The discovery of *Go Set a Watchman*, the sequel to the literary classic *To Kill a Mockingbird*, sparked a frenzy of anticipation among avid readers. The highly anticipated work by Harper Lee garnered a record 2 million pre-ordered copies (Tucker, 2015). We, HarperCollins, as the publisher that received the manuscript of the sequel, face the ethical dilemma of whether to publish it. The discovery of the manuscript, questionable actions of Harper Lee’s attorney, and deteriorated mental state of the author influence our decision to publish the book (Tucker, 2015). A previous lawsuit filed by Lee, Lee’s contractual rights, and Professor Joseph L. Badaracco’s framework for ethical decision making provide a solution to this ethical dilemma: we should not publish this book.

Lee’s previous lawsuit against a publishing agent is key to our decision with *Watchmen*. After a stroke in 2007, Harper Lee was left “almost completely deaf and blind” (Tucker, 2015). In the same year, Samuel Pinkus, a publishing agent, arranged to have Lee’s copyrights for *To Kill a Mockingbird* transferred to his agency (Mukherji, 2013). Six years later, Lee, aided by her lawyer Tonja Carter, sued Pinkus on the basis that Pinkus “took advantage of her age and mental infirmities” and robbed her of thousands in royalties (Mukherji, 2013). In the lawsuit, Lee said she had “no recollection of discussing the document [of transferring copyright interests] and signing it” (Fuchs, 2015). The complaint states the following in regards to Lee’s physical and mental state. “For over 15 years, she has suffered from increasingly serious deafness and, for 6-7 years, macular degeneration, which makes it difficult for her to read documents not printed in very large type” (Fuchs, 2015). In 2012, Tonja Carter pushed for the copyright to be transferred
back to Lee (Fuchs, 2015). Despite the re-transfer, Pinkus and his companies “would still be able
to get commissions as Lee’s agents,” causing Carter to seek an order for Pinkus to forfeit any
rights to the book and “any commissions received since the 2007 reassignment” (Fuchs, 2015).
The lawsuit was dismissed after Pinkus and Lee reached an undisclosed settlement (Mukherji,
2013). The *To Kill a Mockingbird* lawsuit appears to be contradictory in terms of Carter’s
description of Lee’s current mental state, which she has said to be alert and functioning. The
complaint mentions the stroke suffered in 2007; however, the stroke was only said to have made
it difficult for Lee to “move around easily” and that her mental capabilities were unaffected
(Fuchs, 2015). Lee is said to have been mentally unaffected by the stroke, yet did not remember
signing away copyrights that earned her over $3 million per year (Tucker, 2015). Lee’s self-
acknowledged weak physical state and forgetfulness is a telling sign that Lee cannot make her
own decisions.

Lee’s admittance of forgetfulness proves she does not have the capacity to contract—a
key legal factor in publishing contracts with authors. “In order to be bound by a contract, a
person must have the legal ability to form a contract in the first place...a person who is unable,
due to age or mental impairment, to understand what she is doing when she signs a contract may
lack capacity to contract” (Mukherji, 2013). Impairment due to age is highly relevant in the case
of *Go Set a Watchman*, as Tonja Carter, Lee’s lawyer and legal guardian, has allegedly taken
advantage of Lee’s state to push for publication (Tucker, 2015). In order to avoid litigation and
mistrust among our authors, we need to be aware of Lee’s capacity to contract and cannot ignore
her previous lawsuit.

Utilizing the four principal questions of Professor Joseph L. Badaracco, Jr.’s framework
for ethical decision making affirms that we should not publish Lee’s sequel (Badaracco, 2003).
Badaracco’s first question asks who are the stakeholders affected by the consequences of our decision with *Watchmen*. The main stakeholders are our company, our readers, Harper Lee, and her attorney/legal guardian Tonja Carter. In addition to who is affected by the consequences of our decision, we address Badaracco’s second question of alternatives to our decision and the rights of those affected. While we would profit from this book, we should not ignore the desires and rights of Lee herself. Though we may not profit from our decision, it is in the best interest for our current and future authors to know that their rights are respected. Trust is essential to any business relationship. Badaracco’s framework component of individual rights shows that an author’s rights mustn’t be jeopardized (Badaracco, 2003).

Following Badaracco’s third question of consistent company message, forgoing publication stresses that our authors are highly valuable to us (Badaracco, 2003). Authors are central to any decision, as they provide us with their works. Our authors will know we investigate any suspicious circumstances around publications. In regards to Badaracco’s last question in his framework regarding what will work in the world as it is, it works for us to show our consideration of an acclaimed writer’s mental and physical state (Badaracco, 2003). This decision gives HarperCollins a human element and fosters a positive relationship with both present and future authors and readers. We do not want to face public backlash if it were discovered we neglected an author’s contractual capacities and engaged in suspicious activity surrounding an author’s work for our own benefit.

Based on the preceding analysis, we should not publish *Go Set a Watchman*. While the sequel would be highly profitable, publication would ultimately violate Harper Lee’s rights as the author. Carter’s motives for pushing the publication are also questionable given her representation in Lee’s previous lawsuit. Though Carter did have the power of attorney as Lee’s
elected representative, she violated the basis of that power by ignoring Lee’s wellbeing. Carter appears to have forgotten Lee’s own description and argument of the manipulation of health. If we were to publish, she would also gain the rights to the book as she is Lee’s legal guardian. To avoid public backlash, controversy, and lawsuits, publication should not move forward. Lee clearly does not want to be exploited for profit, especially given her diminishing health. As respectable publishers, we must honor her previous wishes. Therefore, we should set this Watchman free.
References


