

**THE BOARD of DISCIPLINARY APPEALS**  
APPOINTED BY THE SUPREME COURT of TEXAS  
**REPORT 2018**



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

**CHAIR**

David N. Kitner, *Dallas*

**VICE CHAIR**

Ramon Luis Echevarria II, *Houston*

**MEMBERS**

Robert A. Black, *Beaumont*

Jeanne C. "Cezy" Collins, *El Paso*

David M. Gonzalez, *Austin*

Wendy-Adele Humphrey, *Lubbock*

Roland K. Johnson, *Fort Worth*

Kathy Kinser, *Dallas*

John J. "Mike" McKetta III, *Austin*

Mike Mills, *McAllen*

Deborah Pullum, *Tyler*

George A. Taylor, *San Antonio*

**SUPREME COURT OF TEXAS LIAISON**

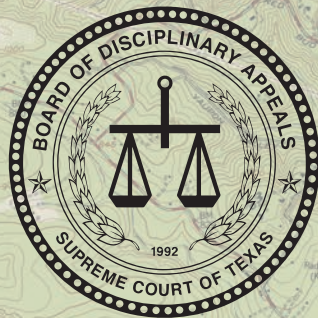
The Honorable Justice Debra H. Lehrmann

**STAFF**

Christine E. McKeeman, *Executive Director/General Counsel*

Gayle Vickers, *Deputy Director/Counsel*

Jackie L. Truitt, *Executive Assistant*



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

From the Chair  
October, 2018



On behalf of the Board of Disciplinary Appeals, I am pleased to submit the Annual Report for fiscal year June 1, 2017 through May 31, 2018 to the Supreme Court of Texas and to the State Bar Board of Directors, pursuant to Texas Rules of Disciplinary Procedure 7.08B. The report recognizes BODA's members and describes its decisions, jurisdiction, cases filed and decided, hearings, and operations.

During the past year, BODA

- Disposed of 1,444 matters
- Decided 34 cases resulting in final judgments of discipline or disability
- Met en banc for conferences and hearings quarterly in Austin
- Met by telephone conference 46 times for hearings in three member panels
- Reversed 134 grievances dismissals and returned for just cause investigation
- Kept all dockets current/summary dismissal appeals decided in 31 days or less

All appeals from BODA decisions to the Supreme Court decided in 2017-2018 were affirmed or dismissed for want of prosecution.

On behalf of all members we are grateful that the Supreme Court has appointed us to serve on BODA. In terms of self-regulation of our profession, the work of BODA is indispensable. The twelve BODA members collectively have hundreds of years of experience in the practice of civil and criminal law. Our board members are a diverse group representing all geographic areas of the state. We are a collegial and conscientious group dedicated to service on BODA. We could not do our work without the assistance of the BODA staff, which is second to none and provides us with invaluable support.

A handwritten signature in black ink that reads "David N. Kitner". The signature is written in a cursive, flowing style.

David N. Kitner  
Chair of the Board of Disciplinary Appeals, 2015–2018



*Back row: David González, Kathy Kinser, Mike McKetta, Deborah Pullum, Roland Johnson, Wendy Humphrey, Mike Mills  
Front row: Bob Black, George Taylor, David Kitner, Ray Echevarria, Cezy Collins*

## Members 2017–2018

**David N. Kitner**, chair, is a partner in Clark Hill Strasburger in Dallas, Texas. He also serves as his firm's general counsel. He received a B.A. from Rice University and graduated with honors from the University of Texas School of Law in 1973 where he was a member of the Texas Law Review and a member of the Order of the Coif. He served on the District 6A grievance committee of the State Bar of Texas from 2003–2009. He has been a fellow in the American College of Trial Lawyers since 1999 and served as chair of its Texas State Committee from 2012–2014. He is a life fellow of the Texas Bar Foundation and a senior life fellow of the Dallas Bar Foundation. He was appointed in September of 2012 and reappointed in 2015.

**Ramon L. Echevarria II**, vice chair, is counsel for the ExxonMobil Law Department, Environmental and Safety Section in Houston. He joined the litigation section of ExxonMobil in 2000 and has represented the company regarding upstream environmental issues and related litigation cases as well as compliance litigation issues. Prior to joining ExxonMobil, Mr. Echevarria held the position of assistant district attorney for the Harris County District Attorney's Office and for the Tarrant County District Attorney's Office. Echevarria is a 1993 graduate of the Texas Tech University School of Law and a graduate of the United States Military Academy, West Point, New York. Mr. Echevarria was appointed in September 2012 and reappointed in 2015.

**Robert A. Black** was appointed to BODA in September 2013 and reappointed to a second term in 2016. He is managing shareholder of Mehaffy Weber, P.C., where he practices mediation, arbitration, and civil litigation. He served as president of the State Bar of Texas from 2011–2012, chair of its Board of Directors, and has served on many other committees and subcommittees.



## Members 2017–2018

Black is a past president of the Jefferson County Bar Association. He is a fellow of the Texas Bar Foundation (trustee) and a fellow of the American Bar Foundation. Black earned a B.A. from the University of Texas at El Paso and a J.D. *summa cum laude* from Texas Tech University School of Law.

**Jeanne C. “Cezy” Collins** serves as general counsel of the El Paso Independent School District. Ms. Collins is a former president of the National Conference of Women’s Bar Associations, Texas Women Lawyers, and the El Paso Women’s Bar Association, and a former State Bar of Texas director. In 2002–2003, she was voted Outstanding Lawyer of El Paso by the El Paso Young Lawyers Association. She received her B.A. from the University of Southern California in 1986 and her J.D. from the University of Arizona College of Law in 1991. She was appointed to BODA in 2013 and reappointed in 2016.

**David M. González** is a partner in Sumpter & González, L.L.P. in Austin. He is board certified in criminal law and serves as an adjunct professor in the Trial Advocacy Program at the University of Texas School of Law. He sits on the board of directors of the Capital Area Private Defender Service, serves on the executive committee of the Lloyd Lochridge Inn of Court, and is legislative counsel to the Texas Criminal Defense Lawyers Association. He has served as a special prosecutor for Travis County, Kendall County, Panola County, and the city of Cibolo. He is a member of the disciplinary committee of the U.S. District Court for the Western District of Texas and previously served on the District 9 grievance committee of the State Bar of Texas from 2012–2015. Mr. Gonzalez is a graduate of Dartmouth College and Stanford Law School. He was appointed to the Board in 2015 and was reappointed in 2018.

**Wendy-Adele Humphrey** is an Associate Professor of Law, the interim Associate Dean of Admissions, and the Associate Dean for Educational Effectiveness at the Texas Tech University School of Law. She is also a director of the Texas Tech University Pre-Law Academy. Dean Humphrey served on the ACTL/TYLA National Trial Competition committee for 13 years and the TYLA Moot Court Competition committee for 10 years, and she is currently the chair of the national ABA Negotiation Competition committee. Dean Humphrey is a member of the TTU President’s Gender Equity Council, the president-elect of the Lubbock Area Bar Association, and the president of Law Focused Education, Inc. She also serves on the executive committee for the Legal Writing, Research, and Reasoning section of the AALS and is a co-chair for the Legal Writing Institute’s Pre-Law Outreach committee. Dean Humphrey has received numerous awards, including the TYLA President’s Award of Merit for five consecutive years and the university-wide Spencer A. Wells Creativity in Teaching Award. She earned her M.Ed. and J.D. from Texas Tech University. She was appointed to the Board in 2015 and resigned to serve on the State Bar of Texas Board of Directors effective May 31, 2018.

**Roland K. Johnson** was appointed to BODA in September 2013 and appointed to a second term in 2016, and is a shareholder in Harris, Finley & Bogle, P. C., Fort Worth. He served as president of the State Bar of Texas from 2009–2010, president of the Tarrant County Bar Association, president of the Eldon B. Mahon Inn of Court, and as chair of the State Bar Professionalism Committee. He is a sustaining life fellow of the Texas Bar Foundation and is Board Certified in Civil Trial Law. He is a member of the American Law Institute and the American Board of Trial Advocates, and is a fellow in the College of Commercial Arbitrators. He earned his undergraduate and J.D. degrees from Baylor University with honors.

**Katherine A. Kinser** is a partner in Kinser & Bates, LLP in Dallas. She graduated from the University of Arkansas at Little Rock and from Southern Methodist University School of Law. She holds a board certification in family law from the Texas Board of Legal Specialization. She is



## Members 2017–2018

a fellow in the American Academy of Matrimonial Lawyers, a lifetime member of the American Academy of Matrimonial Lawyers Foundation, a sustaining life member of the Texas Family Law Foundation and a life fellow of the Texas Bar Foundation. She served as the president of the Texas Chapter of the American Academy of Matrimonial Lawyers from 2017–2018. She is a member of the Texas Academy of Family Law Specialists and received its Sam Emison Award in 2014. She served as president of the Academy from 2002 until 2003. She was appointed to the Board in 2014 and was reappointed in 2017.

**John J. “Mike” McKetta III** is of counsel to Graves, Dougherty, Hearon & Moody, P.C. in Austin, serving as president of the firm 1998–2008. He graduated from Harvard University and the University of Texas School of Law with high honors and was a member of the Order of the Coif and Chancellors. He is an emeritus member of the Lloyd Lochridge Inn of Court and served as president 2013–2014. During 2014–17, he was the representative from the Fifth Circuit to the ABA Standing Committee on the Federal Judiciary. He is a Life Member of the American Law Institute and has held numerous offices, currently serving as chair of the Investment Committee. He chaired the Advertising Review Committee of the State Bar of Texas 2010–2014 and served as a member of the Disciplinary Committee of the U.S. District Court for the Western District of Texas. He is a fellow of the International Academy of Trial Lawyers, and a fellow emeritus the American College of Trial Lawyers and of the American Board of Trial Advocates. He is a fellow of the Texas Bar Foundation and was the recipient of organization’s Ronald D. Secrest Outstanding Trial Lawyer Award in 2010. He was appointed to the Board in 2014 and was reappointed in 2017.

**Mike Mills** is a partner in Atlas, Hall & Rodriguez, L.L.P. in McAllen. He received his law degree from the University of Texas School of Law in 1976, and is a member of Phi Delta Phi honorary legal fraternity. He is a fellow, American College of Trial Lawyers; advocate, American Board of Trial Advocates; president, Hidalgo County Bar Association, 1990–1991; director, Hidalgo County Bar Association, 1988–1990; chairman, Hidalgo County Bar Association Pro Bono Project 1988–1995; State Bar of Texas District 15-B grievance committee, 1989–1995; vice chair, 1994–1995; director, Texas Association of Defense Counsel, 1994–1996; executive committee, University of Texas Law Alumni Association, 1995–2000; director, University of Texas Law Alumni Association, 1992–1995; Political Action Committee of the Texas Association of Defense Counsel, 2005–present; Texas Rio Grande Valley Legal Aid Advisory Council, 2005–present; member, American Bar Association. Mr. Mills was appointed in 2015 and was reappointed in 2018.

**Deborah G. Pullum** is the City Attorney for the City of Tyler, Texas. She graduated from the College of William and Mary, Marshall-Wythe School of Law in 1996 after receiving a Bachelor of Science with honors from Florida A&M University. She received merit certification in municipal law from the Texas City Attorneys Association and was formally an assistant district attorney of Smith County, Texas. She is a member of the Smith County Bar Association and served as president of the SCBA from 2016 to 2017. She is a fellow of the Texas Bar Foundation and a member of the College of the State Bar of Texas. She served on the State Bar of Texas District 2 Grievance Committee from 2006 until 2012. She was appointed to the Board in 2014 and was reappointed in 2017.

**George A. Taylor** is principal of George A. Taylor, Attorney at Law in San Antonio. He graduated from St. Mary’s University School of Law in 1974. Taylor is a former first assistant district attorney of Victoria, Texas and was a director of the Texas Criminal Defense Lawyers’ Association for 2010–2016. He is also a member of the San Antonio Criminal Defense Lawyers’ Association, serving as president from 2007 until 2008. He is a fellow of the Texas Bar Foundation. He was appointed in September 2012 and appointed to a second term in 2015.



## BODA Basics

The Board of Disciplinary Appeals is a tribunal of 12 attorneys appointed by the Supreme Court of Texas to serve up to two three-year terms. Since 2012, the Honorable Debra H. Lehrmann has served as the Supreme Court of Texas liaison to the Board. Members represent diverse geographic and law practice areas, from small firm to large multi-state firm, corporate counsel, family law practitioners, criminal defense lawyers, corporate and business litigators, complex commercial litigators, a city attorney, employment, and education lawyers.

The Board operates under the State Bar Act, the Texas Rules of Disciplinary Procedure, the Board of Disciplinary Procedure Internal Operating Rules, and case law. The Board has appellate and original jurisdiction and disposed of 1,441 matters in the last fiscal year consistently maintaining a current docket. The Board meets en banc quarterly and confers weekly in three-person panels by telephone conference with additional special settings as needed.

BODA's staff is composed of Christine E. McKeeman, executive director and general counsel, who is in charge of all operations, advises the Board, serves as the official records custodian and works with related groups in the disciplinary system and in other states; Gayle Vickers, deputy director and counsel, who assists with all operations and has primary responsibility for the disability docket, is the clerk for District Disability Committees and appeals from BODA to the Texas Supreme Court, produces the annual report, responds to inquiries from the public and attorneys, and designs and maintains the BODA website; and Jackie Truitt, executive assistant, who acts as office manager and is responsible for classification panels, case intake and management, docket control, hearings coordination, and requests for information and assistance from the public and attorneys. Each is a long term employee. Combined, the staff has 67 years of experience with BODA.

BODA maintains a website at [txboda.org](http://txboda.org). In addition to all published opinions, the website provides information about members, jurisdiction, and operations. Copies of the annual report from 2005 to the present are available. The current hearings docket is posted and all recent and archived decisions since 2002 are fully searchable. Videos of en banc hearings and oral arguments are available for most public cases on the website and through the Board's YouTube channel. The



*Justice Debra H. Lehrmann  
BODA Liaison*

website also has copies of the *Texas Disciplinary Rules of Professional Conduct*, the *Texas Rules of Disciplinary Procedure*, and the *BODA Internal Procedural Rules*.

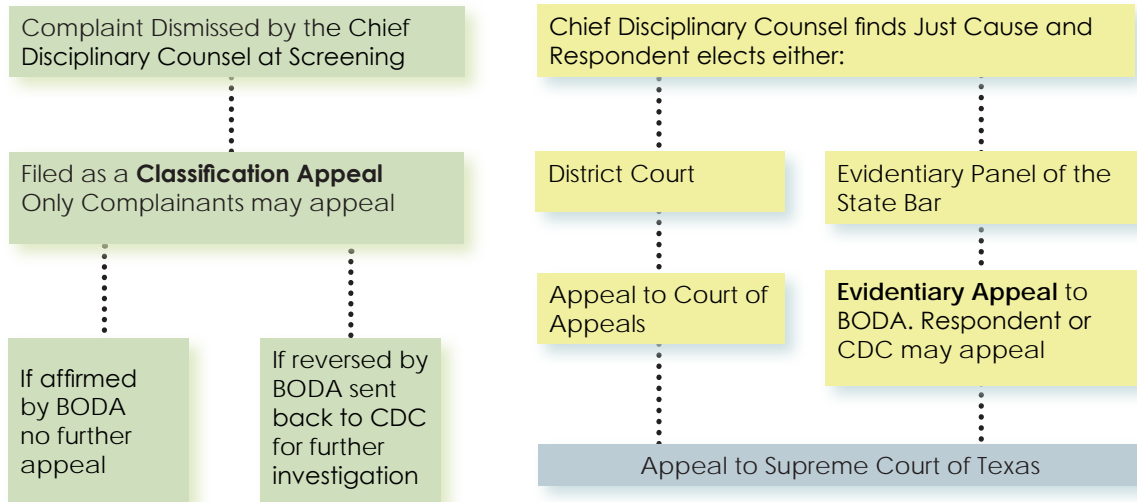


*David Kitner, Chief Justice Nathan Hecht,  
Justice Debra H. Lehrmann, and Ramon  
Echevarria II*

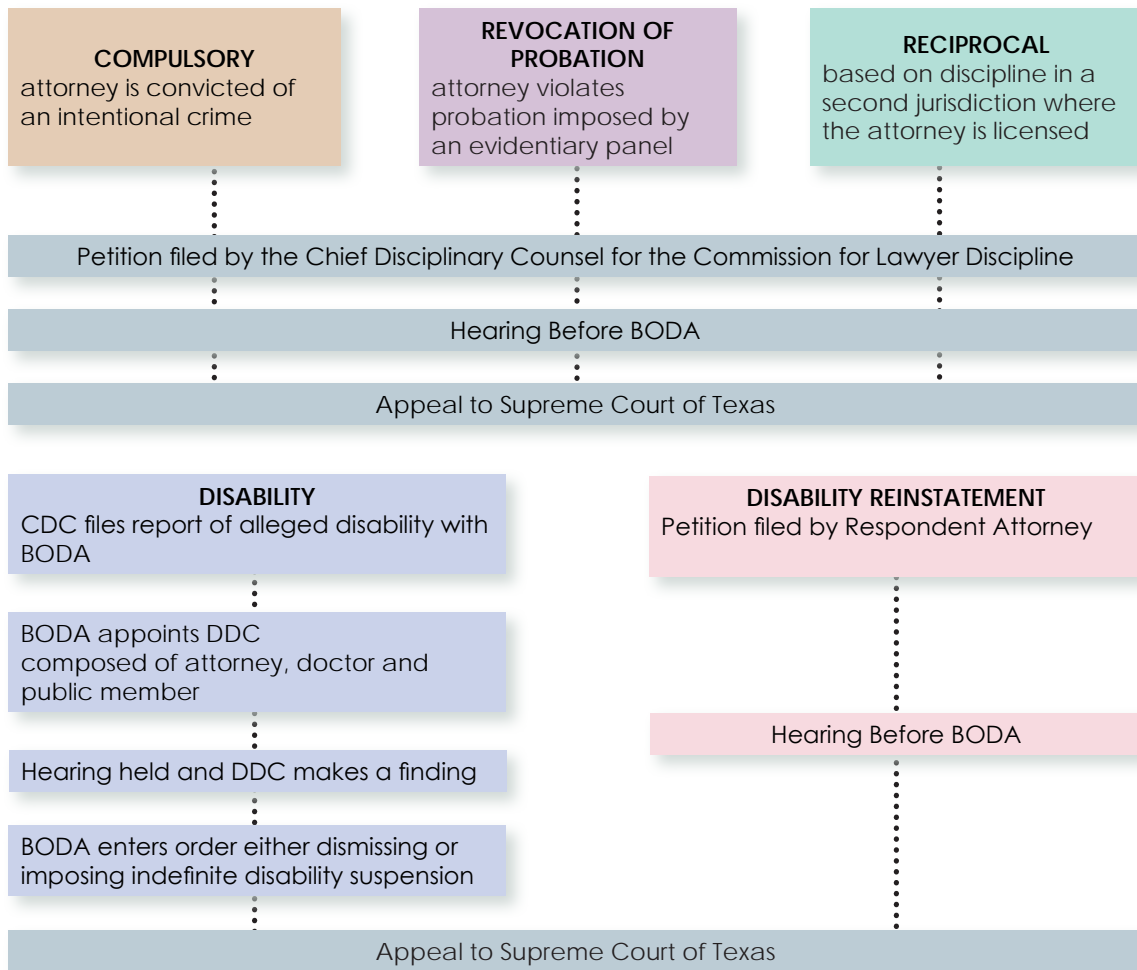


# Appellate Jurisdiction

Grievances Filed with State Bar of Texas



# Original Jurisdiction





## BODA Jurisdiction

BODA has jurisdiction to decide six types of disciplinary matters, Tex. Gov't Code Sections 81.072-81.0751; TRDP Part VIII. "BODA shall have and exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings." *In re State Bar of Texas*, 113 S.W.3d 730, 734 (Tex. 2003)(citing BODA IPR 1.02). With the exception of appeals from classification screening decisions, which are final, BODA decisions are appealable directly to the Supreme Court of Texas. BODA may decide any case other than classification appeals, with or without written opinion.

### Original

#### Compulsory Discipline

BODA has exclusive original jurisdiction to hear petitions for compulsory discipline filed by the State Bar of Texas Chief Disciplinary Counsel's Office on behalf of the Commission for Lawyer Discipline when an attorney has been convicted of, or placed on deferred adjudication for, an "Intentional Crime." TRDP, Part VIII. Compulsory discipline results in either suspension of the attorney's license for the term of the criminal sentence or disbarment.

#### Reciprocal Discipline

BODA has exclusive original jurisdiction to hear petitions for reciprocal discipline filed by the State Bar of Texas Chief Disciplinary Counsel's Office on behalf of the Commission for Lawyer Discipline. Texas attorneys who are licensed in another jurisdiction are subject to identical discipline in Texas following a disciplinary sanction in the second jurisdiction. TRDP, Part IX.

#### Revocations of Probation

BODA has exclusive original jurisdiction for the full term of a probated suspension imposed by a State Bar grievance committee to hear petitions to revoke the probation if the attorney violates a term or condition of probation. TRDP, Part II. If revoked, the attorney is suspended for the full term without credit for time served on probation.

#### Disability Cases and Reinstatements

BODA has exclusive original jurisdiction to suspend indefinitely an attorney who is suffering from a disability: any physical, mental, or emotional condition, with or without a substantive rule violation, which results in the attorney's inability to practice law or otherwise carry out his or her professional responsibilities to clients, the courts, the profession, or the public. A district disability committee appointed by BODA holds a hearing to determine whether the attorney is disabled and certifies its finding to BODA. BODA has concurrent jurisdiction with district courts to hear petitions for reinstatement to terminate an indefinite disability suspension. TRDP, Part XII.



## BODA Statistics

June 1, 2017–May 31, 2018

### BODA Cases

Total cases filed with BODA	1,370
Appeals from dismissed grievances	1,331
Other cases filed	39
Total BODA dispositions	1,444

### Hearings and Conferences

En banc conferences and hearings	4
Weekly panel telephone conferences	46
Average panel docket	30 classification appeals

### Total BODA Dispositions

	Filed	Decided
Appeals from grievances dismissed	1,331	1,410
Appeals from evidentiary judgments	10	7
Compulsory discipline	7	10
Reciprocal discipline	20	14
Petitions to revoke probation	2	2
Disability suspension	—	—
Reinstatement after disability suspension	0	1
Mandamus	—	—

### Appeals from BODA decisions to Supreme Court of Texas

**All BODA decisions appealed to Supreme Court during  
FY 2017–2018 were affirmed**

Total BODA decisions appealed	4
Appeals from evidentiary judgments	4
Total Supreme Court dispositions	4

\*Source: Office of the Chief Disciplinary Counsel, State Bar of Texas

\*\*Source: State Bar of Texas Accounting Office



**BODA Statistics**

June 1, 2017–May 31, 2018

**Classification Appeals to BODA**

Grievances screened by CDC*	7,453
Upgraded for investigation by CDC	2,357 (32%)
Dismissed by CDC	5,096 (68%)
Dismissed grievances appealed	1,331/5,096 (26%)
Appeals from classification dismissals decided	1,410
Appeals granted by BODA	134/1,410 (9.5%)

**Classification Appeal Timeline**

Average time to receive file from CDC	6 days
Average time to decide classification appeal after file received by BODA	25 days
Total time from filing to decision	31 days

**Appeals Granted by BODA  
Top Five TDRPC Violations Cited**

1.03	Communication	48
1.01	Competent and Diligent Representation (1.01 and 1.03 - 13)	32
1.14	Safekeeping Property	32
1.04	Fees	12
8.04	Misconduct	10

Appeals granted	# of violations
84	1
36	2
13	3
1	4

**Budget**

Total annual budget FY 2017–2018	\$607,016
Actual funds expended**	\$574,001
Variance: favorable	5%

## BODA Jurisdiction

### Appellate

#### Appeals from Evidentiary Judgments

Either the Commission for Lawyer Discipline or an attorney against whom discipline has been imposed by a State Bar grievance committee may appeal any judgment from an evidentiary proceeding, including dismissal, findings of professional misconduct, or sanction imposed. Appeals to BODA from evidentiary judgments proceed similarly to civil appeals. TRDP, Part II. BODA reviews evidentiary questions under substantial evidence, questions of law de novo, and sanctions for abuse of discretion. BODA may decide an evidentiary appeal with or without oral argument.

#### Grievance Screening and Classification Appeals

The State Bar of Texas Chief Disciplinary Counsel's Office screens every writing received that alleges professional misconduct to determine whether the writing describes conduct which, if true, would violate the Texas Disciplinary Rules of Professional Conduct. If the CDC determines that the writing does not allege misconduct and dismisses the grievance, the complainant can appeal that decision to BODA. TRDP, Part II.

BODA provides a one-page form in English and Spanish that CDC includes with the notice letter to complainants explaining that the grievance was dismissed. The complainant only has to sign the form and send it to BODA by email, regular mail, or fax within 30 days of his or her receipt of the notice.

BODA sends notice to the complainant and the attorney that an appeal was filed and requests a copy of the original grievance from the CDC and, if it is a second filing, the prior grievance. BODA considers only the information available to the CDC at screening and does not review additional information sent to CDC or BODA. If a complainant sends new information to BODA, the documents are returned and the complainant is informed that he or she may instead refile the grievance with the CDC to have the additional information considered.

If the attorney against whom a grievance is filed is disbarred, has resigned, or is deceased, BODA notifies the complainant that the disciplinary system no longer has jurisdiction.

Once BODA receives the original grievance from CDC, on average 16 days after the request, the grievance is assigned to a three-member panel for decision. The panel and a staff attorney discuss the grievance by telephone conference, on average 16 days after the original grievance is received from the CDC. Members vote to either affirm or grant the appeal (resulting in an upgrade of the writing from a grievance to a complaint). The granting of an appeal requires a finding that the complaint alleges one or more violations of a specific Texas Disciplinary Rule of Professional Conduct. During 2017–2018, BODA reversed approximately 9.5 percent of the appeals. BODA members can refer any appeal for consideration by the entire board en banc.

BODA notifies the complainant, the respondent attorney, and the CDC of its decision. If the appeal is granted, the notice includes the specific TRDPC alleged to have been violated and the complaint returns to the CDC for investigation as to just cause.

Once the dismissal is either affirmed or reversed, the appeal is complete and BODA closes its file.



# Disciplinary System Rule Changes

*Effective June 1, 2018*

The Texas Supreme Court promulgated changes to the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure effective June 1, 2018 to implement the statutory revisions passed as a result of the State Bar's mandatory Sunset Review process (Senate Bill 302 June 2017). More information about Sunset Review is available at [www.sunset.texas.gov](http://www.sunset.texas.gov). Significant changes include:

- A new rulemaking process with a new rules committee, clear timeframes, and opportunities for public input, while preserving the right for attorneys to vote to approve rules governing their conduct and discipline
- Requiring licensed attorneys to self-report criminal activity and discipline imposed by other states
- Reinstating the chief disciplinary counsel's subpoena power during the investigative phase of the attorney discipline process
- A standard process and criteria for conducting investigatory hearings to attempt earlier resolution for certain cases and avoid costly litigation when possible
- Expanding the use of the Grievance Referral Program
- Comprehensive sanction guidelines in the Texas Rules of Disciplinary Procedure to promote consistent statewide application of sanctions for similar types of misconduct
- An independent ombudsman's office under the direct authority of the Supreme Court to help people access the attorney discipline system and evaluate the effectiveness of the system overall
- A referral process to divert minor issues from the formal grievance system to the Client-Attorney Assistance Program
- Tracking and reporting detailed disciplinary case outcomes by the chief disciplinary counsel, including posting summary information to the State Bar website
- Requiring the Commission for Lawyer Discipline's annual report to include detailed information about cases relating to barratry, such as improper solicitation of clients
- Posting public information about individual disciplinary actions taken against attorneys on the State Bar's website

# Dispositions

June 1, 2017–May 31, 2018

## Compulsory Discipline

BODA has exclusive original jurisdiction to hear petitions for compulsory discipline filed by the State Bar of Texas Chief Disciplinary Counsel's Office on behalf of the Commission for Lawyer Discipline when an attorney has been convicted of, or placed on deferred adjudication for, an "Intentional Crime" as defined in TRDP 1.06T: that is, any Serious Crime that requires proof of knowledge or intent as an essential element or any crime involving misapplication of money or other property held as a fiduciary. Serious Crimes include barratry, any felony involving moral turpitude, any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other property, or any attempt, conspiracy or solicitation of another to commit any of these. TRDP, Part VIII.

If an attorney convicted of an Intentional Crime has been sentenced to prison, BODA must disbar the attorney. If the attorney's criminal sentence is fully probated, BODA has discretion to disbar the attorney or suspend for the term of the criminal probation. If an attorney convicted of an Intentional Crime has appealed the conviction and the appeal is pending at the time the Chief Disciplinary Counsel files the compulsory action, BODA will place the attorney on interlocutory suspension pending the outcome of the appeal. BODA retains jurisdiction to enter final judgment when the appeal of the conviction is final.

During the last fiscal year, BODA decided the following 10 petitions for compulsory discipline and motions for final judgment in compulsory cases. Additional case details are available at [txboda.org](http://txboda.org).

Erik James Burris, State Bar of Texas card 24061360, was found guilty of assault, rape, sexual assault, and sodomy and sentenced to 20 years in prison. He is suspended from the practice of law during the appeal of his criminal conviction. BODA case 59817.

Perry Cortese, State Bar of Texas card 00790508, was convicted of conspiracy to commit mail and wire fraud and was sentenced to 25 years in prison. He is suspended from the practice of law during the appeal of his criminal conviction. BODA case 59813.

L. Mikele Daniels, State Bar of Texas card 05374900, pled nolo contendere to misapplication/fiduciary/finan 20K- 100k, a third degree felony and was placed on community supervision for five years. Mr. Daniels was suspended from the practice of law pending the appeal of his criminal conviction. His conviction was affirmed. He is disbarred. BODA case 57321.

Randall R. Lyle, State Bar of Texas card 12719500, pled guilty to theft and was placed on community supervision for 10 years by an order of deferred adjudication. His probation was revoked and he was found guilty. The Supreme Court of Texas accepted Mr. Lyle's resignation in lieu of discipline. BODA case 59135.

Rahul Malhotra, State Bar of Texas card 00797781, pled guilty to making a false statement to the United States and was placed on community supervision for five years. He is suspended from the practice of law during the term of his probation. BODA case 59097.

Rodrigo Martinez Jr., State Bar of Texas card 13144200, was found guilty of theft and was sentenced to seven years in prison. He is disbarred. BODA case 56590.

Royal Mullins, State Bar of Texas card 14657750, was found guilty of murder and was sentenced to 60 years in prison. By agreement, Mr. Mullins was suspended from the practice of law pending



## Dispositions

June 1, 2017–May 31, 2018

the appeal of his criminal conviction. His conviction was affirmed. The Supreme Court of Texas accepted Mr. Mullins' resignation in lieu of discipline. BODA case 58339.

James N. Walker, State Bar of Texas card 20708600, was convicted of possession with the intent to deliver a controlled substance (heroin) and was placed on community supervision for five years by an order of deferred adjudication. He is disbarred. BODA case 59122.

Suzanne H. Wooten, State Bar of Texas card 00794881, was acquitted upon appeal of organized criminal activity, bribery, money laundering, and tampering with a governmental record to defraud or harm. The Board had signed an order of suspension for the term of her criminal probation. The order of suspension was terminated. BODA case 50489.

John S. Young, State Bar of Texas card 22197800, was sentenced to 730 days and 11 years in prison, to run concurrently, for forgery of a financial instrument and money laundering. By agreement, he is suspended from the practice of law pending the appeal of his criminal conviction. BODA case 59818.

## Reciprocal Discipline

BODA has exclusive original jurisdiction under TRDP, Part IX to hear petitions for reciprocal discipline filed by the State Bar of Texas Chief Disciplinary Counsel's Office on behalf of the Commission for Lawyer Discipline. Attorneys licensed in Texas and in another jurisdiction are subject to reciprocal discipline in Texas following a disciplinary sanction in the second jurisdiction.

During the last fiscal year, BODA decided the following 14 petitions for reciprocal discipline. Additional case details are available at [txboda.org](http://txboda.org).

### Arizona

Cynthia L. Best, State Bar of Texas card 24014755 was suspended from the practice of law for 60 days by the Supreme Court of the State of Arizona. She was found to have violated Ethics Rules of the State Bar of Arizona 3.1 (meritorious claims and contentions), 3.4(c) (fairness to opposing party and counsel), 4.4(a) (respect for the rights of others), and 8.4(d) (conduct prejudicial to the administration of justice). By agreement, Ms. Best was suspended from the practice of law in Texas for 60 days. BODA case 59479.

T. Anthony Guajardo, State Bar of Texas card 08561200 was disbarred by consent by the Supreme Court of the State of Arizona. He was found to have violated the Ethics Rules of the State Bar of Arizona in 14 separate complaints. Mr. Guajardo is disbarred in Texas. BODA case 58730.

### Colorado

Philip M. Kleinsmith, State Bar of Texas card 11567650 was disbarred by the Supreme Court of Colorado. He was found to have violated Colorado Rules of Professional Conduct by failing to deliver funds belonging to a third person and converting those funds to his own use. Mr. Kleinsmith is disbarred in Texas. BODA case 60098.

### Florida

Patricia Anne Horal, State Bar of Texas card 24067667 was suspended from the practice of law in Florida for 90 days by consent by the Supreme Court of Florida. She was found to have violated Rules Regulating the Florida Bar: responsibilities regarding non-lawyer assistants, professional independence of a lawyer, unlicensed practice of law, and direct contact with prospective clients. By agreement, Ms. Horal was suspended from the practice of law in Texas for 90 days. BODA case 60096.

## Dispositions

June 1, 2017–May 31, 2018

Juliann Kcenia Karenko, State Bar of Texas card 24058887 was suspended from the practice of law in Florida for 10 days by consent by the Supreme Court of Florida. She was found to have violated Rules Regulating the Florida Bar: competence, diligence, communication, expediting litigation, false statement of a material fact, failure to disclose a fact, and failure to respond to the bar. By agreement, Ms. Karenko is suspended from the practice of law in Texas for 10 days. BODA case 60097.

### Louisiana

Joseph M. Bruno, State Bar of Texas card 00788860 was suspended from the practice of law for 90 days with all but 30 days deferred by the Supreme Court of the State of Louisiana. He was found to have violated Louisiana Rules of Professional Conduct 1.3 (neglect) and 1.4 (communication). By agreement, he was suspended from the practice of law in Texas for 90 days with the first 30 days active and the remainder probated. BODA case 59816.

Richard Collins Dalton, State Bar of Texas card 24033539 was placed on suspension for six months, probated for two years, by agreement by the Supreme Court of the State of Louisiana. He was found to have violated Louisiana Rule of Professional Conduct 1.15 (trust account). By agreement, Mr. Dalton's Texas law license is suspended for six months, probated for two years, ending November 16, 2019. BODA case 59480.

### Michigan

Paul Anthony Carthew, State Bar of Texas card 00796315 was publicly reprimanded by the Attorney Discipline Board of the State of Michigan. He was found to have violated the Michigan Rules of Professional Conduct by violating an order of discipline, by practicing law while his license was suspended, and by engaging in conduct prejudicial to the administration of justice, that exposes the profession to obloquy, contempt, censure, or reproach and is contrary to justice, ethics, honesty, or good morals. By agreement, Mr. Carthew was publicly reprimanded in Texas. BODA case 60099.

James Michael O'Briant, State Bar of Texas card 00788875 was disbarred by the Attorney Discipline Board of the State of Michigan. He was found to have violated the Michigan Rules of Professional Conduct in six legal matters. The Supreme Court of Texas accepted Mr. O'Briant's resignation in lieu of discipline. BODA case 59134.

### Missouri

Richard Reed Fritz, State Bar of Texas card 00793760 was disbarred by default by the Supreme Court of Missouri. He was found to have violated Missouri Rules of Professional Conduct 4-1.3 (diligence), 4-1.4 (communication), 4-1.15(e) (failure to hold client property separate), 4-1.16 (failure to surrender property to the client), and 4-8.1(c) (failure to respond to a demand for information from the Office of Disciplinary Counsel). Although cited and noticed, he did not answer or appear. Mr. Fritz is disbarred in Texas. BODA case 57322.

### Oklahoma

David W. Knight, State Bar of Texas card 11597325, was suspended from the practice of law for two years and one day by the Supreme Court of the State of Oklahoma. He was found to have violated the Oklahoma Rules of Professional Conduct 1.16(a)(1) (declining or terminating representation), 3.3 (a)(1) (candor to the tribunal), 3.4(c) (fairness to opposing party and counsel),



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5.5 (unauthorized practice of law), 8.1(b) (bar admission and disciplinary matters). Although cited and noticed, he did not answer or appear. Mr. Knight is suspended from the practice of law in Texas for two years and one day. BODA case 58354.

### Oregon

James Matthew Monsebroten, State Bar of Texas card 24044180, was publicly reprimanded by the Supreme Court of the State of Oregon. He was found to have violated the Oregon Rules of Professional Conduct 1.4(a) (communication), 1.5(c)(3) (fee agreement), 1.15-1(a) (trust account) and 1.15-1(c) (failed to deposit unearned fee in trust account). By agreement, Mr. Monsebroten is publicly reprimanded in Texas. BODA case 59815.

### Tennessee

Robin Jeffrey Gordon, State Bar of Texas card 08206200, was publicly reprimanded by the Supreme Court of the State of Tennessee by consent. He was found to have violated the Tennessee Rules of Professional Conduct 1.3 (diligence), and 3.2 (expediting litigation). By agreement, Mr. Gordon is publicly reprimanded in Texas. BODA case 59478.

### Utah

Bryan Todd Adamson, State Bar of Texas card 24004522 was suspended from the practice of law for one year by the District Court in Washington County, Utah. He was found to have violated the Utah Rules of Professional Conduct 1.1 (competence), 1.15(d) (holding funds belonging to third parties), 1.16(d) (failure to protect a client's interest upon termination of representation), 1.2(a) (failure to abide by client's objectives), 1.4 (b) (communication), 1.5(a) (unreasonable fee). Although cited and noticed, he did not answer or appear. He is suspended from the practice of law in Texas for one year. BODA case 59098.

## Revocations of Probation

BODA has exclusive original jurisdiction for the full term of a probated suspension imposed by a State Bar grievance committee to hear petitions to revoke the probation filed by the Chief Disciplinary Counsel of the State Bar of Texas if the attorney violates a term or condition of probation. TRDP, Part II.

Staci Jennifer Strong, State Bar of Texas card 24037546, was suspended from the practice of law for 30 months, ending July 26, 2020, after she materially violated the terms and conditions of an agreed judgment of fully probated suspension. BODA case 59903.

Refugio Rafael Perez, State Bar of Texas card 24051893, was suspended from the practice of law for 18 months, ending April 17, 2019, after he materially violated the terms and conditions of an agreed judgment of fully probated suspension. BODA case 59610.

## Disability Suspensions

BODA has exclusive original jurisdiction to suspend indefinitely an attorney who is suffering from a disability: any physical, mental, or emotional condition, with or without a substantive rule violation, which results in the attorney's inability to practice law or otherwise carry out his or her professional responsibilities to clients, the courts, the profession, or the public. A specialized District Disability Committee appointed by BODA first holds a hearing to determine whether

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the attorney is disabled and certifies its finding to BODA. BODA has concurrent jurisdiction with district courts to hear petitions for reinstatement to terminate an indefinite disability suspension. TRDP, Part XII.

Gina Dawn Patterson, State Bar of Texas card 24013301, was reinstated to the practice of law after an indefinite disability suspension. BODA case 58517.

## Evidentiary Appeals

BODA has appellate jurisdiction to review a judgment by a State Bar of Texas District grievance committee evidentiary panel, including findings of professional misconduct, dismissal of a complaint, or sanction imposed. Either the Commission for Lawyer Discipline or an attorney against whom discipline has been imposed may appeal any judgment from an evidentiary proceeding. Appeals to BODA from evidentiary judgments proceed similarly to civil appeals with a notice of appeal, record, briefs, and oral argument. BODA may affirm in whole or in part, modify the judgment and affirm as modified, reverse the judgment in whole or in part and render the judgment it determines should have been entered, or reverse the judgment and remand the complaint for a new hearing. If oral argument is granted, the matter is heard en banc unless specially assigned to a three-member panel. TRDP, Part II.

Jay Steven Pearlman, State Bar of Texas card 15689950. Affirmed default judgment of disbarment signed by the District 5-1 grievance committee. The Board affirmed the findings of violations of TDRPC 1.03(a) (communication), 1.14(b) (safekeeping property), 1.15(d) (termination of representation), and 8.04(a)(3) (misconduct). BODA case 58334.

Christopher L. Graham, State Bar of Texas card 24047549. Affirmed judgment of public reprimand signed by the District 6-2 grievance committee for violations of TDRPC 1.15(d) (failed to return an unearned fee). Graham appealed to the Supreme Court of Texas and BODA's judgment was affirmed, case 17-0878. BODA case 58401.

Christopher L. Graham, State Bar of Texas card 24047549. Affirmed judgment of fully probated suspension signed by the District 6-1 grievance committee for violations of TDRPC 1.01(b)(1) (neglect), 1.03 (communication) and 1.15(d) (failure to return an unearned fee). Graham appealed to the Supreme Court of Texas and BODA's judgment was affirmed, case 17-0883. BODA case 58402.

Lloyd Eugene Ward, State Bar of Texas card 20845100. Affirmed a judgment of public reprimand signed by the District 6-2 grievance committee for violations of TDRPC 8.04(a)(3) (engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation). Ward appealed to the Supreme Court of Texas, case 18-0410, and the appeal is pending. BODA case 59519.

David A. Schiller, State Bar of Texas card 00794601. Reversed and remanded a judgment of disbarment signed by the District 1-2 grievance committee for rendition of an agreed judgment of four-year partially probated suspension. Schiller violated TDRPC 1.01(b)(1) (neglect) and 1.03(a) (communication). BODA case 58186.

Rosalind A. Kelly, State Bar of Texas card 11237580. On Kelly's motion, dismissed an appeal of a partially probated suspension signed by the District 6-3 grievance committee for violations of TDRPC 1.01(b)(1) (neglect). BODA case 59846.

Rosalind A. Kelly, State Bar of Texas card 11237580. On Kelly's motion, dismissed an appeal of a partially probated suspension signed by the District 6-3 grievance committee. BODA case 59732.



# THE BOARD of DISCIPLINARY APPEALS

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