



FILED

Oct 27 2025

THE BOARD OF DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS**

**IN THE MATTER OF
MATTHEW BRETT REEVES,
STATE BAR CARD NO. 24073353**

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CAUSE NO. 72009

PETITION FOR RECIPROCAL DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

The Commission for Lawyer Discipline (hereinafter referred to as the “Commission”), brings this action against Respondent, Matthew Brett Reeves, and would show the following:

1. This action is commenced by the Commission pursuant to Part IX of the Texas Rules of Disciplinary Procedure (the “TRDPs”). The Commission is also providing Respondent with a copy of Section 7 of this Board’s Internal Procedural Rules, relating to Reciprocal Discipline Matters.

2. Respondent is a member of the State Bar of Texas and is licensed and authorized to practice law in Texas. Respondent may be served with a true and correct copy of this Petition for Reciprocal Discipline at Matthew Brett Reeves, 1026 Appalachee Drive SE, Huntsville, Alabama 35801.

3. On or about July 23, 2025, a Sanctions Order was entered in Civil Action No.: 2:21-cv-1701-AMM styled, *Frankie Johnson, Plaintiff v. Jefferson S. Dunn, et al.*, in the United States District Court for the Northern District of Alabama, Southern Division (Exhibit 1), by United States District Judge Anna M. Manasco, which states in pertinent part:

SANCTIONS ORDER

This case is before the court because incarcerated Plaintiff Frankie Johnson accused Defendant Jefferson Dunn, the former Commissioner of the Alabama Department of Corrections, of fabricating citations to legal authorities in two motions. Docs. 187, 193. Three attorneys for Defendant Dunn (Matthew B. Reeves, William J. Cranford, and William R. Lunsford) confirmed in writing and at a hearing that the citations were hallucinations of a popular generative artificial intelligence (“AI”) application, ChatGPT. *See* Docs. 194, 200. In simpler terms, the citations were completely made up.

The court must determine an appropriate sanction. Fabricating legal authority is serious misconduct that demands a serious sanction. In the court’s view, it demands substantially greater accountability than the reprimands and modest fines that have become common as courts confront this form of AI misuse. As a practical matter, time is telling us – quickly and loudly – that those sanctions are insufficient deterrents. In principle, they do not account for the danger that fake citations pose for the fair administration of justice and the integrity of the judicial system. And in any event, they have little effect when the lawyer’s client (here, an Alabama government agency) learns of the attorney’s misconduct and continues to retain him.

An appropriate and reasonable sanction must (1) have sufficient deterrent force to make this misuse of AI unprofitable for lawyers and litigants, (2) correspond to the extreme dereliction of professional responsibility that sham citations reflect (whether generated by artificial or human intelligence), and (3) effectively communicate that made-up authorities have no place in a court of law.

For the reasons explained below, the court **PUBLICLY REPRIMANDS** Mr. Reeves, Mr. Cranford, and Mr. Lunsford for making false statements to the court; **ORDERS** publication of this order to effectuate that reprimand; **DISQUALIFIES** them from further participation in this case; and **REFERS** this matter to the Alabama State Bar and other applicable licensing authorities.

In the light of the results of the independent investigation commissioned by the attorneys’ law firm, the court exercises its discretion not to suspend them from practice in the Northern District of Alabama. The court **RELEASES WITHOUT SANCTION** attorneys Daniel J. Chism and Lynette E. Potter, and the law firm

Butler Snow LLP (“Butler Snow”) from disciplinary proceedings.

I. BACKGROUND

A. Procedural Background

On May 7, 2025, Defendant Dunn filed a motion for leave to take the deposition of an incarcerated person under Federal Rule of Civil Procedure 30(a)(2)(B), which is required to depose any incarcerated person. Doc. 174. The signature block of that motion contained the names of four attorneys from the Butler Snow law firm: William J. Cranford, William R. Lunsford, Matthew B. Reeves, and Daniel J. Chism. *Id.* at 4. Mr. Cranford electronically filed the motion with his filing credentials. Plaintiff Johnson, the incarcerated person at issue, objected to being deposed prior to receipt of certain documents from the Alabama Department of Corrections that were the subject of a motion to compel by him. Doc. 186 at 2; *see also* Doc. 169. All parties agreed that Plaintiff Johnson was due to be deposed; the dispute was simply about when (Defendant Dunn wanted to conduct the deposition the week of June 3rd and Plaintiff Johnson wanted sometime later, after receipt of the documents at issue in his motion to compel).

On May 8, 2025, Defendant Dunn sought leave of court to file a motion to compel interrogatory answers and document production from Plaintiff Johnson. Doc. 178. The next day, the court granted that leave. Doc. 179. At 11:21 a.m.¹ on May 12, 2025, Defendant Dunn filed an unopposed motion for excess pages as to the forthcoming motion to compel. Doc. 180. The court granted the motion for excess pages at 12:39 p.m. Doc. 181. Then, at 4:21 p.m. on May 12, 2025, Defendant Dunn filed his motion to compel. Doc. 182. Four Butler Snow attorneys appeared on the signature block of that motion: Mr. Cranford, Mr. Lunsford, Mr. Reeves, and Ms. Potter. *Id.* at 20. Ms. Potter has not entered a notice of appearance in this case.

Plaintiff Johnson’s motion to compel became fully briefed on May 12, 2025. *See* Doc. 183. On May 14, 2025, the court granted in part and denied in part Plaintiff Johnson’s motion to compel. Doc. 184.

The next day, Plaintiff Johnson filed a response to the motion for leave to depose him. Doc. 186. Plaintiff Johnson objected to a deposition the week of June 3rd on several grounds, including

¹ All times noted in this order are in Central Daylight Time.

that counsel for Defendant Dunn appeared to have fabricated citations to legal authority in his motion for leave and motion to compel, “possibly through the use of generative artificial intelligence.” *Id.* at 1.

In total, there were five problematic citations across two motions:

- Defendant Dunn cited “United States v. Baker, 539 F. App’x 937, 943 (11th Cir 2013)” as “confirming broad discovery rights under Rules 26 and 30.” Doc. 174 at 2. As Plaintiff Johnson pointed out, “[w]hile *United States v. Baker*, 529 Fed. Appx. 987 (11th Cir. 2013) is an actual case, it is an appeal challenging a criminal’s sentencing enhancement.” Doc. 186 at 2. And the case found in the Federal Appendix numbers cited by Defendant Dunn does not discuss discovery. *See Williams v. Morahan*, 539 F. App’x 937 (11th Cir. 2013).
- Defendant Dunn cited “Kelley v. City of Birmingham, 2021 WL 1118031, at *2 (N.D. Ala. Mar. 24, 2021)” for the proposition that the district court “refus[ed] to delay deposition based on unrelated discovery issues.” Doc. 174 at 2. The only case with that style which Plaintiff Johnson (and the court) could find was an Alabama Court of Appeals case from 1939 that dealt with a traffic offense. Doc. 186 at 3; *see Kelley v. City of Birmingham*, 28 Ala. App. 644, 189 So. 921 (Ala. Ct. App. 1939).
- Defendant Dunn cited “Greer v. Warden, FCC Coleman I, 2020 WL 3060362, at *2 (M.D. Fla. June 9, 2020)” as “rejecting inmate’s request to delay deposition until additional discovery was completed.” Doc. 174 at 2. This case does not exist, nor does a case exist with a similar citation for that proposition of law. *See* Doc. 186 at 3.
- Defendant Dunn cited “Wilson v. Jackson, 2006 WL 8438651, at *2 (N.D. Ala. Feb. 27, 2006)” with the parenthetical that it was an opinion “granting [a] Rule 30(a)(2)(B) motion and finding no good cause to delay deposition of incarcerated plaintiff.” Doc. 174 at 2. There is no such case, and that Westlaw number directs to a maritime personal injury case that does not discuss discovery. *See Douglas v. Ingram Barge Co.*, No. CV 3:04-0383, 2006 WL 8438651 (S.D.W. Va. Sept. 15, 2006); *see also* Doc. 186 at 4.

- Defendant Dunn cited “Williams v. Asplundh Tree Expert Co., No. 3:05-cv-479, 2006 WL 3343787, at *4 (M.D. Fla. Nov. 17, 2006)” to support the statement that, “General objections are not useful and will not be considered by the Court. Objections should be specific and supported by a detailed explanation.” Doc. 182 at 13. Though a case with that style exists, no case with that combination of style and proposition exists. *See Williams v. Asplundh Tree Expert Co.*, No. 3:05-cv-00479-VMC-MCR (M.D. Fla. July 23, 2013); *see also* Doc. 186 at 4.

At 12:14 p.m. on Friday, May 16, 2025, the court issued a show cause order noting that “[i]n the light of the seriousness of the accusation, the court ha[d] conducted independent searches for each allegedly fabricated citation, to no avail,” and ordering the signatories of Defendant Dunn’s motion for leave, and the Butler Snow law firm, “to show good cause, if there be any, why they should not be sanctioned under Federal Rule of Civil Procedure 11, the court’s inherent authority, Local Rule 83.1(f), and/or Alabama Rule of Professional Conduct 3.3 for making false statements of fact or law to the court, not later than 3:00 PM Central Daylight Time on Monday, May 19, 2025.” Doc. 187 at 1–2 (emphasis omitted). The court also set a show cause hearing for 9:00 a.m. Central Daylight Time on Wednesday, May 21, 2025 at the Hugo Black United States Courthouse. *Id.* at 2.

Three hours after the order to show cause issued, Mr. Lunsford and Mr. Chism filed a motion to be excused from the show cause hearing. Doc. 188. Mr. Chism and Mr. Lunsford represented that “[n]either [of them] participated in any way in the drafting or filing of the Motion for Leave to Depose Incarcerated Persons,” and that Mr. Lunsford “must be in Macon, Georgia to [] prepare for and attend a previously set evidentiary hearing before the U.S. District Judge Marc Treadwell in the United States District Court for the Middle District of Georgia.” *Id.* at 2.

The court denied their requested excuse at 6:39 p.m. that same day:

The hearing before Judge Treadwell is set for Thursday, May 22, 2025, at 9:00 AM Eastern Standard Time—twenty-three hours after the show cause hearing in this case. *See Ricardo Daughtry, et al. v. Shawn Emmons, et al.*, No. 5:15-cv-00041-MTT (M.D. Ga. filed Feb. 12, 2015). The May 21, 2025 show cause hearing will last no longer than an

hour. Accordingly, Mr. Lunsford will have ample time to travel to Georgia in advance of his hearing the next day, and the motion to excuse as to Mr. Lunsford and Mr. Chism is DENIED.

Doc. 190 at 2. Several attorneys representing other parties sought and received excuses from the show cause hearing. Docs. 189–92, 196–97.

On Monday, May 19, 2025, the court issued a supplemental show cause order:

Out of an abundance of caution, the court **CLAIRIFIES** its show cause order to the extent that (1) Defendant Dunn’s motion to compel is also the subject of that show cause order and will be discussed at the hearing set for Wednesday, May 21, 2025 at 9:30 AM Central Daylight Time, and (2) in addition to the four attorneys on the motion for leave, Ms. Lynette E. Potter is ORDERED to show good cause, if there be any, why she should not be sanctioned under Federal Rule of Civil Procedure 11, the court’s inherent authority, Local Rule 83.1(f), and/or Alabama Rule of Professional Conduct 3.3 for making false statements of fact or law to the court.

Doc. 193 at 2–3.

Later that day, Mr. Lunsford, Mr. Reeves, Mr. Cranford, and Mr. Chism filed their response to the show cause orders, admitting that the citations were hallucinated by ChatGPT: “In short, attorney Matt Reeves used ChatGPT to obtain case citations in support of two arguments made in the motions at issue without verifying their accuracy, and those citations proved to be false.” Doc. 194 at 1. The response included declarations from each attorney. *See* Docs. 194–1–4.

Butler Snow then filed its response, called the events “unacceptable,” and requested that “that any sanctions be proportionate to the wrong and commensurate with each attorney’s role in these events,” “that its client not be sanctioned, and for counsel to have the opportunity to file an amended motion with correct citations.” Doc. 195 at 1–2. Ms. Potter later filed her response, Doc. 198, and a declaration, Doc. 198-1.

The court held the show cause hearing on May 21, 2025. Doc. 200. Counsel of record who were not previously excused, representatives from Butler Snow, and a representative from the Alabama Attorney General’s Office appeared.

Following the show cause hearing, the court allowed “supplemental responses to the order to show cause and briefs from anyone else who wishe[d] to file [one].” Doc. 199. Additionally, the court granted leave for Defendant Dunn to file corrected versions of the motions at issue, which he later filed. *See* Docs. 201–02. Butler Snow filed a supplemental response to the show cause orders on June 2, 2025. Doc. 203.

B. The Attorneys

Mr. Lundsford, Mr. Reeves, Mr. Cranford, Mr. Chism, and Ms. Potter spoke at the show cause hearing and filed supplemental declarations. Docs. 200, 203-3-7.

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2. Matthew B. Reeves

Mr. Reeves is a partner and assistant practice group leader in Butler Snow’s constitutional and civil rights litigation group. Doc. 195 at 2. He stated in his declaration that: (1) he was “responsible for revising Paragraph 2 of the Motion for Leave and Page 13 of the Motion to Compel, including the legal authorities cited therein”; (2) he “performed a search [on ChatGPT] to identify supporting case law for the proposition that discovery may proceed even during the pendency of other discovery issues, as to the Motion for Leave, and that general or boilerplate objections are not effective, as to the Motion to Compel”; (3) he “failed to verify the case citations returned by ChatGPT through independent review in Westlaw or PACER before including them in the Motion for Leave and Motion to Compel”; and (4) that the citations at issue are inaccurate or do not exist. Doc. 194-2 ¶¶ 3–5. Mr. Reeves further stated that this “was a serious error in judgment, and contrary to the requirements of Butler Snow LLP and [his] obligations to this Court.” *Id.* ¶ 6.

At the show cause hearing, Mr. Reeves stated that has “had limited use” “with various AI products” “since approximately March of 2024.” Doc. 200 at 21. Besides Westlaw’s CoCounsel product, Mr. Reeves stated that he used ChatGPT. *Id.* at 21–22. He “initially used [ChatGPT] for personal reasons, to look up things related to dietary-related matters,” “to look up things when [his

family went] on trips,” “and when [his] youngest son started looking at colleges, doing some research on that for colleges and universities.” *Id.* Then, he began using ChatGPT professionally. *Id.* At 22. Mr. Reeves gave examples of “basic” tasks such as “a general search of any sort of background, history kind of stuff” for “a witness that was going to be deposed” or “to go get a survey of what was out there publicly available . . . to get an idea of what the body of policies in the corrections world looked like.” *Id.* He also stated that he “was aware of the limitation on use [of artificial intelligence products at Butler Snow]; and in this instance . . . [he] did not comply with the [firm’s] policy,” and that these are “the two instances” in which he used artificial intelligence and “did not verify the citations.” *Id.* at 23.

In a supplemental declaration, Mr. Reeves stated that “[e]xcept in the motions already subject to the Court’s Order to Show Cause,” he has “never used any publicly accessible, generative artificial intelligence chatbot, such as OpenAI’s ChatGPT, to generate legal or other authority citations for submission to any court.” Doc. 203-4 ¶ 2. In addition, Mr. Reeves stated that he is working with Anil Mujumdar, counsel for Plaintiff Johnson and a professor at the University of Alabama School of Law, to develop “an informative program to educate law students regarding the risks of AI.” *Id.* ¶¶ 3–4. Mr. Reeves “intend[s] to pursue this program and a similar program at Samford University’s Cumberland School of Law and Faulkner University’s Thomas Goode Jones School of Law regardless of whether the Court orders it as relief in this case.” *Id.* ¶ 5.

Mr. Reeves’s position on sanctions “is that [he] understand[s] it is well within [the court’s] discretion to provide whatever sanction [the court] deem[s] appropriate,” and because he is “the one responsible for the error,” he hopes that the court “would not punish [his] colleagues for that.” Doc. 200 at 24.

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II. FINDINGS OF FACT & CONCLUSIONS OF LAW

Every lawyer knows that citing fake cases in a court filing is a terrible decision. No one here is attempting to defend it. In the few years that generative AI has affected court filings, it has become well established that “[m]any harms flow from the submission of fake opinions.” *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 448 (S.D.N.Y. 2023); *see, e.g., Dehghani v. Castro*, No. 2:25-cv-00052-MIS-DLM, 2025 WL 1361765 (D.N.M. May 9, 2025); *Bevins v.*

Colgate-Palmolive Co., No. 25-576, 2025 WL 1085695 (E.D. Pa. Apr. 10, 2025); *Ferris v. Amazon.com Servs., LLC*, No. 3:24-cv-304-MPM-JMV, 2025 WL 1122235 (N.D. Miss. Apr. 16, 2025); *United States v. Hayes*, 763 F. Supp. 3d 1054 (E.D. Cal. 2025), *reconsideration denied*, No. 2:24-cr-0280-DJC, 2025 WL 1067323 (E.D. Cal. Apr. 9, 2025); *Sanders v. United States*, 176 Fed. Cl. 163 (Fed. Cl. 2025); *Wadsworth v. Walmart Inc.*, 348 F.R.D. 489 (D. Wyo. 2025); *Gauthier v. Goodyear Tire & Rubber Co.*, No. 1:23-cv-281, 2024 WL 4882651 (E.D. Tex. Nov. 25, 2024); *Park v. Kim*, 91 F.4th 610 (2d Cir. 2024).

Some such harms affect the case at hand: “The opposing party wastes time and money in exposing the deception,” and “[t]he client may be deprived of arguments based on authentic judicial precedents.” *Mata*, 678 F. Supp. 3d at 448. While the court takes time to investigate, other cases may be disrupted or deprived of judicial attention. Other harms affect the judicial system:

There is potential harm to the reputation of judges and courts whose names are falsely invoked as authors of the bogus opinions and to the reputation of a party attributed with fictional conduct. It promotes cynicism about the legal profession and the American judicial system. And a future litigant may be tempted to defy a judicial ruling by disingenuously claiming doubt about its authenticity.

Id. at 448–49. And the public (whose taxpayer dollars pay the lawyers at issue here) is justifiably horrified and outraged when filings in a court of law substitute lazy, convenient fictions for the truth.

Even in cases like this one, where lawyers who cite AI hallucinations accept responsibility and apologize profusely, much damage is done. The opposing party expends resources identifying and exposing the fabrication; the court spends time reviewing materials, holding hearings, deliberating about sanctions, and explaining its ruling; the substance of the case is delayed; and public confidence about the trustworthiness of legal proceedings may be diminished.

Accordingly, the court makes the following findings of fact and conclusions of law.

A. False Statements of Law

The court finds, based upon its own careful review and as no one contests, that the hallucinated citations in the two motions at issue were false statements of law. *See* Docs. 194, 200.

B. Sanctions Authorities

Rule 11(b) provides that “[b]y presenting to the court a pleading, written motion, or other paper[,] . . . an attorney . . . certifies that . . . after an inquiry reasonable under the circumstances . . . the claims, defenses, and other legal contentions are warranted by existing law.” Fed. R. Civ. P. 11(b)(2).

“If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation.” *Id.* (c)(1). “Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.” *Id.* “A sanction imposed under [Rule 11] must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated,” and “may include nonmonetary directives.” *Id.* (c)(4).

“Rule 11 . . . imposes an objective standard of reasonable inquiry which does not mandate a finding of bad faith.” *Chambers v. NASCO, Inc.*, 501 U.S. 32, 47 (1991). Rule 11 focuses on “the signer’s conduct” “at the time of filing.” *Jones v. Int’l Riding Helmets, Ltd.*, 49 F.3d 692, 695 (11th Cir. 1995) (emphasis and internal quotation marks omitted). “[T]he purpose of Rule 11 as a whole is to bring home to the individual signer his personal, nondelegable responsibility.” *Pavelic & LeFlore v. Marvel Ent. Grp.*, 493 U.S. 120, 126 (1989) (holding, prior to the 1993 amendment to Rule 11, that sanctions may be imposed on the individual attorney who signs the papers and not on the attorney’s law firm).

To impose Rule 11 sanctions *sua sponte*, the court must find that offending conduct is “akin to contempt.” *Kaplan v. DaimlerChrysler, A.G.*, 331 F.3d 1251, 1255 (11th Cir. 2003). This court does not understand that standard to require a finding of subjective bad faith. Such a requirement would be inconsistent with explanations from the Supreme Court and the Eleventh Circuit that Rule 11 is objective, *see, e.g., Chambers*, 501 U.S. at 47; *Jones*, 49 F.3d at 695, and the reality that “[a]s originally drafted, Rule 11 set out a subjective standard, but the Advisory Committee determined that this standard was not working,” *Bus. Guides, Inc. v. Chromatic*

Commc'ns Enters., Inc., 498 U.S. 533, 549 (1991).

In 1993, Rule 11 was amended to provide that it “does not apply to . . . motions under Rules 26 through 37.” Fed. R. Civ. P. 11(d). The advisory committee’s note explains that:

Rules 26(g) and 37 establish certification standards and sanctions that apply to discovery disclosures, requests, responses, objections, and motions. It is appropriate that Rules 26 through 37, which are specially designed for the discovery process, govern such documents and conduct rather than the more general provisions of Rule 11. Subdivision (d) has been added to accomplish this result.

Fed. R. Civ. P. 11 advisory committee’s note 1993 amendment.

Local Rule 83.1(f) provides that attorneys may be disciplined for acts or omissions that are inconsistent with the local rules, the *Alabama Rules of Professional Conduct*, and the *American Bar Association Model Rules of Professional Conduct*. N.D. Ala. R. 83.1(f). It further provides that “[d]iscipline under this Rule may consist of disbarment, suspension, censure, reprimand, removal from a particular case, ineligibility for appointment as court-appointed counsel, ineligibility to appear under subsections (b) and (c), monetary sanctions, or any other sanction the court may deem appropriate.” *Id.*

Alabama Rule of Professional Conduct 3.3 provides that “[a] lawyer shall not knowingly . . . [m]ake a false statement of material fact or law to a tribunal.” Ala. Rules of Pro. Conduct r. 3.3(a)(1). The comments to the Rule provide that “an assertion purporting to be on the lawyer’s own knowledge, as in an affidavit by the lawyer or in a statement in open court, may properly be made only when the lawyer knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry.” Ala. Rules of Pro. Conduct r. 3.3. cmt. They further provide that “[l]egal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal. A lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities.” *Id.*

The sanction authority of the court is not limited to these rules. For more than two hundred years, “[i]t has long been understood that ‘[c]ertain implied powers must necessarily result to our Courts of justice from the nature of their institution,’ powers

‘which cannot be dispensed with in a Court, because they are necessary to the exercise of all others.’” *Chambers*, 501 U.S. at 43 (quoting *United States v. Hudson*, 7 Cranch 32, 34 (1812)).

“Courts have long recognized an inherent authority to suspend or disbar lawyers . . . derive[d] from the lawyer’s role as an officer of the court which granted admission.” *In re Snyder*, 472 U.S. 634, 643 (1985). Thus, “a federal court has the power to control admission to its bar and to discipline attorneys who appear before it.” *Chambers*, 501 U.S. at 43 (citing *Ex parte Burr*, 22 U.S. 529, 530 (1824)). “An attorney who violates his or her ethical obligations is subject to professional discipline, including sanctions, suspension, and disbarment.” *Connick v. Thompson*, 563 U.S. 51, 66 (2011).

Although Rule 11 “reaches only certain individuals or conduct, the inherent power extends to a full range of litigation abuses.” *Chambers*, 501 U.S. at 46. “A court must . . . exercise caution in invoking its inherent power,” and “when there is bad-faith conduct in the course of litigation that could be adequately sanctioned under the Rules, the court ordinarily should rely on the Rules rather than the inherent power.” *Id.* at 50. “[I]f in the informed discretion of the court, neither the statute nor the Rules are up to the task, the court may safely rely on its inherent power.” *Id.*

“Because of their very potency, inherent powers must be exercised with restraint and discretion.” *Id.* at 44. “A primary aspect of that discretion is the ability to fashion an appropriate sanction for conduct which abuses the judicial process.” *Id.* at 44–45. The Supreme Court has held that even “particularly severe sanction[s]” are “within the court’s discretion.” *Id.* at 45 (discussing “outright dismissal of a lawsuit” as a sanction).

A finding of subjective bad faith or something tantamount to it is necessary to support a sanction issued pursuant to a court’s inherent power. See *Purchasing Power, LLC v. Bluestem Brands, Inc.*, 851 F.3d 1218, 1223 (11th Cir. 2017). “A finding of bad faith is warranted where an attorney knowingly or recklessly raises a frivolous argument, or argues a meritorious claim for the purpose of harassing an opponent. A party also demonstrates bad faith by delaying or disrupting the litigation or hampering enforcement of a court order.” *Barnes v. Dalton*, 158 F.3d 1212, 1214 (11th Cir. 1998) (quoting *Primus Auto. Fin. Servs., Inc. v. Batarse*, 115 F.3d 644, 649 (9th Cir. 1997)); accord *Thomas v. Tenneco Packaging Co.*, 293 F.3d 1306, 1320 (11th Cir. 2002).

“If particularly egregious, the pursuit of a claim without reasonable inquiry into the underlying facts can be the basis for a finding of bad faith.” *Barnes*, 158 F.3d at 1214. “[I]n the absence of direct evidence of subjective bad faith, [the bad-faith] standard can be met if an attorney’s conduct is so egregious that it could only be committed in bad faith.” *Purchasing Power*, 851 F.3d at 1224–25; *accord Roadway Exp., Inc. v. Piper*, 447 U.S. 752, 767 (1980) (stating that inherent powers require a finding that “counsel’s conduct . . . constituted or was tantamount to bad faith”). “This is not the same as simple recklessness, which can be a starting point but requires something more to constitute bad faith.” *Purchasing Power*, 851 F.3d at 1225 (citing *Barnes*, 158 F.3d at 1214).

C. Findings and Conclusions as to Each Attorney and Butler Snow

Because the motions at issue are discovery motions under Rules 30 and 37, Rule 11 “does not apply.” Fed. R. Civ. P. 11(d); Docs. 174, 182. This appears to be an unintended anomaly in Rule 11: the advisory committee’s note indicates that discovery motions were excepted from Rule 11 because the committee expected Rules 26 and 37 to allow courts to address sanctionable misconduct in such motions, but Rules 26 and 37 furnish no basis for the court to address the false statements of law these attorneys made in discovery motions. *See* Fed. R. Civ. P. 11 advisory committee’s note 1993 amendment; Fed. R. Civ. P. 26, 37. Regardless, Rule 11 says what it says, it does not apply here, and this court has no authority to change that.

Further, it is unclear to the court that Alabama Rule of Professional Conduct 3.3 applies to the misconduct at issue here. On the one hand, inserting into court filings unverified legal citations generated by AI is wholly inconsistent with the duty of candor that Rule 3.3 enumerates. On the other hand, by its terms Rule 3.3 forbids only knowing misstatements of law, and these false statements occurred because none of the three attorneys at issue bothered to verify the hallucinated citations (and two of them did not know that the citations had been generated by AI). As far as the court can discern, the Alabama Supreme Court has not yet had the opportunity to consider whether Rule 3.3 applies to this specific kind of misconduct. Absent such guidance, the court will not extend that rule beyond its plain terms.

Likewise, Local Rule 83.1(f) does not clearly forbid this misconduct. Rule 83.1(f) forbids (among other things) violations of the Alabama Rules of Professional Conduct in this federal district;

it does not set out a separate and independent universe of forbidden conduct relevant here.

This series of gaps leaves the court with only its inherent authority. These are precisely the kind of gaps that the inherent authority must fill: although no specific rule expressly forbids the misconduct that occurred here, on the whole the rules make clear that it is serious misconduct ever to make false statements to a court, and no one here suggests that false statements generated by AI and parroted without verification in discovery motions are allowed. Indeed, Butler Snow appears to understand that it is a Rule 11 violation to sign a motion that parrots false statements generated by AI. *See* Doc. 195 at 5 (“Butler Snow does not dispute that it is within the Court’s discretion to sanction counsel’s conduct under Rule 11.”); Doc. 203 at 4 (Butler Snow, making arguments about appropriate sanctions under Rule 11 without discussing the exception for discovery motions).

The court thus assesses individually each lawyer’s conduct, as well as the firm’s, to determine whether it was bad faith or tantamount to it.

...

4. Matthew B. Reeves

Mr. Reeves admits that he utilized AI to generate the legal citations at issue, that he added them to both draft motions without verifying them, and that all of this was “contrary to the requirements of Butler Snow LLP and [his] obligations to this Court.” Doc. 194-2 ¶¶ 3–6. As the court understands Mr. Reeves’s position, he does not contest his responsibility in any way and would prefer to be held solely responsible. *See* Doc. 200 at 24. And the court credits Mr. Reeves’s representation that he will use his own experience in this case to warn law students and other lawyers of the consequences they might face if they make a similar decision regarding the use of AI. *See* Doc. 203-4 ¶¶ 3–5.

The court has no difficulty finding that Mr. Reeves’s misconduct was more than mere recklessness. In the light of repeated general warnings from federal courts about the risks of bogus citations generated by AI, as well as the persistent specific warnings, policies, and expectations of his colleagues and law firm with respect to AI, Mr. Reeves’s misconduct was particularly egregious. Having been so extensively alerted of the risk that AI will make things up, and having blown through all of his firm’s internal

controls designed to protect court filings from counterfeit citations, Mr. Reeves's repeated decisions to parrot citations generated by AI without verifying even one of them reflect complete and utter disregard for his professional duty of candor. This is recklessness in the extreme, and it is tantamount to bad faith. Accordingly, the court will impose an appropriate sanction under its inherent authority.

...

D. Sanctions

To exercise its inherent power with restraint and discretion, the court looks first to the purpose of that power. "The purpose of the inherent power is both to vindicate judicial authority without resorting to contempt of court sanctions and to make the non-violating party whole." *Purchasing Power*, 851 F.3d at 1225 (citing *Chambers*, 501 U.S. at 45–46). "This power is . . . for rectifying disobedience, regardless of whether such disobedience interfered with the conduct of the trial." *Id.*

To rectify the bad-faith misconduct in this case and vindicate the lawful authority of federal courts to keep proceedings free from falsehoods, the court will impose the least severe sanction that the court finds likely to deter future similar misconduct. As the court exercises its inherent power in this factual context, it assigns primary value to the deterrent function of a sanction, for several reasons. *First*, this kind of AI misuse is a serious and time-sensitive problem that, unless it is arrested promptly, will impose escalating undue costs on litigants, cause extensive disruptions for courts, and damage public confidence in the legal community and the integrity of the justice system. At a minimum, protecting judicial authority requires effective preventive measures designed to reduce the practical likelihood that this kind of AI misuse continues apace.

Second, Rule 11 assigns particular value to the deterrent function of a sanction. *See* Fed. R. Civ. P. 11(c)(4) (providing that sanctions "must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated"). Although Rule 11 does not control the court's analysis because the motions at issue happen to be discovery motions, it is persuasive authority about the purpose that a sanction for false statements of law must serve.

And *third*, there is persuasive precedent in this Circuit for calibrating sanctions issued pursuant to a court's inherent power to serve deterrence purposes. *See Boe v. Marshall*, 767 F. Supp. 3d

1226, 1295–97 (M.D. Ala. 2025) (imposing sanctions for bad-faith judge-shopping to serve deterrence purposes).

As the court considers an appropriate sanction, it also examines other cases involving false statements of law generated in the first instance by AI. In *Mata* and *Hayes*, which involved AI hallucinations that the lawyers first defended as real (before accepting responsibility), the district courts imposed modest monetary sanctions (ranging from \$1,500 to \$5,000) and notification requirements. *Mata*, 678 F. Supp. 3d at 449, 466; *Hayes*, 763 F. Supp. 3d at 1067, 1070, 1073.

Courts across the country have reacted similarly to other incidents involving misuse of artificial intelligence where the involved lawyers promptly accepted responsibility. *See, e.g., Versant Funding LLC v. Teras Breakbulk Ocean Navigation Enters., LLC*, No. 17-cv-81140, 2025 WL 1440351, at *7 (S.D. Fla. May 20, 2025) (imposing monetary sanctions ranging from \$500 to \$1,000); *Ramirez v. Humala*, No. 24-cv-424-RPK-JAM, 2025 WL 1384161, at *3 (E.D.N.Y. May 13, 2025) (imposing a \$1,000 monetary sanction); *Nguyen v. Savage Enters.*, No. 4:24-cv-00815-BSM, 2025 WL 679024, at *1 (E.D. Ark. Mar. 3, 2025) (imposing a \$1,000 monetary sanction); *Wadsworth*, 348 F.R.D. at 499 (imposing monetary sanctions ranging from \$1,000 to \$3,000); *Gauthier*, 2024 WL 4882651 at *3 (imposing a \$2,000 monetary sanction); *see also Lacey v. State Farm Gen. Ins. Co.*, No. 2:24-cv-05205-FMO-MAA, 2025 WL 1363069, at *5 (C.D. Cal. May 5, 2025) (ordering plaintiff’s law firms to pay defendants \$31,100 in fees and costs).

And at least some of these courts have sanctioned law firms and/or lawyers who were unaware of the AI misuse in real time. *See, e.g., Wadsworth*, 348 F.R.D. at 493–94, 498–99 (sanctioning attorneys who “were not provided a copy of the [sanctionable] Motions to review prior to filing” and were not aware that artificial intelligence had been utilized but had delegated their signatures, reasoning that they “had a nondelegable duty to ensure a motion or filing is supported by existing law”); *Versant Funding LLC*, 2025 WL 1440351, at *5–*7 (imposing sanctions on local counsel for “filing a response without ensuring the accuracy of the case citation and principle of law” despite “[a]king] no part in” *pro hac vice* counsel’s drafting process utilizing AI).

Having considered these cases carefully, the court finds that a fine and public reprimand are insufficient here. If fines and public

embarrassment were effective deterrents, there would not be so many cases to cite. And in any event, fines do not account for the extreme dereliction of professional responsibility that fabricating citations reflects, nor for the many harms it causes. In any event, a fine would not rectify the egregious misconduct in this case.

The court finds that (1) a public reprimand paired with a limited publication requirement, (2) disqualification, and (3) referral to applicable licensing authorities are necessary to rectify the misconduct here and vindicate judicial authority. Disqualification fits well: lawyers should know that if they make false statements in court proceedings, they will no longer have the professional opportunity to participate in those proceedings. Similarly, litigants should have assurance that false statements will not be allowed in their cases, and no court should be required to allow an attorney responsible for making false statements in the proceedings to continue in the proceedings. Likewise, a public reprimand with limited publication fits: it makes other clients, counsel, and courts aware of the lawyer's misconduct so that they may assess whether any measures are needed to protect their proceedings. Finally, the referral to licensing authorities is a bare minimum in the light of the primary nature of a lawyer's professional responsibility not to make things up.

The court further finds that no lesser sanction will serve the necessary deterrent purpose, otherwise rectify this misconduct, or vindicate judicial authority. Mr. Cranford, Mr. Reeves, and Mr. Lunsford are well-trained, experienced attorneys who work at a large, high-functioning, well-regarded law firm. They benefitted from repeated warnings, internal controls, and firm policies about the dangers of AI misuse. They have regular access to gold-standard legal research databases. They must have known they would be deeply embarrassed in this kind of situation, and that there could be harsh consequences with the court and their law firm. And yet here we are. The reality that this lapse in judgment presented in the most spectacularly unforced fashion underscores the need for more than a fine and reprimand.

The court further finds that any greater sanction would be excessive in the vindication of judicial authority. Butler Snow's internal review, as well as Morgan Lewis's independent investigation, reassure the court that suspension from the practice of law in the Northern District is not necessary to protect other courts or cases. And the court is mindful and appreciative that the involved lawyers are sincerely apologetic and remorseful, and that Mr. Reeves is committed to educating others about these matters as a

preventive measure.

The court is well aware that disqualification “often work[s] substantial hardship on the client,” *Norton v. Tallahassee Mem’l Hosp.*, 689 F.2d 938, 941 n.4 (11th Cir. 1982), but the court does not find hardship here. At the show cause hearing, the representative of the Alabama Attorney General did not suggest any hardship for Defendant Dunn. *See* Doc. 200 at 38–40. This makes sense: the Attorney General’s Office has a ready team of capable attorneys who can step in to represent Defendant Dunn, some of whom already represent other defendants in this case. And even if there is some minor hardship, it must yield to the seriousness of the misconduct here. The case will remain stayed for thirty days for Defendant Dunn’s new counsel to prepare to participate.

...

III. CONCLUSION

The court **ORDERS** as follows:

1. The court **PUBLICLY REPRIMANDS** attorneys Matthew B. Reeves, William J. Cranford, and William R. Lunsford for their misconduct described in this order;

2. To effectuate their reprimand, Mr. Reeves, Mr. Cranford, and Mr. Lunsford are **ORDERED** to provide a copy of this order to their clients, opposing counsel, and presiding judge in every pending state or federal case in which they are counsel of record. They shall also provide a copy of this order to every attorney in their law firm. They must comply with this requirement within ten days from the date of this order and must certify to the court within twenty-four hours of that compliance that the requirement has been met;

3. To further effectuate the reprimands and deter similar misconduct by others, the Clerk of Court is **DIRECTED** to submit this order for publication in the Federal Supplement;

4. Mr. Reeves, Mr. Cranford, and Mr. Lunsford are **DISQUALIFIED** from further participation in this case;

5. Mr. Reeves, Mr. Cranford, and Mr. Lunsford are **DIRECTED** to provide the Clerk of Court with a listing of jurisdictions in which they are licensed to practice law within twenty-four hours of this order;

6. The Clerk of Court is **DIRECTED** to serve a copy of this order on the General Counsel of the Alabama State Bar and any other applicable licensing authorities for further proceedings as appropriate; and

7. Daniel J. Chism, Lynette E. Potter, and Butler Snow LLP are **RELEASED WITHOUT SANCTION** from these disciplinary proceedings.

DONE and ORDERED this 23rd day of July, 2025.

4. The Commission brings this disciplinary action in accordance with the Chief Disciplinary Counsel's mandatory administrative obligations, as set forth in TRDP 9.01.

5. Respondent was disciplined by a federal court or agency within the meaning of TRDP 9.01. The Sanctions Order sets forth that the United States District Court (Northern District of Alabama – Southern Division) found that the hallucinated citations in the two motions at issue were false statements of law, and directed its clerk to serve a copy of the Sanctions Order on the jurisdictions in which Respondent was licensed to practice law.

6. The federal court's use of its inherent authority to Publicly Reprimand Respondent for making "false statements to the court", corresponds to similar obligations in the Texas Disciplinary Rules of Professional Conduct (the "TDRPCs"), specifically Rule 3.03(a)(1) of the TDRPC, which sets forth that "A lawyer shall not knowingly make a false statement of material fact or law to a tribunal," and Rule 8.04(a)(3) of the TDRPCs. TEX. DISCIPLINARY R. PROF'L CONDUCT 3.03(a)(1) and 8.04(a)(3).

7. The Commission prays that, pursuant to Rule 9.02, Texas Rules of Disciplinary Procedure, this Board issue notice to Respondent, containing a copy of this Petition with exhibits, and an order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice, why the imposition of reciprocal discipline in this state would be unwarranted. The Commission also prays that upon trial of this matter this Board enter a judgment

imposing discipline identical, to the extent practicable, with that imposed by the United States District Court (Northern District of Alabama – Southern Division), unless the Respondent proves by clear and convincing evidence that a Rule 9.04 defense applies. Further, the Commission requests such other relief to which it may be entitled.

Respectfully submitted,

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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that upon receipt of the Order to Show Cause from the Board of Disciplinary Appeals, I will serve a copy of this Petition for Reciprocal Discipline and the Order to Show Cause, by Email as follows:

Matthew Brett Reeves
1026 Appalachee Drive SE, Huntsville, AL 35801
Via Email to mr2351@gmail.com



Amanda M. Kates

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

FRANKIE JOHNSON,

Plaintiff,

v.

JEFFERSON S. DUNN, *et al.*,

Defendants.

Case No.: 2:21-cv-1701-AMM

SANCTIONS ORDER

This case is before the court because incarcerated Plaintiff Frankie Johnson accused Defendant Jefferson Dunn, the former Commissioner of the Alabama Department of Corrections, of fabricating citations to legal authorities in two motions. Docs. 187, 193. Three attorneys for Defendant Dunn (Matthew B. Reeves, William J. Cranford, and William R. Lunsford) confirmed in writing and at a hearing that the citations were hallucinations of a popular generative artificial intelligence (“AI”) application, ChatGPT. *See* Docs. 194, 200. In simpler terms, the citations were completely made up.

The court must determine an appropriate sanction. Fabricating legal authority is serious misconduct that demands a serious sanction. In the court’s view, it demands substantially greater accountability than the reprimands and modest fines that have become common as courts confront this form of AI misuse. As a practical



matter, time is telling us – quickly and loudly – that those sanctions are insufficient deterrents. In principle, they do not account for the danger that fake citations pose for the fair administration of justice and the integrity of the judicial system. And in any event, they have little effect when the lawyer’s client (here, an Alabama government agency) learns of the attorney’s misconduct and continues to retain him.

An appropriate and reasonable sanction must (1) have sufficient deterrent force to make this misuse of AI unprofitable for lawyers and litigants, (2) correspond to the extreme dereliction of professional responsibility that sham citations reflect (whether generated by artificial or human intelligence), and (3) effectively communicate that made-up authorities have no place in a court of law.

For the reasons explained below, the court **PUBLICLY REPRIMANDS** Mr. Reeves, Mr. Cranford, and Mr. Lunsford for making false statements to the court; **ORDERS** publication of this order to effectuate that reprimand; **DISQUALIFIES** them from further participation in this case; and **REFERS** this matter to the Alabama State Bar and other applicable licensing authorities.

In the light of the results of the independent investigation commissioned by the attorneys’ law firm, the court exercises its discretion not to suspend them from practice in the Northern District of Alabama. The court **RELEASES WITHOUT SANCTION** attorneys Daniel J. Chism and Lynette E. Potter, and the law firm Butler Snow LLP (“Butler Snow”) from disciplinary proceedings.

I. BACKGROUND

A. Procedural Background

On May 7, 2025, Defendant Dunn filed a motion for leave to take the deposition of an incarcerated person under Federal Rule of Civil Procedure 30(a)(2)(B), which is required to depose any incarcerated person. Doc. 174. The signature block of that motion contained the names of four attorneys from the Butler Snow law firm: William J. Cranford, William R. Lunsford, Matthew B. Reeves, and Daniel J. Chism. *Id.* at 4. Mr. Cranford electronically filed the motion with his filing credentials. Plaintiff Johnson, the incarcerated person at issue, objected to being deposed prior to receipt of certain documents from the Alabama Department of Corrections that were the subject of a motion to compel by him. Doc. 186 at 2; *see also* Doc. 169. All parties agreed that Plaintiff Johnson was due to be deposed; the dispute was simply about when (Defendant Dunn wanted to conduct the deposition the week of June 3rd and Plaintiff Johnson wanted sometime later, after receipt of the documents at issue in his motion to compel).

On May 8, 2025, Defendant Dunn sought leave of court to file a motion to compel interrogatory answers and document production from Plaintiff Johnson. Doc. 178. The next day, the court granted that leave. Doc. 179. At 11:21 a.m.¹ on May 12, 2025, Defendant Dunn filed an unopposed motion for excess pages as to

¹ All times noted in this order are in Central Daylight Time.

the forthcoming motion to compel. Doc. 180. The court granted the motion for excess pages at 12:39 p.m. Doc. 181. Then, at 4:21 p.m. on May 12, 2025, Defendant Dunn filed his motion to compel. Doc. 182. Four Butler Snow attorneys appeared on the signature block of that motion: Mr. Cranford, Mr. Lunsford, Mr. Reeves, and Ms. Potter. *Id.* at 20. Ms. Potter has not entered a notice of appearance in this case.

Plaintiff Johnson's motion to compel became fully briefed on May 12, 2025. *See* Doc. 183. On May 14, 2025, the court granted in part and denied in part Plaintiff Johnson's motion to compel. Doc. 184.

The next day, Plaintiff Johnson filed a response to the motion for leave to depose him. Doc. 186. Plaintiff Johnson objected to a deposition the week of June 3rd on several grounds, including that counsel for Defendant Dunn appeared to have fabricated citations to legal authority in his motion for leave and motion to compel, "possibly through the use of generative artificial intelligence." *Id.* at 1.

In total, there were five problematic citations across two motions:

- Defendant Dunn cited "United States v. Baker, 539 F. App'x 937, 943 (11th Cir 2013)" as "confirming broad discovery rights under Rules 26 and 30." Doc. 174 at 2. As Plaintiff Johnson pointed out, "[w]hile *United States v. Baker*, 529 Fed. Appx. 987 (11th Cir. 2013) is an actual case, it is an appeal challenging a criminal's sentencing enhancement." Doc. 186 at 2. And the case found in the Federal Appendix numbers cited by Defendant Dunn does not discuss discovery. *See Williams v. Morahan*, 539 F. App'x 937 (11th Cir. 2013).
- Defendant Dunn cited "Kelley v. City of Birmingham, 2021 WL 1118031, at *2 (N.D. Ala. Mar. 24, 2021)" for the proposition that the district court "refus[ed] to delay deposition based on unrelated discovery issues."

Doc. 174 at 2. The only case with that style which Plaintiff Johnson (and the court) could find was an Alabama Court of Appeals case from 1939 that dealt with a traffic offense. Doc. 186 at 3; *see Kelley v. City of Birmingham*, 28 Ala. App. 644, 189 So. 921 (Ala. Ct. App. 1939).

- Defendant Dunn cited “Greer v. Warden, FCC Coleman I, 2020 WL 3060362, at *2 (M.D. Fla. June 9, 2020)” as “rejecting inmate’s request to delay deposition until additional discovery was completed.” Doc. 174 at 2. This case does not exist, nor does a case exist with a similar citation for that proposition of law. *See* Doc. 186 at 3.
- Defendant Dunn cited “Wilson v. Jackson, 2006 WL 8438651, at *2 (N.D. Ala. Feb. 27, 2006)” with the parenthetical that it was an opinion “granting [a] Rule 30(a)(2)(B) motion and finding no good cause to delay deposition of incarcerated plaintiff.” Doc. 174 at 2. There is no such case, and that Westlaw number directs to a maritime personal injury case that does not discuss discovery. *See Douglas v. Ingram Barge Co.*, No. CV 3:04-0383, 2006 WL 8438651 (S.D.W. Va. Sept. 15, 2006); *see also* Doc. 186 at 4.
- Defendant Dunn cited “Williams v. Asplundh Tree Expert Co., No. 3:05-cv-479, 2006 WL 3343787, at *4 (M.D. Fla. Nov. 17, 2006)” to support the statement that, “General objections are not useful and will not be considered by the Court. Objections should be specific and supported by a detailed explanation.” Doc. 182 at 13. Though a case with that style exists, no case with that combination of style and proposition exists. *See Williams v. Asplundh Tree Expert Co.*, No. 3:05-cv-00479-VMC-MCR (M.D. Fla. July 23, 2013); *see also* Doc. 186 at 4.

At 12:14 p.m. on Friday, May 16, 2025, the court issued a show cause order noting that “[i]n the light of the seriousness of the accusation, the court ha[d] conducted independent searches for each allegedly fabricated citation, to no avail,” and ordering the signatories of Defendant Dunn’s motion for leave, and the Butler Snow law firm, “to show good cause, if there be any, why they should not be sanctioned under Federal Rule of Civil Procedure 11, the court’s inherent authority,

Local Rule 83.1(f), and/or Alabama Rule of Professional Conduct 3.3 for making false statements of fact or law to the court, not later than 3:00 PM Central Daylight Time on Monday, May 19, 2025.” Doc. 187 at 1–2 (emphasis omitted). The court also set a show cause hearing for 9:00 a.m. Central Daylight Time on Wednesday, May 21, 2025 at the Hugo Black United States Courthouse. *Id.* at 2.

Three hours after the order to show cause issued, Mr. Lunsford and Mr. Chism filed a motion to be excused from the show cause hearing. Doc. 188. Mr. Chism and Mr. Lunsford represented that “[n]either [of them] participated in any way in the drafting or filing of the Motion for Leave to Depose Incarcerated Persons,” and that Mr. Lunsford “must be in Macon, Georgia to [] prepare for and attend a previously set evidentiary hearing before the U.S. District Judge Marc Treadwell in the United States District Court for the Middle District of Georgia.” *Id.* at 2.

The court denied their requested excuse at 6:39 p.m. that same day:

The hearing before Judge Treadwell is set for Thursday, May 22, 2025, at 9:00 AM Eastern Standard Time—twenty-three hours after the show cause hearing in this case. *See Ricardo Daughtry, et al. v. Shawn Emmons, et al.*, No. 5:15-cv-00041-MTT (M.D. Ga. filed Feb. 12, 2015). The May 21, 2025 show cause hearing will last no longer than an hour. Accordingly, Mr. Lunsford will have ample time to travel to Georgia in advance of his hearing the next day, and the motion to excuse as to Mr. Lunsford and Mr. Chism is **DENIED**.

Doc. 190 at 2. Several attorneys representing other parties sought and received excuses from the show cause hearing. Docs. 189–92, 196–97.

On Monday, May 19, 2025, the court issued a supplemental show cause order:

Out of an abundance of caution, the court **CLAIRIFIES** its show cause order to the extent that (1) Defendant Dunn’s motion to compel is also the subject of that show cause order and will be discussed at the hearing set for Wednesday, May 21, 2025 at 9:30 AM Central Daylight Time, and (2) in addition to the four attorneys on the motion for leave, Ms. Lynette E. Potter is **ORDERED** to show good cause, if there be any, why she should not be sanctioned under Federal Rule of Civil Procedure 11, the court’s inherent authority, Local Rule 83.1(f), and/or Alabama Rule of Professional Conduct 3.3 for making false statements of fact or law to the court.

Doc. 193 at 2–3.

Later that day, Mr. Lunsford, Mr. Reeves, Mr. Cranford, and Mr. Chism filed their response to the show cause orders, admitting that the citations were hallucinated by ChatGPT: “In short, attorney Matt Reeves used ChatGPT to obtain case citations in support of two arguments made in the motions at issue without verifying their accuracy, and those citations proved to be false.” Doc. 194 at 1. The response included declarations from each attorney. *See* Docs. 194-1–4.

Butler Snow then filed its response, called the events “unacceptable,” and requested that “that any sanctions be proportionate to the wrong and commensurate with each attorney’s role in these events,” “that its client not be sanctioned, and for counsel to have the opportunity to file an amended motion with correct citations.” Doc. 195 at 1–2. Ms. Potter later filed her response, Doc. 198, and a declaration, Doc. 198-1.

The court held the show cause hearing on May 21, 2025. Doc. 200. Counsel of record who were not previously excused, representatives from Butler Snow, and

a representative from the Alabama Attorney General’s Office appeared.

Following the show cause hearing, the court allowed “supplemental responses to the order to show cause and briefs from anyone else who wishe[d] to file [one].” Doc. 199. Additionally, the court granted leave for Defendant Dunn to file corrected versions of the motions at issue, which he later filed. *See* Docs. 201–02. Butler Snow filed a supplemental response to the show cause orders on June 2, 2025. Doc. 203.

B. The Attorneys

Mr. Lunsford, Mr. Reeves, Mr. Cranford, Mr. Chism, and Ms. Potter spoke at the show cause hearing and filed supplemental declarations. Docs. 200, 203–3–7.

1. William J. Cranford

Mr. Cranford is of counsel at Butler Snow. Doc. 194-3 ¶ 2. As to the motion for leave to depose, Mr. Cranford stated in his initial declaration that: (1) he “drafted the initial version of Dunn’s Motion for Leave to Depose Incarcerated Persons”; (2) he “submitted the draft Motion for Leave for review to [his] direct supervisors, Matt Reeves, and Bill Lunsford” while copying Mr. Chism; (3) “[o]n May 7, 2025, Matt Reeves returned revisions to the draft Motion for Leave to [him]” and that “[t]he revisions included the string citation at issue . . . in paragraph two of the Motion for Leave”; (4) although he “reviewed [the edits] for grammatical and typographical issues, [he] did not conduct an independent review of the legal authorities added” and “incorporated the . . . revisions into a final draft of the Motion for Leave for

filing with the Court”; (5) “[u]pon approval from Matt Reeves, [he] electronically signed and filed the Motion for Leave on May 7, 2025”; and (6) he “possessed no knowledge that Matt Reeves utilized generative artificial intelligence to generate these citations when [he] filed the Motion.” *Id.* ¶¶ 4–9.

As to the motion to compel, Mr. Cranford stated in his initial declaration that: (1) he “drafted the initial version of the Motion to Compel”; (2) “[o]n May 10, 2025, [he] submitted the draft Motion to Compel for review to [his] direct supervisors, Matt Reeves, and Bill Lunsford, and copied Daniel Chism”; (3) “[o]n May 11, 2025, Matt Reeves returned revisions to the draft Motion to Compel to [him]” and “included the block citations located on page thirteen of the Motion to Compel”; (4) that same day, “after receiving the revisions, [he] reviewed them for grammatical and typographical issues,” but “did not conduct an independent review of the legal authorities added” and “incorporated the . . . revisions into a final draft of the Motion to Compel”; (5) he “submitted the revised Motion to Compel to Matt Reeves and Bill Lunsford for final approval on May 11, 2025, and received no further revisions”; (6) he “electronically signed and filed the Motion to Compel on May 12, 2025”; (7) “at the time of filing, [he] lacked any knowledge that Matt Reeves utilized generative artificial intelligence to generate the[problematic] citations”; and (8) he “erroneously included Lynette Potter in the signature block of the Motion to Compel for the Butler Snow attorneys of record in the case.” *Id.* ¶¶ 12–14, 17–21.

At the show cause hearing, Mr. Cranford apologized and “accept[ed] full responsibility.” Doc. 200 at 18. He described his understanding of that responsibility: “I signed these motions. I understand that by signing these motions, I was verifying and accepting responsibility for the contents of those motions. And I take full responsibility for that. There’s no excuse for not verifying these citations . . .” *Id.* at 18–19. He also described his practice for edits from supervisors:

[I]n my normal practice, when I submit a draft to Mr. Reeves or Mr. Lunsford, if I receive revisions back, my typical practice is to incorporate those revisions, make sure they are factually accurate for the case since I usually have a more detailed understanding of the facts and the history, background of the case, and check for typographical or grammatical errors. In my normal practice, I do not typically check citations that are added from Mr. Lunsford or Mr. Reeves.

Id. at 19. Mr. Cranford represented that when he received the edits from Mr. Reeves, the edits in the motion for leave to depose were in redline and the edits in the motion to compel were in plain text. *Id.* at 19–20. He further represented that he was “unaware of any other instances of lawyers with [his] group using ChatGPT or an outside AI source for legal research or drafting of a legal document” besides Westlaw’s CoCounsel product. *Id.* at 20.

In a supplemental declaration, Mr. Cranford stated that he has “never used any publicly accessible, generative artificial intelligence chatbot, such as OpenAI’s ChatGPT, to generate legal or other authority citations for submission to any court.” Doc. 203-5 ¶ 2.

Mr. Cranford did not have a “specific position” on an appropriate sanction other than to say that it is “within [the court’s] discretion” and that he “accept[s] whatever the Court deems to be appropriate in this instance.” Doc. 200 at 20–21.

2. Matthew B. Reeves

Mr. Reeves is a partner and assistant practice group leader in Butler Snow’s constitutional and civil rights litigation group. Doc. 195 at 2. He stated in his declaration that: (1) he was “responsible for revising Paragraph 2 of the Motion for Leave and Page 13 of the Motion to Compel, including the legal authorities cited therein”; (2) he “performed a search [on ChatGPT] to identify supporting case law for the proposition that discovery may proceed even during the pendency of other discovery issues, as to the Motion for Leave, and that general or boilerplate objections are not effective, as to the Motion to Compel”; (3) he “failed to verify the case citations returned by ChatGPT through independent review in Westlaw or PACER before including them in the Motion for Leave and Motion to Compel”; and (4) that the citations at issue are inaccurate or do not exist. Doc. 194-2 ¶¶ 3–5. Mr. Reeves further stated that this “was a serious error in judgment, and contrary to the requirements of Butler Snow LLP and [his] obligations to this Court.” *Id.* ¶ 6.

At the show cause hearing, Mr. Reeves stated that he “had limited use” “with various AI products” “since approximately March of 2024.” Doc. 200 at 21. Besides Westlaw’s CoCounsel product, Mr. Reeves stated that he used ChatGPT. *Id.* at 21–

22. He “initially used [ChatGPT] for personal reasons, to look up things related to dietary-related matters,” “to look up things when [his family went] on trips,” “and when [his] youngest son started looking at colleges, doing some research on that for colleges and universities.” *Id.* Then, he began using ChatGPT professionally. *Id.* at 22. Mr. Reeves gave examples of “basic” tasks such as “a general search of any sort of background, history kind of stuff” for “a witness that was going to be deposed” or “to go get a survey of what was out there publicly available . . . to get an idea of what the body of policies in the corrections world looked like.” *Id.* He also stated that he “was aware of the limitation on use [of artificial intelligence products at Butler Snow]; and in this instance . . . [he] did not comply with the [firm’s] policy,” and that these are “the two instances” in which he used artificial intelligence and “did not verify the citations.” *Id.* at 23.

In a supplemental declaration, Mr. Reeves stated that “[e]xcept in the motions already subject to the Court’s Order to Show Cause,” he has “never used any publicly accessible, generative artificial intelligence chatbot, such as OpenAI’s ChatGPT, to generate legal or other authority citations for submission to any court.” Doc. 203-4 ¶ 2. In addition, Mr. Reeves stated that he is working with Anil Mujumdar, counsel for Plaintiff Johnson and a professor at the University of Alabama School of Law, to develop “an informative program to educate law students regarding the risks of AI.” *Id.* ¶¶ 3–4. Mr. Reeves “intend[s] to pursue this program and a similar program

at Samford University's Cumberland School of Law and Faulkner University's Thomas Goode Jones School of Law regardless of whether the Court orders it as relief in this case." *Id.* ¶ 5.

Mr. Reeves's position on sanctions "is that [he] understand[s] it is well within [the court's] discretion to provide whatever sanction [the court] deem[s] appropriate," and because he is "the one responsible for the error," he hopes that the court "would not punish [his] colleagues for that." Doc. 200 at 24.

3. William R. Lunsford

Mr. Lunsford is a partner and practice group leader of the constitutional and civil rights litigation group at Butler Snow. Doc. 194-1 ¶ 3. Mr. Lunsford began his initial declaration by "apologiz[ing] to the Court, to all parties, to opposing counsel and to the State of Alabama for the terrible decisions that led to an erroneous filing." *Id.* ¶ 2. He also stated that "[u]pon receipt of the Court's [show cause] Order (Doc. No. 187), [he] promptly contacted the Commissioner of the Alabama Department of Corrections, the General Counsel for the Department of Corrections and the Chief Counsel for the Attorney General to inform them of the Court's Order." *Id.* ¶ 5.

At the show cause hearing, the court asked about Mr. Lunsford's motion to be excused:

THE COURT: . . . When you filed your motion to be excused, I think a few hours had elapsed since I had issued the show cause order.

Had you at the time you filed the motion to be excused performed any

work to understand the extent or nature of the hallucinated citations or whether there might be any other such citations in this case or in others?

MR. LUNSFORD: The short answer is no, Your Honor. It was filed quickly in haste on a Friday afternoon when I did not appreciate the full context of the Court's order.

Doc. 200 at 25.

In his declaration, Mr. Lunsford also described his role in representing the Alabama Department of Corrections and the State of Alabama:

I have had the honor of representing the Alabama Department of Corrections and its officials in various capacities (i.e. as directly retained counsel or counsel retained by third party contractors under indemnity obligations) over more than twenty (20) years. My name and signature appear on all of the current public contracts for professional services provided by outside legal counsel to the State of Alabama (the "State") on a limited number of matters for which the State elects to hire outside counsel. As such, I am the principal responsible attorney for all matters currently assigned to the firm regarding the Alabama Department of Corrections ("ADOC"). As a general matter, we have been retained to represent the State in systemic reform litigation brought against ADOC as well as a small number of individual plaintiff cases with a factual nexus to our pending systemic reform matters. I, along with my partner Matt Reeves, routinely monitor the assignment of attorneys within our firm to our matters for the State and its Department of Corrections in effort to effectively manage the representation of the State in each assigned matter.

For purposes of representing current and former ADOC officials in the individual plaintiff classes, such as the Johnson matter, we routinely assign one or two younger attorneys to the matter with Matt Reeves and I providing supervisory coverage. Due to the nature of our cases and work, Matt Reeves provides more of the day-to-day oversight, supervision and direction on the individual plaintiff's cases filed against current and/or former ADOC officials; however, I also provide supervision – particularly in times when the demands of our other cases or clients or personal events render Matt unavailable. Dan Chism and

Will Cranford have been primarily assigned to represent ADOC and its current and former officials in the individual plaintiff cases since they began working with us more than two (2) years ago.

Doc. 194-1 ¶¶ 7–8; *see also* Doc. 200 at 25–26 (show cause hearing transcript).

As to the motion for leave to depose, Mr. Lunsford stated that he did not review the draft due to other work obligations. Doc. 194-1 ¶ 9. Mr. Lunsford stated that he did review the motion to compel:

As with the Motion for Leave, Will Cranford drafted the initial Motion to Compel and he transmitted the draft to Matt Reeves for review at 11:43 a.m. on Saturday, May 10, 2025. Matt responded with revisions to the original draft at approximately 2:45 a.m. on Sunday, May 11, 2025. Will recirculated another draft of the Motion to Compel incorporating the revisions of Matt Reeves at 7:29 p.m. on Sunday, May 18, 2025. I briefly scanned the document on Sunday night and responded to Will via email within approximately fifteen minutes, indicating that I did not have any changes. My brief review focused more on the facts outlined as the basis for the motion to compel and the bolded headings of the legal arguments. I did not conduct any detailed or substantive review of the legal authorities. Given that the document had already undergone a review by Matt Reeves, I did not conduct any level of detailed review. I certainly did not conduct the level of detailed review that I would otherwise conduct if I was the sole reviewing attorney. Moreover, from my personal experiences with Will Cranford over the last two years, he has consistently demonstrated proficiency in promptly incorporating written feedback from his supervising attorneys and, as such, I did not have significant concerns about Will's incorporation of the changes provided by Matt Reeves.

Id. ¶ 10.

Mr. Lunsford described Mr. Reeves adding legal citations as a supervisory attorney to be “atypical” and “rare” in their group practice. *Id.* ¶ 11. He further stated:

[O]ur historical process creates an expectation and mutual

understanding that the attorney crafting and adding legal authorities ensures their accuracy and, as such, I would not have expected Will Cranford to conduct such a review of a senior, supervisory attorney's additional legal arguments or authorities. Finally, this is the only instance in over a decade of working with Matt Reeves when I have ever encountered an instance when he added a citation that he failed to validate.

Id.

At the show cause hearing, when the court asked Mr. Lunsford to provide the “basis for [his] expectation that Mr. Cranford would have affixed his signature to the motions without reviewing the additional citations,” Mr. Lunsford stated that “much of the law” and “much of the precedent” between the cases he oversees are “the same” “so there are a lot of occasions when Matt [Reeves] or [he] will see authority and/or see a place where authority might be missing and go pull from [their] other available resources and plug that into the document.” Doc. 200 at 27. “And so the practice, the cadence that’s developed over [almost fifteen years] is most of everything [Mr. Reeves or Mr. Lunsford] pull is from another brief or another previous writing where [they] know other authority exists.” *Id.*

In his declaration, Mr. Lunsford described Butler Snow’s “proactive” approach to artificial intelligence:

[Butler Snow] has been proactive in investigating, warning against and attempting to establish firm guidance on the use of the ever-evolving availability of products generated utilizing artificial intelligence. Under firm policy, the use of ChatGPT for legal research requires written approval from a practice group leader. I have yet to receive or approve any such request. I can state with certainty that our Firm has made the

limitations upon the use of artificial intelligence abundantly clear to all of our attorneys. The conduct reported in this instance flies in the face of known Firm policy, which the Firm will handle internally. Moreover, I was not aware of any of our attorneys relying upon artificial intelligence of any kind to prepare any of our legal filings and I can assure this Court that I along with the leadership of the Firm are revisiting this issue to evaluate ways that we can ensure that these instances do not occur again.

Doc. 194-1 ¶ 12. In addition, at the show cause hearing, Mr. Lunsford stated that his team had discussions about Westlaw’s artificial intelligence program, CoCounsel, and “a discussion when [their] vendor for court reporting transcripts began providing [them], free of charge for a period of time, AI summaries of a deposition.” Doc. 200 at 28–29. Mr. Lunsford recalled that “there was equal parts amazement and concern,” with “an immediate clear recognition that those [deposition] summaries could never be relied upon in drafting any documents.” *Id.* at 29.

Mr. Lunsford represented at the show cause hearing that he “spent probably a collective four hours going through emails and reviewing redlines of drafts that Mr. Reeves had circulated,” and did not find any additional problems like the ones at issue here. *Id.* at 30–31. That review included “three mediation statements,” “a response to a court-monitoring report,” “some smaller motions for leave,” and “some summary judgment motions,” but he also represented that “the firm’s response to this is not complete yet.” *Id.* at 30–33.

In a supplemental declaration, Mr. Lunsford stated that he has “never used any publicly accessible, generative artificial intelligence chatbot, such as OpenAI’s

ChatGPT, to generate legal or other authority citations for submission to any court.”

Doc. 203-3 ¶ 2.

Mr. Lunsford did not have a position on appropriate sanctions that differed from that of Butler Snow. Doc. 200 at 33.

4. Daniel J. Chism

Mr. Chism is an associate at Butler Snow. Doc. 194-4 ¶ 2. In his declaration, he stated that although he “was copied on emails circulating drafts,” he “did not draft, revise, or review the Motions [at issue].” *Id.* ¶ 4. Mr. Chism reaffirmed that statement at the show cause hearing. Doc. 200 at 17–18. In a supplemental declaration, he stated that he has “never used any publicly accessible, generative artificial intelligence chatbot, such as OpenAI’s ChatGPT, to generate legal or other authority citations for submission to any court.” Doc. 203-6 ¶ 2.

5. Lynette E. Potter

Ms. Potter is an attorney at Butler Snow. Doc. 198-1 ¶ 2. In her declaration, she stated that she “did not draft, edit, review, supervise, or approve the Motions or any drafts of the Motions,” and “possessed no knowledge related to the preparation or filing of the Motions or any of their contents until May 16, 2025, when the Court entered its Show Cause Order.” *Id.* ¶ 5. Ms. Potter reaffirmed those statements at the show cause hearing. Doc. 200 at 17–18. In a supplemental declaration, she stated that she has “never used any publicly accessible, generative artificial intelligence

chatbot, such as OpenAI’s ChatGPT, to generate legal or other authority citations for submission to any court.” Doc. 203-7 ¶ 2.

C. Butler Snow

Butler Snow filed an initial response, a supplemental response, and had representatives at the show cause hearing. *See* Docs. 195, 200, 203. Benjamin Watson, Butler Snow’s general counsel, represented at the show cause hearing that Butler Snow believes that Mr. Lunsford and Mr. Chism’s motion to be excused from the show cause hearing “should not have been filed” and that the firm was unaware of the motion before it was filed. Doc. 200 at 12–13.

Mr. Watson further represented at the show cause hearing that Butler Snow did not find similar issues in other filings in this case and within “nine filings from . . . three different cases.” *Id.* at 13–14.

Butler Snow expanded this review after the show cause hearing and detailed those efforts in its supplemental response. That “extensive review” included examining “all filings in all Alabama federal courts and the Eleventh Circuit Court of Appeals on or after April 1, 2023, where counsel of record from this case, and also Lynette Potter, appeared on any filing.” Doc. 203 at 1 (footnote omitted). “In total, the Butler Snow team reviewed 52 Alabama federal court dockets; of those, 40 dockets contained substantive citations for review. Butler Snow attorneys examined every citation in those 40 dockets and did not find any additional apparent AI-

generated ‘hallucinations.’” *Id.* at 2 (citations omitted).

Separately, Butler Snow “at its own cost and expense” engaged Morgan, Lewis & Bockius LLP (“Morgan Lewis”) to conduct an independent review. *Id.* at 2 & n.2. A team of twenty-eight attorneys at Morgan Lewis “verif[ied] all citations in those same 40 dockets in Alabama federal courts and the Eleventh Circuit Court of Appeals.” *Id.* at 2. “In all, Morgan Lewis reviewed more than 2,400 separate legal citations across 330 filings.” *Id.*

Scott Milner, a partner at Morgan Lewis, stated in a declaration that the review revealed no additional “legal citations that were fabricated,” nor a legal citation that “was to a legitimate source but did not bear on the proposition for which it was cited.” Doc. 203-2 ¶ 36. Mr. Milner is the practice group leader of the eData Practice Group at Morgan Lewis and has extended his practice “[o]ver the last several years” to artificial intelligence issues. *Id.* ¶¶ 1, 6.

Butler Snow also described its artificial intelligence policies both prior to and in response to this episode. To that end, Mr. Watson filed a declaration. Doc. 195-1. Mr. Watson stated that in June 2023, all Butler Snow attorneys received an email “stating that ‘there are significant risks that LLM [Large Language Model] output can appear perfectly researched and logical while in fact it is wholly inaccurate.” *Id.* at 2–3, 6. That same email implemented a policy which requires “written permission from the appropriate Practice Group Leader to use this new technology as a

secondary research tool, with full checks of the accuracy of any results through traditional legal research methods.” *Id.* Similarly, when Butler Snow provided its attorneys access to Westlaw’s CoCounsel platform in January 2025, it “adopted and distributed a policy” that “[a]ll outputs must be reviewed and verified by the responsible attorney before being presented to clients, filed with courts, or otherwise relied upon.” *Id.* at 3, 9.

At the show cause hearing, counsel for Butler Snow confirmed that attorneys from the firm had written articles detailing the dangers associated with artificial intelligence in legal work and that, according to Butler Snow’s then-existing policy, practice group leaders did not have to seek permission to utilize artificial intelligence. Doc. 200 at 10–12.

Mr. Watson stated in his initial declaration that Butler Snow has an artificial intelligence committee that is drafting “a comprehensive artificial intelligence policy.” Doc. 195-1 at 3, 11–16. And after this incident, that he “sent a reminder to all Butler Snow attorneys of their ethical and professional duties to verify the accuracy of all citations or other authority presented to any court.” *Id.* at 4, 17.

On a prospective basis, Mr. Watson stated that “Butler Snow will conduct additional and extensive firm-wide training on the appropriate use of artificial intelligence, including training to ensure that any citation to authority, no matter its source, is accurate, truthful, and unquestionably stands for the proposition for which

it is being offered.” *Id.* at 4. In addition, “Butler Snow will be adopting a prefiling protocol requiring (a) review of all legal authority in any document to be filed with a court of law and (b) confirming the existence, accuracy, and relevance of each citation.” *Id.* at 4–5.

Mr. Watson addressed other firm policy issues at the show cause hearing. He told the court that Butler Snow has “no specific policy” as to “who is on the signature block [of a filing] and who should appear and should not appear.” Doc. 200 at 15. Instead, “it is left to the individual lawyer’s discretion in terms of who should be on the signature block.” *Id.* Mr. Watson represented that Butler Snow “need[s] to make clear” that junior attorneys who affix their signatures to a filing “must verify that” filing, even if a senior attorney sends it to them. *Id.* at 15–16.

Mr. Watson stated in his initial declaration that “Butler Snow is ultimately responsible for the acts of its attorneys and is prepared to accept any sanction that the Court deems appropriate, particularly in light of the seriousness of the conduct in this matter.” Doc. 195-1 at 5. Mr. Watson echoed this at the show cause hearing: “So we stand ready to adhere to any sanction that you may deem appropriate.” Doc. 200 at 16. In its supplemental response, Butler Snow made a specific request:

Given the magnitude of the harm, the isolated nature of the harm, the significant publicity given to these events, and the remediation efforts undertaken by Butler Snow and attorney Reeves, Butler Snow respectfully requests that the Court limit any sanctions it may impose to a modest sanction upon it and to the exclusion of the affected clients in this litigation.

Doc. 203 at 5 (footnotes omitted).

Finally, Butler Snow represented that “[t]he State of Alabama will incur no expense or charge of any kind generated or incurred by the firm in connection with the erroneous filings, the proceedings related to those filings, or the remedial actions taken by the firm to respond to this matter, including the fees paid to Morgan Lewis.”

Doc. 203 at 2 n.2.

D. Office of the Alabama Attorney General

Attorney Brad Chynoweth attended the show cause hearing on behalf of the Alabama Attorney General. Doc. 200 at 7. He expressed that his office is “very concerned,” “want[s] to ensure that there are no other instances of this in any other filings in corrections cases,” and “Mr. Lunsford remains the [A]ttorney [G]eneral’s counsel of choice.” *Id.* at 38–40. Mr. Chynoweth stated that the Attorney General appointed Mr. Lunsford as a deputy attorney general to litigate on behalf of the State and that the “appointment process makes clear that the deputy attorney general can use the services of other attorneys in his firm.” *Id.* at 39.

Mr. Chynoweth also noted that “there is no generative AI platform that is authorized for use” by the Attorney General’s office. *Id.* at 40.

II. FINDINGS OF FACT & CONCLUSIONS OF LAW

Every lawyer knows that citing fake cases in a court filing is a terrible decision. No one here is attempting to defend it. In the few years that generative AI

has affected court filings, it has become well established that “[m]any harms flow from the submission of fake opinions.” *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 448 (S.D.N.Y. 2023); *see, e.g., Dehghani v. Castro*, No. 2:25-cv-00052-MIS-DLM, 2025 WL 1361765 (D.N.M. May 9, 2025); *Bevins v. Colgate-Palmolive Co.*, No. 25-576, 2025 WL 1085695 (E.D. Pa. Apr. 10, 2025); *Ferris v. Amazon.com Servs., LLC*, No. 3:24-cv-304-MPM-JMV, 2025 WL 1122235 (N.D. Miss. Apr. 16, 2025); *United States v. Hayes*, 763 F. Supp. 3d 1054 (E.D. Cal. 2025), *reconsideration denied*, No. 2:24-cr-0280-DJC, 2025 WL 1067323 (E.D. Cal. Apr. 9, 2025); *Sanders v. United States*, 176 Fed. Cl. 163 (Fed. Cl. 2025); *Wadsworth v. Walmart Inc.*, 348 F.R.D. 489 (D. Wyo. 2025); *Gauthier v. Goodyear Tire & Rubber Co.*, No. 1:23-cv-281, 2024 WL 4882651 (E.D. Tex. Nov. 25, 2024); *Park v. Kim*, 91 F.4th 610 (2d Cir. 2024).

Some such harms affect the case at hand: “The opposing party wastes time and money in exposing the deception,” and “[t]he client may be deprived of arguments based on authentic judicial precedents.” *Mata*, 678 F. Supp. 3d at 448. While the court takes time to investigate, other cases may be disrupted or deprived of judicial attention. Other harms affect the judicial system:

There is potential harm to the reputation of judges and courts whose names are falsely invoked as authors of the bogus opinions and to the reputation of a party attributed with fictional conduct. It promotes cynicism about the legal profession and the American judicial system. And a future litigant may be tempted to defy a judicial ruling by disingenuously claiming doubt about its authenticity.

Id. at 448–49. And the public (whose taxpayer dollars pay the lawyers at issue here) is justifiably horrified and outraged when filings in a court of law substitute lazy, convenient fictions for the truth.

Even in cases like this one, where lawyers who cite AI hallucinations accept responsibility and apologize profusely, much damage is done. The opposing party expends resources identifying and exposing the fabrication; the court spends time reviewing materials, holding hearings, deliberating about sanctions, and explaining its ruling; the substance of the case is delayed; and public confidence about the trustworthiness of legal proceedings may be diminished.

Accordingly, the court makes the following findings of fact and conclusions of law.

A. False Statements of Law

The court finds, based upon its own careful review and as no one contests, that the hallucinated citations in the two motions at issue were false statements of law. *See* Docs. 194, 200.

B. Sanctions Authorities

Rule 11(b) provides that “[b]y presenting to the court a pleading, written motion, or other paper[,] . . . an attorney . . . certifies that . . . after an inquiry reasonable under the circumstances . . . the claims, defenses, and other legal contentions are warranted by existing law.” Fed. R. Civ. P. 11(b)(2).

“If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation.” *Id.* (c)(1). “Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.” *Id.* “A sanction imposed under [Rule 11] must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated,” and “may include nonmonetary directives.” *Id.* (c)(4).

“Rule 11 . . . imposes an objective standard of reasonable inquiry which does not mandate a finding of bad faith.” *Chambers v. NASCO, Inc.*, 501 U.S. 32, 47 (1991). Rule 11 focuses on “the signer’s conduct” “at the time of filing.” *Jones v. Int’l Riding Helmets, Ltd.*, 49 F.3d 692, 695 (11th Cir. 1995) (emphasis and internal quotation marks omitted). “[T]he purpose of Rule 11 as a whole is to bring home to the individual signer his personal, nondelegable responsibility.” *Pavelic & LeFlore v. Marvel Ent. Grp.*, 493 U.S. 120, 126 (1989) (holding, prior to the 1993 amendment to Rule 11, that sanctions may be imposed on the individual attorney who signs the papers and not on the attorney’s law firm).

To impose Rule 11 sanctions *sua sponte*, the court must find that offending conduct is “akin to contempt.” *Kaplan v. DaimlerChrysler, A.G.*, 331 F.3d 1251, 1255 (11th Cir. 2003). This court does not understand that standard to require a

finding of subjective bad faith. Such a requirement would be inconsistent with explanations from the Supreme Court and the Eleventh Circuit that Rule 11 is objective, *see, e.g., Chambers*, 501 U.S. at 47; *Jones*, 49 F.3d at 695, and the reality that “[a]s originally drafted, Rule 11 set out a subjective standard, but the Advisory Committee determined that this standard was not working,” *Bus. Guides, Inc. v. Chromatic Commc’ns Enters., Inc.*, 498 U.S. 533, 549 (1991).

In 1993, Rule 11 was amended to provide that it “does not apply to . . . motions under Rules 26 through 37.” Fed. R. Civ. P. 11(d). The advisory committee’s note explains that:

Rules 26(g) and 37 establish certification standards and sanctions that apply to discovery disclosures, requests, responses, objections, and motions. It is appropriate that Rules 26 through 37, which are specially designed for the discovery process, govern such documents and conduct rather than the more general provisions of Rule 11. Subdivision (d) has been added to accomplish this result.

Fed. R. Civ. P. 11 advisory committee’s note 1993 amendment.

Local Rule 83.1(f) provides that attorneys may be disciplined for acts or omissions that are inconsistent with the local rules, the *Alabama Rules of Professional Conduct*, and the *American Bar Association Model Rules of Professional Conduct*. N.D. Ala. R. 83.1(f). It further provides that “[d]iscipline under this Rule may consist of disbarment, suspension, censure, reprimand, removal from a particular case, ineligibility for appointment as court-appointed counsel, ineligibility to appear under subsections (b) and (c), monetary sanctions, or any other

sanction the court may deem appropriate.” *Id.*

Alabama Rule of Professional Conduct 3.3 provides that “[a] lawyer shall not knowingly . . . [m]ake a false statement of material fact or law to a tribunal.” Ala. Rules of Pro. Conduct r. 3.3(a)(1). The comments to the Rule provide that “an assertion purporting to be on the lawyer’s own knowledge, as in an affidavit by the lawyer or in a statement in open court, may properly be made only when the lawyer knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry.” Ala. Rules of Pro. Conduct r. 3.3. cmt. They further provide that “[l]egal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal. A lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities.” *Id.*

The sanction authority of the court is not limited to these rules. For more than two hundred years, “[i]t has long been understood that ‘[c]ertain implied powers must necessarily result to our Courts of justice from the nature of their institution,’ powers ‘which cannot be dispensed with in a Court, because they are necessary to the exercise of all others.’” *Chambers*, 501 U.S. at 43 (quoting *United States v. Hudson*, 7 Cranch 32, 34 (1812)).

“Courts have long recognized an inherent authority to suspend or disbar lawyers . . . derive[d] from the lawyer’s role as an officer of the court which granted

admission.” *In re Snyder*, 472 U.S. 634, 643 (1985). Thus, “a federal court has the power to control admission to its bar and to discipline attorneys who appear before it.” *Chambers*, 501 U.S. at 43 (citing *Ex parte Burr*, 22 U.S. 529, 530 (1824)). “An attorney who violates his or her ethical obligations is subject to professional discipline, including sanctions, suspension, and disbarment.” *Connick v. Thompson*, 563 U.S. 51, 66 (2011).

Although Rule 11 “reaches only certain individuals or conduct, the inherent power extends to a full range of litigation abuses.” *Chambers*, 501 U.S. at 46. “A court must . . . exercise caution in invoking its inherent power,” and “when there is bad-faith conduct in the course of litigation that could be adequately sanctioned under the Rules, the court ordinarily should rely on the Rules rather than the inherent power.” *Id.* at 50. “[I]f in the informed discretion of the court, neither the statute nor the Rules are up to the task, the court may safely rely on its inherent power.” *Id.*

“Because of their very potency, inherent powers must be exercised with restraint and discretion.” *Id.* at 44. “A primary aspect of that discretion is the ability to fashion an appropriate sanction for conduct which abuses the judicial process.” *Id.* at 44–45. The Supreme Court has held that even “particularly severe sanction[s]” are “within the court’s discretion.” *Id.* at 45 (discussing “outright dismissal of a lawsuit” as a sanction).

A finding of subjective bad faith or something tantamount to it is necessary to support a sanction issued pursuant to a court's inherent power. *See Purchasing Power, LLC v. Bluestem Brands, Inc.*, 851 F.3d 1218, 1223 (11th Cir. 2017). "A finding of bad faith is warranted where an attorney knowingly or recklessly raises a frivolous argument, or argues a meritorious claim for the purpose of harassing an opponent. A party also demonstrates bad faith by delaying or disrupting the litigation or hampering enforcement of a court order." *Barnes v. Dalton*, 158 F.3d 1212, 1214 (11th Cir. 1998) (quoting *Primus Auto. Fin. Servs., Inc. v. Batarse*, 115 F.3d 644, 649 (9th Cir. 1997)); accord *Thomas v. Tenneco Packaging Co.*, 293 F.3d 1306, 1320 (11th Cir. 2002).

"If particularly egregious, the pursuit of a claim without reasonable inquiry into the underlying facts can be the basis for a finding of bad faith." *Barnes*, 158 F.3d at 1214. "[I]n the absence of direct evidence of subjective bad faith, [the bad-faith] standard can be met if an attorney's conduct is so egregious that it could only be committed in bad faith." *Purchasing Power*, 851 F.3d at 1224–25; accord *Roadway Exp., Inc. v. Piper*, 447 U.S. 752, 767 (1980) (stating that inherent powers require a finding that "counsel's conduct . . . constituted or was tantamount to bad faith"). "This is not the same as simple recklessness, which can be a starting point but requires something more to constitute bad faith." *Purchasing Power*, 851 F.3d at 1225 (citing *Barnes*, 158 F.3d at 1214).

C. Findings and Conclusions as to Each Attorney and Butler Snow

Because the motions at issue are discovery motions under Rules 30 and 37, Rule 11 “does not apply.” Fed. R. Civ. P. 11(d); Docs. 174, 182. This appears to be an unintended anomaly in Rule 11: the advisory committee’s note indicates that discovery motions were excepted from Rule 11 because the committee expected Rules 26 and 37 to allow courts to address sanctionable misconduct in such motions, but Rules 26 and 37 furnish no basis for the court to address the false statements of law these attorneys made in discovery motions. *See* Fed. R. Civ. P. 11 advisory committee’s note 1993 amendment; Fed. R. Civ. P. 26, 37. Regardless, Rule 11 says what it says, it does not apply here, and this court has no authority to change that.

Further, it is unclear to the court that Alabama Rule of Professional Conduct 3.3 applies to the misconduct at issue here. On the one hand, inserting into court filings unverified legal citations generated by AI is wholly inconsistent with the duty of candor that Rule 3.3 enumerates. On the other hand, by its terms Rule 3.3 forbids only knowing misstatements of law, and these false statements occurred because none of the three attorneys at issue bothered to verify the hallucinated citations (and two of them did not know that the citations had been generated by AI). As far as the court can discern, the Alabama Supreme Court has not yet had the opportunity to consider whether Rule 3.3 applies to this specific kind of misconduct. Absent such guidance, the court will not extend that rule beyond its plain terms.

Likewise, Local Rule 83.1(f) does not clearly forbid this misconduct. Rule 83.1(f) forbids (among other things) violations of the Alabama Rules of Professional Conduct in this federal district; it does not set out a separate and independent universe of forbidden conduct relevant here.

This series of gaps leaves the court with only its inherent authority. These are precisely the kind of gaps that the inherent authority must fill: although no specific rule expressly forbids the misconduct that occurred here, on the whole the rules make clear that it is serious misconduct ever to make false statements to a court, and no one here suggests that false statements generated by AI and parroted without verification in discovery motions are allowed. Indeed, Butler Snow appears to understand that it is a Rule 11 violation to sign a motion that parrots false statements generated by AI. *See* Doc. 195 at 5 (“Butler Snow does not dispute that it is within the Court’s discretion to sanction counsel’s conduct under Rule 11.”); Doc. 203 at 4 (Butler Snow, making arguments about appropriate sanctions under Rule 11 without discussing the exception for discovery motions).

The court thus assesses individually each lawyer’s conduct, as well as the firm’s, to determine whether it was bad faith or tantamount to it.

1. Lynette E. Potter

Ms. Potter stated in her declaration that she “did not draft, edit, review, supervise, or approve the Motions or any drafts of the Motions,” and “possessed no

knowledge related to the preparation or filing of the Motions or any of their contents until May 16, 2025, when the Court entered its Show Cause Order.” Doc. 198-1 ¶ 5. Nothing in the record contradicts this account. Therefore, the court releases Ms. Potter from these disciplinary proceedings.

2. Daniel J. Chism

Mr. Chism stated in his declaration that although he “was copied on emails circulating drafts,” he “did not draft, revise, or review the Motions [at issue].” Doc. 194-4 ¶ 4. Nothing in the record contradicts this account. Mr. Chism is an associate at Butler Snow without supervisory responsibility and no indication appears in the record that he delegated the use of his signature on these motions. Accordingly, the court releases Mr. Chism from these disciplinary proceedings.

3. Butler Snow

Butler Snow proactively addressed the challenges of AI as early as June 2023, when all Butler Snow attorneys received an email from the firm’s general counsel warning them “that ‘there are significant risks that LLM [Large Language Model] output can appear perfectly researched and logical while in fact it is wholly inaccurate.’” Doc. 195-1 at 2–3, 6. In that same email, the firm announced a policy that requires “written permission from the appropriate Practice Group Leader to use this new technology as a secondary research tool, with full checks of the accuracy of any results through traditional legal research methods.” *Id.* at 6. (It was this very

policy that Mr. Reeves admitted he violated. *See* Doc. 194-2 ¶ 6.) At some point thereafter, the firm created an AI committee that made substantial progress on a more comprehensive firmwide AI policy. *See* Doc. 195-1 at 11–16. As these efforts were ongoing, individual Butler Snow attorneys (including Ms. Potter) wrote and published articles detailing the dangers associated with misuse of AI in legal work. Doc. 200 at 10–11.

After the court issued its show cause orders in this case, Butler Snow escalated its internal warning efforts. *First*, Mr. Watson “sent a reminder to all Butler Snow attorneys of their ethical and professional duties to verify the accuracy of all citations or other authority presented to any court.” Doc. 195-1 at 4, 17. *Second*, the firm “will conduct additional and extensive firm-wide training on the appropriate use of artificial intelligence, including training to ensure that any citation to authority, no matter its source, is accurate, truthful, and unquestionably stands for the proposition for which it is being offered.” *Id.* at 4. *Third*, the firm is updating its policies with lessons learned from this episode. For example, “Butler Snow will be adopting a prefiling protocol requiring (a) review of all legal authority in any document to be filed with a court of law and (b) confirming the existence, accuracy, and relevance of each citation.” *Id.* at 4–5. In addition, Butler Snow represented at the show cause hearing that it “need[s] to make clear” that junior attorneys who affix their signatures to a filing “must verify that” filing, even if a senior attorney sends it to them. Doc.

200 at 15–16.

Butler Snow understood the seriousness of these proceedings and responded accordingly. It called these events “unacceptable” and apologized in its initial response, Doc. 195 at 1, then it expressed similar contrition at every subsequent step. Acting on these sentiments, Butler Snow expended significant time and resources to investigate and remediate these issues through both an internal investigation of citations and a parallel investigation by Morgan Lewis. *See* Doc. 203 at 2. And at the show cause hearing, Butler Snow represented that Mr. Lunsford and Mr. Chism’s motion to be excused from the show cause hearing “should not have been filed,” and that the firm was unaware of the motion before it was filed. Doc. 200 at 13.

The court is well aware that the record may not reflect the fullness of Butler Snow’s internal response to the violation of firm policy. At the show cause hearing, when Mr. Lunsford described these disciplinary proceedings as “fresh and raw,” he explained that “the firm’s response to this is not complete yet.” Doc. 200 at 33.

In terms of legal arguments, “Butler Snow d[id] not dispute that it is within the Court’s discretion to sanction counsel’s conduct under Rule 11,” and acknowledged that “[a] law firm must be held jointly responsible for a violation committed by its partner, associate, or employee, absent exceptional circumstances.” Doc. 195 at 5 (citing Fed. R. Civ. P. 11(c)). Butler Snow has determined that “this was an isolated event” where “a single attorney failed to follow [firm] policies and

procedures and used unverified AI on the two filings in question.” Doc. 203 at 3–4.

Butler Snow also argues that the court should consider, among other things, the “magnitude of the harm” and the “significant publicity given to these events” to “limit any sanctions it may impose to a modest sanction upon [Butler Snow] and to the exclusion of the affected clients.” *Id.* at 5 (citing media reports). Butler Snow observes that “as shown by the corrected briefs, the legal propositions stated were not erroneous.” *Id.* at 4–5.

At the threshold, the court rejects the invitation to consider that actual authorities stand for the proposition that the bogus authorities were offered to support. That is a stroke of pure luck for these lawyers, and one that did not remediate the waste and harm their misconduct wrought. Further, any sanctions discount on this basis would amplify the siren call of unverified AI for lawyers who are already confident in their legal conclusion. This court will have no part of that.

Likewise, the court rejects the invitation to consider that the involved lawyers and firm have been deeply embarrassed in media reports. For many very good reasons, courts traditionally have not relied on the media to do the difficult work of professional discipline, and this court is not about to start.

When the court turns to the appropriate scope of its analysis as to Butler Snow — the firm’s own conduct — it finds that Butler Snow acted reasonably in its efforts to prevent this misconduct and doubled down on its precautionary and responsive

measures when its nightmare scenario unfolded. Accordingly, the court sees no evidentiary basis for a finding that the firm acted in bad faith or with such recklessness that its conduct was tantamount to bad faith. The court therefore releases the firm from disciplinary proceedings.

4. Matthew B. Reeves

Mr. Reeves admits that he utilized AI to generate the legal citations at issue, that he added them to both draft motions without verifying them, and that all of this was “contrary to the requirements of Butler Snow LLP and [his] obligations to this Court.” Doc. 194-2 ¶¶ 3–6. As the court understands Mr. Reeves’s position, he does not contest his responsibility in any way and would prefer to be held solely responsible. *See* Doc. 200 at 24. And the court credits Mr. Reeves’s representation that he will use his own experience in this case to warn law students and other lawyers of the consequences they might face if they make a similar decision regarding the use of AI. *See* Doc. 203-4 ¶¶ 3–5.

The court has no difficulty finding that Mr. Reeves’s misconduct was more than mere recklessness. In the light of repeated general warnings from federal courts about the risks of bogus citations generated by AI, as well as the persistent specific warnings, policies, and expectations of his colleagues and law firm with respect to AI, Mr. Reeves’s misconduct was particularly egregious. Having been so extensively alerted of the risk that AI will make things up, and having blown through

all of his firm's internal controls designed to protect court filings from counterfeit citations, Mr. Reeves's repeated decisions to parrot citations generated by AI without verifying even one of them reflect complete and utter disregard for his professional duty of candor. This is recklessness in the extreme, and it is tantamount to bad faith. Accordingly, the court will impose an appropriate sanction under its inherent authority.

5. William J. Cranford

Mr. Cranford drafted, signed, and personally filed both motions at issue. Doc. 194-3 ¶¶ 4–19. He included the fabricated citations in these filings without reviewing any of them after Mr. Reeves inserted them. *Id.* ¶¶ 7, 17. Although Mr. Cranford did not know that Mr. Reeves used generative AI, Mr. Cranford had an obligation to check the citations before signing the motions and filing them with the court. Any reasonable investigation (indeed, even the most cursory of investigations, or a spot check) would have quickly revealed the problem. Mr. Cranford acknowledged his culpability at the show cause hearing: “I understand that by signing these motions, I was verifying and accepting responsibility for the contents of those motions. And I take full responsibility for that.” Doc. 200 at 18–19.

At the threshold, the court observes that if these motions had not been discovery motions, Mr. Cranford's conduct would have been a textbook Rule 11 violation. In any event, Mr. Cranford failed to discharge his most basic responsibility

as an attorney signing and filing motions with the court: to make sure that the statements in the motions were true. Mr. Cranford's repeated decisions to make no effort in this regard reflect a troubling indifference to the veracity of his court filings and disinterest in the most rudimentary demands of professional responsibility. This misconduct was more than simple recklessness and is particularly egregious, especially in the light of how little effort would have been required of Mr. Cranford to uncover any of the falsehoods. The unacceptable result of Mr. Cranford's decisions is that motions were filed with the court that no attorney ensured were free from false statements. Attorneys who sign motions must know — as Mr. Cranford acknowledges — that they risk serious sanctions when they make no effort to ensure that those motions tell the truth. Accordingly, the court finds that Mr. Cranford's misconduct was tantamount to bad faith and will sanction him under its inherent power.

To be clear, not every error in a motion is recklessness or more. To err is human, and minor typographical errors, even in citations, occasionally occur despite attorneys' best efforts. Likewise, some factual or legal authorities are the subject of reasonable debate, and a mere disagreement with one side's view does not necessarily mean that the view is objectively false. The insertion of bogus citations is not a mere typographical error, nor the subject of reasonable debate.

6. William R. Lunsford

Mr. Lunsford stated in his declaration that he did not review the motion for leave to depose and did review the motion to compel. Doc. 194-1 ¶¶ 9–10. Nevertheless, in accordance with his practice group’s ordinary workflow, Mr. Lunsford allowed Mr. Cranford to use his name in the signature block on both motions. *See id.* ¶¶ 9–11; *see generally* Doc. 200 at 25–26 (discussing how the “youngest lawyers primarily draft the documents”). As Mr. Lunsford stated in his declaration, his “name and signature appear on all of the current public contracts for professional services provided by outside legal counsel to the State of Alabama (the “State”) on a limited number of matters for which the State elects to hire outside counsel.” Doc. 194-1 ¶ 7. “As such, [he is] the principal responsible attorney for all matters currently assigned to [Butler Snow] regarding the Alabama Department of Corrections (“ADOC”).” *Id.* And as the Alabama Attorney General’s Office explained, Mr. Lunsford personally holds the designation of deputy attorney general; that designation allows him to represent Defendant Dunn and employ other attorneys in his firm (who do not have such a designation) to assist him. Doc. 200 at 39.

Mr. Lunsford did not know that Mr. Reeves utilized generative AI. Like Mr. Cranford, Mr. Lunsford simply made no effort whatsoever to verify the contents of the motions for himself (or even to ask someone else to check for him), despite his presence on these motions.

Outside of his hastily filed request to be excused from the show cause hearing, Mr. Lunsford has not argued that he is somehow not responsible for the false statements made to the court. *See* Doc. 194-1 ¶¶ 2, 6–7, 9–10, 13; *see also* Doc. 200 at 25–26. Indeed, when the firm explained its position that it understood it may be sanctioned, and he was offered the opportunity to explain how his position might differ from the firm’s, he accepted the firm’s position. Doc. 200 at 33.

Both before and at the show cause hearing, Mr. Lunsford deepened rather than allayed the court’s concerns about his understanding of his professional responsibility with respect to court filings that bear his name in the signature block.

First, Mr. Lunsford’s request to be excused from the show cause hearing reflected an intense lack of concern for the seriousness of the misconduct that both Plaintiff Johnson and the court had described. *See* Doc. 188. Either Mr. Lunsford personally reviewed the show cause order and decided to try to skip the hearing despite the accusation of fabricated citations, or he failed to personally review the order and made no effort to evaluate the seriousness of the issue before asking for a pass. Either way, Mr. Lunsford’s hasty excuse request troubled the court.

Second, after the court denied Mr. Lunsford’s request and before the hearing, Mr. Lunsford explained in his declaration his ordinary practices and his team’s workflow. *See* Doc. 194-1. He stated that this “this is the only instance in over a decade of working with Matt Reeves when [Mr. Lunsford] ha[s] ever encountered

an instance when [Mr. Reeves] added a citation that he failed to validate.” *Id.* ¶ 11. This is a big statement about ten years of work-product, but it came with no citation or other basis: Mr. Lunsford did not describe any workflow, nor any investigation, that would involve him actually evaluating, let alone ensuring, whether or how citations were validated, either in real time or historically. And other statements in his declaration undercut this hyperbole: he explained that as a rule, he simply assumes that other people verify citations. *See id.*

Third, at the hearing, when the court asked Mr. Lunsford about his use of AI, he explained that because the cases he handles as a deputy attorney general often involve similar facts and law, when the team he leads has a need for legal research in a case, it is their ordinary practice to re-use (apparently without verification) material from filings in other cases. *See* Doc. 200 at 27. This practice, Mr. Lunsford implied, obviated any need to rely on AI. *See id.* In any event, Mr. Lunsford made clear that performing (or verifying) legal research for each case is not something that he requires of the team he leads.

Mr. Lunsford’s statements at the hearing appear to the court to have deepened the concern at Butler Snow. Although the firm had conducted a preliminary investigation in the few days between the issuance of the show cause orders and the show cause hearing, it substantially broadened that investigation after the hearing, both investigating for itself and commissioning an independent investigation of

every filing (that contained citations) in every case “in all Alabama federal courts and the Eleventh Circuit Court of Appeals” where Mr. Lunsford, Mr. Cranford, Ms. Potter, Mr. Chism, or Mr. Reeves appeared on any filing since April 1, 2023. *See* Doc. 203 at 1–2. This was a very significant (and no doubt extremely expensive) undertaking.

On this factual record, the court has no difficulty finding that Mr. Lunsford bears responsibility for the false statements of law made to the court over his name in the signature block. He acknowledges as much and has apologized. *See* Doc. 194-1 ¶¶ 2, 6–7, 9, 13. Indeed, although Mr. Lunsford did not personally use AI to generate citations and did not personally file the motions at issue, the record does not suggest that he would have done anything differently than Mr. Cranford did, nor that he expected Mr. Cranford to do anything differently. According to Mr. Lunsford’s own testimony, he did not make any effort to verify the contents of the motion to compel before authorizing its filing, and it would have been extremely unusual for him to do so. Nor did he require (or even ask) Mr. Cranford or Mr. Reeves, or any other attorney (or person), to undertake that task. Nor was it his practice to require (or ask) that of them.

Like Mr. Cranford and Mr. Reeves, Mr. Lunsford simply assumed the truth of what was in the draft, and/or assumed that someone else would check on that. This is the same indifference to the truth and complete personal disinterest in the most

basic professional responsibility that Mr. Cranford displayed. Particularly in the light of Mr. Lunsford's roles as practice group leader, supervisory attorney, and partner — and the reality that he is the only lawyer on the team entrusted with the necessary deputy attorney general designation — this utter disregard for the truth of filings bearing his name in the signature block is particularly egregious, more than mere recklessness and tantamount to bad faith.

To be clear, the court's finding in this regard is not simply a harsh inference: when it became apparent that multiple motions with his name in the signature block contained fabricated citations, Mr. Lunsford's nearly immediate response was to try to skip the show cause hearing and leave the mess for someone else. And when the court compelled him to appear at the hearing, he paired his apology with an explanation in greater fullness of how very little work he personally puts in to be sure that his team's motions tell the truth. This cannot be how litigators, particularly seasoned ones, practice in federal court or run their teams. Accordingly, the court will impose an appropriate sanction under its inherent authority.

D. Sanctions

To exercise its inherent power with restraint and discretion, the court looks first to the purpose of that power. "The purpose of the inherent power is both to vindicate judicial authority without resorting to contempt of court sanctions and to make the non-violating party whole." *Purchasing Power*, 851 F.3d at 1225 (citing

Chambers, 501 U.S. at 45–46). “This power is . . . for rectifying disobedience, regardless of whether such disobedience interfered with the conduct of the trial.” *Id.*

To rectify the bad-faith misconduct in this case and vindicate the lawful authority of federal courts to keep proceedings free from falsehoods, the court will impose the least severe sanction that the court finds likely to deter future similar misconduct. As the court exercises its inherent power in this factual context, it assigns primary value to the deterrent function of a sanction, for several reasons. *First*, this kind of AI misuse is a serious and time-sensitive problem that, unless it is arrested promptly, will impose escalating undue costs on litigants, cause extensive disruptions for courts, and damage public confidence in the legal community and the integrity of the justice system. At a minimum, protecting judicial authority requires effective preventive measures designed to reduce the practical likelihood that this kind of AI misuse continues apace.

Second, Rule 11 assigns particular value to the deterrent function of a sanction. *See* Fed. R. Civ. P. 11(c)(4) (providing that sanctions “must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated”). Although Rule 11 does not control the court’s analysis because the motions at issue happen to be discovery motions, it is persuasive authority about the purpose that a sanction for false statements of law must serve.

And *third*, there is persuasive precedent in this Circuit for calibrating

sanctions issued pursuant to a court's inherent power to serve deterrence purposes. *See Boe v. Marshall*, 767 F. Supp. 3d 1226, 1295–97 (M.D. Ala. 2025) (imposing sanctions for bad-faith judge-shopping to serve deterrence purposes).

As the court considers an appropriate sanction, it also examines other cases involving false statements of law generated in the first instance by AI. In *Mata* and *Hayes*, which involved AI hallucinations that the lawyers first defended as real (before accepting responsibility), the district courts imposed modest monetary sanctions (ranging from \$1,500 to \$5,000) and notification requirements. *Mata*, 678 F. Supp. 3d at 449, 466; *Hayes*, 763 F. Supp. 3d at 1067, 1070, 1073.

Courts across the country have reacted similarly to other incidents involving misuse of artificial intelligence where the involved lawyers promptly accepted responsibility. *See, e.g., Versant Funding LLC v. Teras Breakbulk Ocean Navigation Enters., LLC*, No. 17-cv-81140, 2025 WL 1440351, at *7 (S.D. Fla. May 20, 2025) (imposing monetary sanctions ranging from \$500 to \$1,000); *Ramirez v. Humala*, No. 24-cv-424-RPK-JAM, 2025 WL 1384161, at *3 (E.D.N.Y. May 13, 2025) (imposing a \$1,000 monetary sanction); *Nguyen v. Savage Enters.*, No. 4:24-cv-00815-BSM, 2025 WL 679024, at *1 (E.D. Ark. Mar. 3, 2025) (imposing a \$1,000 monetary sanction); *Wadsworth*, 348 F.R.D. at 499 (imposing monetary sanctions ranging from \$1,000 to \$3,000); *Gauthier*, 2024 WL 4882651 at *3 (imposing a \$2,000 monetary sanction); *see also Lacey v. State Farm Gen. Ins. Co.*, No. 2:24-

cv-05205-FMO-MAA, 2025 WL 1363069, at *5 (C.D. Cal. May 5, 2025) (ordering plaintiff's law firms to pay defendants \$31,100 in fees and costs).

And at least some of these courts have sanctioned law firms and/or lawyers who were unaware of the AI misuse in real time. *See, e.g., Wadsworth*, 348 F.R.D. at 493–94, 498–99 (sanctioning attorneys who “were not provided a copy of the [sanctionable] Motions to review prior to filing” and were not aware that artificial intelligence had been utilized but had delegated their signatures, reasoning that they “had a nondelegable duty to ensure a motion or filing is supported by existing law”); *Versant Funding LLC*, 2025 WL 1440351, at *5–*7 (imposing sanctions on local counsel for “filing a response without ensuring the accuracy of the case citation and principle of law” despite “t[aking] no part in” *pro hac vice* counsel’s drafting process utilizing AI).

Having considered these cases carefully, the court finds that a fine and public reprimand are insufficient here. If fines and public embarrassment were effective deterrents, there would not be so many cases to cite. And in any event, fines do not account for the extreme dereliction of professional responsibility that fabricating citations reflects, nor for the many harms it causes. In any event, a fine would not rectify the egregious misconduct in this case.

The court finds that (1) a public reprimand paired with a limited publication requirement, (2) disqualification, and (3) referral to applicable licensing authorities

are necessary to rectify the misconduct here and vindicate judicial authority. Disqualification fits well: lawyers should know that if they make false statements in court proceedings, they will no longer have the professional opportunity to participate in those proceedings. Similarly, litigants should have assurance that false statements will not be allowed in their cases, and no court should be required to allow an attorney responsible for making false statements in the proceedings to continue in the proceedings. Likewise, a public reprimand with limited publication fits: it makes other clients, counsel, and courts aware of the lawyer's misconduct so that they may assess whether any measures are needed to protect their proceedings. Finally, the referral to licensing authorities is a bare minimum in the light of the primary nature of a lawyer's professional responsibility not to make things up.

The court further finds that no lesser sanction will serve the necessary deterrent purpose, otherwise rectify this misconduct, or vindicate judicial authority. Mr. Cranford, Mr. Reeves, and Mr. Lunsford are well-trained, experienced attorneys who work at a large, high-functioning, well-regarded law firm. They benefitted from repeated warnings, internal controls, and firm policies about the dangers of AI misuse. They have regular access to gold-standard legal research databases. They must have known they would be deeply embarrassed in this kind of situation, and that there could be harsh consequences with the court and their law firm. And yet here we are. The reality that this lapse in judgment presented in the most

spectacularly unforced fashion underscores the need for more than a fine and reprimand.

The court further finds that any greater sanction would be excessive in the vindication of judicial authority. Butler Snow's internal review, as well as Morgan Lewis's independent investigation, reassure the court that suspension from the practice of law in the Northern District is not necessary to protect other courts or cases. And the court is mindful and appreciative that the involved lawyers are sincerely apologetic and remorseful, and that Mr. Reeves is committed to educating others about these matters as a preventive measure.

The court is well aware that disqualification "often work[s] substantial hardship on the client," *Norton v. Tallahassee Mem'l Hosp.*, 689 F.2d 938, 941 n.4 (11th Cir. 1982), but the court does not find hardship here. At the show cause hearing, the representative of the Alabama Attorney General did not suggest any hardship for Defendant Dunn. *See* Doc. 200 at 38–40. This makes sense: the Attorney General's Office has a ready team of capable attorneys who can step in to represent Defendant Dunn, some of whom already represent other defendants in this case. And even if there is some minor hardship, it must yield to the seriousness of the misconduct here. The case will remain stayed for thirty days for Defendant Dunn's new counsel to prepare to participate.

E. Findings as to Defendant Dunn

Defendant Dunn was unaware of his attorney's conduct before the court's order to show cause, so the court declines to sanction him.

III. CONCLUSION

The court **ORDERS** as follows:

1. The court **PUBLICLY REPRIMANDS** attorneys Matthew B. Reeves, William J. Cranford, and William R. Lunsford for their misconduct described in this order;

2. To effectuate their reprimand, Mr. Reeves, Mr. Cranford, and Mr. Lunsford are **ORDERED** to provide a copy of this order to their clients, opposing counsel, and presiding judge in every pending state or federal case in which they are counsel of record. They shall also provide a copy of this order to every attorney in their law firm. They must comply with this requirement within ten days from the date of this order and must certify to the court within twenty-four hours of that compliance that the requirement has been met;

3. To further effectuate the reprimands and deter similar misconduct by others, the Clerk of Court is **DIRECTED** to submit this order for publication in the Federal Supplement;

4. Mr. Reeves, Mr. Cranford, and Mr. Lunsford are **DISQUALIFIED** from further participation in this case;

5. Mr. Reeves, Mr. Cranford, and Mr. Lunsford are **DIRECTED** to provide the Clerk of Court with a listing of jurisdictions in which they are licensed to practice law within twenty-four hours of this order;

6. The Clerk of Court is **DIRECTED** to serve a copy of this order on the General Counsel of the Alabama State Bar and any other applicable licensing authorities for further proceedings as appropriate; and

7. Daniel J. Chism, Lynette E. Potter, and Butler Snow LLP are **RELEASED WITHOUT SANCTION** from these disciplinary proceedings.

DONE and **ORDERED** this 23rd day of July, 2025.

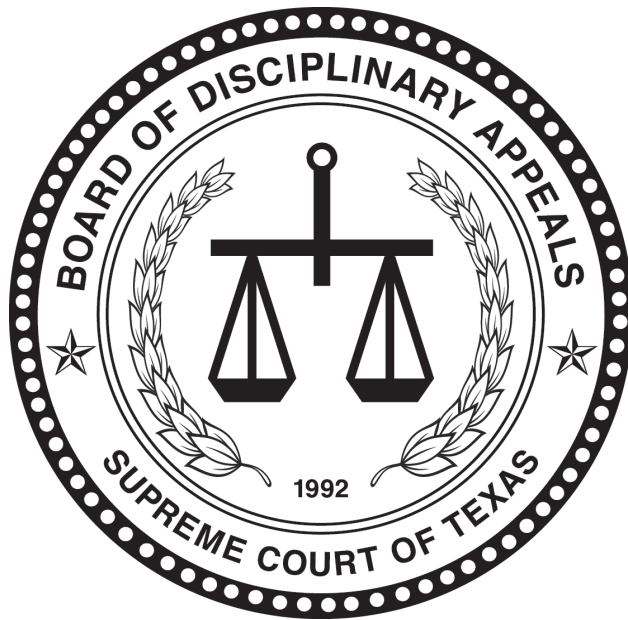


ANNA M. MANASCO
UNITED STATES DISTRICT JUDGE

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



INTERNAL PROCEDURAL RULES
(EFFECTIVE SEPTEMBER 24, 2024)



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INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through September 24, 2024

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INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through September 24, 2024

I. GENERAL PROVISIONS

Rule 1.01. Definitions

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

Rule 1.02. General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings. But TRDP 15.01 [17.01] applies to the enforcement of a judgment of BODA.

Rule 1.03. Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

Rule 1.04. Appointment of Panels

- (a) BODA may consider any matter or motion by panel,

except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.

- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

- (c) BODA may, upon decision of the Chair, conduct any business or proceedings—including any hearing, pretrial conference, or consideration of any matter or motion—remotely.

Rule 1.05. Filing of Pleadings, Motions, and Other Papers

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.

- (1) Email Address. The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.

- (2) Timely Filing. Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

- (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.

- (4) Exceptions.

- (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry or a complaint is not required to be filed electronically.

- (ii) The following documents must not be filed electronically:

- a) documents that are filed under seal or subject to a pending motion to seal; and

- b) documents to which access is otherwise restricted by court order.

(iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.

(5) **Format.** An electronically filed document must:

(i) be in text-searchable portable document format (PDF);

(ii) be directly converted to PDF rather than scanned, if possible; and

(iii) not be locked.

(b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).

(c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:

(1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or

(2) an electronic image or scanned image of the signature.

(d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.

(e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

Rule 1.06. Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition must be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent’s signature.

Rule 1.07. Hearing Setting and Notice

(a) **Original Petitions.** In any kind of case initiated by the CDC’s filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the hearing date must be at least 30 days from the date that the petition is served on the Respondent.

(b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.

(c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.

(d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately following the docket call, the Chair will set and announce the order of cases to be heard.

Rule 1.08. Time to Answer

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

Rule 1.09. Pretrial Procedure

(a) **Motions.**

(1) Generally. To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.

(2) For Extension of Time. All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:

(i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;

(ii) if an appeal has been perfected, the date when the appeal was perfected;

(iii) the original deadline for filing the item in question;

(iv) the length of time requested for the extension;

(v) the number of extensions of time that have been granted previously regarding the item in question; and

(vi) the facts relied on to reasonably explain the need for an extension.

(b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.

(c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.

(d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:

(1) marked;

(2) indexed with the title or description of the item offered as an exhibit; and

(3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

Rule 1.10. Decisions

(a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

(b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:

(1) as required by the TRDP; and

(2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.

(c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

Rule 1.11. Board of Disciplinary Appeals Opinions

(a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.

(b) Only a BODA member who participated in the

decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.

(c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

Rule 1.12. BODA Work Product and Drafts

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA's adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

Rule 1.13. Record Retention

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

Rule 1.14. Costs of Reproduction of Records

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

Rule 1.15. Publication of These Rules

These rules will be published as part of the TDRPC and TRDP.

II. ETHICAL CONSIDERATIONS

Rule 2.01. Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases

(a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

(b) A current BODA member must not serve as an expert witness on the TDRPC.

(c) A BODA member may represent a party in a legal

malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

Rule 2.02. Confidentiality

(a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.

(b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.

(c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction

Rule 2.03. Disqualification and Recusal of BODA Members

(a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.

(b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.

(c) These rules do not disqualify a lawyer who is a member of, or associated with, the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

III. CLASSIFICATION APPEALS

Rule 3.01. Notice of Right to Appeal

(a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule. If a grievance is classified as a complaint, the CDC must notify both the Complainant and the Respondent of the Respondent's right to appeal as set out in TRDP 2.10 or another applicable rule.

(b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. For a grievance classified as a complaint, the CDC must send the Respondent an appeal notice form, approved by BODA, with notice of the classification disposition. The form must

include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

Rule 3.02. Record on Appeal

BODA must not consider documents or other submissions that the Complainant or Respondent filed with the CDC or BODA after the CDC's classification. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

Rule 3.03. Disposition of Classification Appeal

(a) BODA may decide a classification appeal by doing any of the following:

(1) affirm the CDC's classification of the grievance as an inquiry and the dismissal of the grievance;

(2) reverse the CDC's classification of the grievance as an inquiry, reclassify the grievance as a complaint, and return the matter to the CDC for investigation, just cause determination, and further proceedings in accordance with the TRDP;

(3) affirm the CDC's classification of the grievance as a complaint and return the matter to the CDC to proceed with investigation, just cause determination, and further proceedings in accordance with the TRDP; or

(4) reverse the CDC's classification of the grievance as a complaint, reclassify the grievance as an inquiry, and dismiss the grievance.

(b) When BODA reverses the CDC's inquiry classification and reclassifies a grievance as a complaint, BODA must reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. When BODA affirms the CDC's complaint classification, BODA may reference any provisions of the TDRPC under which BODA concludes professional misconduct is alleged. The scope of investigation will be determined by the CDC in accordance with TRDP 2.12.

(c) BODA's decision in a classification appeal is final and conclusive, and such decision is not subject to appeal or reconsideration.

(d) A classification appeal decision under (a)(1) or (4), which results in dismissal, has no bearing on whether the Complainant may amend the grievance and resubmit it to the CDC under TRDP 2.10.

IV. APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01. Perfecting Appeal

(a) **Appellate Timetable.** The date that the evidentiary

judgment is signed starts the appellate timetable under this section. To make TRDP 2.21 [2.20] consistent with this requirement, the date that the judgment is signed is the “date of notice” under Rule [TRDP] 2.21 [2.20].

(b) Notification of the Evidentiary Judgment. The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21 [2.20].

(1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

(2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

(c) Filing Notice of Appeal. An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

(d) Time to File. In accordance with TRDP 2.24 [2.23], the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.

(e) Extension of Time. A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

Rule 4.02. Record on Appeal

(a) Contents. The record on appeal consists of the evidentiary panel clerk’s record and, where necessary to the appeal, a reporter’s record of the evidentiary panel hearing.

(b) Stipulation as to Record. The parties may designate parts of the clerk’s record and the reporter’s record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.

(c) Responsibility for Filing Record.

(1) Clerk’s Record.

(i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk’s record.

(ii) Unless the parties stipulate otherwise, the clerk’s record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel’s charge, any findings of fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

(iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk’s record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk’s record cannot be timely filed, and give the date by which he or she expects the clerk’s record to be filed.

(2) Reporter’s Record.

(i) The court reporter for the evidentiary panel is responsible for timely filing the reporter’s record if:

- a) a notice of appeal has been filed;
- b) a party has requested that all or part of the reporter’s record be prepared; and
- c) the party requesting all or part of the reporter’s record has paid the reporter’s fee or has made satisfactory arrangements with the reporter.

(ii) If the court reporter is unable for any reason to prepare and transmit the reporter’s record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter’s record cannot be timely filed, and give the date by which he or she expects the reporter’s record to be filed.

(d) Preparation of Clerk’s Record.

(1) To prepare the clerk’s record, the evidentiary panel clerk must:

- (i) gather the documents designated by the parties’ written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
- (ii) start each document on a new page;
- (iii) include the date of filing on each document;
- (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
- (v) number the pages of the clerk’s record in the manner required by (d)(2);

(vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and

(vii) certify the clerk's record.

(2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.

(3) The table of contents must:

(i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each document begins;

(ii) be double-spaced;

(iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;

(iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and

(v) if the record consists of multiple volumes, indicate the page on which each volume begins.

(e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:

(1) file each computer file in text-searchable Portable Document Format (PDF);

(2) create electronic bookmarks to mark the first page of each document in the clerk's record;

(3) limit the size of each computer file to 100 MB or less, if possible; and

(4) directly convert, rather than scan, the record to PDF, if possible.

(f) **Preparation of the Reporter's Record.**

(1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The reporter's record must be certified by the court reporter for the evidentiary panel.

(2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and

35 and the Uniform Format Manual for Texas Reporters' Records.

(3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.

(4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise

(6¹) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.

(g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.

(h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

(i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

¹ So in original.

Rule 4.03. Time to File Record

(a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.

(b) **If No Record Filed.**

(1) If the clerk's record or reporter's record has not been

timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.

(2) If no reporter's record is filed due to appellant's fault, and if the clerk's record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

- (i) the appellant failed to request a reporter's record; or
- (ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.

(c) Extension of Time to File the Reporter's Record.

When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.

(d) Supplemental Record. If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

Rule 4.04. Copies of the Record

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

Rule 4.05. Requisites of Briefs

(a) Appellant's Filing Date. Appellant's brief must be filed within 30 days after the clerk's record or the reporter's record is filed, whichever is later.

(b) Appellee's Filing Date. Appellee's brief must be filed within 30 days after the appellant's brief is filed.

(c) Contents. Briefs must contain:

- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
- (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
- (3) an index of authorities arranged alphabetically and

indicating the pages where the authorities are cited;

(4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;

(5) a statement, without argument, of the basis of BODA's jurisdiction;

(6) a statement of the issues presented for review or points of error on which the appeal is predicated;

(7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;

(8) the argument and authorities;

(9) conclusion and prayer for relief;

(10) a certificate of service; and

(11) an appendix of record excerpts pertinent to the issues presented for review.

(d) Length of Briefs; Contents Included and Excluded.

In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

(e) Amendment or Supplementation. BODA has discretion to grant leave to amend or supplement briefs.

(f) Failure of the Appellant to File a Brief. If the appellant fails to timely file a brief, BODA may:

- (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;
- (2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or
- (3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

Rule 4.06. Oral Argument

(a) Request. A party desiring oral argument must note the

request on the front cover of the party's brief. A party's failure to timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

(b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:

- (1) the appeal is frivolous;
- (2) the dispositive issue or issues have been authoritatively decided;
- (3) the facts and legal arguments are adequately presented in the briefs and record; or
- (4) the decisional process would not be significantly aided by oral argument.

(c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

Rule 4.07. Decision and Judgment

(a) **Decision.** BODA may do any of the following:

- (1) affirm in whole or in part the decision of the evidentiary panel;
- (2) modify the panel's findings and affirm the findings as modified;
- (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
- (4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:
 - (i) the panel that entered the findings; or
 - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.

(b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

Rule 4.08. Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27 [2.26]. The committee must consist of six members: four attorney members and two public members

randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

Rule 4.09. Involuntary Dismissal

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.

V. PETITIONS TO REVOKE PROBATION

Rule 5.01. Initiation and Service

(a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23 [2.22].

(b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02. Hearing

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

VI. COMPULSORY DISCIPLINE

Rule 6.01. Initiation of Proceeding

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

Rule 6.02. Interlocutory Suspension

(a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA

determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA must suspend the Respondent's license to practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

(b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

(1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.

(2) If the criminal sentence is not fully probated:

(i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or

(ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.

(c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

VII. RECIPROCAL DISCIPLINE

Rule 7.01. Initiation of Proceeding

To initiate an action for reciprocal discipline under TRDP Part IX, the CDC must file a petition with BODA and request an Order to Show Cause. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

Rule 7.02. Order to Show Cause

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

Rule 7.03. Attorney's Response

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

VIII. DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01. Appointment of District Disability Committee

(a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2), or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

(b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.

(c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.

(d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.

(e) Should any member of the District Disability Committee become unable to serve, the BODA Chair must appoint a substitute member.

Rule 8.02. Petition and Answer

(a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the

CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service must comply with Rule 1.06.

(b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.

(c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

Rule 8.03. Discovery

(a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.

(b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam ordered by the District Disability Committee.

(1) Motion. The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(2) Report. The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.

(c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

Rule 8.04. Ability to Compel Attendance

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

Rule 8.05. Respondent's Right to Counsel

(a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for

indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.

(b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

Rule 8.06. Hearing

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

Rule 8.07. Notice of Decision

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

Rule 8.08. Confidentiality

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

IX. DISABILITY REINSTATEMENTS

Rule 9.01. Petition for Reinstatement

(a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.

(b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

(c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

Rule 9.02. Discovery

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

Rule 9.03. Physical or Mental Examinations

(a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.

(b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

(d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.

(e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

Rule 9.04. Judgment

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

X. APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS**Rule 10.01. Appeals to the Supreme Court**

(a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.

(b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after

BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.

(c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.