

**IN THE SUPREME COURT  
STATE OF MISSOURI**

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IN RE:

DAVID B. LACKS

Respondent.

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Supreme Court #SC93500

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**RESPONDENTS BRIEF**

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### **STATEMENT OF FACTS**

Respondent adopts for the purposes of this brief the statement of facts submitted by the Informant which are drawn from the joint stipulation of facts and conclusions of law entered into by the parties.

**POINTS RELIED ON**

- I. THIS COURT SHOULD REPRIMAND RESPONDENT BECAUSE RESPONDENTS FAILURE TO RECOGNIZE THAT HIS REPRESENTATION OF S.M. COULD BE MATERIALLY AFFECTED AS A RESULT OF HIS EXPRESSION OF SEXUAL INTEREST IN HER WAS NEGLIGENT.**

*A.B.A. Standards for Imposing Lawyer sanctions (1991 ed.)*

**ARGUMENT**

- I. THIS COURT SHOULD REPRIMAND RESPONDENT BECAUSE RESPONDENTS FAILURE TO RECOGNIZE THAT HIS REPRESENTATION OF S.M. COULD BE MATERIALLY AFFECTED AS A RESULT OF HIS EXPRESSION OF SEXUAL INTEREST IN HER WAS NEGLIGENT.**

For the purposes of this brief, Respondent adopts the argument of Informant.

Furthermore, Respondent wishes to emphasize that he recognizes the wrongness of his actions and has tried to make amends.

In addition the publishing of the informant in this cause and the resulting publicity has already caused respondent great embarrassment and loss of business, which constitutes additional punishment to his improper act.

## **CONCLUSION**

Respondent committed professional misconduct by violating Rules 4-1.7 and 4-8.4(d) by: (a) making overt comments to S.M. as an expression of his sexual interest in her which created a concurrent conflict in violation of Rule 4-1.7 (a) (2) because his conduct presented a significant risk that his representation of S.M. would be materially limited by his personal interest in her, and (b) making sexually inappropriate comments to S.M. and offering to pay her to perform a sexual act which was conduct prejudicial to the administration of justice and violated Rule 4-8.4(d). The lack of aggravating circumstances and presence of mitigating circumstances support the imposition of discipline as described herein. Respondent respectfully requests that this Court reprimand Respondent for his conduct in accordance with Informant's recommendations.

Respectfully submitted

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 14<sup>th</sup> day of November, 2013, a true and correct copy of the foregoing was served via the electronic filings system pursuant to Rule 103.08 on:

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**CERTIFICATION: RULE 84.06 (c)**

I certify to the best of my knowledge, information and belief, that this brief:

1. Includes the information required by Rule 55.03;
2. Complies with the limitations contained in Rule 84.06(b); and
3. Contains 698 words, according to Microsoft Word, which is the word processing system used to prepare this brief.

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