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ADVANCE SHEET HEADNOTE  
May 6, 2024

2024 CO 23

**No. 22SA236, *In the Matter of Scipione* – Judicial Discipline – Sanctions.**

In this judicial disciplinary proceeding against now-former Arapahoe County District Court Judge John E. Scipione, the supreme court considers the March 2024 updated recommendations of the Colorado Commission on Judicial Discipline (“the Commission”) to (1) adopt the parties’ stipulation for public censure dated January 19, 2023, and (2) adopt the findings of fact and conclusions of law in the special masters’ recommendation for discipline dated August 14, 2023, which recommends that Scipione pay the Commission’s attorney fees for the disciplinary proceeding. The court concludes that public censure and an award of attorney fees are appropriate sanctions in light of Scipione’s violations of eight Code of Judicial Conduct rules.

Accordingly, the supreme court hereby publicly censures now-former Judge John E. Scipione for his violations of Canon 1, Rules 1.1, 1.2, and 1.3; Canon 2,

Rules 2.3, 2.8, 2.9, and 2.16; and Canon 4, Rule 4.1. Additionally, the court orders Scipione to pay the Commission \$51,189.50 in attorney fees.

**The Supreme Court of the State of Colorado**  
2 East 14th Avenue • Denver, Colorado 80203

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**2024 CO 23**

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**Supreme Court Case No. 22SA236**

*Original Proceeding in Discipline*

Colorado Commission on Judicial Discipline Case Nos. 21-138 and 22-112

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**In the Matter of Complainant:**

The People of the State of Colorado,

and

**Respondent:**

John E. Scipione, a former judge of the Arapahoe County District Court.

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**Public Censure**

*en banc*

May 6, 2024

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**Appearing for Colorado Commission on Judicial Discipline and Complainant:**

Jeffrey M. Walsh, Interim Executive Director and Special Counsel

*Denver, Colorado*

**Attorneys for Respondent:**

Burns, Figa, & Will, P.C.

John S. Gleason

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*Greenwood Village, Colorado*

**PER CURIAM**

**CHIEF JUSTICE BOATRIGHT and JUSTICE SAMOUR** did not participate.

PER CURIAM

¶1 In this judicial disciplinary proceeding against now-former Arapahoe County District Court Judge John E. Scipione, we consider the updated recommendations of the Colorado Commission on Judicial Discipline (“the Commission”) filed March 22, 2024.

¶2 First, the Commission recommends that this court adopt the parties’ stipulation for public censure dated January 19, 2023. Under this stipulation, the parties agreed that Scipione would be publicly censured for violating Canon 1, Rules 1.1, 1.2, and 1.3; Canon 2, Rules 2.3, 2.8, 2.9, and 2.16; and Canon 4, Rule 4.1 of the Colorado Code of Judicial Conduct by (1) using his position as a judicial officer to seek intimate relationships with lower-ranking or subordinate Judicial Department employees or court personnel; (2) abusing the prestige of his judicial office and initiating ex parte communications with another judge and that judge’s clerk to expedite a probate matter involving Scipione’s father’s estate; and (3) failing to disclose on his judicial applications or during the course of the disciplinary proceeding an unreported, intimate relationship with a judicial assistant while serving as a district court magistrate.

¶3 Second, the Commission recommends that this court adopt the findings of fact and conclusions of law in the special masters’ recommendation for discipline

dated August 24, 2023, which recommends that Scipione pay the Commission's attorney fees for the disciplinary portion of the proceedings.

¶4 Scipione has not filed exceptions to the Commission's recommendations.

¶5 Having considered the record, including the parties' January 2023 stipulation; the special masters' August 14, 2023, Order Regarding Colo. RJD 36(h) Sanctions, Attorney's Fees, and Costs; and the Commission's updated recommendations dated March 22, 2024, we now adopt those recommendations. Specifically, in light of Scipione's admissions to knowingly engaging in conduct that violated eight rules of the Code of Judicial Conduct, we issue this public censure and order Scipione to pay the Commission's \$51,189.50 in attorney fees for the disciplinary portion of these proceedings.

### **I. Factual and Procedural History**

¶6 The misconduct at issue involves Scipione's (1) repeated use of his position as a judicial officer to seek intimate relationships with lower-ranking or subordinate Judicial Department employees and court personnel; (2) abuse of the prestige of his judicial office to initiate ex parte communications with another judge and that judge's clerk to expedite a probate matter involving Scipione's father's estate; and (3) failure to disclose on his judicial applications an intimate relationship with a subordinate employee that should have been reported to the

Judicial Department in accordance with Chief Justice Directive 08-06, Colorado Judicial Department Employee Policies (amended May 2011).

### **A. Underlying Conduct**

¶7 We draw the following facts from the parties' January 2023 stipulation.

¶8 Scipione served as a magistrate in the Eighteenth Judicial District from 2012 to 2017. He then served as an Arapahoe County Court Judge from May 31, 2017, until September 19, 2018, when he was appointed as an Eighteenth Judicial District Court Judge.

¶9 On at least three occasions, Scipione used his position as a judicial officer to seek intimate relationships with Judicial Department employees or court personnel. While serving as a magistrate, Scipione engaged in an approximately one-year personal relationship with his judicial assistant ("Judicial Assistant 1"). Scipione did not report this relationship to his supervising Chief Judge or the Judicial Department's Human Resources Division, as required by the Judicial Department's policies.<sup>1</sup> As relevant to the Commission's jurisdiction to impose

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<sup>1</sup> Chief Justice Directive 08-06, Attachment F: Policy Concerning Personal Relationships in the Workplace—Colorado Judicial Department, requires that where a romantic and/or sexual relationship exists between a judicial officer and an employee, both parties must report the relationship. To avoid conflicts of interest, the directive further prohibits judicial officers from holding supervisory positions over employees with whom they have a romantic and/or sexual relationship. *Id.*

discipline in the matter, Scipione did not disclose the existence of this relationship when he applied to become a county court judge in 2017 or when he applied to become a district court judge in 2018.<sup>2</sup>

¶10 In 2021, the Commission notified Scipione of allegations of judicial misconduct made against him by a different judicial assistant (“Judicial Assistant 2”) and an unpaid intern/law clerk (“Law Student Intern”). These allegations related to claims of sexual harassment, including that Scipione referred to Judicial Assistant 2 using a derogatory term, openly discussed with Law Student Intern and Judicial Assistant 2 his “alternative ‘lifestyle’ of consensual non-monogamy,”<sup>3</sup> and asked Law Student Intern to assist him in using the Tinder dating application.<sup>4</sup>

¶11 During its investigation, the Commission learned that Scipione pursued a personal relationship with a former law clerk (“Former Law Clerk”).<sup>5</sup> Scipione

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<sup>2</sup> At that time, the judicial application form contained a question that asked, “Is there any circumstance or event in your personal or professional life which, if brought to the attention of the [Judicial Nominating] Commission, might tend to affect adversely your qualifications to serve on the court for which you have applied? If so, please explain.” With awareness of his unreported relationship, Scipione responded “No” on both applications.

<sup>3</sup> This phrase was used in the parties’ January 2023 stipulation.

<sup>4</sup> These allegations were the basis of the Commission’s Case No. 21-138 (Supreme Court Case No. 22SA14).

<sup>5</sup> Former Law Clerk’s disclosure triggered a separate judicial discipline proceeding before the Commission, Case No. 22-112 (Supreme Court Case No. 22SA236).

failed to disclose the personal relationship with Judicial Assistant 1 and his conduct with Former Law Clerk in these disciplinary proceedings. Scipione represented that former staff and others would affirm that he never engaged in similar misconduct in the workplace, without disclosing that he had done so in the past.

¶12 Separately, Scipione contacted another judge and that judge's probate clerk in a different jurisdiction to seek preferential, expedited treatment in a probate proceeding involving Scipione's father's estate.

### **B. The Disability Proceeding**

¶13 Following a request from the Commission, this court issued an order on August 3, 2022, temporarily suspending Scipione from his judicial duties with pay in accordance with Colo. RJD 34(a). The next day, Scipione filed a motion under Colo. RJD 33.5(c) asserting that because of a disability, he was unable to assist in his defense. The motion asked the Commission to promptly notify this court of his inability to assist in his defense in all cases against him and, in accordance with Colo. RJD 33.5(c), suspend the disciplinary proceedings.

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Soon thereafter, the special masters consolidated the two disciplinary proceedings below; the proceedings in both matters before this court were likewise consolidated into Supreme Court Case No. 22SA236 on August 9, 2022.



¶14 As required by Colo. RJD 33.5(c)(1), the Commission suspended the pending disciplinary proceedings against Scipione and filed notice of the disability proceeding with this court. In response, this court issued an order on August 9, 2022, transferring Scipione to lawyer and judicial disability inactive status and appointed a special master to consider Scipione’s alleged disability.

¶15 In light of these events, the disciplinary proceedings against Scipione were paused for four months from August 2022 to December 2022 while the parties litigated the merits of his disability claim. Ultimately, following three independent medical evaluations, Scipione acknowledged that he could not meet his burden to prove by clear and convincing evidence that he had a disability that prevented him from assisting with his defense, and the parties stipulated to dismiss the disability proceeding and resume the disciplinary proceedings. Upon the special master’s recommendation, we accepted the parties’ stipulation on December 16, 2022.

### **C. The January 2023 Stipulation**

¶16 Once the disciplinary proceedings resumed, the parties were able to reach a partial agreement to resolve the matter and filed a stipulation for resolution with this court on January 19, 2023.

¶17 In the stipulation, Scipione admitted to knowingly engaging in conduct that violated the following Code of Judicial Conduct rules:

- Canon 1, Rule 1.1(A) (“A judge shall comply with the law, including the Code of Judicial Conduct.”).
- Canon 1, Rule 1.2 (“A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”).
- Canon 1, Rule 1.3 (“A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.”).
- Canon 2, Rule 2.3(B) (“A judge shall not . . . engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, [or] gender.”).<sup>6</sup>
- Canon 2, Rule 2.8(A) (“A judge shall require order and decorum in proceedings before the court.”), and Rule 2.8(B) (“A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity . . .”).
- Canon 2, Rule 2.9(A) (“A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter . . .”).
- Canon 2, Rule 2.16(A) (“A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.”).

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<sup>6</sup> The stipulation noted that Chief Justice Directive 08-06, Attachment A: Anti-Harassment and Anti-Discrimination Policy – Colorado Judicial Department, defines sexual harassment to include “unwanted sexual advances or propositions” and further states, in part: “Harassment, whether verbal, physical, or environmental, is unacceptable and will not be tolerated in the workplace itself or in other work-related settings such as business trips, conferences, or work-related social events.”

- Canon 4, Rule 4.1(A)(11) (“Except as permitted by law, or by this Canon, a judge or a judicial candidate shall not . . . knowingly, or with reckless disregard for the truth, make any false or misleading statement . . .”).

¶18 Specifically, Scipione admitted that he knowingly engaged in conduct that violated Rules 1.1, 1.2, 2.3, and 2.8 through his communications with and about Law Student Intern and Judicial Assistant 2. These communications included Scipione inappropriately referring to Judicial Assistant 2 in derogatory terms and discussing with Law Student Intern and Judicial Assistant 2 his sexual preferences and habits.

¶19 Scipione also admitted to knowingly engaging in conduct that violated Rules 1.1, 1.2, 1.3, and 2.9 by initiating ex parte communications with another district court judge and that judge’s clerk in a different jurisdiction in an effort to expedite a probate matter involving Scipione’s father’s estate.

¶20 Finally, Scipione admitted to knowingly engaging in conduct that violated Rules 1.1, 1.2, 2.3, 2.16, and 4.1 by failing to disclose on his judicial applications his unreported intimate personal relationship with Judicial Assistant 1 while serving as a magistrate in the Eighteenth Judicial District and failing to disclose this prior relationship during the disciplinary proceedings.

¶21 Based on these admissions, the parties stipulated that Scipione would resign from judicial office immediately upon filing the stipulation with this court, and that this court would publicly censure Scipione according to Colo. RJD 36(e) for

his admitted violations of Rules 1.1, 1.2, 1.3, 2.3, 2.8, 2.9, 2.16, and 4.1. The parties also agreed that other sanctions, including attorney fees and costs, would remain open for further determination by the special masters presiding over the disciplinary proceedings.

¶22 On January 20, 2023, this court issued an order acknowledging Scipione’s resignation but, because the matter was not fully resolved at that time, we did not address the parties’ recommendation for public censure.

#### **D. Subsequent Proceedings**

¶23 The parties briefed the remaining issues regarding sanctions before the special masters. Specifically, the Commission sought repayment of all salary and benefits that Scipione had received while he was suspended during the pendency of the disciplinary and disability proceedings, as well as attorney fees and costs of \$120,719.50 (covering both the disciplinary and disability proceedings).

¶24 On August 14, 2023, the special masters issued an order in the underlying disciplinary proceedings<sup>7</sup> addressing three issues. First, the special masters determined that the catchall provision for sanctions under Colo. RJD 36(h) (authorizing the imposition of “any other sanction . . . that the Court determines

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<sup>7</sup> Because the special masters’ order was issued in the underlying Commission proceedings, it was not filed with this court until it was forwarded as part of the record of those proceedings when the Commission submitted its initial recommendation to this court in February 2024.

will curtail or eliminate the Judge’s misconduct”) does not override the specific provision in Colo. RJD 34(a) (authorizing temporary suspension of a judge “with pay” pending resolution of proceedings) or Colo. Const. art. VI, section 23(3)(f) (specifying that a judge’s salary “shall cease” from the date of the order removing the judge from office). Therefore, the special masters reasoned, Colo. RJD 36(h) did not authorize recoupment of Scipione’s salary and benefits received during the pendency of his suspension. Second, the special masters concluded that, given the severity and repetitive nature of his misconduct, Scipione should be required to pay the Commission’s attorney fees, at market rate, for the disciplinary phase of the litigation – totaling \$51,189.50. Finally, the special masters declined to rule on whether Scipione should be ordered to pay the Commission’s attorney fees for the disability phase of litigation, finding that the record before it was insufficient to support a conclusion that the delay was unnecessary and that Scipione’s claim of disability was frivolous.

¶25 Because nothing had been filed with the court since the parties’ January 2023 stipulation, on February 8, 2024, we issued an order seeking a status update from the special masters. On February 26, 2024, the special masters submitted a notice that they had issued their recommendation and report to the Commission in August 2023. That same day, the Commission filed with us its initial recommendation. A month later, on March 22, 2024, the Commission filed a

motion to strike its initial recommendation and submitted an updated recommendation along with the parties' joint notification that Scipione would not file any exceptions.

¶26 In its updated recommendation, the Commission asks this court to adopt the parties' stipulation for public censure dated January 19, 2023, and publicly censure Scipione. The Commission also asks this court to adopt the special masters' findings and recommendation that Scipione pay the Commission's \$51,189.50 in legal fees for the disciplinary phase of the litigation based on the reasoning that (1) when judicial misconduct is as serious and prolonged as it is here, an award of fees is appropriate; and (2) when fees are awarded, they should be charged at market rate in accordance with *Balkind v. Telluride Mountain Title Co.*, 8 P.3d 581 (Colo. App. 2000).<sup>8</sup> Scipione did not file any exceptions to the Commission's updated recommendations.

## II. Analysis

¶27 We begin with a discussion of our jurisdiction and the applicable standard of review. We then proceed to address the recommended sanctions in turn and

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<sup>8</sup> The Commission's first recommendation and updated recommendation are identical apart from the suggested reasoning for awarding attorney fees. The initial recommendation contained a third basis for fees: "that when dubious litigation tactics are employed for strategic advantage, an award of fees is appropriate." The Commission's updated recommendation omits this additional basis for fees.

adopt the parties' stipulated sanction of written public censure and the Commission's recommendation that Scipione pay the Commission's attorney fees related to the underlying disciplinary proceedings.

### **A. Jurisdiction and Standard of Review**

¶28 Article VI, section 23(3) of the Colorado Constitution vests authority over matters of judicial discipline with this court, the Commission on Judicial Discipline, and any special masters that this court may appoint in connection to the hearing of a judicial disciplinary matter. But this court is the ultimate decisionmaker in formal judicial disciplinary proceedings,<sup>9</sup> *In re Booras*, 2019 CO 16, ¶ 17, 500 P.3d 344, 348 (first citing Colo. Const. art. VI, § 23(3)(f); and then citing Colo. RJD 40). Our decision, along with all sanctions we impose, shall be final. Colo. RJD 40.

¶29 Before issuing a decision, we must “consider the evidence and the law, including the record of the proceedings and additions thereto; the special masters’ report; the Commission’s recommendation; and any exceptions filed under Rule 38.” *Id.* Our decision “may dismiss the complaint; adopt or reject the

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<sup>9</sup> Under Colo. RJD 35, informal private dispositions are handled strictly by the Commission. Because such informal dispositions are confidential, this court has no involvement in them, and unless those dispositions are brought to the court’s attention for other reasons (such as subsequent disciplinary proceedings or because a judge has applied for a judicial vacancy or a position in the senior judge program), this court is not made aware of them.

recommendation of the Commission; adopt the recommendation of the Commission with modifications; or remand the proceedings to the Commission for further action.” *Id.*; *see also* Colo. Const. art. VI, § 23(3)(f). Where the Commission recommends a stipulated resolution, we must order it to become effective and issue any sanction provided in it unless we “determine[] that its terms do not comply with Rule 37(e) or are not supported by the record of proceedings.” Colo. RJD 40.

¶30 We will uphold the special masters’ findings of fact unless, after consideration of the entire record, we conclude that the findings are clearly erroneous or unsupported by substantial evidence. *Booras*, ¶ 18, 500 P.3d at 348. We review *de novo* the special masters’ conclusions of law. *Id.*

### **B. Stipulation to Resignation and Public Censure**

¶31 Colo. RJD 37(e) permits special counsel for the Commission and the respondent judge to propose that the Commission adopt a stipulated resolution of formal proceedings and submit it to this court as the Commission’s recommendation under Colo. RJD 37. The stipulated resolution must include (1) summaries of the principal allegations, the judge’s response, and material facts that are agreed on or remain disputed; (2) relevant Canons, Canon Rules, or provisions of the Rules of Judicial Discipline; (3) recommendations for dismissal



or sanctions; and (4) an acknowledgment that the stipulated resolution and the record of proceedings will become public. Colo. RJD 37(e).

¶32 As described in Part I.C, the parties' January 2023 stipulation detailed the allegations against Scipione and his admissions to them, the agreed-to material facts, the relevant Canon Rules, and the recommended sanction that Scipione be publicly censured. The stipulation also acknowledged that it and the record of proceedings would become public.

¶33 We find that the stipulation complies with Colo. RJD 37(e), and the admissions are supported by the record of proceedings. Thus, we accept the stipulated violations. Similarly, the recommendation that Scipione receive a written public censure from this court is undoubtedly supported by the substantial evidence in the record.

¶34 Therefore, we conclude that the imposition of public censure on Scipione for his violations of Canon 1, Rules 1.1, 1.2, and 1.3; Canon 2, Rules 2.3, 2.8, 2.9, and 2.16; and Canon 4, Rule 4.1 is an appropriate sanction.

### **C. Attorney Fees**

¶35 The Commission recommends that we adopt the special masters' conclusion that Scipione should pay the Commission's \$51,189.50 in attorney fees for the

disciplinary portion of the litigation.<sup>10</sup> We conclude that the award of attorney fees in this case is appropriate and adopt the Commission's recommendation.

¶36 Attorney fees are typically recoverable only where there is a contractual or statutory basis for the recovery. *Guarantee Tr. Life Ins. Co. v. Est. of Casper ex rel. Casper*, 2018 CO 43, ¶ 23, 418 P.3d 1163, 1172. In the judicial discipline arena, recovery of attorney fees is authorized under Colo. RJD 36(g). Colo. RJD 36 lists the possible sanctions the Commission may consider when making its recommendation to this court. Colo. RJD 36(g) further states that, in its recommendation for sanctions, the Commission "may include a recommendation for reimbursement of its reasonable attorney fees." To recover attorney fees, the Commission must include in its recommendation "grounds for such

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<sup>10</sup> The Commission has abandoned its request for the attorney fees it incurred during the disability proceeding. However, the Commission still urges us to review the briefs filed during the disability proceeding—to which the special masters in the disciplinary proceedings did not have access—when making our determination of the amount of fees, if any, to award. Because the parties have reached what appears to be substantial agreement after protracted and contentious litigation, we decline to disrupt that apparent agreement by ordering payment of additional attorney fees.

Similarly, the Commission does not dispute the special masters' conclusion that Colo. RJD 36(h) does not permit recoupment of a judge's salary and benefits. We expressly agree with the special masters' conclusion on this issue.

reimbursement that [this court] determines to be appropriate and equitable in the circumstances.” *Id.*<sup>11</sup>

¶37 Relying on this court’s reasoning in *Booras*, the special masters concluded that because of (1) the seriousness of Scipione’s misconduct, (2) the apparent pattern of Scipione’s misconduct, and (3) the negative effect Scipione’s misconduct had on the Judicial Department and others, the award of attorney fees was an appropriate sanction.

### 1. Scipione’s Misconduct Was Serious

¶38 Scipione’s misconduct presented in the stipulated facts was serious. Namely, Scipione took advantage of the power imbalance in the relationship between judges and subordinate judicial employees. Law student interns and post-graduate law clerks typically seek these positions precisely because they offer an opportunity to work closely with a judicial officer, develop an understanding

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<sup>11</sup> Although this court has previously ordered payment of costs, *see Booras*, ¶ 39, 500 P.3d at 350, we have not previously ordered payment of attorney fees in a judicial disciplinary proceeding where it was not a stipulated sanction. *Cf. People v. Timbreza*, 2023 CO 16, ¶¶ 1, 14, 528 P.3d 160, 160, 163 (special tribunal convened where the full supreme court was recused and, in accordance with the parties’ stipulated resolution, ordered the former judge to pay attorney fees and costs).

That said, the plain language of Colo. RJD 36(g) permits the imposition of attorney fees if we determine it is appropriate and equitable. Here, although the award of attorney fees was not formally stipulated to, the Commission’s recommendation for attorney fees reaches us in a very similar posture as a stipulated sanction. In a joint notice, Scipione agreed he would not file any exceptions to the Commission’s updated recommendation if we accepted it.

of the practice of law, and begin to forge a professional identity by working under the mentorship of the judicial officer. Judges and their law clerks often form lifetime professional relationships. Law student interns and law clerks are subordinate employees with far less power than the judge for whom they are working.

¶39 Scipione's communications with Law Student Intern and Former Law Clerk were a violation of personal boundaries. A judicial officer is held to a high standard of professionalism and must maintain appropriate interactions with all court personnel. In discussing his sexual preferences and habits with Law Student Intern and Judicial Assistant 2, Scipione abused his power as a judicial officer for his personal benefit. This abuse of the power dynamic between judicial officers and subordinate court personnel presented a grave risk of damaging the public's (and the employees') perception of the judiciary and the judicial process. Further, Scipione's derogatory reference to his judicial assistant was disrespectful both to Judicial Assistant 2 and to Law Student Intern, to whom he made the remark.

¶40 In addition, Scipione used his position as a judge in an attempt to expedite a personal probate matter pending before another judge. This was another abuse of the power of his judicial office for his personal benefit.

¶41 Finally, Scipione failed to disclose his intimate relationship with Judicial Assistant 1 when he was a magistrate both to the Judicial Department and on his applications to become a judicial officer.

## **2. Scipione Engaged in a Pattern of Misconduct**

¶42 Scipione's transgressions represented a pattern of misconduct reflecting that Scipione repeatedly abused his power for self-gain. Scipione's intimate relationship with Judicial Assistant 1 during his time as a magistrate, his derogatory remark to Law Student Intern about Judicial Assistant 2, his discussions with Law Student Intern and Judicial Assistant 2 about his sexual preferences and habits, and his attempt to have another judge expedite a probate matter involving his father's estate are all things Scipione did in pursuit of his own personal interests. Though the interests differ, they were all abuses of his power as a judicial officer.

## **3. Harm Caused by Scipione's Misconduct**

¶43 The special masters also determined that, while not easily quantifiable, Scipione's misconduct negatively affected public confidence in the judiciary, as well as the well-being of all court personnel affected by his actions.

¶44 In its filings with this court, the Commission adds that the *financial* harm Scipione caused *is* quantifiable. After the briefing schedule before the special masters concluded, the Commission received notice from the Office of the State

Court Administrator that the Judicial Department ultimately settled two sexual harassment claims filed in connection with Scipione's conduct, totaling \$130,000.

#### **4. An Award of Attorney Fees is Appropriate**

¶45 For all these reasons, we agree with the Commission and the special masters and conclude that, in light of the severity of Scipione's misconduct, his pattern of violations, and the harm he caused, the award of attorney fees for the disciplinary portion of the litigation is an appropriate and equitable sanction pursuant to Colo. RJD 36(g). Additionally, because the special masters' calculation of the amount of attorney fees owed was reasonable and legally justified, and because Scipione filed no exception to the Commission's updated recommendations, we adopt the recommendation to order Scipione to pay the Commission's attorney fees for the disciplinary portion of the litigation in the amount of \$51,189.50.<sup>12</sup>

### **III. Imposition of Sanctions**

¶46 For the foregoing reasons, the court hereby imposes the following sanctions on former Judge John E. Scipione:

1. Following our recognition of Scipione's resignation as a judge of the Arapahoe County District Court on January 20, 2023, we now formally adopt the parties' stipulation for public censure dated January 19, 2023, and publicly censure Scipione for his violations of Canon 1, Rules 1.1, 1.2,

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<sup>12</sup> The special masters did not recommend awarding costs to the Commission because they found that the Commission had not adequately delineated the source of the claimed costs. Because the Commission does not seek costs, we do not address whether awarding costs would be appropriate.

and 1.3; Canon 2, Rules 2.3, 2.8, 2.9, and 2.16; and Canon 4, Rule 4.1. Former Judge John E. Scipione is hereby publicly censured for his repeated misconduct.

2. The court orders Scipione to pay the Commission \$51,189.50 in attorney fees.

IT IS SO ORDERED.