



February 22, 2017

Board of Disciplinary Appeals

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

IN THE MATTER OF §
T. ANTHONY GUAJARDO, § CAUSE NO. 58730
STATE BAR CARD NO. 08561200 §

PETITION FOR RECIPROCAL DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called “Petitioner”), brings this action against Respondent, T. Anthony Guajardo, (hereinafter called “Respondent”), showing as follows:

1. This action is commenced by Petitioner pursuant to Part IX of the Texas Rules of Disciplinary Procedure. Petitioner is also providing Respondent a copy of Section 7 of this Board’s Internal Procedural Rules, relating to Reciprocal Discipline Matters.
2. Respondent is a member of the State Bar of Texas and is licensed and authorized to practice law in Texas. Respondent may be served with a true and correct copy of this Petition for Reciprocal Discipline at T. Anthony Guajardo, 9605 W. Coolidge Street, Phoenix, Arizona 85037.
3. On or about December 13, 2016, a Complaint (Exhibit 1) was filed Before the Presiding Disciplinary Judge of the Supreme Court of Arizona in a matter styled, *In the Matter of a Suspended Member of the State Bar of Arizona, T. Anthony Guajardo, Bar No. 021500, Respondent*, PDJ 2016-9126 [State Bar File Nos. 15-1320 and 15-1817].

4. On or about January 9, 2017, Respondent's Answer (Exhibit 2) was filed Before the Presiding Disciplinary Judge of the Supreme Court of Arizona in a matter styled, *In the Matter of a Suspended Member of the State Bar of Arizona, T. Anthony Guajardo, Bar No. 021500, Respondent*, PDJ 2016-9126 (State Bar File Nos. 15-1320 and 15-1817).

5. On or about January 31, 2017, a Consent to Disbarment with exhibits (Exhibit 3) was filed Before the Presiding Disciplinary Judge of the Supreme Court of Arizona in a matter styled, *In the Matter of a Suspended Member of the State Bar of Arizona, T. Anthony Guajardo, Bar No. 021500, Respondent*, PDJ 2016-9126 [State Bar File Nos. 15-1320, 15-1817, 15-3235, 16-0623, 16-0674, 16-1057, 16-2407, 16-2417, 16-3279, 16-3378, 16-3820, 16-3827, 16-3896, 16-4217].

6. On or about February 2, 2017, a Judgment of Disbarment (Exhibit 4) was entered Before the Presiding Disciplinary Judge of the Supreme Court of Arizona in a matter styled, *In the Matter of a Suspended Member of the State Bar of Arizona, T. Anthony Guajardo, Bar No. 021500, Respondent*, PDJ 2016-9126 [State Bar File Nos. 15-1320, 15-1817, 15-3235, 16-0623, 16-0674, 16-1057, 16-2407, 16-2417, 16-3279, 16-3378, 16-3820, 16-3827, 16-3896, 16-4217],, that states in pertinent part as follows:

...IT IS ORDERED accepting the consent to disbarment. Respondent, T. Anthony Guajardo, Bar No. 021500, is disbarred from the State of Arizona and his name is hereby stricken from the roll of lawyers effective immediately...

7. The Consent to Disbarment established that in Count One, Respondent violated: **ER 3.1** (Meritorious claims and contentions): A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous, which may include a good faith and nonfrivolous argument for an extension, modification or reversal of existing law; **ER 3.3(a)** (Candor toward the tribunal): A lawyer shall

not knowing make a false statement of fact or law to a tribunal; **ER 3.4(c)** (Fairness to opposing party and counsel): A lawyer shall not: (c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists; **ER 8.4(c)** (Misconduct): It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud; deceit or misrepresentation; and **ER 8.4(d)** (Misconduct): It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. It further established that in County Two, Respondent violated: **ER 1.2** (Scope of Representation): A lawyer shall abide by a client's decisions concerning the objectives of representation and shall consult with the client as to the means by which they are to be pursued; **ER 1.3(a)** (Diligence): A lawyer shall act with reasonable diligence and promptness in representing a client; **ER 1.4** (Communication) : A lawyer shall consult with the client, keep the client reasonably informed about the status of the matter, promptly comply with reasonable requests for information, and explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation); **ER 1.5** (Fees): A lawyer's fees and cost must be reasonable; **ER 1.16.(d)** (Termination of Representation): Upon termination of representation, a lawyer shall take steps to protect a client's interests, such as surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned. Upon the client's request, the lawyer shall provide the client with all of the client's documents, and all documents reflecting work performed for the client; and **ER 8.4(d)** (Misconduct): It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

8. Copies of the Complaint, Respondent's Answer, Consent to Disbarment and Judgment of Disbarment, are attached hereto as Petitioner's Exhibits 1 through 4, and made a


part hereof for all intents and purposes as if the same were copied verbatim herein. Petitioner expects to introduce certified copies of Exhibits 1 through 4 at the time of hearing of this cause.

9. Petitioner prays that, pursuant to Rule 9.02, Texas Rules of Disciplinary Procedure, that this Board issue notice to Respondent, containing a copy of this Petition with exhibits, and an order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice, why the imposition of the identical discipline in this state would be unwarranted. Petitioner further prays that upon trial of this matter that this Board enters a judgment imposing discipline identical with that imposed by the Supreme Court of the State of New Mexico and that Petitioner have such other and further relief to which it may be entitled.

Respectfully submitted,

Linda A. Acevedo
Chief Disciplinary Counsel

Judith Gres DeBerry
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
Telephone: 512.427.1350
Telecopier: 512.427.4167
Email: jdeberry@texasbar.com

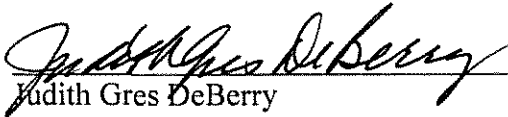

Judith Gres DeBerry
Bar Card No. 24040780

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that upon receipt of the Order to Show Cause from the Board of Disciplinary Appeals, I will serve a copy of this Petition for Reciprocal Discipline and the Order to Show Cause on T. Anthony Guajardo by personal service.

T. Anthony Guajardo
9605 W. Coolidge Street
Phoenix, Arizona 85037


Judith Gres DeBerry

INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Effective February 19, 2015

Contents

SECTION 1: GENERAL PROVISIONS	1
Rule 1.01 Definitions.....	1
Rule 1.02 General Powers	1
Rule 1.03 Additional Rules in Disciplinary Matters.....	1
Rule 1.04 Appointment of Panels.....	1
Rule 1.05 Filing of Pleadings, Motions, and Other Papers.....	1
Rule 1.06 Service of Petition.....	2
Rule 1.07 Hearing Setting and Notice	3
Rule 1.08 Time to Answer.....	3
Rule 1.09 Pretrial Procedure.....	3
Rule 1.10 Decisions.....	4
Rule 1.11 Board of Disciplinary Appeals Opinions	4
Rule 1.12 BODA Work Product and Drafts	5
Rule 1.13 Record Retention.....	5
Rule 1.14 Costs of Reproduction of Records	5
Rule 1.15 Publication of These Rules.....	5
SECTION 2: ETHICAL CONSIDERATIONS	5
Rule 2.01 Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases.....	5
Rule 2.02 Confidentiality	5
Rule 2.03 Disqualification and Recusal of BODA Members	5
SECTION 3: CLASSIFICATION APPEALS	6
Rule 3.01 Notice of Right to Appeal	6
Rule 3.02 Record on Appeal.....	6
SECTION 4: APPEALS FROM EVIDENTIARY PANEL HEARINGS.....	6
Rule 4.01 Perfecting Appeal.....	6
Rule 4.02 Record on Appeal.....	7
Rule 4.03 Time to File Record	9
Rule 4.04 Copies of the Record.....	10
Rule 4.05 Requisites of Briefs.....	10

Rule 4.06 Oral Argument	11
Rule 4.07 Decision and Judgment	11
Rule 4.08 Appointment of Statewide Grievance Committee	12
Rule 4.09 Involuntary Dismissal	12
SECTION 5: PETITIONS TO REVOKE PROBATION	12
Rule 5.01 Initiation and Service	12
Rule 5.02 Hearing	12
SECTION 6: COMPULSORY DISCIPLINE	12
Rule 6.01 Initiation of Proceeding	12
Rule 6.02 Interlocutory Suspension	12
SECTION 7: RECIPROCAL DISCIPLINE	13
Rule 7.01 Initiation of Proceeding	13
Rule 7.02 Order to Show Cause	13
Rule 7.03 Attorney’s Response	13
SECTION 8: DISTRICT DISABILITY COMMITTEE HEARINGS	13
Rule 8.01 Appointment of District Disability Committee	13
Rule 8.02 Petition and Answer	14
Rule 8.03 Discovery	14
Rule 8.04 Ability to Compel Attendance	15
Rule 8.05 Respondent’s Right to Counsel	15
Rule 8.06 Hearing	15
Rule 8.07 Notice of Decision	15
Rule 8.08 Confidentiality	15
SECTION 9: DISABILITY REINSTATEMENTS	15
Rule 9.01 Petition for Reinstatement	15
Rule 9.02 Discovery	16
Rule 9.03 Physical or Mental Examinations	16
Rule 9.04 Judgment	16
SECTION 10: APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS	16
Rule 10.01 Appeals to the Supreme Court	16

SECTION 1: GENERAL PROVISIONS

Rule 1.01 Definitions

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

Rule 1.02 General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and

determining disciplinary proceedings. But TRDP 15.01 applies to the enforcement of a judgment of BODA.

Rule 1.03 Additional Rules in Disciplinary Matters

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

Rule 1.04 Appointment of Panels

- (a) BODA may consider any matter or motion by panel, except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.
- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

Rule 1.05 Filing of Pleadings, Motions, and Other Papers

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.
 - (1) **Email Address.** The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.
 - (2) **Timely Filing.** Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA

for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

- (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.
- (4) **Exceptions.**
 - (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry is not required to be filed electronically.
 - (ii) The following documents must not be filed electronically:
 - a) documents that are filed under seal or subject to a pending motion to seal; and
 - b) documents to which access is otherwise restricted by court order.
 - (iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.
- (5) **Format.** An electronically filed document must:
 - (i) be in text-searchable portable

document format (PDF);

- (ii) be directly converted to PDF rather than scanned, if possible; and
 - (iii) not be locked.
- (b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).
 - (c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:
 - (1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or
 - (2) an electronic image or scanned image of the signature.
 - (d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.
 - (e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

Rule 1.06 Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition may be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or

her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent's signature.

Rule 1.07 Hearing Setting and Notice

- (a) **Original Petitions.** In any kind of case initiated by the CDC's filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23, the hearing date must be at least 30 days from the date that the petition is served on the Respondent.
- (b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23, the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.
- (c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.
- (d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately

following the docket call, the Chair will set and announce the order of cases to be heard.

Rule 1.08 Time to Answer

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

Rule 1.09 Pretrial Procedure

- (a) **Motions.**
 - (1) **Generally.** To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.
 - (2) **For Extension of Time.** All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:
 - (i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;
 - (ii) if an appeal has been perfected, the date when the appeal was perfected;
 - (iii) the original deadline for filing the item in question;

- (iv) the length of time requested for the extension;
 - (v) the number of extensions of time that have been granted previously regarding the item in question; and
 - (vi) the facts relied on to reasonably explain the need for an extension.
- (b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.
- (c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.
- (d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:
- (1) marked;
 - (2) indexed with the title or description of the item offered as an exhibit; and
 - (3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

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

Rule 1.10 Decisions

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

- (b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:
 - (1) as required by the TRDP; and
 - (2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.
- (c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

Rule 1.11 Board of Disciplinary Appeals Opinions

- (a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.
- (b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.
- (c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

Rule 1.12 BODA Work Product and Drafts

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

Rule 1.13 Record Retention

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

Rule 1.14 Costs of Reproduction of Records

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

Rule 1.15 Publication of These Rules

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

SECTION 2: ETHICAL CONSIDERATIONS

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

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

- (b) A current BODA member must not serve as an expert witness on the TDRPC.
- (c) A BODA member may represent a party in a legal malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

Rule 2.02 Confidentiality

- (a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.
- (b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.
- (c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction.

Rule 2.03 Disqualification and Recusal of BODA Members

- (a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.
- (b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.
- (c) These rules do not disqualify a lawyer who is a member of, or associated with,

the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him- or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

SECTION 3: CLASSIFICATION APPEALS

Rule 3.01 Notice of Right to Appeal

- (a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule.
- (b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. The form must include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

Rule 3.02 Record on Appeal

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

SECTION 4: APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01 Perfecting Appeal

- (a) **Appellate Timetable.** The date that the evidentiary judgment is signed starts the

appellate timetable under this section. To make TRDP 2.21 consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21.

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

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

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

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

- (d) **Time to File.** In accordance with TRDP 2.24, the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.
- (e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

Rule 4.02 Record on Appeal

- (a) **Contents.** The record on appeal consists of the evidentiary panel clerk's record and, where necessary to the appeal, a reporter's record of the evidentiary panel hearing.
- (b) **Stipulation as to Record.** The parties may designate parts of the clerk's record and the reporter's record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.
- (c) **Responsibility for Filing Record.**
 - (1) Clerk's Record.
 - (i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk's record.
 - (ii) Unless the parties stipulate otherwise, the clerk's record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel's charge, any findings of

fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

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

(2) Reporter's Record.

- (i) The court reporter for the evidentiary panel is responsible for timely filing the reporter's record if:
 - a) a notice of appeal has been filed;
 - b) a party has requested that all or part of the reporter's record be prepared; and
 - c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.
- (ii) If the court reporter is unable for any reason to prepare and transmit the reporter's record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter's record cannot be timely filed, and give the date by which he or she expects the reporter's record to be filed.

(d) Preparation of Clerk's Record.

- (1) To prepare the clerk's record, the

evidentiary panel clerk must:

- (i) gather the documents designated by the parties' written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
 - (ii) start each document on a new page;
 - (iii) include the date of filing on each document;
 - (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
 - (v) number the pages of the clerk's record in the manner required by (d)(2);
 - (vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and
 - (vii) certify the clerk's record.
- (2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.
- (3) The table of contents must:
- (i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each

document begins;

- (ii) be double-spaced;
 - (iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;
 - (iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and
 - (v) if the record consists of multiple volumes, indicate the page on which each volume begins.
- (e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:
- (1) file each computer file in text-searchable Portable Document Format (PDF);
 - (2) create electronic bookmarks to mark the first page of each document in the clerk's record;
 - (3) limit the size of each computer file to 100 MB or less, if possible; and
 - (4) directly convert, rather than scan, the record to PDF, if possible.
- (f) **Preparation of the Reporter's Record.**
- (1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The

reporter's record must be certified by the court reporter for the evidentiary panel.

- (2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records.
 - (3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.
 - (4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise appear.
 - (5) A court reporter or recorder must not lock any document that is part of the record.
 - (6) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.
- (g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.
- (h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record

that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

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

Rule 4.03 Time to File Record

- (a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.
- (b) **If No Record Filed.**
 - (1) If the clerk's record or reporter's record has not been timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.
 - (2) If no reporter's record is filed due to appellant's fault, and if the clerk's

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

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

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

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

Rule 4.04 Copies of the Record

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

Rule 4.05 Requisites of Briefs

(a) **Appellant's Filing Date.** Appellant's brief must be filed within 30 days after

the clerk's record or the reporter's record is filed, whichever is later.

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

(c) **Contents.** Briefs must contain:

- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
- (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
- (3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;
- (4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;
- (5) a statement, without argument, of the basis of BODA's jurisdiction;
- (6) a statement of the issues presented for review or points of error on which the appeal is predicated;
- (7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;
- (8) the argument and authorities;
- (9) conclusion and prayer for relief;
- (10) a certificate of service; and
- (11) an appendix of record excerpts pertinent to the issues presented for review.

(d) **Length of Briefs; Contents Included and Excluded.** In calculating the length of a document, every word and every part

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

- (e) **Amendment or Supplementation.** BODA has discretion to grant leave to amend or supplement briefs.
- (f) **Failure of the Appellant to File a Brief.** If the appellant fails to timely file a brief, BODA may:
 - (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;
 - (2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or
 - (3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

Rule 4.06 Oral Argument

- (a) **Request.** A party desiring oral argument must note the request on the front cover of the party's brief. A party's failure to

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

- (b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:
 - (1) the appeal is frivolous;
 - (2) the dispositive issue or issues have been authoritatively decided;
 - (3) the facts and legal arguments are adequately presented in the briefs and record; or
 - (4) the decisional process would not be significantly aided by oral argument.
- (c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

Rule 4.07 Decision and Judgment

- (a) **Decision.** BODA may do any of the following:
 - (1) affirm in whole or in part the decision of the evidentiary panel;
 - (2) modify the panel's findings and affirm the findings as modified;
 - (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
 - (4) reverse the panel's findings and

remand the cause for further proceedings to be conducted by:

- (i) the panel that entered the findings; or
 - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.
- (b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

Rule 4.08 Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27. The committee must consist of six members: four attorney members and two public members randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

Rule 4.09 Involuntary Dismissal

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

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

a response or other action within a specified time.

SECTION 5: PETITIONS TO REVOKE PROBATION

Rule 5.01 Initiation and Service

- (a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23.
- (b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23, the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02 Hearing

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

SECTION 6: COMPULSORY DISCIPLINE

Rule 6.01 Initiation of Proceeding

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

Rule 6.02 Interlocutory Suspension

- (a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA may suspend the Respondent's license to

practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

- (b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.
- (1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.
 - (2) If the criminal sentence is not fully probated:
 - (i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or
 - (ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.
 - (c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court

attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

SECTION 7: RECIPROCAL DISCIPLINE

Rule 7.01 Initiation of Proceeding

The Commission for Lawyer Discipline may initiate an action for reciprocal discipline by filing a petition with BODA under TRDP Part IX and these rules. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

Rule 7.02 Order to Show Cause

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

Rule 7.03 Attorney's Response

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

SECTION 8: DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01 Appointment of District Disability Committee

- (a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2),

or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

- (b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.
- (c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.
- (d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.
- (e) Should any member of the District Disability Committee become unable to serve, the BODA Chair may appoint a substitute member.

Rule 8.02 Petition and Answer

- (a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service may be made in person or by certified mail, return receipt requested. If service is by certified mail, the return receipt with the Respondent's signature must be filed with the BODA Clerk.
- (b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.
- (c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

Rule 8.03 Discovery

- (a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.
- (b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam

ordered by the District Disability Committee.

- (1) **Motion.** The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (2) **Report.** The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.
- (c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

Rule 8.04 Ability to Compel Attendance

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

Rule 8.05 Respondent's Right to Counsel

- (a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.
- (b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk

within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

Rule 8.06 Hearing

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

Rule 8.07 Notice of Decision

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

Rule 8.08 Confidentiality

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

SECTION 9: DISABILITY REINSTATEMENTS

Rule 9.01 Petition for Reinstatement

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

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

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

Rule 9.02 Discovery

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

Rule 9.03 Physical or Mental Examinations

- (a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.
- (b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

- (d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.
- (e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

Rule 9.04 Judgment

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

SECTION 10: APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS

Rule 10.01 Appeals to the Supreme Court

- (a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.
- (b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.
- (c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.

The foregoing instrument is a full, true, and correct copy of the original on file in this office.
Certified this 3rd day of Feb., 2017
By [Signature]
Disciplinary Clerk
Supreme Court of Arizona

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

Shauna R. Miller, Bar No. 015197
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7278
Email: LRO@staff.azbar.org

DEC 13 2016

FILED
BY [Signature]

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED MEMBER OF THE STATE BAR OF ARIZONA,

T. ANTHONY GUAJARDO,
Bar No. 021500,

Respondent.

PDJ 2016-9126
[State Bar File Nos. 15-1320, and 15-1817]

COMPLAINT

Complaint is made against Respondent as follows:

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on May 24, 2002.

COUNT ONE (File no. 15-1320/Varney)

8. On March 4, 2010, Petitioner Mother (Mother) filed for divorce. Respondent represented Mother and Debra Varney (Ms. Varney) represented Father. On June 2, 2010, Mother asked for unsupervised parenting time, twice a week as Mother's work schedule permitted.

9. On August 31, 2010, after a temporary orders hearing, the court found that unsupervised parenting time between the children and Mother would "seriously endanger the children's physical, mental, moral or emotional [health], and that

Exhibit
1

Mother had committed acts of domestic violence involving the children, and was likely to commit such acts in the future." Based on these findings, the court restricted Mother's access to the children.

10. On September 9, 2010, the court ordered Mother to participate in a mental health evaluation with Dr. Marlene Joy

11. On December 2, 2010, the matter proceeded to trial and the court made the following findings:

- a. Mother committed significant acts of domestic violence against Father;
- b. Mother committed acts of domestic violence against one of her daughters;
- c. Mother had a mental health condition that required the prescription of anti-depressant medication;
- d. Mother is noncompliant with taking her antidepressant medications as prescribed;
- e. Mother had an order of protection that protected her own children from her. Mother knowingly violated that order of protection at least twice;
- f. Mother completed 3 sets of anger management classes with no long term beneficial impact on her behavior; and
- g. Mother failed to complete the mental health evaluation with Dr. Marlene Joy ordered by the court.

12. Based on these and other findings, the court awarded sole legal decision-making authority to Father and limited, supervised parenting time to Mother.

13. On February 8, 2013, Respondent filed a petition to modify parenting time. Mother alleged that the change of circumstances warranting modification were that the order of protection was no longer in place, that she had participated in "parenting skills classes", that she participated in "other counseling such as anger management", that she attends church, and she will have a two bedroom apartment.

14. The court set the matter for a resolution management conference (conference) on June 3, 2013. Father's counsel filed a resolution management statement as ordered by the court. Respondent did not file a statement on Mother's behalf. During the conference, Respondent handed documents to the court's staff that were not filed and were not provided to Father's counsel, so the court was reviewing unfiled documents which Father's counsel had not yet seen.

15. Respondent admitted during the conference that Mother had not complied with the prior court orders for a psychiatric evaluation. Father's counsel requested that Mother be psychiatrically evaluated for mental health medication issues. On July 29, 2013, the court appointed Dr. Joy martin to complete the evaluation of Mother.

16. On August 16, 2013, Father filed a motion to dismiss the petition to modify, which the court granted. The court found that Mother had not articulated a substantial and continuing change of circumstances warranting modification. Specifically, Mother had not performed those things the court indicated would be the preconditions for consideration of unsupervised parenting time.

17. On October 25, 2013, Mother filed an amended petition to modify, attaching a report from Dr. Joy Martin. The court set a resolution management conference, a case management conference, a hearing date, and appointed Dr. Munoz to perform a mental health evaluation of Mother. After several continuances, the matter was eventually set for a June 12, 2014, case management conference.

18. At the June 12, 2014, case management conference, Ms. Varney informed the court that Dr. Munoz had completed his report, and based on that report there was no substantial and continuing change of circumstances warranting modification. Respondent told the court that Dr. Munoz had found the existence of substantial and continuing change of circumstances warranting some consideration of unsupervised parenting time. The court set the matter for a 3-hour hearing, which ultimately went forward on September 16, 2014.

19. As part of the hearing preparation, the parties were ordered to submit a joint pre-hearing statement no later than September 9, 2014. Respondent failed to file a pre-hearing statement. At the hearing, Respondent claimed that it was Ms. Varney's fault he did not file a pre-hearing statement because he had been discussing settlement with Ms. Varney and that she somehow "jumped the gun" by filing her pretrial statement as ordered by the court.

20. Respondent told the court that he had provided "exhibits" when in fact none were provided. Respondent told the court that he wanted to simply "sign off" on the pre-hearing statement, yet the pre-hearing statement did not support Mother's request for unsupervised parenting time. During the hearing, Respondent

let Mother make stream of consciousness statements to the court, which made clear to the court that Respondent "put the same effort into client preparation as he did in producing exhibits and filing pretrial statements. In short, Mother was not prepared to proceed."

21. On November 4, 2014, the court issued its ruling denying Mother's petition and permitting Ms. Varney to file an application for attorney fees and costs.

22. On March 24, 2015, the court heard oral argument on the application for attorney fees and costs, and took the matter under advisement. In a May 13, 2015, under advisement ruling, the court granted the request for attorney's fees. The court entered judgment against Respondent for \$7,536.61, plus interest at the legal rate as of this date. Among other things, the court found the following:

- a. that the provisions of A.R.S. § 25-324(B) apply because the petition was not filed in good faith and the petition was not grounded in fact or based on law.
- b. that Respondent should pay all of Father's attorney fees and costs.
- c. that Respondent had a completed report from Dr. Marlene Joy, which was the primary basis of the filing of the amended petition on October 25, 2013, and "no reasonable person would have concluded that a substantial and continuing change of circumstances had occurred that would warrant Mother having unsupervised parenting time based on her report."
- d. that Respondent knew he was obligated to present evidence at the hearing to meet his burden of proof, but instead elected to simply have

Mother testify that she was a good Mother and would like more time with her children in an unsupervised setting.

- e. that Respondent's "claims pertaining to the pretrial statement, to be misstatements of fact." The court concluded that Respondent acted in bad faith. Respondent "compounded his actions by continuing in his misrepresentations during the March 24, 2015, evidentiary hearing, continuing in his misstatements of fact to the court regarding his actions, blaming and disparaging [Ms. Varney] for his inaction, and taking no personal responsibility for his inaction/actions."
- f. that "Dr. Munoz made it abundantly clear [at the hearing] that Mother still posed a risk of harm to the children if granted unsupervised parenting time, unless the steps recommended by Dr. Munoz were taken and completed."

20. By engaging in the above referenced misconduct, Respondent violated Rule 42, Ariz. R. Sup. Ct., specifically:

- a. **ER 3.1** (Meritorious claims and contentions): A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous, which may include a good faith and nonfrivolous argument for an extension, modification or reversal of existing law.
- b. **ER 3.3(a)** (Candor toward the tribunal): A lawyer shall not knowing (1) make a false statement of fact or law to a tribunal.

- c. **ER 3.4(c)** (Fairness to opposing party and counsel): A lawyer shall not: (c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.
- d. **ER 8.4(c)** (Misconduct): It is professional misconduct for a lawyer to:
 - (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
- e. **ER 8.4(d)** (Misconduct): It is professional misconduct for a lawyer to:
 - (d) engage in conduct that is prejudicial to the administration of justice.

COUNT TWO (File no. 15-1817/Godinez)

21. On June 3, 2015, Araceli Godinez (Ms. Godinez) paid Respondent \$3,185 to provide legal services related to the immigration status and deportation proceedings of her husband Hector Herrera (Mr. Herrera).

22. Ms. Godinez provided Respondent with all of the documents his office requested. Ms. Godinez was then told that Respondent couldn't do anything until her husband was sent to the detention center. At that time, he was being held at the Durango jail.

23. On June 29, 2015, Ms. Godinez called Respondent's office and told them her husband had been transferred to immigration services. Ms. Godinez was told they needed her husband's immigration case number and the name of the detention center where he was being held. Ms. Godinez called the office back and told them he did not have a case number and he was being deported.

24. Someone from Respondent's office did meet with Mr. Herrera, but only for 20 or 30 minutes. Respondent's law student/associate Dario Romero visited Ms. Godinez's husband on June 17, 2015. Mr. Romero's notes indicate that Mr. Herrera had a voluntary departure in 2005 and that he had two DUI charges and a domestic violence charge.

25. Ms. Godinez's husband was deported by ICE to Mexico on June 30, 2015. Respondent failed to provide the services he had been paid to provide and Respondent did not earn the money Ms. Godinez paid him. Ms. Godinez wanted a refunded and the file, but Respondent did not provide her with either.

26. Respondent should not have taken the case without first determining the necessary facts to appropriately advise Ms. Godinez's regarding her husband's immigration case.

27. By engaging in the above referenced misconduct, Respondent violated Rule 42, Ariz. R. Sup. Ct., specifically:

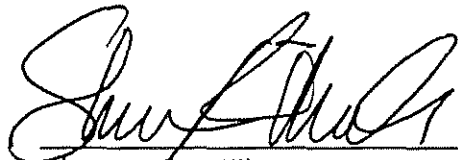
- a. **ER 1.2** (Scope of Representation): A lawyer shall abide by a client's decisions concerning the objectives of representation and shall consult with the client as to the means by which they are to be pursued.
- b. **ER 1.3(a)** (Diligence): A lawyer shall act with reasonable diligence and promptness in representing a client.
- c. **ER 1.4** (Communication): A lawyer shall consult with the client, keep the client reasonably informed about the status of the matter, promptly comply with reasonable requests for information, and explain

a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation).

- d. **ER 1.5** (Fees): A lawyer's fees and cost must be reasonable.
- e. **ER 1.16(d)** (Termination of Representation): Upon termination of representation, a lawyer shall take steps to protect a client's interests, such as ... surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned. Upon the client's request, the lawyer shall provide the client with all of the client's documents, and all documents reflecting work performed for the client.
- f. **ER 8.4(d)** (Misconduct): It is professional misconduct for a lawyer to:
(d) engage in conduct that is prejudicial to the administration of justice.

DATED this 13th day of December, 2016.

STATE BAR OF ARIZONA



Shauna R. Miller
Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 13th day of December, 2016.

by: John Brian
SRM:jb

FILED
DEC 28 2015
STATE BAR OF ARIZONA
BY *Audra Montoya*

**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**

**IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,**

**T. ANTHONY GUAJARDO
Bar No. 021500**

Respondent.

No. 15-1320

PROBABLE CAUSE ORDER

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on December 11, 2015, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation and Respondent's Response.

By a vote of 9-0-0, the Committee finds probable cause exists to file a complaint against Respondent in File No. 15-1320.

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 28 day of December, 2015.

Lawrence F. Winthrop

Judge Lawrence F. Winthrop, Chair
Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona

Original filed this 26 day
of December, 2015, with:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

Copy mailed this 27 day
of December, 2015, to:

T. Anthony Guajardo
Law Office of T. A. Guajardo
210 South 4th Avenue, Suite 202
Phoenix, Arizona 85003-2138
Respondent

Copy emailed this 30 day
of December, 2015, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

by: 

**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**

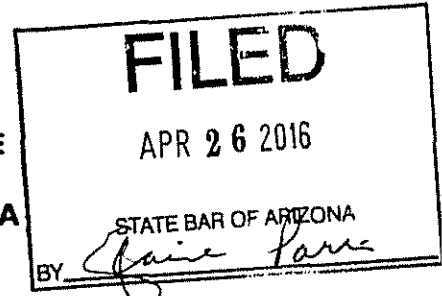
**IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,**

**T. ANTHONY GUAJARDO
Bar No. 021500**

Respondent.

No. 15-1817

PROBABLE CAUSE ORDER



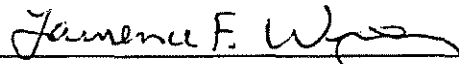
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on April 8, 2016, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation and Respondent's Response.

By a vote of 9-0-0, the Committee finds probable cause exists to file a complaint against Respondent in File No. 15-1817.

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 26 day of April, 2016.



Judge Lawrence F. Winthrop, Chair
Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona

Original filed this 26th day
of April, 2016 with:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

Copy mailed this 27th day
of April, 2016, to:

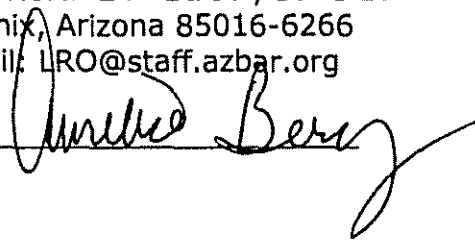
T Anthony Guajardo
Law Office of T. A. Guajardo
210 South 4th Avenue, Suite 202
Phoenix, Arizona 85003-2138
Respondent

Copy emailed this 27th day
of April, 2016, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

by:



The foregoing instrument is a full, true, and correct copy of the original on file in this office
Certified this, 3rd day of Feb., 2017
By [Signature]
Disciplinary Clerk
Supreme Court of Arizona

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

JAN 9 2017

T. Anthony Guajardo
P.O. Box 36593
Phoenix, Arizona 85067
Email: tanthonyguajardo12@gmail.com

FILED
BY [Signature]

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED)	PDJ 2016-9126
MEMBER OF THE STATE BAR OF)	(State Bar File Nos. 15-1320, and 15-1817
ARIZONA)	
)	
T. ANTHONY GUAJARDO,)	RESPONDENT'S ANSWER
Bar No. 021500)	
)	
Respondent)	
)	

The undersigned Respondent, for his Answer, Responds to the Complaint as follows:

GENERAL ALLEGATIONS:

- 1. Respondent admits he was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on May 24, 2002.

COUNT ONE (File no. 15-1320 Varney)

- 8. Respondent admits.
- 9. Deny. The court found no substantial risk of harm to the children by Mother and referred Mother to the care of Dr. Joy Martin.
- 10. Admit
- 11. Admit matter proceeded to trial December 2nd, 2010.
 - a. Deny
 - b. Deny, there were no recent acts of violence from Mother against her daughter.
 - c. Admit

Exhibit
2

d. Deny

e. Admit under the pretense that; there was a protection order supporting Father. Father added the children, however there was never any evidence of violence committed by Mother against her children. Mother did not knowingly violate order of protection, she called 2 times to talk to her children.

f. Admit. Completed 3 sets of anger management. Deny it did not benefit her.

g. Admit – Dr. Joy discontinued her services with Mother because Mother could not pay. Dr. Joy Martin cost more than Mother could afford to pay.

12. Deny. Court mainly awarded sole legal decision making based on the Mother's domestic violence against the Father. Mother was not a substantial risk to the children.

13. Admit; except the following: There was another issue also, a substantial period of time had passed where Mother no longer lived with husband or mother in law, there was no more interaction with the father and Mother in law that provoked Mother's actions. Mother was removed from the environment and was able to make good judgment without the Mother in law and Father provoking her. Mother had parents rights guaranteed under the constitution and under the state statute Arizona Parents' Bill of Rights, Mother had the right to parent her children. Mother's rights to parent were protected. Mother was never found to be a bad Mother and never neglected her children, and had been primary caretaker of children.

14. Admit court set the matter for a court resolution management conference June 13, 2013. Father did file a statement indicating the only way they would resolve the case was to dismiss the case, they entered no resolution.

Not having a Resolution Statement from Mother does not preclude Father from settling, which they refused to do.

Admit, Respondent did not file a Resolution Statement. This did not cause a problem to Mother because Father's counsel would not consider any settlement of the case other than to

dismiss the case. Father was not open to any negotiation. There was no resolution to settlement negotiated. Respondent Denies handing documents to court staff.

15. Admit. Mother did not get psychiatric evaluation because she simply could not afford it. And in order to see the children, she had to pay a third party agency a substantial amount of money to even see her children and she did not have the money for this either, although she was working 2 jobs. She couldn't afford it. Dr. Joy sent a letter to the court informing the court Mother could not pay for her services.
16. Admit; Father filed his motion to Dismiss August 16, 2013. It was respondent's understanding the only thing Mother did not preform was her sessions with Dr. Joy because she could not afford it. Mother ultimately was referred to Dr. Munoz who was not qualified to do a psychiatric evaluation and only performed a psychological evaluation. Dr. Munoz was not qualified to make an assessment on whether or not the Mother needed psychiatric drugs or whether or not she was a substantial risk of harm because Dr. Munoz was not a Psychiatrist, he was not qualified.
17. Admit, Except that: Munoz was only qualified to file a limited report subject to Mother's complete psychiatric evaluation with a licensed Psychiatrist. In fact, Munoz stated this in his report. And to determine if Mother needed psychiatric medication.
18. Deny. The Judge considered another Motion to Dismiss by Ms. Varney which was denied by the court, by the Judge, because the court determined there was enough to take the matter to trial based on Dr. Munoz's report. Further, Respondent did not oppose the motion to dismiss filed by Ms. Varney. The Judge Denied Ms. Varney's motion to dismiss based on his own accord.
19. Deny.

20. Deny. Respondent was denied the opportunity to put on exhibits or to have his client testify.

21. Admit.

22. Admit.

a. Respondent filed in good faith because the Arizona Constitution and U.S. Constitution provides that a parent has the fundamental right to parent their children, which is also provided in the state statute under Arizona Parent's Bill of Rights.

b. Admit.

c. thru f. Deny.

20. Which should be 23; Deny a. thru e.

COUNT TWO (File no. 15-1817) Araceli Godinez

21. Admit

22. Deny, Ms. Godinez only provided partial documentation. Deny, based on the information Ms. Godinez provided to Respondent's office she was advised to contact Respondent's office just as soon as her husband arrived at detention and was issued his A#, the alien number. Respondent's office prepared and completed document 42b Cancellation of Removal. Admit, the parties later learned Mr. Hererra was being held at the Durango jail.

23. Deny. Mr. Hererra was transferred to ICE, not immigration services.

24. Admit only that Dario Romero visited Mr. Hererra on June 17, 2015. His notes indicate that Mr. Hererra had a voluntary departure in 2005 and 2 DUI charges against him along with a domestic violence charge.

25. Admit, Mr. Hererra was deported by ICE to Mexico June 30, 2015. Deny the rest of the statements in this paragraph.

26. Deny.

27. Deny 27 a thru f.

AFFIRMATIVE DEFENSES

The Arizona Bar Association under the International Bar Association is required to comply with it's treaties and charters (along with the Treaty of Paris 1942) that allow them to operate in America and requires all Judges and Attorney's working for the Bar to uphold the Laws of the Continental United States of America.

The Bar Association, Judges and Attorneys who work for the Bar are fully liable and responsible for obeying the Public Law of the Continental United States, **including Revised Statute 2561 & the Constitution, & can be arrested & fined for failure to do so, incorporated by reference.**

This is also dictated by the highest law of the land established thru a new law at Vatican City thru Pope Francis, in his capacity as supreme sovereign Pontiff, thru a **Motu Propria** (the highest legal instrument on the planet), overriding anything that could be used against it, effective **September 13th, 2013 worldwide**, as declared; **The Bar Association, the Judges and Attorney's who work for the Bar, there will be no public bonds or foreign state immunity, there is no longer any immunity for any Judiciary involved in egregious misconduct and harm caused to Americans by fraudulent unlawful practices. There is no longer Judicial Immunity.** Tribunals are already being established outside the state of Arizona. The Motu Propria established by the Pope Francis, Pontiff, effective September 13, 2013 is incorporated into this document by reference.

Respondent claims all affirmative defenses of accord and satisfaction contributory negligence, estoppels, failure of consideration, fraud, illegality, laches, license, res judicata,

statute of frauds, statute of limitations; and waiver and any other matter constituting an avoidance or affirmative defense as set forth in Rule 8(c), Ariz R. Civ. P, and incorporate the same by reference as though set forth herein in their entirety and reserve the right to amend their Answer to Complaint and include any and all other affirmative defenses that may come to light through subsequent litigation and discovery.

Other Affirmative Defense: The “substantial on-going continuing change” requirement unconstitutionally deprives Mother of her Constitutional Fundamental Right and of her Statutory right under the Arizona’s Parents’ Bill Of Rights.

And reimbursement of Any and All fees Respondent may incur in defending this matter are to be reimbursed. And all other relief which this court deems just and proper.

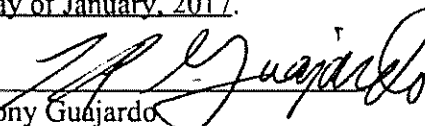
Respectfully Submitted this 9th day of January, 2017,



T. Anthony Guajardo

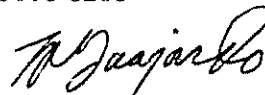
CERTIFICATE OF SERVICE

Original filed with the Disciplinary Clerk of the Office of the Presiding Disciplinary Judge of the Supreme Court of Arizona this 9th day of January, 2017.



T. Anthony Guajardo

Copy to: Shauna R. Miller, Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266



The foregoing instrument is a full, true, and correct copy of the original on file in this office

Certified this 3rd day of Feb., 2017

By [Signature]

Disciplinary Clerk
Supreme Court of Arizona

Shauna R. Miller, Bar No. 015197
Bar Counsel - Litigation
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7250
Email: LRO@staff.azbar.org

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

JAN 31 2017

FILED
BY [Signature]

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF ARIZONA,

T. ANTHONY GUAJARDO
Bar No. 021500

Respondent.

PDJ 2016-9126

CONSENT TO DISBARMENT

[State Bar File Nos. 15-1320, 15-1817,
15-3235, 16-0623, 16-0674, 16-1057,
16-2407, 16-2417, 16-3279, 16-3378,
16-3820, 16-3827, 16-3896, 16-4217]

I, T. Anthony Guajardo, PO Box 36593, Phoenix, AZ 85067-6593, 602-544-0607, tanthonyguajardo12@gmail.com, voluntarily consent to disbarment as a member of the State Bar of Arizona and consent to the removal of my name from the roster of those permitted to practice before this court, and from the roster of the State Bar of Arizona.


I acknowledge that charges have been made against me and a formal complaint has been filed against me. I have read the charges and the complaint, and the allegations made against me. I further acknowledge that I do not desire to contest or defend the charges, but wish to consent to disbarment. I have been advised of and have had an opportunity to exercise my right to be represented in this matter by a lawyer. I consent to disbarment freely and voluntarily and not under coercion or intimidation. I am aware of the rules of the Supreme Court with respect to discipline,

disability, resignation and reinstatement, and I understand that any future application by me for admission or reinstatement as a member of the State Bar of Arizona will be treated as an application by a member who has been disbarred for professional misconduct, as set forth in the charges and the formal complaint. The misconduct of which I am accused is described in the formal complaint, attached as Exhibit A, and the open State Bar screening files and charges, attached as Exhibit B, bearing the numbers referenced in the caption.


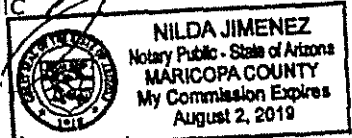
The State Bar's Statement of Costs and Expenses is attached as Exhibit C.

A proposed form of Judgment of Disbarment is attached hereto as Exhibit D.

DONE AT the State Bar offices in Phoenix, Arizona, on January 30, 2017.


T. Anthony Guajardo
Respondent

SUBSCRIBED AND SWORN TO before me this 30 day of Jan, 2017, by T. Anthony Guajardo, who satisfactorily proved his/her identity to me.


Notary Public

My Commission expires: _____

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 31st day of January, 2017.

Copy of the foregoing emailed
this 31st day of January, 2017, to:
Hon. William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
Email: officepdj@courts.az.gov

Copies of the foregoing mailed/emailed
this 31st day of January, 2017, to:

T. Anthony Guajardo
PO Box 36593
Phoenix, Arizona 85067-6593
Email: tanthonyguajardo12@gmail.com
Respondent

Copy of the foregoing hand-delivered
this 31st day of January, 2017, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

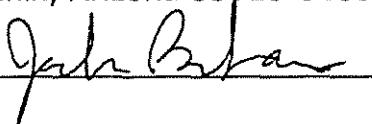
by: 

EXHIBIT A

Shauna R. Miller, Bar No. 015197
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7278
Email: LRO@staff.azbar.org

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

JAN 18 2017

FILED
BY 

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF
ARIZONA,

T. ANTHONY GUAJARDO,
Bar No. 021500,

Respondent.

2016-9126
~~PDJ 2017~~

CORRECTED COMPLAINT¹

[State Bar File Nos. 15-1320, and 15-1817]

Complaint is made against Respondent as follows:

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on May 24, 2002.

COUNT ONE (File no. 15-1320/Varney)

2. On March 4, 2010, Petitioner Mother (Mother) filed for divorce. Respondent represented Mother and Debra Varney (Ms. Varney) represented Father. On June 2, 2010, Mother asked for unsupervised parenting time, twice a week as Mother's work schedule permitted.

¹ A notice of errata is being filed contemporaneously with this corrected complaint, which explains the corrected complaint is being filed due to errors with the paragraph numbering within the complaint.

3. On August 31, 2010, after a temporary orders hearing, the court found that unsupervised parenting time between the children and Mother would "seriously endanger the children's physical, mental, moral or emotional [health], and that Mother had committed acts of domestic violence involving the children, and was likely to commit such acts in the future." Based on these findings, the court restricted Mother's access to the children.

4. On September 9, 2010, the court ordered Mother to participate in a mental health evaluation with Dr. Marlene Joy

5. On December 2, 2010, the matter proceeded to trial and the court made the following findings:

- a. Mother committed significant acts of domestic violence against Father;
- b. Mother committed acts of domestic violence against one of her daughters;
- c. Mother had a mental health condition that required the prescription of anti-depressant medication;
- d. Mother is noncompliant with taking her antidepressant medications as prescribed;
- e. Mother had an order of protection that protected her own children from her. Mother knowingly violated that order of protection at least twice;
- f. Mother completed 3 sets of anger management classes with no long term beneficial impact on her behavior; and
- g. Mother failed to complete the mental health evaluation with Dr. Marlene Joy ordered by the court.

6. Based on these and other findings, the court awarded sole legal decision-making authority to Father and limited, supervised parenting time to Mother.

7. On February 8, 2013, Respondent filed a petition to modify parenting time. Mother alleged that the change of circumstances warranting modification were that the order of protection was no longer in place, that she had participated in "parenting skills classes", that she participated in "other counseling such as anger management", that she attends church, and she will have a two bedroom apartment.

8. The court set the matter for a resolution management conference (conference) on June 3, 2013. Father's counsel filed a resolution management statement as ordered by the court. Respondent did not file a statement on Mother's behalf. During the conference, Respondent handed documents to the court's staff that were not filed and were not provided to Father's counsel, so the court was reviewing unfiled documents which Father's counsel had not yet seen.

9. Respondent admitted during the conference that Mother had not complied with the prior court orders for a psychiatric evaluation. Father's counsel requested that Mother be psychiatrically evaluated for mental health medication issues. On July 29, 2013, the court appointed Dr. Joy martin to complete the evaluation of Mother.

10. On August 16, 2013, Father filed a motion to dismiss the petition to modify, which the court granted. The court found that Mother had not articulated a substantial and continuing change of circumstances warranting modification.

Specifically, Mother had not performed those things the court indicated would be the preconditions for consideration of unsupervised parenting time.

11. On October 25, 2013, Mother filed an amended petition to modify, attaching a report from Dr. Joy Martin. The court set a resolution management conference, a case management conference, a hearing date, and appointed Dr. Munoz to perform a mental health evaluation of Mother. After several continuances, the matter was eventually set for a June 12, 2014, case management conference.

12. At the June 12, 2014, case management conference, Ms. Varney informed the court that Dr. Munoz had completed his report, and based on that report there was no substantial and continuing change of circumstances warranting modification. Respondent told the court that Dr. Munoz had found the existence of substantial and continuing change of circumstances warranting some consideration of unsupervised parenting time. The court set the matter for a 3-hour hearing, which ultimately went forward on September 16, 2014.

13. As part of the hearing preparation, the parties were ordered to submit a joint pre-hearing statement no later than September 9, 2014. Respondent failed to file a pre-hearing statement. At the hearing, Respondent claimed that it was Ms. Varney's fault he did not file a pre-hearing statement because he had been discussing settlement with Ms. Varney and that she somehow "jumped the gun" by filing her pretrial statement as ordered by the court.

14. Respondent told the court that he had provided "exhibits" when in fact none were provided. Respondent told the court that he wanted to simply "sign off"

on the pre-hearing statement, yet the pre-hearing statement did not support Mother's request for unsupervised parenting time. During the hearing, Respondent let Mother make stream of consciousness statements to the court, which made clear to the court that Respondent "put the same effort into client preparation as he did in producing exhibits and filing pretrial statements. In short, Mother was not prepared to proceed."

15. On November 4, 2014, the court issued its ruling denying Mother's petition and permitting Ms. Varney to file an application for attorney fees and costs.

16. On March 24, 2015, the court heard oral argument on the application for attorney fees and costs, and took the matter under advisement. In a May 13, 2015, under advisement ruling, the court granted the request for attorney's fees. The court entered judgment against Respondent for \$7,536.61, plus interest at the legal rate as of this date. Among other things, the court found the following:

- a. that the provisions of A.R.S. § 25-324(B) apply because the petition was not filed in good faith and the petition was not grounded in fact or based on law.
- b. that Respondent should pay all of Father's attorney fees and costs.
- c. that Respondent had a completed report from Dr. Marlene Joy, which was the primary basis of the filing of the amended petition on October 25, 2013, and "no reasonable person would have concluded that a substantial and continuing change of circumstances had occurred that would warrant Mother having unsupervised parenting time based on her report."

- d. that Respondent knew he was obligated to present evidence at the hearing to meet his burden of proof, but instead elected to simply have Mother testify that she was a good Mother and would like more time with her children in an unsupervised setting.
- e. that Respondent's "claims pertaining to the pretrial statement, to be misstatements of fact." The court concluded that Respondent acted in bad faith. Respondent "compounded his actions by continuing in his misrepresentations during the March 24, 2015, evidentiary hearing, continuing in his misstatements of fact to the court regarding his actions, blaming and disparaging [Ms. Varney] for his inaction, and taking no personal responsibility for his inaction/actions."
- f. that "Dr. Munoz made it abundantly clear [at the hearing] that Mother still posed a risk of harm to the children if granted unsupervised parenting time, unless the steps recommended by Dr. Munoz were taken and completed."

17. By engaging in the above referenced misconduct, Respondent violated Rule 42, Ariz. R. Sup. Ct., specifically:

- a. **ER 3.1** (Meritorious claims and contentions): A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous, which may include a good faith and nonfrivolous argument for an extension, modification or reversal of existing law.

- b. **ER 3.3(a)** (Candor toward the tribunal): A lawyer shall not knowing (1) make a false statement of fact or law to a tribunal.
- c. **ER 3.4(c)** (Fairness to opposing party and counsel): A lawyer shall not: (c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.
- d. **ER 8.4(c)** (Misconduct): It is professional misconduct for a lawyer to: (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
- e. **ER 8.4(d)** (Misconduct): It is professional misconduct for a lawyer to: (d) engage in conduct that is prejudicial to the administration of justice.

COUNT TWO (File no. 15-1817/Godinez)

18. On June 3, 2015, Araceli Godinez (Ms. Godinez) paid Respondent \$3,185 to provide legal services related to the immigration status and deportation proceedings of her husband Hector Herrera (Mr. Herrera).

19. Ms. Godinez provided Respondent with all of the documents his office requested. Ms. Godinez was then told that Respondent couldn't do anything until her husband was sent to the detention center. At that time, he was being held at the Durango jail.

20. On June 29, 2015, Ms. Godinez called Respondent's office and told them her husband had been transferred to immigration services. Ms. Godinez was told they needed her husband's immigration case number and the name of the

detention center where he was being held. Ms. Godinez called the office back and told them he did not have a case number and he was being deported.

21. Someone from Respondent's office did meet with Mr. Herrera, but only for 20 or 30 minutes. Respondent's law student/associate Darlo Romero visited Ms. Godinez's husband on June 17, 2015. Mr. Romero's notes indicate that Mr. Herrera had a voluntary departure in 2005 and that he had two DUI charges and a domestic violence charge.

22. Ms. Godinez's husband was deported by ICE to Mexico on June 30, 2015. Respondent failed to provide the services he had been paid to provide and Respondent did not earn the money Ms. Godinez paid him. Ms. Godinez wanted a refunded and the file, but Respondent did not provide her with either.

23. Respondent should not have taken the case without first determining the necessary facts to appropriately advise Ms. Godinez's regarding her husband's immigration case.

24. By engaging in the above referenced misconduct, Respondent violated Rule 42, Ariz. R. Sup. Ct., specifically:

- a. **ER 1.2** (Scope of Representation): A lawyer shall abide by a client's decisions concerning the objectives of representation and shall consult with the client as to the means by which they are to be pursued.
- b. **ER 1.3(a)** (Diligence): A lawyer shall act with reasonable diligence and promptness in representing a client.
- c. **ER 1.4** (Communication): A lawyer shall consult with the client, keep the client reasonably informed about the status of the matter,

promptly comply with reasonable requests for information, and explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation).

- d. **ER 1.5 (Fees):** A lawyer's fees and cost must be reasonable.
- e. **ER 1.16(d) (Termination of Representation):** Upon termination of representation, a lawyer shall take steps to protect a client's interests, such as ... surrendering documents and property to which the client is entitled and refunding any advance payment of a fee that has not been earned. Upon the client's request, the lawyer shall provide the client with all of the client's documents, and all documents reflecting work performed for the client.
- f. **ER 8.4(d) (Misconduct):** It is professional misconduct for a lawyer to:
(d) engage in conduct that is prejudicial to the administration of justice.

DATED this 18th day of January, 2017.

STATE BAR OF ARIZONA



Shauna R. Miller
Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 18th day of January, 2017.

Copy of the foregoing emailed
this 18th day of January, 2017, to:

The Honorable William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
E-mail: officepdj@courts.az.gov

Copy of the foregoing mailed/emailed
this 16th day of January, 2017, to:

T Anthony Guajardo
Law Office of T A Guajardo
PO Box 36593
Phoenix, AZ 85067-6593
Email: tanthonyguajardo12@gmail.com
Respondent

Copy of the foregoing hand-delivered
this 18th day of January, 2017, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266


by: 
SRM:jlb

EXHIBIT B

IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF
ARIZONA,

T. ANTHONY GUAJARDO
Bar No. 021500

Respondent.

ATTACHMENT B

**OPEN STATE BAR SCREENING
FILES AND CHARGES**

[State Bar File Nos. 15-3235, 16-0623, 16-0674, 16-1057, 16-2407, 16-2417, 16-3279, 16-3378, 16-3820, 16-3827, 16-3896, 16-4217]

The misconduct that Respondent is accused of in the open screening files is described below.

State Bar File No. 15-3235

Complainant: State Bar of Arizona Trust Account

ER's: 1.15 and Rule 43

Allegations: Two trust account checks totaling \$412 were presented for payment on December 1, 2015. There were insufficient funds in Respondent's client trust account, causing an overdraft in the amount of <\$227.75>. Respondent failed to respond to the initial charging letter.

State Bar File No. 16-0623

Complainant: Claudia Gallardo.

ER's: 1.1, 1.2, 1.4, 1.5.

Allegations: Respondent charged Complainant \$1,100 to complete an immigration application and to represent Complainant's husband at an immigration hearing. When Respondent completed the immigration application, he forgot to include husband's criminal misdemeanor so husband was denied citizenship. Respondent told Complainant she would have to pay an additional \$700 to file an extension to obtain proof of background and file the application again. When Complainant and her husband went to the hearing, Respondent failed showed. Complainant fired Respondent in 2013 and refused to pay the remaining \$500 because Respondent had not done what Respondent was hired to do. Respondent recently sent Complainant to collections and says Complainant owes him an accrued total of \$2,200.

State Bar File No. 16-0674

Complainant: Michelle Allen

ER's: 1.5, 1.15, 1.16, and 8.4(c), (d)

Allegations: Complainant hired Respondent in 2014 for a \$3,000 flat fee for child support modification and file for contempt against the ex-husband for

failing to have a QDRO filed. Respondent charged Complainant an additional \$1,500 to pursue the contempt. Respondent filed a fee application stating his attorney's fees for filing the motion for contempt was \$3,480. Complainant had already paid Respondent \$4,500, so the \$3,480 belonged to her. When Complainant went to Respondent's office to pick up her check, Respondent told her he would only give her \$1,480. Respondent did not give Complainant a copy of her file. Complainant fired Respondent and asked him to file motion to withdraw. Respondent charged Complainant for work he did after she fired him.

State Bar File No. 16-1057

Complainant: Bladimir Duarte Hernandez

ER's: 1.2, 1.3, 1.4, 1.5 1.8(a), and 8.4(c), (d).

Allegations: Complainant retained Respondent for a medical malpractice matter. Respondent never provided a written document regarding fees and the scope of representation. Respondent made Complainant give Respondent the title to his car. Respondent would not do any work on the case until he had the title as proof of payment. Respondent refused to give Complainant a receipt for the title even though Complainant requested it several times. An autopsy was done on Complainant's common law wife, and Respondent refused to give Complainant a copy of that or any other documents prepared in the case. After Respondent was retained and took Complainant's car title, Respondent told Complainant that Complainant could not participate in the lawsuit because he and his wife weren't legally married.

State Bar File No. 16-2407

Complainant: Jesus E. Miranda.

ER's: 1.2, 1.3, 1.4, 1.5, 1.16, 8.4(c), (d).

Allegations: Complainant hired Respondent in May 2015 for his divorce case. Complainant says Respondent continually got in trouble with the judge for not being prepared. Complainant was to pay court-ordered alimony to wife. Respondent told Complainant to give the money to him, and Respondent would give it to wife's attorneys. Respondent never gave any money to opposing counsel and Complainant says the court wanted to have him arrested for failing to pay the court-ordered alimony. Complainant says he had to pay court-ordered alimony out-of-pocket to keep from being arrested. The divorce was finalized in March 2016, but Respondent never told Complainant. Complainant did not know Respondent was settling the case so he kept calling Respondent asking what was happening. Complainant received a letter from opposing counsel four months after the divorce became final telling Complainant that he had been ordered to pay wife \$800 a month for five years. Respondent failed to tell Complainant the divorce had been finalized.

State Bar File No. 16-2417

Complainant: State Bar of Arizona Trust Account.

ER's: 1.15 and Rule 43.

Allegations: A transaction was presented for payment in the amount of \$1,070.00 on July 20, 2016, against Respondent's client trust account. There were insufficient funds in Respondent's client trust account, causing an overdraft in the amount of <\$376.00>. Respondent failed to respond to the initial charging letter.

State Bar File No. 16-3279

Complainant: Silvia Banuelos.

ER's: 1.1, 1.2, 1.3, 1.4, 1.5, 8.4(c), (d).

Allegations: Complainant hired Respondent in May 2015 for an immigration case. Complainant is a citizen and she paid Respondent to help her husband obtain legal status. Complainant's husband had a deportation and prior DUIs. Complainant says that Respondent told her that he would be able to obtain a pardon for husband. Complainant paid Respondent \$6,000 because Respondent told her he would be able to "clean up" her husband's record. Complainant says that Respondent then advised her that the \$6,000 was to prepare the petition to get the case reviewed, and that he would need more money. Complainant then talked to other attorneys who told her that Respondent would not be able to "clean up" husband's record because he had multiple deportations and DUI's.

State Bar File No. 16-3378

Complainant: Mayre Martinez.

ER's: 1.1, 1.2, 1.3, 1.4, 1.5, 8.4(c), (d).

Allegations: Complainant hired Respondent on July 25, 2015, for her "husband's" immigration case. She paid Respondent \$1,300 for the immigration case and an additional \$5,000 to "clean up" her "husband's" criminal record. Complainant says Respondent told her that if she married her "husband" then she would be able to get him legal immigration status. Complainant also says Respondent advised her to hide her "husband" from immigration until Respondent had "cleaned up" his record. Complainant says that ICE picked up her "husband" and Respondent stopped working on the case and stopped communicating with her. Complainant says that Respondent charged her \$5,000 to "clean up" the criminal record when he knew that there was nothing he could do for her or her "husband."

State Bar File No. 16-3820

Complainant: Vicente Sanchez

ER's: 1.2, 1.3, 1.4, 1.5, 1.15, 1.16, 5.5, 8.4(c), (d).

Allegations: Complainant hired Respondent in August 2016 to represent his brother in a criminal case and paid Respondent \$7,500 of the total cost

\$10,000. Complainant says he was not able to speak to Respondent, he could only speak to Respondent's assistant. The assistant told Complainant that Respondent would be visiting his brother in jail, but Respondent never did. In November 2016, Complainant says his brother found out that Respondent had been suspended. Complainant tried to get a hold of Respondent, but was unable to do so.

State Bar File No. 16-3827

Complainant: State Bar of Arizona Judicial Referral

ER's: 3.1, 3.3(a), 3.4(c), 4.1(c), 8.4 (c) and (d).

Allegations: Respondent was mother's counsel on June 10, 2014, when he filed a Rule 69 stipulation and agreement, which was adopted by the Court on July 18, 2014, in FC 2002-007930, which purported to allow the child to be in the mother's care. The stipulation and order were entered into when the child was already dependent pursuant to the dependency petition filed in JD 27571, and therefore the Family Court did not have jurisdiction over the child. Respondent represented mother in both FC 2002-007930 and JD 27571, but failed to notify the Family Court judge of the existence of the dependency case. The court found the stipulation and order to be void due to lack of jurisdiction.

State Bar File No. 16-3896

Complainant: Jose Angel Diaz

ER's: 1.2, 1.3, 1.4, 1.5, 1.15, 1.16, 3.2, 8.4(c), (d).

Allegations: Complainant hired Respondent in 2016 for an immigration case and paid him \$4,140. Complainant says that Respondent never completed the work that he paid Respondent to complete. Complainant says that when he last spoke to Respondent in August or September 2016, Respondent never advised him that he was withdrawing from the case.

State Bar File No. 16-4217

Complainant: Fabian Meza

ER's: 1.2, 1.3, 1.4, 1.5, 1.15, 1.16, 8.4 (b), (c), (d).

Allegations: Complainant hired Respondent to represent him in his criminal case on May 6, 2016, and paid him \$12,500. Respondent filed his notice of appearance on May 13, 2016. On September 12, 2106, Respondent file a request for a bond hearing. On November 2, 2016, Respondent filed a motion to withdraw and falsely stated that he had retired in August 2016, when in actuality he was suspended from the practice of law for one year effective October 31, 2016. Complainant did not get a refund from Respondent.

EXHIBIT C

Statement of Costs and Expenses

In the Matter of a suspended Member of the State Bar of Arizona,
T. Anthony Guajardo, Bar No. 021500, Respondent

File Nos. 15-1320, 15-1817, 15-3235, 16-0623, 16-0674, 16-1057, 16-2407
16-2417, 16-3279, 16-3378, 16-3820, 16-3827, 16-3896, 16-4217

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

\$1,200.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

10/04/16	Investigator Mileage to Serve Subpoena	\$	3.24
08/06/15	Investigator Mileage to Retrieve Audio CD	\$	8.05
07/14/15	Investigator Mileage to Retrieve Audio CD	\$	8.05

Total for staff investigator charges \$ 19.34

Total Costs and Expenses for each matter over 5 cases where a violation is admitted or proven.

(9 over 5 x (20% x 1,200)): \$2,160.00

TOTAL COSTS AND EXPENSES INCURRED **\$3,379.34**

EXHIBIT D

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF ARIZONA,

T. ANTHONY GUAJARDO
Bar No. 021500

Respondent.

PDJ 2016-9126

JUDGMENT OF DISBARMENT

[State Bar File Nos. 15-1320, 15-1817,
15-3235, 16-0623, 16-0674, 16-1057,
16-2407, 16-2417, 16-3279, 16-3378,
16-3820, 16-3827, 16-3896, 16-4217]

Pursuant to Rule 57, Ariz. R. Sup. Ct., the undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona has considered Respondent's Consent to Disbarment dated _____, and filed herein. Accordingly:

IT IS HEREBY ORDERED accepting the consent to disbarment. Respondent, **T. Anthony Guajardo**, is hereby disbarred from the State Bar of Arizona and his name is hereby stricken from the roll of lawyers **effective immediately**.

Respondent is no longer entitled to the rights and privileges of a lawyer but remains subject to the jurisdiction of the court. Respondent shall immediately comply with the requirements relating to notification of clients and others, and provide and/or file all notices and affidavits required by Rule 72, Ariz. R. Sup. Ct.

IT IS FURTHER ORDERED that no further disciplinary action shall be taken in reference to the matters that are the subject of the charges upon which the consent to disbarment and this judgment of disbarment are based.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____.

DATED this _____ day of _____, 2017.

William J. O'Neil, Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of January, 2017.

Copies of the foregoing mailed/emailed
this _____ day of January, 2017, to:

T. Anthony Guajardo
PO Box 36593
Phoenix, AZ 85067-6593
tanthonyguajardo12@gmail.com
Respondent

Copy of the foregoing hand-delivered/emailed
this _____ day of January, 2017, to:

Shauna R Miller, Bar No. 015197
Bar Counsel - Litigation
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

By: _____

The foregoing instrument is a full, true, and correct copy of the original on file in this office
Certified this 3rd day of Feb., 2017
By [Signature]
Disciplinary Clerk
Supreme Court of Arizona

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A SUSPENDED
MEMBER OF THE STATE BAR OF
ARIZONA,

T. ANTHONY GUAJARDO,
Bar No. 021500

Respondent.

PDJ-2016-9126

JUDGMENT OF DISBARMENT

[State Bar File Nos. 15-1320, 15-1817,
15-3235, 16-0623, 16-0674, 16-1057,
16-2407, 16-2417, 16-3279, 16-3378,
16-3820, 16-3827, 16-3896, 16-4217]

FILED FEBRUARY 2, 2017

Pursuant to Rule 57, Ariz. R. Sup. Ct., the Presiding Disciplinary Judge of the Supreme Court of Arizona has considered Mr. Guajardo's Consent to Disbarment dated January 31, 2017, and filed herein. Accordingly:

IT IS ORDERED accepting the consent to disbarment. Respondent, **T. Anthony Guajardo, Bar No. 021500**, is disbarred from the State Bar of Arizona and his name is hereby stricken from the roll of lawyers **effective immediately**.

Mr. Guajardo is no longer entitled to the rights and privileges of a lawyer but remains subject to the jurisdiction of the court. Mr. Guajardo shall immediately comply with the requirements relating to notification of clients and others, and provide and/or file all notices and affidavits required by Rule 72, Ariz. R. Sup. Ct.

Exhibit
4

IT IS FURTHER ORDERED that no further disciplinary action shall be taken in reference to the matters that are the subject of the charges upon which the consent to disbarment and this judgment of disbarment are based.

IT IS FURTHER ORDERED Mr. Guajardo shall pay the costs and expenses of the State Bar of Arizona in the amount of \$3,379.34.

DATED this 2nd day of February, 2017.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing e-mailed this 2nd day of February, 2017, and mailed February 3, 2017, to:

T. Anthony Guajardo
PO Box 36593
Phoenix, AZ 85067-6593
Email: tanthonyguajardo12@gmail.com
Respondent

Shauna R Miller
Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: AMcQueen