

Cause No. 59846

**BEFORE THE  
BOARD OF DISCIPLINARY APPEALS  
Appointed By  
THE SUPREME COURT OF TEXAS**

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**ROSALIND A. KELLY  
STATE BAR OF TEXAS CARD NO. 11237580**

*Appellant*

FILED



May 11, 2018

Board of Disciplinary Appeals

v.

**COMMISSION FOR LAWYER DISCIPLINE  
OF THE  
STATE BAR OF TEXAS**

*Appellee*

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On Appeal from the District 6 Grievance Committee  
Evidentiary Panel 6-3  
Dallas County, Texas  
Case No. 201506200

Hon. Gregg Oberg, Evidentiary Panel Chair, Presiding

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**APPELLANT'S FIRST UNOPPOSED MOTION FOR EXTENSION  
OF TIME TO FILE APPELLANT'S BRIEF AND  
UNOPPOSED MOTION TO WITHDRAW AND/OR DISMISS APPEAL**

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Stella G. Marks  
State Bar No. 22219300  
19601 Chalina Drive  
Walnut, CA 91789-1625  
Telephone: (909) 615-5896  
Facsimile: (909) 992-3301  
Email: [sgmarks1@gmail.com](mailto:sgmarks1@gmail.com)

ATTORNEY FOR APPELLANT

**APPELLANT'S FIRST UNOPPOSED MOTION FOR EXTENSION  
OF TIME TO FILE APPELLANT'S BRIEF AND  
UNOPPOSED MOTION TO WITHDRAW AND/OR DISMISS APPEAL**

TO THE HONORABLE BOARD OF DISCIPLINARY APPEALS:

COMES NOW, ROSALIND A. KELLY, Appellant in the above-styled and numbered case, and files this First Unopposed Motion for Extension of Time to File Appellant's Brief and Unopposed Motion to Withdraw and/or Dismiss Appeal, and in support thereof, would respectfully show the Board the following:

I.

This is an appeal from a judgment from Evidentiary Panel 6-3, of the Commission for Lawyer Discipline District 6 Grievance Committee of the State Bar of Texas, imposing disciplinary sanctions against Appellant Rosalind A. Kelly. Following hearing of this matter, the Panel entered judgment on September 18, 2017. The Appellant timely filed a Motion for New Trial on October 17, 2017 (which was denied by the Evidentiary Panel), and timely filed a Notice of Appeal on December 7, 2017. Subsequent to Appellant's Notice of Appeal, the Clerk's record was certified and filed on January 12, 2018, and the Reporter's record was filed on March 6, 2018. Pursuant to rule 2.22 of the TEXAS RULES OF DISCIPLINARY PROCEDURE, and rules 26.1(a)(1) and 38.6(a)(2) of the TEXAS RULES OF APPELLATE PROCEDURE, Appellant's brief was due on April 5, 2018.

## II.

In February 2018, Appellant retained the under-signed attorney to represent her in this matter, as well as Cause no. 59732, also pending before the Board of Disciplinary Appeals. On February 22, 2018, an informal Notice of Appearance of Counsel, i.e., in letter form, was submitted to the Board of Disciplinary Appeals, via electronic delivery.

## III.

On March 7, 2018, Appellant engaged the undersigned to represent her in Cause no. 201700320 before the Commission on Lawyer Discipline. On March 14, 2018, Appellant's counsel spoke with Mr. Matthew Greer, Appellate Counsel for the Board of Disciplinary Appeals, by phone, to request an extension of time to file Appellant's brief. Mr. Greer graciously agreed to an extension of time, and reminded Appellant's counsel of the necessity to file the required motion. Upon discovery of additional facts requiring Appellant's immediate attention, Appellant's counsel again contacted Mr. Greer by phone, on March 16, 2018, and left a message requesting additional time to file Appellant's brief. On March 19, 2018, Mr. Greer graciously responded by email, indicating that he did not oppose Appellant's request for an extension of time to file Appellant's brief.

#### IV.

The reason for the delay in filing Appellant's brief was due to changed circumstances resulting from Appellant's recent interactions with the Commission for Lawyer Discipline. From March 8, 2018, to present, Appellant has received medical treatment for health issues which affected her prior ability to fully participate in the appeal of this matter. Appellant's treatment has facilitated her thoughtful reflection of this matter and others, as well as her ability to work closely with the Commission for Lawyer Discipline to create a path for the future, and her successful return to the practice of law in the State of Texas. As a result, Appellant now believes that pursuit of this appeal is not the best use of the Board of Disciplinary Appeals' time and resources, nor in her best interests, both professionally and personally.

#### V.


Appellant's counsel takes full responsibility for the failure to timely file a Motion for Extension of Time to File Appellant's Brief, and apologizes to the Board of Disciplinary Appeals, BODA Counsel, Mr. Greer, and Appellant, for this delay. Counsel's failure to file a Motion for Extension of Time to File Appellant's Brief was not for the purpose of delay, but to afford Appellant time to seek medical treatment, and to make a thorough and independent decision regarding this Appeal.

VI.

Appellant asks that the Board of Disciplinary Appeals notes that this Motion for Extension of Time to File Appellant's Brief is a formality to account for the intervening period between the original due date for Appellant's brief, and now. Appellant no longer wishes to pursue this appeal, and Appellant will not file a brief in this matter.

WHEREFORE, PREMISES CONSIDERED, Appellant respectfully requests that upon consideration of the foregoing, that the Board of Disciplinary Appeals grants (i) Appellant's First Unopposed Motion for Extension of Time to File Appellant's Brief, (ii) Appellant's Unopposed Motion to Withdraw Appeal and dismisses the appeal of this matter with prejudice, and (iii) all other such relief to which Appellant may be entitled. Appellant agrees to pay all costs of appeal incurred in this matter.

Respectfully submitted,



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Stella G. Marks  
State Bar No. 22219300  
19601 Chalina Drive  
Walnut, CA 91789-1625  
Telephone: (909) 615-5896  
Facsimile: (909) 992-3301  
Email: [sgmarks1@gmail.com](mailto:sgmarks1@gmail.com)

ATTORNEY FOR APPELLANT

### **CERTIFICATE OF CONFERENCE**

This is to certify that counsel for Appellant spoke with Mr. Matthew Greer, Counsel for Appellee, by phone, to discuss Appellant's Motion for Extension of Time to File Brief, and Appellant's Motion to Withdraw and/or Dismiss Appeal in this matter, on Friday, May 11, 2018. At that time, Mr. Greer stated that he was not opposed to either motion.



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Stella G. Marks

### **CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing was served upon all counsel of record shown below, in accordance with the Texas Rules of Disciplinary Procedure, on this the 11<sup>th</sup> day of May, 2018, via

**email/eservice:**

Matthew J. Greer, Appellate Counsel  
Office of the Chief Disciplinary Counsel  
State Bar of Texas  
P.O. Box 12487  
Austin, TX 78711  
Phone: (512) 427.1350 x 1349  
Fax: (512) 427.4167  
[Matthew.Greer@TexasBar.com](mailto:Matthew.Greer@TexasBar.com)



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Stella G. Marks