

FILE NO. \_\_\_\_\_

STATE OF MINNESOTA

IN SUPREME COURT

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In Re Petition for Disciplinary Action  
against CLARK CALVIN GRIFFITH, II,  
a Minnesota Attorney,  
Registration No. 175638.  
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**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 3, 1986. Respondent currently practices law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

M.D. Matter

1. In 2011 and through to February 2, 2012, respondent was employed by William Mitchell College of Law (WMCL) as an adjunct professor, teaching a class in sports law.

2. M.D. was a student in respondent's sports law class during the Fall semester of 2011. During that class, respondent said that he had previously assisted students with getting internships and with getting into the field of sports law generally.

M.D. wished to enter into the practice of sports law and recognized respondent as someone who was influential in that field.

3. On at least one occasion while M.D. was a student in respondent's class, respondent made a statement about M.D.'s physical appearance that made M.D. feel uncomfortable. Despite this, given her desire to go into the field of sports law, M.D. continued with the class and explored the idea of doing an Independent Clinic in sports law.

4. After conclusion of the Fall semester, M.D. sought and obtained permission from WMCL to participate in an Independent Clinic in Sports Law during the Spring semester of 2012. In Independent Clinics, students may earn credit by participating in lawyering experiences outside the formal clinical courses offered. To gain credit, students must present a detailed educational plan containing educational objectives, a description of the field work, and a proposed method of evaluation. To participate in an Independent Clinic, students are required to work with a professor as their Field Supervisor. M.D. submitted to WMCL a Sports Law Independent Externship Proposal that identified respondent as her proposed Field Supervisor.

5. During conversations with respondent about setting up the Independent Clinic, respondent and M.D. exchanged phone numbers. After this exchange, respondent left M.D. a phone message instructing her not to call him at his office because, "it makes my wife nervous to have young or attractive law students calling."

6. It was agreed that respondent would serve as M.D.'s Field Supervisor for the Independent Clinic and that they would have weekly meetings to plan assignments.

7. Prior to the first weekly meeting on January 10, 2012, M.D. mentioned that WMCL encouraged students to follow a mentor attorney around for a day to see what their practice is like. Respondent told her that he could not do that because his wife would kill him.

8. At the second weekly meeting on January 17, 2012, respondent again made comments about M.D.'s appearance that made her uncomfortable.

9. On January 17, 2012, M.D. sent an email to the WMCL Dean of Students asking to meet with him regarding "some concerns" that she had. The "concerns" referenced in that email were M.D.'s concerns about the comments respondent had been making. The Dean of Students replied that he was not available to meet until the following week.

10. On January 24, 2012, respondent and M.D. met at a restaurant in St. Paul. This meeting was the third meeting of weekly meetings that were contemplated by the supervision requirements of M.D.'s Independent Clinic plan.

11. During the course of the January 24 meeting, respondent attempted to engage M.D. in discussions about pornography and how it has affected dating for the younger generation, and the size of his hands and feet. During the meeting, respondent placed his hand on M.D.'s thigh and asked her to feel his leg. He then placed her hand on his thigh and encouraged her to feel up higher, moving her hand to his groin area. M.D. was not comfortable with this and pulled her hand back from respondent. Respondent's verbal and physical conduct and communications of a sexual nature as set forth above were not welcomed by M.D. and heightened her feelings of discomfort with respondent.

12. After conclusion of the January 24 meeting in the restaurant, respondent insisted on walking M.D. to her car. M.D.'s car was parked on a public street near the restaurant. When she got to her car, M.D. tried to say goodbye, but respondent told her to wait. Respondent then took M.D.'s hand and put it over his groin area. Respondent then said "stand here" as he put his hands on M.D.'s shoulders to position her. Respondent unzipped his pants, exposing his penis. Respondent then took M.D.'s hand and forced her to touch his penis and told her to squeeze it. Respondent told M.D. to look at his penis and asked whether she liked it. He then kissed her with an open

mouth. M.D. pulled her hand away and told respondent to "stop it." M.D. was then able to get into her car and drive away. Respondent's verbal and physical conduct and communications of a sexual nature as set forth above were not welcomed by M.D.

13. M.D. immediately reported this incident to friends of hers and, the next day, to WMCL.

14. On January 25, 2012, at around 1:00 p.m., respondent left M.D. a voice mail telling her that "last night was awesome" and that "any hint of this and I will be shot." That same day, at 3:53 p.m., respondent sent M.D. a Twitter message that read "Wow and did you talk to Stead?"

15. On January 25, 2012, at 5:11 p.m., WMCL left a voice mail message and sent an email to respondent telling him that a complaint concerning his behavior with a student had been filed. The email scheduled a fact-finding meeting with respondent for February 1 and stated, "In the meantime please do not have any contact by any means with [M.D.] and please do not enter the William Mitchell campus or grounds without prior permission."

16. Despite being instructed by WMCL to have no contact with M.D., respondent sent personal Twitter messages regarding the January 24 incident. These messages include the following:

- On January 26, 2012, at 11:13 a.m., respondent sent the message, "If it was you, I apologize deeply. Tell me if it was." M.D. responded to this message at 1:43 p.m., stating, "It was me. The other night was horrible. It [sic] me extremely uncomfortable."
- On January 26, 2012, at 2:00 p.m., respondent sent the message, "I am very sorry. It is my fault. Instead of a complaint to the school, you need only tell me. Now I risk life, marriage, career and reputation and the hurt my daughters would suffer is too horrible to consider. I don't think you want to do that. Please rescind the complaint and I promise to be gentleman in

all ways as well as doing what I can to help you. I'M REALLY ashamed by this and couldn't live with myself if the complaint became known, I am having a hard time now. Clark." M.D. responded to this message at 2:06 p.m., stating, "I understand you're having a hard time, but what about me? You made me touch you with your pants down while people were driving by and walking their dog behind the car!? How do I get over that?"

- On January 26, 2012, at 2:30 p.m., respondent sent the message, "I am really sorry. Please don't make it worse. I am having a hard time as well. We will get over this if we keep it contained. I'd like to talk to you about this so I can properly express my sorrow and shame." M.D. responded to this message at 2:33 p.m. by replying, "I just can't talk to you about this now."
- On January 26, 2012, at 2:35 p.m., respondent sent the message, "OK, I understand but for both our sakes we must rescind the complaint. Let me know when you want to talk."
- On January 26, 2012, at 3:22 p.m., WMCL sent an email to respondent stating, "We have been made aware that you contacted [M.D.] via Twitter at 1:13 p.m. today. As indicated in our email yesterday we informed you to have no contact with [M.D.] by any means which includes all electronic mediums. We respectfully ask that you honor our request until we have an opportunity to meet with you to conduct a fact-finding and make a decision on the complaint."
- On January 27, 2012, respondent sent the message, "I just got a call from the GC at the U about the NCAA apparently. If the NCAA calls HR at Mitchell, WE are both finished as I was serious about a job because I think

23. Respondent's conduct in making unwelcome comments about M.D.'s appearance, his unwanted physical contact with M.D., and his continued communications to M.D. after being instructed to have no further contact with her, all while in a position of power and authority over M.D. violated Rule 8.4(b), (d), and (g), 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: November 19, 2012.



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