

IN THE IOWA DISTRICT COURT IN AND FOR MADISON COUNTY

MICHELE BRANT, as Madison County
Auditor,

Plaintiff,

vs.

HEATHER STANCIL and JESSICA
HOBBS, as members of the Madison
County Board of Supervisors,

Defendants.

No. CVCV036143

RULING ON MOTION TO
DISQUALIFY

This matter came before the Court on July 20, 2026. County Attorney Stephen Swanson represented Michele Brant. Attorney Michael Boal represented Heather Stancil and Jessica Hobbs. Having reviewed the record and considered the arguments of counsel, the Court hereby enters the following ruling.

BACKGROUND

This case involves claims of unlawful retaliation against Brant—who was elected Madison County Auditor in August 2025—for filing complaints with the Iowa Office of Civil Rights against Madison County.¹ The complaints point to the conduct of Stancil and Hobbs, members of the Madison County Board of Supervisors.² The board consists of three members.³ Brant alleges that after these complaints, the board caused difficulties for her office.

The board hired outside counsel.⁴ On January 5, 2026, the board held a closed meeting without anyone from the auditor’s office or the county attorney’s office due to unidentified conflicts.⁵ On March 17, 2026, Stancil and Hobbs “were served with notice of the conflict with the auditor’s office in a hand delivered letter by the County Attorney.”⁶ The letter warned that any further action involving the auditor might result in legal action against Stancil and Hobbs.

On April 28, 2026, the board resolved to restructure the auditor’s office, including reducing staffing, outsourcing some positions, and creating positions that would take on duties

¹ Attachment to D0001, Ex. 1 at 1 (05/28/2026).

² Attachment to D0001, Ex. 3 at 4, 9 (05/28/2026).

³ Attachment to D0001, Ex. 4.

⁴ Though not in the petition or attachments, Defendants’ brief asserts that outside counsel was hired in August 2025.

⁵ Pl.’s Ex. 1 at 1.

⁶ D0002, Appl. for Writ of Cert. at ¶ 13 (05/28/2026).

purportedly reserved for the auditor.⁷ The resolution passed 2-1, with Stancil and Hobbs in the majority.⁸ Brant seeks certiorari review of this decision.

In his capacity as Madison County Attorney, Stephen Swanson signed the certiorari petition.⁹ He represents Brant as Madison County Auditor.¹⁰ The petition names Stancil and Hobbs as defendants in their capacities as the majority of the Board of Supervisors for Madison County.¹¹ Specifically, the petition herein asks the Court to determine that Stancil and Hobbs acted illegally, declare the board's budget void, and enjoin the board from any other actions directed at the auditor's office.

In the interim, Stancil and Hobbs seek to disqualify County Attorney Swanson from representing Brant in this litigation. They argue that the county attorney owes a duty of loyalty to the board, therefore the county attorney cannot represent interests adverse to the board. On behalf of Brant, County Attorney Swanson argues that Brant is a county official acting in her professional capacity, therefore, she has a right to be represented by the county attorney.

ANALYSIS

"The right of a party to choose his or her own attorney is important, but it must be balanced against the need to maintain 'the highest ethical standards' that will preserve the public's trust in the bar and in the integrity of the court system."¹² Disqualification is, at times, required to preserve and to protect public confidence in the integrity of the court system.¹³

The party moving to disqualify counsel bears the burden of establishing the necessity for such a strong measure.¹⁴ Evaluation of the case for disqualification starts with the Iowa Rules of Professional Conduct.¹⁵ In relevant part, the rules state:

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client;
or

⁷ *Id.* at ¶ 5.

⁸ *Id.* at ¶ 10.

⁹ *Id.* at p. 7.

¹⁰ *Id.* at ¶ 1.

¹¹ *Id.* at ¶ 2.

¹² *Bottoms v. Stapleton*, 706 N.W.2d 411, 415 (Iowa 2005).

¹³ *NuStar Farms, LLC v. Zylstra*, 880 N.W.2d 478, 482 (Iowa 2016).

¹⁴ *See Id.* at 418.

¹⁵ *Id.*

- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.
- (b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:
- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
 - (2) the representation is not prohibited by law;
 - (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and
 - (4) each affected client gives informed consent, confirmed in writing.¹⁶

As the Madison County Attorney, Stephen Swanson is required by statute to represent Madison County and its officers in their official capacities.¹⁷ The Madison County Attorney's lawsuit (on behalf of Brant) against Madison County Supervisors Stancil and Hobbs is, of course, directly adverse to the county and to its board (in the majority). A concurrent conflict of interest exists.¹⁸

Despite his assertion that he does not represent Madison County or the board in this case, County Attorney Swanson has commenced an action against his client—Madison County and its officers. As county attorney, Stephen Swanson must give advice or a written opinion to the board, when requested by an officer, upon any matters in which the county is interested.¹⁹ County Attorney Swanson has pledged to fulfill this statutory obligation.²⁰ But if the board quizzes County Attorney Swanson about information helpful to it and harmful to Brant, his representation of the board will be materially limited by his duty of loyalty to Brant.

Such a scenario is more than just speculative. County Attorney Swanson likely has privileged information about Madison County's defense of Brant's civil rights complaints.²¹ Use of that information to serve Brant creates a significant risk that County Attorney Swanson's representation of the board, as required by statute, will be materially limited by his responsibilities to Brant. There's a significant risk that County Attorney Swanson cannot keep

¹⁶ Iowa R. of Prof'l Conduct 32:1.7.

¹⁷ Iowa Code § 331.756(6).

¹⁸ Iowa R. of Prof'l Conduct 32:1.7(a)(1).

¹⁹ Iowa Code § 331.756(7).

²⁰ D0020, Pl.'s Br. at 4 ¶ 2 (07/30/2025).

²¹ D0021, Def.'s Reply, Decl. of Melissa Schilling.

his pledge made at the disqualification hearing that his “loyalties lie to the county, what is in the best interest of the county.” Another concurrent conflict of interest exists.²²

Because a concurrent conflict of interest exists, County Attorney Swanson must meet all the requirements of Rule 32:1.7(b) to represent Brant in this case. He cannot. He never sought a waiver from either the board or from Brant. The board clearly has not provided written consent. The Madison County Attorney may not represent Brant in this action.

Again, County Attorney Swanson insists that there is no concurrent conflict of interest because he has never represented the board regarding this matter. Nevertheless, he “continues to answer questions for the Board when asked and would represent it if requested in other matters.”²³ The Rules of Professional Conduct are clear on this point: “Loyalty to a current client prohibits undertaking representation directly adverse to that client without that client's informed consent. Thus, absent consent, a lawyer may not act as an advocate in one matter against a person the lawyer represents in some other matter, even when the matters are wholly unrelated.”²⁴

To put it succinctly, County Attorney Swanson will either be loyal to Brant, or he will be loyal to the Madison County Board of Supervisors. He cannot be loyal to both under these circumstances. As a lawyer and member of the legal profession, Stephen Swanson is an officer of the legal system having special responsibility for the quality of justice.²⁵ His continued representation of Brant (in this action) and the board would erode the public's trust in the bar and in the integrity of the court system. Disqualification is required to preserve and to protect public confidence in the court system. County Attorney Swanson must withdraw from representing Brant (nor could he propose to represent Madison County or its board in this case).²⁶

The next question is how Brant is to proceed. The Iowa Judicial Branch's Office of Professional Regulation does not list Brant among the roster of attorneys licensed to practice in Iowa's courts. She may not represent the interests of the Madison County Auditor in court. Non-lawyers may not represent other people or entities; by enforcing this rule, our courts aim to

²² Iowa R. of Prof'l Conduct 32:1.7(a)(2).

²³ D0020, Pl.'s Br. at 4 (07/30/2025).

²⁴ Iowa R. of Prof'l Conduct 32:1.7 cmt. 6.

²⁵ Iowa R. of Prof'l Conduct Preamble (1).

²⁶ Iowa R. of Prof'l Conduct 32:1.16(a)(1).

protect the judicial system and the public from “ineptitude and delay at the hands of persons who are unskilled as well as unlicensed in the practice of law.”²⁷

Stancil and Hobbs argue that Brant must hire counsel at her own expense. Indeed, a conflict of interest is considered a disability for the purposes of Iowa Code section 331.754.²⁸ However, that section only provides that in such a situation, “the board of supervisors *may* appoint an attorney to act as county attorney.”²⁹ Appropriately, the board recognizes that it should not choose its opponent’s lawyer.

But surely denying any funds to Brant would be the rough equivalent of the board choosing opposing counsel. The result would be that a county official seeking to challenge the actions of the board of supervisors would have no choice but to pay for legal representation if the board refused to authorize the suit. This would bestow quasi-immunity on certain county officers. And forcing government employees to spend their own money when acting in their official capacity would fly in the face of the notion that government employees are agents of their employer when they are acting in their official capacity.³⁰

Fortunately, Iowa Code section 331.759 provides a solution. It states:

At any stage of legal proceedings in which a county attorney is authorized to represent a county officer acting in the officer's official capacity, the county attorney may apply to the court for permission to withdraw from representation of the officer for cause. If the court allows the county attorney to withdraw, it shall appoint an attorney to represent the county officer. The costs of representing a county officer acting in the officer's official capacity shall be paid from the court expense fund or the general fund of the county.

County Attorney Swanson asks that the Court take this route if he is disqualified from representing Brant in her official capacity. The Court accepts this request as an application to withdraw for cause. The Court will allow his withdrawal and appoint new counsel for Brant.

RULING

IT IS HEREBY ORDERED that, due to a conflict of interest, Madison County Attorney Stephen Swanson is disqualified and withdrawn from representing Madison County Auditor Michele Brant in her official capacity.

²⁷ *Hawkeye Bank & Tr., Nat’l Ass’n v. Baugh*, 463 N.W.2d 22, 24 (Iowa 1990).

²⁸ *Polk Cnty. Conf. Bd. v. Sarcone*, 516 N.W.2d 817, 821 (Iowa 1994).

²⁹ Iowa Code § 331.754(1) (emphasis added).

³⁰ *See, e.g., Monell v. Dep’t of Soc. Servs. of City of New York*, 436 U.S. 658, 690 (1978) (nt. 55 - “official-capacity suits” are a “way of pleading an action against an entity of which an officer is an agent”).

IT IS FURTHER ORDERED that no later than 1:45 p.m. on August 24, 2026, Michele Brant shall be prepared to nominate successor counsel, who is licensed, willing, and able to represent her in her official capacity in this matter. Under Iowa Code section 331.759, the reasonable and necessary cost of representing Michele Brant in her official capacity as Madison County Auditor shall be paid from the general fund of Madison County.



State of Iowa Courts

Case Number
CVCV036143

Case Title
MICHELE BRANT VS HEATHER STANCIL AND JESSICA
HOBBS
Type: OTHER ORDER

So Ordered

A handwritten signature in blue ink that reads "Patrick W. Greenwood". The signature is written in a cursive style and is positioned above a horizontal line.

Patrick W. Greenwood, District Court Judge,
Fifth Judicial District of Iowa

Electronically signed on 2026-08-14 14:57:22