THE LIFE OF A GRIEVANCE & THE NEW DISCIPLINARY RULES: WHAT YOU DON'T KNOW *CAN* HURT YOU

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Board Certified-Family Law, Texas Board of Legal Specialization
Fellow--American Academy of Matrimonial Lawyers
Fellow--International Academy of Matrimonial Lawyers
Diplomate--American College of Family Trial Lawyers

Bar Activities

State Bar of Texas
- Chair-Elect, Family Law Section (2003-2004)
- Member, Family Law Section Council (1991-Present)
- Chair, Family Law Section Council Pro Bono Committee (1997-1999)
- Member, Editorial Committee, State Bar of Texas, *Texas Family Law Practice Manual* (1991-1997)

Texas Academy of Family Law Specialists
- President Elect, (2003-2004)
- Board Member, (1994-present)(Former Editor, *Family Law Forum*)

American Academy of Matrimonial Lawyers (Secretary 2002-2003)(Parliamentarian 2001-2002) (Texas Chapter President 2000-2001)
American Bar Association (1981-Present)
Texas Bar Foundation, Life Fellow
American Academy of Matrimonial Lawyers Foundation, Life Fellow
Texas Family Law Foundation, Fellow, Director, and Officer
Tarrant County Family Bar Association
Parker County Bar Association (Past President)
Collaborative Law Institute of Texas

Education

Austin College, Sherman, Texas, BA 1977
South Texas College of Law, Houston, Texas, JD 1981

Course Director

Course Director, 2002 Advanced Family Law Course, Dallas, TX
Course Director, 2000 Marriage Dissolution Institute, Fort Worth, TX
Course Director, Texas Academy of Family Law Specialists 13th Annual Trial Institute (1999), Las Vegas, NV
Assistant Course Director, Texas Academy of Family Law Specialists 11th and 12th Annual Trial Institutes (1997, 1998), New Orleans, LA

Publications & Lectures

Managing Client Expectations, 2004 Marriage Dissolution Institute, Fort Worth, TX
Dealing With the Client From Hell, 2003 Advanced Family Law Course, San Antonio, TX
Setting and Getting Fees, 2003 Marriage Dissolution Institute, Houston, TX
Spoliation, 2001 Advanced Family Law Course, San Antonio, TX
Closing the File, 2001 Marriage Dissolution Institute, Corpus Christi, TX
Getting the Most Out of Your Discovery, The Ultimate Trial Notebook: Family Law (2000), New Orleans, LA
Top Ten Things in a Family Law Practice, 2000 Advanced Family Law Course, San Antonio, TX
Bankruptcy In Divorce, 1999 Advanced Family Law Course, Dallas, TX
Bankruptcy Meets Family Law, University of Texas School of Law 2nd Annual Texas Marital Property Institute (1998), Austin, TX
Working as an Expert in Family Law Cases, 1998 Divorce Conference (Dallas Chapter, Texas Society of CPA's) Dallas, TX
Divorce vs. Bankruptcy--When Worlds Collide, 1998 Farm, Ranch and Agri-business Bankruptcy Institute, Lubbock, TX
Jurisdiction, 1998 Advanced Family Law Course, San Antonio, TX

Parent-Child Third Party Practice, 1998 Marriage Dissolution Institute, Austin, TX
Recent Federal Legislation, 1998 American Academy of Matrimonial Lawyers Mid-Year Meeting, San Juan, Puerto Rico
Creative Divisions of Property, 1997 Advanced Family Course, San Antonio, TX
Trying a Property Case on a Shoestring, 1997 Marriage Dissolution Institute, Dallas, TX
Recent Interesting Cases, 1997 College of Advanced Judicial Studies, Houston, TX
Modification of Rights and Powers of a Joint Managing Conservator, 1996 Advanced Family Law Course, San Antonio, TX
Enforcement Workshop, 1996 Marriage Dissolution Institute, Corpus Christi, TX
Direct Examination in a Property Case, Texas Academy of Family Law Specialists 9th Annual Trial Institute (1995), New Orleans, LA
*Effective & Inexpensive Trial Tactics in a Property Case,*1994 Marriage Dissolution Institute, South Padre Island, TX
Characterization & Reimbursement, 1994 Litigation Services Conference, Texas Society of CPA's, San Antonio, TX
Lecturer, 1994 Texas Family Law Practice for Paralegals, Arlington, TX
COBRA, 1993 Advanced Family Law Course, San Antonio, TX
Pretrial Procedure, 1993 Marriage Dissolution Institute, Fort Worth, TX
Reimbursement Between Marital Estates, 1993 Community Property States Symposium, New Orleans, LA
Reimbursement, 1992 Advanced Family Law Course, San Antonio, TX
Characterization & Reimbursement-The Basics, 1992 Marriage Dissolution Institute, South Padre Island, TX
CPA's Role in Texas Divorce and Community Property, (Co-Author with Robert Cocanower) Texas Society of CPA's, Presented in 1992, 1993, 1994, 1995, 1996, and 1997 in Houston, Austin, Fort Worth, Dallas, Waco and El Paso.
Case Law Update - Family Law, 1990 State Judicial Conference, San Antonio, TX
Family Law, 1990 Regional Judicial Conferences in Amarillo, Killeen, Corpus Christi, and Huntsville, TX
Insurance Aspects of Divorce, Advanced Family Law Drafting Course, 1990, San Antonio, TX
Insurance Aspects of Divorce, Family Law for the Experienced Non-Specialist 1989, San Antonio, Dallas, and Houston, TX

Honors/Activities

Named in 2003 *Texas Monthly* as a "SuperLawyer"
Named in *The Best Lawyers in America* 1993 to current
Named 1993 Southwest High School (Fort Worth, Texas) Distinguished Graduate
Mayor, City of Weatherford, Texas 1982-1986
Trustee, Weatherford Independent School District, 1995-2001

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Education/License

B.A., Texas Christian University, 1987
J.D., Texas Tech University School of Law, 1995
Qualified Mediator in accordance with TEXAS CIVIL PRACTICE & REMEDIES CODE, 1995
Board Certified – Family Law, Texas Board of Legal Specialization, 2000

Professional Activities

Counsel Member, Family Law Counsel, State Bar of Texas, 2004 to Present
Director, Texas Academy of Family Law Specialists, 2003 to Present
Director, Tarrant County Bar Association, 2003 to Present
President, Tarrant County Family Law Bar Association, 2002
Director/Officer, Tarrant County Family Law Bar Association, 1998 to 2003
Member, College of the State Bar of Texas, 1999 to Present
Member, Tarrant County Bar Association, 1996 to Present
Member, Tarrant County Young Lawyers Association, 1996 to 2002
Associate Member, Barrister & Officer, Eldon B. Mahon Inn of Court, 1997-98, 2001-Present
Senior Counsel, American College of Barristers, 2001 to Present
Member/Chairperson, Fee Arbitration Committee, Tarrant County Bar Association, 2001-02
Member, State Bar of Texas, Family Law Section Checklist Committee, 2002-2003
Fellow, Texas Bar Foundation 2002 to Present

Awards/Recognition

Friend of the Inn for outstanding contributions to Eldon B. Mahon Inn of Court, 2002
President's Certification of Outstanding Achievement from Tarrant Co. Bar Assoc., 2003
Texas Super Lawyer, Texas Monthly Magazine 2003
Who's Who in Executives and Professionals 2003
Top Attorneys 2003 featured in *Fort Worth, Texas Magazine* 2003

Law Related Seminar Publications & Participation

- Author, *An Attorney Ad Litem Is Really A Lawyer*, Attorney Ad Litem Training Seminar 1997.
- Author, *Trial Preparation & Planning*, "Nuts & Bolts" Protective Order Seminar 1997.
- Author, *Challenging Characterization Issues: Characterizing Trusts, Employee Stock Options, Workman's Compensation Claims, And Intellectual Property*, Advanced Family Law Course 1997.
- Author, *Some Changes In The Texas Family Code,* Blackstone Seminar 1998.
- Author/Speaker, *Uncontested Divorce Outline*, Pro Bono Family Law Seminar 1998.
- Author, *Factors Affecting Property Division & Alimony*, Family Law Basics From the Bench, Tarrant County Bar Association Brown Bag Seminar 1998.
- Speaker, *Practice Tips On Procedures At The Courthouse and Communicating With Court Personnel*, Advanced Family Law Trial Skills Seminar 1998.
- Author, *The Potential Effect of The New Texas Family Law Legislation Regarding Proportional Ownership, Equitable Interests, Division Under Special Circumstances, & A Look At New Legislative Provisions For Transmutation Agreements*, Advanced Family Law Course 1999.
- Speaker, *Recent Cases in Child Support, Possession & Access*, 1999 Annual TADRO Conference, Fort Worth, Texas 1999.
- Speaker, *Filing Pleadings, Obtaining Settings, and Interacting With Court Coordinators and Clerks*, Family Law Trial Skills Seminar, West Texas Legal Services PAI Program, 1999.
- Author, *Discovery In Property Cases Under The New Rules,* Advanced Family Law Course, Houston, Texas 1999.

- Author/Speaker, *Drafting Family Law Pleadings: It's Almost All In The Manual*, "Nuts & Bolts" Family Law & Advanced Trial Law Trial Skills, Fort Worth, Texas 2000.
- Author, *Deciding When You Need A Jury & Conducting Voir Dire*, "Nuts & Bolts" Family Law & Advanced Trial Law Trial Skills, Fort Worth, Texas 2000.
- Author/Speaker, *Proper Drafting and Filing of Pleadings*, 26th Annual Advanced Family Law Course, Boot Camp, San Antonio, Texas 2000.
- Author, *Discovery Gotta Haves: Essential Ideas for Discovery in Property and SAPCR's*, Marriage Dissolution Institute 2001, Corpus Christi, Texas 2001.
- Author, *Discovery*, Advanced Family Law Trial Skills, West Texas Legal Services PAI Program 2001, Fort Worth, Texas.
- Author/Trainer, "Proper Drafting and Filing of Pleadings", "Nuts & Bolts" Family Law Seminar, West Texas Legal Services PAI Program 2001, Fort Worth, Texas.
- Trainer, "Why Lawyers Lie", "Nuts & Bolts" Family Law Seminar, West Texas Legal Services PAI Program 2001, Fort Worth, Texas.
- Presenter, *Winning Trial Techniques in Property Cases*, Texas Academy of Family Law Specialists Annual Trial Institute, Cancun 2002.
- Author/Trainer, "Proper Drafting and Filing of Pleadings", 2002 Family Law Seminar, West Texas Legal Services PAI Program, Fort Worth, Texas.
- Trainer, "Why Lawyers Lie", 2002 Family Law Seminar, West Texas Legal Services PAI Program, Fort Worth, Texas.
- Author/Speaker, *Discovery & Mediation*, 28th Annual Advanced Family Law Course, Family Law Boot Camp, Dallas 2002.
- Panel Member, *Use and Abuse of Legal Assistants*, 28th Annual Advanced Family Law Course, Dallas 2002.
- Speaker, *Use and Abuse of Legal Assistants*, Panhandle Family Law Bar Association November Luncheon, 2002.
- Author/Speaker, *Drafting Trial Documents With An Eye Toward Winning*, Advanced Family Law Drafting Course 2002, New Orleans, Louisiana 2002.
- Author/Speaker, *Discovery: Tools, Techniques & Timebombs*, Texas Academy of Family Law Specialists Annual Trial Institute, Cancun 2003.
- Author/Player, *Associate Judge Do's & Don't's*, Tarrant County Family Law Bar Association, Fort Worth 2003.
- Author/Speaker, *Evaluating A Custody Case*, 26th Annual Marriage Dissolution Institute, Houston 2003.
- Co-Director, Family Law Boot Camp, Advanced Family Law Seminar, San Antonio, Texas 2003.
- Author, *Discovery in Hard Places*, Advanced Family Law Seminar, San Antonio, Texas 2003.
- Speaker, *Practicing Law For Fun & Profit*, Advanced Family Law Seminar, San Antonio, Texas 2003.
- Author/Speaker, *Internet Searches for Financial & Personal Information Useful in Family Law Litigation*, Texas Academy of Family Law Specialists Annual Trial Institute, New Orleans 2004.
- Moderator, Effective Courtroom Advocacy, Tarrant County Bench Bar Seminar, Lake Travis 2004
- Author/Speaker, *Internet Investigation of Personal Information & Assets*, Marriage Dissolution Institute, Fort Worth 2004.

Law Related Periodical/Magazine Publications

- Author, "Beating Out The Big Firms", *Texas Lawyer*, Vol. 18, No. 21, July 29, 2002, J. Steven King & Heather L. King.
- Interviewed/Quoted "Divorce 101", *Fort Worth Magazine*, July 2003 edition.

Law Related Books

- Author, *Texas Family Law: Direct & Cross Examination, Suggested Questions, Ideas & Outlines*, Heather King, Bruce Beverly & Syd Beckman (Imprimatur Press 2000).
- Author, *Texas Family Law: Direct & Cross Examination, Suggested Questions, Ideas & Outlines, A Focus on Children*, Heather King, Bruce Beverly & Syd Beckman (Imprimatur Press 2002).

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THE LIFE OF A GRIEVANCE & THE NEW DISCIPLINARY RULES: WHAT YOU DON'T KNOW *CAN* HURT YOU

I. INTRODUCTION

Being what seems to be the favorite subject of client complaints, most family law attorneys remain in a state of permanent denial about the attorney discipline process, avoiding any thoughts of it as though it might rear its ugly head as soon as we utter the words "Grievance." As a result of our continued abnegation of anything that smacks of a dissatisfied client (especially a client that might actually be justified in their displeasure), when the Sunset review by the State Bar of Texas resulted in recommendations of drastic changes to the process, and the Texas Supreme Court subsequently approved a majority of the changes (and made a few revisions of their own) most of us stuck our heads in the sand like ostriches in the dark. Despite our abhorrence of the process itself, and utter fear (the kind deep down in your gut) of receiving mail with the return address of any entity with the word "discipline" in their title, it is ill-advised to remain ignorant of the rules and procedures we might ultimately have to use to defend ourselves. Now, that the metamorphoses is complete, and the new rules have been approved by order of our highest judiciary, we must dock our boat, exit the River "Denial", and face our worst fear head-on, because what you don't know about the new disciplinary rules *will* hurt you.

The purpose of this Article is to more specifically address a majority of the significant changes to the Grievance process, distinguishing between the old rules and the new rules, and explaining some of the new processes now available by reviewing the modified life cycle of a Grievance from its hostile birth to it's bitter end. At the end of the Article are three attachments, two of which outline the major changes and differences between the old and new process, and a flow chart summarizing the duration of the grievance from start to finish.

One of the most notable changes to the process is the elimination of the investigatory panel hearing process (the old informal information gathering process which could only result in the sanction of the lawyer by negotiated agreement) and creation of the summary disposition hearing, where panels can consider recommendations of immediate dismissal. The series of documents that had been previously required in the evidentiary proceeding has been eliminated in favor of a single document. The respondent must be supplied with a description of factual allegations and rule violations as a predicate to electing evidentiary proceedings or district court. A right of discovery without the necessity of good cause was established, as well as the availability of an evidentiary process as a confidential proceeding with private reprimand. Complainant's right to appeal an evidentiary panel decision has been eliminated, along with Respondent Attorney's right to appeal a classification decision.

II. THE LIFE OF A GRIEVANCE

Once the Grievance is received by the disciplinary authorities, it runs through a myriad of procedural hurdles before either ending up dismissed by the newly created Summary Disposition Panel or placed on the Hearing Docket for ultimate consideration by an Evidentiary Panel, or in district court. To assist in a better understanding of the rules and the process, certain "vocabulary words" have been placed in bold indicating that the definition of these words is specifically provided by the Texas Rules of Disciplinary Procedure ("TRDP"). Reference to significant changes have been placed in bold italics to assist in making the distinction, and a flow chart and comparative analysis of the old and new rules will follow the article.

A. A Grievance is Born

In most family law attorneys' humble opinions, a majority of grievances filed against domestic relations litigators are a result of the particular dissatisfaction that naturally comes with the emotional and financial agony that plays such an influential role in family law litigation. When the client begins to *finally* realize that divorce is a no win situation (despite our warnings since the initial consultation), they sometimes turn their anger towards us. The client is ready to finish the case, but the court docket doesn't have a trial opening for six months or longer. The client is ready to mediate tomorrow, but between the mediator's and attorneys' calendars, mediation isn't possible for several weeks, maybe months. The client wants to hear your voice this minute, but if you personally returned every call you received from your needy family law clients, you would be on the phone 24/7, thus unable to go to court, see new clients, or have a life. Basically, the family law attorney's opinion is that most family law clients are impossible to totally please, and there will always be a few that will take their displeasure to the next level, the grievance.

1. What Do Client's Complain About?[1]

We know what we *think* the problem is (that most of our client's have lost their minds), but what do clients really complain about? The Client Attorney Assistance Program ("CAAP") was established in 1999 by the State Bar of Texas as a neutral forum to resolve non-grievance level behavior. CAAP is responsible for answering the Grievance Information Hotline, maintained by the Commission for Lawyer Discipline ("CFLD"). Clients, non-clients, and attorneys utilize the hotline. Following is a sampling of complaints received by CAAP taken from thousands of calls received by CAAP over the brief period of their existence. How many of these things have you done? How many of these things have you heard your client complaint about? How many of these things do you hear about from your potential client ready to fire their current lawyer and hire you? Think twice before you assume it's not *your* fault, your client might not be so "crazy" after all.

- Rude or intimidating behavior
- Name calling and threats
- Use of profanity
- Hanging up on client
- Pressuring client
- Withdrawing or threatening to withdraw at a critical time
- All communications through staff
- Not informing when attorney leaves the firm
- Sexual advances
- Not licensed in Texas
- Attorney disappeared
- Lying to client
- Substance abuse
- Abusive litigation tactics
- Missing or canceling client meetings
- Errors in documents
- Not completing case with final orders
- Failing to attend or late for court
- Not prepared at hearing
- Missing filing deadlines
- Failing to put on evidence at hearing
- Failing to supervise subordinates
- Failing to research legal issues
- Failing to include causes of action in petition
- Failing to file case within limitations
- Not providing copies continuously
- Not having file at client meeting
- Not returning phone calls
- Failing to inform client of hearings and case deadlines
- Failing to explain litigation strategies and legal issues
- Failing to timely schedule depositions and hearings timely
- Failing to correct substantive errors in court papers
- Not providing itemized fee statement
- Fee statement hard to read / understand
- Error or overcharge in bills
- Billing at a higher fee than quoted
- Not accounting for retainer
- Failing to deliver orders to third party for distribution of funds
- Making settlement offers or settling case without client consult or consent
- Disclosing client confidences to opponent
- Talking about client's case with third parties
- Mismanagement of trust funds
- Mismanagement of estate funds
- Not returning original documents or files to client
- Losing client's file documents
- Not returning unused retainer
- Not paying expert witnesses / medical providers out of settlement funds withheld
- Cashing settlement check and keeping client's money

2. What Rules Are Violated The Most?

When you receive your monthly publication of the *Texas Bar Journal*, do you (like most of us) immediately go to the back and start looking through the attorney disciplinary action section? *Your mind is racing…* Is anyone in there we recognize? If so, what did they do wrong, and how much trouble did they get in? Although the general consensus might be that avoiding a grievance means knowing when to duck, it's even better if there's no reason to duck in the first place. For those of you who haven't thought about the Texas Disciplinary rules of Professional Conduct since you passed the MPRE Exam, following are the ten rules reported by the State Bar of Texas as being violated the most. These rules are set out verbatim, not for filler, but because they need to be read and read again, not merely glanced at in the form of statutory citations to be noted for later reference.

a. The Grievance Top Ten

1). Neglecting the Case and/or Client

…(b) In representing a client, a lawyer shall not:

[1] The bullet listing of complaints in this section as well as the most violated rules in the section immediately following was borrowed, with permission, from James L. Mitchell's article, *How To Avoid The Grievance Committee* presented at the Advanced Personal Injury and Insurance Law seminar in Dallas and Houston in April of 2004.

(1) neglect a legal matter entrusted to the lawyer; or
(2) frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.
(c) As used in this Rule neglect signifies inattentiveness involving a conscious disregard for the responsibilities owed to a client or clients.[2]

…(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information. (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.[3]

In advising or otherwise representing a client, a lawyer shall exercise independent professional judgment and render candid advice.[4]

2). Improper Declining or Termination of Representation

(*a) A lawyer shall decline to represent a client or, where representation has commenced, shall withdraw, except as stated in paragraph (c), from the representation of a client, if:*
(1) the representation will result in violation of Rule 3.08, other applicable rules of professional conduct or other law;
(2) the lawyer's physical, mental or psychological condition materially impairs the lawyer's fitness to represent the client; or
(3) the lawyer is discharged, with or without good cause.
(b) Except as required by paragraph (a), a lawyer shall not withdraw from representing a client unless:
(1) withdrawal can be accomplished without material adverse effect on the interests of the client;
(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes may be criminal or fraudulent;
(3) the client has used the lawyer's services to perpetrate a crime or fraud;
(4) a client insists upon pursuing an objective that the lawyer considers repugnant or imprudent or with which the lawyer has fundamental disagreement;
(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services, including an obligation to pay the lawyer's fee as agreed, and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
(7) other good cause for withdrawal exists.
(c) When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.
(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation.[5]

3). Failure to Safekeep Property

(a) A lawyer shall hold funds and other property belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property. Such funds shall be kept in a separate account, designated as a trust or escrow account, maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other client property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

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2 TDRPC 1.01(b)-(c).

3 TDRPC 1.03.

4 TDRPC 2.01.

5 TDRPC 1.15.

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(c) When in the course of representation a lawyer is in possession of funds or other property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interest. All funds in a trust or escrow account shall be disbursed only to those persons entitled to receive them by virtue of the representation or by law. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved, and the undisputed portion shall be distributed appropriately.[6]

4). Mishandling Fees

(a) A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee. A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.

(b) Factors that may be considered in determining the reasonableness of a fee include, but not to the exclusion of other relevant factors, the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

(c) When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

(d) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (e) or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined. If there is to be a differentiation in the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, the percentage for each shall be stated. The agreement shall state the litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement describing the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(e) A lawyer shall not enter into an arrangement for, charge, or collect a contingent fee for representing a defendant in a criminal case.

(f) A division or agreement for division of a fee between lawyers who are not in the same firm shall not be made unless:

(1) the division is:

(i) in proportion to the professional services performed by each lawyer;

(ii) made with a forwarding lawyer; or

(iii) made, by written agreement with the client, with a lawyer who assumes joint responsibility for the representation;

(2) the client is advised of, and does not object to, the participation of all the lawyers involved; and

(3) the aggregate fee does not violate paragraph (a), (g) Paragraph (f) of this Rule does not prohibit payment to a former

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[6] TDRPC 1.14.

partner or associate pursuant to a separation or retirement agreement.[7]

5). Lack of Integrity

An applicant for admission to the bar, a petitioner for reinstatement to the bar, or a lawyer in connection with a bar admission application, a petition for reinstatement, or a disciplinary matter, shall not:
(a) knowingly make a false statement of material fact; or
(b) fail to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admission, reinstatement, or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.05.[8]

6). Conflict of Interest

(a) A lawyer shall not represent opposing parties to the same litigation.
(b) In other situations and except to the extent permitted by paragraph (c), a lawyer shall not represent a person if the representation of that person:
(1) involves a substantially related matter in which that person's interests are materially and directly adverse to the interests of another client of the lawyer or the lawyer's firm; or
(2) reasonably appears to be or become adversely limited by the lawyer's or law firm's responsibilities to another client or to a third person or by the lawyer's or law firm's own interests.
(c) A lawyer may represent a client in the circumstances described in (b) if:
(1) the lawyer reasonably believes the representation of each client will not be materially affected; and
(2) each affected or potentially affected client consents to such representation after full disclosure of the existence, nature, implications, and possible adverse consequences of the common representation and the advantages involved, if any.
(d) A lawyer who has represented multiple parties in a matter shall not thereafter represent any of such parties in a dispute among the parties arising out of the matter, unless prior consent is obtained from all such parties to the dispute.
(e) If a lawyer has accepted representation in violation of this Rule, or if multiple representation properly accepted becomes improper under this Rule, the lawyer shall promptly withdraw from one or more representations to the extent necessary for any remaining representation not to be in violation of these Rules.
(f) If a lawyer would be prohibited by this Rule from engaging in particular conduct, no other lawyer while a member or associated with that lawyer's firm may engage in that conduct.[9]

(a) A lawyer shall not act as intermediary between clients unless:
(1) the lawyer consults with each client concerning the implications of the common representation, including the advantages and risks involved, and the effect on the attorney-client privileges, and obtains each client's written consent to the common representation;
(2) the lawyer reasonably believes that the matter can be resolved without the necessity of contested litigation on terms compatible with the client's best interests, that each client will be able to make adequately informed decisions in the matter and that there is little risk of material prejudice to the interests of any of the clients if the contemplated resolution is unsuccessful; and
(3) the lawyer reasonably believes that the common representation can be undertaken impartially and without improper effect on other responsibilities the lawyer has to any of the clients.
(b) While acting as intermediary, the lawyer shall consult with each client concerning the decision to be made and the considerations relevant in making them, so that each client can make adequately informed decisions.
(c) A lawyer shall withdraw as intermediary if any of the clients so requests, or if any of the conditions stated in paragraph (a) is no longer satisfied. Upon withdrawal, the lawyer shall not continue to represent any of the clients in the matter that was the subject of the intermediation.
(d) Within the meaning of this Rule, a lawyer acts as intermediary if the lawyer represents

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7 TDRPC 1.04.

8 TDRPC 8.01.

9 TDRPC 1.06.

two or more parties with potentially conflicting interests.
(e) If a lawyer would be prohibited by this Rule from engaging in particular conduct, no other lawyer while a member of or associated with that lawyers firm may engage in that conduct.[10]

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a) A lawyer shall not enter into a business transaction with a client unless:
(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed in a manner which can be reasonably understood by the client;
(2) the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and
(3) the client consents in writing thereto.
(b) A lawyer shall not prepare an instrument giving the lawyer or a person related to the lawyer as a parent, child, sibling, or spouse any substantial gift from a client, including a testamentary gift, except where the client is related to the donee.
(c) Prior to the conclusion of all aspects of the matter giving rise to the lawyer's employment, a lawyer shall not make or negotiate an agreement with a client, prospective client, or former client giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.
(d) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation or administrative proceedings, except that:
(1) a lawyer may advance or guarantee court costs, expenses of litigation or administrative proceedings, and reasonably necessary medical and living expenses, the repayment of which may be contingent on the outcome of the matter; and
(2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.
(e) A lawyer shall not accept compensation for representing a client from one other than the client unless:
(1) the client consents;
(2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and
(3) information relating to representation of a client is protected as required by Rule 1.05.
(f) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement to guilty or nolo contendere pleas, unless each client has consented after consultation, including disclosure of the existence and nature of all the claims or pleas involved and of the nature and extent of the participation of each person in the settlement.
(g) A lawyer shall not make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless permitted by law and the client is independently represented in making the agreement, or settle a claim for such liability with an unrepresented client or former client without first advising that person in writing that independent representation is appropriate in connection therewith.
(h) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:
(1) acquire a lien granted by law to secure the lawyers fee or expenses; and
(2) contract in a civil case with a client for a contingent fee that is permissible under Rule 1.04.
(i) If a lawyer would be prohibited by this Rule from engaging in particular conduct, no other lawyer while a member of or associated with that lawyer's firm may engage in that conduct.
(j) As used in this Rule, business transactions does not include standard commercial transactions between the lawyer and the client for products or services that the client generally markets to others.[11]

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a) Without prior consent, a lawyer who personally has formerly represented a client in a matter shall not thereafter represent another person in a matter adverse to the former client:
(1) in which such other person questions the validity of the lawyer's services or work product for the former client;

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[10] TDRPC 1.07.

[11] TDRPC 1.08.

(2) if the representation in reasonable probability will involve a violation of Rule 1.05; or
(3) if it is the same or a substantially related matter.
(b) Except to the extent authorized by Rule 1.10, when lawyers are or have become members of or associated with a firm, none of them shall knowingly represent a client if any one of them practicing alone would be prohibited from doing so by paragraph (a).
(c) When the association of a lawyer with a firm has terminated, the lawyers who were then associated with that lawyer shall not knowingly represent a client if the lawyer whose association with that firm has terminated would be prohibited from doing so by paragraph (a)(l) or if the representation in reasonable probability will involve a violation of Rule 1.05.[12]

(a) Except as law may otherwise expressly permit, a lawyer shall not represent a private client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency consents after consultation.
(b) No lawyer in a firm with which a lawyer subject to paragraph (a) is associated may knowingly undertake or continue representation in such a matter unless:
(1) The lawyer subject to paragraph (a) is screened from any participation in the matter and is apportioned no part of the fee therefrom; and
(2) written notice is given with reasonable promptness to the appropriate government agency.
(c) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows or should know is confidential government information about a person or other legal entity acquired when the lawyer was a public officer or employee may not represent a private client whose interests are adverse to that person or legal entity.
(d) After learning that a lawyer in the firm is subject to paragraph (c) with respect to a particular matter, a firm may undertake or continue representation in that matter only if that disqualified lawyer is screened from any participation in the matter and is apportioned no part of the fee therefrom.
(e) Except as law may otherwise expressly permit, a lawyer serving as a public officer or employee shall not:
(1) Participate in a matter involving a private client when the lawyer had represented that client in the same matter while in private practice or nongovernmental employment, unless under applicable law no one is, or by lawful delegation may be, authorized to act in the lawyers stead in the matter; or
(2) Negotiate for private employment with any person who is involved as a party or as attorney for a party in a matter in which the lawyer is participating personally and substantially.
(f) As used in this rule, the term matter does not include regulation-making or rule-making proceedings or assignments, but includes:
(1) Any adjudicatory proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge accusation, arrest or other similar, particular transaction involving a specific party or parties; and
(2) any other action or transaction covered by the conflict of interest rules of the appropriate government agency.
(g) As used in this rule, the term confidential government information means information which has been obtained under governmental authority and which, at the time this rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose, and which is not otherwise available to the public.
(h) As used in this Rule, Private Client includes not only a private party but also a governmental agency if the lawyer is not a public officer or employee of that agency.
(i) A lawyer who serves as a public officer or employee of one body politic after having served as a public officer of another body politic shall comply with paragraphs (a) and (c) as if the second body politic were a private client and with paragraph (e) as if the first body politic were a private client.[13]

(a) A lawyer shall not represent anyone in connection with a matter in which the lawyer has passed upon the merits or otherwise participated personally and substantially as an adjudicatory official or law clerk to an

12 TDRPC 1.09.

13 TDRPC 1.10.

adjudicatory official, unless all parties to the proceeding consent after disclosure.
(b) A lawyer who is an adjudicatory official shall not negotiate for employment with any person who is involved as a party or as attorney for a party in a pending matter in which that official is participating personally and substantially. A lawyer serving as a law clerk to an adjudicatory official may negotiate for employment with a party or attorney involved in a matter in which the clerk is participating personally and substantially, but only after the clerk has notified the adjudicatory official.
(c) If paragraph (a) is applicable to a lawyer, no other lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless:
(1) the lawyer who is subject to paragraph (a) is screened from participation in the matter and is apportioned no part of the fee therefrom; and
(2) written notice is promptly given to the other parties to the proceeding.[14]

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a) A lawyer employed or retained by an organization represents the entity. While the lawyer in the ordinary course of working relationships may report to, and accept direction from, an entity's duly authorized constituents, in the situations described in paragraph (b) the lawyer shall proceed as reasonably necessary in the best interest of the organization without involving unreasonable risks of disrupting the organization and of revealing information relating to the representation to persons outside the organization.
(b) A lawyer representing an organization must take reasonable remedial actions whenever the lawyer learns or knows that:
(1) an officer, employee, or other person associated with the organization has committed or intends to commit a violation of a legal obligation to the organization or a violation of law which reasonably might be imputed to the organization;
(2) the violation is likely to result in substantial injury to the organization; and
(3) the violation is related to a matter within the scope of the lawyer's representation of the organization.
(c) Except where prior disclosure to persons outside the organization is required by law or other Rules, a lawyer shall first attempt to resolve a violation by taking measures within the organization. In determining the internal procedures, actions or measures that are reasonably necessary in order to comply with paragraphs (a) and (b), a lawyer shall give due consideration to the seriousness of the violation and its consequences, the scope and nature of the lawyer's representation, the responsibility in the organization and the apparent motivation of the person involved, the policies of the organization concerning such matters, and any other relevant considerations. Such procedures, actions and measures may include, but are not limited to, the following:
(1) asking reconsideration of the matter;
(2) advising that a separate legal opinion on the matter be sought for presentation to appropriate authority in the organization; and
(3) referring the matter to higher authority in the organization, including, if warranted by the seriousness of the matter, referral to the highest authority that can act in behalf of the organization as determined by applicable law.
(d) Upon a lawyer's resignation or termination of the relationship in compliance with Rule 1.15, a lawyer is excused from further proceeding as required by paragraphs (a), (b) and (c), and any further obligations of the lawyer are determined by Rule 1.05.
(e) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when it is apparent that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing or when explanation appears reasonably necessary to avoid misunderstanding on their part.[15]

A lawyer serving as a director, officer or member of a legal services, civic, charitable or law reform organization, apart from the law firm in which the lawyer practices, shall not knowingly participate in a decision or action of the organization:

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[14] TDRPC 1.11.

[15] TDRPC 1.12.

(a) if participating in the decision would violate the lawyer's obligations to a client under Rule 1.06; or
(b) where the decision could have a material adverse effect on the representation of any client of the organization whose interests are adverse to a client of the lawyer.[16]

7). Misconduct Before A Tribunal

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless the lawyer reasonably believes that there is a basis for doing so that is not frivolous.[17]

In the course of litigation, a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter.[18]

(a) A lawyer shall not knowingly:
(1) make a false statement of material fact or law to a tribunal;
(2) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act;
(3) in an ex parte proceeding, fail to disclose to the tribunal an unprivileged fact which the lawyer reasonably believes should be known by that entity for it to make an informed decision;
(4) fail to disclose to the tribunal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
(5) offer or use evidence that the lawyer knows to be false.
(b) If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall make a good faith effort to persuade the client to authorize the lawyer to correct or withdraw the false evidence. If such efforts are unsuccessful, the lawyer shall take reasonable remedial measures, including disclosure of the true facts.
(c) The duties stated in paragraphs (a) and (b) continue until remedial legal measures are no longer reasonably possible.[19]

A lawyer shall not:
(a) unlawfully obstruct another party's access to evidence; in anticipation of a dispute unlawfully alter, destroy or conceal a document or other material that a competent lawyer would believe has potential or actual evidentiary value; or counsel or assist another person to do any such act.
(b) falsify evidence, counsel or assist a witness to testify falsely, or pay, offer to pay, or acquiesce in the offer or payment of compensation to a witness or other entity contingent upon the content of the testimony of the witness or the outcome of the case. But a lawyer may advance, guarantee, or acquiesce in the payment of:
(1) expenses reasonably incurred by a witness in attending or testifying;
(2) reasonable compensation to a witness for his loss of time in attending or testifying;
(3) a reasonable fee for the professional services of an expert witness.
(c) except as stated in paragraph (d), in representing a client before a tribunal:
(1) habitually violate an established rule of procedure or of evidence;
(2) state or allude to any matter that the lawyer does not reasonably believe is relevant to such proceeding or that will not be supported by admissible evidence, or assert personal knowledge of facts in issue except when testifying as a witness;
(3) state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused, except that a lawyer may argue on his analysis of the evidence and other permissible considerations for any position or conclusion with respect to the matters stated herein;
(4) ask any question intended to degrade a witness or other person except where the lawyer reasonably believes that the question will lead to relevant and admissible evidence; or
(5) engage in conduct intended to disrupt the proceedings.
(d) knowingly disobey, or advise the client to disobey, an obligation under the standing rules of or a ruling by a tribunal except for

16 TDRPC 1.13.

17 TDRPC 3.01.

18 TDRPC 3.02.

19 TDRPC 3.03.

an open refusal based either on an assertion that no valid obligation exists or on the client's willingness to accept any sanctions arising from such disobedience.
(e) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:
(1) the person is a relative or an employee or other agent of a client; and
(2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.[20]

A lawyer shall not:
(a) seek to influence a tribunal concerning a pending matter by means prohibited by law or applicable rules of practice or procedure;
(b) except as otherwise permitted by law and not prohibited by applicable rules of practice or procedure, communicate or cause another to communicate ex parte with a tribunal for the purpose of influencing that entity or person concerning a pending matter other than:
(1) in the course of official proceedings in the cause;
(2) in writing if he promptly delivers a copy of the writing to opposing counsel or the adverse party if he is not represented by a lawyer;
(3) orally upon adequate notice to opposing counsel or to the adverse party if he is not represented by a lawyer.
(c) For purposes of this rule:
(1) Matter has the meanings ascribed by it in Rule 1.10(f) of these Rules;
(2) A matter is pending before a particular tribunal either when that entity has been selected to determine the matter or when it is reasonably foreseeable that that entity will be so selected.[21]

(a) A lawyer shall not:
(1) conduct or cause another, by financial support or otherwise, to conduct a vexatious or harassing investigation of a venireman or juror; or
(2) seek to influence a venireman or juror concerning the merits of a pending matter by means prohibited by law or applicable rules of practice or procedure.
(b) Prior to discharge of the jury from further consideration of a matter, a lawyer connected therewith shall not communicate with or cause another to communicate with anyone he knows to be a member of the venire from which the jury will be selected or any juror or alternate juror, except in the course of official proceedings.
(c) During the trial of a case, a lawyer not connected therewith shall not communicate with or cause another to communicate with a juror or alternate juror concerning the matter.
(d) After discharge of the jury from further consideration of a matter with which the lawyer was connected, the lawyer shall not ask questions of or make comments to a member of that jury that are calculated merely to harass or embarrass the juror or to influence his actions in future jury service.
(e) All restrictions imposed by this Rule upon a lawyer also apply to communications with or investigations of members of a family of a venireman or a juror.
(f) A lawyer shall reveal promptly to the court improper conduct by a venireman or a juror, or by another toward a venireman or a juror or a member of his family, of which the lawyer has knowledge.
(g) As used in this Rule, the terms matter and pending have the meanings specified in Rule 3.05(c).[22]

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a) In the course of representing a client, a lawyer shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicatory proceeding. A lawyer shall not counsel or assist another person to make such a statement.
(b) A lawyer ordinarily will violate paragraph (a), and the likelihood of a violation increases if the adjudication is ongoing or imminent, by making an extrajudicial statement of the type referred to in that paragraph when the statement refers to:
(1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness; or the expected testimony of a party or witness;

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20 TDRPC 3.04.

21 TDRPC 3.05.

22 TDRPC 3.06.

(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense; the existence or contents of any confession, admission, or statement given by a defendant or suspect; or that person's refusal or failure to make a statement;
(3) the performance, refusal to perform, or results of any examination or test; the refusal or failure of a person to allow or submit to an examination or test; or the identity or nature of physical evidence expected to be presented;
(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration; or
(5) information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial.
(c) A lawyer ordinarily will not violate paragraph (a) by making an extrajudicial statement of the type referred to in that paragraph when the lawyer merely states:
(1) the general nature of the claim or defense;
(2) the information contained in a public record;
(3) that an investigation of the matter is in progress, including the general scope of the investigation, the offense, claim or defense involved;
(4) except when prohibited by law, the identity of the persons involved in the matter;
(5) the scheduling or result of any step in litigation;
(6) a request for assistance in obtaining evidence, and information necessary thereto;
(7) a warning of danger concerning the behavior of a person involved, when there is a reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and
(8) if a criminal case:
(i) the identity, residence, occupation and family status of the accused;
(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;
(iii) the fact, time and place of arrest; and
(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.[23]

(*a) A lawyer shall not accept or continue employment as an advocate before a tribunal in a contemplated or pending adjudicatory proceeding if the lawyer knows or believes that the lawyer is or may be a witness necessary to establish an essential fact on behalf of the lawyers client, unless:*
(1) the testimony relates to an uncontested issue;
(2) the testimony will relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the testimony;
(3) the testimony relates to the nature and value of legal services rendered in the case;
(4) the lawyer is a party to the action and is appearing pro se; or
(5) the lawyer has promptly notified opposing counsel that the lawyer expects to testify in the matter and disqualification of the lawyer would work substantial hardship on the client.
(b) A lawyer shall not continue as an advocate in a pending adjudicatory proceeding if the lawyer believes that the lawyer will be compelled to furnish testimony that will be substantially adverse to the lawyer's client, unless the client consents after full disclosure.
(c) Without the client's informed consent, a lawyer may not act as advocate in an adjudicatory proceeding in which another lawyer in the lawyer's firm is prohibited by paragraphs (a) or (b) from serving as advocate. If the lawyer to be called as a witness could not also serve as an advocate under this Rule, that lawyer shall not take an active role before the tribunal in the presentation of the matter.[24]

8). Breach Of Duties To Non-Clients

In the course of representing a client a lawyer shall not knowingly:
(a) make a false statement of material fact or law to a third person; or
(b) fail to disclose a material fact to a third person when disclosure is necessary to avoid making the lawyer a party to a criminal act

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[23] TDRPC 3.07.

[24] TDRPC 3.08.

or knowingly assisting a fraudulent act perpetrated by a client.[25]

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a) In representing a client, a lawyer shall not communicate or cause or encourage another to communicate about the subject of the representation with a person, organization or entity of government the lawyer knows to be represented by another lawyer regarding that subject, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.
(b) In representing a client a lawyer shall not communicate or cause another to communicate about the subject of representation with a person or organization a lawyer knows to be employed or retained for the purpose of conferring with or advising another lawyer about the subject of the representation, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.
(c) For the purpose of this rule, organization or entity of government includes: (1) those persons presently having a managerial responsibility with an organization or entity of government that relates to the subject of the representation, or (2) those persons presently employed by such organization or entity and whose act or omission in connection with the subject of representation may make the organization or entity of government vicariously liable for such act or omission.
(d) When a person, organization, or entity of government that is represented by a lawyer in a matter seeks advice regarding that matter from another lawyer, the second lawyer is not prohibited by paragraph (a) from giving such advice without notifying or seeking consent of the first lawyer.[26]

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.[27]

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.
(b) A lawyer shall not present, participate in presenting, or threaten to present:
(1) criminal or disciplinary charges solely to gain an advantage in a civil matter; or
(2) civil, criminal or disciplinary charges against a complainant, a witness, or a potential witness in a bar disciplinary proceeding solely to prevent participation by the complainant, witness or potential witness therein.[28]

9). Improper Lawyer Advertising

(a) A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the names of a professional corporation, professional association, limited liability partnership, or professional limited liability company may contain P.C., P.A., L.L.P., P.L.L.C., or similar symbols indicating the nature of the organization, and if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. Nothing herein shall prohibit a married woman from practicing under her maiden name.
(b) A firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.
(c) The name of a lawyer occupying a judicial, legislative, or public executive or administrative position shall not be used in the name of a firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

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25 TDRPC 4.01.

26 TDRPC 4.02.

27 TDRPC 4.03.

28 TDRPC 4.04.

(d) A lawyer shall not hold himself or herself out as being a partner, shareholder, or associate with one or more other lawyers unless they are in fact partners, shareholders, or associates.
(e) A lawyer shall not advertise in the public media or seek professional employment by written communication under a trade or fictitious name, except that a lawyer who practices under a trade name as authorized by paragraph (a) of this Rule may use that name in such advertisement or such written communication but only if that name is the firm name that appears on the lawyer's letterhead, business cards, office sign, fee contracts, and with the lawyer's signature on pleadings and other legal documents.
(f) A lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 7.02(a).[29]

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a) A lawyer shall not make a false or misleading communication about the qualifications or the services of any lawyer or firm. A communication is false or misleading if it:
(1) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
(2) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate these rules or other law;
(3) compares the lawyer's services with other lawyers' services, unless the comparison can be substantiated by reference to verifiable, objective data;
(4) states or implies that the lawyer is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official; or
(5) designates one or more specific areas of practice in an advertisement in the public media or in a written solicitation unless the advertising lawyer is competent to handle legal matters in each such area of practice.
(b) Rule 7.02(a)(5) does not require that a lawyer be certified by the Texas Board of Legal Specialization at the time of advertising in a specific area of practice, but such certification shall conclusively establish that such lawyer satisfies the requirements of Rule 7.02(a)(5) with respect to the area(s) of practice in which such lawyer is certified.
(c) A lawyer shall not advertise in the public media that the lawyer is a specialist, except as permitted under Rule 7.04.
(d) Any statement or disclaimer required by these rules shall be made in each language used in the advertisement or writing with respect to which such required statement or disclaimer relates; provided however, the mere statement that a particular language is spoken or understood shall not alone result in the need for a statement or disclaimer in that language.[30]

(a) A lawyer shall not by in-person or telephone contact seek professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a prospective client or nonclient who has not sought the lawyer's advice regarding employment or with whom the lawyer has no family or past or present attorney-client relationship when a significant motive for the lawyers doing so is the lawyer's pecuniary gain. Notwithstanding the provisions of this paragraph, a lawyer for a qualified nonprofit organization may communicate with the organization's members for the purpose of educating the members to understand the law, to recognize legal problems, to make intelligent selection of counsel, or to use legal services. In those situations where in-person or telephone contact is permitted by this paragraph, a lawyer shall not have such a contact with a prospective client if:
(1) the communication involves coercion, duress, fraud, overreaching, intimidation, undue influence, or harassment;
(2) the communication contains information prohibited by Rule 7.02(a); or
(3) the communication contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.
(b) A lawyer shall not pay, give, or offer to pay or give anything of value to a person not licensed to practice law for soliciting prospective clients for, or referring clients or prospective clients to, any lawyer or firm, except that a lawyer may pay reasonable fees for advertising and public relations services rendered in accordance with this Rule and may pay the usual charges of a lawyer

[29] TDRPC 7.01.

[30] TDRPC 7.02.

referral service that meets the requirements of Article 320d, Revised Statutes.

(c) A lawyer, in order to solicit professional employment, shall not pay, give, advance, or offer to pay, give, or advance anything of value, other than actual litigation expenses and other financial assistance as permitted by Rule 1.08(d), to a prospective client or any other person; provided however, this provision does not prohibit the payment of legitimate referral fees as permitted by paragraph (b) of this Rule.

(d) A lawyer shall not enter into an agreement for, charge for, or collect a fee for professional employment obtained in violation of Rule 7.03(a), (b), or (c).

(e) A lawyer shall not participate with or accept referrals from a lawyer referral service unless the lawyer knows or reasonably believes that the lawyer referral service meets the requirements of Article 320d, Revised Statutes.[31]

(a) A lawyer shall not advertise in the public media that the lawyer is a specialist, except as permitted under Rule 7.04(b) or as follows:

(1) A lawyer admitted to practice before the United States Patent Office may use the designation Patents, Patent Attorney, or Patent Lawyer, or any combination of those terms. A lawyer engaged in the trademark practice may use the designation Trademark, Trademark Attorney, or Trademark Lawyer, or any combination of those terms. A lawyer engaged in patent and trademark practice may hold himself or herself out as specializing in Intellectual Property Law, Patent, Trademark, Copyright Law and Unfair Competition, or any of those terms.

(2) A lawyer may permit his or her name to be listed in lawyer referral service offices that meet the requirements of Article 320d, Revised Statutes, according to the areas of law in which the lawyer will accept referrals.

(3) A lawyer available to practice in a particular area of law or legal service may distribute to other lawyers and publish in legal directories and legal newspapers a listing or an announcement of such availability. The listing shall not contain a false or misleading representation of special competence or experience, but may contain the kind of information that traditionally has been included in such publications.

(b) A lawyer who advertises in the public media:

(1) shall publish or broadcast the name of at least one lawyer who is responsible for the content of such advertisement;

(2) shall not include a statement that the lawyer has been certified or designated by an organization as possessing special competence or a statement that the lawyer is a member of an organization the name of which implies that its members possess special competence, except that:

(i) a lawyer who has been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization in the area so advertised, may state with respect to each such area, Board Certified, [area of specialization] Texas Board of Legal Specialization; and

(ii) a lawyer who is a member of an organization the name of which implies that its members possess special competence, or who has been certified or designated by an organization as possessing special competence, may include a factually accurate statement of such membership or may include a factually accurate statement, Certified [area of specialization] [name of certifying organization], but such statements may be made only if that organization has been accredited by the Texas Board of Legal Specialization as a bona fide organization that admits to membership or grants certification only on the basis of objective, exacting, publicly available standards (including high standards of individual character, conduct, and reputation) that are reasonably relevant to the special training or special competence that is implied and that are in excess of the level of training and competence generally required for admission to the Bar; and

(3) shall state with respect to each area advertised in which the lawyer has not been awarded a Certificate of Special Competence by the Texas Board of Legal Specialization, Not Certified by the Texas Board of Legal Specialization. However, if an area of law so advertised has not been designated as an area in which a lawyer may be awarded a Certificate of Special Competence by the Texas Board of Legal Specialization, the lawyer may also state, No designation has been made by the Texas Board of Legal

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31 TDRPC 7.03.

Specialization for a Certificate of Special Competence in this area.

(c) Separate and apart from any other statements, the statements referred to in paragraph (b) shall be displayed conspicuously with no abbreviations, changes, or additions in the quoted language set forth in paragraph (b) so as to be easily seen or understood by an ordinary consumer.

(d) Subject to the requirements of Rule 7.02 and of paragraphs (a), (b), and (c) of this Rule, a lawyer may, either directly or through a public relations or advertising representative, advertise services in the public media, such as (but not limited to) a telephone directory, legal directory, newspaper or other periodical, outdoor display, radio, or television.

(e) All advertisements in the public media for a lawyer or firm must be reviewed and approved in writing by the lawyer or a lawyer in the firm.

(f) A copy or recording of each advertisement in the public media and relevant approval referred to in paragraph (e), and a record of when and where the advertisement was used, shall be kept by the lawyer or firm for four years after its last dissemination.

(g) In advertisements utilizing video or comparable visual images, any person who portrays a lawyer whose services or whose firms services are being advertised, or who narrates an advertisement as if he or she were such a lawyer, shall be one or more of the lawyers whose services are being advertised. In advertisements utilizing audio recordings, any person who narrates an advertisement as if he or she were a lawyer whose services or whose firms services are being advertised, shall be one or more of the lawyers whose services are being advertised.

(h) If an advertisement in the public media by a lawyer or firm discloses the willingness or potential willingness of the lawyer or firm to render services on a contingent fee basis, the advertisement must state whether the client will be obligated to pay all or any portion of the court costs and, if a client may be liable for other expenses, this fact must be disclosed. If specific percentage fees or fee ranges of contingent fee work are disclosed in such advertisement, it must also disclose whether the percentage is computed before or after expenses are deducted from the recovery.

(i) A lawyer who advertises in the public media a specific fee or range of fees for a particular service shall conform to the advertised fee or range of fees for the period during which the advertisement is reasonably expected to be in circulation or otherwise expected to be effective in attracting clients, unless the advertisement specifies a shorter period; but in no instance is the lawyer bound to conform to the advertised fee or range of fees for a period of more than one year after the date of publication.

(j) A lawyer or firm who advertises in the public media must disclose the geographic location, by city or town, of the lawyer's or firm's principal office. A lawyer or firm shall not advertise the existence of any office other than the principal office unless:

(1) that other office is staffed by a lawyer at least three (3) days a week; or

(2) the advertisement states:

(i) the days and times during which a lawyer will be present at that office, or

(ii) that meetings with lawyers will be by appointment only.

(k) A lawyer may not, directly or indirectly, pay all or a part of the cost of an advertisement in the public media for a lawyer not in the same firm unless such advertisement discloses the name and address of the financing lawyer, the relationship between the advertising lawyer and the financing lawyer, and whether the advertising lawyer is likely to refer cases received through the advertisement to the financing lawyer.

(l) If an advertising lawyer knows or should know at the time of an advertisement in the public media that a case or matter will likely be referred to another lawyer or firm, a statement of such fact shall be conspicuously included in such advertisement.

(m) No motto, slogan or jingle that is false or misleading may be used in any advertisement in the public media.

(n) A lawyer shall not include in any advertisement in the public media the lawyers association with a lawyer referral service unless the lawyer knows or reasonably believes that the lawyer referral service meets the requirements of Article 320d, Revised Statutes.

(o) A lawyer may not advertise in the public media as part of an advertising cooperative or venture of two or more lawyers not in the same firm unless each such advertisement:

(1) states that the advertisement is paid for by the cooperating lawyers;
(2) names each of the cooperating lawyers;
(3) sets forth conspicuously the special competency requirements required by Rule 7.04(b) of lawyers who advertise in the public media;
(4) does not state or imply that the lawyers participating in the advertising cooperative or venture possess professional superiority, are able to perform services in a superior manner, or possess special competence in any area of law advertised, except that the advertisement may contain the information permitted by Rule 7.04(b)(2); and
(5) does not otherwise violate the Texas Disciplinary Rules of Professional Conduct.
(p) Each lawyer who advertises in the public media as part of an advertising cooperative or venture shall be individually responsible for:
(1) ensuring that each advertisement does not violate this Rule; and
(2) complying with the filing requirements of Rule 7.07.[32]

(a) A lawyer shall not send or deliver, or knowingly permit or cause another person to send or deliver on the lawyer's behalf, a written communication to a prospective client for the purpose of obtaining professional employment if:
(1) the communication involves coercion, duress, fraud, overreaching, intimidation, undue influence, or harassment;
(2) the communication contains information prohibited by Rule 7.02 or fails to satisfy each of the requirements of Rule 7.04(a) through (c), and (h) through (o) that would be applicable to the communication if it were an advertisement in the public media; or
(3) the communication contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.
(b) Except as provided in paragraph (e) of this Rule, a written solicitation communication to prospective clients for the purpose of obtaining professional employment:
(1) shall conform to the provisions of Rule 7.04(a) through (c);
(2) shall be plainly marked "ADVERTISEMENT" on the first page of the written communication, and the face of the envelope also shall be plainly marked "ADVERTISEMENT," however, if the written communication is in the form of a self-mailing brochure or pamphlet, the word "ADVERTISEMENT" shall be: (i) in a color that contrasts sharply with the background color; and (ii) in a size of at least 3/8 vertically or three times the vertical height of the letters used in the body of such communication, whichever is larger.
(3) shall not be made to resemble legal pleadings or other legal documents;
(4), (5) [DELETED by Supreme Court of Texas on July 1, 1998]
(6) shall not reveal on the envelope used for the communication, or on the outside of a self-mailing brochure or pamphlet, the nature of the legal problem of the prospective client or non-client; and
(7) shall disclose how the lawyer obtained the information prompting such written communication to solicit professional employment if such contact was prompted by a specific occurrence involving the recipient of the communication or a family member of such person(s).
(c) All written communications to a prospective client for the purpose of obtaining professional employment must be reviewed and either signed by or approved in writing by the lawyer or a lawyer in the firm.
(d) A copy of each written solicitation communication, the relevant approval thereof, and a record of the date of each such communication; the name and address to which each such communication was sent; and the means by which each such communication was sent shall be kept by the lawyer or firm for four years after its dissemination.
(e) The provisions of paragraph (b) of this Rule do not apply to a written solicitation communication:
(1) directed to a family member or a person with whom the lawyer had or has an attorney-client relationship;
(2) that is not motivated by or concerned with a particular past occurrence or event or a particular series of past occurrences or events, and also is not motivated by or concerned with the prospective client's specific existing legal problem of which the lawyer is aware;
(3) if the lawyer's use of the communication to secure professional employment was not significantly motivated by a desire for, or by

32 TDRPC 7.04.

the possibility of obtaining, pecuniary gain; or
(4) that is requested by the prospective client.[33]

A lawyer shall not accept or continue employment when the lawyer knows or reasonably should know that the person who seeks the lawyer's services does so as a result of conduct prohibited by these rules.[34]

(a) Except as provided in paragraph (d) of this Rule, a lawyer shall file with the Advertising Review Committee of the State Bar of Texas, either before or concurrently with the mailing or sending of a written solicitation communication:
(1) a copy of the written solicitation communication being sent or to be sent to one or more prospective clients for the purpose of obtaining professional employment, together with a representative sample of the envelopes in which the communications are enclosed; and
(2) a check or money order payable to the State Bar of Texas for the fee set by the Board of Directors. Such fee shall be for the sole purpose of defraying the expense of enforcing the rules related to such solicitations.
(b) Except as provided in paragraph (d) of this Rule, a lawyer shall file with the Advertising Review Committee of the State Bar of Texas, either before or concurrently with the first dissemination of an advertisement in the public media, a copy of each of the lawyer's advertisements in the public media. The filing shall include:
(1) a copy of the advertisement in the form in which it appears or is or will be disseminated, such as a videotape, an audiotape, a print copy, or a photograph of outdoor advertising;
(2) a production script of the advertisement setting forth all words used and describing in detail the actions, events, scenes, and background sounds used in such advertisement together with a listing of the names and addresses of persons portrayed or heard to speak, if the advertisement is in or will be in a form in which the advertised message is not fully revealed by a print copy or photograph;
(3) a statement of when and where the advertisement has been, is, or will be used; and
(4) a check or money order payable to the State Bar of Texas for the fee set by the Board of Directors. Such fee shall be for the sole purpose of defraying the expense of enforcing the rules related to such advertisements.
(c) A lawyer who desires to secure an advance advisory opinion concerning compliance of a contemplated written solicitation communication or advertisement may submit to the Advertising Review Committee, not less than thirty (30) days prior to the date of first dissemination, the material specified in paragraph (a) or (b) of this Rule, including the required fee; provided however, it shall not be necessary to submit a videotape if the videotape has not then been prepared and the production script submitted reflects in detail and accurately the actions, events, scenes, and background sounds that will be depicted or contained on such videotapes, when prepared, as well as the narrative transcript of the verbal and printed portions of such advertisement. An advisory opinion of the Advertising Review Committee of noncompliance is not binding in a disciplinary proceeding or disciplinary action but a finding of compliance is binding in favor of the submitting lawyer if the representations, statements, materials, facts and written assurances received in connection therewith are true and are not misleading. The finding constitutes admissible evidence if offered by a party.
(d) The filing requirements of paragraphs (a) and (b) do not extend to any of the following materials:
(1) an advertisement in the public media that contains only part or all of the following information, provided the information is not false or misleading:
(i) the name of the lawyer or firm and lawyers associated with the firm, with office addresses, telephone numbers, office and telephone service hours, telecopier numbers, and a designation of the profession such as attorney, lawyer, law office, or firm;
(ii) the fields of law in which the lawyer or firm advertises specialization and the statements required by Rule 7.04 (a) through (c);
(iii) the date of admission of the lawyer or lawyers to the State Bar of Texas, to

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33 TDRPC 7.05.

34 TDRPC 7.06.

particular federal courts, and to the bars of other jurisdictions;
(iv) technical and professional licenses granted by this state and other recognized licensing authorities;
(v) foreign language ability;
(vi) fields of law in which one or more lawyers are certified or designated, provided the statement of this information is in compliance with Rule 7.02(a) through (c);
(vii) identification of prepaid or group legal service plans in which the lawyer participates;
(viii) the acceptance or nonacceptance of credit cards;
(ix) any fee for initial consultation and fee schedule;
(x) that the lawyer or firm is a sponsor of a charitable, civic, or community program or event, or is a sponsor of a public service announcement;
(xi) any disclosure or statement required by these rules; and
(xii) any other information specified from time to time in orders promulgated by the Supreme Court of Texas;
(2) an advertisement in the public media that:
(i) identifies one or more lawyers or a firm as a contributor to a specified charity or as a sponsor of a specified charitable, community, or public interest program, activity, or event; and
(ii) contains no information about the lawyers or firm other than names of the lawyers or firm or both, location of the law offices, and the fact of the sponsorship or contribution;
(3) a listing or entry in a regularly published law list;
(4) an announcement card stating new or changed associations, new offices, or similar changes relating to a lawyer or firm, or a tombstone professional card;
(5) a newsletter mailed only to:
(i) existing or former clients;
(ii) other lawyers or professionals; and
(iii) members of a nonprofit organization that meets the following conditions: the primary purposes of the organization do not include the rendition of legal services; the recommending, furnishing, paying for, or educating persons regarding legal services is incidental and reasonably related to the primary purposes of the organization; the organization does not derive a financial benefit from the rendition of legal services by a lawyer; and the person for whom the legal services are rendered, and not the organization, is recognized as the client of the lawyer who is recommended, furnished, or paid by the organization;
(6) a written solicitation communication that is not motivated by or concerned with a particular past occurrence or event or a particular series of past occurrences or events, and also is not motivated by or concerned with the prospective clients specific existing legal problem of which the lawyer is aware;
(7) a written solicitation communication if the lawyers use of the communication to secure professional employment was not significantly motivated by a desire for, or by the possibility of obtaining, pecuniary gain; or
(8) a written solicitation communication that is requested by the prospective client.
(e) If requested by the Advertising Review Committee, a lawyer shall promptly submit information to substantiate statements or representations made or implied in any advertisement in the public media and/or written solicitation.[35]

10). Breach of Confidentiality

(a) Confidential information includes both privileged information and unprivileged client information. Privileged information refers to the information of a client protected by the lawyer-client privilege of Rule 5.03 of the Texas Rules of Evidence or of Rule 5.03 of the Texas Rules of Criminal Evidence or by the principles of attorney-client privilege governed by Rule 5.01 of the Federal Rules of Evidence for United States Courts and Magistrates. Unprivileged client information means all information relating to a client or furnished by the client, other than privileged information, acquired by the lawyer during the course of or by reason of the representation of the client.
(b) Except as permitted by paragraphs (c) and (d), or as required by paragraphs (e), and (f), a lawyer shall not knowingly:
(1) Reveal confidential information of a client or a former client to:
(i) a person that the client has instructed is not to receive the information; or

[35] TDRPC 7.07.

(ii) anyone else, other than the client, the client's representatives, or the members, associates, or employees of the lawyer's law firm.

(2) Use confidential information of a client to the disadvantage of the client unless the client consents after consultations.

(3) Use confidential information of a former client to the disadvantage of the former client after the representation is concluded unless the former client consents after consultation or the confidential information has become generally known.

(4) Use privileged information of a client for the advantage of the lawyer or of a third person, unless the client consents after consultation.

(c) A lawyer may reveal confidential information:

(1) When the lawyer has been expressly authorized to do so in order to carry out the representation.

(2) When the client consents after consultation.

(3) To the client, the client's representatives, or the members, associates, and employees of the lawyer's firm, except when otherwise instructed by the client.

(4) When the lawyer has reason to believe it is necessary to do so in order to comply with a court order, a Texas Disciplinary Rule of Professional Conduct, or other law.

(5) To the extent reasonably necessary to enforce a claim or establish a defense on behalf of the lawyer in a controversy between the lawyer and the client.

(6) To establish a defense to a criminal charge, civil claim or disciplinary complaint against the lawyer or the lawyer's associates based upon conduct involving the client or the representation of the client.

(7) When the lawyer has reason to believe it is necessary to do so in order to prevent the client from committing a criminal or fraudulent act.

(8) To the extent revelation reasonably appears necessary to rectify the consequences of a client's criminal or fraudulent act in the commission of which the lawyer's services had been used.

(d) A lawyer also may reveal unprivileged client information.

(1) When impliedly authorized to do so in order to carry out the representation.

(2) When the lawyer has reason to believe it is necessary to do so in order to:

(i) carry out the representation effectively;

(ii) defend the lawyer or the lawyer's employees or associates against a claim of wrongful conduct;

(iii) respond to allegations in any proceeding concerning the lawyer's representation of the client; or

(iv) prove the services rendered to a client, or the reasonable value thereof, or both, in an action against another person or organization responsible for the payment of the fee for services rendered to the client.

(e) When a lawyer has confidential information clearly establishing that a client is likely to commit a criminal or fraudulent act that is likely to result in death or substantial bodily harm to a person, the lawyer shall reveal confidential information to the extent revelation reasonably appears necessary to prevent the client from committing the criminal or fraudulent act.

(f) A lawyer shall reveal confidential information when required to do so by Rule 3.03(a)(2), 3.03(b), or by Rule 4.01(b).[36]

B. Classification of the Grievance

The Grievance has been born. The Client has taken his or her charge to the next level and filed a written grievance with the State Bar of Texas. The Grievance must now be classified.

1. Grievance, Complaint or Inquiry?.

Although we tend to use the words "Grievance" and "Complaint" interchangeably, they are not synonymous. A Grievance may eventually become a "Complaint", but it does not begin as one. ***The language of the new TDRPC has been modified to refer to the "Grievance" as a "Grievance" until the classification decision is made***. ***Once the Grievance is received, it must be examined by the Chief Disciplinary Counsel***[37] ***within thirty days to determine whether it should be classified as a "Complaint" or an "Inquiry."***[38] ***The new rules declare that all rules regarding classification (and disposition) of a grievance shall be promulgated by the Texas Supreme Court***.[39]

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36 TDRPC 1.05.

37 TRDP 1.06S.

38 TRDP 2.10.

39 TRDP 1.04.

a. A Complaint

A **Complaint** is a Grievance that, on its face (or upon preliminary investigation), alleges professional misconduct and/or attorney disability.[40] **Professional Misconduct** includes:

1). Any violation of the TDRPC[41];
2). Conduct disciplined by the appropriate authorities outside the state of Texas that would otherwise be considered a violation of the TDRPC[42];
3). Violation of a disciplinary or disability order or judgment[43];
4). Engaging in conduct known as barratry, meaning to persistently instigate groundless lawsuits[44];
5). Failing to comply with disciplinary rules relating to cessation of law practice[45];
6). Practicing law while suspended or officially inactive[46];
7). Being convicted or placed on probation for a Serious Crime (regardless of adjudication of guilt).[47] A **serious crime** includes barratry, a felony involving moral turpitude, a misdemeanor involving theft, embezzlement or fraudulent or reckless misappropriation of money or other property, or any attempt, conspiracy or solicitation related to any of the foregoing[48];
8). Being convicted or placed on probation for an Intentional Crime (regardless of adjudication of guilt.[49] An **Intentional Crime** is defined as a Serious Crime that requires the element of intent (or proof of knowledge), or any crime that involves misapplication of money or property held as fiduciary[50]

b. An Inquiry

An **Inquiry**, on the other hand, does not allege such professional misconduct or disability, even if proven true.[51] For example, if the Grievance document alleges that the attorney greeted the opposing attorney with a friendly handshake and smile before the beginning of the trial, although this behavior might have been quite offensive to the grieving party, even if true, it does not constitute a violation of the TDRPC.

2. Inquiry Dismissed.

If the Grievance is classified as an Inquiry, it will be dismissed. The Complainant thereafter may appeal within thirty days to the Board of Disciplinary Appeals. If the Board affirms the classification as an Inquiry, the complainant may only once, within twenty days, amend the Grievance to include new or additional evidence. All Grievances that are dismissed as Inquiries are referred to voluntary mediation or dispute resolution.[52]

3. Complaint Requires Response.

If the Grievance is found to constitute a Complaint, the Respondent Attorney will be provided with a copy of the Complaint and given notice to make a written response within thirty days.[53] Unlike the Complainant's ability to appeal classification as an Inquiry, the revised rules no longer allow the Respondent Attorney to appeal the classification of a Grievance as a Complaint.[54]

C. Determination of Just Cause

The Grievance has been classified as a "Complaint" and therefore not dismissed automatically. Respondent Attorney has thirty days to respond.

1. Chief Disciplinary Counsel's Determination.

Within sixty days from Respondent Attorney's response deadline, ***the Chief Disciplinary Counsel must, upon investigation, determine whether there is "Just Cause."***[55] **Just Cause** is defined within the rules as "such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that an attorney either has committed an act or acts of professional misconduct requiring that a sanction be imposed, or suffers from a disability that requires either suspension as an attorney licensed to practice law in the State of Texas or

40 TRDP 1.06G.

41 TRDP 1.06V(1).

42 TRDP 1.06V(2).

43 TRDP 1.06V(3).

44 TRDP 1.06V(4).

45 TRDP 1.06V(5).

46 TRDP 1.06V(6).

47 TRDP 1.06V(7).

48 TRDP 1.06Z.

49 TRDP 1.06V(8).

50 TRDP 1.06T.

51 TRDP 1.06S.

52 TRDP 2.10.

53 *Id*.

54 *Id*.

55 TRDP 2.12.

probation." [56] In other words, would a reasonable person upon reasonable investigation believe that the attorney was guilty of the alleged misconduct?

2. Just Cause Found.

If Just Cause is found to exist, then the Respondent Attorney must thereafter within twenty days elect an evidentiary hearing or district court trial. If no response is made, the case is set on the evidentiary docket.[57] Venue of the hearing or trial is in the Respondent Attorney's principal place of practice.[58]

3. Just Cause Not Found.

Conversely, if just cause is not found, then the case will be referred to the newly created Summary Disposition Panel and placed on the Summary Dismissal Docket.[59] In the old investigatory hearing process, if a majority of the members of the investigatory panel voted that just cause did not exist, then the case would be dismissed.

D. Summary Disposition

1. Summary Disposition Panel.

The Summary Disposition Panel is a panel of Grievance committee members that determine whether a Complaint should proceed or should be dismissed based upon the absence of evidence to support a finding of Just Cause after a reasonable investigation by the Chief Disciplinary Counsel of the allegations in the Grievance.[60] ***These proceedings take place in the county were the alleged misconduct occurred***.[61]

2. Summary Disposition Docket.

At the Summary Disposition Docket, the Chief Disciplinary Counsel will present the Complaint, as well as supporting documentation, to the Panel. Supporting documentation includes the Complaint, Respondent's response, Case Analysis and Summary Report by the State Bar investigator and staff attorney for cases recommended for dismissal for lack of Just Cause.[62] The desire of the creators of the Summary Disposition hearing was that the hearings would be shorter in duration due to the lack of live testimony, thereby allowing multiple hearings to be scheduled in a single day.

3. Summary Dismissal Docket.

The Panel will determine whether the Complaint should be dismissed or should proceed. This determination is based only upon the investigative materials provided by the Chief Disciplinary Counsel, without testimony of the Complainant, Respondent or witnesses. No appeal is available from the Panel's decision.[63]

4. Referral To ADR.

A Complaint that is dismissed is referred by the Chief Disciplinary Counsel for voluntary mediation and dispute resolution procedures.[64]

5. Hearing Docket.

A Complaint that is not dismissed is placed on the Hearing Docket, and the outcome of the Summary Disposition proceedings is inadmissible in any subsequent disciplinary proceedings.[65]

E. Evidentiary Proceedings.

1. Evidentiary Panel.

If Just Cause is found to exist, the Respondent may elect that the case be considered by a district court bench or jury trial[66], or an **Evidentiary Panel** composed of the District Grievance Committee.[67] WARNING: Failure to timely make such election is deemed as an election of Evidentiary Panel.[68] ***All such disciplinary proceedings, including the pendency, subject matter, status, deliberations and voting of Evidentiary Panel, are confidential and not subject to disclosure, with few exceptions (such as conviction of a Serious Crime). However, facts and evidence discoverable elsewhere are not confidential merely because they are introduced at such proceeding.[69] A resulting private reprimand also remains confidential, but any more harsh sanction will be made public upon proper request.[70] The Evidentiary Panel considering the case cannot be comprised of any members of the Summary Disposition Panel that determined that the case should not be dismissed.***

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56 TRDP 1.06U.

57 TRDP 2.14D and 2.15.

58 TRDP 2.11B.

59 TRDP 2.13.

60 TRDP 1.06(BB).

61 TRDP 2.11A.

62 TRDP 2.13.

63 TRDP 2.13.

64 *Id*.

65 *Id*.

66 TRDP 2.15.

67 TRDP 1.06O; TRDP 2.17.

68 TRDP 2.15.

69 TRDP 2.16A-D.

70 TRDP 2.16E.

2. Evidentiary Petition.

If hearing before Evidentiary Panel is elected, then the Chief Disciplinary Counsel shall file, within sixty days, an **Evidentiary Petition** (to be served on the Respondent Attorney) that includes in part, a description of the specific acts and conduct that gave rise to the alleged misconduct and a listing of the specific rules of conduct that have allegedly been violated.[71]

3. Respondent's Response.

The Respondent Attorney thereafter must file his or her answer or other responsive pleading either admitting or denying the allegations within the normal answer period (Monday following twenty days).[72] WARNING: Failure to respond will result in Default, ***all allegations shall be taken as true, an order will be entered finding professional misconduct*** and the Evidentiary Panel will conduct a hearing to determine the sanction to be imposed.[73] There is no longer a seven day reprieve to petition the court consider your explanation for failure to respond.

4. Discovery.

The following forms of discovery are available to the Commission and the Respondent, ***without the necessity of showing good cause or substantial need***, all such forms of discovery being subject to modification by agreement of the parties or modification by the Evidentiary Panel upon a showing of reasonable need.[74]

a. Request for Disclosure

An abbreviated **Request for Disclosure** as defined by the TDRP (not the Texas Rules if Civil Procedure), that includes names of parties, factual basis of claims or defenses (without marshalling evidence), persons with knowledge of relevant facts, testifying expert information and witness statements[75];

b. Limited Discovery

Additional **Limited Discovery** conducted within a limited period defined by the TDRP, including six total hours of depositions (including direct and cross examination), twenty-five interrogatories (including discrete subparts), requests for production and requests for admissions[76];

c. Subpoenas

Subpoenas must be signed by the Evidentiary Panel Chair, and may be issued by either party to compel witness attendance and document production. Subpoenas are enforceable by the district court. WARNING: It is up to the party to secure service of the subpoena in accordance with TRCP 21a.[77]

d. Discovery Disupte Resolution

Discovery Dispute Resolution is conducted by the Evidentiary Panel, who will rule on such disputes in accordance with the TRDP and TRCP, but no dispute shall result in reversal merely because of failure to strictly comply with TRCP, i.e., no death penalty sanctions[78]

5. Mandatory ADR.

The Evidentiary Panel may order mandatory alternative dispute resolution per Chapter 154 of the Texas Civil Practice & Remedies Code.[79]

6. Decision By Panel.

After the hearing, a decision is given by the Panel within thirty days. If misconduct is found to have occurred, then the judgment will include findings of fact and conclusions of law, as well as the sanctions imposed. The case may be dismissed and referred to voluntary mediation and dispute resolution, or the Panel may forward the case for further referral to the district disability committee, or find that misconduct occurred and impose sanctions.[80]

7. Post-Trial.

Post Judgment Motions, such as a motion for new hearing, to set aside default, to modify, etc… are considered by the Evidentiary Panel Chair under the standards set forth in the Texas Rules of Civil Procedure.[81]

8. Appeals.

Complainants are no longer entitled to appeal the Evidentiary Panel's rulings. The Respondent or the Commission may appeal to the Board of Disciplinary Appeals (BODA) within thirty days (or 90 days if new trial is timely filed). Appeals from BODA are heard by the Texas Supreme Court.[82] BODA, in addition to ruling on the underlying

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71 TRDP 2.17A(4-5).

72 TRDP 2.17B.

73 TRDP 2.17C.

74 TRDP 2.17F.

75 TRDP 2.17D.

76 TRDP 2.17E.

77 TRDP 2.17H and I.

78 TRDP 2.17G.

79 TRDP 2.17K.

80 TRDP 2.17P(1)-(3).

81 TRDP 2.22.

82 TRDP 2.24 & 2.28.

judgment, may also reverse the Evidentiary Panel's decision and remand for further proceedings by the same panel or a statement grievance committee panel.[83]

F. Trial in District Court.

1. Disciplinary Petition.

If Respondent elects trial by district judge or jury, then the Chief Disciplinary Counsel shall file with the Clerk of the Texas Supreme Court, within sixty days, a **Disciplinary Petition** (to be served on the Respondent Attorney) that includes in part, a description of the specific acts and conduct that gave rise to the alleged misconduct and a listing of the specific rules of conduct that have allegedly been violated.[84] The Texas Supreme Court will thereafter appoint a District Judge, who resides outside the attorney's residential area, to preside over the case.[85]

2. Respondent's Response.

The Respondent must file an answer as in civil cases generally (20 days).

3. Discovery.

Discovery is conducted as in civil cases generally, except the discussions, thought processes and individual votes of the Summary Disposition Panel, the thought processes of Chief Disciplinary Counsel, and communications of Chief Disciplinary Counsel that would otherwise be privileged between private litigant and attorney, are not discoverable.[86]

4. Procedure And Burdens.

In a disciplinary trial, the Texas Rules of Civil Procedure applies, except as varied by the disciplinary rules. Cases must be proven by a preponderance of the evidence, the burden of proof being on the Commission, if sanctions are sought, and on the applicant/attorney, if reinstatement is sought.[87]

5. Judgment.

Upon trial, the court may render judgment that professional misconduct did or did not occur. If it is found that misconduct did occur, then the appropriate sanctions shall be determined and imposed.[88]

6. Sanctions.

A separate hearing may be conducted to determine sanctions based upon the nature of the misconduct, seriousness of the circumstances, loss or damage to clients or the legal profession, assurance of future insulation from such misconduct, profit to the attorney committing the misconduct, avoidance of repetition, deterrent effect, maintenance of respect for the legal profession, conduct of Respondent/Attorney during the course of the disciplinary action, trial of the case, Respondent's disciplinary record, and other relevant evidence concerning the attorney's personal and professional background.[89] If Respondent is found disabled, this disability is *not* a mitigating factor against sanctions, unless a demonstration of good faith efforts to recover from such disability is proven.

7. Appeals.

The final judgment is appealable as in civil cases generally, but no supersedeas of disbarment or probation revocation is available, and no cost and appeal bond is required of Chief Disciplinary Counsel.[90]

III. CONCLUSION

The new grievance system was created in response to complaints from respondent attorneys and grievance committee members of wasted time on unnecessary hearings that were occurring even though it was clear from investigation that professional misconduct had not been committed. The revisions were intended to create a streamlined process with built-in time frames to insure that cases proceed without unnecessary delay, while maintaining sufficient time for investigation and preparation. Only time will tell if these goals will actually be met. In any event, every attorney should be not only be aware of the process itself and the new revisions, but also the behaviors that result in the filing of the grievance in the first place. Avoiding the Grievance is the primary goal. If you are unlucky enough to be forced to defend yourself, make sure to do it right.

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83 TRDP 2.27.

84 TRDP 3.01; 3.03.

85 TRDP 3.02.

86 TRDP 3.05.

87 TRDP 3.08B-E.

88 TDRPC 3.09.

89 TDRPC 3.10.

90 TDRPC 3.14 – 3.16.

COMPARISON OF OLD RULES AND NEW RULES
EVIDENTIARY PANEL HEARING
(This hearing occurs after finding of just cause and finding not to dismiss by Summary Disposition Panel)

OLD RULES FOR EVIDENTIARY HEARINGS	NEW RULES FOR EVIDENTIARY HEARINGS
Chair of Grievance Committee with venue appoints Evidentiary Panel within no specific time frame. Evidentiary Panel may not include members of Investigatory Panel which heard the complaint.	**Chair of Grievance Committee with venue appoints Evidentiary Panel within 15 days of Respondent's election of panel. Evidentiary Panel may not include members who served on the Summary Disposition Panel that voted not to dismiss the complaint.**
Case initiated by Chief Disciplinary Counsel, Respondent is served with Evidentiary Panel Charge (formulated by the Evidentiary Panel on the basis of the findings of the Investigatory Panel), within no specific time frame.	**Case initiated by Chief Disciplinary Counsel, Respondent is served with Evidentiary Petition (filed within sixty days) describing the alleged misconduct and rule violations based upon Chief Disciplinary Counsel's investigation.**
Along with the Evidentiary Panel Charge, Respondent is served with the Chief Disciplinary Counsel's Proposed Hearing Order listing witnesses, summary of witness testimony, contested fact issues and list of exhibits.	**No Proposed Hearing Order is served with the Evidentiary Petition.**
Respondent has 20 days from receipt of the Evidentiary Charge and Proposed Hearing Order to respond to the Charge and submit his or her own version of the Proposed Hearing Order	**Respondent has until the Monday following 20 days after service to file his or her responsive pleading admitting or denying each allegation of misconduct.**
Respondent's failure to timely respond to the Evidentiary Charge and submit his or her own version of the Proposed Hearing Order (per above) constitutes a default and all facts alleged in the Evidentiary Charge shall be deemed true. Respondent will then be served with Notice of Default and allowed seven days to file a verified petition reflecting good cause for failing to timely respond.	**Respondent's failure to timely file his or her responsive pleading constitutes a default, and all facts alleged in the Evidentiary Petition shall be deemed true. Upon a showing of default, the Evidentiary Panel *shall* enter an order of default with a finding of professional misconduct.**

OLD RULES FOR EVIDENTIARY HEARINGS (cont.)	OLD RULES FOR EVIDENTIARY HEARINGS (cont.)
At the discretion of the Evidentiary Panel Chair, parties may conduct limited discovery upon showing of good cause and substantial need. Such requests for discovery to be made within 20 days that Respondent's Responsive Pleading is due. Discovery is conducted per TRCP, enforceable by the district court with jurisdiction. Evidentiary Panel Chair's decisions regarding discovery are reviewed only on appeal, and, barring a showing of material unfairness, no reversal may be based on granting or denial of discovery.	**Discovery is allowed by both parties without a showing of good cause or substantial need. Either party may send disclosure as defined by the TDPRC, as well as limited discovery including 25 interrogatories, 6 hours total of depositions, requests for production and requests for admissions. The parties may modify discovery limitations by agreement. Discovery disputes are resolved by the Evidentiary Panel Chair in accordance with the TRCP, but no such ruling shall be the basis for reversal due to failure to comply with TRCP.**
Complainant, Respondent or the Chief Disciplinary Counsel may appeal the Evidentiary Panel's decision to BODA within 30 days of Respondent's receipt of the decision.	**Respondent or the Chief Disciplinary Counsel (*not* the Complainant) may appeal the Evidentiary Panel's decision to BODA within 30 days of the date of judgment, or 90 days of the date of judgment upon filing of a motion for new trial. Post judgment motions must comply with TRCP.**
An order of suspension by the Evidentiary Panel shall be stayed during the pendency of an appeal upon a finding that respondent's continued practice of law is not a threat to the welfare of respondent's clients or the public.	**Within 30 days of judgment, Respondent may seek stay of a suspension pending appeal. Respondent must prove by a preponderance of the evidence that his or her continued practice of law does not pose a continuing threat to the welfare of his or her clients or the public. If Respondent meets this burden of proof, then the order of suspension must be stayed.**

COMPARISON OF OLD INVESTIGATORY HEARING AND NEW SUMMARY DISPOSITION PANEL

(The Investigatory Hearing has been eliminated. The Summary Disposition occurs after the Chief Disciplinary Counsel has determined that no just cause exists)

OLD INVESTIGATORY HEARING	NEW SUMMARY DISPOSITON PANEL
Investigatory Panel Members make just cause determination by a majority vote. If no just cause is found, the case is dismissed.	Chief Disciplinary Counsel makes just cause determination. If just cause is found, then Respondent may elect evidentiary hearing or district court trial. If just cause is not found, the case will be referred to summary disposition panel.
Investigatory Panel members are provided with the complaint, attorney response and report prepared by the State Bar investigator prior to the investigatory hearing.	Summary Disposition Panel members are provided with the complaint, attorney's response, and Case Analysis and Summary Report prepared by the State Bar investigator and staff attorney for cases recommended for dismissal by the Chief Disciplinary Counsel for lack of just cause.
Investigatory Panel members conduct hearing and take testimony and evidence from the Complainant, Respondent and witnesses.	Summary Disposition Panel members review investigative materials provided by the State Bar investigator and staff attorney, and make their decision based upon those materials. Complaint, Respondent Attorney and witnesses are not present, nor is testimony given.
Chief Disciplinary Counsel represents Investigatory Panel at the investigatory hearing.	Chief Disciplinary Counsel represents Commission for Lawyer Discipline (CFLD) at the Summary Disposition Hearing.
State Bar investigator and staff attorney attend investigatory hearing in an advisory role only.	Staff attorney presents information and evidence to Summary Disposition Panel Members.
Proceedings are private and confidential, not open to the public.	Proceedings are private and confidential, not open to the public.
Testimony is videotaped.	Proceedings are not videotaped or recorded.
If Investigatory Panel finds no just cause, the complaint is dismissed without referral to voluntary mediation.	If Summary Disposition Panel dismisses case, matters is referred to Client Attorney Assistant Program (CAAP) for voluntary mediation.

OLD INVESTIGATORY HEARING (cont.)	NEW SUMMARY DISPOSITON PANEL (cont.)
If Investigatory Panel members find that Respondent attorney is suffering from a disability, under appropriate circumstances, the file will be forwarded to BODA for a disability hearing.	**If the Chief Disciplinary Counsel believes that Respondent attorney is suffering from a disability, the Chief Disciplinary Counsel seeks authority from the Commission for Lawyer Discipline to refer the matter to BODA for a disability hearing.**
In appropriate situations, Investigatory Panel members find that Respondent attorney poses a substantial threat of irreparable harm to clients and authorizes Chief Disciplinary Counsel to seek an immediate suspension of Respondent's law license in district court.	**If the Chief Disciplinary Counsel believes that Respondent attorney posses a substantial threat or irreparable harm to clients, the Chief Disciplinary counsel seeks authority from the Commission for Lawyer Discipline to pursue interim suspension of Respondent's Law License.**

GRIEVANCE FLOW CHART

WRITTEN GRIEVANCE FILED WITH CHIEF DISCIPLINARY COUNSEL

⇩

PHASE I
GRIEVANCE CLASSIFIED BY CHIEF DISCIPLINARY COUNSEL AS INQUIRY (NO ALLEGATION OF MISCONDUCT) OR COMPLAINT (ALLEGATION OF MISCONDUCT)

⇩	⇩
CLASSIFIED AS INQUIRY	**CLASSIFIED AS COMPLAINT**
⇩	⇩
PARTIES NOTIFIED	**PARTIES NOTIFIED**
⇩	⇩
GRIEVANCE DISMISSED	**GRIEVANCE PROCEEDS**
⇩	⇩
COMPLAINANT HAD 30 DAYS TO APPEAL TO BODA	**RESPONDENT 30 DAYS TO RESPOND (NO APPEAL AVAILABLE)**
⇩	⇩
IF BODA AFFIRMS DISMISSAL COPLAINANT HAS 20 DAYS TO AMEND	**CHIEF DISCIPLINARY COUNSEL 60 DAYS TO INVESTIGATE**
⇩	⇩
DISMISSED CASES REFERRED TO CLIENT ATTORNEY ASSISTANCE PROGRAM (CAPP) FOR VOLUNARY DISPUTE RESOLUTION	**CHIEF DISCIPLINARY COUNSEL MAKES DETERMINATION OF JUST CAUSE OR NO JUST CAUSE**
⇩	⇩
ANALYSIS ENDS HERE	**CONTINUE TO PHASE II**

PHASE II
DETERMINATION OF JUST CAUSE
BY CHIEF DISCIPLINARY COUNSEL

⇩

NO JUST CAUSE ESTABLISHED

⇩

PARTIES NOTIFIED

⇩

COMPLAINT PLACED ON SUMMARY DISMISSAL DOCKET

⇩

CONTINUE TO PHASE III (NEXT PAGE)

⇩

JUST CAUSE ESTABLISHED

⇩

PARTIES NOTIFIED

⇩

ATTORNEY HAS 20 DAYS TO ELECT DISTRICT COURT OR EVIDENTIARY PANEL HEARING (DEFAULT GOES TO PANEL)

⇩

SKIP PHASE III AND CONTINUE TO PHASE IV

PHASE III
SUMMARY DISMISSAL DOCKET

⇩

CHIEF DISCIPLINARY COUNSEL PRESENTS EVIDENCE
NO TESTIMONY IS GIVEN BY PARTIES

⇩

SUMMARY DISMISSAL PANEL WILL DETERMINE
IF JUST CAUSE EXISTS TO PROCEED
OR IF THE COMPLAINT SHOULD BE DISMISSED

⇩ **NO JUST CAUSE**

⇩ **COMPLAINT DISMISSED**

⇩ **PARTIES NOTIFIED**

⇩ **DISMISSED CASES REFERRED TO CLIENT ATTORNEY ASSISTANCE PROGRAM (CAPP) FOR VOLUNARY DISPUTE RESOLUTION**

⇩ **NO APPEAL IS AVAILABLE**

⇩ **ANALYSIS ENDS HERE**

⇩ **JUST CAUSE EXISTS**

⇩ **COMPLAINT PROCEEDS**

⇩ **PARTIES NOTIFIED**

⇩ **CASE PLACED ON CONTESTED HEARING DOCKET**

⇩ **NO APPEAL IS AVAILABLE**

⇩ **INTERIM SUSPENSION POSSIBLE**

⇩ **CONTINUE TO PHASE IV**

PHASE IV
TRIAL BY DISTRICT COURT
OR EVIDENTIARY PANEL HEARING (DEFAULT)

⇩	⇩
RESPONDENT ELECTS DISTRICT COURT HEARING JUDGE OR JURY	**RESPONDENT ELECTS / DEFAULT EVIDENTIARY PANEL HEARING**
⇩	⇩
CHIEF DISCIPLINARY COUNSEL 60 DAYS TO FILE DISCIPLINARY PETITION	**CHIEF DISCIPLINARY COUNSEL 60 DAYS TO FILE EVIDENTIARY PETITION**
⇩	⇩
RESPONDENT 20 DAYS TO ANSWER	**RESPONDENT 20 DAYS TO ANSWER**
⇩	⇩
CASE SET FOR TRIAL WITHIN 180 DAYS	**CASE SET FOR EVIDENTIARY HEARING WITHIN 180 DAYS**
⇩	⇩
DISCOVERY PER TRCP EXCEPT AS LIMITED BY TDRPC	**LIMITED DISCOVERY PER TDRPC**
⇩	⇩
TRIAL PROCEEDS PER TRCP UNLESS VARIED BY TDRPC	**PANEL MAY ORDER MANDATORY ALTERNATIVE DISPUTE RESOLUTION**
⇩	⇩
JUDGE OR JURY RENDERS DECISION	**FINAL DECISION IN 30 DAYS PRIVATE REPRIMAND AVAILABLE MOST PROCEEDINGS CONFIDENTIAL**
⇩	⇩
POST JUDGMENT MOTIONS PER TRCP	**POST JUDGMENT MOTIONS CONSIDERED BY PANEL**
⇩	⇩
APPEALS PER TRCP AND TRAP	**APPEALS CONTINUE TO PHASE V**

PHASE V
APPEAL OF EVIDENTIARY HEARING
ALLOWED BY RESPONDENT OR COMPLAINANT

⇩

APPEAL TO BOARD OF DISCIPLINARY APPEALS
"BODA" WITHIN THIRTY DAYS
(OR NINETY DAYS OF MOTION FOR NEW TRIAL)

⇩

APPEAL PERFECTED
WHEN FILED WITH BODA
SUBSEQUENT TIME DEADLINES SET BY BODA

⇩

DISPOSITION OF APPEAL

⇩	⇩	⇩	⇩	⇩	⇩
AFFIRM	**MODIFY AND AFFIRM**	**REVERSE AND RENDER**	**REVERSE AND REMAND**	**VACATE AND DISMISS**	**DISMISS APPEAL**
⇩	⇩	⇩	⇩	⇩	⇩

APPEAL FROM BODA DECISION TO
TEXAS SUPREME COURT WITHIN 14 DAYS

⇩

RECORD FILED WITHIN 60 DAYS
BRIES FILED WITHIN 30 DAYS THEREAFTER
ORAL ARGUMENT UPON MOTION
REMAINING PROCEDURE PER TRAP
UNLESS OTHERWISE MODIFIED BY TDRPC