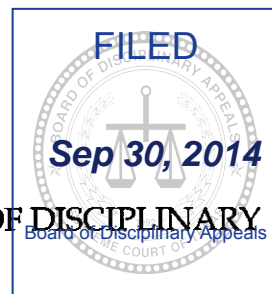


Cause No. 55073

In Re CHARLES CHANDLER DAVIS,
RELATOR

BOARD OF DISCIPLINARY
APPEALS



PETITION FOR RELIEF FROM THE 14th DISTRICT EVIDENTIARY PANEL

v.

HONORABLE WILLIAM ALTMAN
RESPONDENT

FIRST AMENDED PETITION FOR WRIT OF MANDAMUS

TO THE BOARD OF DISCIPLINARY APPEALS:

COMES NOW, Charles Chandler Davis, *Pro Se*, Relator herein, and files this timely request for relief through Amended Writ of Mandamus, and in support of same would show:

Summary and Time Line

On September 25, 2014 a formal notice of a motion to recuse was filed against Chairman William K. Altman of a successor Evidentiary Panel in District 14. Subject to the provisions of recusal a file marked copy was requested from Ms. Lisa Holt, Esq. of the regional office of the Chief Disciplinary Counsel. For several hours the filing of such was delayed. At the same time, and before any action was taken by the disciplinary panel, a motion to transfer from one Committee to another was filed pursuant to 7.08(f) of the *Texas Rules of Disciplinary Procedure*.

Applicable Rules

The *Texas Rules of Civil Procedure, 18a and 18b*, provide the procedural guidelines for recusal and what occurs when a hearings officer is challenged by a recusal motion. We contend that the Honorable Bill Altman sitting as the successor Chairman of a District 14 Disciplinary Panel violated the mandatory requirements of *18a*. The multiple violations require relief not available in any other forum and are questions of law. Relief includes the entrance of a recusal order with notice to the appropriate officer within three days.

The Evidentiary Panel Chairman, was notified by Relator that a response was mandatory. See, Exhibits. Throughout the next four days no one has contacted respondent, no one has furnished a copy of any required response, and I have no notice after providing copies of pertinent cases that any response will be provided. Therefore, pursuant to the Texas Rules of Appellate Procedure and the Texas Rules of Disciplinary Procedure I submit the following for consideration.

1.1 Purpose

A writ of mandamus is an original writ issued by a higher court to command a lower court, tribunal or public officer to do or refrain from doing some act. *Seagraves v. Green*, 288 S.W. 417(Tex. 1930). A relator under the rule, must show that it has a justiciable interest in the underlying controversy. *Terrazas v. Ramirez*, 829 S.W. 2nd 712. As a general rule mandamus is not available to compel an act until a demand is made to conform and here is a failure or refusal. *In re Perritt*, 992 S.W. 2nd 444(Tex. 1999).

1.2 Factual Disputes

The relator must show that there are no factual disputes about the relators right or the respondents duty. Relief by mandamus is not appropriate without such a showing. *In re Angelini*, 186 S.W. 3rd 558(Tex. 2006). A writ of mandamus will issue to compel the

performance of a ministerial act or duty. *Walker v. Packer*, 827 S.W. 2nd 833(Tex. 1992).

1.3 Abuse of Discretion

A writ of mandamus will issue to correct a clear abuse of discretion and when there is no adequate appellate remedy. *In re TDFPS*, 210 S.W. 3rd 609(Tex. 2006). A court or committee has no discretion but to obey the law and it is an abuse of discretion to misapply or misinterpret the law. *In re RDFPS*(supra).

1.3 No Adequate Appellate Remedy

The Relator has no ability to cure or mitigate the actions, and omissions, and violations of duty of the Respondent.

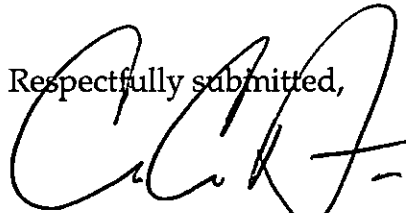
1.4 Violation of Duty

Chairman Bill Altman was duly noticed and reminded of his duties as the Chairman of an Evidentiary Panel, and the existence of a pending recusal motion. He denied the motion on the record on the 26 of September 2014 and proceeded without notification of the Regional Presiding Director. Such conduct is abusive and presents the appearance of impropriety. Afterward the Chairman bragged that "it is public now, and he can't do anything about it".

Prayer

Relator respectfully requests a signed order subject to *18a* and the hearing required regarding *TRCP, 18a*. Further, if there is a signed order, which we have not been noticed of, we request that it be delivered to Relator. After receipt of a recusal order we respectfully request that any orders, not noticed, or any orders arising as a result of the failure to recognize the recusal motions and its requirements be declared void, as a matter of law.

Respectfully submitted,



Charles Chandler Davis, Pro Se

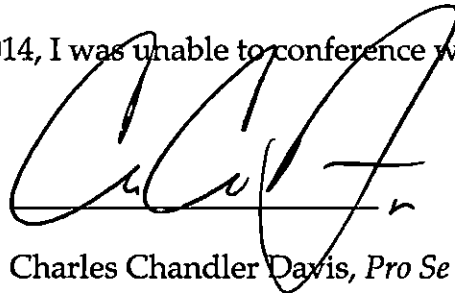
05465900 6910 FM 1830 Argyle, Texas 76226

charlie@arroyocoloradoenergy.com

940.368.1865

CERTIFICATE OF CONFERENCE

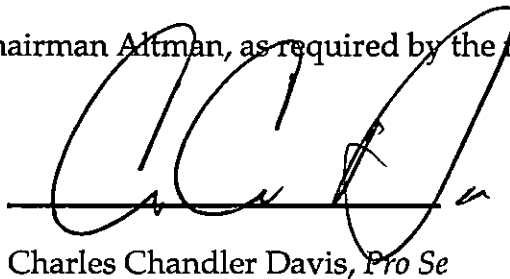
On this the 30th day of September 2014, I was unable to conference with
Ms. Lisa Holt, Esq.,



Charles Chandler Davis, Pro Se

NOTICE CERTIFICATE

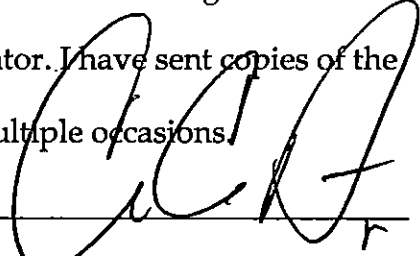
I, Charles Chandler Davis, have on this the 30th day of September 2014 sent
electronic notice to all counsel and to Chairman Altman, as required by the rules.



Charles Chandler Davis, Pro Se

VERIFICATION

__ON this the 30th day of September 2014, I, Charles Chandler Davis, verify and affirm, based upon information and belief that after repeated requests to enter an order prior to proceeding, the Respondent refused, and continues to refuse to recognize or deliver such mandatory ministerial act, to the damage of Relator. I have sent copies of the TRCP, 18a(c) and requested entrance in writing on multiple occasions.



Charles Chandler Davis, *Pro Se*

Historical Notes

Source

Vernon's Ann.Civ.St. art. 3911, adding "Except where otherwise expressly provided by law or these rules".

Rule 18. When Judge Dies During Term, Resigns or is Disabled.

If the judge dies, resigns, or becomes unable to hold court during the session of court duly convened for the term, and the time provided by law for the holding of said court has not expired, such death, resignation, or inability on the part of the judge shall not operate to adjourn said court for the term, but such court shall be deemed to continue in session. If a successor to such judge shall qualify and assume office during the term, or if a judge be transferred to said district from some other judicial district, he may continue to hold said court for the term provided, and all motions undisposed of shall be heard and determined by him, and statements of facts and bills of exception shall be approved by him. If the time for holding such court expires before a successor shall qualify, and before a judge can be transferred to said district from some other judicial district, then all motions pending, including those for new trial, shall stand as continued in force until such successor has qualified and assumed office, or a judge has been transferred to said district who can hold said court, and thereupon such judge shall have power to act thereon at the succeeding term, or on an earlier day in vacation, on notice to all parties to the motion, and such orders shall have the same effect as if rendered in term time. The time for allowing statement of facts and bills of exception from such orders shall date from the time the motion was decided.

Oct. 29, 1940, eff. Sept. 1, 1941. Amended by order of June 16, 1943, eff. Dec. 31, 1943.

General Commentary—1966

The 1943 amendment was prompted by the enactment of a statute authorizing the presiding judge of a judicial administrative district to transfer a judge to a district where the regular judge has died, resigned, or become disabled.

Historical Notes

Source

Vernon's Ann.Civ.St. art. 2288.

Rule 18a. Recusal and Disqualification of Judges

(a) *Motion; Form and Contents.* A party in a case in any trial court other than a statutory probate court or justice court may seek to recuse or disqualify a judge who is sitting in the case by filing a motion with the clerk of the court in which the case is pending. The motion:

(1) must be verified;

(2) must assert one or more of the grounds listed in Rule 18b;

(3) must not be based solely on the judge's rulings in the case; and

(4) must state with detail and particularity facts that:

(A) are within the affiant's personal knowledge, except that facts may be stated on information and belief if the basis for that belief is specifically stated;

(B) would be admissible in evidence; and

(C) if proven, would be sufficient to justify recusal or disqualification.

(b) Time for Filing Motion.

(1) *Motion to Recuse.* A motion to recuse:

(A) must be filed as soon as practicable after the movant knows of the ground stated in the motion; and

(B) must not be filed after the tenth day before the date set for trial or other hearing, unless, before that day, the movant neither knew nor reasonably should have known:

(i) that the judge whose recusal is sought would preside at the trial or hearing; or

(ii) that the ground stated in the motion existed.

(2) *Motion to Disqualify.* A motion to disqualify should be filed as soon as practicable after the movant knows of the ground stated in the motion.

(c) Response to Motion.

(1) *By Another Party.* Any other party in the case may, but need not, file a response to the motion. Any response must be filed before the motion is heard.

(2) *By the Respondent Judge.* The judge whose recusal or disqualification is sought should not file a response to the motion.

(d) *Service of Motion or Response.* A party who files a motion or response must serve a copy on every other party. The method of service must be the same as the method of filing, if possible.

(e) Duty of the Clerk.

(1) *Delivery of a Motion or Response.* When a motion or response is filed, the clerk of the court must immediately deliver a copy to the respondent judge and to the presiding judge of the administrative judicial region in which the court is located ("the regional presiding judge").

(2) *Delivery of Order of Recusal or Referral.* When a respondent judge signs and files an order of recusal or referral, the clerk of the court must

FILED

Cause No. A0051113770

SEP 25 2014

Commission on Lawyer Discipline

EVIDENTIARY CLERK-STATE BAR OF TEXAS
EVIDENTIARY PANEL

v.

DISTRICT 14

Charles Chandler Davis

GRIEVANCE COMMITTEE

TRCP, 21 and 21a, 21b Motion and TRDP, 2.09(a,b,c)

COMES NOW, Charles Chandler Davis, as respondent herein, and files this his Request for relief and in support thereof has furnished a copy of the *Texas Rules of Disciplinary Procedure, Rule 2.09(a,b,c) and TRCP Rules 21, 21a and 21b* respectfully request judicial notice and in support thereof have furnished a true and correct copy of a both rules and *Texas Rules of Disciplinary Procedure, Rule 2.09(a,b,c)* :

Subject Matter Jurisdiction

Loss of subject matter jurisdiction occurs when the administrative body fails to follow the procedural rules of the State of Texas or of the Texas Rules of Disciplinary Procedure. Respondent has raised significant pleading errors and limitations regarding the pleadings of the Chief Disciplinary Counsel.

Plea to Jurisdiction

This Panel does not have subject matter jurisdiction of this proceeding. Petitioner has alleged that a finding of just cause to proceed was validly determined in October of 2011, based upon a complaint filed in May of 2011. Respondent has furnished evidence of violation of procedures and safeguards promulgated by the Supreme Court of Texas.

Respondent gives notice of filing this plea with the Texas Board of Disciplinary Appeals, prior to having an Evidentiary Hearing. Respondent has not waived such challenge to jurisdiction.

Specific Defects

VIOLATION of Texas Rules of Disciplinary Procedure , Rules 2.10 "Classification of Inquiries and Complaints" and 2.12," Investigation and Determination of Just Cause"

The Chairman and Petitioner are furnished with the requisite copies of the current *Rules of Disciplinary Procedure*, with changes to February 2014. Respectfully the Petitioner is required have requisite knowledge and understanding of these rules, and in several hearings have opined that she resents the Respondent filing objections to the petitioner failure to adhere their conduct to the rules.. *Texas Rules of Disciplinary Procedure, Rule 15.05* makes such time lines mandatory and requires the Petitioner under Texas Rules of Civil Procedure, Rule 13 to file pleadings in good faith. mandatory for loss of jurisdiction.

Mandatory Judicial Notice

Judicial Notice under Texas Rules of Civil Evidence, Rule 201(d) of the entire file is requested, from inception of the complaint, on May 11, 2011 until September 25, 2014.

VIOLATION of Texas Rules of Disciplinary Procedure, Rule 2.09 "Notice to Parties"

The Petitioner has not been served in accordance with this rule and submits respectfully that 2.09(A, B,C) have not been observed. That notice was delivered by certified mail on two different occasions and that the second notice is not timely and does not comport with the rules. Respectfully respondent does not waive these jurisdictional and notice defects.

Respondent would show that this matter is not subject to the electronic filing provisions of ~~Rule 21, 21a and 21b~~ of the ~~Texas Rules of Civil Procedure~~. We respectfully request sanctions of the Chief Disciplinary Counsel for failure to "serve or deliver" by a setting notice in a manner required by law.

Motion to Quash

Respondent requests the untimely notice be noticed and quashed.

PRAYER

The Respondent respectfully suggests the notice be quashed. This proceeding dismissed in its entirety. Respectfully it is suggested that dismissal of this proceeding is mandatory, and respectfully requests a confidential dismissal order. It is requested that the purported hearing of the Evidentiary Committee be held in accordance with the rules. Further, this motion has provided and published a true and correct copy of *Texas Rules of Disciplinary Procedure, Rule 15.05 "Effect of Time Limitations", and a Copy of TRCP, 21 and 21a, including reference to 2.09(a,b,c)*. Please find Exhibits of TRCP, 21, 21a and 21b. Relief is requested.

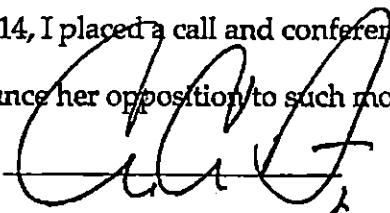
Respectfully submitted,


Charles Chandler Davis

05465900

CERTIFICATE

On this the 25th day of September 2014, I placed a call and conferenced with
Ms. Lisa Holt, Esq., and was asked to announce her opposition to such motion.


Charles Chandler Davis

11:00Am

CCD₊

Tendered at 11:04Am

or a person related to him within the third degree more than other judges.

(e) *Waiving a Ground for Recusal.* The parties to a proceeding may waive any ground for recusal after it is fully disclosed on the record.

(f) *Discovery and Divestiture.* If a judge does not discover that the judge is recused under subparagraphs (b)(6) or (b)(7)(B) until after the judge has devoted substantial time to the matter, the judge is not required to recuse himself or herself if the judge or the person related to the judge divests himself or herself of the interest that would otherwise require recusal.

July 15, 1987, eff. Jan. 1, 1988. Amended by orders of April 24, 1990, eff. Sept. 1, 1990; July 6, 2011, and July 22, 2011, eff. Aug. 1, 2011.

Comment—2011

The amendments to Rule 18b are not intended to be substantive.

Comment—1990

The grounds for a judge's mandatory recusal have been expanded from those in prior Rule 18b(2).

Historical Notes

A former rule 18b, relating to recusal or disqualification of justices of Courts of Appeals or the Supreme Court, was added by order of Dec. 5, 1983, and was repealed by order of April 10, 1986, eff. Sept. 1, 1986. See now, Rules App. Proc., rule 16.3.

Rule 18c. Recording and Broadcasting of Court Proceedings

A trial court may, permit, broadcasting, televising, recording, or photographing, of proceedings in the courtroom only in the following circumstances:

(a) in accordance with guidelines promulgated by the Supreme Court for civil cases, or

(b) when, broadcasting, televising, recording, or photographing will not unduly distract participants or impair the dignity of the proceedings and the parties have consented, and consent to being depicted or recorded is obtained from each witness whose testimony will be broadcast, televised, or photographed, or

(c) the broadcasting, televising, recording, or photographing of investiture, or ceremonial proceedings. April 24, 1990, eff. Sept. 1, 1990.

Comment—1990

New rule. To provide for guidelines for broadcasting, televising, recording, and photographing court proceedings.

Rule 19. Non-Adjournment of Term

Every term of court shall commence and convene by operation of law at the time fixed by statute without any act, order, or formal opening by a judge or other official thereof, and shall continue to be open at all times until and including the last day of the term, unless sooner adjourned by the judge thereof.

Oct. 29, 1940, eff. Sept. 1, 1941. Amended by order of June 16, 1943, eff. Dec. 31, 1943.

General Commentary—1966

The 1943 amendment reflected the growing prevalence of continuous terms.

Historical Notes

Source

Vernon's Ann. Civ. St. art. 1922.

Rule 20. Minutes Read and Signed

On the last day of the session, the minutes shall be read, corrected and signed in open court by the judge. Each special judge shall sign the minutes of such proceedings as were had by him.

Oct. 29, 1940, eff. Sept. 1, 1941.

Historical Notes

Source

Vernon's Ann. Civ. St. art. 1918, modified by deleting the requirement that minutes be read daily, and by extending the rule's provision to judges of both district and county courts.

Rule 21. Filing and Serving Pleadings and Motions

(a) *Filing and Service Required.* Every pleading, plea, motion, or application to the court for an order, whether in the form of a motion, plea, or other form of request, unless presented during a hearing or trial, must be filed with the clerk of the court in writing, must state the grounds therefor, must set forth the relief or order sought, and at the same time a true copy must be served on all other parties, and must be noted on the docket.

(b) *Service of Notice of Hearing.* An application to the court for an order and notice of any hearing thereon, not presented during a hearing or trial, must be served upon all other parties not less than three days before the time specified for the hearing, unless otherwise provided by these rules or shortened by the court.

(c) *Multiple Parties.* If there is more than one other party represented by different attorneys, one copy of each pleading must be served on each attorney in charge.

(d) *Certificate of Service.* The party or attorney of record, must certify to the court compliance with this

rule in writing over plea, motion, or appli

(e) *Additional Copy.* A party, that party same pleading upon copying, and deliver Dkt. No. 13-9165 C Dkt. No. 13-003.

(f) *Electronic Filing*

(1) Requirement Title 3 of the Family file documents ing has been man courts where elect mandated and unre cally file documents

(2) Email Address attorney or unrepr files a document in

(3) Mechanism through the electro the Office of Court filing service prov Court Administrat

(4) Exceptions:

(A) Wills are n cally maintained

(B) The follow electronically

(i) document to the court in e

(ii) document restricted by la

(C) For good party to file other particular case

(5) Timely Filing filed by a certain th ered timely filed if time before midnigh the filing deadline. ment is deemed flet party's electronic f

(A) if a docume Sunday, or legal h next day that is n holiday; and

(B) if a docum order allowing its filed on the date

(6) Technical Fall due to a technical fi

rule in writing over signature on the filed pleading, plea, motion, or application.

(e) *Additional Copies.* After one copy is served on a party, that party may obtain another copy of the same pleading upon tendering reasonable payment for copying and delivering. Tx. Supreme Court Misc. Dkt. No. 13-9165 Court of Criminal Appeals Misc. Dkt. No. 18-003

(f) *Electronic Filing.*

(1) *Requirement.* Except in juvenile cases under Title 3 of the Family Code, attorneys must electronically file documents in courts where electronic filing has been mandated. Attorneys practicing in courts where electronic filing is available but not mandated and unrepresented parties may electronically file documents, but it is not required.

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

(3) *Mechanism.* Electronic filing must be done through the electronic filing manager established by the Office of Court Administration and an electronic filing service provider certified by the Office of Court Administration.

(4) *Exceptions.*

(A) Wills are not required to be filed electronically.

(B) The following documents must not be filed electronically:

(i) documents filed under seal or presented to the court in camera; and

(ii) documents to which access is otherwise restricted by law or court order.

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

(g) *Timely Filing.* Unless a document must be filed by a certain time of day, a document is considered timely filed if it is electronically filed at any time before midnight (in the court's time zone) on the filing deadline. An electronically filed document is deemed filed when transmitted to the filing party's electronic filing service provider, except:

(A) if a document is transmitted on a Saturday, Sunday, or legal holiday, it is deemed filed on the next day that is not a Saturday, Sunday, or legal holiday; and

(B) if a document requires a motion and an order allowing its filing, the document is deemed filed on the date that the motion is granted.

(h) *Technical Failure.* If a document is untimely due to a technical failure or a system outage, the

filing party may seek appropriate relief from the court. If the missed deadline is one imposed by these rules, the filing party must be given a reasonable extension of time to complete the filing.

(7) *Electronic Signatures.* A document that is electronically served, filed, or issued by a court or clerk is considered signed if the document includes:

(A) a "/s/" and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or

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

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

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

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

(C) not be locked; and

(D) otherwise comply with the Technology Standards set by the Judicial Committee on Information Technology and approved by the Supreme Court.

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

(10) *Electronic Notices From the Court.* The clerk may send notices, orders, or other communications about the case to the party electronically. A court seal may be electronic.

(11) *Non-Conforming Documents.* The clerk may not refuse to file a document that fails to conform with this rule. But the clerk may identify the error to be corrected and state a deadline for the party to resubmit the document in a conforming format.

(12) *Original Wills.* When a party electronically files an application to probate a document as an original will, the original will must be filed with the clerk within three business days after the application is filed.

(13) *Official Record.* The clerk may designate an electronically filed document or a scanned paper document as the official court record. The clerk is not required to keep both paper and electronic versions of the same document unless otherwise required by local rule. But the clerk must retain an original will filed for probate in a numbered file folder.

Oct. 29, 1940, eff. Sept. 1, 1941. Amended by orders of Sept. 20, 1941, eff. Dec. 31, 1941; Aug. 18, 1947, eff. Dec. 31, 1947; July 11, 1977, eff. Jan. 1, 1978; June 10, 1980, eff. Jan. 1, 1981; April 24, 1990, eff. Sept. 1, 1990; Dec. 11, 2013, eff. Jan. 1, 2014.

Comment—2013

Rule 21 is revised to incorporate rules for electronic filing, in accordance with the Supreme Court's order—Misc. Docket No. 12-9206, amended by Misc. Docket Nos. 13-9092 and 13-9164—mandating electronic filing in civil cases beginning on January 1, 2014. The mandate will be implemented according to the schedule in the order and will be completed by July 1, 2016. The revisions reflect the fact that the mandate will only apply to a subset of Texas courts until that date.

Comment—1990

To require filing and service of all pleadings and motions on all parties and to consolidate notice and service Rules 21, 72 and 73.

General Commentary—1966

Following is an excerpt from Stayton, *Analysis of Changes*, 4 Texas Bar J. 667 (1941), pertaining to the 1941 Amendment.

"The original draft of the rules seemed to require that return by an officer after service of notice of a motion had to be under oath. This implication has been removed."

Opinions of Subcommittee on Interpretation of Rules

Effect of clerk's failure to enter motion

"Where under rule 169, a proper request for admission of fact is delivered to a party who does not reply to the same within the time stipulated, and five days prior to the time that the party has in which to make his reply his attorney files a motion for a ten day extension of time to file a reply, and no other notice is given to the adverse party of the filing of such motion, and no action is taken on the motion at the time and no other motion for an extension of time is submitted, the court at the trial of the case over three months thereafter would have authority in the exercise of its discretion to permit the reply to be filed unless the motion were so worded as not to contemplate an extension at so late a time. In a pending suit the filing and entry of a motion constitutes notice, and failure to enter on docket is fault of clerk. 6, T.B.J. 426; 8 T.B.J. 25.

Federal Rules—1966

Compare Federal Rule 5:

"(d) Filing. All papers after the complaint required, to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter.

"(e) Filing With the Court Defined

"The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk." Fed. Rules Civ. Proc. rule 5(d), 28 U.S.C.

Source

Vernon's Ann. Civ. St. art. 2291.

2013 Amendment

The order dated December 11, 2013 inserted the present subsection (a) to (e) designations and headings, and in those subsections substituted "must" for "shall" throughout; in subsection (c) substituted "each pleading must be served on each" for "such pleading shall be served on delivered or mailed to each"; and added subsection (f).

Rule 21a. Methods of Service

(a) *Methods of Service.* Every notice required by these rules, and every pleading, plea, motion, or other form of request required to be served under Rule 21 other than the citation to be served upon the filing of a cause of action and except as otherwise expressly provided in these rules, may be served by delivering a copy to the party to be served, or the party's duly authorized agent or attorney of record in the manner specified below:

(1) *Documents Filed Electronically.* A document filed electronically under Rule 21 must be served electronically through the electronic filing manager if the email address of the party or attorney to be served is on file with the electronic filing manager. If the email address of the party or attorney to be served is not on file with the electronic filing manager, the document may be served on that party or attorney under subparagraph (2).

(2) *Documents Not Filed Electronically.* A document not filed electronically may be served in person, mail, by commercial delivery service, by fax, by email, or by such other manner as the court in its discretion may direct.

(b) *When Complete.*

(1) Service by mail or commercial delivery service shall be complete upon deposit of the document, postpaid and properly addressed, in the mail or with a commercial delivery service.

(2) Service by fax is complete on receipt. Service completed after 5:00 p.m. local time of the recipient shall be deemed served on the following day.

(3) Electronic service is complete on transmission of the document to the serving party's electronic filing service provider. The electronic filing manager will send confirmation of service to the serving party.

(c) *Time for Action After Service.* Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, three days shall be added to the prescribed period.

Historical Notes

(d) *Who May Serve* party to the suit, an constable, or by any o

(e) *Proof of Service* record shall certify to rule in writing over si ment. A certificate record, or the return any other person shov prima facie evidence c herein shall preclude that the document was by mail, that the doc three days from the di mail, and upon so find time for taking the ac grant such other relief

(f) *Procedures Cumulative of all other* by these rules, (1 Aug. 18, 1947; eff. Dec. 31, 1970; eff. Jan. 1, 1971; Oct. 3 et Jan. 1, 1970; June 10, 19 April 1, 1984; April 24, 1990, e 1, 2014.

Com

"Rule 21a is revis electronic service in a Court's order—Misc. ed by Misc. Docket mandating electronic on January 1, 2014.

Com

To allow for service and technologies

Federal

Compare Federal 1 How Made. Whenever is required or permitt represented by an at made upon the attorn party himself is orde upon the attorney or i by delivering a copy to at his last known ad known, by leaving it v Delivery of a copy with it to the attorney or to his office with his cler thereof; or, if there is in a conspicuous place closed or the person t leaving it at his dwell abode with some person then residing the complete upon mailing. 6(b), 28 U.S.C. A

Tendered at 11:00 AM
04/25/14

Adopted by orders of Feb. 26, 1991, and Oct. 9, 1991, eff. May 1, 1992.

As soon as possible after appointment, each newly appointed member of a Committee shall take the following oath, to be administered by any person authorized by law to administer oaths:

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992.

Each member of a Committee shall act, through panels assigned by the chair of the Committee, for summary, disposition dockets and evidentiary hearings. Promptly after assignment, notice must be provided to the Respondent by United States certified mail, return receipt requested, of the names and addresses of the panel members assigned to each Complaint. A member is disqualified or is subject to recusal as a panel member for an evidentiary hearing if a district judge would, under similar circumstances, be disqualified or recused. If a member is disqualified or recused, another member shall be appointed by the Committee chair. No peremptory challenges of a Committee member are allowed. Any alleged grounds for disqualification or recusal of a panel member are conclusively waived if not brought to the attention of the panel within ten days after receipt of notification of the names and addresses of members of the panel; however, grounds for disqualification or

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991; eff. May 1, 1992.
Amended by order of Dec. 29, 2003; eff. Jan. 1, 2004.

Committees shall act through panels, as assigned by the Committee chair, to conduct summary disposition dockets and evidentiary hearings. No panel may consist of more than one-half of all members of the Committee or fewer than three members. If a member of a panel is disqualified, recused or otherwise unable to serve, the chair shall appoint a replacement. Panels must be composed of two attorney members for each public member. A quorum must include at least one public member for every two attorney members present and consists of a majority of the membership of the panel; and business shall be conducted upon majority vote of those members present, a quorum being had. In matters in which evidence is taken, no member may vote unless that member has heard or reviewed all the evidence. It shall be conclusively presumed, however, not subject to discovery or challenge in any subsequent proceeding, that every member casting a vote has heard or reviewed all the evidence. No member, attorney or public may be appointed by the chair for both the Summary Disposition docket and the Evidentiary Panel pertaining to the same disciplinary matter. Any tie vote is a vote in favor of the position of the Respondent.

Adopted by orders of Feb. 26, 1991, and Oct. 9, 1991, eff. May 1, 1991.
Amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

Members of Committees serve without compensation but are entitled to reimbursement by the State Bar for their reasonable actual and necessary expenses.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992

A. Every notice required by this Part to be served upon the Respondent may be served by U. S. certified mail, return receipt requested, or by any other means of service permitted by the Texas Rules of Civil Procedure to the Respondent at the Respondent's Address or to the Respondent's counsel.

B. Every notice required by this Part to be served upon the Commission may be served by U. S. certified mail, return receipt requested, or by any other means of service permitted by the Texas Rules of Civil Procedure.

C. Whenever a party to do some act or take prescribed period after the paper upon the party and upon the party by mail (for three days shall be

[illegible]

Adopted by orders of Feb. 21
Amended by order of June
from Rule 2.09 and amended
2004.

FILED

Cause No. A0051113770

SEP 25 2014

EVIDENTIARY CLERK-STATE BAR OF TEXAS
EVIDENTIARY PANEL

Commission on Lawyer Discipline

v.

DISTRICT 14

Charles Chandler Davis

GRIEVANCE COMMITTEE

TRCP, RULE 18 and 18a,18b MOTION

TO THE HONORABLE WILLIAM ALTMAN, PRESIDING

COMES NOW, Charles Chandler Davis, as respondent herein, and files this timely TRCP 18 and 18a,18b Recusal Motion and in support thereof submit the following:

Summary and Time Line

In May of 2011, an inquiry was commenced based upon complaints filed by two Attorneys. Over the course of the next five months the Chief Disciplinary Counsel "considered" such complaints. This was in violation of 2.10 and 2.12 of the Texas Rules of Disciplinary Procedure. Please see attached partial time line filed as Evidentiary Index, by Petitioner. You will see a beginning date of 10/10/11 for number 1. This is not correct and is not a complete evidentiary index. Please see letter dated June 8, 2011, and letter dated September 2, 2011, also attached. There are other documents, not in the index, not copied and not noticed, as of September 25, 2014. Multiple attempts have been made to the current Chairman to recognize the loss of jurisdiction or at least to conduct an inquiry into jurisdiction.

In the last forty months you will see various committee and committee chairs which have voluntarily removed themselves from this matter without an 18a motion to recuse. You will also note an unexplained gap in the so called Evidentiary Index from

September 12, 2012 until January 13, 2014, Respondent after repeated requests and motions still has no idea what occurred during this period of time. Beginning in early May of 2014, multiple motions were filed and each recusal would occur and we would commence to conduct discovery and the Disciplinary Counsel would complain, would not agree to a discovery schedule and continued on as if this was all perfectly normal.

We were left with no choice but to keep filing and have no one to rule on them. Many months were taken to respond to these motions by Petitioner. We were unable to complete a partial deposition upon Thomas M. McMurray, in late August of 2014.

Multiple motions have been denied and one motion has been granted, in the last few days, and a half day mediation has occurred by court order on the 23rd of September 2014. A dispute regarding proper service has arisen, a dispute regarding jurisdiction has arisen and after multiple phone hearings the filing of this instrument was required based upon both the failure to rule on certain matters and the rulings on certain matters and the comments regarding the failure to follow mandatory rules of both the Texas Rules of Civil Procedure and the Texas Disciplinary Rules of Civil Procedure, there has even been a dispute as to the applicable Disciplinary Rules. I am attaching for examination. This failure to restrain the changing whims of the petitioner is unseemly.

Jurisdiction and Abatement

A verified challenge to jurisdiction and verified abatement are attached to this motion. Jurisdiction has been raised on several occasions by special exception, by motion for summary judgment and plea in abatement, all motions have been overruled without an inquiry hearing. It is alleged that this failure to conduct inquiry represents an abridgment of the applicable rules and is as a matter of law an abuse of discretion.

NOTICE

As previously raised regarding the many recusals in this matter, it is a portion of this motion to recuse that there has been a serious conscious disregard of appropriate procedure when recusing voluntarily. It is requested that an examination be made of such recusals. It is possible to remove a judge from a particular case because he is constitutionally disqualified, because they are subject to a statutory strike or because they are recused under Rules promulgated by the Supreme Court. *See, In re Union Pacific Resources Co.*, 969 S.W. 2nd 427(Tex. 1998).

It is possible to acquire knowledge of specific errors inside of the 10 day rule provided for in TRCP 18a. It is possible to recuse because of rulings, and because of the lack of rulings, and the denial of constitutional due process, such filings must be specific and enumerated. *See, Gill v. Texas Dept. of Criminal Justice*, 3 S.W. 3rd 576(Tex. Houston 1st 1999).

It is an abuse of discretion to be specifically informed of a jurisdictional question through various motions and to simply deny them without an inquiry. A denial of recusal is reviewed on abuse of discretion standards. *Hoggett v. Brown*, 971 S.W. 2nd 472(Dallas 1989, writ denied).

It is a specific abuse of discretion if the trial court fails to comply with the rules provided for in Rule 18a, any and all sanctions taken by a judge are void. *Moseley v. State*, 141 S.W. 3rd 816 (Texarakana 2004, pet. ref); *Lamberti v. Tschope*, 776 S.W. 2^d 651(Dallas 1989, writ denied).

An animus or bias against a respondent may become clear in conversations in telephonic hearings or off the record. This inability to sit as a fair and neutral magistrate is difficult and emotional. A motion should never be filed without a strict examination

of the situation, the perceived or real animus and the projection of the judge of the ability to weigh and to fairly apply the law. The failure to rule upon clear matters of law or upon mandatory scheduling and notice requirements in the State of Texas may give rise to the requirement of not only a fair, neutral magistrate but the appearance of such fairness. Comments indicating that "I cannot understand how testimony could be dispositive", taken by itself may not be enough, but statements indicating impatience with inquiry, consideration and allowance for time to prepare and brief questions of law, lends itself to fundamental threshold issues concerning suitability of the officer to the task.

When such conduct is considered in light of comments by petitioner that the "rules of disciplinary procedure that were in effect in 2011 are what apply, and that the 2014 rules are not dispositive or mandatory" and finally, "I don't know how some action taken by the Chief Disciplinary Counsel three years ago would jurisdictionally have anything to do with this evidentiary hearing and setting". These were precursors to this filing.

After a courtesy notice was sent to the Chairman, he then issued another ruling.

Specific Defects

VIOLATION of Texas Rules of Disciplinary Procedure , Rules 2.10 "Classification of Inquiries and Complaints" and 2.12," Investigation and Determination of Just Cause"

The Chairman and Petitioner are furnished with the requisite copies of the current Rules of Disciplinary Procedure, with changes to February 2014. Respectfully the Petitioner has violated these mandatory rules.

Mandatory Judicial Notice

Judicial Notice under Texas Rules of Civil Evidence, Rule 201(d) of the entire file is

Motion to Recuse TRCP 18 and 18a

requested, from inception of the complaint, on May 11, 2011 until September 24, 2014.

Respondent respectfully requests abatement and dismissal of this proceeding and entrance of findings and conclusions of law this matter. Respondent requests notice of the entire Texas Rules of Disciplinary Procedure, including the furnished 15.05 Effect of Time Limitations. The Chairman has failed to rule on this, as amended, and it is a mandatory notice provision of the Chief Disciplinary Counsel, who has flagrantly ignored it.

VIOLATION of Texas Rules of Disciplinary Procedure, Rule 2.09 "Notice to Parties"

The Petitioner has not been served in accordance with this rule and submits respectfully that 2.09(A, B,C) has not been observed. That notice was delivered by certified mail on two different occasions and that the second notice is not timely and does not comport with the rules. Respectfully respondent does not waive these jurisdictional defects and has filed this plea with the committee chair.

VIOLATION of TRCP 18a, a judge must recuse himself in any proceeding where the judges impartiality might reasonably be questioned. The judges failure to examine pleading, jurisdictional and failures of the petitioner and to continually overlook proper, timely filed motions and in fact disparage them verbally is unseemly. To allow many months to pass without scheduling a hearing on many pending motions showed an utter lack of concern. The judges apparent lack of concern regarding this matter or the rights of the respondent, led to a pervasive and chilling understanding of the prejudice of this individual.

The rules of disciplinary procedure protect the rights of a respondent, the State Bar and The Supreme Court of Texas protect such rights, respectfully, we are better than

Motion to Recuse TRCP 18 and 18a

this.

PRAYER

Pursuant to TRCP, 18, 18a and 18b, I request a hearing regarding the specific complaints of failure to follow the law and the rules, specifically the notice rules, the time line limitations of 15.05 of the Texas Rules of Disciplinary Conduct and the disregard of the defective notice sent by Petitioner. The multiple recusals and replacements outside the rules and allowing the Chief Disciplinary Counsel to run roughshod over the rights of a dues paying member in good standing of the State Bar of Texas. I have made all parties aware of these issues and sent electronic notice to all parties.

Respectfully submitted,


Charles Chandler Davis

05465900 6910 FM 1830 Argyle, Texas 76226

charlie@arroyocoloradoenergy.com

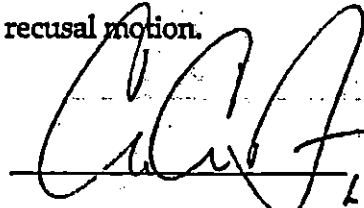
940.368.1865

CERTIFICATE OF CONFERENCE

On this the 25th day of September 2014, I called and conferenced with Ms. Lisa Holt, Esq., and attempted to stipulate. I have failed in that effort. She is opposed. I have been notified that Mr. Altman had a medical procedure but he is going to see us at the beginning of the "Evidentiary Hearing" tomorrow. This is another indication of overwhelming animus, in contradiction of the rules. This is not a formal

Motion to Recuse TRCP 18 and 18a

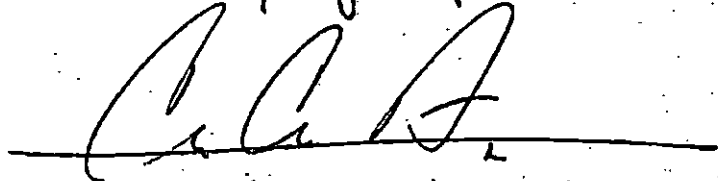
order but a retaliation for notification of the recusal motion.



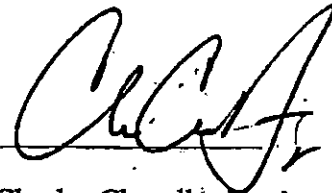
Charles Chandler Davis

CERTIFICATE OF NOTICE

I have sent electronic notice to all known
parties and to the Board of Disciplinary Appeals
at 3:30 PM on the 25th day of September 2014.



05465900



Charles Chandler Davis

05465900

State of Texas

Notary Public

County of Denton

Appeared before me an individual known to me to be Charles Chandler Davis, and after examination of the attached TRCP, Rule 18, and Rule 18a Motions affirmed and verified that he had read same and that they were true and correct, and within his personal knowledge as Respondent herein.

My Commission Expires:

9-10-16

Lori Ann Simpson



RECEIVED
JAN 12 1961
U.S. AIR FORCE
HONOLULU, HAWAII

RULES OF DISCIPLINARY PROCEDURE

Effective May 1, 1992

Including Amendments Received Through February 1, 2014

Research Note

See Vernon's Texas Codes Annotated, Government Code, Volume 3A, for judicial constructions and other research aids.

Use Westlaw® to find cases citing a rule. Westlaw may also be used to search for specific terms or to update a rule; see the TX-RULES and TX-RULESUPDATES Scope Screens for further information.

Amendments to these rules are published, as received, in South Western Reporter 3d and Texas Cases advance sheets.

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Preamble

The Supreme Court of Texas has the constitutional and statutory responsibility within the State for the lawyer discipline and disability system, and has inherent power to maintain appropriate standards of professional conduct and to dispose of individual cases of lawyer discipline and disability in a manner that does not discriminate by race, creed, color, sex, or national origin. To carry out this responsibility, the Court promulgates the following rules for lawyer discipline and disability proceedings. Subject to the inherent power of the Supreme Court of Texas, the responsibility for administering and supervising lawyer discipline and disability is delegated to the Board of Directors of the State Bar of Texas. Authority to adopt rules of procedure and administration not inconsistent with these rules is vested in the Board. This delegation is specifically limited to the rights, powers, and authority herein expressly delegated.

10.01. Citation.
These rules are to
disciplinary procedure
adopted by order of Feb. 26,
1981.
1.02. Objective of
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GENERAL RULES

PART I. GENERAL RULES

1.01. Citation

These rules are to be called the Texas Rules of Disciplinary Procedure, and shall be cited as such. Adopted by orders of Feb. 23, 1991, and Oct. 9, 1991, eff. May 1, 1992.

1.02. Objective of the Rules

These rules establish the procedures to be used in the professional disciplinary and disability system for attorneys in the State of Texas.

Adopted by orders of Feb. 23, 1991, and Oct. 9, 1991, eff. May 1, 1992.

1.03. Construction of the Rules

These rules are to be broadly construed to ensure the operation, effectiveness, integrity, and continuation of the professional disciplinary and disability system. The following rules apply in the construction of these rules:

A. If any portion of these rules is held unconstitutional by any court, that determination does not affect the validity of the remaining rules.

B. The use of the singular includes the plural, and vice versa.

C. In computing any period of time prescribed or allowed by these rules, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

Adopted by orders of Feb. 23, 1991, and Oct. 9, 1991, eff. May 1, 1992.

1.04. Integration and Concurrent Application of the Rules

These rules apply prospectively to all attorney professional disciplinary and disability proceedings commenced on and after the effective date as set forth in the Supreme Court's Order of promulgation. All disciplinary and disability proceedings commenced prior to the effective date of these rules as amended are governed by the Texas Rules of Disciplinary Procedure in effect as of the date of commencement of said disciplinary and disability proceedings.

Adopted by orders of Feb. 23, 1991, and Oct. 9, 1991, eff. May 1, 1992.

Amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

1.05. Texas Disciplinary Rules of Professional Conduct

Nothing in these rules is to be construed, explicitly or implicitly, to amend or repeal in any way the Texas Disciplinary Rules of Professional Conduct.

Adopted by orders of Feb. 23, 1991, and Oct. 9, 1991, eff. May 1, 1992.

1.06. Definitions

A. "Address" means the registered address provided by the attorney who is the subject of the Grievance, as that address is shown on the membership rolls maintained by the State Bar on behalf of the Clerk of the Supreme Court at the time of receipt of the Grievance by the Chief Disciplinary Counsel.

B. "Board" means the Board of Directors of the State Bar of Texas.

C. "Chief Disciplinary Counsel" means the person serving as Chief Disciplinary Counsel and any and all of his or her assistants.

D. "Commission" means the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.

E. "Committee" means any of the grievance committees within a single District.

F. "Complainant" means the person, firm, corporation, or other entity, including the Chief Disciplinary Counsel, initiating a Complaint or Inquiry.

G. "Complaint" means those written matters received by the Office of the Chief Disciplinary Counsel that, either on the face thereof or upon screening or preliminary investigation, allege Professional Misconduct or attorney Disability, or both, cognizable under these rules or the Texas Disciplinary Rules of Professional Conduct.

H. "Director" means a member of the Board of Directors of the State Bar of Texas.

I. "Disability" means any physical, mental, or emotional condition that, with or without a substantive rule violation, results in the attorney's inability to practice law, provide client services, complete contracts of employment, or otherwise carry out his or her professional responsibilities to clients, courts, the profession, or the public.

J. "Disciplinary Action" means a proceeding brought by or against an attorney in a district court or any judicial proceeding covered by these rules other than an Evidentiary Hearing.

K. "Disciplinary Petition" means a pleading that satisfies the requirements of Rule 3.01.

L. "Disciplinary Proceedings" includes the processing of a Grievance, the investigation and processing of an Inquiry or Complaint, presentation of a Complaint before a Summary Disposition Panel, and the proceeding before an Evidentiary Panel.

M. "District" means disciplinary district.

RULES OF DISCIPLINARY PROCEDURE

1.03

N. "Evidentiary Hearing" means an adjudicatory proceeding before a panel of a grievance committee.

O. "Evidentiary Panel" means a panel of the District Grievance Committee performing an adjudicatory function other than that of a Summary Disposition Panel with regard to a Disciplinary Proceeding pending before the District Grievance Committee of which the Evidentiary Panel is a subcommittee.

P. "Evidentiary Petition" means a pleading that satisfies the requirements of Rule 2.17.

Q. "General Counsel" means the General Counsel of the State Bar of Texas and any and all of his or her assistants.

R. "Grievance" means a written statement, from whatever source, apparently intended to allege Professional Misconduct by a lawyer or lawyer Disability, or both, received by the Office of the Chief Disciplinary Counsel.

S. "Inquiry" means any written matter concerning attorney conduct received by the Office of the Chief Disciplinary Counsel that, even if true, does not allege Professional Misconduct or Disability.

T. "Intentional Crime" means (1) any Serious Crime that requires proof of knowledge or intent as an essential element or (2) any crime involving misapplication of money or other property held as a fiduciary.

U. "Just Cause" means such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that an attorney either has committed an act or acts of Professional Misconduct requiring that a Sanction be imposed, or suffers from a Disability that requires either suspension as an attorney licensed to practice law in the State of Texas or probation.

V. "Penal Institution" has the meaning assigned by Article 62.001, Code of Criminal Procedure.

W. "Professional Misconduct" includes:

1. Acts or omissions by an attorney, individually or in concert with another person or persons, that violate one or more of the Texas Disciplinary Rules of Professional Conduct.
2. Attorney conduct that occurs in another state or in the District of Columbia and results in the disciplining of an attorney in that other jurisdiction, if the conduct is Professional Misconduct under the Texas Disciplinary Rules of Professional Conduct.
3. Violation of any disciplinary or disability order or judgment.
4. Engaging in conduct that constitutes barratry as defined by the law of this state.

5. Failure to comply with Rule 13.01 of these rules relating to notification of an attorney's cessation of practice.

6. Engaging in the practice of law either during a period of suspension or when on inactive status.

7. Conviction of a Serious Crime, or being placed on probation for a Serious Crime with or without an adjudication of guilt.

8. Conviction of an Intentional Crime, or being placed on probation for an Intentional Crime with or without an adjudication of guilt.

X. "Reasonable Attorneys' Fees," for purposes of these rules only, means a reasonable fee for a competent private attorney, under the circumstances. Relevant factors that may be considered in determining the reasonableness of a fee include but are not limited to the following:

1. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
2. The fee customarily charged in the locality for similar legal services;
3. The amount involved and the results obtained;
4. The time limitations imposed by the circumstances; and
5. The experience, reputation, and ability of the lawyer or lawyers performing the services.

Y. "Respondent" means any attorney who is the subject of a Grievance, Complaint, Disciplinary Proceeding, or Disciplinary Action.

Z. "Sanction" means any of the following:

1. Disbarment.
2. Resignation in lieu of discipline.
3. Indefinite Disability Suspension.
4. Suspension for a term certain.
5. Probation of suspension, which probation may be concurrent with the period of suspension, upon such reasonable terms as are appropriate under the circumstances.
6. Interim suspension.
7. Public reprimand.
8. Private reprimand.

The term "Sanction" may include the following additional ancillary requirements.

- a. Restitution (which may include repayment to the Client Security Fund of the State Bar of any payments made by reason of Respondent's Professional Misconduct); and
- b. Payment of Reasonable Attorneys' Fees and all direct expenses associated with the proceedings.

Re AA. "Serious Crime" means a crime involving moral turpitude, theft, embezzlement, appropriation of funds, conspiracy, or any of the foregoing.

BB. "State Bar" means the State Bar of Texas.

CC. "Summary Disposition Panel" means a panel of the District Grievance Committee of which the Evidentiary Panel is a subcommittee.

DD. "Complaint" means a written statement, from whatever source, apparently intended to allege Professional Misconduct by a lawyer or lawyer Disability, or both, received by the Office of the Chief Disciplinary Counsel.

2.01. "Disciplinary Action" means any of the following:

1. Disbarment.
2. Resignation in lieu of discipline.
3. Indefinite Disability Suspension.
4. Suspension for a term certain.
5. Probation of suspension, which probation may be concurrent with the period of suspension, upon such reasonable terms as are appropriate under the circumstances.
6. Interim suspension.
7. Public reprimand.
8. Private reprimand.

2.02. "Complaint" means a written statement, from whatever source, apparently intended to allege Professional Misconduct by a lawyer or lawyer Disability, or both, received by the Office of the Chief Disciplinary Counsel.

Each elected, appointed, and the President of the members of the Board of Directors shall coincide with the rules and policies of the Board. Each member shall be a resident of the State of Texas and in general must be public. The Board shall be composed of public members and shall reside with the place of employment which appoints other than as co or indirect in the ex officio members. Adopted by order of the Board. Amended by order of the Board.

DISTRICT GRIEVANCE COMMITTEES

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ay include repayment of the State Bar of any of Respondent's Profes- able Attorneys' Fees, and ated with the proceeding

AA. "Serious Crime" means barratry; and felony involving moral turpitude; any misdemeanor involving theft, embezzlement, or fraudulent or reckless misap- propriation of money or other property; or any at- tempt, conspiracy, or solicitation of another to commit any of the foregoing crimes.

BB. "State Bar" means the State Bar of Texas.

CC. "Summary Disposition Panel" means a panel of the Committee that determines whether a Com- plaint should proceed or should be dismissed based

PART II. THE DISTRICT GRIEVANCE COMMITTEES

2.01. Disciplinary Districts and Grievance Committee Subdistricts

The State of Texas is geographically divided into disciplinary districts that are coextensive with the districts of elected Directors of the State Bar. One or more Committees/subdistricts shall be delineated by the Board within each such District. From time to time, if the Commission deems it useful for the effi- cient operation of the disciplinary system, it shall recommend to the Board that a redelineation be made of one or more subdistricts within a District. All Committees within a single disciplinary district have concurrent authority within the District but once a matter has been assigned to a Committee, that Com- mittee has dominant jurisdiction absent a transfer.

2.02. Composition of Members

Each elected Director of the State Bar shall nomi- nate, and the President of the State Bar shall appoint, the members of the Committees within the District that coincides with the Director's district according to rules and policies adopted from time to time by the Board. Each Committee must consist of no fewer than nine members, two-thirds of whom must be attorneys licensed to practice law in the State of Texas and in good standing, and one-third of whom must be public members. All Committee panels must be composed of two-thirds attorneys and one-third public members. Each member of the Committee shall reside within or maintain his or her principal place of employment or practice within the District for which appointed. Public members may not have, other than as consumers, any financial interest, direct or indirect, in the practice of law. There may be no ex officio members of any Committee.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992. Amended by order of Dec. 20, 2003, eff. Jan. 1, 2004.

upon the absence of evidence to support a finding of Just Cause after a reasonable investigation by the Chief Disciplinary Counsel of the allegations in the Grievance.

DD. "Wrongfully Imprisoned Person" has the meaning assigned by Section 501.101, Government Code.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992. Amended by orders of Dec. 29, 2003, eff. Jan. 1, 2004; May 14, 2008, Aug. 20, 2008, eff. Sept. 1, 2008; Oct. 14, 2013, eff. Nov. 1, 2013.

2.03. Time for Appointment and Terms

All persons serving on a Committee at the time these rules become effective shall continue to serve for their then unexpired terms, subject to resignation or removal as herein provided. Nominations to Commit- tees shall be made annually at the spring meeting of the Board; all appointments shall be made by the President no later than June 1 of each year, provided, however, that if a vacancy on a Committee arises after June 1, the Director(s) shall nominate and the Presi- dent shall appoint an eligible person to serve for the remaining period of the unexpired term. If any Di- rector fails or refuses to make nominations in a timely manner, or the President fails or refuses to make appointments in a timely manner, the existing mem- bers of the Committees shall continue to hold office until the nominations and appointments are made and the successor member is qualified. One-third of each new Committee will be appointed for initial terms of one year, one-third for an initial term of two years, and one-third for an initial term of three years. Thereafter, all terms will be for a period of three years, except for appointments to fill unexpired terms, which will be for the remaining period of the unex- pired term. Any member of a Committee who has served two consecutive terms, whether full or partial terms, is not eligible for reappointment until at least three years have passed since his or her last prior service. No member may serve as chair for more than two consecutive terms of one year each. All members are eligible for election to the position of chair.

Adopted by orders of Feb. 28, 1991 and Oct. 9, 1991, eff. May 1, 1992. Amended by order of Dec. 18, 2008, eff. March 31, 2009.

2.04. Organizational Meeting of Grievance Committees

The last duly elected chair of a Committee shall call an organizational meeting of the Committee no later than July 15 of each year, shall administer the oath of office to each new member, and shall preside until the

RULES OF DISCIPLINARY PROCEDURE

2.04

Committee has elected, by a majority vote, its new chair. Members may vote for themselves for the position of chair.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992.

2.05. Oath of Committee Members

As soon as possible after appointment, each newly appointed member of a Committee shall take the following oath to be administered by any person authorized by law to administer oaths:

"I do solemnly swear (or affirm) that I will faithfully execute my duties as a member of the District grievance committee, as required by the Texas Rules of Disciplinary Procedure; and will, to the best of my ability, preserve, protect, and defend the Constitution and laws of the United States and of the State of Texas. I further solemnly swear (or affirm) that I will keep secret all such matters and things as shall come to my knowledge as a member of the grievance committee arising from or in connection with each Disciplinary Action and Disciplinary Proceeding, unless permitted to disclose the same in accordance with the Rules of Disciplinary Procedure, or unless ordered to do so in the course of a judicial proceeding or a proceeding before the Board of Disciplinary Appeals. I further solemnly swear (or affirm) that I have neither directly nor indirectly paid, offered, or promised to pay, contributed any money or valuable thing, or promised any public or private office to secure my appointment. So help me God."

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992.

2.06. Assignment of Committee Members

Each member of a Committee shall act through panels assigned by the chair of the Committee for summary disposition dockets and evidentiary hearings. Promptly after assignment, notice must be provided to the Respondent by United States certified mail, return receipt requested, of the names and addresses of the panel members assigned to each Complaint. A member is disqualified or is subject to recusal as a panel member for an evidentiary hearing if a district judge would, under similar circumstances, be disqualified or recused. If a member is disqualified or recused, another member shall be appointed by the Committee chair. No peremptory challenges of a Committee member are allowed. Any alleged grounds for disqualification or recusal of a panel member are conclusively waived if not brought to the attention of the panel within ten days after receipt of notification of the names and addresses of members of the panel; however, grounds for disqualification or

recusal not reasonably discoverable within the ten day period may be asserted within ten days after they were discovered or in the exercise of reasonable diligence should have been discovered.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992.
Amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

2.07. Duties of Committees

Committees shall act through panels, as assigned by the Committee chairs, to conduct summary disposition dockets and evidentiary hearings. No panel may consist of more than one-half of all members of the Committee or fewer than three members. If a member of a panel is disqualified, recused, or otherwise unable to serve, the chair shall appoint a replacement. Panels must be composed of two attorney members for each public member. A quorum must include at least one public member for every two attorney members present and consists of a majority of the membership of the panel; and business shall be conducted upon majority vote of those members present, a quorum being had. In matters in which evidence is taken, no member may vote unless that member has heard or reviewed all the evidence. It shall be conclusively presumed, however, not subject to discovery or challenge, in any subsequent proceeding, that every member casting a vote has heard or reviewed all the evidence. No member, attorney or public, may be appointed by the chair for both the Summary Disposition docket and the Evidentiary Panel pertaining to the same disciplinary matter. Any tie vote is a vote in favor of the position of the Respondent.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992.
Amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

2.08. Expenses

Members of Committees serve without compensation but are entitled to reimbursement by the State Bar for their reasonable, actual, and necessary expenses.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992.

2.09. Notice to Parties

A. Every notice required by this Part to be served upon the Respondent may be served by U.S. certified mail, return receipt requested, or by any other means of service permitted by the Texas Rules of Civil Procedure to the Respondent at the Respondent's Address or to the Respondent's counsel.

B. Every notice required by this Part to be served upon the Commission may be served by U.S. certified mail, return receipt requested, or by any other means of service permitted by the Texas Rules of Civil

Procedure, to the record or, if no Commission.

C. Whenever to do some act prescribed period paper upon the upon the party for three days

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2.10. Classifi plain

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Adopted by orders Amended by order from Rule 2.09 and 2004

Procedure, to the address of the Commission's counsel of record or, if none, to the address designated by the Commission.

C. Whenever a party has the right or is required to do some act or take some proceedings, within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail or telephonic document transfer, three days shall be added to the prescribed period.

Adopted by order of Dec. 29, 2003, eff. Jan. 1, 2004.

2.10. Classification of Inquiries and Complaints

The Chief Disciplinary Counsel shall within thirty days examine each Grievance received to determine whether it constitutes an Inquiry or a Complaint. If the Grievance is determined to constitute an Inquiry, the Chief Disciplinary Counsel shall notify the Complainant and Respondent of the dismissal. The Complainant may, within thirty days from notification of the dismissal, appeal the determination to the Board of Disciplinary Appeals. If the Board of Disciplinary Appeals affirms the classification as an Inquiry, the Complainant will be so notified and may, within twenty days amend the Grievance one time only by providing new or additional evidence. The Complainant may appeal a decision by the Chief Disciplinary Counsel to dismiss the amended Complaint as an Inquiry to the Board of Disciplinary Appeals. No further amendments or appeals will be accepted. In all instances where a Grievance is dismissed as an Inquiry other than where the attorney is deceased or is not licensed to practice law in the State of Texas, the Chief Disciplinary Counsel shall refer the Inquiry to a voluntary mediation and dispute resolution procedure. If the Grievance is determined to constitute a Complaint, the Respondent shall be provided a copy of the Complaint with notice to respond, in writing, to the allegations of the Complaint. The notice shall advise the Respondent that the Chief Disciplinary Counsel may provide appropriate information, including the Respondent's response, to law enforcement agencies as permitted by Rule 6.08. The Respondent shall deliver the response to both the Office of the Chief Disciplinary Counsel and the Complainant within thirty days after receipt of the notice.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992. Amended by order of June 15, 1994, eff. Oct. 1, 1994. Renumbered from Rule 2.09 and amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

2.11. Venue

Venue of District Grievance Committee proceedings shall be in accordance with the following:

A. *Summary Disposition Panel Proceedings.* Proceedings of a Summary Disposition Panel shall be conducted by a Panel for the county where the alleged Professional Misconduct occurred, in whole or in part. If the acts or omissions complained of occurred wholly outside the State of Texas, proceedings shall be conducted by a Panel for the county of Respondent's residence and, if Respondent has no residence in Texas, by a Panel for Travis County, Texas.

B. *Evidentiary Panel Proceedings.* In an Evidentiary Panel proceeding, venue shall be in the county of Respondent's principal place of practice; or if the Respondent does not maintain a place of practice within the State of Texas, in the county of Respondent's residence; or if the Respondent maintains neither a residence nor a place of practice within the State of Texas, then in the county where the alleged Professional Misconduct occurred, in whole or in part. In all other instances, venue is in Travis County, Texas.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992. Amended by order of June 15, 1994, eff. Oct. 1, 1994. Renumbered from Rule 2.10 and amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

2.12. Investigation and Determination of Just Cause

No more than sixty days after the date by which the Respondent must file a written response to the Complaint as set forth in Rule 2.10, the Chief Disciplinary Counsel shall investigate the Complaint and determine whether there is Just Cause.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992. Amended by order of June 15, 1994, eff. Oct. 1, 1994. Renumbered from Rule 2.11 and amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

2.13. Summary Disposition Setting

Upon investigation, if the Chief Disciplinary Counsel determines that Just Cause does not exist to proceed on the Complaint, the Chief Disciplinary Counsel shall place the Complaint on a Summary Disposition Panel docket. At the Summary Disposition Panel docket, the Chief Disciplinary Counsel will present the Complaint together with any information, documents, evidence, and argument deemed necessary and appropriate by the Chief Disciplinary Counsel without the presence of the Complainant or Respondent. The Summary Disposition Panel shall determine whether the Complaint should be dismissed or

RULES OF DISCIPLINARY PROCEDURE

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should proceed. If the Summary Disposition Panel dismisses the Complaint, both the Complainant and Respondent will be so notified. There is no appeal from a determination by the Summary Disposition Panel that the Complaint should be dismissed or should proceed. All Complaints presented to the Summary Disposition Panel and not dismissed shall be placed on the Hearing Docket. The fact that a Complaint was placed on the Summary Disposition Panel and not dismissed is wholly inadmissible for any purpose in the instant or any subsequent Disciplinary Proceeding or Disciplinary Action. Files of dismissed Disciplinary Proceedings will be retained for one hundred eighty days, after which time the files may be destroyed. No permanent record will be kept of Complaints dismissed except to the extent necessary for statistical reporting purposes. In all instances where a Complaint is dismissed by a Summary Disposition Panel other than where the attorney is deceased or is not licensed to practice law in the State of Texas, the Chief Disciplinary Counsel shall refer the Inquiry to a voluntary mediation and dispute resolution procedure.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992. Renumbered from Rule 2.12 and amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

2.14. Proceeding Upon a Determination of Just Cause

All rights characteristically reposed in a client by the common law of this State as to every Complaint not dismissed by the Summary Disposition Panel are vested in the Commission.

A. Client of Chief Disciplinary Counsel: The Commission is the client of the Chief Disciplinary Counsel for every Complaint not dismissed by the Summary Disposition Panel.

B. Interim Suspension: In any instance in which the Chief Disciplinary Counsel reasonably believes based upon investigation of the Complaint that the Respondent poses a substantial threat of irreparable harm to clients or prospective clients, the Chief Disciplinary Counsel may seek and obtain authority from the Commission to pursue interim suspension of the Respondent's license in accordance with Part XIV of these rules.

C. Disability: In any instance in which the Chief Disciplinary Counsel reasonably believes based upon investigation of the Complaint that the Respondent is suffering from a Disability to such an extent that either (a) the Respondent's continued practice of law poses a substantial threat of irreparable harm to client or prospective clients; or (b) the Respondent is so impaired as to be unable to

meaningfully participate in the preparation of a defense, the Chief Disciplinary Counsel shall seek and obtain client authority to refer the Complaint to the Board of Disciplinary Appeals pursuant to Part XII of these rules.

D. Notification of Complaint: For each Complaint not dismissed by a Summary Disposition Panel, the Chief Disciplinary Counsel shall give the Respondent written notice of the acts and/or omissions engaged in by the Respondent and of the Texas Disciplinary Rules of Professional Conduct that the Chief Disciplinary Counsel contends are violated by the alleged acts and/or omissions. Such notice shall be given by certified mail, return receipt requested, sent to the Respondent at the Address.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992. Amended by order of Dec. 23, 1992. Renumbered from Rule 2.13 and amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

2.15. Election

A Respondent given written notice of the allegations and rule violations complained of, in accordance with Rule 2.14, shall notify the Chief Disciplinary Counsel whether the Respondent seeks to have the Complaint heard in a district court of proper venue, with or without a jury, or by an Evidentiary Panel of the Committee. The election must be in writing and served upon the Chief Disciplinary Counsel no later than twenty days after the Respondent's receipt of written notification pursuant to Rule 2.14. If the Respondent timely elects to have the Complaint heard in a district court, the matter will proceed in accordance with Part III hereof. If the Respondent timely elects to have the Complaint heard by an Evidentiary Panel, the matter will proceed in accordance with Rules 2.17 and 2.18. A Respondent's failure to timely file an election shall conclusively be deemed as an affirmative election to proceed in accordance with Rules 2.17 and 2.18.

Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992. Renumbered from Rule 2.14 and amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

2.16. Confidentiality

A. All members and staff of the Office of Chief Disciplinary Counsel, Board of Disciplinary Appeals, Committees, and Commission shall maintain as confidential all Disciplinary Proceedings and associated records, except that:

1. the pendency, subject matter, status of an investigation, and final disposition, if any, may be disclosed by the Office of Chief Disciplinary Counsel or Board of Disciplinary Appeals if the Respondent

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has waived confidentiality, the Disciplinary Proceed-
ing is based on conviction of a serious crime, or
disclosure is ordered by a court of competent juris-
diction;

2.2. If the Evidentiary Panel finds that profession-
al misconduct occurred and imposes any sanction
other than a private reprimand.

a. the Evidentiary Panel's final judgment is a
public record from the date the judgment is
signed; and

b. once all appeals, if any, have been exhaust-
ed and the judgment is final, the Office of Chief
Disciplinary Counsel shall, upon request, disclose
all documents, statements, and other information
relating to the Disciplinary Proceeding that came
to the attention of the Evidentiary Panel during
the Disciplinary Proceeding;

3. the record in any appeal to the Board of
Disciplinary Appeals from an Evidentiary Panel's
final judgment, other than an appeal from a judg-
ment of private reprimand, is a public record; and
4. facts and evidence that are discoverable else-
where are not made confidential merely because
they are discussed or introduced in the course of a
Disciplinary Proceeding.

5. The deliberations and voting of an Evidentiary
Panel are strictly confidential and not subject to dis-
covery. No person is competent to testify as to such
deliberations and voting.

(C) Rule 6.08 governs the provision of confidential
information to authorized agencies investigating qual-
ifications for admission to practice, attorney discipline
enforcement agencies, law enforcement agencies, the
State Bar's Client Security Fund, the State Bar's
Lawyer Assistance Program, the Supreme Court's
Unauthorized Practice of Law Committee and its sub-
committees, and the Commission on Judicial Conduct.
Adopted by orders of Feb. 28, 1991, and Oct. 9, 1991, eff. May 1, 1992.
Renumbered from Rule 2.15 and amended by orders of Dec. 29, 2003,
and Jan. 1, 2004. Amended by order of Dec. 7, 2009, eff. Jan. 1, 2010.

2.17. Evidentiary Hearings.

Within fifteen days of the earlier of the date of
Chief Disciplinary Counsel's receipt of Respondent's
election or the day following the expiration of Respon-
dent's right to elect, the chair of a Committee having
proper venue shall appoint an Evidentiary Panel to
hear the Complaint. The Evidentiary Panel may not
include any person who served on a Summary Dispo-
sition Docket panel that heard the Complaint and must
have at least three members but must have no more
than one-half as many members as on the Committee.
Each Evidentiary Panel must have a ratio of two

attorney members for every public member. Pro-
ceedings before an Evidentiary Panel of the Commit-
tee include:

A. *Evidentiary Petition and Service*: Not more
than sixty days from the earlier of receipt of Re-
spondent's election or Respondent's deadline to
elect to proceed before an Evidentiary Panel, the
Chief Disciplinary Counsel shall file with the Evi-
dentiary Panel an Evidentiary Petition in the name
of the Commission. The Evidentiary Petition shall
be served upon the Respondent in accordance with
Rule 2.09 and must contain:

1. Notice that the action is brought by the
Commission for Lawyer Discipline, a committee
of the State Bar;
2. The name of the Respondent and the fact
that he or she is an attorney licensed to practice
law in the State of Texas;
3. Allegations necessary to establish proper
venue;
4. A description of the acts and conduct that
gave rise to the alleged Professional Misconduct
in detail sufficient to give fair notice to the Re-
spondent of the claims made, which factual allega-
tions may be grouped in one or more counts
based upon one or more Complaints;
5. A listing of the specific rules of the Texas
Disciplinary Rules of Professional Conduct, alleg-
edly violated by the acts or conduct, or other
grounds for seeking Sanctions;
6. A demand for judgment that the Respon-
dent be disciplined as warranted by the facts and
for any other appropriate relief;
7. Any other matter that is required or may
be permitted by law or by these rules.

B. *Answer*: A responsive pleading either admit-
ting or denying each specific allegation of Profes-
sional Misconduct must be filed by or on behalf of
the Respondent no later than 5:00 p.m. on the first
Monday following the expiration of twenty days
after service of the Evidentiary Petition.

C. *Default*: A failure to file an answer within
the time permitted constitutes a default, and all
facts alleged in the Evidentiary Petition shall be
taken as true for the purposes of the Disciplinary
Proceeding. Upon a showing of default, the Evi-
dentiary Panel shall enter an order of default with a
finding of Professional Misconduct and shall conduct
a hearing to determine the Sanctions to be imposed.

D. *Request for Disclosure*: The Commission or
Respondent may obtain disclosure from the other
party of the information or material listed below by
serving the other party, no later than thirty days

evidence. If proved by a preponderance of the evidence, any one of the following elements establishes conclusively that the attorney poses a substantial threat of irreparable harm to clients or prospective clients:

A. Conduct by an attorney that includes all of the elements of a Serious Crime as defined in these rules.

B. Three or more acts of Professional Misconduct, as defined in subsections (a) (2) (3) (4) (6) (7)

(8) or (10) of Rule 8.04 of the Texas Disciplinary Rules of Professional Conduct, whether or not actual harm or threatened harm is demonstrated.

C. Any other conduct, by an attorney that, continued, will probably cause harm to clients or prospective clients.

Adopted by orders of Feb. 26, 1991, and Oct. 9, 1991, eff. May 1, 1992. Renumbered from Rule 15.06 and amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

PART XV. MISCELLANEOUS PROVISIONS

15.01. Enforcement of Judgments

The following judgments have the force of a final judgment of a district court: final judgments of an Evidentiary Panel and judgments entered by the Board of Disciplinary Appeals. To enforce a judgment, the Commission may apply to a district court in the county of the residence of the Respondent. In enforcing the judgment, the court has available to it all writs and processes, as well as the power of contempt, to enforce the judgment as if the judgment had been the court's own.

Adopted by orders of Feb. 26, 1991, and Oct. 9, 1991, eff. May 1, 1992. Renumbered from Rule 15.03 and amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

15.02. Effect of Related Litigation

The processing of a Grievance, Complaint, Disciplinary Proceeding, or Disciplinary Action is not, except for good cause, to be delayed or abated because of substantial similarity to the material allegations in pending civil or criminal litigation.

Adopted by orders of Feb. 26, 1991, and Oct. 9, 1991, eff. May 1, 1992. Renumbered from Rule 15.04 and amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

15.03. Effect on Related Litigation

Neither the Complainant nor the Respondent is affected by the doctrines of res judicata or estoppel by judgment from any Disciplinary Action.

Adopted by orders of Feb. 26, 1991, and Oct. 9, 1991, eff. May 1, 1992. Renumbered from Rule 15.05 by order of Dec. 29, 2003, eff. Jan. 1, 2004.

15.04. Effect of Delay or Settlement by Complainant

None of the following alone justifies the discontinuance or abatement of a Grievance or Complaint being processed through the disciplinary system: (1) the unwillingness or the neglect of a Complainant to cooperate; (2) the settlement or compromise of matters between the Complainant and the Respondent; (3) the

payment of monies by the Respondent to the Complainant.

Adopted by orders of Feb. 26, 1991, and Oct. 9, 1991, eff. May 1, 1992. Renumbered from Rule 15.06 and amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

15.05. Effect of Time Limitations

The time periods provided in Rules 2.10, 2.12, 2.15, 2.17C, 2.17E, 2.17P, 2.25, 3.02, 3.04, 7.11, 9.02, 9.03, 10.02, 11.01, 11.08, and 12.06(d) are mandatory. All other time periods herein provided are directory only, and the failure to comply with them does not result in the invalidation of an act or event by reason of the noncompliance with those time limits.

Adopted by orders of Feb. 26, 1991, and Oct. 9, 1991, eff. May 1, 1992. Renumbered from Rule 15.07 and amended by order of Dec. 29, 2003, eff. Jan. 1, 2004.

15.06. Limitations: General Rule and Exceptions

A. *General Rule:* No attorney may be disciplined for Professional Misconduct that occurred more than four years before the date on which a Grievance alleging the Professional Misconduct is received by the Chief Disciplinary Counsel.

B. *Exception: Compulsory Discipline:* The general rule does not apply to a Disciplinary Action seeking compulsory discipline under Part VIII.

C. *Exception: Alleged Violation of the Disclosure Rule:* A prosecutor may be disciplined for a violation of Rule 3.09(d), Texas Disciplinary Rules of Professional Conduct, that occurred in a prosecution that resulted in the wrongful imprisonment of a person if a Grievance alleging the violation is received by the Chief Disciplinary Counsel within four years after the date on which the Wrongfully Imprisoned Person is released from a Penal Institution.

D. *Effect of Fraud or Concealment:* Where fraud or concealment is involved, the time periods stated in this rule do not begin to run until the Complainant

TEXAS RULES OF DISCIPLINARY PROCEDURE

(Including Amendments Effective October 1, 2012)

Copy Tendered
To Chairman by
Petitioner in
Previous Hearing

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TEXAS RULES OF DISCIPLINARY PROCEDURE

Preamble

The Supreme Court of Texas has the constitutional and statutory responsibility within the State for the lawyer discipline and disability system, and has inherent power to maintain appropriate standards of professional conduct and to dispose of individual cases of lawyer discipline and disability in a manner that does not discriminate by race, creed, color, sex, or national origin. To carry out this responsibility, the Court promulgates the following rules for lawyer discipline and disability proceedings. Subject to the inherent power of the Supreme Court of Texas, the responsibility for administering and supervising lawyer discipline and disability is delegated to the Board of Directors of the State Bar of Texas. Authority to adopt rules of procedure and administration not inconsistent with these rules is vested in the Board. This delegation is specifically limited to the rights, powers, and authority herein expressly delegated.

PART I. GENERAL RULES

1.01. Citation: These rules are to be called the Texas Rules of Disciplinary Procedure and shall be cited as such.

1.02. Objective of the Rules: These rules establish the procedures to be used in the professional disciplinary and disability system for attorneys in the State of Texas.

1.03. Construction of the Rules: These rules are to be broadly construed to ensure the operation, effectiveness, integrity, and continuation of the professional disciplinary and disability system. The following rules apply in the construction of these rules:

A. If any portion of these rules is held unconstitutional by any court, that determination does not affect the validity of the remaining rules.

B. The use of the singular includes the plural, and vice versa.

C. In computing any period of time prescribed or allowed by these rules, the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

1.04. Integration and Concurrent Application of the Rules: These rules apply prospectively to all attorney professional disciplinary and disability proceedings commenced on and after the effective date as set forth in the Supreme Court's Order of promulgation. All disciplinary and disability proceedings commenced prior to the effective date of these rules as amended are governed by the Texas Rules of Disciplinary Procedure in effect as of the date of commencement of said disciplinary and disability proceedings.

1.05. Texas Disciplinary Rules of Professional Conduct: Nothing in these rules is to be construed, explicitly or implicitly, to amend or repeal in any way the Texas Disciplinary Rules of Professional Conduct.

1.06. Definitions:

- A. "Address" means the registered address provided by the attorney who is the subject of the Grievance, as that address is shown on the membership rolls maintained by the State Bar on behalf of the Clerk of the Supreme Court at the time of receipt of the Grievance by the Chief Disciplinary Counsel.
- B. "Board" means the Board of Directors of the State Bar of Texas.
- C. "Chief Disciplinary Counsel" means the person serving as Chief Disciplinary Counsel and any and all of his or her assistants.
- D. "Commission" means the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- E. "Committee" means any of the grievance committees within a single District.
- F. "Complainant" means the person, firm, corporation, or other entity, including the Chief Disciplinary Counsel, initiating a Complaint or Inquiry.
- G. "Complaint" means those written matters received by the Office of the Chief Disciplinary Counsel that, either on the face thereof or upon screening or preliminary investigation, allege Professional Misconduct or attorney Disability, or both, cognizable under these rules or the Texas Disciplinary Rules of Professional Conduct.
- H. "Director" means a member of the Board of Directors of the State Bar of Texas.
- I. "Disability" means any physical, mental, or emotional condition that, with or without a substantive rule violation, results in the attorney's inability to practice law, provide client services, complete contracts of employment, or otherwise carry out his or her professional responsibilities to clients, courts, the profession, or the public.
- J. "Disciplinary Action" means a proceeding brought by or against an attorney in a district court or any judicial proceeding covered by these rules other than an Evidentiary Hearing.
- K. "Disciplinary Petition" means a pleading that satisfies the requirements of Rule 3.01.
- L. "Disciplinary Proceedings" includes the processing of a Grievance, the

investigation and processing of an Inquiry or Complaint, presentation of a Complaint before a Summary Disposition Panel, and the proceeding before an Evidentiary Panel.

M. "District" means disciplinary district.

N. "Evidentiary Hearing" means an adjudicatory proceeding before a panel of a grievance committee.

O. "Evidentiary Panel" means a panel of the District Grievance Committee performing an adjudicatory function other than that of a Summary Disposition Panel with regard to a Disciplinary Proceeding pending before the District Grievance Committee of which the Evidentiary Panel is a subcommittee.

P. "Evidentiary Petition" means a pleading that satisfies the requirements of Rule 2.17.

Q. "General Counsel" means the General Counsel of the State Bar of Texas and any and all of his or her assistants.

R. "Grievance" means a written statement, from whatever source, apparently intended to allege Professional Misconduct by a lawyer, or lawyer Disability, or both, received by the Office of the Chief Disciplinary Counsel.

S. "Inquiry" means any written matter concerning attorney conduct received by the Office of the Chief Disciplinary Counsel that, even if true, does not allege Professional Misconduct or Disability.

T. "Intentional Crime" means (1) any Serious Crime that requires proof of knowledge or intent as an essential element or (2) any crime involving misapplication of money or other property held as a fiduciary.

U. "Just Cause" means such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that an attorney either has committed an act or acts of Professional Misconduct requiring that a Sanction be imposed, or suffers from a Disability that requires either suspension as an attorney licensed to practice law in the State of Texas or probation.

V. "Professional Misconduct" includes:

1. Acts or omissions by an attorney, individually or in concert with another person or persons, that violate one or more of the Texas Disciplinary Rules of Professional Conduct.

2. Attorney conduct that occurs in another state or in the District of Columbia and results in the disciplining of an attorney in that other jurisdiction, if the conduct is Professional Misconduct under the Texas Disciplinary Rules of

Professional Conduct.

3. Violation of any disciplinary or disability order or judgment.
4. Engaging in conduct that constitutes barratry as defined by the law of this state.
5. Failure to comply with Rule 13.01 of these rules relating to notification of an attorney's cessation of practice.
6. Engaging in the practice of law either during a period of suspension or when on inactive status.
7. Conviction of a Serious Crime, or being placed on probation for a Serious Crime with or without an adjudication of guilt.
8. Conviction of an Intentional Crime, or being placed on probation for an Intentional Crime with or without an adjudication of guilt.

W. "Reasonable Attorneys' Fees," for purposes of these rules only, means a reasonable fee for a competent private attorney, under the circumstances. Relevant factors that may be considered in determining the reasonableness of a fee include but are not limited to the following:

1. The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly;
2. The fee customarily charged in the locality for similar legal services;
3. The amount involved and the results obtained;
4. The time limitations imposed by the circumstances; and
5. The experience, reputation, and ability of the lawyer or lawyers performing the services.

X. "Respondent" means any attorney who is the subject of a Grievance, Complaint, Disciplinary Proceeding, or Disciplinary Action.

Y. "Sanction" means any of the following:

1. Disbarment.
2. Resignation in lieu of discipline.
3. Indefinite Disability suspension.

4. Suspension for a term certain.
5. Probation of suspension, which probation may be concurrent with the period of suspension, upon such reasonable terms as are appropriate under the circumstances.
6. Interim suspension.
7. Public reprimand.
8. Private reprimand.

The term "Sanction" may include the following additional ancillary requirements:

- a. Restitution (which may include repayment to the Client Security Fund of the State Bar of any payments made by reason of Respondent's Professional Misconduct); and
- b. Payment of Reasonable Attorneys' Fees and all direct expenses associated with the proceedings.

Z. "Serious Crime" means barratry; any felony involving moral turpitude; any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other property; or any attempt, conspiracy, or solicitation of another to commit any of the foregoing crimes.

AA. "State Bar" means the State Bar of Texas.

BB. "Summary Disposition Panel" means a panel of the Committee that determines whether a Complaint should proceed or should be dismissed based upon the absence of evidence to support a finding of Just Cause after a reasonable investigation by the Chief Disciplinary Counsel of the allegations in the Grievance.

PART II. THE DISTRICT GRIEVANCE COMMITTEES

2.01. Disciplinary Districts and Grievance Committee Subdistricts: The State of Texas is geographically divided into disciplinary districts that are coextensive with the districts of elected Directors of the State Bar. One or more Committee subdistricts shall be delineated by the Board within each such District. From time to time, if the Commission deems it useful for the efficient operation of the disciplinary system, it shall recommend to the Board that a redelineation be made of one or more subdistricts within a District. All Committees within a single disciplinary district have concurrent authority within the District but once a matter has been assigned to a Committee, that Committee has dominant jurisdiction, absent a transfer.

2.02. Composition of Members: Each elected Director of the State Bar shall nominate, and

the President of the State Bar shall appoint, the members of the Committees within the District that coincides with the Director's district, according to rules and policies adopted from time to time by the Board. Each Committee must consist of no fewer than nine members, two-thirds of whom must be attorneys licensed to practice law in the State of Texas and in good standing, and one-third of whom must be public members. All Committee panels must be composed of two-thirds attorneys and one-third public members. Each member of the Committee shall reside within or maintain his or her principal place of employment or practice within the District for which appointed. Public members may not have, other than as consumers, any financial interest, direct or indirect, in the practice of law. There may be no ex officio members of any Committee.

2.03. Time for Appointment and Terms: All persons serving on a Committee at the time these rules become effective shall continue to serve for their then unexpired terms, subject to resignation or removal as herein provided. Nominations to Committees shall be made annually at the spring meeting of the Board; all appointments shall be made by the President no later than June 1 of each year, provided, however, that if a vacancy on a Committee arises after June 1, the Director(s) shall nominate and the President shall appoint an eligible person to serve for the remaining period of the unexpired term. If any Director fails or refuses to make nominations in a timely manner, or the President fails or refuses to make appointments in a timely manner, the existing members of the Committees shall continue to hold office until the nominations and appointments are made and the successor member is qualified. One-third of each new Committee will be appointed for initial terms of one year, one-third for an initial term of two years, and one-third for an initial term of three years. Thereafter, all terms will be for a period of three years, except for appointments to fill unexpired terms, which will be for the remaining period of the unexpired term. Any member of a Committee who has served two consecutive terms, whether full or partial terms, is not eligible for reappointment until at least three years have passed since his or her last prior service. No member may serve as chair for more than two consecutive terms of one year each. All members are eligible for election to the position of chair.

2.04. Organizational Meeting of Grievance Committees: The last duly elected chair of a Committee shall call an organizational meeting of the Committee no later than July 15 of each year; shall administer the oath of office to each new member; and shall preside until the Committee has elected, by a majority vote, its new chair. Members may vote for themselves for the position of chair.

2.05. Oath of Committee Members: As soon as possible after appointment, each newly appointed member of a Committee shall take the following oath to be administered by any person authorized by law to administer oaths:

"I do solemnly swear (or affirm) that I will faithfully execute my duties as a member of the District grievance committee, as required by the Texas Rules of Disciplinary Procedure, and will, to the best of my ability, preserve, protect, and defend the Constitution and laws of the United States and of the State of Texas. I further solemnly swear (or affirm) that I will keep secret all such matters and things as shall come to my knowledge as a member of the grievance committee

arising from or in connection with each Disciplinary Action and Disciplinary Proceeding, unless permitted to disclose the same in accordance with the Rules of Disciplinary Procedure, or unless ordered to do so in the course of a judicial proceeding or a proceeding before the Board of Disciplinary Appeals. I further solemnly swear (or affirm) that I have neither directly nor indirectly paid, offered, or promised to pay, contributed any money or valuable thing, or promised any public or private office to secure my appointment. So help me God."

2.06. Assignment of Committee Members: Each member of a Committee shall act through panels assigned by the chair of the Committee for summary disposition dockets and evidentiary hearings. Promptly after assignment, notice must be provided to the Respondent by United States certified mail, return receipt requested, of the names and addresses of the panel members assigned to each Complaint. A member is disqualified or is subject to recusal as a panel member for an evidentiary hearing if a district judge would, under similar circumstances, be disqualified or recused. If a member is disqualified or recused, another member shall be appointed by the Committee chair. No peremptory challenges of a Committee member are allowed. Any alleged grounds for disqualification or recusal of a panel member are conclusively waived if not brought to the attention of the panel within ten days after receipt of notification of the names and addresses of members of the panel; however, grounds for disqualification or recusal not reasonably discoverable within the ten day period may be asserted within ten days after they were discovered or in the exercise of reasonable diligence should have been discovered.

2.07. Duties of Committees: Committees shall act through panels, as assigned by the Committee chairs, to conduct summary disposition dockets and evidentiary hearings. No panel may consist of more than one-half of all members of the Committee or fewer than three members. If a member of a panel is disqualified, recused or otherwise unable to serve, the chair shall appoint a replacement. Panels must be composed of two attorney members for each public member. A quorum must include at least one public member for every two attorney members present and consists of a majority of the membership of the panel, and business shall be conducted upon majority vote of those members present, a quorum being had. In matters in which evidence is taken, no member may vote unless that member has heard or reviewed all the evidence. It shall be conclusively presumed, however, not subject to discovery or challenge in any subsequent proceeding, that every member casting a vote has heard or reviewed all the evidence. No member, attorney or public, may be appointed by the chair for both the Summary Disposition docket and the Evidentiary Panel pertaining to the same disciplinary matter. Any tie vote is a vote in favor of the position of the Respondent.

2.08. Expenses: Members of Committees serve without compensation but are entitled to reimbursement by the State Bar for their reasonable, actual, and necessary expenses.

2.09. Notice to Parties:

A. Every notice required by this Part to be served upon the Respondent may be served by U. S. certified mail, return receipt requested, or by any other means of

service permitted by the Texas Rules of Civil Procedure to the Respondent at the Respondent's Address or to the Respondent's counsel.

B. Every notice required by this Part to be served upon the Commission may be served by U. S. certified mail, return receipt requested, or by any other means of service permitted by the Texas Rules of Civil Procedure, to the address of the Commission's counsel of record or, if none, to the address designated by the Commission.

C. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail or telephonic document transfer, three days shall be added to the prescribed period.

2.10. Classification of Inquiries and Complaints: The Chief Disciplinary Counsel shall within thirty days examine each Grievance received to determine whether it constitutes an Inquiry or a Complaint. If the Grievance is determined to constitute an Inquiry, the Chief Disciplinary Counsel shall notify the Complainant and Respondent of the dismissal. The Complainant may, within thirty days from notification of the dismissal, appeal the determination to the Board of Disciplinary Appeals. If the Board of Disciplinary Appeals affirms the classification as an Inquiry, the Complainant will be so notified and may within twenty days amend the Grievance one time only by providing new or additional evidence. The Complainant may appeal a decision by the Chief Disciplinary Counsel to dismiss the amended Complaint as an Inquiry to the Board of Disciplinary Appeals. No further amendments or appeals will be accepted. In all instances where a Grievance is dismissed as an Inquiry other than where the attorney is deceased or is not licensed to practice law in the State of Texas, the Chief Disciplinary Counsel shall refer the Inquiry to a voluntary mediation and dispute resolution procedure. If the Grievance is determined to constitute a Complaint, the Respondent shall be provided a copy of the Complaint with notice to respond, in writing, to the allegations of the Complaint. The notice shall advise the Respondent that the Chief Disciplinary Counsel may provide appropriate information, including the Respondent's response, to law enforcement agencies as permitted by Rule 6.08. The Respondent shall deliver the response to both the Office of the Chief Disciplinary Counsel and the Complainant within thirty days after receipt of the notice.

2.11. Venue: Venue of District Grievance Committee proceedings shall be in accordance with the following:

A. Summary Disposition Panel Proceedings. Proceedings of a Summary Disposition Panel shall be conducted by a Panel for the county where the alleged Professional Misconduct occurred, in whole or in part. If the acts or omissions complained of occurred wholly outside the State of Texas, proceedings shall be conducted by a Panel for the county of Respondent's residence and, if Respondent has no residence in Texas, by a Panel for Travis County, Texas.

B. Evidentiary Panel Proceedings. In an Evidentiary Panel proceeding, venue shall be in the county of Respondent's principal place of practice; or if the Respondent does

not maintain a place of practice within the State of Texas, in the county of Respondent's residence; or if the Respondent maintains neither a residence nor a place of practice within the State of Texas, then in the county where the alleged Professional Misconduct occurred, in whole or in part. In all other instances, venue is in Travis County, Texas.

2.12. Investigation and Determination of Just Cause: No more than sixty days after the date by which the Respondent must file a written response to the Complaint as set forth in Rule 2.10, the Chief Disciplinary Counsel shall investigate the Complaint and determine whether there is Just Cause.

2.13. Summary Disposition Setting: Upon investigation, if the Chief Disciplinary Counsel determines that Just Cause does not exist to proceed on the Complaint, the Chief Disciplinary Counsel shall place the Complaint on a Summary Disposition Panel docket. At the Summary Disposition Panel docket, the Chief Disciplinary Counsel will present the Complaint together with any information, documents, evidence, and argument deemed necessary and appropriate by the Chief Disciplinary Counsel, without the presence of the Complainant or Respondent. The Summary Disposition Panel shall determine whether the Complaint should be dismissed or should proceed. If the Summary Disposition Panel dismisses the Complaint, both the Complainant and Respondent will be so notified. There is no appeal from a determination by the Summary Disposition Panel that the Complaint should be dismissed or should proceed. All Complaints presented to the Summary Disposition Panel and not dismissed shall be placed on the Hearing Docket. The fact that a Complaint was placed on the Summary Disposition Panel Docket and not dismissed is wholly inadmissible for any purpose in the instant or any subsequent Disciplinary Proceeding or Disciplinary Action. Files of dismissed Disciplinary Proceedings will be retained for one hundred eighty days, after which time the files may be destroyed. No permanent record will be kept of Complaints dismissed except to the extent necessary for statistical reporting purposes. In all instances where a Complaint is dismissed by a Summary Disposition Panel other than where the attorney is deceased or is not licensed to practice law in the State of Texas, the Chief Disciplinary Counsel shall refer the Inquiry to a voluntary mediation and dispute resolution procedure.

2.14. Proceeding Upon a Determination of Just Cause: All rights characteristically reposed in a client by the common law of this State as to every Complaint not dismissed by the Summary Disposition Panel are vested in the Commission.

A. Client of Chief Disciplinary Counsel: The Commission is the client of the Chief Disciplinary Counsel for every Complaint not dismissed by the Summary Disposition Panel.

B. Interim Suspension: In any instance in which the Chief Disciplinary Counsel reasonably believes based upon investigation of the Complaint that the Respondent poses a substantial threat of irreparable harm to clients or prospective clients, the Chief Disciplinary Counsel may seek and obtain authority from the Commission to pursue interim suspension of the Respondent's license in accordance with Part XIV of these rules.

C. **Disability:** In any instance in which the Chief Disciplinary Counsel reasonably believes based upon investigation of the Complaint that the Respondent is suffering from a Disability to such an extent that either (a) the Respondent's continued practice of law poses a substantial threat of irreparable harm to client or prospective clients; or (b) the Respondent is so impaired as to be unable to meaningfully participate in the preparation of a defense, the Chief Disciplinary Counsel shall seek and obtain client authority to refer the Complaint to the Board of Disciplinary Appeals pursuant to Part XII of these rules.

D. **Notification of Complaint:** For each Complaint not dismissed by a Summary Disposition Panel, the Chief Disciplinary Counsel shall give the Respondent written notice of the acts and/or omissions engaged in by the Respondent and of the Texas Disciplinary Rules of Professional Conduct that the Chief Disciplinary Counsel contends are violated by the alleged acts and/or omissions. Such notice shall be given by certified mail, return receipt requested, sent to the Respondent at the Address.

2.15. Election: A Respondent given written notice of the allegations and rule violations complained of, in accordance with Rule 2.14, shall notify the Chief Disciplinary Counsel whether the Respondent seeks to have the Complaint heard in a district court of proper venue, with or without a jury, or by an Evidentiary Panel of the Committee. The election must be in writing and served upon the Chief Disciplinary Counsel no later than twenty days after the Respondent's receipt of written notification pursuant to Rule 2.14. If the Respondent timely elects to have the Complaint heard in a district court, the matter will proceed in accordance with Part III hereof. If the Respondent timely elects to have the Complaint heard by an Evidentiary Panel, the matter will proceed in accordance with Rules 2.17 and 2.18. A Respondent's failure to timely file an election shall conclusively be deemed as an affirmative election to proceed in accordance with Rules 2.17 and 2.18.

2.16. Confidentiality:

A. All members and staff of the Office of Chief Disciplinary Counsel, Board of Disciplinary Appeals, Committees, and Commission shall maintain as confidential all Disciplinary Proceedings and associated records, except that:

1. the pendency, subject matter, status of an investigation, and final disposition, if any, may be disclosed by the Office of Chief Disciplinary Counsel or Board of Disciplinary Appeals if the Respondent has waived confidentiality, the Disciplinary Proceeding is based on conviction of a serious crime, or disclosure is ordered by a court of competent jurisdiction;

2. if the Evidentiary Panel finds that professional misconduct occurred and imposes any sanction other than a private reprimand;

- a. the Evidentiary Panel's final judgment is a public record from the date the judgment is signed; and

b. once all appeals, if any, have been exhausted and the judgment is final, the Office of Chief Disciplinary Counsel shall, upon request, disclose all documents, statements, and other information relating to the Disciplinary Proceeding that came to the attention of the Evidentiary Panel during the Disciplinary Proceeding;

3. the record in any appeal to the Board of Disciplinary Appeals from an Evidentiary Panel's final judgment, other than an appeal from a judgment of private reprimand, is a public record; and

4. facts and evidence that are discoverable elsewhere are not made confidential merely because they are discussed or introduced in the course of a Disciplinary Proceeding.

B. The deliberations and voting of an Evidentiary Panel are strictly confidential and not subject to discovery. No person is competent to testify as to such deliberations and voting.

C. Rule 6.08 governs the provision of confidential information to authorized agencies investigating qualifications for admission to practice, attorney discipline enforcement agencies, law enforcement agencies, the State Bar's Client Security Fund, the State Bar's Lawyer Assistance Program, the Supreme Court's Unauthorized Practice of Law Committee and its subcommittees, and the Commission on Judicial Conduct.

2.17. Evidentiary Hearings: Within fifteen days of the earlier of the date of Chief Disciplinary Counsel's receipt of Respondent's election or the day following the expiration of Respondent's right to elect, the chair of a Committee having proper venue shall appoint an Evidentiary Panel to hear the Complaint. The Evidentiary Panel may not include any person who served on a Summary Disposition Docket panel that heard the Complaint and must have at least three members but must have no more than one-half as many members as on the Committee. Each Evidentiary Panel must have a ratio of two attorney members for every public member. Proceedings before an Evidentiary Panel of the Committee include:

A. **Evidentiary Petition and Service:** Not more than sixty days from the earlier of receipt of Respondent's election or Respondent's deadline to elect to proceed before an Evidentiary Panel, the Chief Disciplinary Counsel shall file with the Evidentiary Panel an Evidentiary Petition in the name of the Commission. The Evidentiary Petition shall be served upon the Respondent in accordance with Rule 2.09 and must contain:

1. Notice that the action is brought by the Commission for Lawyer Discipline, a committee of the State Bar.

2. The name of the Respondent and the fact that he or she is an attorney licensed to practice law in the State of Texas.

3. Allegations necessary to establish proper venue.

4. A description of the acts and conduct that gave rise to the alleged Professional Misconduct in detail sufficient to give fair notice to the Respondent of the claims made, which factual allegations may be grouped in one or more counts based upon one or more Complaints.

5. A listing of the specific rules of the Texas Disciplinary Rules of Professional Conduct allegedly violated by the acts or conduct, or other grounds for seeking Sanctions.

6. A demand for judgment that the Respondent be disciplined as warranted by the facts and for any other appropriate relief.

7. Any other matter that is required or may be permitted by law or by these rules.

B. Answer: A responsive pleading either admitting or denying each specific allegation of Professional Misconduct must be filed by or on behalf of the Respondent no later than 5:00 p.m. on the first Monday following the expiration of twenty days after service of the Evidentiary Petition.

C. Default: A failure to file an answer within the time permitted constitutes a default, and all facts alleged in the Evidentiary Petition shall be taken as true for the purposes of the Disciplinary Proceeding. Upon a showing of default, the Evidentiary Panel shall enter an order of default with a finding of Professional Misconduct and shall conduct a hearing to determine the Sanctions to be imposed.

D. Request for Disclosure: The Commission or Respondent may obtain disclosure from the other party of the information or material listed below by serving the other party, no later than thirty days before the first setting of the hearing. The responding party must serve a written response on the requesting party within thirty days after service of the request, except that a Respondent served with a request before the answer is due need not respond until fifty days after service of the request. A party who fails to make, amend, or supplement a disclosure in a timely manner may not introduce in evidence the material or information that was not timely disclosed, or offer the testimony of a witness (other than a named party) who was not timely identified, unless the panel finds that there was good cause for the failure to timely make, amend, or supplement the disclosure response; or the failure to timely make, amend, or supplement the discovery response will not unfairly surprise or unfairly prejudice the other party. No objection or assertion of work product is permitted to a request under this Rule. A party may request disclosure of any or all of the following:

1. The correct names of the parties to the Disciplinary Proceeding.

2. In general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial).

3. The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the disciplinary matter.

4. For any testifying expert, the expert's name, address, and telephone number; the subject matter on which the expert will testify, and the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them.

5. Any witness statements.

E. Limited Discovery: In addition to the Request for Disclosure, the Commission and the Respondent may conduct further discovery with the following limitations:

1. All discovery must be conducted during the discovery period, which begins when the Evidentiary Petition is filed and continues until thirty days before the date set for hearing.

2. Each party may have no more than six hours in total to examine and cross-examine all witnesses in oral depositions.

3. Any party may serve on the other party no more than twenty-five written interrogatories, excluding interrogatories asking a party only to identify or authenticate specific documents. Each discrete subpart of an interrogatory is considered a separate interrogatory.

4. Any party may serve on the other party requests for production and inspection of documents and tangible things.

5. Any party may serve on the other party requests for admission.

F. Modification of Discovery Limitations: Upon a showing of reasonable need, the Evidentiary Panel chair may modify the discovery limitations set forth in Rule 2.17E. The parties may by agreement modify the discovery limitations set forth in Rule 2.17E.

G. Discovery Dispute Resolution: Except where modified by these rules, all discovery disputes shall be ruled upon by the Evidentiary Panel chair generally in accord with the Texas Rules of Civil Procedure; provided, however, that no ruling upon a discovery dispute shall be a basis for reversal solely because it fails to strictly comply with the Texas Rules of Civil Procedure.

H. Subpoena Power: the Commission or the Respondent may compel the attendance of witnesses, including the Respondent, and the production of books, documents, papers, banking records, and other things by subpoena. The subpoena must notify the witness of the time, date, and place of appearance and must contain a

description of the materials to be produced. Subpoenas must be in writing and signed and issued by the Evidentiary Panel chair. The party seeking the subpoena shall submit it in a proper form and is responsible for securing service. Any contest between the Commission and the Respondent about the materiality of the testimony or production sought by a subpoena shall be determined by the Evidentiary Panel chair, and is subject to review. Subpoenas must be served on witnesses personally or in accordance with Rule 21a of the Texas Rules of Civil Procedure. Proof of service shall be by certification of the server or by the return receipt. The subpoena is enforceable by the district court of the county in which the attendance or production is required. Witnesses shall be paid witness fees and mileage the same as for a district court.

I. Enforcement of Subpoenas and Examination Before a District Judge: If any witness, including the Respondent, fails or refuses to appear or to produce the things named in the subpoena, or refuses to be sworn or to affirm or to testify, the witness may be compelled to appear and produce tangible evidence and to testify at a hearing before a district judge of the county in which the subpoena was served. The application for such a hearing is to be styled "In re: Hearing Before The District _____ Grievance Committee." The court shall order a time, date, and place for the hearing and shall notify the Commission, the Respondent, and the witness. Unless the Respondent requests a public hearing, the proceedings before the court shall be closed and all records relating to the hearing shall be sealed and made available only to the Commission, the Respondent, or the witness. If the witness fails or refuses to appear, testify, or produce such tangible evidence, he or she shall be punished for civil contempt.

J. Right to Counsel: The Respondent and the Complainant may, if they so choose, have counsel present during any evidentiary hearing.

K. Alternative Dispute Resolution: Upon motion made or otherwise, the Evidentiary Panel Chair may order the Commission and the Respondent to participate in mandatory alternative dispute resolution as provided by Chapter 154 of the Civil Practice and Remedies Code or as otherwise provided by law when deemed appropriate.

L. Evidence: The Respondent, individually or through his or her counsel if represented, and the Commission, through the Chief Disciplinary Counsel, may, if they so choose, offer evidence, examine witnesses and present argument. Witness examination may be conducted only by the Commission, the Respondent, and the panel members. The inability or failure to exercise this opportunity does not abate or preclude further proceedings. The Evidentiary Panel chair shall admit all such probative and relevant evidence as he or she deems necessary for a fair and complete hearing, generally in accord with the Texas Rules of Evidence; provided, however, that admission or exclusion of evidence shall be in the discretion of the Evidentiary Panel chair and no ruling upon the evidence shall be a basis for reversal solely because it fails to strictly comply with the Texas Rules of Evidence.

M. Burden of Proof: The burden of proof is upon the Commission for Lawyer Discipline to prove the material allegations of the Evidentiary Petition by a preponderance of the evidence.

N. Record of the Hearing: A verbatim record of the proceedings will be made by a certified shorthand reporter in a manner prescribed by the Board of Disciplinary Appeals. In the event of an appeal from the Evidentiary Panel to the Board of Disciplinary Appeals, the party initiating the appeal shall pay the costs of preparation of the transcript. Such costs shall be taxed at the conclusion of the appeal by the Board of Disciplinary Appeals.

O. Setting: Evidentiary Panel proceedings must be set for hearing with a minimum of forty-five days' notice to all parties unless waived by all parties. Evidentiary Panel proceedings shall be set for hearing on the merits on a date not later than 180 days after the date the answer is filed, except for good cause shown. If the Respondent fails to answer, a hearing for default may be set at any time not less than ten days after the answer date without further notice to the Respondent. No continuance may be granted unless required by the interests of justice.

P. Decision: After conducting the Evidentiary Hearing, the Evidentiary Panel shall issue a judgment within thirty days. In any Evidentiary Panel proceeding where Professional Misconduct is found to have occurred, such judgment shall include findings of fact, conclusions of law and the Sanctions to be imposed. The Evidentiary Panel may:

1. dismiss the Disciplinary Proceeding and refer it to the voluntary mediation and dispute resolution procedure;
2. find that the Respondent suffers from a disability and forward that finding to the Board of Disciplinary Appeals for referral to a district disability committee pursuant to Part XII; or
3. find that Professional Misconduct occurred and impose Sanctions.

2.18. Imposition of Sanctions: The Evidentiary Panel may, in its discretion, conduct a separate hearing and receive evidence as to the appropriate Sanctions to be imposed. Indefinite Disability sanction is not an available Sanction in a hearing before an Evidentiary Panel. In determining the appropriate Sanctions, the Evidentiary Panel shall consider:


- A. The nature and degree of the Professional Misconduct for which the Respondent is being sanctioned;
- B. The seriousness of and circumstances surrounding the Professional Misconduct;
- C. The loss or damage to clients;

Motions

William K. Altman [bill@altmanlegal.com]

Sent: 9/25/2014 2:37 PM

To: "Lisa Holt" <Lisa.Holt@Texasbar.com>, "Charles Davis" <Charlie@arroyocoloradoenergy.com>

 OPT

I have an appointment for a medical procedure this afternoon. Any Motions filed this afternoon will be considered and ruled on at the beginning of the Evidentiary Hearing tomorrow.

William K. Altman
Altman Legal Group
2525 Kell Blvd.
Suite 500
Wichita Falls, Texas 76308-1061
940/761-4000
Fax: 940/766-3327
Bill@altmanlegal.com

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STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

June 8, 2011

CMRRR#: 70100290000032265429

Charles C. Davis
Law Office Of Charles Chandler Davis
6910 FM 1830
Argyle, Texas 76226-3024

Re: A0051113770 Tom McCall & Britton D. Monts - Charles C. Davis

Dear Mr. Davis:

The Office of Chief Disciplinary Counsel has received the above-referenced Grievance, a copy of which is enclosed with this notice. This office has examined the Grievance and determined that the information provided alleges Professional Misconduct. Pursuant to the Texas Rules of Disciplinary Procedure, this matter has been classified as a Complaint.

Please advise this office immediately if you are represented in this matter by an attorney.

You must furnish to this office a written response to the Complaint within thirty (30) days of receipt of this notice. The response should address specifically each allegation contained in the Complaint, and should further provide all information and documentation necessary for a determination of Just Cause as defined in the Texas Rules of Disciplinary Procedure. **Pursuant to Rule 2.10 of the Texas Rules of Disciplinary Procedure, you are required to provide a copy of your response directly to the Complainant.**

Pursuant to Rules 8.01(b) and 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct, failure or refusal to timely furnish a response or other information requested by the Chief Disciplinary Counsel, without timely asserting legal grounds to do so, constitutes Professional Misconduct.

The Office of Chief Disciplinary Counsel maintains as confidential Disciplinary Proceedings, except that the pendency, subject matter, and status of a Disciplinary Proceeding may be disclosed by the Chief Disciplinary Counsel if the Respondent has waived confidentiality or the Disciplinary Proceeding is based upon conviction of a serious crime. The Chief Disciplinary Counsel may provide appropriate information, including the response, to law enforcement agencies, under Rule 6.08 of the Texas Rules of Disciplinary Procedure.

You will be notified in writing of further proceedings in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chad Childers', with a long horizontal line extending to the right.

Chad Childers
Administrative Attorney
Office of the Chief Disciplinary Counsel
State Bar of Texas

Enclosure(s): Grievance (Copy of Complaint)

CF2-3.

THE McCALL FIRM
ATTORNEYS AT LAW
2600 VIA FORTUNA • STE. 200 • AUSTIN, TX 78746

August 26, 2011



Via Hand-Delivery

Office of the Chief Disciplinary Counsel
Attention: Mr. Chad Childers
1414 Colorado Street
Austin, Texas 78701

Hand Delivered

Re: A0051113770 Tom McCall & Britton Monts - Charles C. Davis

Dear Mr. Childers:

In response to your August 18, 2011 letter, I am submitting a copy of the August 11, 2011 *Memorandum Opinion* from the Thirteenth Judicial District Court of Appeals at Corpus Christi dismissing Arroyo Colorado's appeal from the February 24, 2011 bill of review judgment.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Tom C. McCall".

Tom C. McCall

Enclosures (1)
TCM/klo



NUMBER 13-11-00353-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

ARROYO COLORADO,

Appellant,

v.

ABOGADO MINERALS, L. P.,

Appellee.

**On appeal from the 105th District Court
of Kleberg County, Texas.**

MEMORANDUM OPINION

**Before Justices Benavides, Vela, and Perkes
Memorandum Opinion Per Curiam**

Appellant, Arroyo Colorado, attempted to perfect an appeal from a judgment entered by the 105th District Court of Kleberg County, Texas, in cause number 10-439-D. Judgment in this cause was signed on February 24, 2011. A request for findings of facts and conclusions of law was filed on March 11, 2011. Appellant's notice of appeal was filed on June 2, 2011.

On June 6, 2011, the Clerk of this Court sent a letter to appellant notifying him that it appeared the appeal had not been timely perfected. Appellant was advised that, if the

defect was not corrected within ten days from the date of receipt of this Court's letter, the appeal would be dismissed. Appellant was also advised that the \$175.00 filing fee had not been paid. The letter was sent to appellant's last known address by certified mail, however, the letter was returned unclaimed and no response has been filed. On June 30, 2011, the Court sent the same correspondence to appellant's last known address by both certified and regular mail. The certified mail was returned as unclaimed and no response has been filed.

Texas Rule of Appellate Procedure 9.1(b) requires unrepresented parties to sign any document filed and "give the party's mailing address, telephone number, and fax number, if any." See TEX. R. APP. P. 9.1(b). Appellant has neither provided this court with a forwarding address nor taken any other action to prosecute this appeal.

Rule 42.3 permits an appellate court, on its own initiative after giving ten days' notice to all parties, to dismiss the appeal for want of jurisdiction or for failure to comply with a requirement of the appellate rules. See *id.* 42.3(b), (c). Rule 2 authorizes an appellate court to suspend a rule's operation in a particular case to expedite a decision. See *id.* 2. Given the length of inactivity in this appeal and this court's inability to give effective notice to appellant during the period of inactivity, we suspend Rule 42.3's requirement of ten days' notice to all parties, and dismiss the appeal on our own motion. See *id.* 42.3(a), (c).

PER CURIAM

Delivered and filed
the 11th day of August, 2011.

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

September 2, 2011

Charles C. Davis
6910 FM 1830
Argyle, Texas 76226

Re: A0051113770 Tom McCall & Britton D. Monts-Charles C. Davis

Dear Mr. Davis:

Enclosed please find a copy of a rebuttal to your response regarding the above referenced complaint. This information was received in our office on August 26, 2011. You may wish to address the matters in a rebuttal. If so, please respond within ten days.

Thank you, and please contact our office if you have any questions.

Sincerely,

Chad Childers
Administrative Attorney
Office of the Chief Disciplinary Counsel
State Bar of Texas

CC/ama

Enclosure

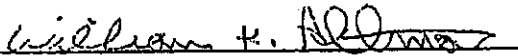
NO. A0051113770

COMMISSION FOR LAWYER	:	EVIDENTIARY PANEL
DISCIPLINE	:	
VS.	:	OF DISTRICT 14
CHARLES C. DAVIS	:	GRIEVANCE COMMITTEE

ORDER

This Respondent has this date filed a pleading entitled TRCP, 21 and 21(a), 21(b) Motion and TRDP, 2.09(a,b,c.). The Chair has considered same. The Plea(s) and Motion(s) in this pleading are denied.

SIGNED AND ORDERED THIS 25th DAY OF September, 2014.


William K. Altman
Evidentiary Panel Chair

executing the same in advance of such execution, but his fee shall be taxed and collected as other costs in the case.

Oct. 29, 1940, eff. Sept. 1, 1941.

Source

Vernon's Ann.Civ.St. art. 3911, adding "Except where otherwise expressly provided by law or these rules".

Leading Cases

o: Rodeheaver v. Alridge, 601 S.W.2d 51, 54 (Tex. App.—Houston [1st Dist.] 1980, writ ref'd n.r.e.) (no statutory authorization exists to allow a constable to require an advance deposit of fees for service of citation).

Attorney General Opinions

Tex. Atty. Gen. Op. JM-1046 (1989) (commissioners courts may set reasonable fees for services performed by sheriffs and constables in unsuccessful attempts to serve civil process).

Integrated Legal Research System References

West's Texas Digest Key Numbers

Costs 174.

Rule 18. When Judge Dies During Term, Resigns or is Disabled

If the judge dies, resigns, or becomes unable to hold court during the session of court duly convened for the term, and the time provided by law for the holding of said court has not expired, such death, resignation, or inability on the part of the judge shall not operate to adjourn said court for the term, but such court shall be deemed to continue in session. If a successor to such judge shall qualify and assume office during the term, or if a judge be transferred to said district from some other judicial district, he may continue to hold said court for the term provided, and all motions undisposed of shall be heard and determined by him, and statements of facts and bills of exception shall be approved by him. If the time for holding such court expires before a successor shall qualify, and before a judge can be transferred to said district from some other judicial district, then all motions pending, including those for new trial, shall stand as continued in force until such successor has qualified and assumed office, or a judge has been transferred to said district who can hold said court, and thereupon such judge shall have power to act thereon at the succeeding term, or on an earlier day in vacation, on notice to all parties to the motion, and such orders shall have the same effect as if rendered in term time. The time for allowing statement of facts and bills of exception from such orders shall date from the time the motion was decided.

Oct. 29, 1940, eff. Sept. 1, 1941. Amended by order of June 16, 1943, eff. Dec. 31, 1943.

Source

Vernon's Ann.Civ.St. art. 2288.

Commentary

Under the provisions of this rule, the death, resignation or disability of a judge does not disrupt pending proceedings and a successor has the authority to hear and determine such matters, including motions pending and fact findings before the court. His authority allows the successor judge to make findings of fact and conclusions of law without having heard the evidence in the case. A challenge objecting to the departed judge's failure to decide matters will not be successful when action has been taken by the successor judge. Moreover, action taken by the successor judge will be measured by the same standards that would have applied to the predecessor judge.

Leading Cases

Carrizales v. Wal-Mart Stores, Inc., 794 S.W.2d 129, 130-31 (Tex. App.—Fort Worth 1990, writ denied) (successor judge had authority to set aside sanction order made by predecessor judge under same standards that were applicable to the first judge).

Gathe v. Gathe, 376 S.W.3d 308 (Tex. App.—Houston [14 Dist.] 2012) (in allowing successor judges to dispose of unresolved matters and enter orders, Rule 18 does not permit the successor judge to render judgment without hearing evidence; successor judge who heard evidence on a discrete asset in a property division case but did not hear evidence relating to other assets or issues, could not make a property division or grant a divorce in the case).

Labarge v. State, 681 S.W.2d 261, 263-64 (Tex. App.—San Antonio 1984, pet. ref'd) (where trial judge resigned before filing written findings of fact on motion to suppress, State was entitled to file transcript of hearing on motion to suppress and findings of fact and conclusions of law regarding the hearing that were prepared by a second judge).

Lykes Bros. Steamship Co., Inc. v. Benben, 601 S.W.2d 418, 420 (Tex. Civ. App.—Houston [14th Dist.] 1980, writ ref'd n.r.e.) (due process did not require that resigning judge who had entered judgment in personal injury case and heard evidence make findings of fact and conclusions of law; findings and conclusions could be made by successor judge).

Texaco, Inc. v. Pennzoil, Co., 729 S.W.2d 768, 846-47 (Tex. App.—Houston [1st Dist.] 1987, writ ref'd n.r.e., cert. dism'd., 108 S.Ct. 1305, 485 U.S. 994, 99 L.Ed.2d 686 (1988) (substitution of judge during jury trial upon first judge's illness did not warrant mistrial because second judge prepared charge and ruled on motion for judgment, judgment n.o.v. and new trial when second judge acted on matters having heard much of evidence, had transcript available and heard arguments of parties relating to evidence adduced prior to his appointment).

W.C. Banks, Inc. v. Team, Inc., 783 S.W.2d 783, 785-86 (Tex. App.—Houston [1st Dist.] 1990, no writ) (when a judge dies, resigns or becomes disabled a successor judge may make findings and conclusions without having heard evidence in the case).

Integrated Legal Research System References

West's Texas Digest Key Numbers

Courts 65.

Rule 18a. Recusal and Disqualification of Judges

(a) **Motion, Form, and Contents.** A party in a case in any trial court other than a statutory probate court or justice court may seek to recuse or disqualify a judge who is sitting in the case by filing a motion with the clerk of the court in which the case is pending. The motion:

- (1) must be verified;
- (2) must assert one or more of the grounds listed in Rule 18b;
- (3) must not be based solely on the judge's rulings in the case; and
- (4) must state with detail and particularity facts that:

- (A) are within the affiant's personal knowledge, except that facts may be stated on information and belief if the basis for that belief is specifically stated;
- (B) would be admissible in evidence; and
- (C) if proven, would be sufficient to justify recusal or disqualification.

(b) **Time for Filing Motion.**

(1) **Motion to Recuse.** A motion to recuse:

- (A) must be filed as soon as practicable after the movant knows of the ground stated in the motion; and

referred motion. Alternatively, the regional presiding judge may sign and file with the clerk an order referring the second motion to the Chief Justice for consideration.

(2) Order. The ruling must be by written order.

(3) Summary Denial for Noncompliance.

(A) Motion to Recuse. A motion to recuse that does not comply with this rule may be denied without an oral hearing. The order must state the nature of the noncompliance. Even if the motion is amended to correct the stated noncompliance, the motion will count for purposes of determining whether a tertiary recusal motion has been filed under the Civil Practice and Remedies Code.

(B) Motion to Disqualify. A motion to disqualify may not be denied on the ground that it was not filed or served in compliance with this rule.

(4) Interim Orders. The regional presiding judge or judge assigned to decide the motion may issue interim or ancillary orders in the pending case as justice may require.

(5) Discovery. Except by order of the regional presiding judge or the judge assigned to decide the motion, a subpoena or discovery request may not issue to the respondent judge and may be disregarded unless accompanied by the order.

(6) Hearing.

(A) Time. The motion must be heard as soon as practicable and may be heard immediately after it is referred to the regional presiding judge or an assigned judge.

(B) Notice. Notice of the hearing must be given to all parties in the case.

(C) By Telephone. The hearing may be conducted by telephone on the record. Documents submitted by facsimile or email, otherwise admissible under the rules of evidence, may be considered.

(7) Reassignment of Case if Motion Granted. If the motion is granted, the regional presiding judge must transfer the case to another court or assign another judge to the case.

(h) Sanctions. After notice and hearing, the judge who hears the motion may order the party or attorney who filed the motion, or both, to pay the reasonable attorney fees and expenses incurred by other parties if the judge determines that the motion was

(1) groundless and filed in bad faith or for the purpose of harassment, or

(2) clearly brought for unnecessary delay and without sufficient cause.

(i) Chief Justice. The Chief Justice of the Supreme Court of Texas may assign judges and issue any orders permitted by this rule or pursuant to statute.

(j) Appellate Review.

(1) Order on Motion to Recuse.

(A) Denying Motion. An order denying a motion to recuse may be reviewed only for abuse of discretion on appeal from the final judgment.

(B) Granting Motion. An order granting a motion to recuse is final and cannot be reviewed by appeal, mandamus, or otherwise.

(2) Order on Motion to Disqualify. An order granting or denying a motion to disqualify may be reviewed by mandamus and may be appealed in accordance with other law.

June 10, 1980, eff. Jan. 1, 1981. Amended by orders of Dec. 15, 1983, eff. April 1, 1984; April 10, 1986, eff. Sept. 1, 1986; July 15, 1987, eff. Jan. 1, 1988; April 24, 1990, eff. Sept. 1, 1990; July 5, 2011, and July 22, 2011, eff. Aug. 1, 2011.

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District & County Courts—General **Rule 18a**

(B) must not be filed after the tenth day before the date set for trial or other hearing, unless, before that day, the movant neither knew nor reasonably should have known:

(i) that the judge whose recusal is sought would preside at the trial or hearing; or

(ii) that the ground stated in the motion existed.

(2) **Motion to Disqualify.** A motion to disqualify should be filed as soon as practicable after the movant knows of the ground stated in the motion.

(c) **Response to Motion.**

(1) **By Another Party.** Any other party in the case may, but need not, file a response to the motion. Any response must be filed before the motion is heard.

(2) **By the Respondent Judge.** The judge whose recusal or disqualification is sought should not file a response to the motion.

(d) **Service of Motion or Response.** A party who files a motion or response must serve a copy on every other party. The method of service must be the same as the method of filing, if possible.

(e) **Duty of the Clerk.**

(1) **Delivery of a Motion or Response.** When a motion or response is filed, the clerk of the court must immediately deliver a copy to the respondent judge and to the presiding judge of the administrative judicial region in which the court is located ("the regional presiding judge").

(2) **Delivery of Order of Recusal or Referral.** When a respondent judge signs and files an order of recusal or referral, the clerk of the court must immediately deliver a copy to the regional presiding judge.

(f) **Duties of the Respondent Judge; Failure to Comply.**

(1) **Responding to the Motion.** Regardless of whether the motion complies with this rule, the respondent judge, within three business days after the motion is filed, must either:

(A) sign and file with the clerk an order of recusal or disqualification; or

(B) sign and file with the clerk an order referring the motion to the regional presiding judge.

(2) **Restrictions on Further Action.**

(A) **Motion Filed Before Evidence Offered at Trial.** If a motion is filed before evidence has been offered at trial, the respondent judge must take no further action in the case until the motion has been decided, except for good cause stated in writing or on the record.

(B) **Motion Filed After Evidence Offered at Trial.** If a motion is filed after evidence has been offered at trial, the respondent judge may proceed, subject to stay by the regional presiding judge.

(3) **Failure to Comply.** If the respondent judge fails to comply with a duty imposed by this rule, the movant may notify the regional presiding judge.

(g) **Duties of Regional Presiding Judge.**

(1) **Motion.** The regional presiding judge must rule on a referred motion or assign a judge to rule. If a party files a motion to recuse or disqualify the regional presiding judge, the regional presiding judge may still assign a judge to rule on the original,

NO. A0051113770

COMMISSION FOR LAWYER DISCIPLINE

v.

CHARLES C. DAVIS

EVIDENTIARY PANEL

OF DISTRICT 14

GRIEVANCE COMMITTEE

EVIDENTIARY INDEX

NO.	DATE	DOCUMENT
1.	10/20/11	Just Cause/Election Letter to Respondent
2.	12/05/11	Affidavit of Service for Just Cause/Election Letter
3.	12/16/11	Respondent's Letter Transmitting Election Form
4.	12/16/11	Respondent's Election Form
5.	12/16/11	Letter from Judith G. DeBerry to Complainant Tom McCall (re: transfer of file from the Austin Regional Office to the Dallas Regional Office)
6.	12/16/11	Letter from Judith G. DeBerry to Complainant Britton Monts (re: transfer of file from the Austin Regional Office to the Dallas Regional Office)
7.	12/16/11	Letter from Judith G. DeBerry to Respondent (re: transfer of file from the Austin Regional Office to the Dallas Regional Office)
8.	12/20/11	E-Mail from Karen Wright to Candace Deanda requesting an evidentiary panel appointment
9.	12/20/11	Order Assigning Evidentiary Panel issued by District 14 Grievance Committee Chair Alex B. Eyssen appointing Evidentiary Panel 14-2 to preside over case
10.	01/05/12	Letter to Respondent transmitting Alex B. Eyssen's Order Assigning Evidentiary Panel 14-2 to preside over case
11.	02/09/12	Evidentiary Petition and Request for Disclosure
12.	02/09/12	Letter to Respondent transmitting Evidentiary Petition and Request for Disclosure
13.	3/05/12	Green Card and corresponding envelope re: return of Evidentiary Petition and Request for Disclosure b/c docs were unclaimed by Respondent
14.	03/08/12	Letter to Shane Reed transmitting letter and Evidentiary Petition and Request for Disclosure for personal service on Respondent
15.	03/13/12	Business Records Affidavit
16.	03/13/12	Letter transmitting Business Records Affidavit to Respondent
17.	03/15/12	Service Receipt for personal service of February 9, 2012 transmittal letter and Evidentiary Petition and Request for Disclosure on Respondent by Shane Reed
18.	03/23/12	Respondent's First Response to Evidentiary Petition
19.	09/05/12	Hearing Notice to Respondent

NO.	DATE	DOCUMENT
20.	09/10/12	Proposed Agreed Motion for Continuance and Order
21.	09/10/12	E-mail to Respondent transmitting proposed Agreed Motion for Continuance and Order
22.	09/11/12	E-mail to Evidentiary Panel Chair Curtis Loveless transmitting proposed Agreed Motion for Continuance and Order
23.	09/11/12	Order Granting Motion for Continuance
24.	09/12/12	E-mail to Respondent transmitting signed Order Granting Continuance
25.	01/13/14	Hearing Notice to Respondent
26.	04/23/14	Service receipt for personal service of the January 13, 2014 hearing notice to Respondent for the May23, 2014 setting
27.	05/08/14	Respondent's No-Evidence Summary Judgment
28.	05/08/14	Respondent's Motion to Quash, Special Exceptions and Amended Answer (TRCP 91a Motion)
29.	05/09/14	Motion to Quash
30.	05/08/14	E-Mail to Panel Chair Curtis Loveless re: Respondent's No-Evidence Motion for Summary Judgment
31.	05/08/14	E-Mail to Panel Chair Curtis Loveless re: Respondents Motion to Quash, Special Exceptions, Amended Answer (TRCP 91a Motion)
32.	05/12/14	E-Mail to Panel Chair Curtis Loveless re: Respondent's No-Evidence Motion for Summary Judgment
33.	05/13/14	Panel Chair Curtis Loveless' May 16, 2014 letter to Nancy Thursby re: delegation of duties to Panel Member Joshua Brinkley
34.	05/13/14	E-mail from Karen Wright to Respondent re: Transmittal of Curtis Loveless' May 16, 2014 letter to Nancy Thursby (delegation of duties to Panel Member Joshua Brinkley)
35.	05/13/14	E-Mail from Lisa M. Holt to Respondent re: Karen Wright's e-mail to Joshua Brinkley regarding delegation of duties
36.	05/13/14	Lisa M. Holt's e-mail to Panel Chair Joshua Brinkley re: Respondent's No-Evidence Summary Judgment
37.	05/13/14	Lisa M. Holt's e-mail to Panel Chair Joshua Brinkley re: Respondent's Motion to Quash, Special Exceptions, Amended Answer (TRCP 91a Motion)

CHARLES C. DAVIS

www.pearsoned.com

EVIDENTIARY PANEL

OF DISTRICT 14

GRIEVANCE COMMITTEE

EVIDENTIARY INDEX

NO.	DATE	DOCUMENT
38.	05/13/14	Lisa M. Holt's e-mail to Panel Chair Joshua Brinkley re: Respondent's Motion to Quash
39.	05/13/14	Lisa M. Holt's e-mail to Respondent re: David Biles' recusal request
40.	05/14/14	Lisa M. Holt's e-mail to District 14 Grievance Committee Chair Wayne Watson re: Curtis Loveless' and David Biles' recusal requests
41.	05/14/14	Respondent's e-mail to Lisa M. Holt re: Respondent's request for the recusal of Joshua Brinkley (letter attached)
42.	05/15/14	Wayne Watson's e-mail to Lisa M. Holt w/the Order Assigning Acting Chair attached
43.	05/15/14	Lisa M. Holt's e-mail to Respondent re: Order Assigning Tiffany Haertling as Acting Panel Chair
44.	05/15/14	Respondent's e-mail to Lisa M. Holt re: request for mediation w/letter attached
45.	05/15/14	Lisa M. Holt's e-mail to Joshua Brinkley re: Respondent's recusal request
46.	05/15/14	Lisa M. Holt's e-mail to Tiffany Haertling re: recusal requests and continuance
47.	05/15/14	Proposed Agreed Motion for Continuance
48.	05/15/14	Lisa M. Holt's e-mail to Tiffany Haertling re: proposed Agreed Motion for Continuance and Respondent's mediation request attached
49.	05/19/14	Lisa M. Holt's and Joshua Brinkley's e-mail exchange re: recusal
50.	05/19/14	Order Granting Motion for Continuance
51.	05/19/14	Lisa M. Holt's e-mail to Respondent w/a copy of Order Granting Motion for Continuance attached
52.	06/13/14	Petitioner's First Amended Evidentiary Petition
53.	06/13/14	Lisa M. Holt's e-mail to Respondent w/a copy of Petitioner's First Amended Evidentiary Petition attached
54.	07/02/14	Respondent's First Amended Motion to Quash
55.	07/02/14	Lisa M. Holt's e-mail to Respondent w/a file stamped copy of Respondent First Amended Motion to Quash attached
56.	07/02/14	Karen Wright's letter to Wayne C. Watson re: panel reappointment/reconfiguration
57.	07/02/14	E-mail from Lisa M. Holt to Respondent w/Order Assigning Evidentiary Panel and Panel Appointment attached

COMMISSION FOR LAWYER DISCIPLINE

CHARLES C. DAVIS

~~~~~

**OF DISTRICT 14**

## GRIEVANCE COMMITTEE

| NO. | DATE     | DOCUMENT                                                                                                                                                                                                                                                      |
|-----|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 58. | 07/11/14 | Karen Wright's letter to Respondent re: Order Assigning Randolph West Stout as Acting Chair                                                                                                                                                                   |
| 59. | 07/14/14 | Hearing Notice to Respondent                                                                                                                                                                                                                                  |
| 60. | 07/15/14 | Randolph W. Stout's letter to Lisa M. Holt re: recusal request                                                                                                                                                                                                |
| 61. | 07/22/14 | Lisa M. Holt's and Wayne Watson's e-mail exchange re: Order Reassigning Evidentiary Panel 14-1 (attached)                                                                                                                                                     |
| 62. | 07/22/14 | Lisa M. Holt's e-mail to Respondent transmitting a copy of the Order Reassigning Evidentiary Panel                                                                                                                                                            |
| 63. | 07/23/14 | Lisa M. Holt's e-mail to Panel Chair Bill Altman w/Order Reassigning Evidentiary Panel attached                                                                                                                                                               |
| 64. | 07/30/14 | Respondent's Procedural Objection and Plea to Jurisdiction                                                                                                                                                                                                    |
| 65. | 07/31/14 | Respondent's Supplemental Answer                                                                                                                                                                                                                              |
| 66. | 07/31/14 | Respondent's Objection to Evidentiary Docket                                                                                                                                                                                                                  |
| 67. | 08/01/14 | Respondent's Motion to Dismiss/Motion to Strike                                                                                                                                                                                                               |
| 68. | 08/01/14 | Lisa M. Holt's e-mail to Respondent w/file stamped copies of Respondent's Procedural Objection and Plea to Jurisdiction, Respondent's Supplemental, Respondent's Objection to Evidentiary Docket and Respondent's Motion to Dismiss/Motion to Strike attached |
| 69. | 08/01/14 | Lisa M. Holt's e-mail to Bill Altman re: Respondent's pleadings attached to the e-mail                                                                                                                                                                        |
| 70. | 08/04/14 | Respondent's TRCP, Rule 94 Affirmative Defenses Challenges to Venue                                                                                                                                                                                           |
| 71. | 08/04/14 | Lisa M. Holt's e-mail to Bill Altman re: Respondent's Motion to Dismiss/Motion to Strike and Respondent's TRCP, Rule 94 Affirmative Defenses Challenges to Venue                                                                                              |
| 72. | 08/22/14 | Stipulated Motion for Mediation                                                                                                                                                                                                                               |
| 73. | 08/22/14 | Lisa M. Holt's e-mail to Respondent re: Stipulated Motion for Mediation                                                                                                                                                                                       |
| 74. | 08/29/14 | Lisa M. Holt's e-mail to Panel 14-1 Evidentiary Panel Members re: evidentiary hearing location change                                                                                                                                                         |
| 75. | 8/29/14  | Lisa M. Holt's letter to Respondent re: evidentiary hearing location change                                                                                                                                                                                   |