had on his female

employees. *Id.* The Iowa Supreme Court accordingly concluded that the evidence failed to establish Mr. Watkins acted with a bad or evil purpose. *Id.* at 846. The lack of evil intent militates in favor of a less severe sanction. *Cf. Stansberry*, 922 N.W.2d at 597 (lawyer's internet searches indicated he knew he had engaged in sexual harassment).

**V. Mr. Watkins accepted responsibility for his actions and expressed remorse**

Throughout the removal process, Mr. Watkins was honest about his shortcomings and accepted responsibility for his mistakes very early on. (App. 21 ¶ 101); *see Iowa Supreme Court Board of Professional Ethics and Conduct v. Leon*, 602 N.W.2d 336, 338 (Iowa 1999) (recognizing dishonesty exacerbates misconduct). In his testimony in the removal action, he admitted to making inappropriate comments.

He again admitted fault in a public apology issued after he was reinstated as County Attorney. (App. 21 ¶ 101). Mr. Watkins could have trumpeted the Iowa Supreme Court's reversal as vindication of his actions, but instead he took the opportunity to acknowledge his fault. *See Elizabeth Meyer, Former Van Buren County Attorney says he will resume duties*, *The Hawkeye* (July 10, 2018), *available at*

<https://www.thehawkeye.com/news/20180710/former-van-buren-county-attorney-says-he-will-resume-duties> (quoting portions of Mr. Watkins' apology). He sincerely expressed his remorse. *Iowa Supreme Court Attorney Disciplinary Bd. v. Cannon*, 821 N.W.2d 873, 882 (Iowa 2012) (noting demonstration of remorse is mitigating factor).

He stated:

Sudden forced change is uncomfortable, especially when it is a public affair. However, my experience proves that it need not be a bad thing. As difficult as this process has been for my family and I, it has forced us take drastic self-appraisal, adapt, and has led us to positive new paths.

This process has taught me things I never would have imagined. I am humbled by all that I have learned, and all the support I have received. I have long awaited this opportunity to take responsibility for my role in this matter and to publicly thank my supporters who have stood by me during some very difficult times.

First, I would like to thank my wife, Renee, who has supported me in so many ways. I am eternally grateful for the ultimatum she gave me on August 5, 2016. I have not consumed an alcoholic beverage since that date. Had I listened to her sooner, I might not be in this position. I would also like to thank Hugh Grady of the Iowa Lawyer's Assistance Program for his prompt and consistent support, then and now. I would encourage other lawyers to not hesitate in utilizing his invaluable service. . . .

But for my behavior, my careless behavior, none of this would have happened in the first place. I definitely could have acted better. I make no excuse for my carelessness. This is a straight-up apology and I firmly resolve to not commit these errors again. To my wife, to my family, to my

clients, to Jasmin Wallingford, to the citizens of Van Buren County, and to the Iowa legal community, I am sorry and I vow not to repeat this harm to you.

See <https://www.thehawkeye.com/news/20180710/former-van-buren-county-attorney-says-he-will-resume-duties> (recording of Mr. Watkins' statement).

The stipulation before the Commission is yet another example that Mr. Watkins has admitted wrongdoing and accepted responsibility. *Iowa Supreme Court Bd. of Prof'l Ethics & Conduct v. Tofflemire*, 689 N.W.2d 83, 93 (Iowa 2004) (noting recognition of wrongdoing is a mitigating factor); *cf. Stansberry*, 922 N.W.2d at 600 (attorney minimized crimes, shifted blame, and failed to acknowledge wrongdoing). Mr. Watkins cooperated fully with the removal and the ethics proceedings.

#### **VI. Conduct stemmed in part from alcoholism that Mr. Watkins has proactively addressed**

Mr. Watkins' drinking steadily increased over 2016 and was a cause of much of the friction in his marriage and his office. Mr. Watkins slept less and was often on-edge during the day. This combination of factors resulted in a situation where Mr. Watkins was

not operating at his best and was more prone to speaking without thinking.

With his wife's encouragement, Mr. Watkins recognized the need to return to sobriety and he did so without outside intervention. Mr. Watkins contacted Hugh Grady from the Iowa Lawyers Assistance Program *before* any allegations were made against him. (App. 18 ¶ 90); (App. 90:21); (App. 87 :21); (App. 70:25 & App. 71:18). Mr. Grady recommended to Mr. Watkins that he see a counselor, attend Alcoholics Anonymous meetings, and maintain regular contact with Mr. Grady. (App. 18 ¶ 90); (App. 72).

Mr. Watkins acted on Mr. Grady's recommendations. (App. 18 ¶ 90); (App. 73:11). Mr. Watkins saw Dr. David Parsons on August 5, 2016—the day he quit drinking—for assistance and to help him be accountable regarding his sobriety. (App. 19: ¶ 93); (App. 65). He saw Dr. Parsons on a weekly basis through the fall of 2016 to maintain this accountability. *Id.* Mr. Watkins has not consumed alcohol since August 5, 2016. (App. 18 ¶ 91).

Mr. Watkins continues to regularly attend Alcoholics Anonymous meetings and maintains regular contact with Mr. Grady.

*Id.* (App. 18 ¶ 92). He attends between 3 to 5 Alcoholics Anonymous meetings a week. *Id.* He regularly attends the following meetings:

- Sunday: sometimes the 8:15 candlelight at White House in Des Moines
- Monday: either 12pm at St. John’s downtown Des Moines (often with Hugh Grady) or 8pm in Keosauqua
- Tuesday: 12pm at St. John’s downtown Des Moines (often with Hugh Grady) or Three Legacies in Des Moines at 8pm
- Wednesday: either 12pm Insurance Exchange in Des Moines or 8pm Presbyterian Church in Fairfield
- Thursday: 8pm in Fairfield
- Friday: either 12pm Insurance Exchange in Des Moines or 8pm in Fairfield
- Saturday: either 9am at Hope Lutheran in Des Moines or 5:45pm at Wesley House in Des Moines

*Id.* Mr. Watkins has also taken a CLE on the topic of “Advice for the Chemically Addicted Lawyer & Their Legal Colleagues.” (App. 68).

Consistent with these efforts, Mr. Watkins has agreed to a Monitored Recovery Contract. He is committed to attend three AA meetings a week and at least two mental health counseling appointments a month. Mr. Watkins does not anticipate any issue with these requirements, as he was voluntarily satisfying these conditions prior to signing the Monitored Recovery Contract.

Mr. Watkins’ proactive efforts to address one of the underlying causes of his conduct and his over three years of sobriety since that time are significant mitigating factors. *Iowa Supreme Ct. Att’y Disciplinary Bd. v. Clarity*, 838 N.W.2d 648, 661 (Iowa 2013) (holding alcoholism may be considered in mitigation where alcohol contributed to misconduct and lawyer undertakes rehabilitative efforts to control addiction); *cf. Stansberry*, 922 N.W.2d at 600 (attorney failed to seek help from mental health professional).

**VII. Conduct stemmed in part from marital issues that Mr. Watkins has proactively addressed**

Many of the problems in Mr. Watkins’ office stemmed from his marital issues. (App. 17 ¶ 87). The combined home and office was a challenging arrangement. (App. 17 ¶ 88); *see also Watkins*, 914 N.W.2d 846 (noting “underlying problem was that Watkins used part of the first floor of his home as the county attorney office”). Mr. Watkins’ home was not particularly big and the private and business spaces in the home were intermingled. (App. 17 ¶ 88); (App. 44-64). It was impossible for the family space to be segregated from the office space based on the layout of the building.(App. 17 ¶ 88). This made it exceptionally difficult for Mr. Watkins to establish clear boundaries

between his personal and professional life. (App. 17 ¶ 88). Mr. Watkins was never truly able to “leave work.” (App. 17 ¶ 88). This was very stressful for him and contributed to his alcohol abuse. (App. 17 ¶ 88). This arrangement was also stressful for his family, particularly Ms. Watkins. (App. 17 ¶ 88). The lack of delineation between their home and office exacerbated their marital issues. (App. 17 ¶ 88).

The fact that Ms. Watkins was the office manager for Mr. Watkins’ practice and the victim/witness coordinator for the County Attorney’s office also meant that Mr. and Ms. Watkins had no separation from each other. (App. 17 ¶ 89). They had little opportunity to engage in activities independent of one another and “reset.” (App. 17 ¶ 89). *Id.* This heightened their discord and increased the stress in the office. (App. 17 ¶ 89). *Id.* Ms. Watkins’ constant presence in the office also contributed to Mr. Watkins’ lack of boundaries. (App. 17 ¶ 89). *Id.* His professional life essentially was his personal life and vice versa. (App. 17 ¶ 89). *Id.*

Mr. Watkins and his wife are engaged in regular counseling to address their marital issues and their own personal issues. *See Iowa Supreme Court Attorney Disciplinary Bd. v. Turner*, 918 N.W.2d 130,

156 (Iowa 2018) (personal issues can be mitigating factor if the lawyer “proactively seeks treatment to address the condition and avoid reoccurrence of the misconduct”). Mr. Watkins and Ms. Watkins engaged in counseling with Sally Henderson between August 2016 and March 2017. (App. 19 ¶ 94); (App. 66-67). They had additional sessions between May and July 2017. *Id.* Mr. and Ms. Watkins have been cooperative with services and have made progress managing stress and improving their communication. (App. 66-67). Mr. Watkins has consistently expressed his commitment to sobriety. App. 66-67).

Mr. Watkins struggled to find administrative support in his office after Ms. Wallingford resigned. (App. 20 ¶ 97). He was able to hire Jill Chaplin in January 2018. (App. 20 ¶ 97). Ms. Chaplin worked for 21 years at Indian Hills Community College as the Site Coordinator for the Van Buren Service Center. (App. 20 ¶ 97). Ms. Chaplin has been very helpful in managing Mr. Watkins’ office, which has significantly reduced his stress. (App. 20 ¶ 97) Ms. Chaplin’s hire also allowed Ms. Watkins to cease working for the office, which has been extremely beneficial in improving Mr. and Ms. Watkins’ relationship and reducing Mr. Watkins’ stress. (App. 20 ¶ 97).

Ms. Watkins and the two Watkins daughters are now residing primarily in Des Moines. (App. 20. ¶ 98). Mr. Watkins commutes between Des Moines and Keosauqua as needed to serve his clients. (App. 20. ¶ 98). He hopes to expand his practice in Des Moines. (App. 20. ¶ 98) This arrangement has provided much-needed separation between his personal and professional lives. (App. 20. ¶ 98).

**VIII. Conduct stemmed in part from personal boundary issues that Mr. Watkins has proactively addressed**

Mr. Watkins had individual therapy sessions with Dr. Sally Henderson on August 12 and 19, 2016. (App. 19 ¶ 94); (App. 66-67). Mr. Watkins again engaged Dr. Henderson for individual counseling between September and November 2018. (App. 19 ¶ 95); (App. 66-67). He started again in February 2019 and is regularly seeing Dr. Henderson. (App. 19 ¶ 95); (App. 66-67). These sessions focus on both personal and professional behavior change and gaining understanding. (App. 19 ¶ 95). They have worked on boundary setting, communication, stress and emotion management, and improving relationship behavior. (App. 19 ¶ 95); (App. 67). According to Dr. Henderson, “Mr. Watkins has been cooperative with services and has shown motivation to understand his behavior, the effects of

his behavior on others, and the necessity of having clear boundaries with others both professionally and personally.” (App. 19 ¶ 95); (App. 67).

Mr. Watkins has also done extensive reading to increase his understanding of himself and what is necessary to improve his emotional intelligence and maturity. (App. 20 ¶ 100); (App. 67). Since the removal proceedings, Mr. Watkins has read:

- Co-Dependence: Misunderstood-Mistreated by Anne Wilson Schaef
- Escape from Intimacy: Untangling the “Love” Addictions; Sex, Romance, Relationships by Anne Wilson Schaef
- Waking Up: A Guide to Spirituality without Religion by Sam Harris
- The Body Keeps the Score by Bessel van der Kolk
- The Four Tendencies by Gretchen Rubin
- A Guide to Rational Living by Albert Ellis and Robert Harper
- Treating People Well: The Extraordinary Power of Civility at Work and in Life by Lea Berman and Jeremy Bernard
- Grit by Angela Duckworth
- The Rough Patch: Marriage and the Art of Living Together by Daphne de Marneffe
- How to Change your Mind by Michael Pollan
- Active Listening by Carl Rogers and Richard Farson
- The Dance of Anger by Harriet Lerner

- A Return to Love by Marianne Williamson
- Love without Hurt by Steven Stosny
- 12 Rules for Life by Jordan Peterson

(App. 20 ¶ 100).

Through his reading and counseling, Mr. Watkins has come to understand how important workplace power dynamics are and why it is unacceptable to speak to staff in the manner that he did. His eyes have been opened to the issues discussed by Justice Cady and Justice Hecht in their dissenting opinions in the removal case. Mr. Watkins is much more conscious of how sexual humor is perceived and he has a much greater appreciation for how his behavior impacted Ms. Wallingford.

#### **IX. Mr. Watkins has completed continuing education**

Mr. Watkins has sought continuing education in the areas of sexual harassment and ethics generally. (App. 20 ¶ 99); *Iowa Supreme Court Attorney Disciplinary Bd. v. Lickiss*, 786 N.W.2d 860, 871 (Iowa 2010) (remedial efforts are mitigating circumstance). He has taken CLEs on the topics of “Diversity and Inclusion,” “Legal Ethics: Ten Tips to Avoid Trouble” and “Learning from Other’s Mistakes: Avoiding Ethical Issues in the Practice of Law.” (App. 68).

**X. Mr. Watkins had nearly no experience in a professional setting**

Mr. Watkins was new to the practice of law and was a solo practitioner when the conduct addressed in this disciplinary action occurred. (App. 19 ¶ 96). His former work experience was playing poker in California for nine years—a much more lax culture. He had nearly no experience working in a law office; certainly no recent experience. And he had no experience managing staff.

Because Mr. Watkins hung his own shingle, he had no opportunity to observe the day-to-day interactions of an Iowa law firm. He had no model in terms of interpersonal interaction. He had no “socialization” regarding how a lawyer should communicate with clients and staff. He was entirely self-taught. (App. 19 ¶ 96).

Lacking any examples, it is little surprise that Mr. Watkins did not realize he could no longer have the free-wheeling communication he was accustomed to. The intimate nature of his home/law office further contributed to an environment where Mr. Watkins failed to realize the need to censor himself.

Notably, Mr. Watkins conduct occurred before the #metoo movement began. See

[https://en.wikipedia.org/wiki/Me\\_Too\\_movement](https://en.wikipedia.org/wiki/Me_Too_movement) (noting that the movement spread virally in October 2017 largely in response to allegations against Harvey Weinstein). The Court had the benefit of this increased social awareness prior to issuing its decision in the removal case on June 29, 2018. Now three years later, after multitudes of women have come forward to complain about inappropriate workplace conduct, it may seem commonsense that Mr. Watkins' comments were out-of-line. But this issue was not yet at the forefront of the American consciousness, and certainly was not yet at the forefront of Mr. Watkins' consciousness.

Only when it was brought to his attention through the removal action did he realize the error of his ways, including the impact it was having on Ms. Wallingford, his office, and the public perception. His inappropriate actions were the result of inexperience and ignorance. *Turner*, 918 N.W.2d at 155 (“[I]nexperience is a mitigating factor”); *Iowa Supreme Court Attorney Disciplinary Bd. v. Lubinus*, 869 N.W.2d 546, 553 (Iowa 2015) (recognizing attorney was solo practitioner who was relatively new to practice). As Maya Angelou said, “When you know better, you do better.”

**XI. Mr. Watkins has never been disciplined before; nor has he had any further ethical issues since 2016**

Mr. Watkins has never been disciplined before. *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Bieber*, 824 N.W.2d 514, 527 (Iowa 2012) (recognizing lack of prior discipline as an important mitigating factor).

Mr. Watkins served as county attorney from approximately August 2018 through January 2019 and has operated his law practice since the time of the allegations with no new complaints. (App. 22 ¶ 107). He has three years of good behavior under his belt, demonstrating that he has learned from this experience and implemented what he has learned into his personal and professional life. This period of success establishes that he is fit to practice law.

**XII. Mr. Watkins provides legal representation to an underserved part of the community**

Though his family has relocated to Des Moines, Mr. Watkins maintains his practice in Keosauqua and regularly commutes to serve those local clients. There are only two other attorneys practicing in Van Buren County (one in Keosauqua and one in Farmington). It is not uncommon for local citizens to travel to Fairfield or Bloomfield to seek legal representation. As Mr. Watkins' practice has

demonstrated, there is a great need for services in Keosauqua. Mr. Watkins continued to represent the disenfranchised as his case proceeded through the system. “Providing legal representation to an underserved part of the community is a significant mitigating factor.” *Iowa Supreme Court Attorney Disciplinary Bd. v. Taylor*, 814 N.W.2d 259, 268 (Iowa 2012).

### **XIII. Mr. Watkins has already been punished for his actions**

Mr. Watkins has paid dearly for his mistakes. The removal action was widely publicized. It would be surprising if a resident of Van Buren was *not* aware of the allegations against Mr. Watkins. The local Van Buren newspaper covered every step of the removal action and it was a much-discussed topic in the community. Mr. Watkins was particularly embarrassed by local news articles that intimated he frequently appeared in his office in brief underwear. (App. 22 ¶ 104). Even worse, due to sloppy reporting, he has encountered several people who are under the impression that he sexually assaulted someone. Mr. Watkins’ private practice suffered greatly in the wake of the removal action. It is a testament to his skill as a lawyer and his engaging personality that he was able to stay afloat and rebuild his practice, despite these challenges.

And Mr. Watkins' reputation was not just tarnished in his local community; the coverage of this matter was state-wide. The Des Moines Register published at least eight articles regarding the removal action. A Google search for Mr. Watkins returns pages of articles regarding the removal. His mistakes will haunt him for the foreseeable future.

Mr. Watkins was also punished for his behavior by his removal from office for a period of 17 months. The removal action caused much turmoil in Mr. Watkins' life. Because of the removal, Mr. Watkins had to remove files from his office and transition all of the County work. (App. 22 ¶ 105). This was a time-consuming undertaking. (App. 22 ¶ 105). Mr. Watkins worked diligently to ensure a smooth transition of the County files even though he felt he was wrongly removed from office. (App. 22 ¶ 105). He communicated with the Board of Supervisors in a timely fashion throughout the transition. (App. 22 ¶ 105).

He had minimal income during the period he was removed from office and had to take out a loan to keep his business afloat. (App. 21 ¶ 103). His family's insurance was carried by the County and they were thus forced to enroll on COBRA health insurance after his

removal. (App. 21 ¶ 103). Ms. Watkins worked as the victim impact coordinator for the Van Buren County Attorney's office, and that position was eliminated during the period Mr. Watkins was removed from office, further destabilizing his family. Her position likely would not have been eliminated but for Mr. Watkins' removal.

When Mr. Watkins was reinstated as County Attorney after the Iowa Supreme Court reversed the removal decision, he again worked diligently to ensure a smooth transition of the County files. (App. 22 ¶ 106). Again, this was a time-consuming undertaking. (App. 22 ¶ 106). Mr. Watkins always acted professionally, despite the hard feelings from the removal process. (App. 22 ¶ 106)

The Iowa Supreme Court's decision in Mr. Watkins' removal action has also served a punitive function. It provided yet another airing of Mr. Watkins' dirty laundry, including the details of his marital issues and alcoholism. The Court's harsh judgment of his behavior was certainly its own sanction.

#### **XIV. The removal proceedings were a sufficient deterrent to other attorneys**

Disciplinary proceedings of course serve to deter other lawyers from engaging in similar conduct. Mr. Watkins' removal action had

enormous deterrent value. In a typical ethics case, the Iowa bar would become aware of an ethical issue only upon the Iowa Supreme Court's issuance of an opinion. Here, as discussed, Mr. Watkins' removal was a particularly public affair. The Iowa bar was apprised of Mr. Watkins' mistakes throughout the district court proceedings and again when the Iowa Supreme Court issued its opinion. Though the Iowa Supreme Court reversed Mr. Watkins' removal, none of the four justices who wrote in that case had positive things to say about Mr. Watkins' conduct. There is no need to further sanction Mr. Watkins in order to deter other attorneys. That purpose has already been served.

In addition, Mr. Watkins is willing to share his experience with other lawyers who suffer from substance abuse issues and relate what he has learned from this difficult experience. He would be an excellent resource in both areas.

### **CONCLUSION**

For these reasons, a public reprimand is a sufficient sanction in this case. "The primary goal of attorney discipline is to protect the public, not to punish the attorney." *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Barnhill*, 847 N.W.2d 466, 487 (Iowa 2014). The

public interest has been amply served by the Iowa Supreme Court's condemnation of Mr. Watkins' actions. Mr. Watkins has been sufficiently punished by the arduous removal process and the related publicity. Though inappropriate, Mr. Watkins' actions are not so egregious as to require further sanction.

The multitude of mitigating factors in this case are compelling. Mr. Watkins has shown that this conduct will not be repeated and that he is fit to practice law. From the beginning, he has taken the necessary steps to correct the deficiencies that led to this ethical violation. He remains committed to maintaining his progress and making further positive change in his life. The public is amply protected due to the changes Mr. Watkins has made and continues to make to his life.

**ORAL ARGUMENT NOTICE**

Counsel requests oral argument.

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**CERTIFICATE OF COMPLIANCE AND SERVICE**

This brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) (no more than 14,000 words); excluding the parts of the brief exempted by Rule 6.903(1)(g)(1), which are the table of contents, table of authorities, statement of the issues, and certificates. This brief contains 9,474 words.

This brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(e) and the type-style requirements of Iowa R. App. P.6.903(1)(f) because this brief has been prepared in a proportionally spaced typeface using Microsoft Office Word 2010 in font size 14, Bookman Old Style.

I hereby certify that on November 19, 2019, I did serve Respondent-Appellant's Final Brief on Appellant by e-mailing one copy to:

Abraham Watkins  
Respondent-Appellant

\_\_\_/S/ *Gina Messamer*\_\_\_\_\_

Dated: November 19, 2019

Gina Messamer