STATE OF VERMONT PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: Norman Watts PRB File Nos. 2019-102 and 2020-011

RESPONDENT'S RESPONSE TO THE "SUR-REPLY"

It is important to note that, in her "Sur-reply," the Special Disciplinary Counsel ("Counsel") ignores Respondent's central point in the quest to depose her "expert" – that her denial of his request to depose the "expert" unfairly prejudices him and is based on mere speculation that documents exist that he failed to produce. ¹/

Rather, she justifies her bar against the deposition on notions about Respondent's motivations in approaching this proceeding, complaining that Respondent failed to produce all the documents she requested – regardless of whether such documents exist.

The result is unfair prejudice in contradiction to the civil rules and judicial precedents. In essence, Counsel's action forced Respondent to file the motion to compel.

Counsel accuses Respondent of deliberate failure to produce documents because he reported to her that he "believed he had completed full and complete document production" but then produced additional documents. Respondent's report arose from a mistake, <u>not</u> deliberate avoidance. The mistake was Respondent's decision not to bring his paralegal, Margaux Reckard, into this proceeding so she could remain focused on the best interests of the firm's 25 active litigation cases. The decision was not bad faith but good lawyering on behalf of the clients. If he acted in bad faith, he could have failed to produce the later-discovered documents.

¹ Please refer to Respondent's Reply to_Counsel's Opposition to His Motion to Compel a Deposition of Counsel's Substitute Expert, dated 3/8/22.

Respondent's decision resulted in a miscommunication between Ms. Reckard and him, not from a desire or necessity to hide relevant documents. ²/

Counsel requested hourly case billing files and criticized Respondent for not producing them based on Ms. Reckard's testimony that the firm preserves former client cloud files. Respondent produced the full hourly case billing files for both complainants in the present matter. And, Counsel ignores the fact that there were <u>no</u> hourly clients aside from the current complainants in the 2015-2017 period. Again, the point Counsel ignores is that Respondents cannot produce documents that do not exist.

In sum, Counsel's notions about Respondent's motivations are wrong. They do not constitute compelling reasons to justify her obstruction of the course of Respondent's hearing preparation. The chronology of his requests for the deposition and Counsel's obstruction were accurately reported previously to the Panel. ³/

Conclusion

For the foregoing reasons, Respondent urges the Hearing Panel to grant his motion to compel the deposition of the "expert" that Counsel plans to present at the hearing -- in the interests of fairness and justice.

Respectfully submitted on this 30th day of March, 2022.

Norman E. Watts, Esq., Respondent Watts Law Firm, PC info@wattslawvt.com

² Counsel also found herself amidst a "miscommunication" in her firm and duly reported it, and produced additional documents – the same process as she attacks here.

³ Please refer to Respondent's Motion to Compel Expert Deposition & Memorandum in Support, dated 2/8/22.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date he made service of *Respondent's*

Response to the "Sur-Reply," via email upon the following parties:

Navah C. Spero, Esq. Gravel & Shea PC <u>nspero@gravelshea.com</u> Merrick Grutchfield Court Administrator's Office Professional Responsibility Program <u>merrick.grutchfield@vermont.gov</u>

DATED: March 30, 2022.

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