

A nighttime photograph of a city street. In the center, a tall, modern skyscraper with a glass facade is illuminated with a bright green light. To its left is a multi-story brick building with many windows. To its right is a large, ornate brick building with a prominent clock tower and a red-tiled roof. The foreground shows a road with long, colorful light trails from cars, and a grassy area with streetlights. The sky is a deep blue.

**THE BOARD *of* DISCIPLINARY APPEALS**  
**APPOINTED BY THE SUPREME COURT *of* TEXAS**  
**REPORT 2020**

# THE BOARD *of* DISCIPLINARY APPEALS

APPOINTED BY THE SUPREME COURT *of* TEXAS

## CHAIR

Katherine A. Kinser, *Dallas*

## VICE CHAIR

David M. González, *Austin*

## MEMBERS

Jessica Z. Barger, *Houston*

Guy Choate, *San Angelo*

Joseph F. Cleveland, Jr., *Fort Worth*

Mike Gregory, *Denton*

Michael C. Gross, *San Antonio*

Kelli M. Hinson, *Dallas*

John J. "Mike" McKetta III, *Austin*

Mike Mills, *McAllen*

Deborah G. Pullum, *Tyler*

Nancy J. Stone, *Amarillo*

## SUPREME COURT OF TEXAS LIAISON

The Honorable Justice Debra H. Lehrmann

## STAFF

Jenny Hodgkins, *Executive Director/General Counsel*

Matthew Greer, *Deputy Director/Counsel*

Jackie L. Truitt, *Executive Assistant*

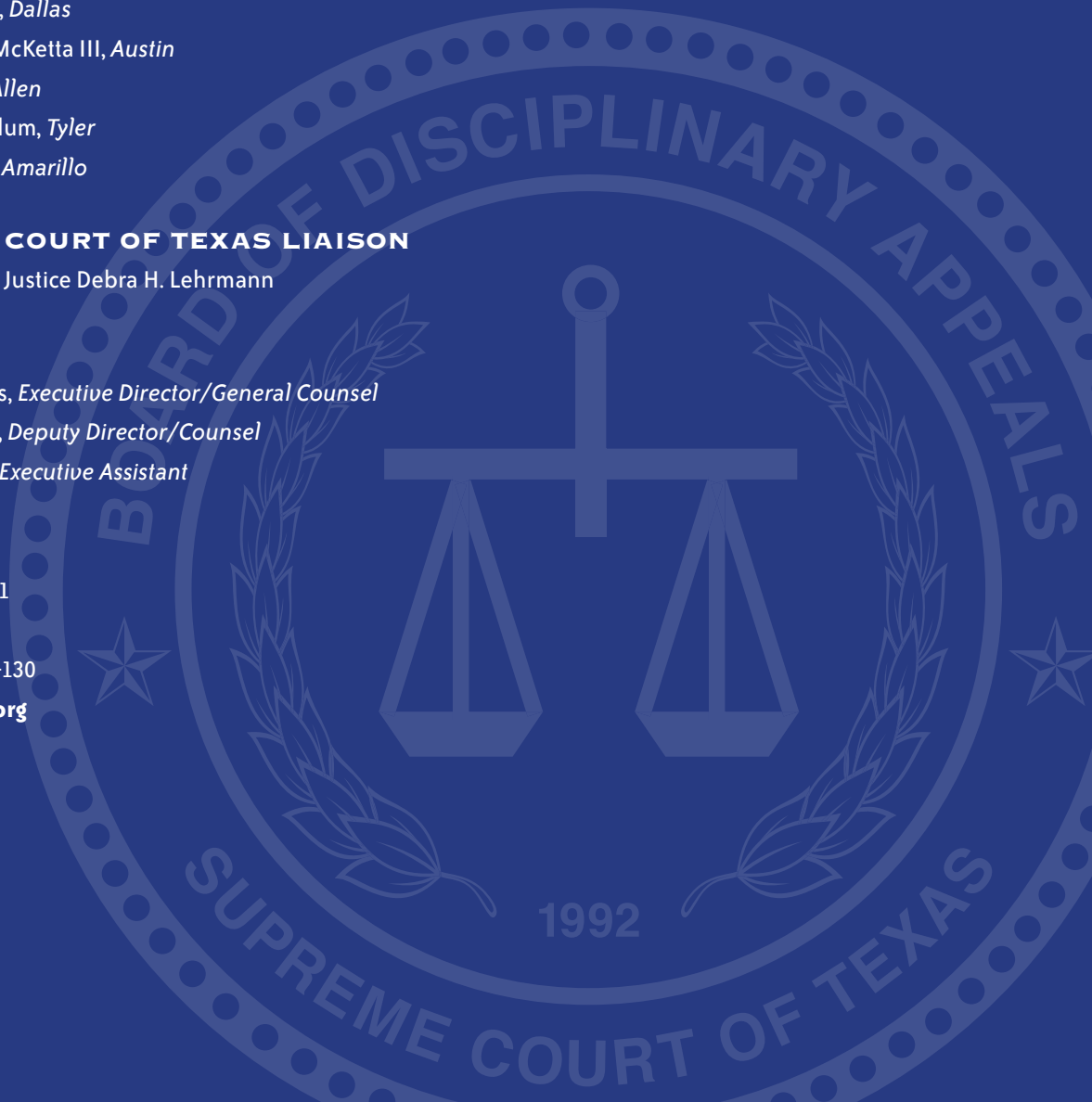
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## FROM THE CHAIR

August 31, 2020:

On behalf of the Board of Disciplinary Appeals, I am pleased to submit the Annual Report for Fiscal Year June 1, 2019 through May 31, 2020 to the Supreme Court of Texas and to the State Bar Board of Directors. It has been a monumental year of “firsts” for the Board, which, regardless of the pandemic restrictions and the retirement of two key staff members, continued to function without interruption. Our first Executive Director and General Counsel, Christine E. McKeeman retired after twenty-eight years, leaving big shoes to fill. We were able to fill the position with a highly qualified former attorney for the Court, Jenny Hodgkins. She in turn hired Deputy Director/Counsel Matthew Greer, who was previously the Appellate Counsel for the Office of the Chief Disciplinary Counsel. Thankfully, our Executive Assistant, Jackie L. Truitt, agreed to continue in her position. I am grateful that, as I leave my position as Chair, BODA is in very capable hands, as we have filled each position with people who will make BODA their careers.



During the past fiscal year, the Board:

- Disposed of 1,267 matters
- Decided 22 disciplinary and disability cases resulting in final judgments
- Met en banc in person three times and planned for Zoom en banc hearings for the fiscal year beginning in June 2020
- Welcomed and trained three new members
- Held 48 telephone panel conferences to render classification appeal decisions in three-member panels
- Reversed the dismissal of 93 grievances, returning them for just cause investigations
- Kept the docket current
- Had all appeals to the Texas Supreme Court affirmed

The members of the Board are committed to being an integral part of our professional disciplinary process and appreciate the Supreme Court appointing us to serve the Bar and its members. We are proud of our diversity, representing all geographic areas of the State of Texas, and various practice areas. We believe our dedication and experience continues to have lasting, positive benefits for the Bar.

A handwritten signature in black ink that reads "Katherine A. Kinser". The signature is written in a cursive, flowing style.

Katherine A. Kinser  
Chair of the Board of Disciplinary Appeals, 2019–2020



Back row (l to r): Mike Gross, Kelli Hinson, Jessica Barger, Joe Cleveland, Guy Choate, Deborah Pullum.  
 Front row (l to r): Mike Gregory, Nancy Stone, Vice Chair David Gonzalez, Chair Kathy Kinser, Mike McKetta, Mike Mills

## THE BOARD *of* DISCIPLINARY APPEALS APPOINTED BY THE SUPREME COURT *of* TEXAS

### MEMBERS 2019–2020

**Jessica Z. Barger** of Houston is a partner in Wright Close & Barger, LLP. She is board certified in civil appellate law by the Texas Board of Legal Specialization. She graduated from South Texas College of Law in 2001 where she was on the law review as the notes and comments editor. In addition to being a Texas Super Lawyer in 2019, Ms. Barger has been named one of the Best Lawyers of America for appellate law in 2017–2019 and one of the top 100 female lawyers in appellate law by the Texas Lawyer in 2019. She serves the Houston Bar Association as a member of the pro bono committee, a member of the council for the HBA appellate section, as chair of the speakers committee for the HBA appellate section, and as chair of the outreach committee. Ms. Barger was appointed in 2019.

**Guy Choate** is a partner in Webb, Stokes & Sparks, L.L.P. in San Angelo and has been board certified in personal injury law since 1985. He graduated from the University of Houston Law Center, where he was a member of the Order of the Barons Honor Society. Mr. Choate has served on the State Bar of Texas Board of Directors and on its Executive Committee. He received a State Bar of Texas Presidential Citation in 2008 and the John Howie Spirit of Mentorship Award in 2007. He is a sustaining member of the Texas Trial Lawyers Association and served as president during the 2005 legislative session. He is a life fellow of the Texas Bar Foundation, a sustaining member of the American Board of Trial Advocates and served as the president of the Texas American Board of Trial Advocates in 2016. He is a sustaining member of the American Association for Justice and a sustaining member of the Tom Green County Bar Association, having served as president from 1994 to 1995. He has been a Texas Super Lawyer since 2003. Mr. Choate was appointed to the Board in 2019.

## MEMBERS 2019–2020

**Joseph F. Cleveland Jr.** of Fort Worth is a partner in Brackett & Ellis, P.C. He graduated from Mississippi College School of Law with special distinction. He has practiced in the area of commercial and intellectual property litigation for over 20 years. He is board certified in civil trial law by the Texas Board of Legal Specialization. He is a fellow of the Texas Bar Foundation and a fellow of the Tarrant County Bar Foundation and serves as its chair. Mr. Cleveland served as chair of the trade secrets committee of the Intellectual Property Law Section of the State Bar of Texas and received the Chair's award in 2018 for outstanding service to the Section. He has been named a Texas Super Lawyer since 2005 and recognized as one of the Best Lawyers in America for commercial litigation and intellectual property litigation since 2011. Mr. Cleveland was appointed in 2019.

**David M. González**, vice chair, is a partner in Sumpter & González, L.L.P. in Austin. He is board certified in criminal law and serves as an adjunct professor in the Trial Advocacy Program at the University of Texas School of Law. He also has served as a special prosecutor for Williamson County, Travis County, Kendall County, and Panola County. He is a member of the disciplinary committee of the U.S. District Court for the Western District of Texas and previously served on the District 9 grievance committee of the State Bar of Texas from 2012 to 2015. He is a graduate of Dartmouth College and Stanford Law School. Mr. González was appointed to the Board in 2015 and reappointed in 2018.

**Mike Gregory** of Denton has been board certified in family law by the Texas Board of Legal Specialization for over 40 years. He is a trained mediator, arbitrator, and collaborative lawyer. Mr. Gregory has been named a Texas Super Lawyer in alternative dispute resolution since 2013 and in family law from 2002 to 2012. He served on the board of trustees of the Collaborative Law Institute of Texas from 2003 until 2007 and was president of the Denton County Collaborative Professionals from 2005 to 2009. He is a sustaining life fellow of the Texas Bar Foundation and a life member of the Texas Family Law Foundation. He served on the State Bar of Texas Board of Directors from 2008 until 2011. He is a past president of the Texas Academy of Family Law Specialists. He is a member of the Dallas County Bar Association and the Denton County Bar Association and served as its president from 1983 to 1984. He received his J.D. and a B.B.A. (finance) from the University of Texas at Austin. He served in the United States Marine Corps as a judge advocate from 1970 to 1974. Mr. Gregory was appointed to the Board in 2018.

**Michael C. Gross** is a partner in Gross & Esparza, P.L.L.C. in San Antonio. He graduated from Trinity University in 1984 and received his J.D. from St. Mary's University in 1987. He served as a judge advocate in the United States Marine Corps from 1988 to 1992. He is board certified in criminal trial advocacy by the National Board of Trial Advocacy and is board certified in criminal law and criminal appellate law by the Texas Board of Legal Specialization. He was named Defender of the Year by the San Antonio Criminal Defense Lawyers Association in 2008 and again in 2009. He served as president of the San Antonio Criminal Defense Lawyers Association in 2011. He currently serves as an officer with the Texas Criminal Defense Lawyers Association. Mr. Gross was appointed to the Board in 2018.

**Kelli Hinson** is a partner in the Dallas law firm of Carrington Coleman Sloman & Blumenthal, LLP and serves as the firm's general counsel. She practices in the areas of commercial litigation and professional liability, representing law firms, hospitals, companies, and the professionals who run them. She received a BBA, summa cum laude, from McMurry University and a J.D., magna cum laude, from Southern Methodist University Dedman School of Law, where she was a member of the SMU Law Review and Order of the Coif. She was a member of the District 6 Grievance Committee of the State Bar of Texas from 2017 to 2018 and has served as chair of the Dallas Bar Association Legal Ethics Committee. Ms. Hinson was appointed to the Board in 2018.

## MEMBERS 2019–2020

**Katherine A. Kinser**, chair, is a partner in Kinser & Bates, LLP in Dallas. She graduated from the University of Arkansas at Little Rock and from Southern Methodist University Dedman School of Law. She is board certified in family law by the Texas Board of Legal Specialization. She is a fellow in the American Academy of Matrimonial Lawyers, a lifetime member of the American Academy of Matrimonial Lawyers Foundation, a sustaining life member of the Texas Family Law Foundation and a life fellow of the Texas Bar Foundation. She served as president of the Texas Chapter of the American Academy of Matrimonial Lawyers from 2017 to 2018. She is a member of the Texas Academy of Family Law Specialists and received its Sam Emison Award in 2014. She served as president of the American Academy of Matrimonial Lawyers from 2002 until 2003. Ms. Kinser was appointed to the Board in 2014 and was reappointed in 2017.

**John J. “Mike” McKetta III** is of counsel to Graves, Dougherty, Hearon & Moody, P.C. in Austin, serving as president of the firm from 1998 to 2008. He graduated from Harvard University and the University of Texas School of Law with high honors and was a member of the Order of the Coif and Chancellors. He is an emeritus member of the Lloyd Lochridge Inn of Court and served as president from 2013 to 2014. During 2014 to 2017, he was the representative from the Fifth Circuit to the ABA Standing Committee on the Federal Judiciary. He is a life member of the American Law Institute and has held numerous offices, currently serving as chair of the Investment Committee. He chaired the Advertising Review Committee of the State Bar of Texas from 2010 to 2014 and served as a member of the Disciplinary Committee of the U.S. District Court for the Western District of Texas. He is a fellow of the International Academy of Trial Lawyers, and a fellow emeritus of the American College of Trial Lawyers and of the American Board of Trial Advocates. He is a fellow of the Texas Bar Foundation and was the recipient of the organization’s Ronald D. Secrest Outstanding Trial Lawyer Award in 2010. Mr. McKetta was appointed to the Board in 2014 and was reappointed in 2017.

**Mike Mills** is a partner in Atlas, Hall & Rodriguez, L.L.P. in McAllen. He received his law degree from the University of Texas School of Law in 1976, and is a member of Phi Delta Phi honorary legal fraternity and Phi Beta Kappa honor society. He is a fellow, American College of Trial Lawyers; advocate, American Board of Trial Advocates; president, Hidalgo County Bar Association, 1990–1991; director, Hidalgo County Bar Association, 1988–1990; chairman, Hidalgo County Bar Association Pro Bono Project, 1988–1995; State Bar of Texas District 15–B grievance committee, 1989–1995, and vice chair, 1994–1995; director, Texas Association of Defense Counsel, 1994–1996; executive committee, University of Texas Law Alumni Association, 1995–2000; director, University of Texas Law Alumni Association, 1992–1995; Political Action Committee of the Texas Association of Defense Counsel, 2005–present; member, American Bar Association. Mr. Mills was appointed in 2015 and was reappointed in 2018.

**Deborah G. Pullum** is the City Attorney for the city of Tyler. She graduated from the College of William and Mary, Marshall–Wythe School of Law in 1996 after receiving a B.S. with honors from Florida A&M University. She received merit certification in municipal law from the Texas City Attorneys Association and was formerly an assistant district attorney of Smith County, Texas. She is a member of the Smith County Bar Association and served as president of the SCBA from 2016 to 2017. She is a fellow of the Texas Bar Foundation and a member of the Texas Bar College. She served on the State Bar of Texas District 2 Grievance Committee from 2006 until 2012. Ms. Pullum was appointed to the Board in 2014 and was reappointed in 2017.

**Nancy J. Stone** practices complex commercial law in Amarillo. She received a B.S. with honors from the University of Texas, a master of science degree from the University of Houston, and a J.D. from South Texas College of Law, where she was a member of Phi Delta Phi and the South Texas Law Journal, 1982–1983. She is a member of the Civil Justice Reform Act Advisory Committee. She is a member of the Amarillo and American Bar Associations, Texas Trial Lawyers Association, and the Association of Trial Lawyers of America. Ms. Stone was appointed to the Board in 2018.

## THE BASICS

The Board of Disciplinary Appeals is a tribunal of twelve attorneys appointed by the Supreme Court of Texas to serve up to two terms, each lasting three years. Since 2012, the Honorable Debra H. Lehrmann has served as the Supreme Court of Texas liaison to the Board. Members represent diverse geographic and law practice areas, from small firm to large firm, corporate counsel, family law practitioners, criminal defense lawyers, corporate and business litigators, complex commercial litigators, employment lawyers, appellate lawyers, intellectual property lawyers, ethics and malpractice specialists, and a city attorney.



*Justice Debra Lehrmann,  
BODA Liaison*

The Board operates under the State Bar Act, the Texas Rules of Disciplinary Procedure (TRDP), the Board of Disciplinary Appeals Internal Procedural Rules (BODA IPR), and case law. The Board has both appellate and original jurisdiction. In the last fiscal year, the Board disposed of 1,267 matters, consistently maintaining a current docket. The Board meets en banc quarterly and confers weekly in three-member panels by telephone conference.

The Board is supported by three full-time staff members: an executive director and general counsel, a deputy director and counsel, and an executive assistant. Together, the staff manage the BODA operations and budget, handle the BODA docket and records, advise the Board on legal issues, coordinate hearings and conferences, communicate with litigants and the public, maintain the BODA website and YouTube channel, produce the annual report, and work with related groups in the attorney disciplinary system in Texas and in other states.

BODA maintains a website at [txboda.org](http://txboda.org). In addition to all published opinions, the website provides information about Board members, jurisdiction, operations, and resources to assist litigants. Copies of the BODA annual report beginning in 2005 are available. The current docket is posted, and all recent and archived decisions since 2002 are fully searchable. Videos of en banc hearings and oral arguments are available for most public cases on the BODA website and are posted on BODA's YouTube channel. The *Texas Disciplinary Rules of Professional Conduct*, *Texas Rules of Disciplinary Procedure*, and *BODA Internal Procedural Rules* can be accessed from the BODA website.



*Justice Lehrmann, Chief Justice Hecht, and Chair Kathy Kinser at 2019  
BODA Annual Dinner with the Supreme Court*

## BODA STAFF

In January 2020, former Executive Director and General Counsel Christine E. McKeeman retired after twenty-eight years of service to BODA. Hired in 1992 as BODA's first executive director, Ms. McKeeman was instrumental in assembling the first Board and developing BODA's internal procedural rules and processes. A few months after Ms. McKeeman's retirement, Gayle Vickers also retired from BODA after twenty-five years of service. Ms. Vickers served as Deputy Director and Counsel during most of her time

with BODA. Given their more than fifty years of collective BODA experience, and their counsel to sixty-five Board members since BODA's inception, it is impossible to understate the Board's gratitude to Ms. McKeeman and Ms. Vickers.



*Former Executive Director and General Counsel Christine McKeeman and Former Deputy Director & Counsel Gayle Vickers at Christine McKeeman's Retirement Ceremony, January 31, 2020*

BODA welcomed Jenny Hodgkins as its new Executive Director and General Counsel in April 2020. With over twenty years in public and private law practice, Ms. Hodgkins brings a wealth of specialized legal and administrative experience to BODA. She served the Supreme Court of Texas for over fifteen years as Staff Attorney to Justice Paul W. Green, and before that she served as Staff Attorney for Original Proceedings. In her time at the Supreme Court, she worked with twenty-two justices, supervised the drafting of over 185 published opinions, and managed countless appeals—including BODA appeals. Ms. Hodgkins practiced administrative and environmental law in private practice for several years before entering public service. Ms. Hodgkins

graduated summa cum laude from Texas Tech School of Law, where she was editor-in-chief of the Texas Tech Law Review and Order of the Coif.

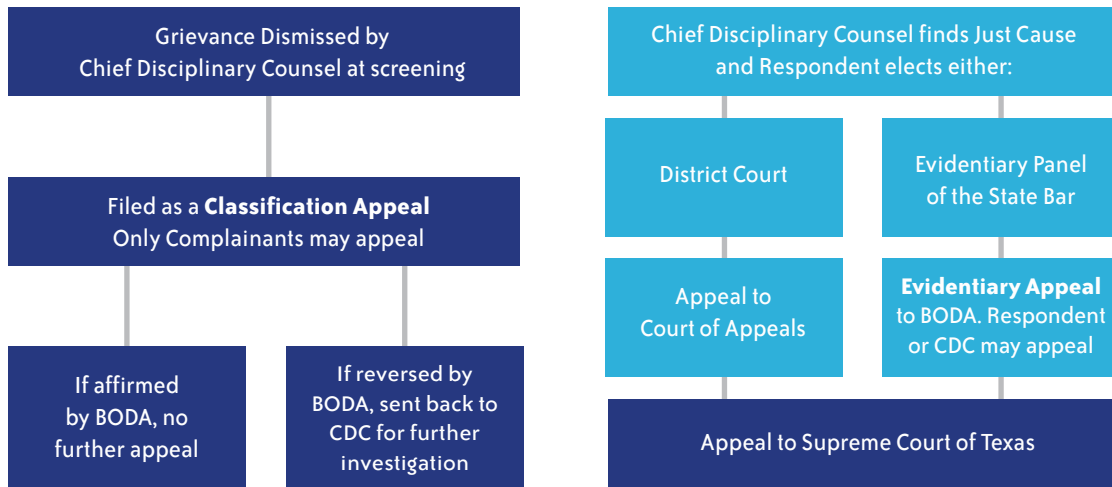
Matt Greer has served as BODA's Deputy Director and Counsel since June 2020. Mr. Greer brings to BODA extensive experience with the attorney disciplinary system. He is board certified in civil appellate law by the Texas Board of Legal Specialization and previously served as appellate counsel in over 70 disciplinary appeals before the Board, the courts of appeals, and the Supreme Court. His working knowledge of the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure, along with his knowledge of appellate practice and procedure, are valuable assets to the Board.

Having worked for BODA since 2000, Executive Assistant Jackie Truitt provides the Board with continuity and a wealth of knowledge about BODA processes and procedures. Ms. Truitt manages the BODA office, including case intake and management, record management, and hearing and conference coordination, and she is the first point of contact for litigants and the public.

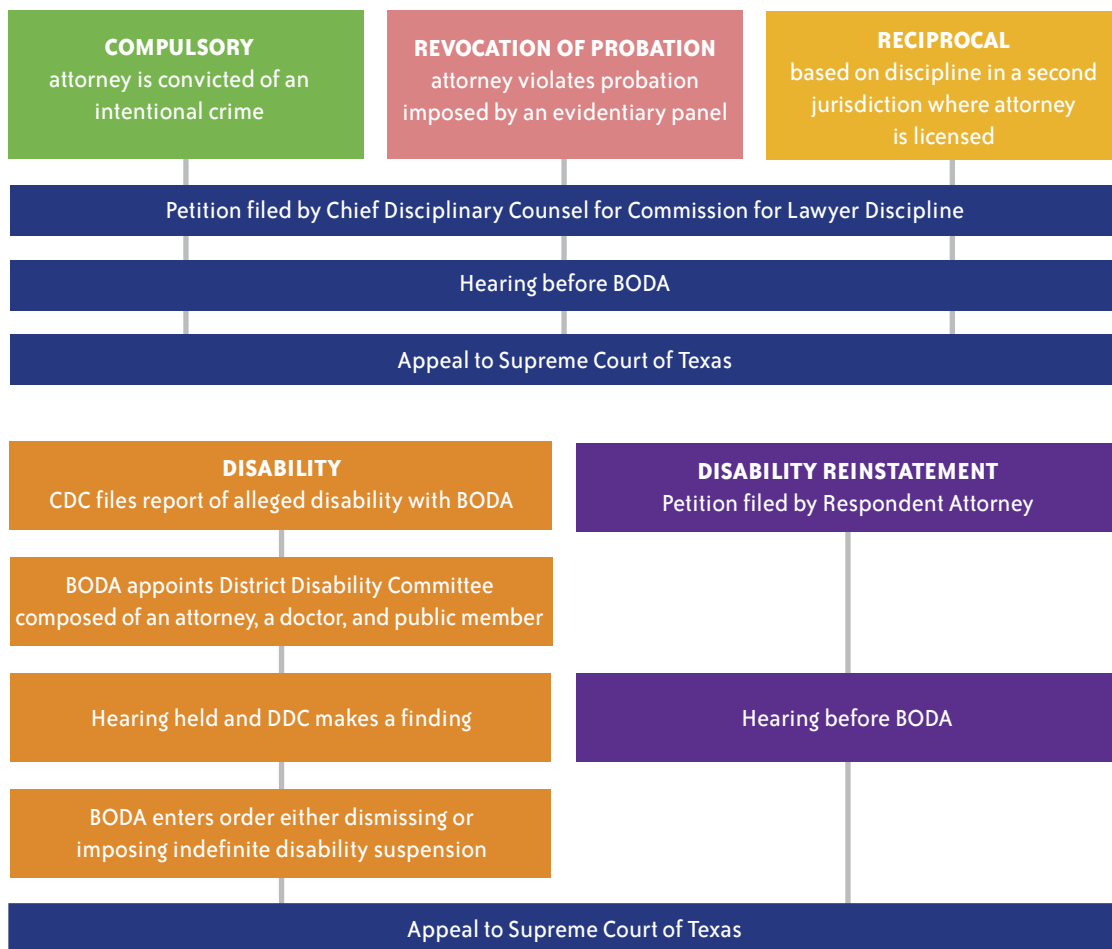
Combined, the BODA staff has twenty years of experience working for the Board, eighteen years handling cases before the Board and reviewing the Board's decisions on appeal, twenty-three years working within the attorney disciplinary system, seventeen years working within the judicial system, thirty-seven years working in roles supporting tribunals deciding contested cases, and twenty-six years of specialized appellate law experience.



## APPELLATE JURISDICTION GRIEVANCES FILED WITH STATE BAR OF TEXAS



## ORIGINAL JURISDICTION



## JURISDICTION

The Board has jurisdiction to decide six types of disciplinary matters: compulsory discipline cases, reciprocal discipline cases, revocation-of-probation cases, disability and reinstatement cases, appeals from evidentiary judgments, and appeals from classification decisions. “BODA shall have and exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings.” *In re State Bar of Texas*, 113 S.W.3d 730, 734 (Tex. 2003). With the exception of appeals from classification screening decisions, which are final, the Board’s decisions are appealable directly to the Supreme Court of Texas. The Board may render judgment in any disciplinary matter with or without written opinion.

## ORIGINAL JURISDICTION

### **COMPULSORY DISCIPLINE (TRDP PART VIII; BODA IPR PART VI)**

The Board has exclusive original jurisdiction to hear petitions for compulsory discipline filed by the State Bar of Texas Chief Disciplinary Counsel’s Office (CDC) on behalf of the Commission for Lawyer Discipline when an attorney has been convicted of, or placed on deferred adjudication for, an “Intentional Crime” as defined in TRDP § 1.06(V)—that is, any “Serious Crime” that requires proof of knowledge or intent as an essential element or any crime involving misapplication of money or other property held as a fiduciary. “Serious Crime,” as defined in TRDP § 1.06(GG), includes barratry; any felony involving moral turpitude; any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other property; or any attempt, conspiracy, or solicitation of another to commit any of these. Compulsory discipline results in either suspension of the attorney’s license for the term of the criminal sentence or disbarment.

If an attorney convicted of an Intentional Crime has been sentenced to prison, the Board must disbar the attorney. If the attorney’s criminal sentence is fully probated or the attorney has been placed on deferred adjudication, the Board has discretion to disbar the attorney or order suspension for the term of the criminal probation. If an attorney convicted of an Intentional Crime has appealed the conviction and the appeal is pending at the time the CDC files the compulsory action, the Board will place the attorney on interlocutory suspension pending the outcome of the appeal; the Board then retains jurisdiction to enter final judgment when the appeal of the conviction becomes final.

### **RECIPROCAL DISCIPLINE (TRDP PART IX; BODA IPR PART VII)**

The Board has exclusive original jurisdiction to hear petitions for reciprocal discipline filed by the CDC on behalf of the Commission for Lawyer Discipline. Texas attorneys who are licensed in another jurisdiction are subject to identical discipline, to the extent practicable, in Texas following a disciplinary sanction in that other jurisdiction.

### **REVOCAION OF PROBATION (TRDP PART II; BODA IPR PART V)**

The Board has exclusive original jurisdiction for the full term of a probated suspension imposed by a State Bar of Texas grievance committee to hear petitions to revoke the probation if the attorney violates a term or condition of probation. If revoked, the attorney is suspended for the full term of the suspension without credit for time served on probation.

### **DISABILITY AND REINSTATEMENT (TRDP PART XII; BODA IPR PART VIII–IX)**

The Board has exclusive original jurisdiction to suspend indefinitely an attorney who is suffering from a disability: any physical, mental, or emotional condition, with or without a substantive rule violation, which results in the attorney's inability to practice law or otherwise carry out his or her professional responsibilities to clients, the courts, the profession, or the public. A district disability committee appointed by the Board holds a hearing to determine whether the attorney is disabled and certifies its finding to the Board. The Board has concurrent jurisdiction with district courts to hear petitions for reinstatement to terminate an indefinite disability suspension.

## **APPELLATE JURISDICTION**

### **APPEAL FROM AN EVIDENTIARY JUDGMENT (TRDP PART II; BODA IPR PART IV)**

The Board has appellate jurisdiction to review a judgment by a State Bar of Texas district grievance committee evidentiary panel. Either the Commission for Lawyer Discipline or an attorney against whom discipline has been imposed may appeal the judgment from an evidentiary proceeding, challenging the dismissal of a complaint, findings of professional misconduct, or sanction imposed. Appeals to the Board from evidentiary judgments proceed similarly to civil appeals with a notice of appeal, record, briefs, and oral argument. The Board reviews evidentiary questions under a substantial-evidence standard, reviews questions of law de novo, and reviews sanctions for abuse of discretion. Evidentiary appeals are decided en banc, and the Board may decide an evidentiary appeal with or without oral argument. The Board may affirm in whole or in part, modify the judgment and affirm as modified, reverse the judgment in whole or in part and render the judgment it determines should have been entered, or reverse the judgment and remand the complaint for a new hearing.

### **CLASSIFICATION APPEALS (TRDP PART II; BODA IPR PART III)**

The CDC screens every writing received that alleges professional misconduct to determine whether the writing describes conduct which, if true, constitutes professional misconduct cognizable under the Texas Disciplinary Rules of Professional Conduct (TDRPC). If the CDC determines that the writing does not allege misconduct or is otherwise not actionable and dismisses the grievance, the complainant can appeal that decision to the Board.

BODA provides a one-page form in English and Spanish that the CDC includes with the notice letter to complainants when grievances are dismissed. To appeal the dismissal, the complainant need only sign the form and send it to BODA by email, regular mail, or fax within 30 days of receipt of the notice. BODA then notifies the complainant and the respondent attorney that an appeal was filed and requests a copy of the original grievance from the CDC. The CDC transmits the grievance to BODA, and in the event of an amended grievance, the CDC also sends the original grievance. The Board considers only the information sent to the CDC before screening. If a complainant sends new information to BODA, the documents are returned to the complainant, and the complainant is informed that the Board cannot consider them.

If the attorney against whom a grievance is filed has been disbarred, has resigned, or is deceased, BODA notifies the complainant that the disciplinary system no longer has jurisdiction.

Once BODA receives the grievance from the CDC, on average 9 days after the request, the grievance is assigned to a three-member panel for decision. The panel and at least one of BODA's staff attorneys discuss the grievance by telephone conference, on average 39 days after the original grievance is received from the CDC. Panel members vote to either affirm or reverse the dismissal of the grievance, and the Board takes action in accordance with the majority vote. Reversal requires a finding that the grievance alleges one or more violations of a specific Texas Disciplinary Rule of Professional Conduct, and results in the upgrade of a grievance to a complaint. Any panel member may refer a grievance to the entire Board for en banc consideration.

Once the Board has decided a classification appeal, BODA notifies the complainant, the respondent attorney, and the CDC of its decision. If the Board reverses the dismissal, the notice includes the specific TDRPC rule alleged to have been violated, and the complaint is returned to the CDC for investigation as to just cause. If the Board affirms the dismissal, the notice states that the decision is final and not appealable. After the notice is sent, the appeal is complete and BODA closes its file.

During Fiscal Year 2019–2020, the Board reversed approximately 7.5 percent of the classification appeals.

# DISPOSITIONS

JUNE 1, 2019 THROUGH MAY 31, 2020

## COMPULSORY DISCIPLINE

During the last fiscal year, the Board decided the following seven petitions for compulsory discipline and motions for final judgment in compulsory cases. Additional case details are available on BODA's website at [txboda.org](http://txboda.org).

**James William Richards IV**, 00797313, was convicted in a general court-martial of Child Pornography, Sexual Abuse of a Child, and Failure to Obey an Order. He was sentenced to 17 years of incarceration in the Air Force Correction System. Mr. Richards appealed his convictions. They were affirmed, and are final. He is disbarred. Case 55908.

**Kirk Lawrence Brannan**, 24038779, pled guilty to Bank Fraud. He was sentenced to prison for 36 months, followed by supervised release for three years. Mr. Brannan appealed his sentence. His appeal was dismissed, and his conviction is final. He is disbarred. Case 62049.

**Tallion Kyle Taylor**, 24033263, was convicted of Possession of Child Pornography. He was sentenced to ten years of community supervision. Mr. Taylor appealed his conviction. By agreement, he is suspended from the practice of law pending the appeal. Case 61628.

**Bilal Ahmed Khaleeq**, 24091271, pled guilty to Conspiracy to Commit Marriage Fraud. Mr. Khaleeq was sentenced to six months in prison, followed by supervised release for one year. He appealed his criminal conviction, but the appeal was dismissed for want of prosecution, and his conviction is final. The Board entered a Judgment of Disbarment. Mr. Khaleeq appealed the Board's judgment to the Supreme Court of Texas in case no. 19-0703. The Court dismissed his appeal for want of prosecution. Case 60812.

**Tshombe Ali Anderson**, 24012218, pled guilty to Conspiracy to Commit Health Care Fraud and was sentenced to ten years in prison, followed by supervised release for three years. He appealed his criminal conviction, but the appeal was dismissed, and his conviction is final. Although duly cited, he failed to answer or appear. He is disbarred. Case 60492.

**Ronald Eugene Reynolds**, 24025610, was convicted of Barratry and Barratry III Obtain Employment and was sentenced to 365 days of incarceration. Mr. Reynolds appealed his convictions. They were affirmed, and are final. The Board entered a Judgment of Disbarment. Mr. Reynolds appealed the Board's judgment to the Supreme Court of Texas in case no. 19-0680. The Court affirmed the Judgment of Disbarment. Case 57004.

**Rodolfo Delgado**, 05645550, was convicted of Conspiracy, Federal Program Bribery, violation of the Travel Act, and Obstruction of Justice and was sentenced to 60 months in prison, followed by supervised release for two years. He appealed his criminal convictions. The Board entered an order suspending Mr. Delgado from the practice of law pending his appeals. The Board retains jurisdiction to enter a final judgment when the criminal appeals are final. Case 63669.

## **RECIPROCAL DISCIPLINE**

During the last fiscal year, the Board decided the following seven petitions for reciprocal discipline. Additional case details are available on BODA's website at [txboda.org](http://txboda.org).

### **ARIZONA:**

**Gerald G. "Greg" Eagleburger**, 06333000, was placed on probation by the Supreme Court of the State of Arizona for one year. He was found in violation of Arizona Rules of Professional Conduct, Ethics Rules 1.3 (diligence), 1.7(a) (conflict of interest/current client), 5.3(b) (supervision of nonlawyer assistants), and 8.4(d) (conduct prejudicial to the administration of justice). By agreement, Mr. Eagleburger was suspended from the practice of law in Texas for one year, fully probated. Case 62035.

### **ILLINOIS:**

**G. Michael Cooper III**, 04775600, was disbarred by the Supreme Court of Illinois. He was found in violation of Illinois Rules of Professional Conduct 5.5(a) (practice law without a license), 8.4(a)(4) (dishonesty, fraud, deceit, or misrepresentation), and 8.4(a)(5) (conduct prejudicial to the administration of justice). Mr. Cooper is disbarred in Texas. Case 58355.

### **NEVADA:**

**George R. Carter**, 00785388, was suspended from the practice of law for four years by the Supreme Court of the State of Nevada. He was found in violation of Nevada Rules of Professional Conduct 1.15 (safekeeping property), 5.4 (professional independence), and 5.5 (unauthorized practice of law). Although duly cited and noticed, Mr. Carter failed to appear. He is suspended from the practice of law in Texas for four years. Case 60162.

### **NEW MEXICO:**

**Jose Marcos Perales-Piña**, 24091472, was suspended from the practice of law for one year followed by supervised probation for six months by the Supreme Court of the State of New Mexico. He was found in violation of New Mexico Rules of Professional Conduct 16-101 (failing to provide competent representation to a client), 16-801 (knowingly making false statements of material fact in connection with a disciplinary matter), 16-804(D) (engaging in conduct prejudicial to the administration of justice), and 16-804(C) (engaging in conduct involving dishonesty, deceit, or misrepresentation). He is suspended from the practice of law in Texas for one year, followed by a six-month probated suspension. Case 62036.

### **OREGON:**

**Abigail Dennyse Molina**, 24074740, was suspended from the practice of law by the Supreme Court of the State of Oregon for six months with the suspension fully stayed for three years. She was found in violation of Oregon Rules of Professional Conduct 1.15-1(a) (failing to hold funds belonging to a client separate from her own and failing to account for those funds) and 1.15-1(c) (converting client funds). By agreement, Ms. Molina was suspended from the practice of law in Texas for six months, fully probated. Case 63667.

**TENNESSEE:**

**Robin Kathleen Barry**, 24031845, was disbarred by the Supreme Court of Tennessee. She was found in violation of Tennessee Rules of Professional Conduct 1.4 (communication), 1.15 (safekeeping property and funds), and 8.4(c) (misconduct). Ms. Barry is suspended from the practice of law in Texas for 36 months, with the first 12 months active suspension and the remainder probated. Case 61329.

**UTAH:**

**Benjamin Richard Horton**, 24053273, was suspended from the practice of law for three years by the Third Judicial District Court in and for Salt Lake County, State Of Utah. He was found in violation of Utah Rules of Professional Conduct 1.3 (diligence), 1.4(a) (communication), 1.5(a) (fees), 1.8(h)(1) (conflict of interest), 5.3(a) (responsibilities regarding nonlawyer assistants), 5.4 (professional independence of a lawyer), 7.1 (communication concerning a lawyer's services), 8.1(b) (bar admission and disciplinary matters), and 8.4(c) (fraud, deceit, or misrepresentation). By agreement, Horton is suspended from the practice of law in Texas for three years. Case 59814.

**REVOCAION OF PROBATION**

During the last fiscal year, the Board decided the following petition for revocation of probation. Additional case details are available on BODA's website at [txboda.org](http://txboda.org).

**Joe Jesse Ponce III**, 24014329, was suspended from the practice of law for 32 months, ending August 18, 2022, after he after he materially violated the terms and conditions of a judgment of partially probated suspension. Mr. Ponce appealed the Board's judgment to the Supreme Court of Texas in case no. 19-1121. The Court affirmed the judgment. Case 63523.

**DISABILITY AND REINSTATEMENT**

During the last fiscal year, the Board decided the following two petitions for disability suspension. Additional case details are available on BODA's website at [txboda.org](http://txboda.org).

**Christopher Eric Dennis**, 90001539, by agreement received an indefinite disability suspension. Case 64070.

**Huey P. Mitchell**, 14212000, by agreement received an indefinite disability suspension. Case 62094.

**EVIDENTIARY APPEALS**

During the last fiscal year, the Board decided the following five evidentiary appeals. Additional case details are available on BODA's website at [txboda.org](http://txboda.org).

**William E. Jones**, 10964700. Dismissed for want of prosecution the appeal of a judgment of active suspension entered by the District 4-2 grievance committee for violations of TDRPC 1.01(b)(1) (neglect), 1.03(a) (failure to communicate), 1.15(d) (failure to return an unearned fee), and 8.04(a)(8) (failure to provide requested information to the State Bar of Texas). Case 61941.

**Curtis Lilly**, 24030063. Dismissed for want of prosecution the appeal of a judgment of a fully probated suspension entered by the District 6-2 grievance committee for violations of TDRPC 1.01(b)(1) (neglect), 3.03(a)(1) (false statement of material fact or law to a tribunal), 3.04(d) (failure to comply with court order), and 8.04(a)(3) (conduct involving dishonesty, fraud, deceit, or misrepresentation). Case 63969.

**Matthew L. Pepper**, 24066817. Affirmed the judgment of a public reprimand entered by the District 3-1 grievance committee for violations of TDRPC 1.07(a)(1) (a lawyer shall not act as an intermediary between clients without disclosure and consent) and 1.09(a)(3) (without prior consent, a lawyer shall not represent another person against a former client in the same or substantially related matter). Mr. Pepper appealed to the Supreme Court of Texas in case no. 19-0616. The Court affirmed the Board's judgment. Case 61009.

**Ronald T. Spriggs**, 00792853. Affirmed the judgment of a partially probated suspension entered by the District 13-2 grievance committee for violations of TDRPC 1.01(b)(1) (neglect), 1.03(a) (failure to communicate), and 1.15(d) (failure to return an unearned fee). Mr. Spriggs appealed to the Supreme Court of Texas in case no. 20-0107. The appeal is pending. Case 62242.

**A Texas Attorney**. Affirmed in part and reversed in part a take-nothing judgment entered by the District 6-2 grievance committee. The Board affirmed as to the alleged violations of TDRPC 8.04(a)(11) (practicing law while suspended), but reversed and rendered judgment finding a violation of TDRPC 8.04(a)(7) (violation of a disciplinary judgment). The Board remanded the matter to the District 6-2 grievance committee for a hearing to assess sanctions. Case 63419.

### **CLASSIFICATION APPEALS**

During the last fiscal year, the Board decided 1,245 appeals reviewing grievance classification decisions. Of those, the Board reversed 93, upgrading those grievances to complaints and returning them to the CDC for investigation as to just cause.

### **APPEALS TO SUPREME COURT OF TEXAS**

All decisions by the Board, other than classification appeals, may be appealed to the Supreme Court of Texas. Unlike an ordinary appeal to the Supreme Court, appeals from the Board's judgments are not subject to discretionary review, but instead are taken as a matter of right. Each appeal is adjudicated by the Court on the merits. From June 1, 2019 through May 31, 2020, five appeals were filed with the Court from the Board's judgments. As of October 1, 2020, the Court has either affirmed the judgment or dismissed the appeal for want of prosecution in four of the five appeals. One appeal remains pending.



## STATISTICS

JUNE 1, 2019 THROUGH MAY 31, 2020

### ALL CASES FILED AND DECIDED

	Filed	Decided
Appeal of dismissed grievance	1,378	1,245
Appeal from evidentiary judgment	12	5
Compulsory discipline	3	7
Reciprocal discipline	2	7
Petitions to revoke probation	1	1
Disability suspension	2	2
<b>Total cases</b>	<b>1,398</b>	<b>1,267</b>

### HEARINGS AND CONFERENCES

En banc conferences and hearings	3
Weekly panel classification appeal conferences	48
Average classification appeals decided per weekly panel	30

### APPEALS TO SUPREME COURT OF TEXAS

Decisions appealed to Supreme Court during FY19-20	5
Appeals pending before Supreme Court from FY18-19	4
Cases decided by Supreme Court as of Oct. 15, 2020	8
Cases still pending as of Oct. 15, 2020	1
<b>Affirmance rate by Supreme Court</b>	<b>100%</b>

### APPEAL OF DISMISSED GRIEVANCE (CLASSIFICATION APPEALS)

Grievances screened by CDC*	7,505
Upgraded for investigation by CDC*	2,202
Dismissed by CDC*	5,123
Appeals from dismissal	1,378 (27% of cases dismissed)
Dismissal reversed by the Board	93 (7.5% of classification appeals)

### **CLASSIFICATION APPEAL TIMELINE**

Average time to receive file from CDC	9 days
Average time to decide appeal after file received	39 days
Total time from filing to decision	48 days

### **CLASSIFICATION APPEAL REVERSALS: RULES CITED BY THE BOARD**

<b>Most Common TDRPC Violations Alleged</b>	<b>Reversals</b>
1.03 Communication	39
1.01 Competent and Diligent Representation	23
1.15(d) Return of File or Unearned Fee	18
1.14 Safekeeping Property	14

### **CLASSIFICATION APPEAL REVERSALS: RULES CITED BY THE BOARD**

<b># Violations Cited</b>	<b>Reversals</b>
1	56
2	30
3	4
4	2
5	1

### **CLASSIFICATION APPEALS: BOARD REFERRALS**

<b>Referred to</b>	<b>No.</b>
Client-Attorney Assistance Program	3
Judicial Conduct Committee	11

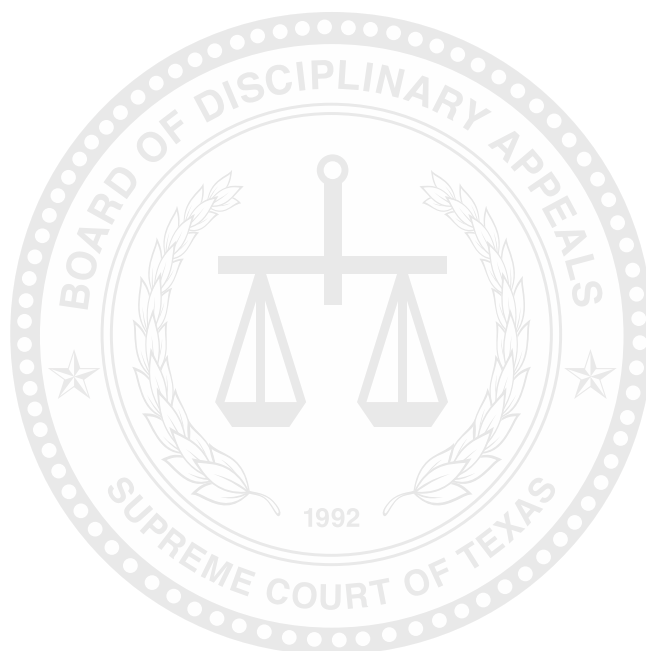
*\*Source: Office of the Chief Disciplinary Counsel, State Bar of Texas*

## OPERATIONS DURING COVID-19 PANDEMIC

BODA has remained fully operational during the COVID-19 pandemic. On March 13, 2020, the State Bar of Texas released employees from in-person work at the Texas Law Center, where BODA's offices are located, until further notice. At that time, the BODA staff transitioned to working remotely, while continuing to check and process the BODA mail twice weekly. The BODA staff has made use of technology to stay connected and ensure that the Board continues to perform its duties and fulfill its responsibilities.

The Supreme Court of Texas issued emergency orders extending certain deadlines in attorney disciplinary proceedings to August 15, 2020. In accordance with the emergency orders, BODA accepted case filings, set new deadlines, and where appropriate, considered cases that could be decided. The Board continued its usual schedule of panel telephone conferences to discuss classification appeals. Between March 13, 2020 and the end of the fiscal year (May 31, 2020), the Board considered and disposed of 325 classification appeals. The total processing time for classification appeals increased during the initial months of the pandemic, but processing time has since been reduced. From June 1, 2020 to October 1, 2020, the total processing time has averaged 25 days per classification appeal, which is significantly shorter than the processing time from prior years.

Before the pandemic and the Supreme Court's emergency orders, the Board had cancelled the en banc hearing set for April 2020 to allow for the hiring and training of new staff. The Board then made the decision to conduct future hearings via remote connection through Zoom, so long as remote hearings continue to be appropriate under federal, state, and local guidelines, as well as orders from the Supreme Court and guidance from the Office of Court Administration. Toward the end of last fiscal year, the BODA staff began planning for remote en banc hearings beginning in July 2020.



# THE BOARD *of* DISCIPLINARY APPEALS

## APPOINTED BY THE SUPREME COURT *of* TEXAS

### MEMBERS 1992–2021

S. Jack Balagia, Houston*	2000-2005	John J. “Mike” McKetta III, Austin	2014-2020
Robert A. Black, Beaumont*	2013-2019	Mary Alice McLarty, Dallas	1992-1994
Faye M. Bracey, San Antonio	1992-1995;	Rudolph K. “Rudy” Metayer, Austin	2020-
	1999-2003	Mike Mills, McAllen	2015-
Alice A. Brown, Houston	2006-2012	William “Bill” Ogden, Houston	2020-
Kathy Owen Brown, Dallas **	2000-2006;	Evelina Ortega, El Paso	1994-1997
	2008-2014	Clement H. Osimetha, Dallas	2002-2008
David A. Chaumette, Sugar Land	2008-2014	Thomas E. Pitts, Lubbock * **	2003-2009
Paul D. Clote, Houston * **	2002-2008	Carol E. Prater, Temple	2003-2009
Jeanne C. “Cezy” Collins, El Paso	2013-2019	Deborah Pullum, Tyler	2014-2020
Franck Costilla, Brownsville	1995-2001	Deborah J. Race, Tyler	2007-2013
Jack R. Crews, Temple †	2009-2015	William J. Rice, Houston	1992-1993
Yolanda de León, Harlingen	2002-2008	Eduardo Roberto Rodriguez, Brownsville	1992-1995
Josephine V. Dye, Dallas	1996-2002	Ben Selman, Waco *	1995-2001;
Ramon Luis Echevarria II, Houston	2012-2018		2006-2012
Robert Flowers, Austin †	2001-2007	Stanley M. Serwatka, El Paso **	1997-2003
Susan Saab Fortney, Lubbock	1995-1999	JoAl Cannon Sheridan, Austin * **	2008-2014
James S. Frost, Seguin * **	1994-1997;	Charles L. Smith, San Antonio	2006-2012
	2000-2006	Nancy J. Stone, Amarillo	2018-
Alexander J. Gonzales, Austin	1994-2000	George A. Taylor, San Antonio	2012-2018
David M. González, Austin * **	2015-	Cindy V. Tisdale, Granbury	2020-
Jose I. Gonzalez-Fallas, Austin **	2003-2009	Bill Turner, Bryan	1996-2002
William D. Greenhill, Fort Worth	2001-2007	Karen L. Watkins, Austin *	2001-2007
Mike Gregory, Denton	2018-	Steven J. Watkins, Houston *	1992-2000
Michael C. Gross, San Antonio	2018-	Thomas H. Watkins, Austin *	1992-1994,
Gary R. Gurwitz, McAllen	2009-2015		2001
Kelli M. Hinson, Dallas **	2018-	J. Michael Watson, Houston	1996-2002
Wendy Adele Humphrey, Lubbock	2015-2018	Cheryl B. Wattle, Dallas	1992-1995
Rhonda F. Hunter, Dallas	1993-1996	Carol Herring Weir, San Antonio †	1995-2001
Tim James, Nacogdoches	1993-1996	Thomas David Wells III, Paris †	1992-1993
Roland K. Johnson, Fort Worth	2013-2019	Robert J. Werner, Austin	1994-2000
Marvin W. Jones, Amarillo * **	2009-2015	Gaines West, College Station * **	1992-1996;
John E. Kinney, Austin	1992		1997-2003
Kathy Kinser, Dallas *	2014-2020	Thomas J. Williams, Fort Worth	2007-2013
David N. Kitner, Dallas * **	2012-2018		
W. Clark Lea, Midland *	2007-2013		
Ann Crawford McClure, El Paso	1992		

\* Chair \*\* Vice Chair † Deceased

