



State Bar Board of Directors Meeting- Outgoing Board

Board of Directors

June 12, 2019

JW Marriott

Austin, TX 78701

Agenda
STATE BAR OF TEXAS
BOARD OF DIRECTORS
JW Marriott- Lone Star Ballroom D
110 E. 2nd Street
Austin, TX 78701
Wednesday, June 12, 2019 – 1:00pm

Individuals with disabilities are entitled to have access to and participate in this meeting. An individual requiring an accommodation for access to the meeting must notify the State Bar by informing Chelsey Barber at 1/800-204-2222 or 512/427-1463 (x1416) or RELAY Texas (1-800-735-2989), in writing 24 hours prior to the scheduled meeting of the necessity of an accommodation. Upon receipt of this request, the State Bar will furnish appropriate auxiliary aids and services when necessary to afford an individual with a disability an equal opportunity to participate in and enjoy the benefits of the board meeting as nondisabled individuals enjoy.

Outgoing/Incoming Boards, 2018-19 and 2019-20

- | | | |
|--|-----------------|---------------|
| 1. Call to Order | Laura Gibson | |
| 2. Roll Call | Trey Apffel | |
| 3. Invocation | Jeff Chandler | |
| 4. Pledge to the U.S. and Texas Flags | Chris Oddo | |
| 5. Remarks from the General Public*
<i>(Sign in sheet available for public comment)</i> | | |
| 6. Presentation of Presidential Citations | Joe K. Longley | |
| 7. Report from the Executive Director
Discussion: General Report | Trey Apffel | |
| 8. Report from Outside Counsel
Discussion: Background and update on Attorney General Opinion Request (RQ-0265-KP), <i>Fleck v. Wetch</i> , 585 U.S. __ (2018), <i>McDonald et al. v. Longley et al.</i> , 1:19-cv-00219, W.D. Tex. (2019), and other mandatory bar challenges | Tom Leatherbury | (Tab 1) |
| 9. Report from the Chair of the Board
A. Action: Consider, discuss, and approve Consent Agenda Items | Laura Gibson | (Consent Tab) |
| B. Discussion: | | |

SBOT MISSION

The mission of the State Bar of Texas is to support the administration of the legal system, assure all citizens equal access to justice, foster high standards of ethical conduct for lawyers, enable its members to better serve their clients and the public, educate the public about the rule of law and promote diversity in the administration of justice and the practice of law.

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- 1) General Report and Overview of the Bar Year
- 2) Presentation of Outstanding Third Year Director
- 3) Presentation of Public Member Award

10. **Report from the President**

Joe K. Longley

(Tab 2)

A. Discussion: General Report

B. Discussion: Closed Session as authorized by Texas Government Code Section 551.074 for the purpose of discussing the evaluation, duties, and compensation of the executive director

C. End of Closed Session/Return to Open Session

Action: Consider, discuss, and approve recommendations regarding compensation and duties of the executive director

11. **Report from the President-Elect**

Randy Sorrels

(Tab 3)

A. Discussion:

- 1) General Report
- 2) SBOT 2019-20 Budget
- 3) Courthouse Access Badge Task Force Update

B. Action: Consider, discuss, and approve appointments to the State Texas Board of Directors' Social Media Engagement Team

C. Action: Consider, discuss, and approve continued authority for the Ad Hoc Submission Committee and Litigation Subcommittee to make decisions regarding *McDonald et al. v. Longley et al.* and related matters, as needed

D. Action: Consider, discuss, and approve the creation of a work group on attorney succession planning issues and resources, to make recommendations to the State Bar Board for implementation

12. **Report from the Immediate Past President**

Tom Vick

A. Discussion: General Report

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13. **Executive Committee**
 - A. Nominations and Elections Subcommittee** Tom Vick/Rehan Alimohammad (Tab 4)
Discussion: General Report
 - B. Policy Manual Subcommittee** Estrella Escobar (Tab 5)
Action: Consider, discuss, and approve Policy Manual updates regarding Director Email Accounts; International Travel; Annual Meeting Resolutions; James E. Brill Award for Excellence in Succession Planning; and Disqualification of Officers or Directors from Being Present for or Participating in Discussions or Deliberations
14. **Commission for Lawyer Discipline/Chief Disciplinary Counsel Update** Noelle Reed/Seana Willing (Tab 6)
Discussion: General Report
15. **Audit and Finance Committee** Jarrod Foerster (Tab 7)
 - A. Discussion:**
 - 1) Financial Reports and General Review of Financial Statements
 - 2) Business Expense Reimbursement Policies and Procedures
 - B. Action:** Consider, discuss, and approve the Internal Audit Plan
16. **Discipline & Client Attorney Assistance**
 - A. DCAAP Subcommittee** Curtis Pritchard (Tab 8)
 - 1) **Discussion:** General Report
 - 2) **Action:** Consider and discuss approval of proposed amendments relating to Rules 1.02 (g) and 1.16 of the Texas Disciplinary Rules of Professional Conduct
 - B. Client Security Fund Subcommittee** Lisa Richardson
Discussion: General Report
17. **Administration Committee**
 - A. Administration Committee** Christy Amuny
Discussion: General Report
 - B. Performance Measures and Strategic Planning Subcommittee** Fidel Rodriguez (Tab 9)

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Action: Consider, discuss, and approve updates to State Bar of Texas Performance Measures

18. **Member Services and Education Committee**
- A. Insurance/Member Benefits Subcommittee** Greg Sampson (Tab 10)
- 1) **Discussion:** General Report
- 2) **Action:** Consider, discuss, and approve resolution to the Supreme Court of Texas requesting comments to the Texas Rules of Disciplinary Procedure regarding lawyer-designated custodian attorneys
- 3) **Action:** Consider, discuss, and approve recommendation to award the first James E. Brill Award for Excellence in Succession Planning to attorney James E. Brill
- B. Appeals-Grant Review Subcommittee** Chris Oddo
- Discussion:** General Report
- C. New Directors Orientation Subcommittee** Alison Colvin
- Discussion:** General Report
- D. Professional Development Subcommittee** Sarah Keathley
- Discussion:** General Report
- E. Technology Oversight Subcommittee** Brad Weber (Tab 11)
- Discussion:** General Report
19. **Public Services and Education Committee**
- A. Legislative Policy Subcommittee** Jeff Chandler
- Discussion:** General Report
- B. Affordable Legal Services Subcommittee** Nicole Voyles
- Discussion:** General Report
20. **Section Representatives to the Board Committee** Erich Birch
- Discussion:** Sections Update
21. **Texas Young Lawyer Association** Sally Pretorius
- Discussion:** General Report
22. **Discussion:** Liaison Reports

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A. Supreme Court Liaison

B. Court of Criminal Appeals Liaison

C. Federal Judicial Liaison

D. Judicial Section Liaison

Justice Debra Lehrmann

Judge Barbara Hervey

Judge Karen Gren Scholer

Judge Randy Clapp

23. **Discussion:** Report from the General Counsel

Ross Fischer

24. **Discussion:** Report from the Legal Counsel

John Sirman

A. **Closed Session** as authorized by Texas Government Code Section 551.071 for the purpose of consulting with legal counsel, including regarding pending or contemplated litigation ((*McDonald et al. v. Longley et al.*, 1:19-cv-00219, W.D. Tex. (2019); and *Rosalinda Solis v. Interra Sky 4801 Woodway, L.L.C* (No. 2019-18261 in the District Court of Harris County)); and Section 551.074 to deliberate regarding personnel matter(s)

B. End of Closed Session/Return to Open Session

C. **Action**, if needed, on items discussed in closed session

25. **For Information Only:** End of Year Reports
State Bar Committee and Section Reports

(Tab 12)

26. **Adjournment**

If, during the course of the meeting covered by this notice, the Board should determine that a closed session of the Board should be held or is required in relation to any item included in this notice, then such closed session as authorized by Texas Open Meetings Act (Tex. Govt. Code Ch. 551) will be held by the Board at that date, hour, and place given in this notice or as soon after the commencement of the meeting covered by this notice as the Board may conveniently meet in such closed session concerning any and all subjects and for any and all purposes permitted by Sections 551.071 – 551.084, inclusive, of the Texas Open Meetings Act.

Items on the agenda will not necessarily be discussed or considered in the order they are printed on the agenda above. Comments from the public may be taken throughout the Board meeting.

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**Consent Agenda
Board of Directors
Wednesday, June 12, 2019**

C1. APPROVAL OF MINUTES:

(Minutes Tab) Approval of minutes of Board meetings conducted on April 26, 2019

C2. ITEMS FROM THE 2019-20 PRESIDENT:

Approval of appointments to the following entities:

- A. Section Representatives to the Board Committee**, for three-year terms effective Annual Meeting 2019, through Annual Meeting 2022:

**Deborah L. Cordova (McAllen) Medium-Sized Section
Kathryn J. Murphy (Plano) Large-Sized Section**

For a one-year term effective Annual Meeting 2019 through Annual Meeting 2020:

**Emily Miller (Brownwood), Chair
Shelby Jean (Fort Worth), Vice-Chair**

- B. Texas Bar College**, for three-year terms effective June 1, 2019, through May 31, 2022:

**Arnold Aguilar (Brownsville)
Dylan Drummond (Dallas)
Sarah Dysart (San Antonio)
Hon. George C. Hanks Jr. (Galveston)
Roland K. Johnson (Fort Worth)
Laura Prather (Austin)
Hon. Steve Smith, Bryan**

- C. Texas Access to Justice Commission**, for three-year terms effective June 1, 2019, through May 31, 2022:

**Lisa Hobbs (Austin)
Richard LaVallo (Austin)**

- D. Texas Access to Justice Foundation**, for three-year terms effective September 1, 2019, through August 31, 2022:

**Kay Sim (Houston)
Terry Tottenham (Austin)**

- E. Texas Bar Foundation Board of Trustees**, Board Liaison, for a one year term effective June 1, 2019 through May 31, 2020:

James Woo (San Antonio)

- F. Texas Board of Legal Specialization**, for three-year terms effective July 1, 2019, through June 30, 2022:

**Frank Carroll (Dallas)
Amy Dashiell (Austin)
Grant Scheiner (Houston)
Brian Webb (Dallas)**

**Consent Agenda
Board of Directors
Wednesday, June 12, 2019**

G. Approval of appointments to the following standing committees (per State Bar Rules, Art. VIII, Section 1B):

for three-year terms effective on the adjournment of Annual Meeting 2019 through the adjournment of Annual Meeting 2022:

Administration of Rules of Evidence

Hon. Charles Michael Davis (Palestine)

Texas Bar Journal Board of Editors

Santos Vargas (San Antonio)

Diversity in the Profession

Chris Kirby (Austin)

Legal Services to the Poor in Civil Matters

Farha Ahmed (Sugarland)

Pattern Jury Charges-Oversight

Hon. Robert K. Shaffer (Houston)

Professionalism

Al Harrison (Houston)

Members Serving on Multiple Committees

Joey Gonzalez (San Antonio)

Al Harrison (Houston)

for a two year term effective June 1, 2019 through the adjournment of Annual Meeting 2021:

Continuing Legal Education

Scott Rothenberg (Houston)

For one-year terms effective on the adjournment of Annual Meeting 2019 through the adjournment of Annual meeting 2020:

Texas Bar Journal Editorial Board

Britney Harrison - TYLA President-elect (Dallas)

Jury Service

Vice Chair: Stephen Nagle (Austin)

Advisory Member: Kaci Singer (Austin)

C3. OTHER ITEMS:

A. Nominating Committee to Select ABA Delegates (*Chair Laura Gibson*)

Approval of appointment of SBOT delegates to the American Bar Association House of Delegates, for two-year terms expiring at the adjournment of the 2021 ABA Annual Meeting:

Victor Flores (Plano)

Larry P. McDougal (Richmond)

Jay E. Ray (Plano)

Randall O. Sorrels (Houston)

DRAFT
OFFICIAL MINUTES
STATE BAR OF TEXAS
BOARD OF DIRECTORS MEETING
Georgetown Sheraton Hotel- San Gabriel Ballroom E
1101 Woodlawn Ave.
Georgetown TX 78628
Friday, April 26, 2019 – 9:00am

The Board of Directors of the State Bar of Texas met in a regular session on April 26, 2019, at the Sheraton Hotel in Georgetown, TX. Chair Laura Gibson called the meeting to order at 9:00 a.m., and Executive Director Trey Apffel called the roll. A quorum of voting Board members was present. Director Greg Sampson delivered the invocation, and Director Curtis Pritchard led the pledges to the U.S. and Texas flags.

Present:

Board Members: Jerry Alexander, Immediate Past Chair Rehan Alimohammad, Jeff Allison, Christy Amuny, Jeff Chandler, Alison Colvin, Derek Cook, Rob Crain, Leslie Dippel, Michael Dokupil, Estrella Escobar, TYLA President-elect Victor Flores, Jarrod Foerster, Chair Laura Gibson, Charlie Ginn, Marc Gravely, August Harris, Angelica Hernandez, Wendy-Adele Humphrey, Sarah Keathley, Neil Kelly, David Kent, President Joe K. Longley, Aldo Lopez, Bob McKnight, Rudy Metayer, Steve Naylor, Chris Oddo, Amie Peace, TYLA President Sally Pretorius, Curtis Pritchard, TYLA Immediate Past President Baili Rhodes, Lisa Richardson, Fidel Rodriguez, Carmen Roe, Greg Sampson, Alan Sims, Dinesh Singhal, President-elect Randy Sorrels, Immediate Past President Tom Vick, Amy Welborn, and James Woo.

Liaisons*: Judge Randy Clapp, Judge Barbara Hervey, Justice Debra Lehrmann, and Judge Linda Thomas

Section Representatives*: Erich Birch, Judge Elizabeth Copeland, Shelby Jean, Matthew Kolodoski, and Emily Miller

Excused Absences: Wendy Burgower*, Alistair Dawson, Shari Goldsberry, Judge Karen Gren Scholer*, Nicole Voyles, Brad Weber, and James Wester (* denotes nonvoting)

CONSENT AGENDA ITEMS:

Upon motion properly made by Director Rudy Metayer and seconded by Director Dinesh Singhal, Consent Agenda item C3. B regarding Bar Foundation appointments was pulled for Board deliberation as part of the regular agenda. With the removal of item C3. B, the following actions were taken regarding the Consent Agenda items {CONSENT TAB}¹:

C1. APPROVAL OF MINUTES:

(Minutes Tab) a. Approval of minutes of Board meeting conducted on January 18, 2019

C2. ITEMS FROM THE PRESIDENT:

Approval of appointments to the following entities:

a. 2019-2020 Special Committee to Nominate ABA Delegates:

Laura Gibson, *Chair* (Houston)
Kim Askew (Dallas)
Chad Baruch (Dallas)
Hon. Jennifer Rymell (Fort Worth)
Laura Sharp (Austin)

b. Commission for Lawyer Discipline:

1) for one-year terms effective September 1, 2019, through August 31, 2020:

¹ Tabbed Materials are available at www.texasbar.com/bodmaterials.

Noelle Reed, *Chair* (Houston)
Gena Bunn, *Vice Chair* (Longview)

2) For three-year terms effective September 1, 2019, through August 31, 2022:

Monica A. Gonzalez (San Antonio)
Michael S. Truesdale (Austin)

c. **Law Focused Education, Inc.**, for two-year terms effective June 1, 2019, through May 31, 2021:

Hector Beltran (El Paso)
Sarah Cook (Rockwall)
Beverly Nolan (Houston)
Kathy Uhlich (Fort Worth)
Helen Pickle (Temple)

d. **Texas Center for Legal Ethics**, for three-year terms effective June 1, 2019, through May 31, 2022:

Pablo Almaguer (Edinburg)
Lucia Dura (El Paso)
Hon. Audrey Moorehead (Dallas)

e. **Texas RioGrande Legal Aid**, for a term ending December 31, 2020:

Cindy Polinard (McAllen)
Ronald B. Walker (Victoria)
Ricardo Lara (Brownsville)

f. **2019 Annual Meeting co-chairs**
Karen Burgess (Austin)
Cliff Gunter (Houston)

C3. ITEMS FROM THE PRESIDENT-ELECT:

(Yellow Tab A) a. **Approval of appointments:** State Bar committees, chairs, co-chairs, vice chairs, co- vice chairs, and members to serve during the year 2019-20 pursuant to State Bar Rules, Art. VIII, Section 1B

b. *[Pulled from consent and approved after discussion (see items D and U, below)]*

Texas Bar Foundation Board of Trustees

1) For three-year terms, effective June 1, 2019, through May 31, 2022:

Alexandra Farias (Houston)
Estrella Escobar, Public Member (El Paso)

C4. ITEMS FROM COMMITTEES AND SECTIONS/DIVISIONS:

(Yellow Tab B) a. Updated bylaws of the Workers' Compensation Section

C5. OTHER ITEMS

- (Yellow Tab C) a. **Approval of recipients for the pro bono and indigent defense awards to be presented at the Annual Meeting:**
- 1) Pro Bono Award:
Texas Lawyers for Texas Veterans – Tarrant County Chapter (Fort Worth)
 - 2) Frank J. Scurlock Award:
Amy Warr (Austin)
 - 3) The J. Chrys Dougherty Legal Services Award:
William Holston, Human Rights Initiative (Dallas)
 - 4) W. Frank Newton Award:
Hunton Andrews Kurth, LLP- Dallas Office
 - 5) Pro Bono Coordinator Award:
Stephen Rispoli, Baylor Law School & Waco-McLennan County Young Lawyers Association (Waco)
 - 6) Warren Burnett Award:
James G. McDermott, II (Alpine)
 - 7) Michael K. Moore Award for Excellence in Research or Writing in the Area of Indigent Criminal Defense:
Jani Maselli Wood (Houston)
 - 8) Pro Bono Support Staff Award:
Amber Haney (Austin)

- (Yellow Tab D) b. **Approval of recipient of the Nancy Garms Award:**
Bobbie Edmonds (Fort Worth)

- (Yellow Tab E) c. **Approval of recipient of the Hon. Leon Jaworski Award for Teaching Excellence:**
Dr. Cinthia Salinas (Austin)

- (Yellow Tab F) d. **Approval of resolutions honoring:**
Justice Cynthia ‘Cindy’ Olson Bourland
Edward J. Walsh III

e. 2019 Annual Meeting Resolutions Committee:

Officers:

Chair: *SBOT Immediate Past Chair of the Board*

Rehan Alimohammad (Sugar Land)

Vice-Chair: *TYLA Chair*

Aaron Burke (Dallas)

Secretary: *Local Bar Leaders Committee Chair*

Santos Vargas (San Antonio)

Parliamentarian: **Laura Gibson (Houston)**

Alternates:

Gloria Leal (Austin)

Rudolph Metayer (Austin)

Review Committee:

Rehan Alimohammad (Sugar Land)

Marc Gravely (San Antonio)

Dinesh Singhal (Houston)

I. REPORTS:

A. Remarks from the General Public:

Carlos Leon of Austin addressed the board regarding a dismissed grievance.

B. Presentations of Resolutions:

President Joe K. Longley presented a resolution to Justice Cindy Bourland.

C. Swearing-in of New Board Member:

Justice Debra Lehrmann swore in new public member, Jeffrey Allison of Houston.

D. Report from the Chair:

Chair Laura Gibson conducted the election of the 2019-2020 Chair of the Board. By written ballot, Jerry Alexander (Dallas) was elected.

Chair Gibson reported on her recent travels, board member outreach efforts, district director presentations, and the director's report email. {TAB 1}

Director Rudy Metayer made a motion, seconded by Jerry Alexander to consider, discuss, and approve referral to Policy Manual Subcommittee for consideration and drafting, policies regarding: the spokesperson for the State Bar, director email accounts, recusal of directors, and international travel. No discussion; motion carried.

President-elect Randy Sorrels asked for discussion on the item removed from the Consent Agenda. President-elect Sorrels motioned to approve the appointment of two members to the Texas Bar Foundation. Immediate Past President Tom Vick seconded. Discussion ensued. Motion carried.

E. Report from the Professional Development Subcommittee:

Director Sarah Keathley reported that the CLE Committee and the Board PDP Subcommittee would meet May 16 to discuss new topics for CLE programs and publications, finances, and operations. In 2018, the CLE Committee drafted a Joint Resolution with the Board PDP Sub-Committee urging recognition of the requirement of technical competency. After consideration by the Supreme Court Committee on Disciplinary Rules and Referenda, the Supreme Court of Texas amended the comment to Disciplinary Rule 1.01 to reflect that remaining proficient and competent in the practice of law includes knowledge of the benefits and risks associated with technology. Director Keathley reported that TexasBarCLE rolled out a new program called Flash CLE Silver, that the State Bar held a free CLE event for solo and small firm practitioners on March 27 in Texarkana, that the new editions of the Texas Civil Pattern Jury Charges covering business and oil and gas were released in January, and that TexasBarBooks has launched the Texas Probate System Online.

F. Report from the Executive Director:

Executive Director Trey Apffel reported on recent travels, meetings, and activities since the January 2019 meeting. Mr. Apffel gave an update on online dues payments and the NOVA program, and awarded the staff excellence awards to Emma Martin and Caitlin Bumford. Mr. Apffel updated the board on the Attorney General Opinion request, *Fleck v. Wetch*, and *McDonald et al. v. Longley et al.* {TAB 2}

G. Closed Session: At 10:17 am, the State Bar Board of Directors recessed the open meeting and reconvened in closed session pursuant to Texas Government Code Section 551.071 for the purpose of consulting with legal counsel on legal matters, including the travel request by Laws Relating to Immigration and Nationality Committee and regarding pending or contemplated litigation (*Patricia Baskette v. Prudential Insurance Company and State Bar of Texas Insurance Trust*, 5-18-cv-01150-OLG, W.D. Tex. (2018); *McDonald et al. v. Longley et al.*, 1:19-cv-00219, W.D. Tex. (2019); and *Rosalinda Solis v. Interra Sky 4801 Woodway, L.L.C* (No. 2019-18261 in the District Court of Harris County); and Section 551.074 to deliberate regarding personnel matter(s). With the exception of Board liaisons and section representatives, all other individuals including non-essential staff and other guests excused themselves from the closed session.

H. Open Session: At 11:14 am, the open session of the State Bar Board of Directors meeting reconvened. During the closed session, only matters relating to consultations with legal counsel concerning litigation were discussed. No action was taken in closed session.

I. Report from the President

President Joe K. Longley reported on his recent travels and activities. He gave an update on border issues, SBOT organizational charts, and at-large director selections. {TAB 3}

President Longley moved to approve the appointments of Andy Almanzán of El Paso and Luis Cardenas of Edinburg to serve as at-large directors on the State Bar Board of Directors, for three-year terms effective Annual Meeting 2019 and expiring Annual Meeting 2022. Director Fidel Rodriguez seconded. No discussion; motion carried.

J. Report from the President-elect:

President-elect Randy Sorrels reported that the public hearing on the State Bar's fiscal year 2019-2020 proposed budget was held on April 2 at the Texas Law Center. He related that the 2019-20 budget would be presented before the Supreme Court on May 13. {TAB 4}

On behalf of the Budget Committee, President-elect Sorrels made a motion for Board approval to present the State Bar's proposed fiscal year 2019-2020 budget to the Supreme Court of Texas. No discussion; motion carried.

President-elect Sorrels updated the board on the Courthouse Access Badge Task Force and the SBOT Board of Directors Social Media Engagement Team.

K. Section Representatives to the Board Committee:

Director Erich Birch reported that there are two new section representatives to the board: Deborah Cordova (McAllen) for the medium-sized sections and Kathryn Murphy (Plano) for the large-sized sections.

L. Report from the Immediate Past President:

Immediate Past President Tom Vick welcomed new public member Jeff Allison to the board.

M. Report from the Nominations and Elections Committee:

Immediate Past Chair Rehan Alimohammad reported on the current State Bar elections. Cezy Collins and Larry McDougal have been campaigning for president-elect. There are ten district directors whose terms will be ending at the 2019 annual meeting. There are four contested races and six uncontested races. He reported that paper and electronic ballots were distributed April 1 and that the election would conclude on April 30. Immediate Past Chair Alimohammad reported that the new Nominations and Elections Committee will begin its work on nominations for president-elect at the 2019 annual meeting. {TAB 5}

N. Report from the Policy Manual Subcommittee:

Director Estrella Escobar reported on current items that the subcommittee will be working on: director email accounts, a protocol for recusal of directors/officers, the spokesperson for the Bar, an international travel policy, and a new award for succession planning.

O. Report from the DCAAP Subcommittee:

Director Curtis Pritchard reported on the new process for how disciplinary rules and rules of disciplinary procedure are developed and implemented. The State Bar Act spells out this new process, and there are very specific timelines for how rules are passed and what is involved in the process. The Committee on Disciplinary Rules and Referenda (CDRR) is charged with making recommendations to the board. On January 10, the CDRR submitted its first rule proposals to the board that deal with amendments to the Texas Disciplinary Rules of Professional Conduct dealing with two issues: Clients with Diminished Capacity and the Confidentiality of Information when seeking ethics advice. The Discipline Client Attorney Assistance Program Committee voted unanimously to approve the proposals via teleconference on March 14. {TAB 6}

On behalf of the DCAAP Committee, Director Pritchard made a motion to approve the proposed amendments relating to deletion of rule 1.02(g) and new proposed rule 1.16 of the Texas Disciplinary Rules of Professional Conduct. Coming from a committee, no second was needed. No discussion; motion carried.

On behalf of the DCAAP Committee, Director Pritchard made a motion to approve the proposed amendments relating to new Rule 1.05(c)(9) of the Texas Disciplinary Rules of Professional Conduct. Coming from a committee, no second was needed. No discussion; motion carried.

On behalf of the DCAAP Committee, Director Pritchard made a motion that the Board hold the rule proposals just approved for submission to the Supreme Court at a later date as a bundle with other proposed rules, as deemed appropriate by the board. Coming from a committee, no second was needed. No discussion; motion carried.

P. Client Security Fund Subcommittee:

Director Lisa Richardson reported that the subcommittee met on Thursday, April 25, and reviewed 58 cases, for a total disbursement of \$96,890.00. The total paid out through the fund for the year is \$650,146.

Q. Audit & Finance Committee:

Director Jarrod Foerster reported that as of February 28 2019, the General Fund actual net revenues over expenditures, transfers, and board commitments totaled approximately \$1.8 million. PFM Asset Management LLC has been the State Bar's Investment Manager since June 1, 2006. Director Foerster reported that PFM's current contract ends May 31, 2019. He also gave an update on the quarterly investment report and Darlene Brown of McConnell & Jones, LLP presented the results of the internal audit. {TAB 7}

On behalf of the Audit & Finance Committee, Director Foerster made a motion to approve a one-year extension of the PFM Asset Management Contract through May 31, 2020. Coming from a committee, no second was needed. No discussion; motion carried.

On behalf of the Audit & Finance Committee, Director Foerster made a motion to accept the February 28, 2019, Quarterly Investment Report. Coming from a committee, no second was needed. No discussion; motion carried.

On behalf of the Audit & Finance Committee, Director Foerster made a motion to accept the Internal Audit Reports from McConnell & Jones for the Fiscal Year ended May 31, 2018. Coming from a committee, no second was needed. No discussion; motion carried.

R. Report from the Legislative Policy Subcommittee: No report.

S. Report from the Affordable Legal Services Subcommittee: No report.

T. Report from Insurance Member Benefits Subcommittee:

Director Greg Sampson gave an update on the Texas Bar Private Insurance Exchange and non-insurance member benefits. He reported that the subcommittee has been working on a succession planning project.

{Chair Gibson recessed the board at 12:21 pm for approximately 30min.}

U. Director Michael Dokupil made a motion to reconsider from the consent agenda item C.3 B - the approval of two candidates to the Texas Bar Foundation. Seconded by Director Dinesh Singhal. Discussion ensued. The motion for reconsideration failed.

V. Report from the Commission for Lawyer Discipline/Chief Disciplinary Counsel:

John Neil introduced the new Chief Disciplinary Counsel, Seana Willing. Seana reminded the board of the June 2 deadline for grievance committee appointment recommendations. {TAB 9}

W. Report from the Administration Committee: No report.

X. Report from the Performance Measures and Strategic Planning Subcommittee:

Director Fidel Rodriguez reported that the subcommittee will have updated performance measures for consideration at the June meeting.

Y. Report from the Appeals Grant Subcommittee:

Director Chris Oddo reported that the Appeals/Grants Review Subcommittee received a request for authorization to seek outside funding from the State Bar Litigation Section. The request was submitted by the Law Focused Education, Inc. board, which sought authorization to request a grant for the project, "What Do Attorneys Do?" He reported that the subcommittee unanimously approved the request to seek funding from the State Bar Litigation Section for this project. {TAB 9}

Z. Report from the New Directors Orientation Subcommittee:

Director Alison Colvin reported that the subcommittee held a teleconference on April 10 to plan orientation for new board members.

AA. Report from the Court of Criminal Appeals:

Judge Barbara Hervey reported that Judge Bert Richardson will be her replacement. She provided updates on the Judicial Commission on Mental Health. The Court of Criminal Appeals has received \$23 million per biennium in funding for the education of judges, the defense bar, and prosecutors. Judge Hervey reported that she spoke at the Texas Police Chiefs Association annual conference. She will be working with the State Bar on producing a video for law enforcement to educate them on what to do when they encounter someone with a mental health issue. Judge Hervey reported that she will be attending the National Alliance on Mental Health Summit in Seattle.

BB. Report from the Texas Bar Foundation:

Shannon Dacus provided an overview on what services and funding the Texas Bar Foundation provides in the form of grants.

CC. Texas Young Lawyers Association:

TYLA President Sally Pretorius reported on various TYLA projects and activities, including: a presentation at the ABA YLD Mountain West States Regional Summit; an ABA YLD presentation by Victor Flores, speaking on "Men of Color"; Proud to be an American week; a diversity and Shero event in partnership with Changemaker Chats at Maggie Louise on alternative life choices instead of being a lawyer; Bookshelves in Courtrooms; and Compassion Fatigue.

DD. Report from the Supreme Court:

Justice Debra Lehrmann reported on the new Justice Brett Busby, that Justice Jeff Brown was nominated to the Federal Court in Galveston, and gave an update on the implementation of the unified bar exam.

EE. Federal Judicial Liaison:

Chair Laura Gibson gave an update on behalf of Judge Karen Gren Scholer. Chair Gibson reported on recent confirmations and recent nominations, nominees still waiting for confirmation, and the fact that there is an open bench with no nominee in Houston.

FF. Judicial Section Liaison:

Judge Randy Clapp gave an update on the judicial pay raise and related that HB 2384 will be on the floor Monday, April 29.

GG. Report from the Out-of-State Lawyer Liaison:

Judge Linda Thomas thanked Lowell Brown for his efforts on the annual report that is sent out to all of the out-of-state lawyers.

Director Charlie Ginn moved for adjournment and Director Chris Oddo seconded. There being no further business, the meeting was adjourned at 1:59 pm.

Timeline of *McDonald* Litigation

• March 6	Plaintiffs filed complaint
• March 25	Plaintiffs filed motion for preliminary injunction and motion for partial summary judgment on liability
• April 25 – May 17	<p>Amicus briefs filed in support of Plaintiffs:</p> <ul style="list-style-type: none"> • Texas Attorney General Ken Paxton • Goldwater Institute <p>Amicus briefs filed in support of the State Bar:</p> <ul style="list-style-type: none"> • Texas Legal Ethics Counsel • Former Presidents of the State Bar of Texas, Former Chairs of the Texas Bar College, and Former Chairs of the State Bar of Texas Council of Chairs • Texas Access to Justice Commission
• May 13	State Bar filed responsive briefs, cross-motion for summary judgment, and motion to dismiss for lack of subject-matter jurisdiction
• May 23	Status conference held; Court scheduled summary-judgment merits hearing for August 1. Plaintiffs agreed to pay their 2019-2020 State Bar dues.
• May 31	Plaintiffs filed responses and replies. Plaintiffs amended the complaint in response to the State Bar's motion to dismiss, and added the Chief Disciplinary Counsel of the State Bar and the members of the State Bar Commission for Lawyer Discipline as defendants to the case.
• June 4	Court dismissed without prejudice the State Bar's motion to dismiss
• June 18	State Bar will file reply in support of cross-motion for summary judgment
• August 1	Summary-judgment merits hearing scheduled

State Bar Arguments on Cross-Motion for Summary Judgment

Count I

The State Bar argues that Plaintiffs' facial challenge to membership in the State Bar is clearly foreclosed by binding Supreme Court precedent in *Keller* and *Lathrop*.

Count II

The State Bar argues that Plaintiffs' challenge to specific State Bar expenditures fails because all of the State Bar's expenditures are consistent with *Keller* as they relate to regulating the legal profession and improving the quality of legal services.

Count III

The State Bar argues that Plaintiffs' challenge to the State Bar's procedures for providing members with a refund for expenditures with which they disagree fails because all of the State Bar's expenditures are germane under *Keller*.

Related Lawsuits Against State Bars

Eighth Circuit <i>Fleck v. Wetch</i> (North Dakota Bar)	<ul style="list-style-type: none"> • April 2019 – Amicus briefs filed in support of the State Bar of North Dakota: <ul style="list-style-type: none"> • Chuck Herring for Texas Legal Ethics Counsel; State Bar of California; joint brief of several integrated state bars (Alaska, Michigan, etc.); Missouri Bar • April 18 – Appellant filed his reply brief • June 13 – Oral argument set
Oregon <i>Gruber v. Oregon State Bar</i> <i>Crowe v. Oregon State Bar</i>	<ul style="list-style-type: none"> • April 1, 2019 – Magistrate judge issued findings and recommendation. Magistrate judge recommended dismissal of the suits and rejected many of the same claims and legal arguments that the <i>McDonald</i> Plaintiffs assert • May 24 – District court adopted the magistrate judge's findings and dismissed both cases • May 29-30 – Plaintiffs in both cases filed a notice of appeal to the Ninth Circuit. <i>Crowe</i> lawsuit sponsored by Goldwater Institute, the same organization that is sponsoring <i>Fleck</i>
Oklahoma <i>Schell v. Gurich</i> (Oklahoma Bar)	<ul style="list-style-type: none"> • March 26, 2019 – Complaint filed; lawsuit sponsored by Goldwater Institute • April 24 – Defendant filed motion to dismiss under 12(b)(1) and 12(b)(6) • May 15 – Plaintiffs amended the complaint to add justices of the Oklahoma Supreme Court and members of the Bar Board of Governors • May 21 – Judge Friot recused himself and Judge Heaton is now presiding over the case
Wisconsin <i>Jarchow v. State Bar of Wisconsin</i>	<ul style="list-style-type: none"> • April 8, 2019 – Complaint filed • May 21 – Defendants filed a motion to dismiss under 12(b)(1) and 12(b)(6), and a motion to stay the proceedings pending a resolution in <i>Fleck v. Wetch</i> (as an alternative to dismissal)

**Consent Agenda
Board of Directors
Wednesday, June 12, 2019**

C1. APPROVAL OF MINUTES:

(Minutes Tab) Approval of minutes of Board meetings conducted on April 26, 2019

C2. ITEMS FROM THE 2019-20 PRESIDENT:

Approval of appointments to the following entities:

- A. Section Representatives to the Board Committee**, for three-year terms effective Annual Meeting 2019, through Annual Meeting 2022:

**Deborah L. Cordova (McAllen) Medium-Sized Section
Kathryn J. Murphy (Plano) Large-Sized Section**

For a one-year term effective Annual Meeting 2019 through Annual Meeting 2020:

**Emily Miller (Brownwood), Chair
Shelby Jean (Fort Worth), Vice-Chair**

- B. Texas Bar College**, for three-year terms effective June 1, 2019, through May 31, 2022:

**Arnold Aguilar (Brownsville)
Dylan Drummond (Dallas)
Sarah Dysart (San Antonio)
Hon. George C. Hanks Jr. (Galveston)
Roland K. Johnson (Fort Worth)
Laura Prather (Austin)
Hon. Steve Smith, Bryan**

- C. Texas Access to Justice Commission**, for three-year terms effective June 1, 2019, through May 31, 2022:

**Lisa Hobbs (Austin)
Richard LaVallo (Austin)**

- D. Texas Access to Justice Foundation**, for three-year terms effective September 1, 2019, through August 31, 2022:

**Kay Sim (Houston)
Terry Tottenham (Austin)**

- E. Texas Bar Foundation Board of Trustees**, Board Liaison, for a one year term effective June 1, 2019 through May 31, 2020:

James Woo (San Antonio)

- F. Texas Board of Legal Specialization**, for three-year terms effective July 1, 2019, through June 30, 2022:

**Frank Carroll (Dallas)
Amy Dashiell (Austin)
Grant Scheiner (Houston)
Brian Webb (Dallas)**

**Consent Agenda
Board of Directors
Wednesday, June 12, 2019**

G. Approval of appointments to the following standing committees (per State Bar Rules, Art. VIII, Section 1B):

for three-year terms effective on the adjournment of Annual Meeting 2019 through the adjournment of Annual Meeting 2022:

Administration of Rules of Evidence

Hon. Charles Michael Davis (Palestine)

Texas Bar Journal Board of Editors

Santos Vargas (San Antonio)

Diversity in the Profession

Chris Kirby (Austin)

Legal Services to the Poor in Civil Matters

Farha Ahmed (Sugarland)

Pattern Jury Charges-Oversight

Hon. Robert K. Shaffer (Houston)

Professionalism

Al Harrison (Houston)

Members Serving on Multiple Committees

Joey Gonzalez (San Antonio)

Al Harrison (Houston)

for a two year term effective June 1, 2019 through the adjournment of Annual Meeting 2021:

Continuing Legal Education

Scott Rothenberg (Houston)

For one-year terms effective on the adjournment of Annual Meeting 2019 through the adjournment of Annual meeting 2020:

Texas Bar Journal Editorial Board

Britney Harrison - TYLA President-elect (Dallas)

Jury Service

Vice Chair: Stephen Nagle (Austin)

Advisory Member: Kaci Singer (Austin)

C3. OTHER ITEMS:

A. Nominating Committee to Select ABA Delegates (*Chair Laura Gibson*)

Approval of appointment of SBOT delegates to the American Bar Association House of Delegates, for two-year terms expiring at the adjournment of the 2021 ABA Annual Meeting:

Victor Flores (Plano)

Larry P. McDougal (Richmond)

Jay E. Ray (Plano)

Randall O. Sorrels (Houston)

OTHER STATE BARS' POLICIES REGARDING RECUSAL

From Florida State Bar's Standing Board Policies:

1.80 GENERAL RECUSAL POLICY Board members may not participate in a board matter and must recuse themselves if the members' participation in the matter may bring into question the integrity of board proceedings. A board member must disclose any fact or circumstances the member is aware of that may bring into question bias or prejudice of any board member when considering any bar matter at or before the beginning of discussion on the matter, regardless of the board member's intent to recuse. The person presiding over proceedings in which recusal is an issue may order the recusal of any board member involved in the matter with the concurrence of a majority of the members present. A recused board member may not discuss the matter at issue with any board member or group of board members and may not debate or vote on the matter. A recused member may not be present if the matter is being discussed, debated or voted on in executive session. A board member should never be recused merely to avoid participation in a matter. This recusal policy does not create or defeat any substantive rights of individuals associated with any board action.

From Washington State Bar Association Bylaws

Executive session of the BOG may proceed with no persons present except the President, President-elect, Immediate Past President, Governors, Executive Director, General Counsel, and such other persons as the BOG may authorize. An individual may be recused from executive session for conflict of interest or other reasons at the person's request or by a majority vote of the BOG. The President will publicly announce the purpose for meeting in executive session and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the President.

DRAFT PREPARED AT THE REQUEST OF THE POLICY MANUAL SUBCOMMITTEE
(Version 1)

New Policy Manual section:

1.25 Recusal

Board members may not participate in any board matter and must recuse themselves if the members' participation may bring into question the integrity of board proceedings. A board member must disclose any fact or circumstances the member is aware of that may bring into question bias or prejudice of any board member when considering any bar matter at or before the beginning of discussion on the matter, regardless of the board member's intent to recuse. The person presiding over proceedings in which recusal is an issue may order the recusal of any board member involved in the matter with the concurrence of a majority of the members present. A recused board member may not debate or vote on the matter. A recused board member may not be present if the matter is being discussed in an executive session. A board member should never be recused solely to avoid the board member's participation in a matter.

RRO RE REFRAINING FROM VOTING

Article VIII. Section 46 Voting

It is a general rule that no one can vote on a question in which he has a direct personal or pecuniary interest. Yet this does not prevent a member from voting for himself for any office or other position, as voting for a delegate or for a member of a committee; nor from voting when other members are included with him in the motion, even though he has a personal or pecuniary interest in the result, as voting on charges preferred against more than one person at a time, or on a resolution to increase the salaries of all the members.

RRO does not address recusal.

Joe Longley

From: John Sirman <John.Sirman@TEXASBAR.COM>
Sent: Friday, May 24, 2019 12:51 PM
To: Ross Fischer
Cc: 'Estrella Escobar'; Joe Longley; Randy Sorrels; Gibson, Laura; Tom Vick; 'Jerry Alexander'; Trey Apffel; Don Jones; Lona Chastain
Subject: conflicts of interest policy - attorney-client privileged communication
Attachments: 2019-05-22 PM Subcte - Agenda.docx

Ross,

As you, Trey, Don, and I discussed today, the Policy Manual Subcommittee decided to seek your guidance on the creation of a conflicts of interest policy for the Board to address both items 4, "recusal of directors" and 7, "conflicts of interest" on the May 22 agenda.

The policy would encompass disclosure of actual or potential conflicts and address procedures for recusal/abstention and possible limitations on participation in discussions or receipt of privileged information. The subcommittee agreed that both adverse interests and personal interests such as family or business interests should be addressed.

There was a consensus that any policy will need to be tightly written and narrowly tailored, and should not present an obstacle to Bar business (such as presidential appointments) or be used to quell dissenting views.

As required by your engagement letter, Joe K. Longley, Randy Sorrels, and Estrella Escobar, agreed to this assignment.

Chair Gibson expressed a hope that we could get your input in time for the June 12 meeting. We'll work with you to collect any information you need.

Thanks and best regards,

John

John Sirman
Associate Executive Director and Legal Counsel
State Bar of Texas
office (512)427-1711
mobile (512)825-7678
john.sirman@texasbar.com

This message and all attachments are confidential and may be protected by the attorney-client or other privileges. Any unauthorized review, use, disclosure or distribution is prohibited. If you believe this message has been sent to you in error, please notify the sender by replying to this transmission and delete the message without disclosing it.

Many written communications, including emails, to or from the State Bar of Texas regarding Bar business may be public information and therefore subject to public disclosure.

POLICY MANUAL SUBCOMMITTEE TELECONFERENCE AGENDA

May 22, 2019

3:00 pm

Call-in # 800.393.0640

Pass code: 971344

For Discussion and Possible Recommendation

1. Email account requirement for directors
2. New policy on Annual Meeting resolutions
3. New policy on international travel
4. New policy on recusal of directors
5. State Bar Spokesperson policy
6. Conflicts of interest policy
7. New award for succession planning efforts in honor of James E. Brill



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 20, 2005

The Honorable Troy Fraser
Chair, Committee on Business and Commerce
Texas State Senate
Post Office Box 12068
Austin, Texas 78711-2068

Opinion No. GA-0334

Re: Application of conflict of interest law and the
Open Meetings Act to the governing board of a
groundwater conservation district (RQ-0304-GA)

Dear Senator Fraser:

You request a legal opinion on the following issues:

- (1) conflicts of interest involving the members of a groundwater conservation district board;
- (2) the meaning of "contemplated litigation" within Government Code section 551.071(1)(A); and
- (3) the exclusion of a board member who has threatened to sue the groundwater conservation district from a district executive session meeting to discuss the threat of litigation.¹

You ask several questions in connection with each issue. Some of these involve questions of fact that cannot be resolved in an attorney general opinion. *See, e.g.,* Tex. Att'y Gen. Op. Nos. GA-0139 (2004) at 5, JC-0328 (2000) at 4, O-2911 (1940) at 2. We will address the other questions in relation to the applicable topic.

I. Background

You are specifically concerned about the Clearwater Underground Water Conservation District (the "GCD" or "district").² The district, which has common boundaries with Bell County, was created under Texas Constitution article XVI, section 59 pursuant to special law and is subject

¹Letter from Honorable Troy Fraser, Chair, Senate Business and Commerce Committee, to Honorable Greg Abbott, Texas Attorney General (Dec. 21, 2004) (on file with Opinion Committee, *also available at* <http://www.oag.state.tx.us>) [hereinafter Request Letter].

²Telephone Conversation with Daniel Womack, Legislative Assistant to Senator Fraser (Mar. 4, 2005) [hereinafter Telephone Conversation with Daniel Womack].

to Water Code chapter 36. *See* Act of May 27, 1989, 71st Leg., R.S., ch. 524, §§ 1, 3, 6(a), 1989 Tex. Gen. Laws 1728, 1729, *amended by* Act of Apr. 25, 2001, 77th Leg., R.S., ch. 22, 2001 Tex. Gen. Laws 32, 32-34 (relating to the election of district directors). *See also* TEX. WATER CODE ANN. § 36.001(1) (Vernon Supp. 2004-05). Four of the district's five directors are elected according to county commissioner precincts, and the other director is elected at large. *See* Act of Apr. 25, 2001, 77th Leg., R.S., ch. 22, § 1, 2001 Tex. Gen. Laws 32-33. The directors serve four-year terms. *See id.* at 33.

You summarize the events that caused the district to raise these issues. *See* Request Letter, *supra* note 1, at 1-2. You state that the general manager of a nonprofit water supply corporation ("WSC" or "corporation") served on the district's board of directors (the "board") at a time when the water supply corporation applied to the district for a groundwater well permit. *See id.* The district scheduled a permit hearing pursuant to chapter 36 of the Water Code and required the board member who was also general manager of the corporation ("director/general manager") to fill out an affidavit stating his interest in the corporation pursuant to Local Government Code section 171.004. *See id.* at 2.

Local Government Code chapter 171, which regulates conflicts of interest involving local public officers, applies to the district's directors. *See* TEX. WATER CODE ANN. § 36.058 (Vernon 2000) (director of district is subject to Local Government Code chapter 171); *see also* TEX. LOC. GOV'T CODE ANN. ch. 171 (Vernon 1999 & Supp. 2004-05). Section 171.004 sets out the duty of a local public officer who has a substantial interest in a business entity or in real property:

(a) If a local public official has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

(1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

Id. § 171.004(a) (Vernon 1999). *See also id.* § 171.002 (defining "substantial interest" in a business entity or real property).

Pursuant to chapter 171, a board member with a substantial interest in a business entity shall disclose his interest prior to a vote or decision on any matter involving the entity and "shall abstain

from further participation in the matter if . . . the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public.” *Id.* § 171.004(a)(1). A knowing violation of section 171.004 is a Class A misdemeanor. *See id.* § 171.003(b).

A person has a substantial interest in a business entity if “funds received by the person from the business entity exceed 10 percent of the person’s gross income for the previous year.” *Id.* § 171.002(a)(2). *See also* Tex. Att’y Gen. Op. Nos. GA-0068 (2003) at 3-4, JM-424 (1986) at 2 (a nonprofit corporation is a business entity within chapter 171). Thus, if the district board member’s salary as general manager of the nonprofit water supply corporation exceeded ten percent of his gross income for the previous year, he had a substantial interest in the corporation. Presumably, the director/general manager did have the requisite interest in the water supply corporation because, as you inform us, he filed the affidavit stating the nature and extent of his interest in the water supply corporation as required by Local Government Code section 171.004. *See* Request Letter, *supra* note 1, at 2.

You state as follows:

After completing the required affidavit, the affected board member made comments to the other GCD board members and the staff of the GCD that his employer, the WSC, expected the GCD to grant the WSC a permit that authorized a specific amount of groundwater production The affected board member also stated that the WSC intended to file suit against the GCD if the WSC was not granted a well permit with the authorized groundwater production amounts it desired.

Id.

You further state that the district board of directors called an executive session as authorized by the Texas Open Meetings Act, *see* TEX. GOV’T CODE ANN. ch. 551 (Vernon 2004), *id.* § 551.071, “to discuss the threat made by the WSC to file suit against the GCD.” Request Letter, *supra* note 1, at 2. “The affected board member informed the other GCD board members and the GCD staff that he intended to attend the executive session in which his employer’s threat to file suit and the affected board member’s conflict of interest would be discussed.”³ *Id.* The board’s concern about the affected board member’s attending the executive session caused it to raise the questions at issue here. *See id.*

³The affected board member did not attend the executive session to discuss the threatened litigation, nor had the WSC filed any litigation against the district as of March 4, 2005. *See* Telephone Conversation with Daniel Womack, *supra* note 2.

II. Meaning of "Further Participation" in a Matter

We turn to your first inquiry. Section 171.004 prohibits an interested official from "further participation" in a matter before the governmental body involving his business entity or real property if board action on the matter will have a special economic effect on the business entity or value of the real property. *See* TEX. LOC. GOV'T CODE ANN. § 171.004(a) (Vernon 1999). You ask us to define the phrase "further participation" as used in section 171.004(a).

Chapter 171 does not define "participation," but this office has defined the terms "participates" and "participation" in former article 988b, Revised Civil Statutes,⁴ the predecessor of Local Government Code chapter 171.⁵ *See* Tex. Att'y Gen. Op. No. JM-379 (1985). Former article 988b, section 3 provided that a local public official commits an offense if he knowingly

participates in a vote or decision on a matter involving a business entity in which the local public official has a substantial interest

Act of May 30, 1983, 68th Leg., R.S., ch. 640, § 3, 1983 Tex. Gen. Laws 4079, 4080 (emphasis added). *See* TEX. LOC. GOV'T CODE ANN. § 171.003(a)(1) (Vernon 1999) (violation of section 171.004 is a prohibited act). Former article 988b, section 4 provided that if a local public official had "a substantial interest in a business entity that would be peculiarly affected by any official action taken by the governing body" the official "before a vote or decision on the matter, shall file an affidavit . . . and shall abstain from further participation in the matter." Act of May 30, 1983, 68th Leg., R.S., ch. 640, § 4, 1983 Tex. Gen. Laws 4079, 4080-81 (emphasis added). *See* TEX. LOC. GOV'T CODE ANN. § 171.004 (Vernon 1999) (Affidavit and Abstention From Voting Required).

Attorney General Opinion JM-379 considered the application of article 988b to a school trustee who owned a substantial interest in a bank that was suing the school district over the property tax valuation of its stock. The interested trustee abstained from voting for or against any matter pertaining to the litigation but discussed the litigation with members of the board of trustees. *See* Tex. Att'y Gen. Op. No. JM-379 (1985) at 1. This office determined that the interested trustee's discussions with other board members constituted "participation in the matter" within former article 988b, section 4 and concluded that "participation 'in a vote or decision' . . . [within former article 988b] includes deliberating with the board about the matter." *See id.* at 4-5. If the interested trustee were able to discuss the matter with the other board members, he could influence the board's final action. *See id.* at 5.

You ask what "objective activities or conduct" may be considered "further participation in," as that phrase is used in section 171.004(a). Request Letter, *supra* note 1, at 3. We cannot

⁴Act of May 30, 1983, 68th Leg., R.S., ch. 640, §§ 1-8, 1983 Tex. Gen. Laws 4079, 4079-82 (adopting article 988b, Revised Civil Statutes).

⁵*See* Act of May 1, 1987, 70th Leg., R.S., ch. 149, §§ 1, 49, 1987 Tex. Gen. Laws 707, 949-950, 1306 (repealing former article 988b, Revised Civil Statutes and reenacting it as chapter 171 of the Local Government Code); *see also* Act of Feb. 21, 1989, 71st Leg., R.S., ch. 1, §§ 40-41, 1989 Tex. Gen. Laws 1, 45-47 (act conforming Local Government Code to certain acts of the 70th Legislature).

exhaustively describe all conduct that may constitute “further participation.” We point out, however, that board members must in any case avoid deliberating by exchanging written communications or communicating through a third party. *See generally* Tex. Att’y Gen. Op. No. JC-0307 (2000) at 5-6.

You also ask whether an affected board member’s attendance at an executive session of the governmental body constitutes “further participation in the matter” if the executive session is called (1) to discuss possible litigation contemplated by the affected board member or his employer, or (2) to discuss the board member’s conflict of interest. *See* Request Letter, *supra* note 1, at 3. Chapter 171 does not answer this question, and neither the courts nor this office has considered whether “further participation in the matter” also includes attending an executive session called to discuss a matter in which a board member has a substantial interest.⁶

The language you ask us to construe helps define a penal offense. “A local public official commits an offense if the official knowingly . . . violates Section 171.004,” which requires an interested official to “abstain from further participation in the matter” under specified circumstances. *See* TEX. LOC. GOV’T CODE ANN. §§ 171.003(a)(1), .004(a) (Vernon 1999). The offense is a Class A misdemeanor. *See id.* § 171.003(b).

Due process requires that criminal statutes give fair notice of activity that is outlawed. *See U.S. v. Lanier*, 520 U.S. 259, 266 (1997). A criminal statute must give persons of ordinary intelligence a reasonable opportunity to know what conduct is prohibited. *See id.*; *Margraves v. State*, 34 S.W.3d 912, 920 (Tex. Crim. App. 2000). Moreover, “[p]enal statutes are still strictly construed.” *Brown v. De La Cruz*, 156 S.W.3d 560, 565 (Tex. 2004); *First Bank v. Tony’s Tortilla Factory, Inc.*, 877 S.W.2d 285, 287 (Tex. 1994). In “construing a criminal statute, we seek to effectuate the intent of the Legislature, focusing on the statute’s literal text, and we attempt to discern the fair, objective meaning of that text.” *Fallin v. State*, 93 S.W.3d 394, 395-96 (Tex. App.—Houston [14th Dist.] 2002, pet. ref’d) (quoting *Boykin v. State*, 818 S.W.2d 782, 785 (Tex. Crim. App. 1991)). If the language of a criminal statute is not plain a court may consider, in arriving at a sensible interpretation, extratextual factors such as executive or administrative interpretations of the statute or legislative history. *See Boykin v. State*, 818 S.W.2d 782, 785-86 (Tex. Crim. App. 1991). Given the requirement that a criminal statute give fair notice and the rules of construction stated by the Texas Supreme Court and Court of Criminal Appeals, we will not adopt an expansive interpretation of “further participation.”⁷

To determine whether “further participation” within section 171.004(a) includes “attendance . . . at an executive session” on a matter in which a board member is substantially interested, we will consider the meaning of the same word as used in other acts of a similar nature. *See Brown v. Darden*, 50 S.W.2d 261, 263 (Tex. 1932); *Tex. Bank & Trust Co. v. Austin*, 280 S.W. 161, 162 (Tex.

⁶We assume, without deciding, that any such executive session would be held only as authorized by the Open Meetings Act.

⁷The court in *Hamilton v. Town of Los Gatos*, 261 Cal. Rptr. 888, 891 (Cal. Ct. App. 6th Dist. 1989), construing a California conflict of interest statute, determined that “to participate[] in making . . . a governmental decision” included silent attendance at an executive session meeting. This conclusion was based on policy arguments underlying the statute and the state open meetings act. No criminal provision was at issue.

1926); *L&M-Surco Mfg., Inc. v. Winn Tile Co.*, 580 S.W.2d 920, 926 (Tex. Civ. App.—Tyler 1979, writ dismissed); Tex. Att’y Gen. Op. No. GA-0251 (2004) at 3. We note that legislation expressly concerned with meetings uses the terms “participation” and “attend” in a way that helps us construe “further participation” in section 171.004(a).

The term “participate” has been defined as meaning “to take part—to share in common with others.” *Reardon v. State*, 4 Tex. Ct. App. 602 (1878). See also XI OXFORD ENGLISH DICTIONARY 268 (2d ed. 1989) (defining “participate” as “[t]o take or have a part or share of or in; to possess or enjoy in common with others”); MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 847 (10th ed. 1993) (defining “participate” as “to take part [as] in class discussions”). “Attend” has, in contrast, been defined as “to be present.” MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 74 (10th ed. 1993). In the context of Texas statutes on meetings, “attend” means mere passive presence, while “participate” means active engagement in the subject matter at issue in the meeting.

For example, the superintendent of a hospital district created under Health and Safety Code chapter 282 “*may attend board meetings and meetings of a board committee and may participate in the discussion of matters within the superintendent’s functions, but . . . may not vote on matters considered by the board.*” TEX. HEALTH & SAFETY CODE ANN. § 282.027(d) (Vernon 2001) (emphasis added). Under this provision, the superintendent may *attend* all meetings, that is, be present at all meetings, but may *participate* only in the discussion of matters within his function. In another statute, the administrator of the Agricultural Finance Authority may “*attend all meetings and participate, but not vote, in all proceedings of the authority.*” TEX. AGRIC. CODE ANN. § 58.015(c) (Vernon 2004) (emphasis added). See also TEX. LOC. GOV’T CODE ANN. § 111.007(a) (Vernon 1999) (any taxpayer of a county “may attend and may participate” in a public hearing on the proposed county budget) (counties with a population of 225,000 or less); TEX. TRANSP. CODE ANN. § 22.0745(d) (Vernon Supp. 2004-05) (nonvoting member on a joint airport board is not entitled to “*attend or participate in*” a closed meeting of the joint board) (emphasis added). See also Tex. Att’y Gen. Op. No. JC-0308 (2000) at 1 (“attendance” by a quorum of a state agency board at a legislative committee hearing is subject to the Open Meetings Act if a board member participates in the discussion).

We rely on the distinction between the terms “attend” and “participate in” a meeting as used in Texas statutes to construe the phrase “further participation in the matter.” TEX. LOC. GOV’T CODE ANN. § 171.004(a) (Vernon 1999). Thus, the limit on “further participation” does not preclude the interested public official from “attending” meetings, including executive session meetings, relevant to the matter in which he has a substantial interest.

A member of a governmental body does not “participate” in a matter for purposes of Local Government Code section 171.004 by merely attending an executive session on the matter and remaining silent during the deliberations. However, it may be wise for the interested public officer to refrain from attending open or closed meetings that address the matter in which he is interested. See *Graham v. McGrail*, 345 N.E.2d 888, 891-92 (Mass. 1976) (advising public officer with conflict of interest under state law to leave meeting).

III. “Pending or Contemplated Litigation” in Government Code Section 551.071(1)(A)

You ask us to define the phrase “contemplated litigation” in section 551.071(1)(A) of the Government Code, which authorizes a governmental body to hold an executive session concerning pending or contemplated litigation. The section provides as follows:

A governmental body may not conduct a private consultation with its attorney except:

(1) when the governmental body seeks the advice of its attorney about:

(A) pending or contemplated litigation; or

(B) a settlement offer; or

(2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.

TEX. GOV'T CODE ANN. § 551.071 (Vernon 2004). In particular, you ask whether “contemplated litigation” within section 551.071(1)(A) may include a contested hearing before an administrative agency or other governmental agency, including a groundwater conservation district. Request Letter, *supra* note 1, at 3. Although you ask about governmental entities in general, we must limit our answer to a contested hearing before the Clearwater Underground Water Conservation District because this answer is based on provisions of chapter 36 and rules promulgated by this district. We have found no provisions generally applicable to contested hearings conducted by local governmental entities.

This office has concluded that a contested case under the Texas Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001 (Vernon 2000 & Supp. 2004-05), is “litigation” within the context of the Public Information Act, *id.* ch. 552 (Vernon 2004), and the Open Meetings Act. *See* Tex. Att’y Gen. LO-96-116, at 5-6; Tex. Att’y Gen. ORD-588 (1991) at 2. A “contested case” under the Administrative Procedure Act is “a proceeding, including a ratemaking or licensing proceeding, in which the legal rights, duties, or privileges of a party are to be determined by a state agency after an opportunity for adjudicative hearing.” TEX. GOV'T CODE ANN. § 2001.003(1) (Vernon 2000).

Open Records Decision 588 addressed the exception from public disclosure for information “relating to litigation . . . to which the state or a political subdivision is or may be a party.” *Id.* § 552.103(a) (Vernon 2004). It concluded that the term “litigation” includes a “contested case” under the Texas Administrative Procedure Act, *id.* ch. 2001 (Vernon 2000 & Supp. 2004-05). *See* Tex.

Att’y Gen. ORD-588 (1991) at 4.⁸ *See also* Tex. Att’y Gen. ORD-301 (1982) at 1-2 (“‘litigation’ encompasses proceedings conducted in quasi-judicial forums as well as strictly judicial ones”) (cited by Tex. Att’y Gen. ORD-588 (1991) at 2). “When a contested case is heard in a quasi-judicial forum, discovery takes place and the evidence is presented at the administrative level, . . . [and] fact questions are heard and resolved by the agency, regardless of whether the case reaches a court for review under the substantial evidence rule.” Tex. Att’y Gen. ORD-588 (1991) at 4. Thus, “[s]ection 3(a)(3) [the predecessor of Government Code section 552.103(a)] can have its intended effect only by applying it to information related to a contested case before an administrative agency ‘to which the state . . . is, or may be, a party.’” *Id.*

Relying on Open Records Decision 588, this office construed the term “litigation” within Government Code section 551.071(1)(A) to include “contested cases” under the Texas Administrative Procedure Act. *See* Tex. Att’y Gen. LO-96-116, at 5. Letter Opinion 96-116 noted that “an adversary proceeding may encompass a proceeding conducted in a quasi-judicial forum as well as in a judicial forum,” stating that

Government Code section 551.071 is designed to protect a governmental body’s interests in an adversary proceeding, where to discuss a pending proceeding with the governmental body’s attorney in an open meeting would permit the opposing party to learn the governmental body’s strategy, evidence, and vulnerabilities.

Id. at 5-6. *See also* TEX. GOV’T CODE ANN. § 2001.003(2) (Vernon 2000) (“license” includes state agency permit). Thus, a governmental body that is subject to the Administrative Procedure Act may meet in executive session under section 551.071(1)(A) to deliberate about a “contested case” before it.

We point out that Attorney General Letter Opinion 96-116 and Open Records Decision 588 conclude that a contested case under the Administrative Procedure Act is itself “litigation,” not merely anticipated or contemplated litigation. We will also consider whether a contested permit hearing before the Board of Directors of the Clearwater Underground Water Conservation District is “litigation” within Government Code section 551.071(1)(A), not just “contemplated litigation.”

The district is not a state agency and is therefore not subject to the Administrative Procedure Act. *See id.* § 2001.003(1) (“contested case” is a proceeding, in which a state agency determines the legal rights, duties, or privileges of a party). We will examine the provisions governing the district’s permitting authority to determine whether a permit hearing before the board is “litigation” for purposes of the Open Meetings Act exception.

⁸Open Records Decision 588 (1991) addressed the former Texas Open Records Act, article 6252-17a, Revised Civil Statutes, which was recodified as Government Code chapter 552 in 1993 and renamed the “Public Information Act” in 1995. *See* Act of May 4, 1993, 73d Leg., R.S., ch. 268, § 1, 1993 Tex. Gen. Laws 583, 594; *see also* Act of May 29, 1995, 74th Leg., ch. 1035, § 1, 1995 Tex. Gen. Laws 5127, 5127-42.

A groundwater conservation district “shall require permits for the drilling, equipping, or completing of wells or for substantially altering the size of wells or well pumps.” TEX. WATER CODE ANN. § 36.113(a) (Vernon Supp. 2004-05). *See id.* §§ 36.113(c) (information that a district may require to be included in a permit application); 36.1131 (Vernon 2000) (elements of permit application). A district “shall promptly consider and act on each administratively complete application for a permit.” *Id.* § 36.114 (Vernon Supp. 2004-05). *See also id.* (“administratively complete” applications include information required under sections 36.113 and 36.1131).

The Clearwater Underground Water Conservation District conducts permit hearings in accordance with procedural rules adopted under section 36.101. *See id.* § 36.101(b) (the district board shall adopt rules to implement chapter 36, including rules governing procedure before the board). The district’s rules provide for notice of a permit hearing and authorize the presiding officer to rule on motions and on the admissibility of evidence, administer oaths to persons presenting testimony, and examine witnesses. *See* CLEARWATER UNDERGROUND WATER CONSERVATION DISTRICT, DISTRICT RULES, Rules 8.10.2, 8.10.3(c), (e)-(f) (2004).⁹ *See also id.* § 8.10.5 (authority of presiding officer to admit and exclude evidence).

Any interested person, including the district’s general manager, may appear at a hearing and “present evidence, exhibits, or testimony, or make an oral presentation as determined by the Board.” *Id.* Rule 8.10.4(a). *See also id.* Rule 3.1 (employment and duties of general manager of district). A person who wishes to appear at a permit hearing must provide the district with specific information, such as his name and address, whether he wishes to testify and whether he is contesting the application. *Id.* Rule 8.10.4(a). The general manager of the district must state on the record whether he “proposes denial, a partial grant, or full grant of the application.” *Id.*

The rules provide for uncontested and contested hearings. An uncontested hearing is defined as follows:

Uncontested Hearings: If no interested persons contest the application and the General Manager proposes to grant the application, whether a partial or full grant, the application shall be considered uncontested. . . . No Hearing Report shall be required for an uncontested hearing.

Id. Rule 8.10.8.

If an interested person has appeared to contest the application, the presiding officer must submit to the board a hearing report, which must include a summary of the subject matter of the hearing, the evidence or public comments received, and the presiding officer’s recommendations for board action. *See id.* Rule 8.10.7. Any person who participated in the hearing may review the report and submit written exceptions to the report to the board. *See id.* Within 35 days after the final hearing, the board must decide whether or not to issue a permit or a permit amendment and set the

⁹Available at <http://www.clearwaterdistrict.org> (last visited June 17, 2005).

permitted volume and other terms of the permit. *See id.* Rule 8.10.9. *See also id.* Rule 8.10.10 (request for rehearing and appeal).

After all administrative appeals to the district are final, a person or corporation “affected by and dissatisfied with” a district order may file a suit against the district or its directors to challenge the order’s validity. *See* TEX. WATER CODE ANN. § 36.251 (Vernon 2000). In trial of the suit, “[t]he burden of proof is on the petitioner, and the challenged law, rule, order, or act shall be deemed prima facie valid.” *Id.* § 36.253. “The review on appeal is governed by the substantial evidence rule as defined by Section 2001.174, Government Code.” *Id.*

Thus, the district board finds facts and the courts review its decisions on permit applications according to the substantial evidence rule of the Administrative Procedure Act. Moreover, a contested permit hearing before the district board, as defined by its rules, places the applicant in an adversarial relation to the district’s general manager or other person who contests the application. It may ultimately lead to a lawsuit against the district by a person who is “affected by and dissatisfied with” the district’s order on the contested permit application. *Id.* § 36.251.

A contested permit hearing of the Clearwater Underground Water Conservation District raises governmental interests like those at issue in Open Records Decision 588 and Attorney General Letter Opinion 96-116. *See* Tex. Att’y Gen. LO-96-116, at 5-6 (discussion of a pending proceeding with the governmental body’s attorney in an open meeting would permit the opposing party to learn the governmental body’s strategy, evidence, and vulnerabilities). We conclude that a contested permit hearing before the Board of Directors of the Clearwater Underground Water Conservation District is “litigation” that the district board may discuss in executive session under section 551.071(1)(A) of the Government Code. An uncontested permit hearing, as defined by the district’s rules, is not an adversary proceeding. Thus, an uncontested permit hearing is neither “litigation” nor “contemplated litigation” within the Open Meetings Act,¹⁰ and the district board may not discuss it in executive session under Government Code section 551.071(1)(A).

IV. Exclusion of a Board Member from an Executive Session and Related Questions

You ask whether a governmental body may exclude a board member from an executive session under Government Code section 551.071(1)(A) to discuss contemplated litigation when the board member or his employer has threatened to bring the litigation that the board will discuss. We note that the affected board member did not attend the executive session to discuss the threatened

¹⁰In view of our conclusion, we need not consider your general questions about the meaning of “contemplated litigation.” *But see* TEX. GOV’T CODE ANN. § 552.103(a) (Vernon 2004) (excepting from required disclosure under the Public Information Act information related to “litigation . . . to which the state or a political subdivision . . . may be a party”) (emphasis added); Tex. Att’y Gen. ORD-677 (2002) at 3 (mere conjecture that litigation may ensue is insufficient to invoke exception); Tex. Att’y Gen. ORD-183 (1978) at 2 (exception requires reasonable anticipation of litigation relating to a specific matter). *See also* Tex. Att’y Gen. ORD-351 (1982) at 2 (litigation was not reasonably anticipated when individual merely threatened litigation in telephone conversation and did not follow with meaningful action).

litigation, nor has the Water Supply Corporation that employs him filed suit against the district.¹¹ After this opinion was requested, the district board granted the permit over which the lawsuit was threatened. *See* Clearwater Underground Water Conservation District Meeting Minutes (Jan. 25, 2005), Agenda Item 4.¹² Thus, there is no need to answer this question at present. In addition, this question raises important policy issues concerning the powers and duties of elected and appointed board members and conflicts between their public responsibilities and their personal interests, issues that cannot be satisfactorily addressed in the context of the district's narrow hypothetical question. Moreover, there is virtually no legal authority relevant to this inquiry.¹³ Given that question is moot, and that it raises novel issues that cannot be resolved in the abstract, we will not address it.

You also ask us to define "adverse party." *See* Request Letter, *supra* note 1, at 4. An "adverse party" is a party whose interests are opposed to another party to a legal action. *See Highsmith v. Tyler State Bank & Trust Co.*, 194 S.W.2d 142, 145 (Tex. Civ. App.—Texarkana 1946, writ ref'd); BLACK'S LAW DICTIONARY 1144 (7th ed. 1999). This office has used "adverse" and "adverse party" consistently with these definitions. *See* Tex. Att'y Gen. ORD-551 (1990) at 4-5; Tex. Att'y Gen. LO-89-77, at 3.

You ask whether a governmental body's attorney-client privilege would be waived¹⁴ in various circumstances. For example, you wish to know whether waiver would occur if a board member who threatened to sue the board attended an executive session to discuss the proposed suit, or if the board's attorney provided certain legal memoranda information to all board members, including a board member who is adverse to the board or may become adverse to the board. Whether the privilege is waived in a particular case depends upon the relevant facts. *See* TEX. R. EVID. 503; *Republic Ins. Co. v. Davis*, 856 S.W.2d 158, 164 (Tex. 1993). This office cannot answer questions of fact and therefore cannot answer these questions. *See, e.g.,* Tex. Att'y Gen. Op. Nos. GA-0139 (2004) at 5, GA-0003 (2002) at 1, JC-0328 (2000) at 4, H-56 (1973) at 3, O-2911 (1940) at 2.

We point out that a member of a governmental entity has a right of access to the entity's records when he requests them in his official capacity. As we stated in Attorney General Opinion GA-0138:

¹¹*See* Telephone Conversation with Daniel Womack, *supra* note 2.

¹²*Available at* <http://www.clearwaterdistrict.org> (last visited June 17, 2005).

¹³This office and a New Jersey Court have both concluded that a school board member who has sued the school board may be excluded from an executive session to discuss the pending litigation brought by the school board member. *See* Tex. Att'y Gen. Op. No. JM-1004 (1989); *see also Scotch Plains-Fanwood Bd. of Educ. v. Syvertsen*, 598 A.2d 1232, 1233 (N.J. Super. Ct. App. Div. 1991). We find no authority on excluding a board member who merely contemplates litigation against his board.

¹⁴You ask about waiver of the attorney-client privilege under the Texas Rules of Evidence, not waiver of Government Code section 552.103, which protects from disclosure under the Public Information Act "information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party." TEX. GOV'T CODE ANN. § 552.103(a) (Vernon 2004).

A member of a governing body has a right to access the documents of that body . . . because of the member's inherent powers of office. While there do not appear to be Texas court decisions directly concerning the issue, on several occasions this office has observed that a member of a governing body has an inherent right of access to the records of that body when requested in the member's official capacity and for the member's performance of official duties. *See* Tex. Att'y Gen. Op. Nos. JC-0283 (2000) at 3-4, JC-0120 (1999) at 3-5, JM-119 (1983) at 3; Tex. Att'y Gen. LO-93-069, at 1-2.

Tex. Att'y Gen. Op. No. GA-0138 (2004) at 3. *See also Gabrilson v. Flynn*, 554 N.W.2d 267, 274 (Iowa 1996) (school board members generally should be allowed access to both public and private records necessary for the proper discharge of their duties). Whether a member requests records in his official capacity is a fact question that cannot be resolved in an attorney general opinion. *See* Tex. Att'y Gen. LO-93-069, at 3. However, the fact that a board member has filed suit against the board would raise the question whether he requested records about the lawsuit in his official capacity.


We finally observe that a public officer holds a public trust, and he should discharge his duties with honesty and integrity. *See Alsup v. State*, 238 S.W. 667, 670 (Tex. Crim. App. 1922); *Jones v. State*, 109 S.W.2d 244, 251 (Tex. Civ. App.-Texarkana 1937, no writ). Given these responsibilities, a public officer who is suing or planning to sue his governmental body should avoid using his public position to secure access to information related to the litigation, for example, by voluntarily refraining from attending executive sessions regarding the litigation and from accepting confidential documents related to the litigation.

S U M M A R Y

The directors of an underground water conservation district are subject to chapter 171 of the Local Government Code, which regulates conflicts of interest involving local public officials. Chapter 171 requires a local public official with a substantial interest in a business entity or real property on which board action will have a special economic effect to disclose his interest and abstain from further participation in the matter. A violation of this requirement is a Class A misdemeanor. When section 171.004(a) requires a local public official to abstain from further participation in a matter, it does not prohibit him from attending an executive session of his governmental body held to discuss the matter.

A contested permit hearing before the Board of Directors of the Clearwater Underground Water Conservation District is "litigation" within Government Code section 551.071(1)(A).

Very truly yours,


GREG ABBOTT
Attorney General of Texas

BARRY R. MCBEE
First Assistant Attorney General

DON R. WILLETT
Deputy Attorney General for Legal Counsel

NANCY S. FULLER
Chair, Opinion Committee

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ATTORNEY GENERAL OF TEXAS
G R E G A B B O T T

March 19, 2013

Ms. Michelle Hunter
Executive Director
State Bar of Texas
Post Office Box 12487
Austin, Texas 78711

Opinion No. GA-0995

Re: Whether State Bar of Texas president-elect candidates who are nominated by petition under subsection 81.019(c), Government Code, are nevertheless subject to State Bar of Texas election rules and policies (RQ-1088-GA)

Dear Ms. Hunter:

You ask whether State Bar of Texas (the “State Bar”) president-elect candidates nominated by petition under subsection 81.019(c) of the Government Code are subject to State Bar election rules and policies.¹ The State Bar is defined by statutes as an administrative agency of the judicial department of government whose purpose is to aid the Texas Supreme Court in the Court’s regulation of the practice of law in Texas. TEX. GOV’T CODE ANN. § 81.011(a)–(b) (West 2005). The Supreme Court exercises administrative control over the State Bar and promulgates the rules under which the State Bar is governed. *Id.* §§ 81.011(c), .024(a). The State Bar board of directors (the “Board”) is the governing body within the State Bar. *Id.* § 81.020(a); Tex. State Bar R. art. IV, § 1(D), *reprinted in* TEX. GOV’T CODE ANN., tit. 2, subtit. G app. A (West Supp. 2012) (entitled “State Bar Rules”).

Section 81.019 of the Government Code pertains to the election of the State Bar officers, which are the president, president-elect, and immediate past president. TEX. GOV’T CODE ANN. § 81.019(a) (West 2005). Specifically, section 81.019 provides:

(b) *Except as provided by Subsection (c), the officers shall be elected in accordance with rules for the election of officers and directors prepared and proposed by the supreme court as provided by Section 81.024.*

(c) *The election rules must permit any member’s name to be printed on the ballot as a candidate for president-elect if a written petition requesting that action and signed by at least five percent of*

¹Letter from Ms. Michelle Hunter, Exec. Dir., State Bar of Tex., to Honorable Greg Abbott, Tex. Att’y Gen. at 1–2 (Oct. 2, 2012), <http://texasattorneygeneral.gov/opin> (“Request Letter”).

the membership of the state bar is filed with the executive director at least 30 days before the election ballots are to be distributed to the membership.

Id. § 81.019(b)–(c) (emphasis added); *see id.* § 81.024 (directing the Supreme Court to promulgate the rules governing the State Bar).

You ask “whether president-elect candidates nominated by petition under section 81.019(c) are subject to State Bar election rules and policies.” Request Letter at 1–2. Subsection (c) is a limited exception to subsection (b). The phrase, “[e]xcept as provided by . . .,” in subsection (b) has led some to believe that subsection (c) allows an officer to be elected completely outside of the State Bar election rules promulgated by the Supreme Court. *See* Request Letter at 1. Subsection (c), however, is merely a specific legislative requirement as to what the “election rules must permit.” TEX. GOV’T CODE ANN. § 81.019(b)–(c) (West 2005). The phrase, “[e]xcept as provided by Subsection (c),” ensures that the substantive requirements of subsection (c) are in effect regardless of whether those requirements are reflected in the rules. It does not exempt candidates from those rules. *Id.* § 81.019(c). Therefore, subsection (c) does not exempt president-elect write-in candidates from the Supreme Court rules for State Bar elections or from valid Board policies.

We have received briefing suggesting that some portions of the Board’s policies are inconsistent with the Supreme Court’s rules for the State Bar and with statutes, particularly with regard to the policies and rules governing nomination by petition.² Board policy provides that “[a]ny other *qualified* member” may be nominated by petition. State Bar of Tex. Bd. of Dirs. Policy Manual § 2.01.05, at 18 (2012) (“Policy Manual”) (emphasis added). Under section 2.01.04 of the Policy Manual, titled “Qualifications,” “[a]ny member of the State Bar who meets the eligibility requirements for Officers set forth in the State Bar Act and the State Bar Rules is eligible for nomination for President-elect, *provided such member is not currently serving as a Board [of Directors] member.*” *Id.* § 2.01.04 (emphasis added). Thus, under State Bar policy, sitting members of the Board who otherwise meet all eligibility requirements of the State Bar rules nevertheless are precluded from being nominated for president-elect under Board policy.

By contrast, the applicable State Bar rule directly tracks the language of subsection 81.019(c) by permitting “[a]ny other member of the State Bar” to stand for election for president-elect by petition. Tex. State Bar R. art. IV, § 11(B) (emphasis added). By their plain language, neither section 11(B) nor subsection 81.019(c) prohibits sitting Board members from being nominated for president-elect by petition. Policy Manual sections 2.01.04 and 2.01.05 are therefore inconsistent with State Bar rule article IV, section 11(B).

The State Bar Rules provide that “[t]he board shall . . . adopt such regulations and policies, consistent with [chapter 81 of the Government Code] or these Rules . . .” *Id.* art. IV,


²Brief from Mr. Steve Fischer, State Bar of Texas Dir. Dist. 11, to Office of the Tex. Att’y Gen., at 2–4 (Oct. 15, 2012) (on file with the Op. Comm.).

§ 1(D). Further, the Policy Manual acknowledges that no State Bar policy established by the Board “shall be inconsistent or conflict with [chapter 81] [or] the State Bar Rules If there is any such inconsistency or conflict, [chapter 81] [or] the State Bar Rules . . . shall take precedence over [the policy].” Policy Manual at 2. Board policy sections 2.01.04 and 2.01.05, relating to the eligibility of certain members of the State Bar to stand for election for president-elect, conflict with both subsection 81.019(c) of the Government Code and State Bar rule article IV, section 11(B). Therefore, those policies are unenforceable.

S U M M A R Y

State Bar of Texas president-elect candidates nominated by petition under subsection 81.019(c) of the Government Code are subject to all valid State Bar election rules and policies. Board policy sections 2.01.04 and 2.01.05, relating to the eligibility of certain members of the State Bar to stand for election for president-elect, conflict with both subsection 81.019(c) of the Government Code and State Bar rule article IV, section 11(B). Therefore, those policies are unenforceable.

Very truly yours,


GREG ABBOTT
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From: Gibson, Laura [<mailto:laura.gibson@dentons.com>]
Sent: Wednesday, February 13, 2019 3:42 PM
To: Joe Longley; Joe Longley
Cc: Trey Apffel; John Sirman; Ross Fischer (rf@gobergroup.com); Randy Sorrels
Subject: FW: Joe Longley letter -- Re: Your letter of February 12, 2019 [DEN-US_Active.FID11607139]

Joe,

Please see my letter and let me know by close of business today whether you will agree to recuse yourself from the Ad Hoc Committee.

Regards,

Laura



Laura Gibson
Laura Gibson PC
Board Certified, Labor & Employment Law
Texas Board of Legal Specialization
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From: Del Angel, Lea Ann <leaann.delangel@dentons.com>
Sent: Wednesday, February 13, 2019 3:29 PM
To: Gibson, Laura <laura.gibson@dentons.com>
Subject: Joe Longley letter -- Re: Your letter of February 12, 2019 [DEN-US_Active.FID12738241]



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STATE BAR OF TEXAS

LAURA GIBSON
2018-19 CHAIR OF THE BOARD



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February 13, 2019

Mr. Joe K. Longley
Law Offices of Joe K. Longley
3305 Northland Drive, Suite 500
Austin, TX 78731

Via Email: joe@joelongley.com

Re: Your letter of February 12, 2019

Dear Joe:

I am writing in response to your February 12, 2019 letter to Bill Whitehurst. I am compelled to point out that your letter misstates the action taken by the State Bar Board at the Board meeting on January 18, 2019. As you are well aware, the action item you removed from the Board Agenda was to amend Board Policy Manual Section 1.23 to allow all lawyers to vote in TYLA elections. The motion made by Director Alastair Dawson was to reaffirm Section 1.23 and the State Bar's longstanding practice of allowing only TYLA members to vote in TYLA elections. The Board did nothing to change existing practice. The TYLA Bylaws have always limited those who are eligible to vote in TYLA elections to TYLA members. The Board's actions did nothing to change that. It is incorrect for your letter to suggest that the Board took action which took away a preexisting right.

It is clear from your January 22, 2019 letter to the Attorney General and your President's Columns that you are not neutral on the issue of who should be entitled to vote in TYLA elections. For that reason, I respectfully request that you recuse yourself from participation in the Ad Hoc Committee which is working on coordinating the State Bar's response to the Attorney General. Given that the position you have taken is contrary to the Board's January 18 vote, you have a conflict of interest which prohibits your participation in the Ad Hoc Committee. Please let me know by the close of business today whether you will agree to recuse yourself from the Committee.

Thank you for your attention to this matter.

Very truly yours,

Laura Gibson
2018-19 Chair of the Board

LG/lad

cc: Mr. Ervin A. (Trey) Apffel, III
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February 12, 2019

Mr. William O. Whitehurst, JR.
7500 Rialto Blvd., Bldg. II, Ste. 250
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bwhitehurst@nationaltriallaw.com

RE: Your letter dated February 11, 2019

Dear Bill:

The invective you've chosen to use in your letter is most unfortunate, not to mention, uncalled for. You could have easily called me to learn the true facts that are at variance with almost every statement contained in your letter.

For instance, if you care to take the time to view the video of the January 18 Board meeting, you would learn that the pledge that I gave to the TYLA membership on January 11 to table the "action item" on my TYLA election proposal was a promise made and a promise kept. On January 11, I told the TYLA Directors that I would delay my "action item" for 30 Days—and that's exactly what I did. (JKL & Chair Laura Gibson both confirm the no action item. Video at 1:59).

Wherever you got the notion that I "had no intention of keeping that promise" was totally false. Laura Gibson, Trey Appfel, and I all confirmed that we were all on the same page—no action item. That was the state of the discussion when I left the podium.

In fact, in answer to board member questions, I agreed to form a subcommittee to study the issue since it was not going to be voted on as an action item. (Video at 2:00).

However, after hearing from several former TYLA Presidents, the meeting took an unexpected turn. Instead of allowing the issue to benefit from further study by being postponed, Director Alistair Dawson moved that the issue be decided. He moved to maintain the voting status quo—thereby calling for a vote that would effectively exclude 76,000 active bar members from voting in the 2019 TYLA President-elect's race conducted by the State Bar. His motion was seconded by Director Jerry Alexander and carried by a unanimous vote by those voting, with my abstention. (Video at 2:45:47-2:50).

Such a vote to exclude active members from voting in state-wide elections conducted by the State Bar is unprecedented in the Bar's 80 year history.

Prior to that vote, no Board had ever voted to deny “one member-one vote” to active bar members in any state-wide race to put a candidate on the Board of Directors. Thus, the issue was decided without postponement—and without resolution of the constitutional and rule of law questions I had raised.

After the meeting, I reviewed my options as to the best method to seek clarification of what appears to be an invalid Board action taken outside the Constitution, State Bar Act and State Bar Rules. I settled upon seeking an AG Opinion, as State Bar Presidents have done several times in the past when Board action has been uncertain or challenged as invalid. See e.g. AG Op. GA-0995 (2013). Your comment that “I had already decided to circumvent the SBOT Board another way if my proposal was rejected” is simply not true. (State Bar Video at 2:00).

My decision to seek an opinion from the Texas Attorney General was not made until January 19th – the day after the Board had taken its unprecedented action of voter suppression.

I think you’ll agree that the right to self-govern the activities of the State Bar of Texas resides within all 103,342 active bar members’ right to vote. Likewise, I think you’ll not dispute that the statewide race for President-Elect of TYLA is an election *conducted by* the State Bar of Texas. Further, I think you’ll agree that over 76,000 active bar members are excluded from voting for TYLA President-Elect despite there being no authority to exclude such members in any of the three governing documents that govern the State Bar of Texas activities-- and no Board vote ever taken to exclude them in the past.

So, for background, here are some undisputed “Bar” facts:

1. 76,000 active bar members are excluded from voting in the statewide election conducted by the SBOT to elect a TYLA president-elect who sits and votes on the Board of Directors (BOD);
2. Such exclusion is based solely on a member “aging-out” of TYLA membership through the passage of time;
3. No authority exists in the bar’s governing documents to impose such exclusion on any bar member;
4. No vote prior to 1-18-2019 was ever made by a BOD imposing such an exclusion;
5. The 26th Amendment to the U.S. Constitution prohibits age discrimination in voting;¹

¹ The right of citizens of the United States, who are 18 years of age or older, to vote, shall not be denied or abridged by the United States or any state on account of age.

6. The non-TYLA member voting exclusion is inconsistent with §81.0242 & §81.053 of the State Bar Act;
7. AG Op. GA-0995 (2013) holds that Board actions inconsistent with the State Bar Act or State Bar Rules are invalid and “unenforceable.”

After some deliberation, and consistent with my oath of office to “preserve, protect and defend Constitution and laws of the United States, and of this State,” I sent my request now referenced as RQ-0265.

It is my hope that an opinion can be issued in time for application, if needed, in the upcoming state-wide bar elections scheduled for April 2019, or at least before the legislature adjourns at the end of May.

In any event, I welcome both you and the State Bar Board to join me in seeking AG clarification through the opinion process. The deadline for submission to the Opinions Committee is February 20.

Next, your characterization of my personal visit to a state senator is likewise inaccurate. Far from having been “leaked out” as you characterized it, there was no secret about my meeting, nor was there any question that the views I communicated were personal rather than official. Prior to meeting with the senator, I had already met with our new Supreme Court Liaison and had imparted the exact same personal views to her.

By the time of both of these meetings, these personal proposals had been previously published in my President’s Pages in the TBJ as my personal preferences. (See TBJ November 2018; and TBJ January 2019).

Nevertheless, you requested me as a “personal friend” to request of the senator’s office that my personal proposals not be put into “bill form.” As you confirm, I agreed to do so at your request and then affirmed to you that it had been done.

To sum up, my request of the AG is not premature, unnecessary, nor inappropriate. In fact it goes to the heart of whether the action vote by the Board of Directors was constitutional, lawful and within the rule of law. The Board of Directors itself made the choice to “finalize” the discussion thereby placing itself in the “awkward position” of having to file briefs addressing these matters which the Board’s own precipitous action made ripe. My subsequent action to seek the opinion of the AG was precipitated by the Board moving for a vote on an action item *that I had pulled down*.

The irony of your use of the word “destroy” is thick when it was the Board of Directors who voted to exclude 76,000 active bar members from a statewide vote that puts the President-Elect of TYLA on our governing Board for the next three years. Stated simply, this issue is ripe for determination, not through my actions, but rather through the actions taken by the Board Members calling for a vote on a matter which could have been avoided. The further irony is that usually it is the Board of Directors that seeks to postpone, study,

and create committees and task forces that sometimes seem never ending. Not this time. (Video at 2:45:47-2:50).

As to transparency, you need only read the April 2017 TBJ containing the Q & A's for all the candidates to see that my solo reason for running was to protect our right to vote in a self-governing environment.² That I have done, and that I will continue to do.

I have been true to my oath and my pledges and I will continue to deliver on those in the future.

Finally, the issues regarding *Fleck* and *Janus* relating to mandatory versus voluntary use of Bar dues are placed into clear focus based upon the actions of the Board voting on matters so clearly questionable under the United States Constitution, the State Bar Act, and the State Bar Rules. All state bar members are entitled to answers—and I am proud to seek them through the vehicle of RQ-0265. February 20 is the deadline to submit briefs to the Attorney General, and I encourage all interested members of the Bar and public to submit their views.

To close, and with all due respect, I reject the requests you make on the last page of your letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe K. Longley", with a stylized flourish at the end.

Joe K. Longley

cc via email: All Members State Bar of Texas

² Q: Why do you want to serve as President of the State Bar of Texas?

A: Longley: Through my candidacy, I seek to reform the way the State Bar currently conducts its business. The State Bar of 2017 seemingly exists only for itself with little thought given to the voting rights of its members. 80 TBJ 217 (2017).

Joe Longley

From: Jennifer Reames <Jennifer.Reames@TEXASBAR.COM>
Sent: Monday, June 3, 2019 12:08 PM
To: Joe Longley; Joe Longley
Cc: Trey Apffel
Subject: Draft Disqualification Policy
Attachments: 2019.05.31 Draft Disqualification Policy (v1) (002)_rev.docx

Joe,

Trey asked me to send this to you.

Thanks,
Jen

Jennifer Reames
Executive Office
STATE BAR of TEXAS
512.427.1415 direct | 800.204.2222, ext. 1415
jreames@texasbar.com

Disqualification of Adverse Party ~~from Participation~~

A board member who is an adverse party in a lawsuit against the State Bar of Texas may not participate in a discussion of or action on the matter in which he or she is an adverse party related to that lawsuit against the to the State Bar. A board member who is disqualified from participation under this section may not be present if the matter for which the Board member is disqualified is being discussed in any non-public session, including but not limited to executive sessions of the board. If a board member who is an adverse party requests documents relating to the matter, it is presumed that the board member is not seeking the documents in his or her official capacity, and Section 9.06 ("Officer and Board Member Requests for Records") shall not apply to such request.

In this policy, "adverse party" means a party whose interest are opposed to the State Bar of Texas in a legal action.

Disqualification of Adverse Party from Participation

A board member who is an adverse party in a lawsuit against the State Bar of Texas may not participate in a discussion of or action on the matter in which he or she is an adverse party related to that lawsuit against the to the State Bar. A board member who is disqualified from participation under this section may not be present if the matter for which the Board member is disqualified is being discussed in any non-public session, including but not limited to executive sessions of the board. If a board member who is an adverse party requests documents relating to the matter, it is presumed that the board member is not seeking the documents in his or her official capacity, and Section 9.06 ("Officer and Board Member Requests for Records") shall not apply to such request.

In this policy, "adverse party" means a party whose interest are opposed to the State Bar of Texas in a legal action.

Joe Longley

From: Joe Longley
Sent: Monday, June 3, 2019 1:22 PM
To: Ross Fisher (ross@rossfischer.law)
Subject: 6-4-2019 JKL Draft Disqualification Policy (v1) (002)_rev
Attachments: 2019.05.31 Draft Disqualification Policy (v1) (002)_rev.docx

From: Joe Longley [<mailto:Joe.Longley@TEXASBAR.COM>]
Sent: Monday, June 3, 2019 1:04 PM
To: Joe Longley
Subject: JKL Draft Disqualification Policy (v1) (002)_rev

10.01 Disqualification of Adverse Party from Participation

A board member who is an adverse party in a lawsuit pending against the State Bar of Texas ~~may not~~ may be disqualified from participating in a discussion of or action on the such lawsuit. ~~matter in which he or she is an adverse party related to that lawsuit against the to the State Bar.~~ A board member who ~~is so~~ is so disqualified from participation under this section ~~may not be present if the matter for which the Board member is disqualified is being discussed in any non-public session, including but not limited to executive sessions of the board.~~ If a board member who is an adverse party requests non-public documents relating to the ~~matter~~ lawsuit, it is presumed that the board member is not seeking the documents in his or her official capacity, and Section 9.05; 9.06.01, 6, and 9.06.02 ("Officer and Board Member Requests for Records") shall not apply to such request.

In this ~~policy~~ section, "adverse party" means a board member who is a party to a pending lawsuit against the State Bar wherein the board member has alleged a claim against the State Bar of Texas. ~~whose interest are opposed to the State Bar of Texas in a legal action.~~

10.01 Disqualification of Adverse Party from Participation

A board member who is an adverse party in a lawsuit pending against the State Bar of Texas ~~may not~~ may be disqualified from participating in a discussion of or action on the such lawsuit. ~~matter in which he or she is an adverse party related to that lawsuit against the to the State Bar.~~ A board member who ~~is so~~ is disqualified from participation under this section ~~may not be present if the matter for which the Board member is disqualified is being discussed in any non-public session, including but not limited to executive sessions of the board.~~ If a board member who is an adverse party requests non-public documents relating to the ~~matter~~ lawsuit, it is presumed that the board member is not seeking the documents in his or her official capacity, and Section 9.05; 9.06.01, 6, and 9.06.02 ("Officer and Board Member Requests for Records") shall not apply to such request.

In this ~~policy~~ section, "adverse party" means a board member who is a party to a pending lawsuit against the State Bar wherein the board member has alleged a claim against the State Bar of Texas. ~~whose interest are opposed to the State Bar of Texas in a legal action.~~

**State Bar of Texas
Board of Directors
Social Media Engagement Team
June 12, 2019**

President-elect Randy Sorrels proposes the creation of a State Bar Board of Directors' Social Media Engagement Team. Working in coordination with the State Bar communications staff, members of the engagement team will use their personal accounts to post and respond to messages on Facebook discussion groups and other online platforms where Texas lawyers discuss substantive legal or practice management issues. By participating in these discussions, the engagement team will seek to increase awareness of State Bar benefits and services and to better educate members about matters of State Bar governance.

The following directors are nominated to serve on the Social Media Engagement Team in 2019-2020:

1. Randy Sorrels, Houston
2. Larry P. McDougal, Richmond
3. Shelby Jean, Fort Worth
4. Carmen M. Roe, Houston
5. Charlie Ginn, McKinney
6. Diane St. Yves, Houston
7. Yolanda Cortes Mares, Temple
8. David Sergi, San Marcos

State Bar of Texas
Proposed Succession Planning Work Group
Fiscal Impact Analysis
June 2019

To: Randy Sorrels, President-elect of the State Bar of Texas
From: Tracy Jarratt, Finance Division Director
Re: Fiscal Impact Analysis on a proposed work group to study succession planning issues.

Purpose and Deliverables

With an aging lawyer population and an increasing number of attorneys practicing solo, there is an increasing need to help attorneys plan for how their businesses, families, and clients would be protected in the event that the attorney dies or is unable to practice. This work group would study issues related to succession planning and recommend resources and programs to the State Bar Board, including forms and resources on the designation of custodian attorneys.

Discussion

We anticipate that the work group will meet mostly by teleconference and videoconference, and only occasionally in person.

Considerations

1. The work group will consist of six to eight members
2. Membership is expected to include experts on solo practice, law practice management, and attorney ethics
3. It is estimated that this group will convene primarily by teleconference. Minimal travel and meeting costs are expected and may be incurred by leadership of the workgroup.

Fiscal Impact for FY2019-2020

Based on the aforementioned considerations, the fiscal impact of this workgroup is estimated to be \$2,500. The creation of this workgroup is not anticipated to have a significant fiscal implication to the State Bar's FY 2019-2020 general fund budget.

ATTORNEY SUCCESSION PLANNING WORKGROUP

Laura Gibson, Co-Chair

Dentons US LLP
1221 McKinney St., Suite 1900
Houston, TX 77010
713-658-4635

Don Totusek

Francis & Totusek, LLP
500 N. Akard St., Suite 1830
214-740-4250

Greg Sampson, Co-Chair

Gray Reed
1601 Elm St., Suite 4600
Dallas, TX 75201
469-320-6097

Jonathan Smaby

Texas Center for Legal Ethics
1414 Colorado
Austin, TX 78701
512-427-1477

Leslie Dippel

Travis County Attorney's Office
PO Box 1748
Austin, TX 78767
512-854-4808

Jackie Daumerie, Liaison

Rules Attorney
Supreme Court of Texas
512-463-1353

Dean Schaffer

CDC Office, State Bar of Texas
1414 Colorado
Austin, TX 78701
512-427-1326

Jason Syesta

Texas Lawyers' Insurance Exchange
1801 S. Mopac, Suite 300
Austin, TX 78746
512-480-9074

Kevin Mutscher

Betts, Walters & Mutscher, PC
PO Box 1118
Brenham, TX 77834
979-836-3636

Bill Betts

Betts, Walters & Mutscher, PC
PO Box 1118
Brenham, TX 77834
979-836-3636

STATE BAR OF TEXAS – BOARD OF DIRECTORS DISTRICTS FOR ELECTIONS – 2019			
BAR DISTRICTS	PRESENT DIRECTORS	INCOMING DIRECTORS	COUNTIES INCLUDED IN THE DISTRICT #
<u>District 2</u>	Sarah Keathley (Corsicana)	Christina M. Davis (Tyler)	Anderson, Angelina, Cherokee, Freestone, Gregg, Houston, Leon, Limestone, Madison, Nacogdoches, (Navarro), Rusk, Sabine, San Augustine, Shelby, Smith and Trinity Counties
<u>District 3</u>	Christy Amuny (Beaumont)	Kate Bihm (Conroe)	Chambers, Hardin, Jasper, (Jefferson), Liberty, Montgomery, Newton, Orange, Polk, San Jacinto, Tyler and Walker Counties
<u>District 4</u> <i>Place 1:</i>	1. Laura Gibson (Houston)	1: Diane St. Yves ,(Houston)	Harris
<u>District 6</u> <i>Place 1:</i> <i>Place 5</i>	1: Bradley C. Weber (Dallas) 5: Gregory W. Sampson (Dallas)	1. Michael K. Hurst (Dallas) 5: Rebekah Steely Brooker (Dallas)	Dallas
<u>District 7</u> <i>Place 2:</i>	2: Curtis Pritchard (Cleburne)	2: Jason Smith (Fort Worth)	Ellis, Hill, (Johnson), and Tarrant Counties
<u>District 8</u>	Lisa Richardson (Round Rock)	Yolanda Cortes Mares (Temple)	Bastrop, Bell, Bosque, Brazos, Burleson, Caldwell, Coryell, Falls, Hamilton, Lee, Milam, McLennan, Robertson, Washington and (Williamson) Counties
<u>District 9</u> <i>Place 2:</i>	2: Chris Oddo (Austin)	2: Adam Schramek (Austin)	Travis
<u>District 10</u> <i>Place 2</i>	2: Fidel Rodriguez, Jr. (San Antonio)	Santos Vargas (San Antonio)	Bexar
<u>District 15</u>	Jeff Chandler (San Angelo)	David Sergi (San Marcos)	Bandera, Blanco, Burnet, Coke, Comal, Concho, Crane, Crockett, Ector, Edwards, Gillespie, Glasscock, Hays, Irion, Kendall, Kerr, Kimble, Kinney, Lampasas, Llano, Loving, Mason, McCulloch, Medina, Menard, Mills, Pecos, Reagan, Real, Reeves, San Saba, Schleicher, Sterling, Sutton, Terrell, (Tom Green), Upton, Uvalde, Val Verde, Ward, and Winkler Counties

- Counties in bold print are ineligible for campaign during the 2019 elections. See State Bar Rules Article IV, Section 5(3)(b), which addresses the issue of succession, and Article I (5), which defines metropolitan areas.

FOR BOARD CONSIDERATION

June 12, 2019

1.19.06 Procedures for Submitting Resolutions.

(A) Each resolution submitted to the annual meeting resolution committee shall be submitted in ~~triplicate and in typewritten-printed or electronic~~ form.

(1) If any document is referred to within a resolution, a copy of the document or its relevant portion must be ~~attached to~~included with the resolution.

(2) Each resolution shall include a statement indicating whether it has been approved by any local bar association or by any section or committee of the State Bar. Every proposed resolution must be accompanied by a concise statement of the proponent(s) setting forth the dates of all prior submissions of any substantially similar resolution and the action taken thereon by the annual meeting resolutions committee, the general assembly, and the Board.

(3) Each resolution shall include the name, address, and telephone number of the person or persons submitting the resolution and shall be signed by such person or persons.

(B) All resolutions must be filed with the Executive Director by April 1 unless the time for filing has been waived by the Board.

(C) A summary of the resolutions policy and procedure shall be published in the February issue of the Texas Bar Journal. If one or more resolutions are submitted, notice of that fact shall be published in the May issue of the Texas Bar Journal with a link to the online posting of each resolution. Each resolution shall be published in an issue of the Texas Bar Journal before the annual meeting. The online posting of each resolution shall include together with the name or names of its proponents and the name or names of any local bar association or section or committee of the State Bar approving or endorsing it. The Executive Director may exercise discretion in publishing the proposed resolution in summary form rather than in its entirety. The Executive Director shall furnish copies of each resolution to each member of the annual meeting resolutions committee.

(D) Resolutions relating to events after the deadline for filing resolutions may be considered upon the vote of two-thirds of the voting members of the annual meeting resolutions committee.

(E) At the second quarterly meeting of the Board, the President shall appoint a committee of three or more members, who may be members of the Board, to review the resolutions and hold a hearing or hearings before the meeting of the annual meeting resolutions committee to recommend possible amendments to and consolidation of resolutions. At least one sponsor of each resolution shall be notified of the time and place of all hearings. The recommendations of this committee are not binding on the sponsors of any resolution or on the annual meeting resolutions committee. One member of this committee shall be the immediate past Chair of the Board.

1.19.10(F)

(F) ~~At the second quarterly meeting of the Board, the President or the Chair shall request t~~The President of the TYLA shall furnish a sufficient number of two members of the TYLA to act as sergeants-at-arms at each meeting of the annual meeting resolutions committee at the next annual meeting of the State Bar. The sergeants-at-arms shall be issued proper credentials and badges of office, and their primary duty shall be to see that all voting delegates and alternates who are entitled to vote are seated in the space provided for them and that no person who is not entitled to vote is permitted in that space.

FOR BOARD CONSIDERATION

June 12, 2019

1.21.10 James E. Brill Award for Excellence in Succession Planning.

As and when appropriate, any State Bar member or Board member may recommend to the Insurance Member Benefits Subcommittee an attorney, individual or organization who is deemed to have made an outstanding contribution toward succession planning caused by death, disability or unforeseen circumstances in cessation of law practice efforts. The Insurance Member Benefits Subcommittee shall make a recommendation to the Board for approval of the award recipient.

FOR BOARD CONSIDERATION

June 12, 2019

3.15 International Travel.

A. Application of Policy. This section applies to any State Bar volunteers, State Bar entities, and members of State Bar entities planning to travel internationally on State Bar related business. The provisions of this section are in addition to any other policies or requirements concerning State Bar business travel. State Bar employees planning to travel internationally on State Bar related business shall follow the internal personnel travel policies for approval.

B. Travel Advisories. Prior to making any international travel arrangements, the individual or State Bar entity must consult the United States Department of State Travel Advisories to determine the level of advisory applicable to the intended destination. The travel advisories are located at <https://travel.state.gov>.

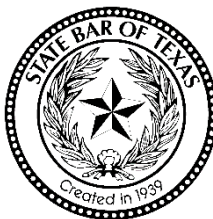
C. Travel Permissions.

1. State Bar business travel to a destination at an advisory level 4 is not permitted.

2. State Bar business travel to a level 1, 2, or 3 destination is not permitted unless all travelers execute and submit the State Bar Travel Acknowledgment of Risk and Waiver of Liability to the Executive Director prior to making travel arrangements and in no event later than 15 business days prior to travel.

FOR BOARD CONSIDERATION

June 12, 2019



STATE BAR OF TEXAS

INTERNATIONAL TRAVEL ACKNOWLEDGMENT AND WAIVER OF LIABILITY

To comply with State Bar Board Policy Manual Section 3.15, State Bar entities and volunteers must complete this form before traveling to an Advisory Category 1, 2, or 3 destination as designated by the United States Department of State Travel Advisories available at <http://travel.state.gov>. Travel to Advisory Category 4 destinations is not allowed.

TRAVEL DESTINATION, DATE, & CATEGORY

Destination(s)	From Date	To Date	Advisory Category

I. RISK NOTIFICATION STATEMENT

It is important that you understand and carefully consider the following risks:

- The U.S. Embassy nearest your destination may temporarily close or suspend public services for security reasons.
- The U.S. Embassy nearest your destination may not be able to provide emergency assistance should you require it.
- If there is a need to evacuate in an emergency, flights may be suspended and other departure or shelter options may be limited or non-existent.
- Access to hospitals, emergency medical care, and medications may be limited or non-existent.
- Should you experience difficulties, the State Bar of Texas may not be in a position to provide emergency assistance to you.
- Participation in travel to a restricted region has inherent risks such as kidnapping or death. These risks can never be completely eliminated.
- Risks of travel to your destination may include, but are not limited to, dangers to health and personal safety.

FOR BOARD CONSIDERATION

June 12, 2019

By submitting this form, I acknowledge and certify that I understand the risks associated with this travel. I further hereby release the State Bar of Texas, its governing board, officers, employees, and representatives from any liability to me, my personal representatives, estate, heirs, next of kin, and assigns for any and all claims and causes of action for loss of or damage to my property and for any and all illness or injury to my person, including my death, that may result from or occur during my participation in the travel.

I also understand that travel to a Travel Advisory Category 4 destination is not allowed.

TRAVELER: _____

Name (Typed or Printed)

Signature

Date Signed

FOR BOARD CONSIDERATION

June 12, 2019

9.04 Records of the State Bar

(A) Officers, members of the Board, and employees must maintain all records created or received in connection with the transaction of State Bar official business in accordance with the State Bar of Texas Record Retention Schedule as filed with the Texas State Library State and Local Records Management Division.

(B) No State Bar Officer, member of the Board, or employee will willfully destroy, mutilate, remove without permission, or alter records pertaining to the official business of the State Bar except in accordance with the State Bar Record Retention Schedule.

(C) No State Bar Officer, member of the Board, or employee will disclose or distribute confidential information.

(D) Each member of the Board shall be issued a State Bar email address accessible for the duration of the Board member's tenure on the Board of Directors. The purpose of this email address is to ensure that State Bar business records and communications comply with the State Bar Record Retention Schedule and the Texas Public Information Act. Each Board Member must:

1. Send and receive emails relating to State Bar business through their State Bar email address; and/or

2. Send and receive emails relating to State Bar business through a separate email address, provided that all sent emails "cc" or "bcc" the Board Member's State Bar email address and all received emails are forwarded to the Board Member's State Bar email address.

Disqualification from Participation

A board member who is an adverse party may not participate in a discussion of or action on a matter in which he or she is adverse to the Bar. A board member who is disqualified from participation under this section may not be present if the matter is being discussed in any non-public session, including, but not limited to, an executive session. If a board member who is an adverse party requests documents relating to the matter, it is presumed that the board member is not seeking the documents in his or her official capacity, and Section 9.06 (“Officer and Board Member Requests for Records”) shall not apply to such request.

In this policy, “adverse party” means a party whose interests are opposed to the State Bar of Texas in a legal action.

COMMISSION FOR LAWYER DISCIPLINE
REPORT

TO THE BOARD OF DIRECTORS
ON
ATTORNEY DISCIPLINE

JUNE 2019

Disciplinary Sanctions
03/01/2019 - 05/21/2019

DISBARMENTS	District	# of Complaints Resolved
Madrigal, Pascual	10	9
Sarfo, Samuel Adjei	9	1
Total:	2	10

RESIGNATIONS IN LIEU OF DISCIPLINE	District	# of Complaints Resolved
Dominguez, William Alfred	9	3
Inmon, Gary W.	11	1

Board of Disciplinary Appeals:

Grissom, James P.	BODA	1
Lanier, Patrick	BODA	1
Total:	4	6

SUSPENSIONS	District	# of Complaints Resolved
Armstrong, J. Gaylord	9	1
Baez, Edgardo Rafael	10	2
Brandmiller, Linda Alice	12	11
Brown, Lorenzo	6	2
Brown, Veryl E.	11	3
Campos, Luis "Rob" Roberto	6	1
Cantu, Charles Stephen	7	1
De Pena, Hector Jr.	11	1
Eaton, Michael W.	7	1
Elam, Tyesha Yvette	4	1
Gotro, Casie Lynn	4	1
Gotro, Casie Lynn	4	1
Gotro, Casie Lynn	4	1
Hamner, Brian Anthony	10	1
Holmes, T. Wesley	6	1
Jackson, Larrisha Charlie Vaughn	4	2

Krenek, Julie Lynn Bulthuis	1	1
LaHood, Nicolas A.	10	1
Long, Tara Nicole	4	1
Loyd, Annette R.	7	1
Malloy, Charles Foster	6	1
Martin, Dennis R.	10	4
McGinnis, Jack Lee II	15	1
McKibben, Dallas E.	13	1
Mitchell, Charsalynn GerSan	6	1
Padilla, Selvino Jr.	12	3
Pearson, Melynda G.	1	1
Perez, Refugio Rafael	11	1
Rambhotla, Kaushik	10	1
Rambhotla, Kaushik	10	1
Sanchez, Zenaida	11	1
Scrivner-Tibbs, Regina M.	10	1
Smith, Cynthia Borgfeld	8	1
Solomon, Tanika J.	4	4
Spagnoletti, Marcus Raymond	4	2
Stein, Jerome Neal	6	1
Stein, Jerome Neal	6	1
Stein, Jerome Neal	6	1
Vaughn, Andrew David	1	1

Board of Disciplinary Appeals:

Castillo, Julie	BODA	1
Cornejo, Derrick Duane	BODA	1
Krummel, Kasey Cathryn	BODA	1
Rodriguez, Juan R.	BODA	1

Total:	43	67
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PUBLIC REPRIMANDS	District	# of Complaints Resolved
Gjesvold, Jennifer K.	7	1
Gotro, Casie Lynn	4	1

Green, Loren Craig	7	3
Groves, John Michael	17	2
Hole, Cheryl Denise	12	1
Hole, Ronald G.	12	1
Menes, Nonye Jude	6	1
Pigg, William Albert	6	1
Thomas, Jermaine Savoy	4	1
Williams, Rachel June	3	1
Total:		13

PRIVATE REPRIMANDS

Grievance Comm.	# of Sanctions	# of Complaints Resolved
1	2	2
2	1	1
3	1	1
4	8	12
5	3	3
6	2	2
7	2	2
10	7	7
11	2	2
15	1	1
16	1	1
17	1	1
BODA	1	1
Total:		36
Grievance Referral Program	17	18
Grand Total:		150

Disciplinary Actions - Current Bar Year

BAR YEARS 2018-2019	Total Sanctions	Total Complaints Resolved
DISBARMENTS	14	38
RESIGNATIONS IN LIEU OF DISCIPLINE	16	80
SUSPENSIONS	144	199
PUBLIC REPRIMANDS	32	39
PRIVATE REPRIMANDS	118	130
GRIEVANCE REFERRAL PROGRAM	73	80
Total:	397	566

*does not reflect year-end figures/summary data includes ytd

Disciplinary Actions - Previous Bar Year

BAR YEARS 2017-2018	Total Sanctions	Total Complaints Resolved
DISBARMENTS	21	47
RESIGNATIONS IN LIEU OF DISCIPLINE	23	102
SUSPENSIONS	115	162
PUBLIC REPRIMANDS	26	30
PRIVATE REPRIMANDS	70	74
GRIEVANCE REFERRAL PROGRAM	79	80
Total:	334	495

BAR YEARS 2016-2017	Total Sanctions	Total Complaints Resolved
DISBARMENTS	20	60
RESIGNATIONS IN LIEU OF DISCIPLINE	28	122
SUSPENSIONS	126	182
PUBLIC REPRIMANDS	30	37
PRIVATE REPRIMANDS	90	98
GRIEVANCE REFERRAL PROGRAM	50	50
Total:	344	549

BAR YEARS 2015-2016	Total Sanctions	Total Complaints Resolved
DISBARMENTS	22	61
RESIGNATIONS IN LIEU OF DISCIPLINE	27	146
SUSPENSIONS	132	205
PUBLIC REPRIMANDS	30	33
PRIVATE REPRIMANDS	67	72
GRIEVANCE REFERRAL PROGRAM	47	47
Total:	325	564

BAR YEARS 2014-2015	Total Sanctions	Total Complaints Resolved
DISBARMENTS	27	55
RESIGNATIONS IN LIEU OF DISCIPLINE	19	55
SUSPENSIONS	113	147
PUBLIC REPRIMANDS	32	36
PRIVATE REPRIMANDS	66	72
GRIEVANCE REFERRAL PROGRAM	64	72
Total:	321	437

BAR YEARS 2013-2014	Total Sanctions	Total Complaints Resolved
DISBARMENTS	22	41
RESIGNATIONS IN LIEU OF DISCIPLINE	17	58
SUSPENSIONS	130	169
PUBLIC REPRIMANDS	31	35
PRIVATE REPRIMANDS	63	70
GRIEVANCE REFERRAL PROGRAM	57	57
Total:	320	430

BAR YEARS 2012-2013	Total Sanctions	Total Complaints Resolved
DISBARMENTS	39	51
RESIGNATIONS	24	46
SUSPENSIONS	122	160
PUBLIC REPRIMANDS	37	40
PRIVATE REPRIMANDS	89	91
GRIEVANCE REFERRAL PROGRAM	56	56
Total:	367	444

BAR YEARS 2011-2012	Total Sanctions	Total Complaints Resolved
DISBARMENTS	38	45
RESIGNATIONS	27	87
SUSPENSIONS	137	174
PUBLIC REPRIMANDS	40	41
PRIVATE REPRIMANDS	106	115
GRIEVANCE REFERRAL PROGRAM	54	54
Total:	402	516

BAR YEARS 2010-2011	Total Sanctions	Total Complaints Resolved
DISBARMENTS	28	52
RESIGNATIONS	23	101
SUSPENSIONS	157	254
PUBLIC REPRIMANDS	40	50
PRIVATE REPRIMANDS	77	82
GRIEVANCE REFERRAL PROGRAM	46	46
Total:	371	584

BAR YEARS 2009-2010	Total Sanctions	Total Complaints Resolved
DISBARMENTS	25	33
RESIGNATIONS	22	40
SUSPENSIONS	111	169
PUBLIC REPRIMANDS	37	47
PRIVATE REPRIMANDS	81	89
GRIEVANCE REFERRAL PROGRAM	39	39
Total:	315	417

BAR YEARS 2008-2009	Total Sanctions	Total Complaints Resolved
DISBARMENTS	32	43
RESIGNATIONS	26	104
SUSPENSIONS	127	189
PUBLIC REPRIMANDS	46	54
PRIVATE REPRIMANDS	68	73
GRIEVANCE REFERRAL PROGRAM	36	36
Total:	335	499

BAR YEARS 2007-2008	Total Sanctions	Total Complaints Resolved
DISBARMENTS	24	63
RESIGNATIONS	24	90
SUSPENSIONS	121	224
PUBLIC REPRIMANDS	28	35
PRIVATE REPRIMANDS	69	73
GRIEVANCE REFERRAL PROGRAM	33	33
Total:	299	518

BAR YEARS
2006-2007

Total Sanctions

DISBARMENTS	30
RESIGNATIONS	31
SUSPENSIONS	110
PUBLIC REPRIMANDS	62
PRIVATE REPRIMANDS	87
Total:	320

DISTRICT 1:

Krenek, Julie Lynn Bulthuis: #24065574
04/16/2019-Agreed Active Suspension
08/15/2019-08/14/2020: SUSPENSION

On April 16, 2019, **Julie Lynn Krenek** [#24065574], 50, of McKinney, agreed to 12-month, active suspension, effective August 15, 2019. The District 1 Grievance Committee found that Krenek failed to keep Complainant reasonably informed about the status of her legal matter and failed to promptly comply with reasonable requests for information. Krenek failed to timely furnish to the Chief Disciplinary Counsel's office a response or other information as required by the Texas Rules of Disciplinary Procedure and did not in good faith timely assert a privilege or other legal ground for failure to do so. Krenek violated Rules 1.03(a), and 8.04(a)(8). She was ordered to pay \$500.00 in attorneys' fees and direct expenses.

Pearson, Melynda G.: #00787534
04/26/2019-Agreed Partially Probated Suspension
05/01/2019-07/31/2019: SUSPENSION
08/01/2019-04/30/2021: PROBATED

On April 26, 2019, **Melynda G. Pearson** [#00787534], 50, of Bowie, agreed to a 24-month, partially probated suspension, beginning May 1, 2019, with the first three months being actively suspended and the remaining 21 months probated to begin on August 1, 2019, and ending on April 30, 2021. Pearson failed to timely file a response to the grievance. Pearson violated Rule 8.04(a)(8). She was ordered to pay \$675.00 in attorneys' fees and direct expenses.

Dallas Attorney
04/24/2019-Agreed Private Reprimand

Rule 1.01(b)(1)

In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Rule 1.03(a)

A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Dallas Attorney
05/09/2019-Agreed Private Reprimand

Rule 1.14(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.

Rule 1.15(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.

Vaughn, Andrew David: #24056764
02/04/2019-Fully Probated Suspension
02/01/2019-01/31/2021: PROBATED

On February 4, 2019, **Andrew David Vaughn** [#24056764], 38, of Canton, received a two-year, fully probated suspension (February 1, 2019, through January 31, 2021). An evidentiary panel of the District 1 Grievance Committee found that Vaughn neglected a legal matter entrusted to him by failing to perform legal services. Vaughn violated Rule 1.01(b)(1). He was ordered to pay \$2,400.00 in attorneys' fees and \$542.50 in direct expenses.

DISTRICT 2:

Dallas Attorney
05/10/2019-Private Reprimand

Rule 1.01(b)(1)

for neglecting a legal matter entrusted to the lawyer

Rule 1.15(a)(2)

for failing to decline or withdraw from representation of a client if the lawyer's physical, mental or psychological condition materially impairs the lawyer's fitness to represent the client

Rule 1.15(d)

for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, or surrender papers and property which belongs to the client

DISTRICT 3:

Williams, Rachel June: #24042166
12/04/2018-Public Reprimand

On December 4, 2018, **Rachel June Williams** [#24042166], 47, of Conroe, received a judgment of public reprimand. An evidentiary panel of the District 3 Grievance Committee found that Williams neglected the legal matter entrusted to her, failed to keep her client reasonably informed about the status of her matter, failed to timely furnish to the Chief Disciplinary Counsel's office a response or other information as required by the Texas Rules of Disciplinary Procedure, and, upon termination of

representation, failed to refund advance payments of fee that had not been earned. Williams violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(8). She was ordered to pay \$737.06 in attorneys' fees and costs.

Houston Attorney

04/11/2019-Agreed Private Reprimand

Rule 1.01(b)(1)

for neglecting a legal matter entrusted to the lawyer

Rule 1.03(a)

for failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information

DISTRICT 4:

Elam, Tyesha Yvette: #24026819

04/01/2019-Fully Probated Suspension

04/01/2019-10/01/2019: PROBATED

On April 1, 2019, **Tyesha Yvette Elam** [#24026819], 47, of Houston, received a six-month, fully probated suspension, effective April 1, 2019. An evidentiary panel of the District 4 Grievance Committee found that Elam failed to keep a client reasonably informed, failed to promptly comply with reasonable requests for information, represented a client in a matter adverse to her former client in a substantially related matter, failed to hold funds belonging to a client separate from her own property, failed to refund advanced payments of an unearned fee, and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation. Elam was ordered to pay restitution in the amount of \$1,300.00 and \$1,300.00 in attorneys' fees. Elam violated Rules 1.03(a), 1.09(a)(3), 1.14(a), 1.15(d), and 8.04(a)(3).

Houston Attorney

05/03/2019-Agreed Private Reprimand

Rule 5.03(b)(1)

a lawyer shall be in violation if the lawyer orders, encourages, or permits the conduct involved of a non-lawyer to be in violation of the rules of the Texas Disciplinary rules of Professional Conduct

Gotro, Casie Lynn: #24048505

04/05/2019-Public Reprimand

On April 5, 2019, **Casie Lynn Gotro** [#24048505], 46, of Houston, received a judgment of public reprimand. An evidentiary panel of the District 4 Grievance Committee found that Gotro engaged in the practice of law when her right to practice had been administratively suspended for failure to timely pay required fees. Gotro violated Rule 8.04(a)(11). She was ordered to pay \$1,884.11 in attorneys' fees and costs.

Gotro, Casie Lynn: #24048505
04/05/2019-Partially Probated Suspension
05/01/2019-10/31/2019: SUSPENSION
11/01/2019-04/30/2020: PROBATED

On April 5, 2019, **Casie Lynn Gotro** [#24048505], 46, of Houston, received a judgment of partially probated suspension, effective May 1, 2019, with the first six months actively suspended and the remainder probated. An evidentiary panel of the District 4 Grievance Committee found that, in representing her client, Gotro neglected the legal matter entrusted to her, failed to keep her client reasonably informed about the status of their legal matter and failed to promptly comply with reasonable request for information, upon termination of representation, failed to refund advance payments of fee that had not been earned, and failed to timely furnish to the Chief Disciplinary Counsel's office a response or other information as required by the Texas Rules of Disciplinary Procedure. Gotro violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(8). She was ordered to pay \$9,000.00 in restitution and \$816.15 in attorneys' fees and costs.

Gotro, Casie Lynn: #24048505
04/05/2019-Active Suspension
05/01/2019-04/30/2022: SUSPENSION

On April 5, 2019, **Casie Lynn Gotro** [#24048505], 46, of Houston, received a judgment of active suspension, effective May 1, 2019. An evidentiary panel of the District 4 Grievance Committee found that, in representing her client, Gotro neglected the legal matter entrusted to her, failed to keep her client reasonably informed about the status of their legal matter and failed to promptly comply with reasonable request for information, failed to hold funds belonging in whole or in part to a third party that was in Gotro's possession in connection with the representation separate from her own property, and failed to promptly deliver to a third person funds that they were entitled to receive. Upon termination of representation, Gotro also failed to refund advance payments of fee that had not been earned, and failed to timely furnish to the Chief Disciplinary Counsel's office a response or other information as required by the Texas Rules of Disciplinary Procedure. Gotro violated Rules 1.01(b)(1), 1.03(a), 1.14(a), 1.14(b), 1.15(d), and 8.04(a)(8). She was ordered to pay \$40,000.00 in restitution and \$894.05 in attorneys' fees and costs.

Gotro, Casie Lynn: #24048505
04/05/2019-Fully Probated Suspension
05/01/2019-04/30/2020: PROBATED

On April 5, 2019, **Casie Lynn Gotro** [#24048505], 46, of Houston, received a judgment of fully probated suspension, effective May 1, 2019, with the suspension being fully probated. An evidentiary panel of the District 4 Grievance Committee found that Gotro failed to keep her client reasonably informed about the status of their legal matter and failed to promptly comply with reasonable request for information, upon termination of representation, failed to surrender papers and property to which her client was entitled and failed to refund advance payments of fee that had not been earned, and failed to timely furnish to the Chief Disciplinary Counsel's office a response or other information as required by the Texas Rules of Disciplinary Procedure. Gotro violated Rules 1.03(a), 1.15(d), and 8.04(a)(8). She was ordered to pay \$10,000.00 in restitution and \$1,734.11 in attorneys' fees and costs.

Jackson, Larrisha Charlie Vaughn: #24073658
03/07/2019-Agreed Fully Probated Suspension
04/01/2019-03/30/2022: PROBATED

On March 7, 2019, **Larrisha Charlie Vaughn Jackson** [#24073658], 31, of Houston, accepted a three-year, fully probated suspension, effective April 1, 2019. An evidentiary panel of the District 4 Grievance Committee found that in one matter, Jackson neglected the legal matter entrusted to her and failed to surrender papers and property to which her client was entitled. In a second matter, Jackson failed to keep funds belonging in part to her client in a separate trust account, and failed to promptly deliver to third persons funds that the third persons were entitled to receive. Jackson violated Rules 1.01(b)(1), 1.14(a), 1.14(b), and 1.15(d). She was ordered to pay \$2,860.50 in restitution and \$1,928.29 in attorneys' fees and direct expenses.

Houston Attorney
03/15/2019-Agreed Private Reprimand

Rule 1.03(a)
for failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information

Houston Attorney
03/29/2019-Agreed Private Reprimand

Rule 1.01(b)(1)
for neglecting a legal matter entrusted to the lawyer

Rule 1.03(a)
for failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information

Houston Attorney
03/29/2019-Agreed Private Reprimand

Rule 1.01(b)(1)
for neglecting a legal matter entrusted to the lawyer

Long, Tara Nicole: #24032680
04/03/2019-Agreed Fully Probated Suspension
04/01/2019-09/30/2019: PROBATED

On April 3, 2019, **Tara Nicole Long** [#24032680], 44, of Houston, accepted a six-month, fully probated suspension, effective April 1, 2019. An evidentiary panel of the District 4 Grievance Committee found that in representing a client, Long neglected the legal matter entrusted to her and failed to keep her client reasonably informed about the status of the legal matter and failed to promptly comply with reasonable requests for information. Long violated Rules 1.01(b)(1), and 1.03(a). She was ordered to pay \$500.00 in attorneys' fees and direct expenses.

Houston Attorney
04/08/2019-Agreed Private Reprimand

Rule 1.15(d)
for failing to decline or withdraw from representation of a client if the representation will result in a violation of Rule 3.08, other applicable rules of professional conduct, or other law

Houston Attorney
03/15/2019-Agreed Private Reprimand

Rule 1.02(a)(2)
for failing to abide by a client's decisions regarding acceptance of an offer of settlement of a matter

Rule 5.03(b)(1)
a lawyer shall be in violation if the lawyer orders, encourages, or permits the conduct involved of a non-lawyer to be in violation of the rules of the Texas Disciplinary rules of Professional Conduct

Houston Attorney
02/14/2019-Agreed Private Reprimand

Rule 5.03(b)(1)
a lawyer shall be in violation if the lawyer orders, encourages, or permits the conduct involved of a non-lawyer to be in violation of the rules of the Texas Disciplinary rules of Professional Conduct

Rule 7.03(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 lawyer's 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

Houston Attorney
03/04/2019-Agreed Private Reprimand

Rule 1.14(a)

for failing to hold funds and other property belonging in whole or part to clients or third persons in a lawyer's possession separate from the lawyer's own property

Solomon, Tanika J.: #24057713
04/02/2019-Agreed Fully Probated Suspension
04/01/2019-09/30/2019: PROBATED

On April 2, 2019, **Tanika J. Solomon** [#24057713], 47, of Houston, accepted a six-month, fully probated suspension, effective April 1, 2019. An evidentiary panel of the District 4 Grievance Committee found that, in one matter, Solomon failed to promptly deliver to her client's medical providers funds that they were entitled to receive and failed to promptly render a full accounting regarding such funds. In three other matters, Solomon failed to keep her clients reasonably informed about the status of their legal matters and failed to promptly comply with reasonable requests for information. Solomon violated Rules 1.03(a), and 1.14(b). She was ordered to pay \$1,400.00 in attorneys' fees and direct expenses.

Spagnoletti, Marcus Raymond: #24076708
04/05/2019-Agreed Fully Probated Suspension
05/01/2019-05/01/2021: PROBATED

On April 5, 2019, **Marcus Raymond Spagnoletti** [#24076708], 34, of Houston, accepted a two-year, fully probated suspension, effective May 1, 2019. An evidentiary panel of the District 4 Grievance Committee found that in representing his clients, Spagnoletti neglected the legal matters entrusted to him, frequently failed to carry out completely the obligations Spagnoletti owed to his clients, and failed to keep his clients reasonably informed about the status of their cases and promptly comply with reasonable requests for information. Spagnoletti violated Rules 1.01(b)(1), 1.01(b)(2), and 1.03(a). He was ordered to pay \$5,830.00 in attorneys' fees.

Thomas, Jermaine Savoy: #24033386
04/16/2019-Agreed Public Reprimand

On April 16, 2019, **Jermaine Savoy Thomas** [#24033386], 43, of Houston, accepted an agreed public reprimand. An evidentiary panel of the District 4 Grievance Committee found that Thomas neglected the legal matter entrusted to him and frequently failed to carry out completely the obligations he owed to his client. Thomas further failed to keep his client reasonably informed about the status of the case and failed to promptly comply with his client's reasonable requests for information. In addition, Thomas failed to promptly deliver funds that his client's medical providers were entitled to receive and failed to promptly render a full accounting of the settlement funds upon request. Thomas violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), and 1.14(b). He was ordered to pay \$500.00 in attorneys' fees and direct expenses.

DISTRICT 5:

Houston Attorney
05/16/2019-Agreed Private Reprimand

Rule 1.15(d)
for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, or surrender papers and property which belongs to the client

Houston Attorney
02/15/2019-Private Reprimand

Rule 8.04(a)(8)
for failing to timely furnish a district grievance committee a response or other information as required unless he/she timely asserts a privilege or other legal ground for failure to do so

Houston Attorney
03/21/2019-Agreed Private Reprimand

Rule 1.03(a)
for failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information

DISTRICT 6:

Brown, Lorenzo: #03151500
03/13/2019-Agreed Fully Probated Suspension
03/15/2019-03/14/2020: PROBATED

On March 13, 2019, **Lorenzo Brown** [#03151500], 67, of Desoto, agreed to a 12-month, fully probated suspension, effective March 15, 2019. The District 6 Grievance Committee found that an agreed disciplinary judgment dated February 21, 2017, actively suspended Brown from the practice of law from April 1, 2017, to June 30, 2017, and ordered Brown to provide written notification of his suspension to any courts or opposing counsel in matters that Brown was the attorney of record that were pending during his suspension. Brown was the attorney of record in a case in Dallas County, Texas, and failed to notify the court in writing regarding his suspension. Brown was the attorney of record in a case in Collin County, and failed to notify opposing counsel in writing regarding his suspension. Brown failed to comply with section 13.01 of the Texas Rules of Disciplinary Procedure relating to notification an attorney's suspension of practice. Brown violated Rule 8.04(a)(10). He was ordered to pay \$1,000.00 in attorneys' fees and direct expenses.

Campos, Luis "Rob" Roberto: #00792394
02/13/2019-Fully Probated Suspension
02/01/2019-01/31/2020: PROBATED

On February 13, 2019, **Luis "Rob" Roberto Campos** [#00792394], 49, of Dallas, received a 12-month, fully probated suspension, effective February 1, 2019. An evidentiary panel of the District 6 Grievance Committee found that in or about August of 2015, the complainant hired Campos in a civil matter. The complainant paid Campos \$700.00 to begin the representation. Thereafter, Campos neglected the legal matter entrusted to him by failing to provide legal services to the complainant. Campos also failed to keep the complainant reasonably informed about the status of her case and failed to promptly comply with reasonable requests from the complainant about her legal matter. Upon termination, Campos failed to surrender papers and property to which the complainant was entitled and failed to refund advance payments of the fee that had not been earned. Further, Campos failed to timely respond to the grievance. Campos violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(8). He was ordered to pay \$200.00 in restitution and \$1,149.00 in attorneys' fees and direct expenses.

Houston Attorney
04/11/2019-Private Reprimand

Rule 1.01(b)(1)

In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Holmes, T. Wesley: #09908495
05/08/2019-Agreed Active Suspension
05/15/2019-05/14/2023: SUSPENSION

On May 8, 2019, **T. Wesley Holmes** [#09908495], 54, of Dallas, agreed to 48-month, active suspension, effective May 15, 2019. The District 6 Grievance Committee found that Holmes failed to hold funds belonging to third person that were in Holmes' possession in connection with the representation separate from Holmes' own property. Holmes failed to promptly deliver to the third person's funds that the third person was entitled to receive. Upon request by the third person, Holmes failed to promptly render a full accounting regarding such funds. Holmes engaged in conduct involving dishonesty, fraud, deceit or misrepresentation. Holmes violated Rules 1.14(a), 1.14(b), and 8.04(a)(3). He was ordered to pay \$1,500.00 in attorneys' fees and direct expenses and \$987,807.00 in restitution.

Malloy, Charles Foster: #12868850
04/08/2019-Fully Probated Suspension
04/15/2019-04/14/2022: PROBATED

On April 8, 2019, **Charles Foster Malloy** [#12868850], 56, of Dallas, received a three-year, fully probated suspension. An evidentiary panel of the District 6 Grievance Committee found that Malloy failed to keep his client reasonably informed about case status and failed to promptly comply with the client's reasonable requests for case information. Malloy also failed to hold funds, which belonged to a member of the client's family and which were in Malloy's possession in connection with the representation, separate from Malloy's own property. Malloy violated Rules 1.03(a) and 1.14(a). He was ordered to pay \$9,000.00 in restitution and \$2,100.00 in attorneys' fees and direct expenses.

Menes, Nonye Jude: #24004815
05/09/2019-Agreed Public Reprimand

On May 9, 2019, **Nonye Jude Menes** [#24004815], 52, of Dallas, agreed to a public reprimand. The 14th Judicial District Court of Dallas County found that Menes committed Professional Misconduct by violating Rules 1.01(b)(1) [In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer], Rule 1.03(a) [A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information] and Rule 1.03(b) [A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation]. Menes was ordered to pay restitution in the amount of \$3,500.00 and attorneys' fees and direct expenses in the amount of \$1,500.00.

Mitchell, Charsalynn Gersan: #24067771
04/11/2019-Agreed Partially Probated Suspension
05/01/2019-05/31/2019: SUSPENSION
06/01/2019-04/30/2020: PROBATED

On April 11, 2019, **Charsalynn Gersan Mitchell** [#24067771], 39, of Addison, agreed to a 12-month, partially probated suspension, effective May 1, 2019, with the first month actively served and the remainder probated. The District 6 Grievance Committee found that beginning in 2015, Mitchell, while employed as an attorney with Legal Aid of North West Texas (LANWT), engaged in outside employment without disclosing such employment to LANWT and without LANWT's required approval. Furthermore, Mitchell used and/or charged LANWT's credit card and/or e-filing account multiple times, without LANWT's knowledge, consent or authorization, for filing fees associated with Mitchell's private clients who were not clients of LANWT. In addition, in November 2016, Mitchell misrepresented to a LANWT client that the client owed monies to LANWT for reimbursement of a social study fee. Mitchell obtained a money order from the client and cashed it in Mitchell's name. Mitchell violated Rules 1.14(a) and 8.04(a)(3). She was ordered to pay \$1,200.00 in attorneys' fees and direct expenses.

Pigg, William Albert: #24057009
04/22/2019-Agreed Public Reprimand

On April 22, 2019, **William Albert Pigg** [#24057009], 60, of Dallas, entered into an agreed judgment of public reprimand. An Investigatory Panel of the District 6 Grievance Committee found that Pigg, upon termination of representation, failed to take steps to the extent reasonably practicable to protect his client's interests. Pigg illegally shared legal fees with a non-lawyer and assisted a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law. Pigg is also subject to discipline based upon the conduct of a non-lawyer employee. Pigg violated Rules 1.15(d), 5.03(b)(1), 5.04(a), and 5.05(b). He was ordered to pay \$2,500.00 in restitution and \$1,000.00 in attorneys' fees and direct expenses.

Dallas Attorney
03/08/2019-Agreed Private Reprimand

Rule 3.04(d)

A Lawyer shall not, knowingly disobey, or advise the client to disobey, an obligation under the standing rules of or a ruling by a tribunal except for 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.

Stein, Jerome Neal: #19128290
04/26/2019-Agreed Active Suspension
05/01/2019-04/30/2021: SUSPENSION

On April 26, 2019, **Jerome Neal Stein** [#19128290], 60, of Addison, agreed to 24-month, active suspension, effective May 1, 2019. The District 6 Grievance Committee found that in October 2017, Complainant hired Stein to represent Complainant in a child custody matter. Upon request by Complainant, Stein failed to promptly render a full accounting of legal fees paid and/or work performed by Stein. Stein, without Complainant's consent or authorization, charged Complainant's credit card multiple times for purported legal fees. Stein engaged in conduct involving dishonesty, fraud, deceit or misrepresentation by using Complainant's credit card without authority and billing for services Stein did not perform. Stein violated Rules 1.14(b), 8.04(a)(2), and 8.04(a)(3). He was ordered to pay \$450.00 in attorneys' fees and direct expenses and \$2,780.00 in restitution.

Stein, Jerome Neal: #19128290
04/25/2019-Agreed Active Suspension
05/01/2019-04/30/2021: SUSPENSION

On April 25, 2019, **Jerome Neal Stein** [#19128290], 60, of Addison, agreed to a 24-month, active suspension, effective May 1, 2019. The 14th District Court of Dallas County found that Stein committed Professional Misconduct by violating Rules 8.04(a)(2) [A lawyer shall not commit a serious crime or commit any other criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects] and 8.04(a)(3) [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation]. Stein was ordered to pay attorneys' fees and direct expenses in the sum of \$700.00 and restitution in the sum of \$2,100.00.

Stein, Jerome Neal: #19128290
04/24/2019-Agreed Active Suspension
05/01/2019-04/30/2021: SUSPENSION

On April 24, 2019, **Jerome Neal Stein** [#19128290], 60, of Addison, agreed to 24-month, active suspension, effective May 1, 2019. The District 6 Grievance Committee found that in October 2017, Stein was retained to represent Complainant in a child support matter. In representing Complainant, Stein neglected the legal matter entrusted to him by failing to appear at a child support review hearing. Upon termination of representation, Stein failed to promptly refund advance payments of the fee that had not been earned. Stein failed to timely furnish to the Chief Disciplinary Counsel's office a response or other information as required by the Texas Rules of Disciplinary Procedure and did not in good faith timely

assert a privilege or other legal ground for failure to do so. Stein violated Rules 1.01(b)(1), 1.15(d), and 8.04(a)(8). He was ordered to pay \$1,000.00 in attorneys' fees and direct expenses.

DISTRICT 7:

Cantu, Charles Stephen: #24044911
02/25/2019-Default Fully Probated Suspension
02/14/2019-02/13/2022: PROBATED

On February 25, 2019, **Charles Stephen Cantu** [#24044911], 41, of Arlington, received a three-year, fully probated suspension (February 14, 2019, through February 13, 2022). An evidentiary panel of the District 7 Grievance Committee found Cantu neglected a legal matter entrusted to him, failed to keep his client reasonably informed about the status of a legal matter, and failed to promptly comply with reasonable requests for information. Upon termination of representation, Cantu failed to take steps to the extent reasonably practicable to protect his client's interests and failed to timely furnish a response to grievance. Cantu violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(8). He was ordered to pay \$7,540.00 in restitution, \$2,351.00 in attorneys' fees and \$687.00 in direct expenses.

Eaton, Michael W.: #06383800
03/06/2019-Agreed Active Suspension
04/15/2020-04/14/2023: SUSPENSION

On March 6, 2018, **Michael W. Eaton** [#06383800], 60, of Conroe, agreed to 36-month, active suspension, effective April 15, 2020. The District 7 Grievance Committee found that in representing Complainant, Eaton neglected the legal matters entrusted to him and frequently failed to carry out completely the obligations Eaton owed to Complainant as Eaton failed to amend the lawsuit to include additional allegations and allowed the lawsuit in its entirety to be dismissed for want of prosecution. Eaton failed to keep Complainant reasonably informed about the status of his lawsuit and failed to promptly comply with reasonable requests for information from Complainant. Further, when communicating with Complainant and when communicating with the State Bar of Texas in connection to this grievance, Eaton engaged in conduct involving dishonesty, fraud, deceit or misrepresentation. Eaton violated Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), and 8.04(a)(3). He was ordered to pay \$2,350.00 in attorneys' fees and direct expenses.

Dallas Attorney
03/06/2019-Agreed Private Reprimand

Rule 3.04(d)

A Lawyer shall not, knowingly disobey, or advise the client to disobey, an obligation under the standing rules of or a ruling by a tribunal except for 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.

Gjesvold, Jennifer K.: #24076175
02/12/2019-Public Reprimand

On February 12, 2019, **Jennifer K. Gjesvold** [#24076175], 43, of Hurst, received a public reprimand. The 352nd Judicial District Court of Tarrant County found that Gjesvold committed Professional Misconduct by violating Rule 4.04(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.]

Green, Loren Craig: #24029179
03/25/2019-Agreed Public Reprimand

On March 25, 2019, **Loren Craig Green** [#24029179], 53, of Arlington, agreed to a public reprimand. The District 7 Grievance Committee found that Green had direct supervisory authority over a non-lawyer and failed to make reasonable efforts to ensure that the non-lawyer's conduct was compatible with the professional obligations of Green. Green shared fees with a non-lawyer. Green paid a person not licensed to practice law for referring clients or prospective clients to Green. The fees paid were not for advertising or public relation services rendered in accordance with Rule 7.03. The fees paid were not the usual charges of a lawyer referral service that meets the requirements of Occupational Code Title 5, Subtitle B, Chapter 952. Green violated Rules 5.03(a), 5.04(a), and 7.03(b). He was ordered to pay attorneys' fees and direct expenses in the sum of \$1200.00.

Loyd, Annette R.: #16731100
02/14/2019-Fully Probated Suspension
02/04/2019-02/03/2021: PROBATED

On February 14, 2019, **Annette R. Loyd** [#16731100], 56, of Fort Worth, received a two-year, fully probated suspension. An evidentiary panel of the District 7 Grievance Committee found that while representing clients in a civil matter, Loyd neglected the case and violated a disciplinary judgment. Loyd failed to promptly comply with the clients' reasonable requests for case information, and failed to explain the legal matter to the extent reasonably necessary to permit the clients to make informed decisions about the representation. Loyd also failed to timely provide a response to the grievance. Loyd violated Rules 1.01(b)(1), 1.03(a), 1.03(b), 8.04(a)(7) and 8.04(a)(8). She was ordered to pay \$1,000.00 in restitution and \$4,000.00 in attorneys' fees and costs.

Dallas Attorney
04/08/2019-Agreed Private Reprimand

Rule 1.01b(1)
for neglecting a legal matter entrusted to the lawyer

Rule 1.14(b)
for failing, upon receiving funds or other property in which a client or third person has an interest, to promptly notify the client or third person and render a full accounting upon request

Rule 1.15(d)
for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, or surrender papers and property which belongs to the client

DISTRICT 8:

Smith, Cynthia Borgfeld: #18553650
03/20/2019-Agreed Fully Probated Suspension
03/15/2019-03/14/2020: PROBATED

On March 20, 2019, **Cynthia Borgfeld Smith** [#18553650], 71, of Georgetown, accepted a one year probated suspension, effective March 15, 2019. An evidentiary panel of the District 8 Grievance Committee found that while representing a client in a child support modification, Smith told her client that she filed a petition on his behalf, however, no such petition was filed. Smith then ceased all communication with her client. Smith failed to respond to her client's request for a copy of his file, an accounting of any earned fees, and the return of any unearned fees and further failed to file a response to the grievance as required by the Texas Rules of Disciplinary Procedure. Smith violated Rules 1.01(b)(1), 1.03(a), 1.15(d) and 8.04(a)(8). Smith was ordered to pay \$580.50 in attorneys' fees and direct expenses and \$400.00 in restitution.

DISTRICT 9:

Armstrong, J. Gaylord: #01320000
03/11/2019-Active Suspension
08/23/2012-03/22/2019: SUSPENSION

On March 11, 2019, **J. Gaylord Armstrong** [#01320000], 79, of Austin, accepted a 79-month, active suspension, effective August 23, 2012. An evidentiary panel of the District 9 Grievance Committee found that Armstrong was formerly of counsel at an Austin law firm and was an authorized signatory on a Political Action Committee ("PAC") checking account of his firm's client. Armstrong was authorized to write checks for political contributions to elected officials from the PAC account. Beginning in March 2011, Armstrong misappropriated funds from the PAC account by writing checks to himself without the client's knowledge or authorization. Armstrong spent the misappropriated funds on his own personal expenses. By his conduct, Armstrong engaged in conduct constituting theft and misapplication of fiduciary property Armstrong violated Rules 8.04(a)(2), 8.04(a)(3), and 8.04(a)(1).

Dominguez, William Alfred: #24006209
04/30/2019-Resignation in Lieu of Discipline

On April 30, 2019, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **William Alfred Dominguez** [#24006209], 56, of Austin. At the time of Dominguez's resignation, three disciplinary cases were pending against him involving one probate matter and two family law matters. Dominguez neglected his clients' legal matters, failed to keep clients reasonably informed about the status of the matters and failed to promptly comply with reasonable requests for information. He further failed to promptly render full accountings when requested. When terminated, Dominguez failed to surrender papers and property to which the clients were entitled and failed to refund advance payments of fees that had not been earned. Dominguez also failed to timely furnish a written response to the Chief Disciplinary Counsel's office in one case. Dominguez violated Rules 1.01(b)(1), 1.03(a), 1.14(b), 1.15(d), and 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct.

Sarfo, Samuel Adjei: #24071896
02/21/2019-Disbarment

On February 21, 2019, **Samuel Adjei Sarfo** [#24071896], 56, of Austin, received a judgment of disbarment. The 201st District Court of Travis County found that Sarfo violated Rule 8.04(a)(7) [a lawyer shall not violate any disciplinary or disability order or judgment] and Rule 8.04(a)(11) [a lawyer shall not engage in the practice of law when the lawyer is on inactive status or when the lawyer's right to practice has been suspended or terminated]. Sarfo was ordered to pay \$11,673.59 in attorneys' fees and costs. Sarfo has filed a Notice of Appeal.

DISTRICT 10:

Baez, Edgardo Rafael: #24048334
04/16/2019-Agreed Fully Probated Suspension
04/22/2019-04/21/2021: PROBATED

On April 16, 2019, **Edgardo Rafael Baez** [#24048334], 48, of San Antonio, accepted a 28-month, fully probated suspension, effective April 22, 2019. The District 10 Grievance Committee found that Baez accepted a legal matter beyond his competence, failed to keep his client reasonably informed and failed to promptly render a full account regarding client's funds. Baez violated Rules 1.01(a)(1), 1.03(b) and 1.14(b), and agreed to pay \$1,512.50 in restitution, and \$800.00 in attorneys' fees and direct expenses.

San Antonio Attorney
02/06/2019-Private Reprimand

Rule 1.08(a)

A lawyer shall not enter into a business transaction with a client unless, 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.

Rule 8.04(a)(1)

A lawyer shall not violate these rules, knowingly assist or induce another to do so, or do so

through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship.

San Antonio Attorney
05/13/2019-Agreed Private Reprimand

Rule 1.15(d)

for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, surrender papers and property which belong to the client, or refund any advance payments of fees that have not been earned.

San Antonio Attorney
04/23/2019-Agreed Private Reprimand

Rule 4.02(a)

In representing a client, for communicating, causing or encouraging 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.

Hamner, Brian Anthony: #24041050
04/11/2019-Agreed Fully Probated Suspension
03/27/2019-03/30/2023: PROBATED

On April 11, 2019, **Brian Anthony Hamner** [#24041050], 43, of San Antonio, agreed to a four-year, fully probated suspension, effective March 27, 2019. The District 10 Grievance Committee found that Hamner violated the terms of a prior disciplinary judgment. Hamner violated Rules 8.04(a)(7) and 8.04(a)(10) and was ordered to pay \$800.00 in attorneys' fees and direct expenses.

San Antonio Attorney
04/29/2019-Agreed Private Reprimand

Rule 1.15(d)

for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, surrender papers and property which belong to the client, or refund any advance payments of fees that have not been earned.

LaHood, Nicolas A.: #24030360
03/05/2019-Fully Probated Suspension
03/05/2019-03/04/2020: PROBATED

On March 5, 2019, **Nicolas A. LaHood** [#24030360], 46, of San Antonio, received a one-year, fully probated suspension, effective March 5, 2019. The District 10 Grievance Committee found that LaHood made an extrajudicial statement that a reasonable person would expect to be disseminated by means of

public communication when he knew or reasonably should have known that it will have a substantial likelihood of materially prejudicing an adjudicatory proceeding and used means that had no substantial purpose other than to embarrass, delay, or burden a third person. LaHood violated Rules 3.07, and 4.04(a), and was ordered to pay \$9,700.92 in attorneys' fees and direct expenses.

San Antonio Attorney
05/14/2019-Agreed Private Reprimand

Rule 1.03(a)

A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Madrigal, Pascual: #12802150
03/15/2019-Disbarment

On March 15, 2019, **Pascual Madrigal** [#12802150], 64, of San Antonio, was disbarred. The District 10 Grievance Committee found that Madrigal failed to respond to a grievance timely. Madrigal violated Rule 8.04(a)(8) and was ordered to pay \$4,910.66 in attorneys' fees and direct expenses.

Martin, Dennis R.: #13059400
05/01/2019-Agreed Fully Probated Suspension
06/01/2019-05/31/2022: PROBATED

On May 1, 2019, **Dennis R. Martin** [#13059400], 70, of San Antonio, accepted a three-year, fully probated suspension, effective June 1, 2019. The District 10 Grievance Committee found that Martin neglected client's matters, failed to keep clients reasonably informed and failed to refund the unearned portion of a fee. Martin violated Rules 1.01(b)(1), 1.03(a), and 1.15(d), and agreed to pay \$3,000.00 in restitution and \$800.00 in attorneys' fees and direct expenses.

San Antonio Attorney
05/09/2019-Agreed Private Reprimand

Rule 1.03(a)

A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

San Antonio Attorney
04/09/2019-Agreed Private Reprimand

Rule 1.03(b)

for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding representation.

Rambhotla, Kaushik: #24079175
05/10/2019-Agreed Partially Probated Suspension
05/15/2019-08/15/2019: SUSPENSION
08/15/2019-11/15/2020: PROBATED

On May 10, 2019, **Kaushik Rambhotla** [#24079175], 36, of San Antonio, agreed to an 18-month, partially probated suspension, effective May 15, 2019, with the first three months actively served and the remainder probated. The District 10-4 Grievance Committee Panel found that Rambhotla neglected a client's matter and failed to keep a client reasonably informed. Rambhotla violated Rules 1.01(b)(1) and 1.03(a), was ordered to pay \$400.00 in attorneys' fees and direct expenses.

Rambhotla, Kaushik: #24079175
05/10/2019-Agreed Partially Probated Suspension
05/15/2019-08/15/2019: SUSPENSION
08/15/2019-11/15/2020: PROBATED

On May 10, 2019, **Kaushik Rambhotla** [#24079175], 36, of San Antonio, agreed to an 18-month, partially probated suspension, effective May 15, 2019, with the first three months actively served and the remainder probated. The District 10-4 Grievance Committee Panel found that Rambhotla neglected a client's matter and failed to keep a client reasonably informed. Rambhotla violated Rules 1.01(b)(1) and 1.03(a), was ordered to pay \$400.00 in attorneys' fees and direct expenses.

Scrivner-Tibbs, Regina M.: #17931200
03/14/2019-Agreed Fully Probated Suspension
04/01/2019-03/31/2020: PROBATED

On March 14, 2019, **Regina M. Scrivner-Tibbs** [#17931200], 59, of San Antonio, agreed to a one-year, fully probated suspension, effective April 1, 2019. The District 10 Grievance Committee found that Scrivner-Tibbs failed to hold funds in trust, failed to promptly notify and deliver funds to the client's health care provider. Scrivner-Tibbs violated Rules 1.14(a)&(b).

DISTRICT 11:

San Antonio Attorney
05/07/2019-Agreed Private Reprimand

Rule 1.15(d)

for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, surrender papers and property which belong to the client, or refund any advance payments of fees that have not been earned.

Rule 8.04(a)(8)

for failing to timely furnish to a district grievance committee a response or other information as required unless he or she timely asserts a privilege or other legal ground for failure to do so.

Brown, Veryl E.: #03177050
05/03/2019-Agreed Fully Probated Suspension
05/01/2019-04/30/2021: PROBATED

On May 3, 2019, **Veryl E. Brown** [#03177050], 62, of Seguin, accepted a two-year, fully probated suspension, effective May 1, 2019. The District 11 Grievance Committee found that Brown neglected client's matters, failed to keep clients reasonably informed, failed to comply with a prior disciplinary judgment, failed to comply with cessation of practice rules and practiced law while his license was suspended and failed to respond to grievances timely. Brown violated Rules 1.01(b)(1), 1.03(a)&(b), and 8.04(a)(7),(8),(10) & (11) and agreed to pay \$150.00 in restitution, and \$300.00 in attorneys' fees and direct expenses.

De Pena, Hector Jr.: #05656500
03/06/2019-Agreed Fully Probated Suspension
03/01/2019-02/28/2020: PROBATED

On March 6, 2019, **Hector De Pena, Jr.** [#05656500], 75, of Corpus Christi, accepted one-year, fully probated suspension, effective March 1, 2019. The District 11 Grievance Committee found that De Pena failed to keep a client reasonably informed and failed to return the unearned portion of a fee timely. Pena violated Rules 1.03(a), and 1.15(d) and agreed to pay \$250.00 in restitution.

San Antonio Attorney
04/09/2019-Agreed Private Reprimand

Rule 1.15(a)(3)

lawyer shall decline to represent a client or, where representation has commenced, shall withdraw from the representation of a client, if the lawyer is discharged, with or without good cause.

Inmon, Gary W.: #00789393
02/26/2019-Resignation in Lieu of Discipline

On February 26, 2019, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **Gary W. Inmon** [#00789393], 51, of Cibolo. At the time of his resignation, Inmon had one grievance pending alleging Inmon failed to safeguard client funds, failed to deliver client's funds they were entitled to receive, misrepresented facts to the court and failed to respond to a demand for information from a disciplinary authority. Inmon violated Rules 1.14(a)&(b), 8.01(b), & 8.04(a)(2)&(3).

Perez, Refugio Rafael: #24051893
02/28/2019-Agreed Active Suspension
10/01/2018-06/30/2019: SUSPENSION

On February 28, 2019, **Refugio Rafael Perez** [#24051893], 41, of Corpus Christi, accepted a nine-month, active suspension, effective October 1, 2018. The District 11 Grievance Committee found that Perez failed to return an unearned fees, failed to respond to the grievance and engaged in the practice of law while his license was suspended. Perez violated Rules 1.15(d) and 8.04(a)(8)&(11), and was ordered to

pay \$2,000.00 in restitution, and \$800.00 in attorneys' fees and direct expenses.

Sanchez, Zenaida: #17573800
03/15/2019-Agreed Fully Probated Suspension
05/01/2019-10/31/2019: PROBATED

On March 15, 2019, **Zenaida Sanchez** [#17573800], 58, of Alice, accepted a six-month, fully probated suspension, effective May 1, 2019. The District 11 Grievance Committee found that Sanchez neglected a client's matter, failed to keep a client reasonably informed, failed to comply with a prior disciplinary judgment and failed to respond to the grievance timely. Sanchez violated Rules 1.01(b)(1) and 1.03(a) and 8.04(a)(7)&(8), and agreed to pay \$800.00 in attorneys' fees and direct expenses.

DISTRICT 12:

Brandmiller, Linda Alice: #24043566
03/26/2019-Agreed Fully Probated Suspension
06/01/2019-05/31/2021: PROBATED

On March 26, 2019, **Linda Alice Brandmiller** [#24043566], 60, of San Antonio, accepted a two-year, fully probated suspension, effective June 1, 2019. The District 12 Grievance Committee found that Brandmiller failed to communicate with clients, failed to maintain client's funds in a trust account and practiced law under an improper trade name. Brandmiller violated Rules 1.03(a)&(b), 1.14(a), 7.01(a)&(f), and 7.02(a)(1), and agreed to pay \$1,000.00 in attorneys' fees and direct expenses.

Hole, Cheryl Denise: #13857300
08/07/2015-Public Reprimand

On August 7, 2015, **Cheryl Denise Hole** [#13857300], 72, of McAllen, received a public reprimand. The 92nd District Court of Hidalgo County found that Hole violated Rule 7.01(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]; and 7.01(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]. Hole violated Rules 7.01(a)&(c) and was ordered to pay \$1,000.00 in attorneys' fees and direct expenses.

Hole, Ronald G.: #09834200
08/07/2015-Public Reprimand

On August 7, 2015, **Ronald G. Hole** [#09834200], 64, of McAllen, received a public reprimand. The 430th District Court of Hidalgo County found that Hole violated Rule 7.01(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]; and 7.01(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]. Hole violated Rules 7.01(a)&(c) and was ordered to pay \$1,500.00 in attorneys' fees and direct expenses.

Padilla, Selvino Jr.: #15406250

04/24/2019-Agreed Fully Probated Suspension

05/01/2019-10/31/2020: PROBATED

On April 24, 2019, **Selvino Padilla, Jr.** [#15406250], 64, of McAllen, accepted an 18-month, fully probated suspension, effective May 1, 2019. The 93rd District Court of Hidalgo County found that Padilla violated Rule 5.03(a) [a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer]. Padilla was ordered to pay \$10,000.00 in attorneys' fees and direct expenses.

DISTRICT 13:

McKibben, Dallas E.: #24028450

03/25/2019-Agreed Fully Probated Suspension

03/15/2019-12/14/2019: PROBATED

On March 25, 2019, **Dallas E. McKibben** [#24028450], 42, of Amarillo, received a nine-month, fully probated suspension, effective March 15, 2019. An Investigatory Panel of the District 13 Grievance Committee found that in September 2017, McKibben was appointed to represent Complainant in a criminal matter. During McKibben's representation of Complainant, McKibben failed to keep Complainant reasonably informed about the status of his criminal matter and failed to promptly comply with reasonable requests for information from Complainant about his criminal matter. McKibben violated Rule 1.03(a). He was ordered to pay \$675.00 in attorneys' fees and costs.

DISTRICT 15:

McGinnis, Jack Lee II: #13630990

02/25/2019-Partially Probated Suspension

02/20/2019-02/20/2021: SUSPENSION

02/21/2021-02/19/2029: PROBATED

On February 25, 2019, **Jack Lee McGinnis** [#13630990], 53, of Helotes, received a ten-year, partially probated suspension, effective February 20, 2019, with the first two-years actively served and the remainder probated. The District 15 Grievance Committee Panel found that McGinnis engaged in the practice of law while his law license was suspended and failed to respond to the grievance. McGinnis violated Rules 8.04(a)(8), and 8.04(a)(11) and was ordered to pay \$705.00 in attorneys' fees and direct expenses.

San Antonio Attorney
05/01/2019-Agreed Private Reprimand

Rule 1.03(a)

A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

DISTRICT 16:

San Antonio Attorney
05/14/2019-Agreed Private Reprimand

Rule 1.03(a)

A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

DISTRICT 17:

San Antonio Attorney
03/27/2019-Agreed Private Reprimand

Rule 1.15(d)

for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, surrender papers and property which belong to the client, or refund any advance payments of fees that have not been earned.

Rule 8.04(a)(8)

for failing to timely furnish to a district grievance committee a response or other information as required unless he or she timely asserts a privilege or other legal ground for failure to do so.

Groves, John Michael: #24092460
03/19/2019-Agreed Public Reprimand

On March 19, 2019, **John Michael Groves** [#24092460], 31, of El Paso, accepted a public reprimand. The District 17 Grievance Committee found that Groves neglected client's matters, failed to keep clients reasonably informed, failed to refund an unearned fee, failed to properly safeguard client funds and failed to respond to grievances timely. Groves violated Rules 1.01(b)(1), 1.03(a), 1.14(a)&(b), 1.15(d) and 8.04(a)(8), and agreed to pay \$1,006.00 in restitution and \$800.00 in attorneys' fees and direct expenses.

BOARD OF DISCIPLINARY APPEALS:

Castillo, Julie: #24092232

04/16/2019-Active Suspension

04/16/2019-02/26/2023: SUSPENSION

On April 16, 2019, the Board of Disciplinary Appeals signed a judgment of suspension against San Antonio attorney **Julie Ann Castillo**, 31, State Bar of Texas Card No. 24092232. On February 27, 2018, Castillo pled guilty to conspiracy to prepare false federal income tax returns in violation of 18 U.S.C. § 371, an Intentional Crime as defined in the Texas Rules of Disciplinary Procedure, in the case styled, United States of America v. Julie Ann Lopez, Aliases: Lopez, Julie; Lopez Julie A.; Castillo, Julie A. Cause No. 5:16-CR-00239-FB(2), United States District Court for the Western District of Texas, San Antonio Division. Ms. Castillo was placed on probation for five years and ordered to pay restitution on the amount of \$91,220.009. Ms. Castillo is suspended from the practice of law in the State of Texas for the term of her criminal probation.

Cornejo, Derrick Duane: #24048049

04/16/2019-Active Suspension

04/16/2019-10/15/2020: SUSPENSION

On April 16, 2019, the Board of Disciplinary Appeals signed a judgment of suspension against Parker, CO attorney **Derrick Duane Cornejo**, 48, State Bar of Texas Card No. 24048049. On June 26, 2015 the Supreme Court of Colorado entered an Amended Order and Notice of Suspension in a matter styled, Complainant: The People of the State of Colorado, respondent: Derrick Duane Cornejo, #29438, Case Number 13PDJ066 and suspended Cornejo from the practice of law for 18 months for his violation of Colorado Rules of Professional Conduct 3.4(c) (knowingly disobey an order of a tribunal); 5.5(a)(1) (practice law without a license); and 8.4(c) (dishonesty, fraud, deceit, or misrepresentation. Mr. Cornejo is suspended from the practice of law in Texas for 18 months, beginning April 16, 2019.

Grissom, James P.: #08511900

03/26/2019-Resignation in Lieu of Discipline

On March 26, 2019, the Supreme Court of Texas accepted the resignation, in Lieu of discipline, of **James P. Grissom** [#08511900], 71 of Pharr. It is alleged Grissom committed "serious" crimes as defined by the Texas Rules of Disciplinary Procedure, Rule 1.06GG and in violation of Rules 8.04(a)(2)&(3) of the Texas Disciplinary Rules of Professional conduct.

BODA Attorney

04/02/2019-Agreed Private Reprimand

On April 2, 2019, the Board of Disciplinary Appeals signed an agreed judgment of private reprimand against a Texas attorney. On January 16, 2019, the Fifth District, Section III Subcommittee of the Virginia State Bar signed an Order of Private Reprimand of the attorney for his or her failure to maintain proper trust account records in accordance with Virginia Rules of Professional Conduct 1.15.

Krummel, Kasey Cathryn: #24097957
04/29/2019-Indefinite Disability Suspension

On April 29, 2019, the Board of Disciplinary Appeals signed a judgment of Indefinite Disability Suspension of Dallas attorney **Kasey Cathryn Krummel**, 31, State Bar of Texas Card No. 24097957.

Lanier, Patrick: #11933500
03/26/2019-Resignation in Lieu of Discipline

On March 26, 2019, the Supreme Court of Texas accepted the resignation, in Lieu of discipline, of **Patrick Lanier** [#11933500], 70, of Austin. At the time of Lanier's resignation, a Judgment in a Criminal Case had been entered in the United States District Court for the Southern District of Texas, Houston Division, wherein Lanier was found guilty of Count 1S - Conspiracy to Commit Wire Fraud; Counts 2S through 13S and Count 15S - Wire Fraud; Count 16S - Harboring and Concealing a Person from Arrest; and Count 17S - Assisting a Federal Offender. Lanier was committed to the custody of the United States Bureau of Prisons for a total of 204 months, and also ordered to pay restitution in the amount of \$37,544,944.16. This conviction would subject Lanier to compulsory discipline.

Rodriguez, Juan R.: #24055914
04/16/2019-Agreed Active Suspension
04/16/2019-11/27/2019: SUSPENSION

On April 16, 2019, the Board of Disciplinary Appeals signed a judgment of suspension against Pearland attorney **Juan R. Rodriguez**, 41, State Bar of Texas Card No. 24055914. On November 28, 2018 Rodriguez pled guilty to Theft of Property greater than \$100.00 and less than \$750.00 an Intentional Crime as defined in the Texas Rules of Disciplinary Procedure, in the case styled, The State of Texas v. Juan Rodriguez, Cause No. 234991 in the County Court at Law No. 1 in Brazoria County, Texas. By an order of deferred adjudication, the court placed him on community supervision for 12 months. He was ordered to pay restitution on the amount of \$682.23 and a fine of \$400.009. Mr. Rodriguez is suspended from the practice of law in the State of Texas for the term of his community supervision.

STATE BAR OF TEXAS - FINANCE DIVISION



Dashboard of Key Financial Trends

General Fund Operating Results for the Eleven Months Ended April 30, 2019

Chart A contains the State Bar's General Fund Budget to Actual Variance for the financial period. This indicates the overall earnings or deficit incurred from current year operations.

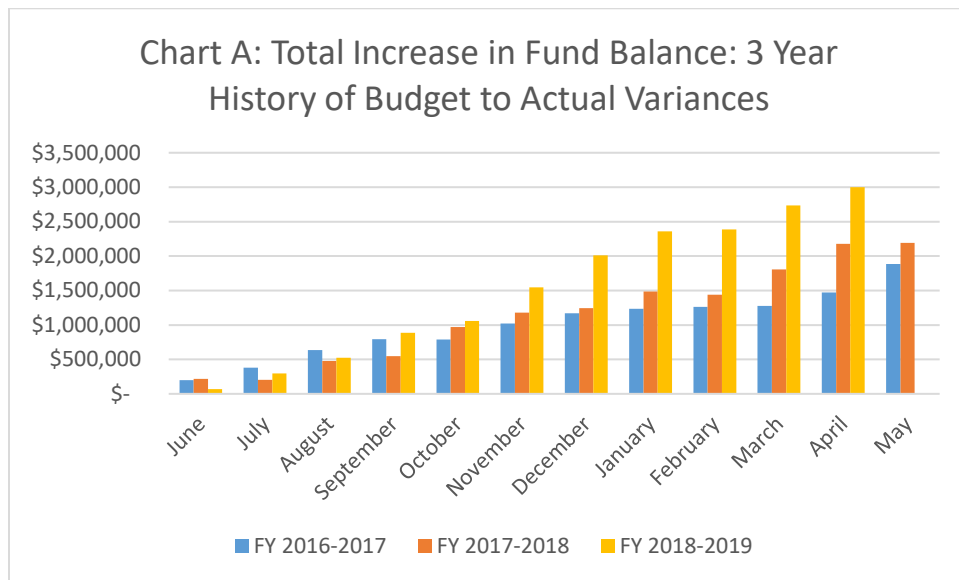


Table 1 contains details of data presented in Chart A above:

Operations of General Fund: Budget to Actual Variances (cumulative)

Table 1	FY 2016-2017	FY 2017-2018	FY 2018-2019
June	\$ 198,231	\$ 216,672	\$ 70,915
July	\$ 378,990	\$ 201,736	\$ 295,712
August	\$ 635,858	\$ 477,125	\$ 524,480
September	\$ 793,116	\$ 546,656	\$ 885,337
October	\$ 788,333	\$ 969,094	\$ 1,056,344
November	\$ 1,020,196	\$ 1,178,479	\$ 1,546,381
December	\$ 1,169,567	\$ 1,242,976	\$ 2,010,521
January	\$ 1,233,650	\$ 1,487,407	\$ 2,359,057
February	\$ 1,263,010	\$ 1,441,399	\$ 2,387,072
March	\$ 1,278,040	\$ 1,804,426	\$ 2,733,334
April	\$ 1,472,727	\$ 2,176,267	\$ 2,999,300
May	\$ 1,886,678	\$ 2,191,275	

Chart B presents the total Revenues and Expenditures of the State Bar’s General Fund over the previous three years.

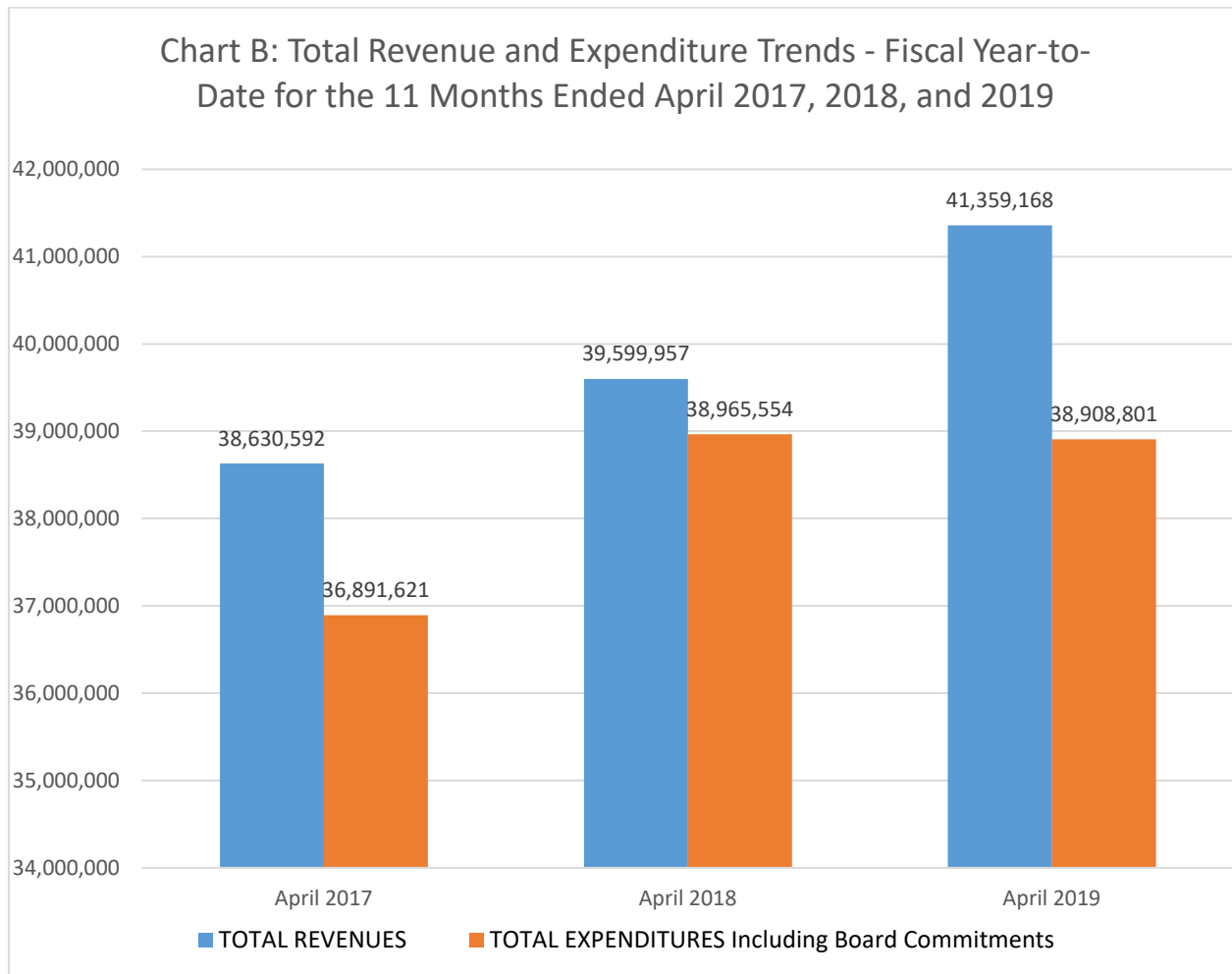


Chart C presents the total revenues by department of the State Bar's General Fund over the previous three years.

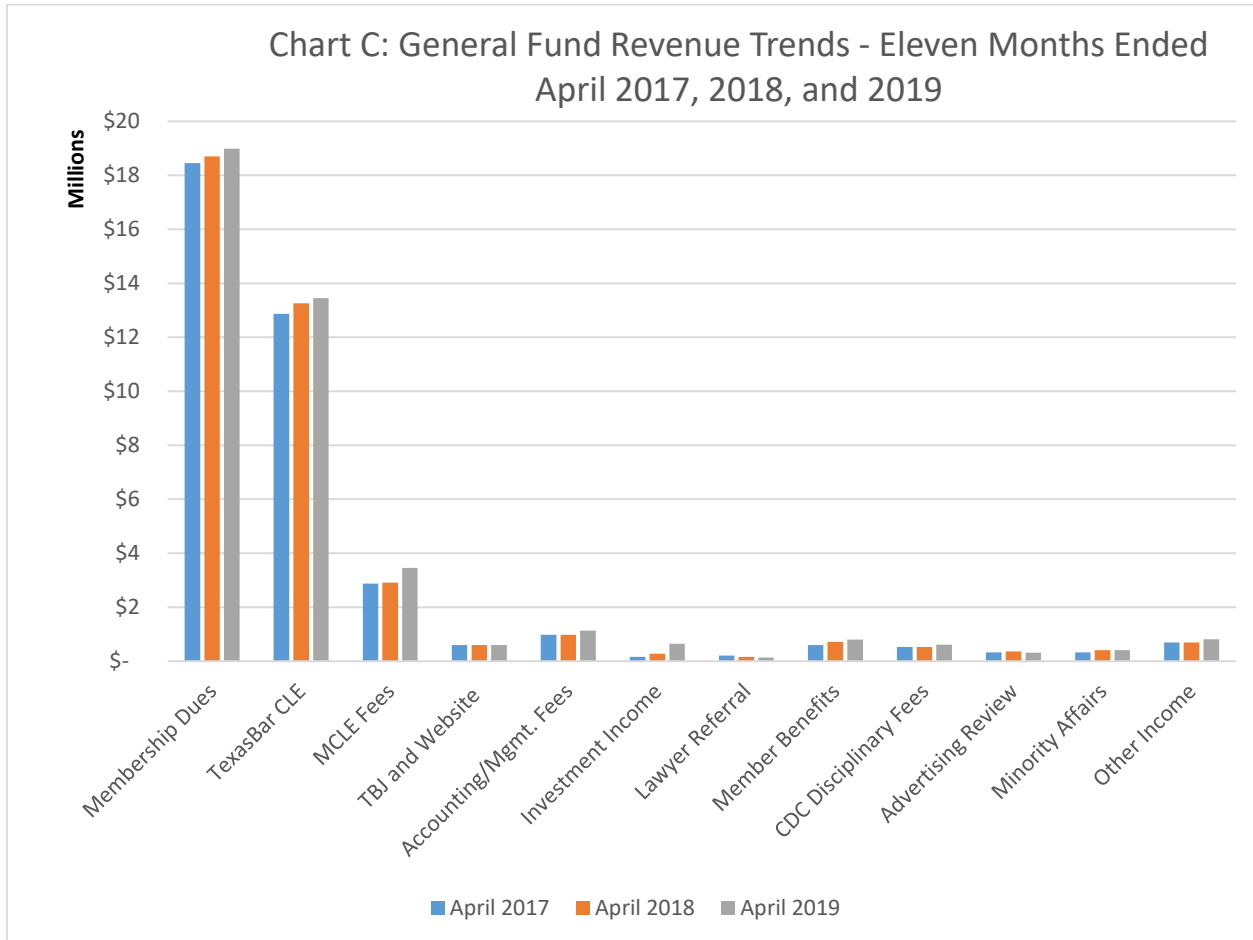
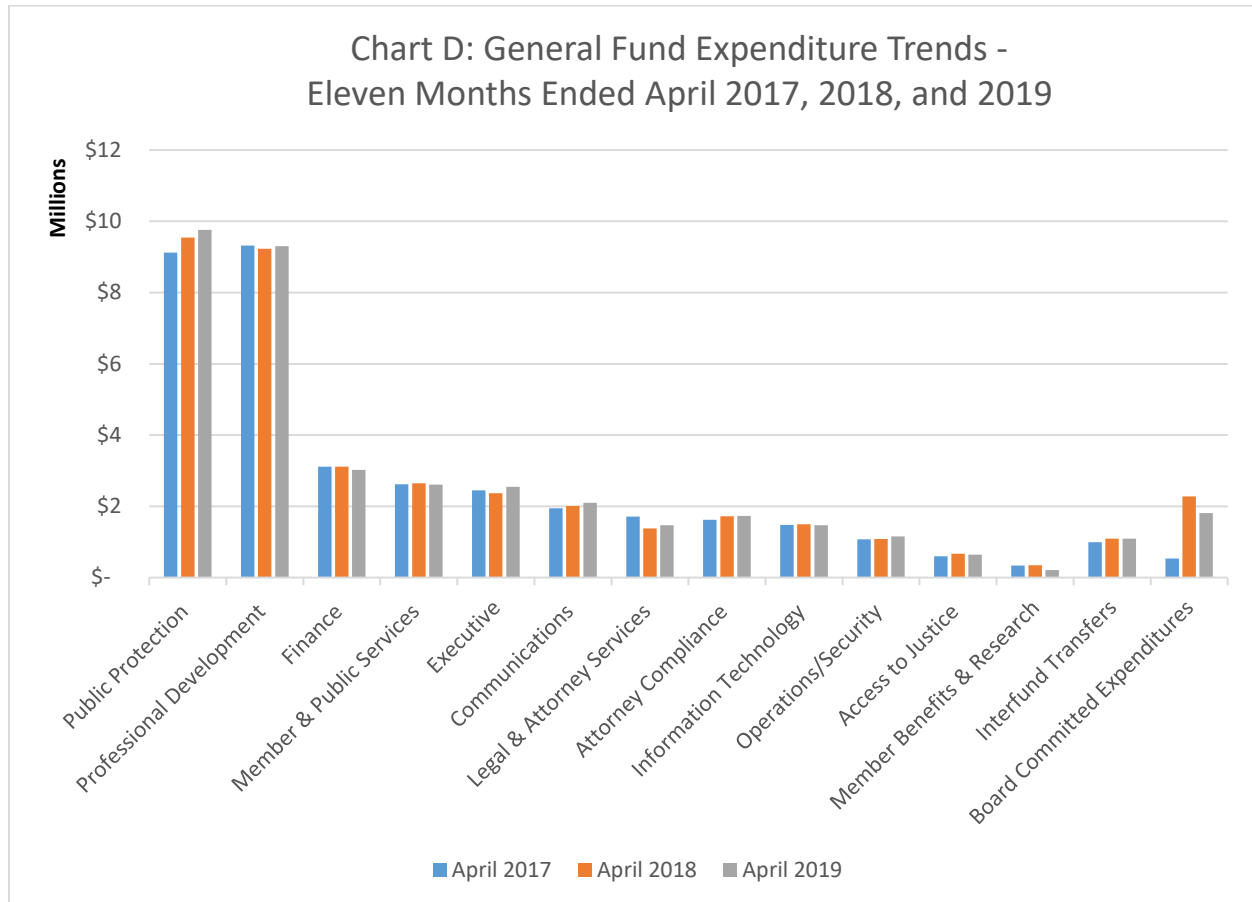


Chart D presents the total revenues by department of the State Bar's General Fund over the previous three years.



**State Bar of Texas General Fund
Financial Highlights
For the Eleven Months Ended April 30, 2019**

Total General Fund YTD results – As of April 30, 2019, the General Fund had a net excess of revenues over expenditures and transfers of \$4,264,226 compared to a budgeted net excess of \$1,264,926. This resulted in a positive overall variance of \$2,999,300.

	Actual	Budget	Variance	% Variance
Total Revenues	\$41,359,218	\$38,866,224	\$2,492,994	6%
Total Expenditures and Transfers	37,094,992	37,601,298	506,306	1%
Net Excess	\$4,264,226	\$1,264,926	\$2,999,300	

Revenues

For the period ending April 30, 2019, total revenues exceeded the budget by \$2,492,994 or 6%, thereby producing a positive actual to budget variance. An analysis of the revenues shows that the following departments had a positive revenue variance in excess of \$10,000 and 10% or more than \$100,000 for the period ending April 30, 2019.

- Member Dues – Total Positive Revenue Variance: \$459,925 or 2% - This positive variance results primarily from higher than anticipated dues collection.
- MCLE Department – Total Positive Revenue Variance: \$635,315 or 22% - This positive variance results primarily from higher than anticipated number of course applications, accreditation and late fees. There are also more new sponsors and courses this year than in the previous year.
- Investment Income – Total Positive Revenue Variance: \$464,382 or 251% - This positive revenue variance is due to a higher than anticipated yield on the State Bar's investment portfolio for the current fiscal year.
- CDC Disciplinary Fees – Total Positive Revenue Variance: \$114,143 or 23% - This positive variance results primarily from higher than anticipated attorney fees. There have also been higher than anticipated certification fees.
- Minority Affairs – Total Positive Revenue Variance: \$84,301 or 26% - This positive revenue variance results from a higher than expected number of sponsorships and attendees for the Texas Minority Counsel Program.

- Website Management - Total Positive Revenue Variance: \$184,459 or 51% - This positive revenue variance results from higher than expected revenue generated in connection with law firm employment advertising.
- Texas Young Lawyers Association – Total Positive Revenue Variance: \$18,778 or 32% - This positive revenue variance results from higher than anticipated revenue from National Trial Competition.
- Miscellaneous, Sales Tax Discounts, Etc. – Total Positive Revenue Variance: \$22,251 or 37% - This positive variance is primarily due to the collection of hotel occupancy tax refunds.
- Credit Card Processing Fees – Total Positive Revenue Variance: \$83,970 or 29% - This positive variance results from the convenience fee charged for membership dues credit card transactions. The convenience fee revenue is completely offset by credit card fees charged by the State Bar's merchant service provider.

Expenditures

For the period ending April 30, 2019, total expenditures were under the allocated budget by \$506,306 or 1%, which resulted in a positive actual to budget variance.

An analysis of the expenditures shows that six departments, Deputy Executive Director, Member & Public Services Director, Local Bars, Texas Lawyers Assistance Program, Membership and Printing had large positive expenditure variances in excess of \$10,000 and 10% in salaries and benefits for the primarily resulting from open positions.

An analysis of the expenditures shows that two departments, MCLE and Special Financial Advisor, had large negative expenditure variances in excess of (\$10,000) and (10%) in salaries and benefits. The MCLE department variance is primarily the result of additional labor costs to implement a new information system. The Special Financial Advisor is a new position.

An analysis of the expenditures shows that the following department had negative expenditure variances in excess of (\$10,000) and (10%) for the period ending April 30, 2019:

- Minority Affairs – Total Negative Expenditure Variance: (\$91,321) or (21%) - This negative variance results from an increase in additional conference expenses which were off-set by additional revenue collected from sponsorships and contributions.
- Unauthorized Practice of Law – Total Negative Expenditure Variance: (21,112) or (15%) – This negative variance in Profession Services results from expenses incurred due to several ongoing lawsuits.

TexasBarCLE (TBCLE)

For the period ending April 30, 2019, TexasBarCLE's net revenues over expenditures amount was over its budget target by \$795,500 or 21%, thereby producing a positive actual to budget variance.

	Actual	Budget	Variance	% Variance
TBCLE Revenues	\$13,446,886	\$13,059,519	\$387,367	3%
TBCLE Expenditures	8,771,932	9,180,065	408,133	4%
Net TBCLE Income	\$4,674,954	\$3,879,454	\$795,500	21%

In comparing TBCLE's performance to previous years, it is appropriate to make two comparisons: (1) compare the current fiscal year 18-19 to the previous fiscal year 17-18; and (2) compare the current fiscal year 18-19 to fiscal year 16-17. Fiscal years ending in odd numbers are considered to be "non-legislative years", in other words, they do not follow a legislative session. Fiscal years ending in even numbers are considered to be "legislative years" because they do follow a legislative session and TBCLE generally sees a surge in revenues following a legislative year. The surge in revenue generally results from legal issues arising during the legislative process; thereby creating a need for new or revised CLE programs.

In comparing actual revenues and expenditure amounts for the period ending April 30, 2019 to the prior period ending April 30, 2018, we see an increase in revenues of \$187,486 or 1%, and a decrease in expenditures of (\$19,347) or 0% for an overall increase in net revenues of \$168,139 or 4%. This is showing the difference between financial performances based on a comparison of a "legislative year" to a "non-legislative year".

In comparing actual revenues and expenditure amounts for the current period ending April 30, 2019, to the period ending April 30, 2017, we see an increase in revenue of \$581,505 or 5% and a decrease in expenditures of (\$92,742) or (1%) for an overall increase in net revenues of \$674,247 or 17%. This is showing the difference between financial performances based on a comparison of two "non-legislative years."

Salaries and Benefits

For FY 2019-2019, the salaries and benefits budget totals \$23,988,383 or 55% of the overall \$43,331,890 General Fund budget after budgeted board commitments. The \$23,988,383 includes a 4% vacancy rate. The actual vacancy factor for the period ending April 30, 2019 was 5.8%. The actual salary and benefit expenditures had a (\$178,954) negative variance to budget at the end of April 2019. Additional information on salary and benefit variances is reported in the expenditures section above.

Budget	\$ 21,908,736
Actual	22,087,690
Variance	<u>\$ (178,954)</u>

General Fund
Statement of Revenues, Expenditures and Changes in Fund Balance
For the Eleven Months Ending April 30, 2019

	Annual Budget	YTD Budget	YTD Actual	YTD Variance \$ Fav/(Unfav)	YTD Variance % Fav/(Unfav)	YTD Budget Prior Year	YTD Actual Prior Year	YTD Prior Year Variance \$ Fav/(Unfav)	YTD Prior Year Variance % Fav/(Unfav)
REVENUES:									
Membership Dues	\$20,372,039	\$18,521,234	\$18,981,159	\$459,925	2%	\$18,681,621	\$18,702,748	\$21,127	0%
Accounting/Management Fees	650,351	596,239	596,239			596,231	596,239	8	0%
Texas Bar Journal	580,600	549,590	582,804	33,214	6%	487,680	590,046	102,366	21%
Leadership SBOT	10,000	9,163	3,000	(6,163)	(67%)	4,998		(4,998)	(100%)
MCLE Fees	3,115,250	2,825,532	3,460,847	635,315	22%	2,815,147	2,910,668	95,521	3%
TexasBar CLE	13,777,842	13,059,519	13,446,886	387,367	3%	12,954,620	13,259,402	304,782	2%
Investment Income	185,000	185,000	649,382	464,382	251%	110,000	277,664	167,664	152%
Lawyer Referral	190,000	157,000	142,461	(14,539)	(9%)	180,000	157,833	(22,167)	(12%)
Member Benefits	915,766	754,619	800,675	46,056	6%	663,948	724,295	60,347	9%
CDC Disciplinary Fees	535,000	498,931	613,074	114,143	23%	415,963	526,245	110,282	27%
Membership	13,000	11,925	13,404	1,479	12%	11,226	14,370	3,144	28%
Local Bars	12,500	12,500	17,550	5,050	40%	11,500	13,300	1,800	16%
Minority Affairs	335,000	329,000	413,301	84,301	26%	340,700	409,437	68,737	20%
Computer Services Dept.	1,200	1,100	1,100			1,100	1,100		
Website	365,000	365,000	549,459	184,459	51%	329,750	385,539	55,789	17%
Legal Access Division	11,000	11,000	16,800	5,800	53%	20,000	8,100	(11,900)	(60%)
Law Related Education	15,500	15,500	14,550	(950)	(6%)	18,000	11,781	(6,219)	(35%)
TYLA	60,000	58,500	77,278	18,778	32%	48,500	65,332	16,832	35%
Law Student Division	6,000	5,600	7,100	1,500	27%	5,600	5,895	295	5%
Purchasing & Facilities	49,403	44,973	42,286	(2,687)	(6%)	44,973	41,074	(3,899)	(9%)
Advertising Review	370,000	339,299	314,845	(24,454)	(7%)	346,400	359,875	13,475	4%
Miscellaneous, Sales Tax Discounts, Etc.	72,000	60,513	82,764	22,251	37%	48,913	63,990	15,077	31%
Credit Card Processing Fees	290,000	290,000	373,970	83,970	29%	270,000	316,790	46,790	17%
Rent	179,440	164,487	158,284	(6,203)	(4%)	164,487	158,284	(6,203)	(4%)
TOTAL REVENUES	42,111,891	38,866,224	41,359,218	2,492,994	6%	38,571,357	39,600,007	1,028,650	3%
EXPENDITURES									
Executive Division									
Executive Director	627,410	572,067	577,523	(5,456)	(1%)	575,734	551,425	24,309	4%
Deputy Executive Director						230,253	83,574	146,679	64%
Associate Executive Director/Legal Counsel	518,566	473,567	515,432	(41,865)	(9%)	347,125	384,865	(37,740)	(11%)
Deputy Executive Director	222,945	205,188	189,311	15,877	8%	197,320	187,495	9,825	5%
Deputy Executive Director/External Affairs	274,165	251,226	225,260	25,966	10%	287,676	218,648	69,028	24%
Special Financial Advisor	75,000	68,750	149,969	(81,219)	(118%)				
Officers & Directors	836,836	626,239	586,903	39,336	6%	708,768	650,155	58,613	8%
Human Resources	280,789	257,617	267,561	(9,944)	(4%)	290,964	268,030	22,934	8%
Training/Tuition	71,133	39,500	32,500	7,000	18%	33,000	23,551	9,449	29%
Total Executive Division	2,906,844	2,494,154	2,544,459	(50,305)	(2%)	2,670,840	2,367,743	303,097	11%
Member & Public Services Division									
Member & Public Services Division Director	118,324	108,517		108,517	100%	157,703	140,262	17,441	11%
Center for Legal History	149,785	137,162	135,726	1,436	1%	133,222	130,583	2,639	2%
Law Related Education	508,232	475,823	462,547	13,276	3%	464,738	428,426	36,312	8%
Governmental Relations	156,607	144,712	149,177	(4,465)	(3%)	231,893	158,961	72,932	31%
Texas Young Lawyers Association	927,418	782,795	777,069	5,726	1%	773,662	728,437	45,225	6%
LeadershipSBOT	94,000	89,704	97,570	(7,866)	(9%)	87,904	92,288	(4,384)	(5%)
Sections	318,519	292,677	285,635	7,042	2%	291,644	279,164	12,480	4%
Local Bars	446,571	394,620	340,103	54,517	14%	416,807	384,120	32,687	8%
Special Events	73,604	72,435	78,149	(5,714)	(8%)	72,435	69,889	2,546	4%
Law Student Department	20,266	17,016	12,936	4,080	24%	16,730	15,513	1,217	7%

General Fund
Statement of Revenues, Expenditures and Changes in Fund Balance
For the Eleven Months Ending April 30, 2019

	Annual Budget	YTD Budget	YTD Actual	YTD Variance \$ Fav/(Unfav)	YTD Variance % Fav/(Unfav)	YTD Budget Prior Year	YTD Actual Prior Year	YTD Prior Year Variance \$ Fav/(Unfav)	YTD Prior Year Variance % Fav/(Unfav)
SBOT Volunteer Committees	289,467	264,728	272,375	(7,647)	(3%)	211,165	222,359	(11,194)	(5%)
Total Member & Public Services Division	3,102,793	2,780,189	2,611,287	168,902	6%	2,857,903	2,650,002	207,901	7%
Legal & Attorney Services Division									
Legal & Attorney Services Division Director	222,971	204,217	200,519	3,698	2%	199,570	193,817	5,753	3%
Texas Lawyers Assistance Program	455,312	417,921	368,362	49,559	12%	372,987	397,583	(24,596)	(7%)
Legal Access Division	1,036,508	961,236	900,598	60,638	6%	815,536	786,821	28,715	4%
Total Legal & Attorney Services Division	1,714,791	1,583,374	1,469,479	113,895	7%	1,388,093	1,378,221	9,872	1%
Access to Justice Commission	827,206	681,196	643,793	37,403	5%	737,819	672,720	65,099	9%
Member Benefits	343,218	65,647	58,666	6,981	11%	194,754	207,544	(12,790)	(7%)
Research & Analysis	167,645	148,264	154,028	(5,764)	(4%)	147,454	135,203	12,251	8%
Professional Development Division									
Texas Bar CLE	10,174,142	9,180,065	8,771,932	408,133	4%	9,063,518	8,752,586	310,932	3%
Minority Affairs	460,478	434,082	525,403	(91,321)	(21%)	433,098	476,663	(43,565)	(10%)
Total Professional Development	10,634,620	9,614,147	9,297,335	316,812	3%	9,496,616	9,229,249	267,367	3%
Attorney Compliance Division									
Office of Attorney Compliance Director	176,564	162,447	154,720	7,727	5%	158,728	153,075	5,653	4%
Advertising Review	182,597	168,609	166,996	1,613	1%	168,621	167,442	1,179	1%
Client Attorney Assistance Program	547,352	501,529	491,036	10,493	2%	524,761	486,871	37,890	7%
Lawyer Referral	353,692	317,284	325,320	(8,036)	(3%)	320,350	313,556	6,794	2%
MCLE	579,699	532,512	587,017	(54,505)	(10%)	537,144	598,461	(61,317)	(11%)
Total Attorney Compliance Division	1,839,904	1,682,381	1,725,089	(42,708)	(3%)	1,709,604	1,719,405	(9,801)	(1%)
Operations/Security Division									
Purchasing & Facilities	1,240,950	1,126,876	1,153,167	(26,291)	(2%)	1,143,951	1,081,486	62,465	5%
Total Operations/Security Division	1,240,950	1,126,876	1,153,167	(26,291)	(2%)	1,143,951	1,081,486	62,465	5%
Finance Division									
Accounting	936,017	858,682	890,727	(32,045)	(4%)	929,202	957,975	(28,773)	(3%)
Membership	832,080	651,554	582,503	69,051	11%	706,988	660,521	46,467	7%
Other Administrative	1,770,550	1,487,810	1,551,331	(63,521)	(4%)	1,422,113	1,492,542	(70,429)	(5%)
Total Finance Division	3,538,647	2,998,046	3,024,561	(26,515)	(1%)	3,058,303	3,111,038	(52,735)	(2%)
Information Technology Division									
Information Technology	1,304,534	1,196,101	1,113,875	82,226	7%	1,231,608	1,146,582	85,026	7%
Customer Service	370,930	334,782	355,671	(20,889)	(6%)	344,198	349,230	(5,032)	(1%)
Total Information Technology Division	1,675,464	1,530,883	1,469,546	61,337	4%	1,575,806	1,495,812	79,994	5%
Communications Division									
Office of Communications Director	249,259	225,241	218,535	6,706	3%	224,670	213,837	10,833	5%
Bar Journal	1,210,030	1,112,771	1,182,534	(69,763)	(6%)	1,154,479	1,080,936	73,543	6%
Printing	165,407	152,031	123,665	28,366	19%	153,749	159,756	(6,007)	(4%)
Graphics	162,342	149,625	153,376	(3,751)	(3%)	151,485	152,779	(1,294)	(1%)
Public Information	169,455	127,609	128,628	(1,019)	(1%)	114,153	106,283	7,870	7%
Web Management	395,862	310,160	289,854	20,306	7%	299,138	292,900	6,238	2%
Total Communications Division	2,352,355	2,077,437	2,096,592	(19,155)	(1%)	2,097,674	2,006,491	91,183	4%
Public Protection Division									
Chief Disciplinary Counsel	9,829,435	8,983,210	9,005,640	(22,430)	(0%)	8,892,322	8,837,775	54,547	1%

General Fund
Statement of Revenues, Expenditures and Changes in Fund Balance
For the Eleven Months Ending April 30, 2019

	Annual Budget	YTD Budget	YTD Actual	YTD Variance \$ Fav/(Unfav)	YTD Variance % Fav/(Unfav)	YTD Budget Prior Year	YTD Actual Prior Year	YTD Prior Year Variance \$ Fav/(Unfav)	YTD Prior Year Variance % Fav/(Unfav)
Grievance Oversight Committee	48,800	37,760	33,687	4,073	11%	44,520	36,499	8,021	18%
Unauthorized Practice of Law	170,000	136,710	157,822	(21,112)	(15%)	136,915	134,522	2,393	2%
Professional Ethics Commission	11,080	11,080	8,701	2,379	21%	11,080	11,805	(725)	(7%)
Board of Disciplinary Appeals	619,339	561,144	552,340	8,804	2%	549,848	523,804	26,044	5%
Total Public Protection Division	10,678,654	9,729,904	9,758,190	(28,286)	(0%)	9,634,685	9,544,405	90,280	1%
TOTAL EXPENDITURES	41,023,091	36,512,498	36,006,192	506,306	1%	36,713,502	35,599,319	1,114,183	3%
Transfers to:									
Bldg & Equip Fund	288,800	288,800	288,800			288,800	288,800		
Technology Fund	500,000	500,000	500,000			500,000	500,000		
Client Security Fund	300,000	300,000	300,000			300,000	300,000		
TOTAL TRANSFERS	1,088,800	1,088,800	1,088,800			1,088,800	1,088,800		
TOTAL EXPENDITURES & TRANSFERS	42,111,891	37,601,298	37,094,992	506,306	1%	37,802,302	36,688,119	1,114,183	3%
Excess (Deficit) of Revenues Over Expenditures & Transfers		<u>1,264,926</u>	<u>4,264,226</u>	<u>2,999,300</u>	<u>237%</u>	<u>769,055</u>	<u>2,911,888</u>	<u>2,142,833</u>	<u>279%</u>
BOARD COMMITMENTS									
Board Commitment - SLRAP	350,000	350,000	350,000			350,000	350,000		
Board Commitment - Sheeran-Crowley Memorial Trust						250,000	250,000		
Board Commitment - Client Security Fund	800,000	800,000	800,000						
Board Commitment - Technology Fund						750,000	750,000		
Board Commitment - Texas Opportunity & Justice Incubator Program	755,278	166,199	166,199			222,497	222,497		
Board Commitment - Presidential Initiatives	157,867	27,381	27,381			136,142	136,142		
Board Commitment - Statewide Pro Bono Campaign	159,060	8,682	8,682			10,695	10,695		
Board Commitment - LAD 2018 Board Commitments	556,772	386,601	386,601			453,441	453,441		
Board Commitment - Referendum Reserve	100,000								
Board Commitment - Run-Off Election Reserve	70,000								
Board Commitment - Ethics Initiatives	12,431	448	448			4,660	4,660		
Board Commitment - Supreme Court Equipment Replacement						100,000	100,000		
Board Commitment - Document Preservation	50,000	50,000	50,000						
Board Commitment - Archives Digitization Project	100,000	24,500	24,500						
Board Commitment - Texas Law Center Renovations						16,525	16,525		
TOTAL BOARD COMMITMENTS	3,111,408	1,813,811	1,813,811			2,293,960	2,293,960		
TOTAL YTD INCREASE (REDUCTION) IN FUND BALANCE	(3,111,408)	(548,885)	2,450,415	2,999,300	546%	(1,524,905)	617,928	2,142,833	141%

**State Bar of Texas
General Fund
Balance Sheet
As of April 30, 2019**

Assets

Cash & Money Market Funds		\$1,134,242
Investments	21,729,800	
Adjust Investments to Market	35,469	
Investments at Fair Market Value		21,765,268
Accounts Receivable:		
Sales	41,836	
Less Allowance for Doubtful Accounts	(2,092)	
Net Accounts Receivable - Sales		39,744
Accrued Interest		81,103
Interfund		2,027,666
Other		65,455
Inventory		12,108
Prepaid Expenditures		639,454
Total Assets		<u>25,765,039</u>

Liabilities and Fund Equity

Liabilities

Accounts Payable:		
Cash - A/P		
Trade		861,507
Interfund		2,924,521
Accrued Liabilities		297,489
Deferred Revenue -		
Membership Dues		2,528,102
Other		957,630
Other Liabilities		37,124
Total Liabilities		<u>7,606,373</u>

**State Bar of Texas
General Fund
Balance Sheet
As of April 30, 2019**

Fund Balances

Nonspendable - Prepaids at May 31, 2018	\$ 672,040
Nonspendable - Inventory at May 31, 2018	9,453
Nonspendable - Investments FMV Adjustment at May 31, 2018	(31,424)
Board Committed - Minimum Reserve January 2019	11,059,004
Board Committed - Texas Opportunity and Justice Incubator Program	755,278
Board Committed - Legal Access Division Programs	556,772
Board Committed - Client Security Fund	800,000
Board Committed - Student Loan Repayment Assistance Program	865,000
Board Committed - Technology Fund	150,000
Board Committed Expenditures - Texas Law Center Renovations	100,000
Board Committed - Law Focused Education	79,500
Board Committed - Presidential Initiatives	157,867
Board Committed - Pro Bono Campaign	159,060
Board Committed - Run-off Election Reserve	70,000
Board Committed - Legal Access Fellowship Program	43,270
Board Committed - Referendum Reserve	100,000
Board Committed - Archives Digitization Project	100,000
Board Committed - Ethics Initiatives	12,431
Board Committed - Document Preservation	50,000

Total Fund Balance at May 31, 2018

15,708,251

Current Year Operations

Nonspendable - Prepaids at April 30, 2019	(32,586)
Nonspendable - Inventory at April 30, 2019	(2,655)
Nonspendable - Investments FMV Adjustment at April 30, 2019	66,893
Board Committed Expenditures - Client Security Fund	(800,000)
Board Committed Expenditures - SLRAP	(350,000)
Board Committed Expenditures - Texas Opportunity & Justice Incubator Prog	(166,199)
Board Committed Expenditures - Presidential Initiatives	(27,381)
Board Committed Expenditures - Statewide Pro Bono Campaign	(8,682)
Board Committed Expenditures - Legal Access Division Initiatives	(386,601)
Board Committed Expenditures - Ethics Initiative	(448)
Board Committed Expenditures - Document Preservation	(50,000)
Board Committed Expenditures - Archives Digitation Project	(24,500)
Amount Available for Board Commitment from Current Year Operations	4,232,574

Total Current Year Increase (Reduction) in Fund Balance

2,450,415

Total Fund Balance

18,158,666

Total Liabilities and Fund Balance

\$ 25,765,039

State Bar of Texas
Law Practice Resources Division
Statement of Revenues and Expenses
For the Eleven Months Ending April 30, 2019

	YTD Budget	YTD Actual	dget to Act % Variance	2018-2019 Budget
Revenues:				
Book Sales Net of Estimated Returns	\$1,613,451	\$1,738,990	7%	\$2,075,913
Online Sales	441,208	328,909	-34%	481,318
Total Sales	2,054,659	2,067,899	1%	2,557,231
Fees	50,821	51,579	1%	55,000
Interest	5,500	7,912	30%	6,000
Royalty	847,500	836,080	-1%	1,130,000
Total Revenues	2,958,480	2,963,470	0%	3,748,231
Cost of Goods Sold:				
Finished Products	330,757	118,968	178%	425,562
Publicity/Advertising for Specific Titles	51,583	21,959	135%	53,000
Royalties	76,454	96,978	-21%	101,353
Other	0	81,278	-100%	40,000
Total Cost of Goods Sold	458,794	319,183	44%	619,915
Expenses:				
Salaries	1,203,708	1,233,279	-2%	1,313,153
Benefits	403,854	388,152	4%	440,571
Travel	48,050	31,040	55%	48,450
Meetings & Conferences	1,650	1,466	13%	1,800
Professional Services	76,896	82,537	-7%	90,036
Publicity/Advertising	13,750	2,801	391%	15,000
Dues/Subscriptions/Licenses	41,530	46,129	-10%	50,014
Education/Training	11,602	9,038	28%	13,290
Supplies/Awards/Gifts/Spec. Items	14,269	30,122	-53%	15,999
Rentals - Office, Equipment, Storage	155,089	147,619	5%	169,188
Maintenance/Repair	22,000	28,899	-24%	24,000
Postage and Freight	162,720	124,046	31%	209,091
Telephone	4,125	3,152	31%	4,500
Insurance	5,500	5,694	-3%	6,000
Administrative Fee	497,336	497,336	0%	542,548
Bad Debts	42,110	(3,924)	-1173%	52,245
Capital Lease Expense	12,500	13,870	-10%	12,500
Printing	0	389	-100%	0
Copying	1,650	2,145	-23%	1,800
Total Operating Expenses	2,718,339	2,643,790	3%	3,010,185
Total Expenses	3,177,133	2,962,973	7%	3,630,100
Net Income/(Loss)	(218,653)	497	44095%	118,131

State Bar of Texas
Law Practice Resources Division
Statement of Net Position
As of April 30, 2019

Assets

Accounts Receivable :		
Sales	\$ 618,365	
Less Allowance for Doubtful Accounts	(30,918)	
Net Accounts Receivable - Sales		587,447
Interfund Receivable - General Fund		411,587
Inventory		
Inventory - Finished Goods	509,874	
Inventory - Work in Process	386,232	
Less Inventory - Reserve	(47,257)	

Total Inventory Less Reserves		848,849
Intangible Assets:		
Fixed Assets:		
Furniture/Equipment	353,637	
Less Accumulated Depreciation	(318,315)	

Net Fixed Assets		35,321

Total Assets		1,883,205
		=====

Liabilities and Net Position

Liabilities

Payables		32,894
Compensable Leave		95,363

Total Liabilities		128,257

Net Position

Net Position at May 31, 2018 - Unrestricted	54,074	
Designated - Minimum Operating Expenditures	702,377	
Designated - Projects in Process	948,000	
Designated - New Approved Projects	50,000	

Total Net Position at May 31, 2019		1,754,451
Current Year Operations		497

Total Liabilities and Net Position	\$	1,883,205
		=====

State Bar of Texas
Client Security Fund
Statement of Revenues & Expenditures
For the Eleven Months Ending April 30, 2019

Revenues:

Interest	\$ 60,877
Restitution/Other Income	72,143
Total Revenues	<u>133,020</u>

Expenditures:

Claims	550,090
Banking Fees	180
Total Expenditures	<u>550,270</u>

Excess (Deficit) of Revenue Over Expenditures	<u>(417,250)</u>
--	------------------

General Fund Operating Transfer In	300,000
General Fund Committed Funds Transfer In	800,000
Total Transfers In from General Fund	<u>1,100,000</u>

Net Increase (Decrease) in the Fair Value of Investments	494
Net after Operating Transfer & Unrealized Net Gain (Loss)	<u>\$ 683,244</u>

State Bar of Texas
Client Security Fund
Balance Sheet
As of April 30, 2019

Assets

Cash & Money Market Accts.	\$ 742,252
Investments	2,279,655
Adjust Investments to Market	(563)
Interest Receivable	<u>5,935</u>

Total Assets	<u><u>3,027,280</u></u>
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Liabilities:

Due To (From) General Fund	<u>314,130</u>
Total Liabilities	314,130.00

Fund Balance

Beginning Fund Balance	2,029,906	
Current Year Activity	<u>683,244</u>	
Total Fund Balance		<u>2,713,150</u>

Total Liabilities and Fund Balance	<u><u>\$ 3,027,280</u></u>
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State Bar of Texas
Combining Statement of Revenue & Expenditures
And Changes in Fund Balance
All Special Revenue Funds
For the Eleven Months Ending April 30, 2019

	Law Focused Grants	TBLS	Convention Fund	Texas Law Center	Texas Bar College	Technology Fund	Misc Grant Fund	Total
Revenues:								
Fees		\$1,246,425	\$265,845		\$220,802			\$1,733,072
Sales			29,720		2,854			32,574
Investments	100	30,669	6,749	86,516	4,357			128,391
Grants	598,600						48,900	647,500
Contributions			253,250		3,250		45,117	301,617
Other Revenue		23,485						23,485
Total Revenues	598,700	1,300,579	555,564	86,516	231,263		94,017	2,866,639
Expenditures:								
Salaries		404,509			56,890			461,399
Benefits		150,214			21,084			171,298
Salaries & Wages - Temporary					987			987
Travel	150,582	35,869	6,137		39,206			231,794
Meetings & Conferences	41,992	45,645	434,964		10,085			532,686
Professional Services	110,425	95,095	8,055	6,410	9,290		38,951	268,226
Publicity/Advertising		81,731	39,000		4,886			125,617
Dues/Subscriptions/Licenses	1,602	21,529			1,668	30,631		55,430
Education/Training	375				175			550
Supplies/Awards/Gifts/Spec. Items	48,674	6,341	12,251	7,900	13,840	57,262		146,268
Rentals - Office, Equipment, Storage	5,040	108,370	629		2,269			116,308
Maintenance/Repair				9,070		410,137		419,207
Postage and Freight	5,301	4,179	20,143		8,106	36		37,765
Telephone		14,160	(237)		637			14,560
Administrative	13,368	80,217	9,800		29,451			132,836
Fixed Assets		1,956		51,489		426,151		479,596
Printing and Copying	15,834	5,420	18,269		18,286			57,809
Total Expenditures	393,193	1,055,235	549,011	74,869	216,860	924,217	38,951	3,252,336
Transfer (In) / Out				(288,800)		(500,000)		(788,800)
Total Expenditures & Transfers	393,193	1,055,235	549,011	(213,931)	216,860	424,217	38,951	2,463,536
Net Increase (Decrease) in the Fair Value of Investments				17,316				17,316
Total Revenues less Expenditures	205,507	245,344	6,553	317,763	14,403	(424,217)	55,066	420,419
Beginning Fund Balance at 6/1/18		1,858,938	337,791	3,676,630	198,619	1,281,166		7,353,144
Ending Fund Balance at 4/30/19	\$205,507	\$2,104,282	\$344,344	\$3,994,393	\$213,022	\$856,949	\$55,066	\$7,773,563

STATE BAR OF TEXAS

Business Expense Reimbursement Policies and Procedures

Fiscal Year 2019-2020

Adopted: May 28, 2019

The enclosed internal policy, "State Bar of Texas Business Expense Reimbursement Policies and Procedures," is adopted pursuant to Section 3.07.01 of the State Bar Board Policy Manual (see below). To the extent this internal policy conflicts with a provision of the State Bar Board Policy Manual, the provision of the Board Policy Manual takes precedence.

3.07 Reimbursement of Expenses

3.07.01 General.

A. Policies and Procedures. Prior to June 1 of each year, the Executive Director shall prepare State Bar business expense reimbursement policies and procedures for the upcoming Fiscal Year, and shall submit such policies and procedures to the Board Audit and Finance Committee for approval.

B. Applicability. Subject to the provisions of this Policy Manual, the expense reimbursement policies and procedures shall apply to travel and other business-related expenses incurred by State Bar staff, Board members, standing committee members, special committee members, task force members, other entities funded by the State Bar, and State Bar volunteers acting on behalf of and at the direction of the Bar.

The following policies apply to State Bar Staff, Board Members, TYLA Board Members, Committee Members, Task Force Members, and Commission For Lawyer Discipline Members and Other Volunteers. This policy can be used as a guide for other State Bar-related entities.

GENERAL PROVISIONS

****All expense reimbursement requests must be submitted no more than 45 days after an event and must be accompanied by sufficient substantiation of the expenses, pursuant to Section 3.07 of Board Policy.****

Expense reimbursements, including substantiation, may be subject to the Public Information Act.

This policy covers reimbursements for expenses incurred by cash, personal credit card, and State Bar corporate credit card, or direct bill expenses charged to the State Bar.

Teleconferencing and Videoconferencing Consideration: For each State Bar meeting, careful consideration should be given as to whether business could be handled remotely through teleconference or videoconference, without travel by all or some of the participants. Whenever possible, remote meetings are strongly preferred over in-person meetings. The State Bar has technology that will facilitate presentations to participants through videoconferencing. For further information on this service, please contact your staff liaison or travel coordinator.

Event Accommodation Preference: If the State Bar provides meals and lodging at an event, expense reimbursements submitted in lieu of the meals and lodging provided at the event will be limited to the cost of lodging provided. Meals will not be reimbursed. If special needs or circumstances exist, separate meals and/or lodging may be necessary, but are subject to State Bar approval by staff liaison or travel coordinator prior to incurring the expense.

Expenditures for Non-State Bar travelers: Expenses for spouses, companions, relatives, or friends will not be reimbursed except as provided in the State Bar Board Policy Manual.

Early Arrival and Late Departure for Non-State Bar Business: Occasionally, a State Bar traveler may wish to arrive early for a meeting or event or stay over after a meeting for non-State Bar-related purposes. The State Bar will not reimburse expenses incurred as a result of such early arrival and/or late departure.

Travel Arrangements should be made as far in advance of the event or meeting as possible in order to take advantage of available special fares or rates. Absent substantiated special circumstances, reimbursement for expenses occurred for last-minute travel arrangements might not fully be reimbursed.

Discounted Rates: The State Bar member benefits program offers discounted rates on car rentals and hotels. The State Bar publishes discount programs for car rentals and hotels in the *Texas Bar Journal* and on the State Bar website at texasbar.com/discounts.

Budgetary Restrictions: Certain departments and programs impose additional limitations on expense reimbursements. Please check with your staff liaison or travel coordinator for further information.

Expense Reimbursement Form Required: The State Bar Expense Reimbursement Form is available upon request. The form is required to be completed and submitted to the State Bar. The staff contact and address are printed on the form. Reimbursement forms should be emailed, faxed, or mailed to the appropriate liaison C/O, PO Box 12487, Austin, TX 78711.

Signature Required. The Expense Reimbursement Form must be signed by the person for which the

reimbursement request is being made. An electronic signature is acceptable. The form must be completely filled out to prevent delay in processing the request.

Receipts Required. The reimbursement request must include itemized receipts for expenditures and must include all information described below, depending on the expense. Receipts should be submitted neatly, with small receipts taped to a letter-sized paper. Tips and miscellaneous expenses for which no bill or receipt is provided are reimbursable without receipt, and should be documented on the reimbursement form. On occasion, a traveler may lose a receipt. The traveler should list the expense incurred, including the name of the vendor, total amount incurred, the date incurred, and a statement that no alcohol was purchased. Excessive loss of receipts may result in a denial of reimbursement.

Payment Processing: Please allow two to three weeks from receipt by State Bar personnel to process the reimbursement and issue a check for payment. Reimbursement checks will be mailed to address on the form for non-State Bar employees. Employees can pick up reimbursement checks with the Cashier.

Questions? Please see the second page of the travel reimbursement form for staff contact information.

Modifications to Reimbursement: The State Bar retains the right to modify an expense reimbursement request to bring the request into compliance with this policy. The State Bar will provide the traveler with an explanation for modifications to the submitted reimbursement request.

TRANSPORTATION

The State Bar will reimburse the following expenses incurred when traveling on State Bar business:

Commercial airline travel will be reimbursed at the least expensive rate available for travel. Fully-reimbursable flights are as follows:

Southwest Airlines: "Wanna Get Away" fares are strongly preferred and should be booked for every Southwest Airlines flight unless otherwise unavailable. Early bird check in fees on Southwest are reimbursable.

Other Airlines: Economy or Economy Plus fares (whichever is less) will be reimbursed.

Timely Booking: To receive a low fare on airline travel, the traveler should book flights well in advance of the departure date, such as 30 days in advance. Depending on the circumstances, the State Bar may reduce reimbursements for premium, first class flights or for flights booked less than two weeks of departure date.

Special Circumstances: Under certain circumstances, a premium, or urgent flight may be necessary. Notification and prior authorization is required from appropriate State Bar staff to ensure full reimbursement. If the traveler anticipates a high likelihood of flight transfer or cancellation, the traveler may be reimbursed for the cost of the least expensive fully-refundable ticket.

Cancellation Fees: The State Bar will not reimburse for the cost of flight cancellation or transfer fees, unless the transfer or cancellation was due to a change in the State Bar schedule of events, illness, or other special circumstances. If a flight that has been paid for by the State Bar is cancelled, rebooked, or rescheduled and a credit is given to the traveler, the credit must be used for future State Bar business purposes.

Bus transportation. The use of bus services such as Vonlane or Greyhound is reimbursable.

Taxi or rideshares are reimbursable. The use of taxis, airport bus, or rideshare services is encouraged for short trips or distances because they are typically more cost effective than car rentals.

Car rental expenses and related fuel charges will be reimbursed by the State Bar. Car rentals should be limited to economy, standard, or intermediate cars when possible. On certain occasions, volunteers or employees may require a larger, high-grade rental car when sharing rides or carrying equipment. Only the volunteer or employee renting the car is eligible for reimbursement. Travelers should refuel the car prior to returning the car to avoid additional fees.

Discounted Rates: Discounted car rentals should be used when possible. Elected and appointed officials (including directors) and employees should use the State of Texas travel program for car rentals. Please contact your travel coordinator or staff liaison for the rate details and procedures. The discounted program should only be used for travel for official State Bar business. The discounted rates are with Hertz, Avis, and Enterprise.

Personal Vehicle Mileage will be reimbursed at the current reimbursement rate set by board policy. For the current calendar year, mileage will be reimbursed at \$0.545 per mile. The reimbursement rate for calendar year 2019 will be updated in January. Travelers who use their personal vehicles to travel may claim mileage from their place of departure, such as their home or office, to the destination. Support for the mileage, such as driving directions showing estimated mileage for the trip, may be requested. Fuel expense will not be reimbursed when claiming mileage.

Private Aircraft – Additional Passengers: A member who owns or leases a private aircraft is entitled to reimbursement up to the amount that would have been paid or reimbursed to each passenger had the passenger(s) incurred the reimbursable cost of coach airfare.

Parking and Tolls: Parking and toll expenses are reimbursable. Fines, such as parking tickets or towing fees from parking illegally are not reimbursable.

MEALS

Actual reasonable expenses for meals incurred while traveling on State Bar business will be reimbursed. Meal expenses must be accompanied by detailed receipts listing all items purchased. The receipt copy showing only the total cost of the meal and the tip will not be sufficient detail to substantiate a meal expense. The names of all reimbursable guests must be indicated on the receipt.

Alcohol Expenses will not be reimbursed.

Meals provided with the meeting: If a meal is provided with the meeting or event, the transportation to and from the meal and the cost of a meal at another location is not reimbursable.

Meals prior and post meeting: Meals incurred while traveling directly to and from an event are reimbursable.

LODGING

The State Bar will reimburse lodging expenses at reasonable, single occupancy or standard business room rates when traveling on State Bar business. When the hotel is at a conference or convention site with a special conference rate, reimbursement or corporate credit card approval will be limited to the conference rate.

Length of stay: To the extent possible, meetings should be scheduled so that attendees can arrive for the meeting and leave the same day. The State Bar will only reimburse hotel stays when necessary. Hotel stays must be approved in advance by State Bar staff, unless otherwise notified.

Cancellation Fees: The State Bar will not reimburse for the cost of lodging cancellation fees unless special circumstances are demonstrated. Cancellation fees incurred on direct bill reservations will be the responsibility of the individual. Cancellation fees can typically be avoided if notification is provided within three days of the reservation date.

Tips: Tips are reimbursable without receipt, but should be itemized.

Discounted Rate: Discounted hotel stays are available through the State Bar of Texas member benefits program.

OTHER EXPENSES

Other reasonable and necessary expenses of conducting State Bar business may be reimbursed, including such items as copying, postage, and long-distance telephone calls. Prior to incurring charges for printing and copying jobs costing more than minimal expense, please contact your staff liaison for alternative options. When possible, printing and copying jobs should be completed in advance of the meeting for maximum savings to the State Bar. The cost of Wi-Fi in hotel guest rooms will be reimbursed, if Wi-Fi is necessary to conduct State Bar business.

ADDITIONAL POLICIES APPLICABLE TO STATE BAR STAFF

Staff members may be reimbursed for *reasonable and necessary* expenses while conducting State Bar business.

The State Bar expects employees to act responsibly and professionally when incurring and submitting requests for expense reimbursements related to travel or any type of general business performed on behalf of the State Bar.

Submission: To receive reimbursement for expenses pursuant to this policy, staff members must submit a substantiated reimbursement request on the Reimbursement Form. The approved form should be presented to the State Bar's Accounting Department no later than 15 business days after the staff member returns to the office after State Bar business-related travel.

Use of Personal Vehicle: The State Bar does not pay for travel to and from the office. Employees who use their personal vehicles to travel for State Bar business may claim mileage from their home or office to the destination, if the destination is outside the city in which that employee's place of work is located. If the employee is traveling from home to another location that is within the same city as the employee's place of work, such as an airport, only the mileage that exceeds the distance between the employee's place of work and home will be reimbursed.

Use of a Rented Vehicle: The State Bar traveler should use a rental service that is accommodating while providing the least expensive fare overall. Employees not using the State's contracted rate, which includes insurance coverage, must decline insurance coverage offered by the car rental company (the State Bar's own coverage will apply). Before travel, please obtain a copy of the State Bar's automobile insurance identification card for use in renting a vehicle. This information can be obtained from the Office of Legal Counsel.

Travel Advances: Travel advances are authorized for specific situations that might cause undue financial hardship for staff traveling on State Bar business. A request for a travel advance must be approved in writing by a division director, department director, or a staff member specifically authorized to approve such a request.

A request for a travel advance should be made at least one week before funds are needed. A copy of the "Travel Advance Form" is included with this policy as Attachment A.

Within 5 business days of returning to work after a business trip for which a travel advance is requested, a staff member must complete a "Substantiation of Travel Advance Expenditures" form (see Attachment B) and return it to the Accounting Department. This deadline can only be extended in writing by the Finance Division Director.

If the staff member is returning a portion of the travel advance funds, the form and money should be given to the Accounting Department's Cashier.

If the State Bar owes the staff member additional monies because the travel advance did not cover all expenses related to the business trip, the completed "Substantiation of Travel Advance Expenses" form should be given to the Accounting Department's Accounts Payable Manager.

Corporate Credit Card: Items listed on a staff member's monthly corporate credit card statement must be substantiated by detailed receipts. The account coding for the expenses shown on the statement should be recorded on a form prescribed by the State Bar's Accounting Department. (See Attachment C). A corporate credit card is not to be used for personal charges. Prior to payment by the State Bar, a staff member's corporate credit card statement must be reviewed and all charges approved by authorized personnel.

The State Bar will not be responsible for payment of fees assessed due to the late payment of a corporate credit card statement unless such late payment is the fault of the State Bar.

Staff members required to travel on a regular basis are eligible to apply for a State Bar corporate credit card. If it is determined that a staff member is regularly requesting reimbursement for State Bar-related purchases charged to a personal credit card, the staff member may be requested to obtain a State Bar corporate credit card. A division director must approve the request for a State Bar corporate credit card. The forms to make application for the card may be obtained from the office of the Finance Division Director.

Out of State Staff Travel: No staff member may register for, travel to, or attend any out-of-state meeting or event at State Bar expense that is not a State Bar-sponsored event without pre-approval, obtained by:

(1) Completing a "Request for Authorization for Out of State Travel and Estimated Financial Impact Statement" (See Attachment D) which shall include:

- a. the location of the meeting or event;
- b. the full identity of the organization sponsoring the meeting or event;
- c. the nature of the meeting or event to be attended;
- d. a statement as to how the staff member's attendance at the out of state meeting or event would benefit the State Bar;
- e. the number of days during which attendance will be necessitated, which shall include the date of commencement and date of termination of the meeting;
- f. the reason for requested attendance at the meeting or event; and
- g. the estimated full amount of air travel round trip, the full amount of lodging during the meeting or event, the amount of registration fee, anticipated meal expenses and anticipated miscellaneous expense; and

(2) Obtaining the prior authorization and approval of the Executive Director before registering for the event or meeting.

Denial of Reimbursement Request: The State Bar of Texas reserves the right to deny reimbursement of any travel-related expense, or payment of any staff credit card statement, on the basis of failure to comply with the aforementioned policies and procedures. Noncompliance with this policy may result in disciplinary actions.

Approver Responsibility: A staff member who is authorized to review and approve another staff member's expense reimbursement or credit card statement is required to withhold approval for payment if there is reason to believe that the expenses are inappropriate, or unauthorized. The responsible division director should be notified of all instances of inappropriate, or unauthorized expenses. The approver is responsible for ensuring the travel expense is appropriately supported and complies with this policy.



State Bar of Texas Internal Audit Services

Three-Year Internal Audit Plan April 3, 2019

This report provides management with information about the condition of risks and internal controls at a specific point in time. Future changes in environmental factors and actions by personnel will impact these risks and internal controls in ways that this report cannot anticipate.

MJ

McCONNELL & JONES LLP
CERTIFIED PUBLIC ACCOUNTANTS

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McCONNELL & JONES LLP
CERTIFIED PUBLIC ACCOUNTANTS

April 3, 2019

Mr. Jarrod Foerster
State Bar of Texas
Audit & Finance Committee
1414 Colorado Street
Austin, TX 78701

Dear Audit & Finance Committee Chair:

Attached is the Three-Year Audit Plan for the State Bar of Texas. Executing this Three-Year Internal Audit Plan will provide the State Bar of Texas (SBOT) with reasonable assurance that their highest risk functions have been independently assessed to confirm that adequate internal controls are in place and working as intended.

McConnell & Jones LLP (MJ) will execute this Three-Year Internal Audit Plan in accordance with all applicable professional standards, including the Institute of Internal Auditors' (IIA) International Standards for the Professional Practice of Internal Auditing, the IIA's Code of Ethics, and Generally Accepted Government Auditing Standards (GAGAS).

Please contact Darlene Brown at 713.968.1617 or Tracy Jarratt at 512.427.1481 if you should have any questions about this audit plan.

Sincerely,

Ira Wayne McConnell, CPA
Partner

7600 Chevy Chase Drive
Suite 307
Austin, TX 78752
Phone: 512.430.5358

WWW.MCCONNELLJONES.COM

1.0 PURPOSE

The purpose of this document is to communicate the three-year risk-based internal audit plan, the methodology used to develop the audit plan and the resource requirements necessary to complete the audit plan.

The Three-Year Internal Audit Plan was developed based on identification of the State Bar of Texas' (SBOT) audit universe, performing a comprehensive risk assessment of SBOT's operations, input from the SBOT's leadership team and prioritization of the identified risks. Using our risk assessment framework, we identified the organizational sources for potential audit engagements and auditable activities; examined risk factors; and prioritized the audits based on the risk rating.

2.0 RISK ASSESSMENT

Risk is defined as the possibility of an event occurring that will have an impact on the achievement of objectives. Risk is measured in terms of impact and likelihood. An organization's risk exposure is determined through the identification of risks and evaluating the impact on operations and likelihood of occurrence.

Risk assessments identify an organization's exposure to business disruptions and barriers to achieving the organization's strategic goals. They serve as a tool to focus limited resources to perform evaluations of controls that are in place to limit the exposure.

In accordance with The Institute of Internal Auditors (IIA) Standard 2010.A1, this internal audit plan is based on a documented risk assessment and input of the SBOT leadership team. Our assessment evaluated risk exposures relating to the SBOT's governance, operations, and information systems regarding the reliability and integrity of financial and operational information; effectiveness and efficiency of operations; safeguarding of assets; and compliance with laws, regulations, and policies and procedures.

The types of risk exposure relevant to the SBOT are:

- ✓ *Financial Exposure:* Financial exposure exists whenever an audit area is susceptible to errors or defalcations that affect the general ledger and financial statements or the integrity and safekeeping of agency assets, regardless of the financial statement impact.
- ✓ *Compliance Exposure:* Compliance exposure exists whenever an event in an audit area could cause the agency to fail to comply with regulations mandated by state or federal authorities, irrespective of whether financial exposure exists.
- ✓ *Information Exposure:* An information exposure exists whenever there is information of a sensitive or confidential nature, which could be altered, destroyed, or misused.
- ✓ *Efficiency Exposure:* An efficiency exposure exists whenever agency resources are not being utilized in an effective or efficient manner.
- ✓ *Human Resource Exposure:* A human resource exposure exists whenever an area is managing human resources in a way, which is contrary to agency policy.

- ✓ *Environmental Exposure:* An environmental exposure exists whenever internal or external factors pose a threat to the stability and efficiency of an audit area. Examples of factors that affect environmental exposure are:
 - Recent changes in key personnel
 - Changing economic conditions
 - Time elapsed since last audit
 - Pressures on management to meet objectives
 - Past audit findings and quality of internal control
- ✓ *Public Service Exposure:* A public service exposure exists whenever an event in an audit area could jeopardize existing public services or new public services.
- ✓ *Reputational Exposure:* A reputational exposures exists whenever an event in the audit area could jeopardize the reputation of the agency and stakeholder trust.

We assigned weights to each of these risk categories for each SBOT department or function. We also assessed risk of the following organizations of SBOT due to their inclusion in SBOT's financial statements and support provided by SBOT to the respective organization.

- ✓ Texas Bar of Legal Specialization (TBLS)
- ✓ Texas Bar College
- ✓ Sections

Figure 1 provides a heat map of the combined average score for each SBOT department, function or organization.

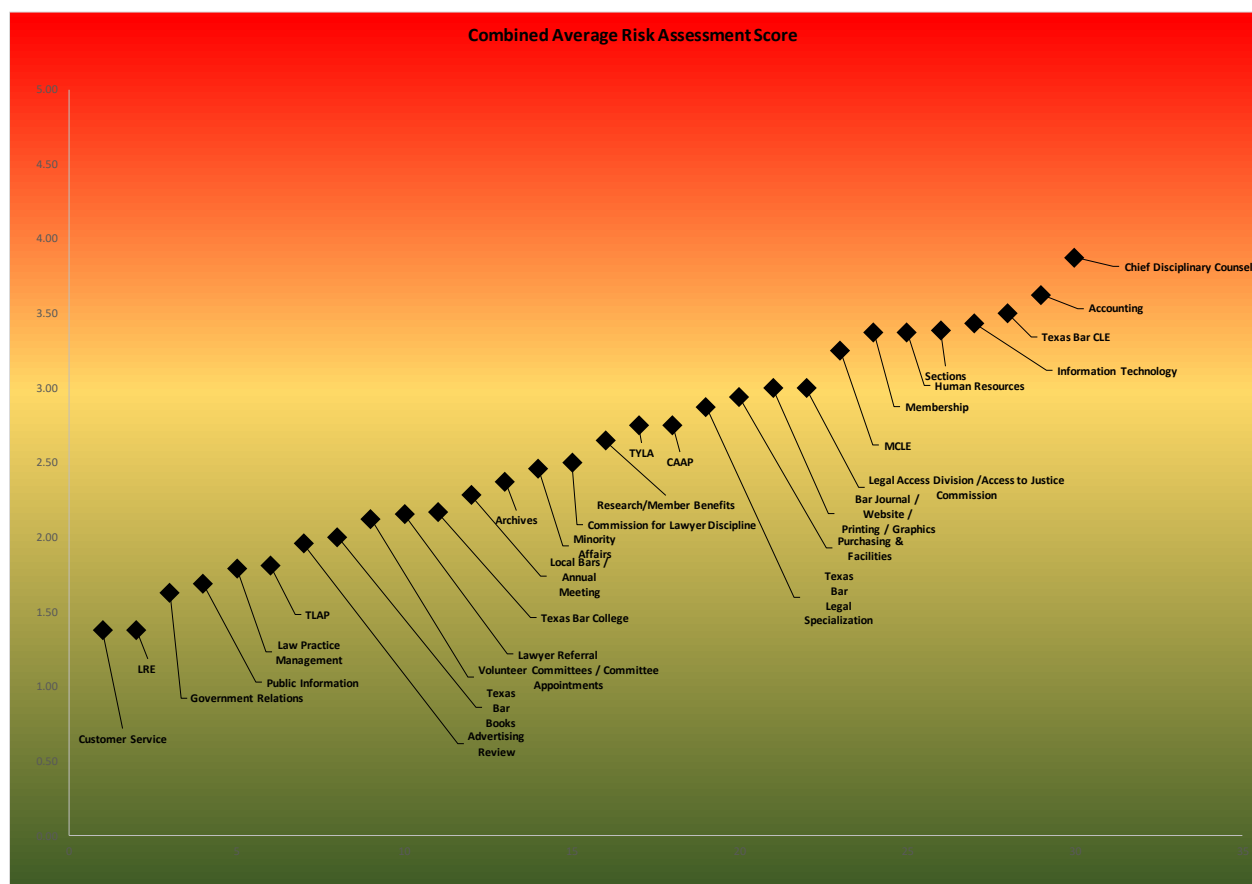


Figure 1 State Bar of Texas Organizational Risk Summary 2019

MJ discussed the risk exposures with SBOT's leadership team. We then prepared the Three-Year Internal Audit plan based upon current risks facing SBOT's operations.

3.0 THREE-YEAR INTERNAL AUDIT PLAN

MJ will conduct three audits each year, follow-up on open audit findings and prepare annual reports in accordance with all applicable professional standards, including the Institute of Internal Auditors' (IIA) International Standards for the Professional Practice of Internal Auditing, the IIA's Code of Ethics, and Generally Accepted Government Auditing Standards (GAGAS). Audit reports will be issued for each audit conducted. The open audit findings follow-up conclusions will be included in the annual audit reports.

The planned audits and budgets by year are summarized in the tables below. **Section 4** of this document includes the details of each audit's objectives, scope, and proposed audit activities.

Three-Year Internal Audit Plan Summary

Audit and Scope	Year 1 FY 2019	Year 2 FY 2020	Year 3 FY 2021
Texas Bar CLE <ul style="list-style-type: none"> ✓ Planning and executing CLE seminars ✓ Cash handling, including credit cards and checks ✓ CLE material production and printing ✓ Procurement processes ✓ Compliance with applicable regulations and policies 	✓		
Accounting & Finance <ul style="list-style-type: none"> ✓ Financial system controls ✓ Budgeting processes ✓ Revenues ✓ Expenditures ✓ Reconciliations ✓ Financial reports ✓ Annual Financial Report processes ✓ Compliance with applicable regulations and policies 	✓		
Sections <ul style="list-style-type: none"> ✓ Revenues ✓ Expenditures. ✓ Financial system controls ✓ Financial reporting ✓ Bank reconciliations ✓ Compliance with applicable regulations and policies 		✓	
Chief Disciplinary Counsel <ul style="list-style-type: none"> ✓ Complaint and grievance receipt, recording, classification and referral processes ✓ Complaint investigation processes ✓ Complaint presentation to local grievance committee panel ✓ Disciplinary actions monitoring ✓ Communications and reports to Commission for Lawyer Discipline ✓ Client Security Fund administration ✓ Ethics line monitoring and reporting ✓ Compliance with applicable regulations and policies 		✓	
Information Technology <ul style="list-style-type: none"> ✓ Security policy administration ✓ Security plan 			✓

Audit and Scope	Year 1 FY 2019	Year 2 FY 2020	Year 3 FY 2021
<ul style="list-style-type: none"> ✓ Data protection ✓ Incident response plan ✓ Information technology strategic planning ✓ Compliance with applicable statutes and policies 			
MCLE <ul style="list-style-type: none"> ✓ Member account maintenance ✓ Sponsor and member accreditation ✓ CLE materials review ✓ Revenue ✓ MCLE website ✓ Reporting ✓ Compliance with applicable regulations and policies 			✓
Investment Review <ul style="list-style-type: none"> ✓ Investment transactions ✓ Investment reconciliations ✓ Investment reporting ✓ Compliance with SBOT investment policy and PFIA requirements 	✓	✓	✓
Annual Report <ul style="list-style-type: none"> ✓ Summary of audit findings ✓ Status of open audit findings 	✓	✓	✓

Proposed audits will focus on internal controls, compliance and business processes.

Three-Year Internal Audit Plan Budget

Audit	Year 1 FY 2019		Year 2 FY 2020		Year 3 FY 2021	
	Hours	Cost	Hours	Cost	Hours	Cost
Texas Bar CLE	223	\$24,980				
Accounting & Finance	143	\$17,896				
Chief Disciplinary Counsel			233	\$26,640		
Sections			181	\$19,538		

Audit	Year 1 FY 2019		Year 2 FY 2020		Year 3 FY 2021	
Information Technology					225	\$29,603
MCLE					161	\$20,905
Investment Review	28	\$2,934	28	\$3,022	28	\$3,113
Annual Report	4	\$879	4	\$906	4	\$933
Audit Communications	4	\$879	4	\$906	4	\$933
Total	402	\$47,567	450	\$51,011	422	\$55,485

4.0 PROPOSED AUDIT DETAILS

McConnell & Jones will conduct the following audits using a risk-based approach where we focus on the business risk and underlying causes for any exceptions that we may identify. These audits are intended to assess management controls in place to monitor and mitigate the respective risks; ensure compliance with policies and regulations; and provide for process efficiencies. To accomplish this, we will review the respective departments or functions in totality, from beginning to end, top to bottom.

Texas Bar CLE (High Risk)

Texas Bar CLE rated high on the risk assessment due to their revenue generation activities; cash handling (cash, checks and credit cards) function; impact on SBOT's financial statements with annual revenues of \$13.9 million and expenditures of \$10.2 million; and impact on SBOT's objective to advance the legal profession through relevant and impactful continuing education.

Audit Objective:

MJ will assess management controls and processes in place to ensure the Texas Bar CLE program meets member needs and complies with SBOT policies. We will also assess controls in place for cash handling and expenditures. Our audit will address the following questions related to risk, controls, processes and reporting:

1. Are processes in place that ensure ongoing high-quality CLE for lawyers?
2. Are there processes to monitor the evolving continuing legal education needs of Texas lawyers?
3. Are budgets prepared for each CLE event and monitored to ensure that the costs remain within budget?
4. Are adequate controls in place to ensure CLE attendees are charged the correct amounts?
5. Are adequate internal controls and segregation of duties in place over revenue collection, revenue recording and disbursements?

6. *Are processes in place to obtain best value pricing terms for CLE event locations and expenses?*
7. *Are processes in place to ensure CLE materials are printed, produced or acquired using the best pricing methods?*
8. *Are processes in place to ensure CLE materials are printed, produced or acquired in quantities that minimize out-of-stock occurrences while also reducing inventory obsolescence?*
9. *Are processes in place to ensure CLE event speakers are qualified for the topic they are presenting?*
10. *Are staff ensuring compliance with applicable policies and meeting the goals set in the strategic plan?*

Audit Scope:

The audit scope will include the following functions:

- ✓ Planning and executing CLE seminars. - CLE event scheduling process; CLE event promotion activities; CLE event location reservations and pricing negotiation; speaker identification; speaker fees and travel costs; budgeting; staff travel costs; and cost containment.
- ✓ Cash handling, including credit cards and checks. - Receipting process; reporting process; recording process; deposit process; and reconciliations.
- ✓ CLE material production and printing. - Planning, distribution and storage.
- ✓ Procurement processes. - Event location contracting; CLE material acquisition; and large-vendor contracting.

Audit Activities:

MJ will perform the following activities for this audit:

- ✓ Conduct interviews with Texas Bar CLE staff and SBOT Finance & Accounting staff.
- ✓ Review system access and user roles to ensure adequate segregation of duties and audit trails.
- ✓ Review CLE event planning process for completeness and timeliness.
- ✓ Review revenue collection, receipting, reporting, deposit and reconciliation processes for adequate segregation of duties.
- ✓ Perform sample testing of revenues collected to ensure deposits were made in a complete, accurate and timely manner.
- ✓ Perform sample testing of CLE events to ensure compliance with policies; budget preparation and monitoring; revenues were collected and accurately reported; attendance met or exceeded planning assumptions; and expenditures were approved, supported and controlled.
- ✓ Analyze CLE major procurements to determine if best value pricing was obtained. Review major contracts within CLE to determine if costs are in-line with delivery of service or goods.

Accounting & Finance (High Risk)

Accounting & Finance rated high on the risk assessment due to the impact that their processes have on SBOT's ability to achieve its mission. The Accounting & Finance department's key responsibilities include ensuring sound financial management of SBOT's resources; ensuring financial transactions are accurately recorded; preparing financial reports; and developing and monitoring the budget. Accounting & Finance department staff are also responsible for processing disbursements, processing payroll and managing investments.

Audit Objective:

MJ will assess management controls and processes in place to protect SBOT financial assets and provide accurate financial information. Our audit will address the following questions related to risk, controls, processes and reporting:

- 1. Are adequate internal controls and segregation of duties in place over revenue collection, revenue recording, disbursements, bank accounts and accounting systems?*
- 2. Does the budgeting process ensure reasonable assurance that anticipated expenditures do not exceed revenues generated?*
- 3. Does the budgeting process provide for adequate reviews and comments prior to presentation to the Board for approval?*
- 4. Are budget monitoring processes in place to ensure timely corrective actions can occur if needed?*
- 5. Are adequate internal controls and segregation of duties in place over revenue collection, revenue recording, disbursements, bank accounts and accounting systems?*
- 6. Are staff ensuring compliance with applicable financial related policies?*
- 7. Are adequate controls in place for reconciling bank accounts to their financial system/records, including segregation of duties and appropriate reviews?*
- 8. Are financial transactions and balances reported in an accurate, complete and timely manner?*
- 9. Are processes in place to ensure that the Annual Financial Report is prepared in an accurate and timely manner?*

Audit Scope:

The audit scope will include the following functions:

- ✓ Financial system - User access and roles.
- ✓ Budgeting processes - Development, monitoring and reporting.
- ✓ Revenues - Estimation processes, recording and reporting.
- ✓ Expenditures - Accounts payable, payroll and travel reimbursement processes.
- ✓ Reconciliations - Account and Bank Reconciliations.

- ✓ Financial reports – Internally provided to divisions and departments; Audit Committee Reports; Board Financial Reports.
- ✓ Annual Financial Report Processes. – Account reconciliation, adjustment positing, closing books, management discussion.

Audit Activities:

MJ will perform the following activities for this audit:

- ✓ Conduct interviews with SBOT Accounting & Finance department staff.
- ✓ Review financial system for adequate segregation of duties and audit trails.
- ✓ Review budgeting process for timeliness and completeness.
- ✓ Review budget monitoring process for timeliness.
- ✓ Review processes for receipting and recording revenues for adequate internal controls and segregation of duties.
- ✓ Review processes to record financial transactions for adequate segregation of duties and compliance with policies.
- ✓ Perform sample testing of revenues to determine recording accuracy and timeliness.
- ✓ Perform sample testing of expenditures to determine authorization, compliance with policies, and recording accuracy.
- ✓ Perform sample testing of bank reconciliations for completeness, accuracy, review and timeliness. Review outstanding transactions for timely clearing and/or research.
- ✓ Perform sample testing of financial reports for completeness, accuracy and timeliness.
- ✓ Review the Annual Financial Reporting process for compliance with requirements and timeliness.

Chief Disciplinary Counsel (High Risk)

The Chief Disciplinary Counsel (CDC) rated high on the risk assessment due to the impact that their function has on SBOT's objective of protecting the public. CDC is the regulating function to ensure complaints and grievances are reviewed and investigated in a consistent manner and in accordance with the Commission for Lawyer Discipline requirements and SBOT policies. Additionally, CDC is responsible for administering the Client Security Fund disbursements and monitoring SBOT's ethics reporting line. CDC's expenditures consume 23 percent of SBOT's annual budget and the department's 97 employees comprise 37 percent of SBOT's total employees.

Audit Objective:

MJ will assess management controls and processes in place to ensure the attorney discipline system is administered in accordance with statute, the Commission for Lawyer Discipline requirements and SBOT policies in an effective and efficient manner. Assess internal controls and processes over the

Client Security Fund. Our audit will address the following questions related to risk, controls, processes and reporting:

1. *Are complaints and grievances handled in a consistent manner and in compliance with applicable SBOT policies and regulations?*
2. *Are processes in place to ensure that complaints and grievances are appropriately classified in accordance with policies and regulations?*
3. *Are all complaints and grievances recorded and tracked from receipt to disposition, including monitoring of judgements?*
4. *Are investigations completed in a timely manner, on a consistent basis and in compliance with policies and regulations?*
5. *Are information and reports provided to the Commission for Lawyer Discipline and local grievance committee panels complete, accurate and timely?*
6. *Is SBOT's ethics line being monitored on a regular basis?*
7. *Are there processes and criteria in place to ensure that all ethics line reports are reviewed, recorded, assigned and monitored from receipt to disposition?*
8. *Is there adequate segregation of duties over the Client Security Fund administration and disbursement activities?*

Audit Scope:

The audit scope will include the following functions:

- ✓ Complaint and grievance receipt, recording, classification and referral processes. – Systems, tools and processes for receiving tips and complaints; systems tools and processes for recording complaints and grievances; classification criteria; internal and external referral criteria and process.
- ✓ Complaint investigation processes. – Systems, tools and processes for assigning investigations, monitoring progress and ensuring investigation consistency and compliance with policies and regulations.
- ✓ Complaint presentation to local grievance committee panel. – Report completeness and accuracy.
- ✓ Disciplinary actions monitoring. – Systems, tools and processes in place to ensure actions are monitored on a regular basis and actions are taken when individuals are not adhering to the judgement.
- ✓ Communications and reports to Commission for Lawyer Discipline. – Communication methods, frequency, accuracy and completeness.
- ✓ Ethics line monitoring and reporting. – Monitoring frequency; tip or complaint recording tracking tools used; review and assignment criteria and process; complaint resolution or

investigation monitoring process; ethics line activity report contents, frequency, completeness and accuracy.

- ✓ Compliance with applicable regulations and policies.

Audit Activities:

MJ will perform the following activities for this audit:

- ✓ Conduct interviews with CDC staff, SBOT finance staff and Commission for Lawyer Discipline staff.
- ✓ Review system access and roles for authorized users to determine access is based on job functions and adequate segregation.
- ✓ Review key documents and management reports for relevance, completeness, accuracy and timeliness.
- ✓ Review survey instrument for question relevance and survey response reports for accuracy, completeness and timeliness.
- ✓ Perform sample testing of complaints, grievances and investigations for consistency in the processes and compliance with policies and regulations.
- ✓ Perform sample testing of ethics line tips and complaints for compliance with policies, assignment timeliness and resolution completion.
- ✓ Perform sample testing of key operational reports provided to the Commission for Lawyer Discipline, local panels and the public for accuracy and completeness.
- ✓ Perform sample testing of judgements determined to ensure recording in the system and monitoring activities are being performed.
- ✓ Assess physical and software controls over protecting confidential and sensitive information.

Sections (High Risk)

Sections rated high on the risk assessment due to their revenue and disbursement activity representing \$3.6 million annually. Each of the 48 sections maintains at least one bank account each and five of them maintain their own financial records. SBOT's accounting department maintains the financial records and issues disbursements for the remaining 43 sections.

Audit Objective:

MJ will assess management controls and processes in place to protect each Section's financial assets and provide accurate financial information. Our audit will address the following questions related to risk, controls, processes and reporting:

1. *Are Sections practicing sound fiscal management of their funds?*
2. *Do Sections have adequate internal controls and segregation of duties over their revenues, disbursements, bank accounts and accounting systems?*

3. *Are Sections ensuring compliance with applicable financial related policies?*
4. *Do Sections have adequate controls in place for opening and closing bank accounts and credit cards?*
5. *Do Sections have adequate controls in place for reconciling bank accounts to their financial system/records, including segregation of duties and appropriate reviews?*
6. *Does SBOT have adequate fiscal management policies and criteria for Sections to follow?*
7. *Do Sections have the required composition of leadership members?*

Audit Scope:

The audit scope will include the following functions:

- ✓ Revenues. - Revenue generation activities, collection methods and recording process.
- ✓ Expenditures. - Perform sample testing of expenditures to determine authorization, compliance with policies, and recording accuracy.
- ✓ Financial systems. - Financial systems, databases and spreadsheets used to record Section financial transactions.
- ✓ Financial reporting. – Financial reports generated and distributed to Section members and SBOT.
- ✓ Bank reconciliations. – Bank reconciliation timeliness and review.
- ✓ Compliance with applicable regulations and policies.

Audit Activities:

MJ will perform the following activities for this audit:

- ✓ Conduct interviews with Section leaders, SBOT section and accounting staff.
- ✓ Review each Section's revenue generation activities for internal controls and compliance with policies. Review processes for receipting and recording revenues for adequate internal controls and segregation of duties.
- ✓ Review each Section's financial systems, databases or spreadsheets used and processes to record financial transactions for adequate segregation of duties.
- ✓ Review each Section's processes to record financial transactions for adequate segregation of duties and compliance with policies.
- ✓ Review each Section's leadership composition for compliance with policies.
- ✓ Perform sample testing of revenues to determine authorization of the revenue generation activity, compliance with policies, recording accuracy and recording timeliness.
- ✓ Perform sample testing of expenditures to determine authorization, compliance with policies, and recording accuracy.

- ✓ Perform sample testing of bank reconciliations for completeness, accuracy, review and timeliness. Review outstanding transactions for timely clearing and/or research.
- ✓ Perform sample testing of financial reports provided to Section members and SBOT for completeness, accuracy and timeliness.
- ✓ Deploy electronic surveys to Section leaders to determine process compliance and internal controls.

Information Technology (High Risk)

Information technology (IT) rated high on the risk assessment due to the impact on SBOT operations if the network or systems go down or if the systems are compromised. Additionally, a significant amount of confidential and sensitive data is maintained on these systems.

Audit Objective:

MJ will assess management controls and processes in place to protect SBOT's information technology and data. Our audit will address the following questions related to risk, controls, processes and reporting:

1. *Are SBOT's information technology policies comprehensive and enforced to protect the organization?*
2. *Does SBOT's security plan address, and align with, key risk areas of SBOT's IT environment?*
3. *Does SBOT's IT processes, tools and systems protect confidential and sensitive data?*
4. *Are processes in place that would allow SBOT to quickly respond to an incident that compromised confidential and sensitive data?*
5. *Are change management processes in place to ensure that new applications, system updates and patch applications do not negatively impact operations?*
6. *Is an IT strategic plan in place to prioritize IT hardware and software needs?*

Audit Scope:

The audit scope will include the following functions:

- ✓ Security policy administration. – Security policy components; security policy enforcement; employee IT security training.
- ✓ Security plan. – Security plan contents and updates.
- ✓ Data protection. – Processes, tools and systems in place to protect confidential data.
- ✓ Incident response plan. – Incident response plan content; incident monitoring; incident reporting; corrective actions.
- ✓ Information technology strategic planning. – IT strategic plan content, review and updates.
- ✓ Change management processes. – Change management policy; change management program; patch application processes; system development and testing processes.

- ✓ Compliance with applicable statutes and policies.

Audit Activities:

MJ will perform the following activities for this audit:

- ✓ Conduct interviews with IT staff.
- ✓ Determine if the tools supporting the governance of the cyber security program address key risk areas with updated policy and procedures.
- ✓ Review system access and termination processes.
- ✓ Perform sample testing on user access.
- ✓ Review security plan to determine if it addresses and aligns to key risk areas with SBOT's IT environment.
- ✓ Review the processes/tools/systems used to manage the confidential and sensitive data to ensure risks are effectively addressed.
- ✓ Review the policy, procedures and supporting tools related to the incident response program to ensure risk areas are effectively addressed.
- ✓ Assess the patch management program and ensure it reduces the agency's risk exposure by addressing key patches in an effective manner.
- ✓ Assess the change management program and ensure it reduces the agency's risk exposure by addressing key patches in an effective manner.
- ✓ Review the IT strategic plan to determine if the development was a collaborative process, is updated on a regular basis and provides priorities for funding requirements.

MCLE (High Risk)

The MCLE function rated high on the risk assessment due to their impact on assuring the public is served by individuals that continue to advance their knowledge base through continuing education. The MCLE department's primary functions are ensuring members maintain their minimum continuing education requirements; assessing and collecting fees for member non-compliance with the continuing education requirements and reinstatements; accrediting courses submitted by sponsors and members and assessing fees for the accreditation; reviewing CLE materials for accreditation requirements; and supporting the Minimum Continuing Legal Education Committee of the State Bar of Texas.

Audit Objective:

MJ will assess management controls and processes in place to ensure the MCLE program fulfills their duties of protecting the public through monitoring member compliance with statutory required continuing education requirements. Assess controls in place for assessing and collecting fees. Our audit will address the following questions related to risk, controls, processes and reporting:

1. *Are non-compliance penalties consistently applied to member accounts?*

2. *Are processes in place to ensure member and public accounts are accurate, complete and updated in a timely manner?*
3. *Are course accreditations completed in a timely manner?*
4. *Are processes in place to ensure that member attendance at CLE is reported and recorded to member accounts in a complete, accurate and timely manner?*
5. *Are controls in place to ensure that CLE materials are reviewed thoroughly for requirements and that reviews are documented and completed in a timely manner?*
6. *Are adequate internal controls and segregation of duties in place over member accounts, revenue collection, revenue recording and deposits?*
7. *Is the course accreditation process effective and efficient?*
8. *Are processes in place to ensure the MCLE website is accurate, updated in a timely manner and user friendly?*
9. *Are reports and information generated for the Minimum Continuing Legal Education complete, accurate and timely?*

Audit Scope:

The audit scope will include the following functions:

- ✓ Member accounts. – Recording CLE activity, recording penalties, recording updates.
- ✓ Sponsor and member course accreditation. – Accreditation review process, fee assessment and collection.
- ✓ CLE materials. – CLE material review process.
- ✓ Revenue. - Cash handling, including credit cards and checks.
- ✓ MCLE website. – MCLE content, updates and accessibility.
- ✓ Reporting. – Reporting completeness, accuracy, relevance and timeliness.
- ✓ Compliance with applicable regulations and policies.

Audit Activities:

MJ will perform the following activities for this audit:

- ✓ Conduct interviews with MCLE staff and Accounting & Finance staff.
- ✓ Review system access and user roles to ensure adequate segregation of duties and audit trails.
- ✓ Review revenue collection, receipting, reporting, deposit and reconciliation processes for adequate segregation of duties.
- ✓ Review process for updating the MCLE website content and monitoring accessibility.

- ✓ Perform sample testing of revenues collected to ensure deposits were made in a complete, accurate and timely manner.
- ✓ Perform sample testing of member records for accuracy and timely updates.
- ✓ Perform sample testing of sponsor and member course accreditations for accuracy, completeness, timeliness, correct updates to accounts and assessment of fees.
- ✓ Perform sample testing of CLE material reviews to ensure reviews were timely and documented.
- ✓ Perform sample testing of reports and information provided to the MCLE Committee for completeness and accuracy.
- ✓ Perform sample testing of MCLE Committee meeting minutes for decision execution.

Investment Reviews (Compliance)

The Texas Public Funds Investment Act (PFIA) requires that agencies who invest public funds conduct a compliance audit of management controls on investments and adherence to the agency's established investment policies by their internal auditor or a private auditor at least once every two years. Historically SBOT has received this independent review on an annual basis.

Audit Objective:

MJ will assess management controls and processes in place to ensure investments are authorized, accurately recorded and reported, and that investments are in compliance with SBOT Investment Policies and the Public Funds Investment Act (PFIA). Our audit will address the following questions related to risk, controls, processes and reporting:

1. *Are investment transactions properly authorized?*
2. *Is there adequate segregation of duties over investment transaction preparation, review, authorization, reconciliation and reporting?*
3. *Are investment instruments in accordance with SBOT's investment policy and PFIA requirements?*
4. *Are investment transactions recorded accurately, completely and in a timely manner?*
5. *Are investment statements reconciled to the financial system in an accurate and timely manner?*
6. *Are investment reports provided to the Audit & Finance Committee complete, accurate and timely?*
7. *Is SBOT's investment policy in compliance with PFIA requirements?*
8. *Are investment officers and Board members obtaining the required investment officer training?*

Audit Scope:

The audit scope will include the following functions:

- ✓ Investment transactions. – Investment purchases, sales, interest, earnings, distributions, authorization and recording.
- ✓ Investment reconciliations. – Investment statement and investment bank account reconciliations to the financial system.
- ✓ Investment reporting. – Investment reports provided to the Audit & Finance Committee.
- ✓ Investment officer training. – Investment officer and board training certificates or assertions.
- ✓ Compliance with SBOT investment policy and PFIA requirements.

Audit Activities:

MJ will perform the following activities for this audit:

- ✓ Review investment statements, investment bank accounts and financial records for unusual transactions.
- ✓ Reconcile investment statements and investment bank accounts to SBOT financial reports.
- ✓ Sample testing of investment transactions.
- ✓ Review investment instruments and concentrations for compliance with SBOT policy and PFIA.
- ✓ Verify investment officer training records.

5.0 THREE-YEAR AUDIT PLAN APPROVAL

This Three-Year audit plan was presented to the State Bar of Texas Audit & Finance Committee and approved on June 12, 2019.

Mr. Jarrod Foerster, Chair



To: Laura Gibson, Board Chair

From: Lewis Kinard, Committee Chair

Date: January 10, 2019

RE: Submission by Committee on Disciplinary Rules and Referenda of Proposed Rules

Dear Ms. Gibson:

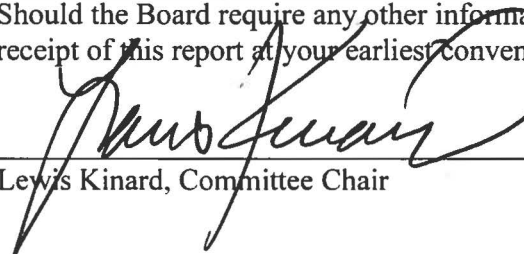
Pursuant to Government Code section 81.0876, the Committee on Disciplinary Rules and Referenda (CDRR) initiated three rule change proposals that were published in the Texas Bar Journal and the Texas Register. The CDRR held a public hearing and solicited and considered public comments on each. Subsequently, at its November 2019 meeting, the CDRR voted to send all three to the Board:

- Rule 1.02 Scope and Objectives of Representation
- Rule 1.05 Confidentiality of Information
- Rule 1.16 Clients with Diminished Capacity

Please find attached the proposed rule changes and recommended comments related to those changes. Per Government Code section 81.0877, the Board of Directors is to vote on each proposed disciplinary rule recommended by the committee not later than the 120th day after the date the rule is received from the CDRR. The Board can vote for or against each rule, or return a rule to the CDRR for additional consideration.

As a reminder, if a majority of the Board of Directors approves a rule, the Board then petitions the Supreme Court to order a referendum on the rule(s) as provided by Section 81.0878.

Should the Board require any other information, please do not hesitate to contact me. Please confirm receipt of this report at your earliest convenience.



Lewis Kinard, Committee Chair

cc: Joe K. Longley
Trey Apffel
Randy Sorrels
Tom Vick

Committee on Disciplinary Rules and Referenda

Proposed Rule Changes

Provided here is the rationale for proposed rule changes being considered by the Committee on Disciplinary Rules and Referenda (CDRR). A Committee poll was conducted in May 2018 to select initial rules for the Committee to review. The Committee submits the following summary to provide context for the proposed rule changes:

- Committee Deliberation – A review of rules began in April 2018. Members were assigned rules to review and present to the Committee for its May 2018 meeting.
- Committee Vote to Initiate – Proposed rules were discussed and initiated on June 11, 2018.
- Publication – Proposed rules were published in the September 1, 2018, issue of the Texas Bar Journal and the August 31, 2018, issue of the Texas Register.
- Comments – The Committee extended the 30 day comment period to 60 days. Comments were collected from September 1, 2018, through November 1, 2018. A total of 16 individuals provided 20 comments. Of those, 60% (12 comments) were related to Rule 1.16, 25% (5 comments) for Rule 1.02, and 15% (3 comments) for Rule 1.05.
- Public Hearing – A public hearing on the proposed rules was held on October 10, 2018, at 10:00 a.m. at the Texas Law Center.

Rule 1.02(g) Scope and Objectives of Representation and Rule 1.16 Clients with Diminished Capacity

The Committee voted to recommend deletion of TDRPC Rule 1.02(g), dealing a lawyer's duties to a client who may lack competency. The Committee voted to recommend that this Rule be replaced with a new Rule 1.16, dealing with a lawyer's duties to a client with diminished capacity. Proposed Rule 1.16 is designed to give more guidance to lawyers than current Rule 1.02(g), and to be more detailed in what actions a lawyer is permitted to take when a client's mental capacity is significantly diminished.

The committee received a variety of comments relating to the proposed changes. Among the comments pertaining to proposed Rule 1.16 (and current Rule 1.02(g)) included concerns that the term "diminished capacity" needed to be defined, concerns about the disclosure of confidential client information, concerns about the use of the permissive term "may" in proposed Rule 1.16(b) and (c), concerns about the differing standards for and of action between current Rule 1.02(g) and proposed Rule 1.16, concerns that proposed Rule 1.16(b) should include additional actions a lawyer may take when applicable, concerns that changes should generally follow the ABA Model Rules insofar as possible, and concerns that more explanation of proposed rule changes should be provided.

Rule 1.05 Confidentiality of Information

The Committee voted to recommend amending TDRPC Rule 1.05 by adding an additional exception for when a lawyer may divulge client confidential information. To be added as Rule 1.05(c)(9), the exception permits a lawyer to reveal confidential client information to secure legal advice about the lawyer's compliance with the rules of professional conduct.

The committee received comments pertaining to proposed Rule 1.05(c)(9). One comment submitted by five lawyers was generally supportive of the proposed amendment, which is substantially the same as a corresponding provision of the ABA Model Rules. A different person commenting expressed concerns about the duty of confidentiality for the lawyer providing advice under the proposed rule.

Detailed rationale for the proposed changes is provided below, as well as the public comments received by the Committee.

Rule 1.02(g) Scope and Objectives of Representation and Rule 1.16 Diminished Capacity

March 11, 2016 Report

A report issued on March 11, 2016 by the former State Bar of Texas Disciplinary Rules of Professional Conduct Committee makes a strong case for why the current disciplinary rules create confusion about the representation of clients with diminished capacity. That report is attached to this document and should be consulted directly (*see* Attachment A).

2011 Referendum

The March 11, 2016 Report states that “[the 2011] Referendum proposed replacing [Texas Disciplinary Rules of Professional Conduct (TDRPC)] Rule 1.02(g) with . . . [a] Rule and Comments, which generally follow[ed] ABA Model Rule 1.14,” although the Committee recommended some deviation from Model Rule 1.14.

Proposed Texas Rule 1.16

The CDRR recommends deletion of current Texas Disciplinary Rule 1.02(g) and the adoption of a new rule, Rule 1.16, which would read as follows:

Rule 1.16 Clients with Diminished Capacity

(a) When a client’s capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment, or for another reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial, or other harm unless action is taken, and cannot adequately act in the client’s own interest, the lawyer may take reasonably necessary protective action. Such action may include, but is not limited to, consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, attorney ad litem, amicus attorney, or conservator, or submitting an information letter to a court with jurisdiction to initiate guardianship proceedings for the client.

(c) When taking protective action pursuant to (b), the lawyer may disclose the client’s confidential information to the extent the lawyer reasonably believes is necessary to protect the client’s interests.

Proposed Comment

Paragraphs 1 to 8 generally correspond to the first eight paragraphs of the Comment for Model Rules of Professional Conduct Rule 1.14,¹ although the order is somewhat different. Paragraphs 9 and 10 are quoted from the Comments 9 and 10 to the current version of Model Rules of Professional Conduct R. 1.14.

If Proposed Rule 1.16 is adopted, the CDRR recommends the following as Comments to the rule:

1. The normal client-lawyer relationship is based on the assumption that the client, when properly advised and assisted, is capable of making decisions about important matters. However, maintaining the ordinary client-lawyer relationship may not be possible when the client suffers from a mental impairment, is a minor, or for some other reason has a diminished capacity to make adequately considered decisions regarding representation. In particular, a severely incapacitated person may have no power to make legally binding decisions. Nevertheless, a client with diminished capacity often can understand, deliberate on, and reach conclusions about matters affecting the client's own well-being. For example, some people of advanced age are capable of handling routine financial matters but need special legal protection concerning major transactions. Also, some children are regarded as having opinions entitled to weight in legal proceedings concerning their custody.

2. In determining the extent of the client's diminished capacity, the lawyer should consider and balance such factors as the client's ability to articulate reasoning leading to a decision, variability of state of mind, and ability to appreciate consequences of a decision; the substantive fairness of a decision; and the consistency of a decision with the lawyer's knowledge of the client's long-term commitments and values.

3. The fact that a client suffers from diminished capacity does not diminish the lawyer's obligation to treat the client with attention and respect. Even if the client has a guardian or other legal representative, the lawyer should, as far as possible, accord the client the normal status of a client, particularly in maintaining communication. If a guardian or other legal representative has been appointed for the client, however, the law may require the client's lawyer to look to the representative for decisions on the client's behalf. If the lawyer represents the guardian as distinct from the ward and is aware that the guardian is acting adversely to the ward's interest, the lawyer may have an obligation to prevent or rectify the guardian's misconduct.

4. The client may wish to have family members or other persons participate in discussions with the lawyer; however, paragraph (a) requires the lawyer to keep the client's interests foremost and, except when taking protective action authorized by paragraph (b), to look to the client, not the family members or other persons, to make decisions on the client's behalf. In matters involving a minor, whether the lawyer should look to the parents as natural guardians may depend on the type of proceeding or matter in which the lawyer is representing the minor.

Taking Protective Action

5. Paragraph (b) contains a non-exhaustive list of actions a lawyer may take in certain circumstances to protect a client who does not have a guardian or other legal representative. Such actions could include consulting with family members, using a reconsideration period to permit clarification or improvement of circumstances, using voluntary surrogate decision-making tools such as existing durable powers of attorney, or consulting with support groups, professional services, adult-protective agencies, or other individuals or entities that have the ability to protect the client. In taking any protective action, the lawyer should be guided by such factors as the client's wishes and values to the extent known, the client's best interests, and the goals of intruding into the client's decision-making autonomy to the least extent feasible, maximizing client capacities, and respecting the client's family and social connections.

6. A client with diminished capacity also may cause or threaten physical, financial, or other harm to third parties. In such situations, the client's lawyer should consult applicable law to determine the appropriate response.

7. When a legal representative has not been appointed, the lawyer should consider whether an appointment is reasonably necessary to protect the client's interests. Thus, for example, if a client with diminished capacity has substantial property that should be sold for the client's benefit, effective completion of the transaction may require appointment of a legal representative. In addition, applicable law provides for the appointment of legal representatives in certain circumstances. For example, the Texas Family Code prescribes when a guardian ad litem, attorney ad litem, or amicus attorney should be appointed in a suit affecting the parent-child relationship, and the Texas Probate Code prescribes when a guardian should be appointed for an incapacitated person. In many circumstances, however, appointment of a legal representative may be more expensive or traumatic for the client than circumstances in fact require. Evaluation of such circumstances is a matter entrusted to the lawyer's professional judgment. In considering alternatives, the lawyer should be aware of any law that requires the lawyer to advocate on the client's behalf for the action that imposes the least restriction.

Disclosure of the Client's Condition

8. Disclosure of the client's diminished capacity could adversely affect the client's interests. For example, raising the question of diminished capacity could, in some circumstances, lead to proceedings for involuntary commitment. As with any client-lawyer relationship, information relating to the representation of a client is confidential under Rule 1.05. However, when the lawyer is taking protective action, paragraph (b) of this Rule permits the lawyer to make necessary disclosures. Given the risks to the client of disclosure, paragraph (c) limits what the lawyer may disclose in consulting with other individuals or entities or in seeking the appointment of a legal representative. At the very least, the lawyer should determine whether it is likely that the person or entity consulted will act adversely to the client's interests before discussing matters related to the client.

Emergency Legal Assistance

[9] In an emergency where the health, safety or a financial interest of a person with seriously diminished capacity is threatened with imminent and irreparable harm, a lawyer may take legal action on behalf of such a person even though the person is unable to establish a client-lawyer relationship or to make or express considered judgments about the matter, when the person or another acting in good faith on that person's behalf has consulted with the lawyer. Even in such an emergency, however, the lawyer should not act unless the lawyer reasonably believes that the person has no other lawyer, agent or other representative available. The lawyer should take legal action on behalf of the person only to the extent reasonably necessary to maintain the status quo or otherwise avoid imminent and irreparable harm. A lawyer who undertakes to represent a person in such an exigent situation has the same duties under these Rules as the lawyer would with respect to a client.

[10] A lawyer who acts on behalf of a person with seriously diminished capacity in an emergency should keep the confidences of the person as if dealing with a client, disclosing them only to the extent necessary to accomplish the intended protective action. The lawyer should disclose to any tribunal involved and to any other counsel involved the nature of his or her relationship with the person. The lawyer should take steps to regularize the relationship or implement other protective solutions as soon as possible. Normally, a lawyer would not seek compensation for such emergency actions taken.

¹ The Comment to Model Rules of Professional Conduct R. 1.14 (2018) is shown below:

Comment

[1] The normal client-lawyer relationship is based on the assumption that the client, when properly advised and assisted, is capable of making decisions about important matters. When the client is a minor or suffers from a diminished mental capacity, however, maintaining the ordinary client-lawyer relationship may not be possible in all respects. In particular, a severely incapacitated person may have no power to make legally binding decisions. Nevertheless, a client with diminished capacity often has the ability to understand, deliberate upon, and reach conclusions about matters affecting the client's own well-being. For example, children as young as five or six years of age, and certainly those of ten or twelve, are regarded as having opinions that are entitled to weight in legal proceedings concerning their custody. So also, it is recognized that some persons of advanced age can be quite capable of handling routine financial matters while needing special legal protection concerning major transactions.

[2] The fact that a client suffers a disability does not diminish the lawyer's obligation to treat the client with attention and respect. Even if the person has a legal representative, the lawyer should as far as possible accord the represented person the status of client, particularly in maintaining communication.

[3] The client may wish to have family members or other persons participate in discussions with the lawyer. When necessary to assist in the representation, the presence of such persons generally does not affect the applicability of the attorney-client evidentiary privilege. Nevertheless, the lawyer must keep the client's interests foremost and, except for protective action authorized under paragraph (b), must look to the client, and not family members, to make decisions on the client's behalf.

[4] If a legal representative has already been appointed for the client, the lawyer should ordinarily look to the representative for decisions on behalf of the client. In matters involving a minor, whether the lawyer should look to the parents as natural guardians may depend on the type of proceeding or matter in which the lawyer is representing the minor. If the lawyer represents the guardian as distinct from the ward, and is aware that the guardian is acting adversely to the ward's interest, the lawyer may have an obligation to prevent or rectify the guardian's misconduct. See Rule 1.2(d).

Taking Protective Action

[5] If a lawyer reasonably believes that a client is at risk of substantial physical, financial or other harm unless action is taken, and that a normal client-lawyer relationship cannot be maintained as provided in paragraph (a) because the client lacks sufficient capacity to communicate or to make adequately considered decisions in connection with the representation, then paragraph (b) permits the lawyer to take protective measures deemed necessary. Such measures could include: consulting with family members, using a reconsideration period to permit clarification or improvement of circumstances, using voluntary surrogate decision-making tools such as durable powers of attorney or consulting with support groups, professional services, adult-protective agencies or other individuals or entities that have the ability to protect the client. In taking any protective action, the lawyer should be guided by such factors as the wishes and values of the client to the extent known, the client's best interests and the goals of intruding into the client's decisionmaking autonomy to the least extent feasible, maximizing client capacities and respecting the client's family and social connections.

[6] In determining the extent of the client's diminished capacity, the lawyer should consider and balance such factors as: the client's ability to articulate reasoning leading to a decision, variability of state of mind and ability to appreciate consequences of a decision; the substantive fairness of a decision; and the consistency of a decision with the known long-term commitments and values of the client. In appropriate circumstances, the lawyer may seek guidance from an appropriate diagnostician.

[7] If a legal representative has not been appointed, the lawyer should consider whether appointment of a guardian ad litem, conservator or guardian is necessary to protect the client's interests. Thus, if a client with diminished capacity has substantial property that should be sold for the client's benefit, effective completion of the transaction may require appointment of a legal representative. In addition, rules of procedure in litigation sometimes provide that minors or persons with diminished capacity must be represented by a guardian or next friend if they do not have a general guardian. In many circumstances, however, appointment of a legal representative may be more expensive or traumatic for the client than circumstances in fact require. Evaluation of such circumstances is a matter entrusted to the professional judgment of the lawyer. In considering alternatives, however, the lawyer should be aware of any law that requires the lawyer to advocate the least restrictive action on behalf of the client.

Disclosure of the Client's Condition

[8] Disclosure of the client's diminished capacity could adversely affect the client's interests. For example, raising the question of diminished capacity could, in some circumstances, lead to proceedings for involuntary commitment. Information relating to the representation is protected by Rule 1.6. Therefore, unless authorized to do so, the lawyer may not disclose such information. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized to make the necessary disclosures, even when the client directs the lawyer to the contrary. Nevertheless, given the risks of disclosure, paragraph (c) limits what the lawyer may disclose in consulting with other individuals or entities or seeking the appointment of a legal representative. At the very least, the lawyer should determine whether it is likely that the person or entity consulted with will act adversely to the client's interests before discussing matters related to the client. The lawyer's position in such cases is an unavoidably difficult one.

[9] In an emergency where the health, safety or a financial interest of a person with seriously diminished capacity is threatened with imminent and irreparable harm, a lawyer may take legal action on behalf of such a person even though the person is unable to establish a client-lawyer relationship or to make or express considered judgments about the matter, when the person or another acting in good faith on that person's behalf has consulted with the lawyer. Even in such an emergency, however, the lawyer should not act unless the lawyer reasonably believes that the person has no other lawyer, agent or other representative available. The lawyer should take legal action on behalf of the person only to the extent reasonably necessary to maintain the status quo or otherwise avoid imminent and irreparable harm. A lawyer who undertakes to represent a person in such an exigent situation has the same duties under these Rules as the lawyer would with respect to a client.

[10] A lawyer who acts on behalf of a person with seriously diminished capacity in an emergency should keep the confidences of the person as if dealing with a client, disclosing them only to the extent necessary to accomplish the intended protective action. The lawyer should disclose to any tribunal involved and to any other counsel involved the nature of his or her relationship with the person. The lawyer should take steps to regularize the relationship or implement other protective solutions as soon as possible. Normally, a lawyer would not seek compensation for such emergency actions taken.

ATTACHMENT A: MARCH 11, 2016 REPORT

Rule 1.02(g)—“Diminished Capacity”

State Bar Texas Disciplinary Rules of Professional Conduct Committee

March 11, 2016

I. Current Rule Concerning Clients with Diminished Capacity and Related Comments

Comment 5 to Texas Disciplinary Rule of Professional Conduct 1.03 suggests that a lawyer representing a disabled client attempt to maintain a normal attorney-client relationship.² However, Rule 1.02(g) requires that, in some instances, a lawyer profoundly alter this relationship by, among other things, seeking a guardianship for a client the lawyer believes is disabled. Rule 1.02(g) reads as follows (with emphasis added):

(g) A lawyer **shall** take reasonable action to secure the **appointment of a guardian** or other legal representative for, or **seek other protective orders** with respect to, a client whenever the lawyer reasonably believes that the client lacks legal competence and that such action should be taken to protect the client.

Comments 12 and 13 to the Rule, which are quoted below, elaborate on this requirement.

12. The usual attorney-client relationship is established and maintained by consenting adults who possess the legal capacity to agree to the relationship. Sometimes the relationship can be established only by a legally effective appointment of the lawyer to represent a person. Unless the lawyer is legally authorized to act for a person under a disability, an attorney-client relationship does not exist for purposes of the rule.

² See Texas Disciplinary Rule of Professional Conduct [hereinafter Rule] 1.03, Comment 5 (“In addition to communicating with any legal representative, a lawyer should seek to maintain reasonable communication with a client under a disability, insofar as possible. When a lawyer reasonably believes a client suffers a mental disability or is not legally competent, it may not be possible to maintain the usual attorney-client relationship. Nevertheless, the client may have the ability to understand, deliberate upon, and reach conclusions about some matters affecting the client’s own well-being. Furthermore, to an increasing extent the law recognizes intermediate degrees of competence... The fact that a client suffers a disability does not diminish the desirability of treating the client with attention and respect.”).

13. If a legal representative has already been appointed for the client, the lawyer should ordinarily look to the representative for decisions on behalf of the client. If a legal representative has not been appointed, paragraph (g) requires a lawyer in some situations to take protective steps, such as initiating the appointment of a guardian. The lawyer should see to such appointment or take other protective steps when it reasonably appears advisable to do so in order to serve the client's best interests. See Rule 1.05(c)(4), d(1) and (d)(2)(i) in regard to the lawyer's right to reveal to the court the facts reasonably necessary to secure the guardianship or other protective order.³

II. Issues Raised by the Current Rule

1. Rule 1.02(g) is often disregarded.

Initiating a usually public proceeding to appoint a guardian or to obtain a protective order is a drastic action potentially more damaging to the client than the disability the lawyer is trying to address, even if the action is in the client's best interests. For this reason, we believe Rule 1.02(g) is often ignored, replaced by an informal and tacit system of work-arounds. Unfortunately, these work-arounds leave the lawyer potentially exposed to discipline, because the requirements of Rule 1.02(g) are not being followed.

2. Rule 1.02(g) is too vague.

When the Rule is not ignored, lawyers often do not know what "other protective orders" should be sought to discharge their professional responsibilities. Moreover, the "protective orders" language appears to limit the lawyer to taking only formal legal action, when informal action may provide adequate protection.

³ Rule 1.05(c)(4) provides: "A lawyer may reveal confidential information:[w]hen 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." 1.05(d) states as follows: "A lawyer may also 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." Comment 17 to Rule 1.05 states as follows: "In some situations, Rule 1.02(g) requires a lawyer representing a client under a disability to seek the appointment of a legal representative for the client or to seek other orders for the protection of the client. The client may or may not, in a particular matter, effectively consent to the lawyer's revealing to the court confidential information and facts reasonably necessary to secure the desired appointment or order. Nevertheless, the lawyer is authorized by paragraph (c)(4) to reveal such information in order to comply with Rule 1.02(g). See also paragraph 5, Comment to Rule 1.03, which states as follows: "In addition to communicating with any legal representative, a lawyer should seek to maintain reasonable communication with a client under a disability, insofar as possible. When a lawyer reasonably believes a client suffers a mental disability or is not legally competent, it may not be possible to maintain the usual attorney-client relationship. Nevertheless, the client may have the ability to understand, deliberate upon, and reach conclusions about some matters affecting the client's own well-being. Furthermore, to an increasing extent the law recognizes intermediate degrees of competence... The fact that a client suffers a disability does not diminish the desirability of treating the client with attention and respect."

3. The concerns addressed by Rule 1.02(g) may be better addressed by consultation prohibited by Rule 1.05.

A lawyer often will be able to address concerns about a client's capacity less obtrusively by consulting with friends or family members about the client's behavior and mental acuity, but such consultation may violate Rule 1.05, which generally prohibits lawyers' revelation of confidential information. The comments to Rules 1.02 and 1.05 appear to limit the lawyer to consulting with the client, the client's "legal representative," and a court. See footnote 2.

4. Compliance with Rule 1.02(g) requires lawyers to parse several Rules and Comments.

A lawyer who consults the Rules for guidance on the lawyer's responsibilities regarding a client who may have diminished capacity faces a challenge. The relevant information must be gathered from Rule 1.02(g) and comments to Rules 1.02, 1.03, and 1.05. One or more of these requirements or guidelines therefore may be missed in the search. All of the ethical guidance should be in one distinct rule.

5. Rule 1.02(g) Can Be Used as a Threat of Grievance

Rule 1.02(g) can be used to threaten the lawyer by a person who is not interested in the well-being of the client.

III. Proposed Replacement for Rule 1.02(g)

The Texas Supreme Court in the last Referendum proposed replacing Rule 1.02(g) with the following Rule and Comments, which generally follow ABA Model Rule 1.14⁴:

Rule 1. Clients with Diminished Capacity**

- (a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment, or for another reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.
- (b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial, or other harm unless action is taken, and cannot adequately act in the client's own

⁴The Committee had referred to this as Rule 1.14, and this was the number the Court assigned it for the February 2011 Referendum, with other Rules having been renumbered accordingly.

interest, the lawyer may take reasonably necessary protective action. Such action may include, but is not limited to, consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, attorney ad litem, amicus attorney, or conservator, or submitting an information letter to a court with jurisdiction to initiate guardianship proceedings for the client.

- (c) When taking protective action pursuant to (b), the lawyer may disclose the client's confidential information to the extent the lawyer reasonably believes is necessary to protect the client's interests, unless otherwise prohibited by law.

Comment:

1. The normal client-lawyer relationship is based on the assumption that the client, when properly advised and assisted, is capable of making decisions about important matters. But maintaining the ordinary client-lawyer relationship may not be possible when the client suffers from a mental impairment, is a minor, or has a diminished capacity for some other reason to make adequately considered decisions regarding representation. In particular, a severely incapacitated person may have no power to make legally binding decisions. Nevertheless, a client with diminished capacity often can understand, deliberate on, and reach conclusions about matters affecting the client's own well-being. For example, some people of advanced age are capable of handling routine financial matters but need special legal protection concerning major transactions. Also, some children are regarded as having opinions entitled to weight in legal proceedings concerning their custody.
2. In determining the extent of the client's diminished capacity, the lawyer should consider and balance such factors as the client's ability to articulate reasoning leading to a decision, variability of state of mind, and ability to appreciate consequences of a decision; the substantive fairness of a decision; and the consistency of a decision with the lawyer's knowledge of the client's long-term commitments and values.
3. The fact that a client suffers from diminished capacity does not diminish the lawyer's obligation to treat the client with attention and respect. Even if the client has a guardian or other legal representative, the lawyer should, as far as possible, accord the client the normal status of a client, particularly in maintaining communication. If a guardian or other legal representative has been appointed for the client, however, the law may require the client's lawyer to look to the representative for decisions on the client's behalf. If the lawyer represents the guardian as distinct from the ward and is aware that the guardian is acting adversely to the ward's interest, the lawyer may have an obligation to prevent or rectify the guardian's misconduct.
4. The client may wish to have family members or other persons participate in discussions with the lawyer; however, paragraph (a) requires the lawyer to keep the client's interests foremost and, except when taking protective action authorized by paragraph (b), to look to the client, not the family members or other persons, to make decisions on the client's behalf. In matters involving a minor, whether the lawyer should look to the parents as natural guardians may depend on the type of proceeding or matter in which the lawyer is representing the minor.

Taking Protective Action

5. Paragraph (b) contains a non-exhaustive list of actions a lawyer may take in certain circumstances to protect a client who does not have a guardian or other legal representative. Such actions could include consulting with family members, using a reconsideration period to permit clarification or improvement of circumstances, using voluntary surrogate decision-making tools such as existing durable powers of attorney, or consulting with support groups, professional services, adult-protective agencies, or other individuals or entities that have the ability to protect the client. In taking any protective action, the lawyer should be guided by such factors as the client's wishes and values to the extent known, the client's best interests, and the goals of intruding into the client's decision-making autonomy to the least extent feasible, maximizing client capacities, and respecting the client's family and social connections.
6. A client with diminished capacity also may cause or threaten physical, financial, or other harm to third parties. In such situations, the client's lawyer should consult applicable law to determine the appropriate response.
7. When a legal representative has not been appointed, the lawyer should consider whether an appointment is reasonably necessary to protect the client's interests. Thus, for example, if a client with diminished capacity has substantial property that should be sold for the client's benefit, effective completion of the transaction may require appointment of a legal representative. In addition, applicable law provides for the appointment of certain legal representatives in certain circumstances. For example, the Texas Family Code prescribes when a guardian ad litem, attorney ad litem, or amicus attorney should be appointed in a suit affecting the parent-child relationship, and the Texas Estates Code prescribes when a guardian should be appointed for an incapacitated person. In many circumstances, however, appointment of a legal representative may be more expensive or traumatic for the client than circumstances in fact require. Evaluation of such circumstances is a matter entrusted to the lawyer's professional judgment; but, in considering alternatives, the lawyer should be aware of any law that requires the lawyer to advocate on the client's behalf for the action that imposes the least restriction.

Disclosure of the Client's Condition

8. Disclosure of the client's diminished capacity could adversely affect the client's interests. For example, raising the question of diminished capacity could, in some circumstances, lead to proceedings for involuntary commitment. As with any client-lawyer relationship, information relating to the representation of a client is confidential under Rule 1.05. But when the lawyer is taking protective action, paragraph (b) of this Rule permits the lawyer to make necessary disclosures. Given the risks to the client of disclosure, paragraph (c) limits what the lawyer may disclose in consulting with other individuals or entities or in seeking the appointment of a legal representative. At the very least, the

lawyer should determine whether it is likely that the person or entity consulted will act adversely to the client's interests before discussing matters related to the client.

Notably, paragraph (b) permits a lawyer to take legally restrictive action (like getting a guardian or conservator for the client) or to utilize less intrusive means (like talking to family members) to address a client's disability. Additionally, paragraph (c) provides an exception to the confidentiality Rule if the lawyer takes any action – legally restrictive or less intrusive – limiting the disclosure of such information to that reasonably necessary to protect the client's interests. As paragraph (b) authorizes legally restrictive measures to the same extent it does less intrusive methods, then the lawyer could disclose whatever information is necessary to achieve the method the lawyer selects. We believe that this proposed Rule adequately addresses the issues noted above and therefore endorse its promulgation.⁵

⁵ The Committee recommended further deviation from ABA Rule 1.14 (see attached comparison table).

Proposed Rule 1.02(g) and Rule 1.16 Redlined

Rule 1.02 Scope and Objectives of Representation

- (a) Subject to paragraphs (b), (c), (d), ~~and (e), and (f), and (g),~~ a lawyer shall abide by a client's decisions:
- (1) concerning the objectives and general methods of representation;
 - (2) whether to accept an offer of settlement of a matter, except as otherwise authorized by law;
 - (3) In a criminal case, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.
- (b) A lawyer may limit the scope, objectives and general methods of the representation if the client consents after consultation.
- (c) A lawyer shall not assist or counsel a client to engage in conduct that the lawyer knows is criminal or fraudulent. A lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel and represent a client in connection with the making of a good faith effort to determine the validity, scope, meaning or application of the law.
- (d) 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 substantial injury to the financial interests or property of another, the lawyer shall promptly make reasonable efforts under the circumstances to dissuade the client from committing the crime or fraud.
- (e) When a lawyer has confidential information clearly establishing that the lawyer's client has committed a criminal or fraudulent act in the commission of which the lawyer's services have been used, the lawyer shall make reasonable efforts under the circumstances to persuade the client to take corrective action.
- (f) When a lawyer knows that a client expects representation not permitted by the rules of professional conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.
- ~~(g) A lawyer shall take reasonable action to secure the appointment of a guardian or other legal representative for, or seek other protective orders with respect to, a client whenever the lawyer reasonably believes that the client lacks legal competence and that such action should be taken to protect the client.~~

Comment:

Client Under a Disability

12. Paragraph (a) assumes that the lawyer is legally authorized to represent the client. The usual attorney-client relationship is established and maintained by consenting adults who possess the legal capacity to agree to the relationship. Sometimes the relationship can be established only by a legally

effective appointment of the lawyer to represent a person. Unless the lawyer is legally authorized to act for a person under a disability, an attorney-client relationship does not exist for the purpose of this rule.

13. If a legal representative has already been appointed for the client, the lawyer should ordinarily look to the representative for decisions on behalf of the client. If a legal representative has not been appointed, paragraph (g) requires a lawyer in some situations to take protective steps, such as initiating the appointment of a guardian. The lawyer should see to such appointment or take other protective steps when it reasonably appears advisable to do so in order to serve the client's best interests. See Rule 1.05(c)(4), d(1) and (d)(2)(i) in regard to the lawyer's right to reveal to the court the facts reasonably necessary to secure the guardianship or other protective order.

Rule 1.16 Clients with Diminished Capacity

(a) When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment, or for another reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial, or other harm unless action is taken, and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action. Such action may include, but is not limited to, consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, attorney ad litem, amicus attorney, or conservator, or submitting an information letter to a court with jurisdiction to initiate guardianship proceedings for the client.

(c) When taking protective action pursuant to (b), the lawyer may disclose the client's confidential information to the extent the lawyer reasonably believes is necessary to protect the client's interests.

Comment:

1. The normal client-lawyer relationship is based on the assumption that the client, when properly advised and assisted, is capable of making decisions about important matters. However, maintaining the ordinary client-lawyer relationship may not be possible when the client suffers from a mental impairment, is a minor, or for some other reason has a diminished capacity to make adequately considered decisions regarding representation. In particular, a severely incapacitated person may have no power to make legally binding decisions. Nevertheless, a client with diminished capacity often can understand, deliberate on, and reach conclusions about matters affecting the client's own well-being. For example, some people of advanced age are capable of handling routine financial matters but need special legal protection concerning major transactions. Also, some children are regarded as having opinions entitled to weight in legal proceedings concerning their custody.

2. In determining the extent of the client's diminished capacity, the lawyer should consider and balance such factors as the client's ability to articulate reasoning leading to a decision, variability of state of mind, and ability to appreciate consequences of a decision; the substantive fairness of a decision; and the consistency of a decision with the lawyer's knowledge of the client's long-term commitments and values.

3. The fact that a client suffers from diminished capacity does not diminish the lawyer's obligation to treat the client with attention and respect. Even if the client has a guardian or other legal representative, the lawyer should, as far as possible, accord the client the normal status of a client, particularly in maintaining communication. If a guardian or other legal representative has been appointed for the client, however, the law may require the client's lawyer to look to the representative for decisions on the client's behalf. If the lawyer represents the guardian as distinct from the ward and is aware that the guardian is acting adversely to the ward's interest, the lawyer may have an obligation to prevent or rectify the guardian's misconduct.

4. The client may wish to have family members or other persons participate in discussions with the lawyer; however, paragraph (a) requires the lawyer to keep the client's interests foremost and, except when taking protective action authorized by paragraph (b), to look to the client, not the family members or other persons, to make decisions on the client's behalf. In matters involving a minor, whether the lawyer should look to the parents as natural guardians may depend on the type of proceeding or matter in which the lawyer is representing the minor.

Taking Protective Action

5. Paragraph (b) contains a non-exhaustive list of actions a lawyer may take in certain circumstances to protect a client who does not have a guardian or other legal representative. Such actions could include consulting with family members, using a reconsideration period to permit clarification or improvement of circumstances, using voluntary surrogate decision-making tools such as existing durable powers of attorney, or consulting with support groups, professional services, adult-protective agencies, or other individuals or entities that have the ability to protect the client. In taking any protective action, the lawyer should be guided by such factors as the client's wishes and values to the extent known, the client's best interests, and the goals of intruding into the client's decision-making autonomy to the least extent feasible, maximizing client capacities, and respecting the client's family and social connections.

6. A client with diminished capacity also may cause or threaten physical, financial, or other harm to third parties. In such situations, the client's lawyer should consult applicable law to determine the appropriate response.

7. When a legal representative has not been appointed, the lawyer should consider whether an appointment is reasonably necessary to protect the client's interests. Thus, for example, if a client with diminished capacity has substantial property that should be sold for the client's benefit, effective completion of the transaction may require appointment of a legal representative. In addition, applicable law provides for the appointment of legal representatives in certain circumstances. For example, the Texas Family Code prescribes when a guardian ad litem, attorney ad litem, or amicus attorney should be appointed in a suit affecting the parent-child relationship, and the Texas Probate Code prescribes when a guardian should be appointed for an incapacitated person. In many circumstances, however, appointment of a legal representative may be more expensive or traumatic for the client than circumstances in fact require. Evaluation of such circumstances is a matter entrusted to the lawyer's professional judgment. In considering alternatives, the lawyer should be aware of any law that requires the lawyer to advocate on the client's behalf for the action that imposes the least restriction.

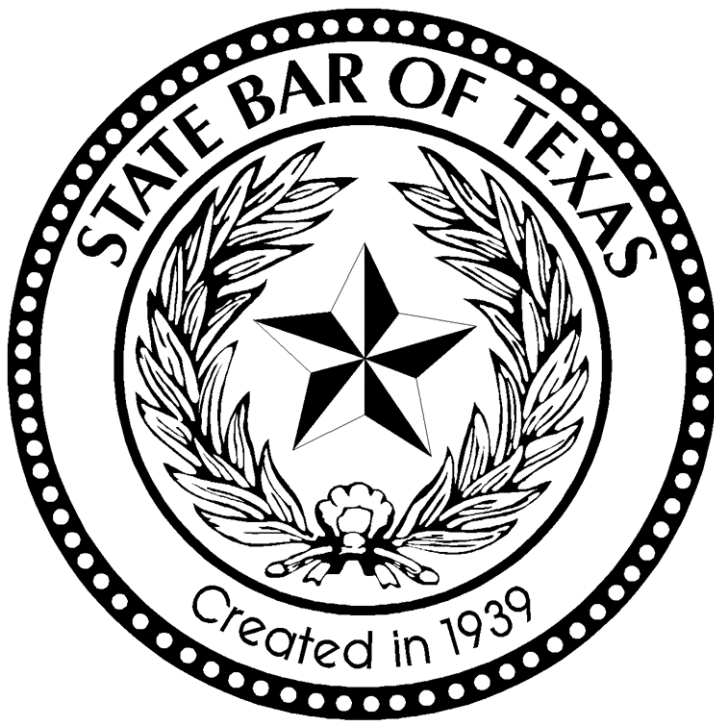
Disclosure of the Client's Condition

8. Disclosure of the client's diminished capacity could adversely affect the client's interests. For example, raising the question of diminished capacity could, in some circumstances, lead to proceedings for involuntary commitment. As with any client-lawyer relationship, information relating to the representation of a client is confidential under Rule 1.05. However, when the lawyer is taking protective action, paragraph (b) of this Rule permits the lawyer to make necessary disclosures. Given the risks to the client of disclosure, paragraph (c) limits what the lawyer may disclose in consulting with other individuals or entities or in seeking the appointment of a legal representative. At the very least, the lawyer should determine whether it is likely that the person or entity consulted will act adversely to the client's interests before discussing matters related to the client.

Emergency Legal Assistance

[9] In an emergency where the health, safety or a financial interest of a person with seriously diminished capacity is threatened with imminent and irreparable harm, a lawyer may take legal action on behalf of such a person even though the person is unable to establish a client-lawyer relationship or to make or express considered judgments about the matter, when the person or another acting in good faith on that person's behalf has consulted with the lawyer. Even in such an emergency, however, the lawyer should not act unless the lawyer reasonably believes that the person has no other lawyer, agent or other representative available. The lawyer should take legal action on behalf of the person only to the extent reasonably necessary to maintain the status quo or otherwise avoid imminent and irreparable harm. A lawyer who undertakes to represent a person in such an exigent situation has the same duties under these Rules as the lawyer would with respect to a client.

[10] A lawyer who acts on behalf of a person with seriously diminished capacity in an emergency should keep the confidences of the person as if dealing with a client, disclosing them only to the extent necessary to accomplish the intended protective action. The lawyer should disclose to any tribunal involved and to any other counsel involved the nature of his or her relationship with the person. The lawyer should take steps to regularize the relationship or implement other protective solutions as soon as possible. Normally, a lawyer would not seek compensation for such emergency actions taken.



STATE BAR OF TEXAS
PERFORMANCE MEASURES

Based on [the FY2020-FY2021 Strategic Plan](#)

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STATE BAR OF TEXAS PERFORMANCE MEASURES

Based on the State Bar of Texas FY2020-FY2021 Strategic Plan

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INTRODUCTION

As required by Texas Government Code, Chapter 81, the State Bar has adopted the following performance measures as part of its FY2020-FY2021 Strategic Plan. Performance measures data is collected through:

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- random, statistical and point of service surveys of State Bar members and the public to determine the use and effectiveness of, and satisfaction with, State Bar services;
- tracking activity on State Bar websites and social media;
- data collected by departments of the State Bar indicating use of its programs, publications, and services by members and the public; and
- internal oversight of performance.

The collection and publication of performance details listed below is intended to support the State Bar's commitment to transparency and openness regarding its operations.

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SERVICE TO THE PUBLIC

Strategic Plan Statement Of Purpose

The State Bar of Texas serves the public by: 1) educating the public on the Rule of Law and the role of judges, lawyers, and the public in the legal system; 2) helping lawyers provide the highest quality legal and community service; and 3) working for equitable access and participation in all aspects of the justice system by diverse groups within our society.

Performance Measures

1. Measure the distribution by the State Bar of information regarding legal issues of interest to the public via

- printed materials;
- multimedia; and
- online methods.

2. Measure traffic to State Bar websites and social media sites containing consumer legal information, including

- the number of visits to web pages; and
- downloads of articles and pamphlets.

3. Measure the training of public school teachers by the Law Related Education (LRE) department of the State Bar and related projects, including

- the number of courses provided to teachers;
- the number of teachers trained;
- the total number of students who receive civics education from LRE-trained teachers;
- the amount of traffic to the Law Focused Education, Inc. (LFEI) website and related sites and social media; and
- the degree of satisfaction with such services among the participants.

4. Measure the number of presentations by volunteer attorneys and judges in public schools that use teaching and presentation materials prepared by the Texas Young Lawyers Association.

5. Measure activities of Texas Lawyers for Texas Veterans by
- the number of veterans' clinics provided by TLTV partners; and
 - the number of "clinic in a box" packages distributed to local clinics.

6. Measure the number of people who receive referrals through the Lawyer Information Referral Service.

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7. Measure the utilization of resources provided by TYLA to serve the public through community service and education.

SERVICE TO MEMBERS

Strategic Plan Statement of Purpose

The State Bar of Texas seeks to provide its members superior services (including continuing legal education, online resources, publications, networking and leadership opportunities, and member benefits) to assist them in offering ethical, high quality legal services; in establishing and maintaining efficient, effective, and productive law practices; in serving their communities; and in winding down their practices.

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Performance Measures

1. Measure trends in attendance at and participation in TexasBarCLE
 - webcasts;
 - online seminars and trainings;
 - video seminars and trainings;
 - live seminars and trainings; and
 - free and low-cost offerings.
2. Measure the sales of books and course materials.
3. Measure the number of CLE scholarships given to members.

4. Measure trends in diversity and age groups among State Bar sections, committees, divisions, and other State Bar entities, and compare those trends to those seen among the State Bar membership as a whole.

5. Measure and track the dissemination of information on State Bar member services and benefits, including information given to local, minority, and specialty bar associations. Measurements should include the number of published materials and presentations by State Bar leadership and staff, as well as data gathered through satisfaction surveys.

6. Measure and track the dissemination of information and resources to older members of the State Bar, including information and resources regarding aging issues. Monitor and publish demographic statistics related to the aging lawyer population.

7. Measure the number of member benefits provided to Texas attorneys and attorneys' use of those benefits.

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8. Measure traffic to the "Ten Minute Mentor" resource offered online.

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9. Measure the number of attorneys, law firms, and legal departments participating in the Texas Minority Counsel Program and Texas Minority Attorney Program.

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10. Measure attendee satisfaction with the Texas Minority Counsel Program and Texas Minority Attorney Program.

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11. Monitor the use of www.afterthebarendexam.com resources and the number of State Bar presentations made at law schools.

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12. Monitor and assess the State Bar's disaster recovery resources for members and the public.

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13. Monitor the use of the Texas Lawyers Assistance Program (TLAP) by measuring

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- the number of lawyer contacts and cases and concerned-others consultations;
- the degree of satisfaction with such services among the participants; and
- The numbers of
 - educational outreach presentations;
 - distributed publications;
 - views of TLAP videos; and
 - traffic to www.tlaphelps.org.

14. Measure participation in State Bar elections.

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15. Measure the success of Texas Opportunity and Justice Incubator (TOJI):

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- the amount of attorney and volunteer/mentor participation;
- the number of TOJI-created resources shared with the State Bar membership at large; and

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- the number of pro bono and modest means hours provided by TOJI cohorts.

16. Measure the number of custodian attorney designations received by the State Bar and the use of succession planning resources.

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PROTECTION OF THE PUBLIC

Strategic Plan Statement of Purpose

The State Bar of Texas works to protect the public through its powers to regulate the conduct of lawyers and by promoting high ethical standards and professionalism, which are applied fairly and uniformly throughout the state.

Performance Measures

1. Monitor the Client Attorney Assistance Program by measuring
 - the number of contacts the program receives;
 - the number of dispute resolutions conducted by the program;
 - the number of referrals by the Chief Disciplinary Counsel's Office to the program; and
 - the degree of satisfaction with the program by those accessing its services.
2. As required by the State Bar Act, track statistics regarding grievance matters, including, but not limited to
 - the number and final disposition of complaints filed, dismissed, and investigated by the State Bar;
 - statistics regarding barratry; and
 - information regarding disciplinary trends.
3. Monitor the Client Security Fund program by measuring the number of:
 - eligible applications considered;
 - the number of eligible applications approved; and
 - the total amount of grants made.
4. Measure efforts to publicize the Client Security Fund to eligible recipients and to discourage theft of clients' funds by their attorneys.
5. Measure the use of the State Bar Ethics Hotline.
6. Measure the number of continuing legal education ethics offerings and publications offered by:
 - TexasBarCLE; and

- TexasBarBooks.

ACCESS TO JUSTICE

Strategic Plan Statement of Purpose

The State Bar of Texas works to ensure access to justice for all.

Performance Measures

1. Measure the number of legal aid referrals made by the State Bar to members of the public seeking low-income or free legal assistance and to inmates seeking legal advice, in the form of letters, email, and telephone inquiries.
2. Measure the numbers of legal aid and pro bono attorneys using support resources, including
 - legal research tools;
 - the Malpractice Insurance Network;
 - the joint TexasBarCLE and Legal Access Division tuition waiver program;
 - CLE presentation resources;
 - the Student Loan Repayment Assistance Program;
 - the Legal Services Intern Program;
 - the Communication Access Fund;
 - Legal Access Division annual training programs; and
 - the distribution of the Justice For All Calendar in English, Spanish, and Vietnamese.
3. Monitor efforts by State Bar sections to help attorneys provide pro bono legal services by measuring the number of sections that have
 - pro bono initiatives;
 - access to justice-related grants;
 - CLE scholarships;
 - law student internships; and
 - other related programs.
4. Measure the number of lawyers and law students participating in
 - pro bono initiatives;
 - grants;
 - CLE scholarships;
 - law student internships; and
 - other related programs.
5. Assess statewide pro bono contributions by measuring

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- the number of pro bono hours voluntarily reported by Texas attorneys annually through a statistically valid, bi-annual pro bono survey;
- voluntary dues contributions for access to justice by total dollar amounts;
- the number of attorneys contributing; and
- the number of pro bono contributions by non-lawyer professionals.

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6. Monitor the outreach and education of attorneys on access to justice issues by measuring the number of presentations made to attorney groups.

7. Measure the use of pro bono legal clinic resources, such as toolkits, provided by the Legal Access Division and the Texas Access to Justice Commission.

8. Monitor state and federal access to justice funding fluctuations to anticipate and be prepared to respond to potential decreases in federal and state funding of pro bono and legal aid programs.

9. Assess the State Bar's efforts to assist in mitigating the impact of any such funding decreases in state and federal access to justice funding.

10. Monitor publicity received for attorney volunteer efforts in Texas.

11. Measure the traffic to and usage of the Legal Access Division websites:

- probonotexas.org;
- texas.freelegalanswers.org; and
- texaslawhelp.org.

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12. Measure participation in the [New Opportunities](#) Volunteer Attorney (NOVA) Pro Bono Program.

13. Record the types of services and the numbers of hours of legal services provided to low-income and modest means persons by participants in the Texas Opportunity and Justice Incubator (TOJI).

14. Measure the utilization of online disaster preparation and recovery resources on texasbar.com and texasbarcle.com

SOUND ADMINISTRATION AND RESOURCES

Strategic Plan Statement of Purpose

The activities and services of the State Bar shall be administered at a high level of efficiency and professionalism, in conformance with best practices observed by Texas state agencies and by bar associations of similar size and scope.

Performance Measures

1. Measure the number and effectiveness of training programs provided to State Bar staff over the course of the fiscal year.

2. Measure and track statistics regarding staff retention and attrition.

3. Measure the number of customer service complaints received by the State Bar and the satisfactory resolution of those complaints.

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4. Monitor the implementation of a disaster preparedness plan to assure continuity of State Bar administration and services in the event of any disaster affecting the State Bar, and measure its effectiveness by conducting periodic testing of that plan and assessing the results of such tests.

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5. Subject to legal restrictions, monitor and measure the ethnic and gender demographic make-up of the State Bar staff.

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FINANCIAL MANAGEMENT

Strategic Plan Statement of Purpose

The State Bar shall conduct its fiscal affairs in conformance with the best management practices observed by Texas state agencies and by bar associations of similar size and scope.

Performance Measures

1. Measure the amount and adequacy of State Bar funds dedicated to reserves.
2. Monitor and report on the results of the annual financial audit for the current fiscal year.
3. Monitor and report on the results of the annual internal control audit for the current fiscal year.
4. Measure the success of cost-saving measures implemented by the State Bar.

Expenditure Protest Policy

The purpose of the State Bar of Texas is to engage in those activities enumerated at §81.012 of the State Bar Act. The expenditure of funds by the State Bar of Texas is limited both as set forth at §81.034 of the State Bar Act and in *Keller v. State Bar of California*, 496 U.S. 1 (1990). If any member feels that any actual or proposed expenditure is not within such purposes of, or limitations on, the State Bar, then such member may object thereto and seek a refund of a *pro rata* portion of his or her dues expended, plus interest, by filing a written objection with the Executive Director. The objection must be made in writing, addressed to the Executive Director of the State Bar, P.O. Box 12487, Austin, TX 78711, and postmarked no later than NINETY (90) days after the conclusion of the challenged activity.

Upon receipt of a member's objection, the Executive Director shall promptly review such objection together with the allocation of dues monies spent on the challenged activity and, in consultation with the President, shall have the discretion to resolve the objection, including refunding a *pro rata* portion of the member's dues, plus interest. Refund of a *pro rata* share of the member's dues shall be for the convenience of the Bar, and shall not be construed as an admission that the challenged activity was or would not have been within the purposes of or limitations on the State Bar.



STATE BAR OF TEXAS BOARD OF DIRECTORS

RESOLUTION

WHEREAS, 36% of Texas attorneys are over 55 years of age, and the current median age of Texas-licensed attorneys is 49, and is expected to rise over the next ten to fifteen years; and

WHEREAS, the rapid rise of technological tools enable attorneys of all ages to maintain a practice without the assistance of support staff; and

WHEREAS, it is expected that the need for cessation of practice planning for attorneys will increase due to awareness and need; and

WHEREAS, Texas Rules of Disciplinary Procedure, Part XIII (TRDP Part XIII), provides for a court-supervised cessation of practice—through court appointment of one or more custodian attorneys—in the event an attorney dies, becomes incapacitated, or is otherwise unable to continue the practice of law; and

WHEREAS, the State Bar of Texas Board of Directors believes there is a need for attorneys to designate cessation of practice custodian attorneys independent of court supervision to mitigate the burden on courts and to protect the interests of clients in the event the need for a custodian attorney arises; and

WHEREAS, TRDP Part XIII, provides that court-appointed custodian attorneys are afforded a limitation of liability for acts taken under TRDP Part XIII, absent intentional misconduct or gross negligence; and

WHEREAS, court-appointed custodian attorneys acting under TRDP Part XIII are extended the attorney-client privilege as if the court-appointed custodian attorneys were the attorneys of the clients; and

WHEREAS, the potential for liability and the lack of attorney-client privilege would have a chilling effect on the willingness of attorneys to be designated as a custodian attorney by another attorney, outside of TRDP Part XIII.

BE IT RESOLVED, that the Board of Directors requests that the Supreme Court of Texas consider the adoption of a comment to TRDP Part XIII extending the Rule's limitation of liability to attorney-designated custodian attorneys, who are acting independently of court supervision, when the attorney-designated custodian attorney is assisting with the cessation of the designating attorney's practice of law and the designating attorney's clients have been notified. This limitation of liability would not apply to attorney-designated custodian attorneys when they take over the legal representation of client(s) of the designating attorney; and

BE IT FURTHER RESOLVED, that the Board of Directors requests that the Supreme Court of Texas consider the adoption of a comment to TRDP Part XIII extending the attorney-client privilege to attorney-designated custodian attorneys, who are acting independently of court supervision, when the attorney-designated custodian attorney is assisting with the cessation of the designating attorney's practice of law and the designating attorney's clients have been notified.

FOR BOARD CONSIDERATION – JUNE 12, 2019

RESOLVED and adopted by the State Bar of Texas Board of Directors this 12th day of June, 2019.

Laura Gibson, Chair

STATE BAR OF TEXAS BUSINESS TECHNOLOGY PLAN

2019 Executive Summary

OVERRIDING PRINCIPLES:

- 1) *Business vision must drive the application of technology.*
With all of the potential applications of technology, the organization's desired business outcome is the deciding factor for which projects to undertake- therefore, a comprehensive Strategic Plan is crucial to the effective development and implementation of a technology plan.
- 2) *Technology is an enabler of business vision.*
While technology provides a "means to an end", it is also a spring-board for entertaining new ideas and strategies that impact the business vision of the organization.
- 3) ***The Technology Plan is a "Living" Document.***
The contents of this document are not static and will be reviewed and updated regularly to adjust to changes in the State Bar's strategic direction. All aspects of the plan are subject to the availability of resources.

GENERAL TECHNOLOGY ASSESSMENT:

The State Bar has come a long way since FY 2001. It has established standardized computing infrastructure, software, and strategic technology planning processes. This has enabled it to make substantial strides in service delivery to both the members and the public. Key areas for focus include:

- Keep Technology Infrastructure Up To Date and Secure
- Improve Service Delivery & Operational Efficiency
- Improve/Expand Online Service Delivery Capability
- Improve staff knowledge, efficiency, and service Through Automation

THE TECHNOLOGY PLAN:

- Describes the State Bar's current state of technology
- Identifies IT Objectives Grouped by Strategic Focus Area
- Identifies Anticipated Technology Trends
- Establishes Guidelines for Technology Deployment
- Emphasizes Security of Information Resources
- Emphasizes Linking of IT Initiatives to State Bar Strategic Plan
- Defines Capitalization Guidelines & Technology Fund Structure
- Identifies Technology Goals For the Next Three Years

CURRENT SYSTEMS

- Microsoft Windows/Intel (Wintel) based desktop systems
- Local area network / metro area network / wide area network
- Microsoft Windows/Intel (Wintel) based virtual application/web servers
- Mix of enterprise-wide and department-specific applications

STATE BAR OF TEXAS STRATEGIC FOCUS AREAS

- Service to the Public
- Service to Members
- Protection of the Public
- Access to Justice
- Sound Administration & Resources
- Financial Management

INFORMATION TECHNOLOGY STRATEGIC FOCUS AREAS

- Improvement of technology infrastructure
- Improvement of business systems
- Leveraging e-business opportunities
- Maintaining Security and Compliance

UNDERLYING IT STRATEGIC GOALS

- Provide stable and secure information processing
- Provide rapid resolution of technology related problems
- Provide flexible IT infrastructure
- Stay abreast of new technologies and trends
- Assist in the technology training and education of staff and members

PLAN IDENTIFIES TECHNOLOGY TRENDS IN THE FOLLOWING AREAS

- Hardware/application technology continues to cycle rapidly
- Consumer-Driven Information Technology
- Continued emphasis on multiple tier, open systems, with Internet-based delivery
- Proliferation of Cloud Services and Virtualization
- Continued growth in converged delivery of voice, video and data transmission
- Growing demand/availability of lower-cost, high speed transmission bandwidth
- Consumer Expectation of mobile and contextual content delivery
- Consumer reliance on social media and presence aware devices and applications
- Expansion of breach/malware risks driving new privacy & security standards, compliance regulations, monitoring, intrusion detection/prevention

PLAN DEFINES GUIDELINES FOR DESKTOP/MOBILE, WORKGROUP/ENTERPRISE AND NETWORK DEPLOYMENT

- Limited number of configurations
- Select industry standard components/interfaces
- Allow for future expansion and upgrade
- Standardize upon the Windows and Intel platforms (WINTEL)
- **Utilize "tier-1" providers to ensure availability of parts,** support and maintenance
- Evaluate commercial off the shelf products prior to undertaking custom development
- Standardize upon products for which worker skills are generally available

PLAN EMPHASIZES SECURITY OF INFORMATION AND ACCESS

- Improve ability to monitor and detect security events
- Improve ability to block or prevent intrusions and unauthorized access
- Preventive security through education and managed security services

PLAN DEFINES PROCEDURES FOR TECHNOLOGY INITIATIVES

- Development of a business case including business requirements (link to strategic plan), vision of the solution, scope of the initiative, cost/benefit and performance criteria
- Department/division review
- Executive management team review
- Technology Oversight Subcommittee

PLAN DEFINES CAPITALIZATION GUIDELINES AND A TECHNOLOGY FUND STRUCTURE AND USE

- Establish regular replacement of technology assets based upon expected useful life
- Technology Fund maintained by annual General Fund contributions
- Project budgets established and monitored by Technology Oversight Subcommittee

PLAN DEFINES TECHNOLOGY OBJECTIVES FOR THE NEXT THREE YEARS

- Infrastructure replacements to include Virtualization, backup and desktop equipment
- Multiple website property changes and improvements
- Replacement of key systems such as Advertising Review
- Enhancements to multiple business systems
- Increased security and monitoring to protect member data.
- Additional Business Continuity Services and testing.

Section 7- Technology Plan Implementation

7.1 Three Year Summary

The general goals in the following sections represent a roadmap over the three-year planning horizon. An overall summary is as follows:

7.1.1 FY 2019 / 2020

The primary investment focus for FY 2019/20 will touch on all Strategic Focus Areas. This includes infrastructure projects such as redesign of virtual server environment, including consideration of hybrid private/public cloud, renewal of enterprise software licensing with Microsoft, replacement of aging network equipment, and various audiovisual upgrades to the Texas Law Center. With regard to business systems, the bar intends to complete its deployment of a new management system for the Advertising Review process. E-business initiatives include minor improvements to the Texasbar.com web property, as well as upgraded Firm Billing, Online Payment, and email delivery features for members. Finally, with regard to security and business continuity the Bar will be investigating additional managed security services and renewal of various continuity services contracts. Lastly, there are various ongoing educational programs planned for staff.

7.1.2 FY 2020 / 2021

For FY 2020/21, many initiatives will be continuations from the prior year. This includes infrastructure updates to desktop, server and network hardware and software. In addition, the current virtual server environment, as well as backup systems will be due for replacement during this fiscal cycle. This may include conversion to remote hosting facilities for the next iterative upgrade to the enterprise server infrastructure. Based upon the prior year requirements gathering and business process analysis, replacement of the Client Attorney Assistance software system or other systems will be considered. It is anticipated that improvements to Texasbar.com will be evaluated based upon feedback from the first complete year of online-only dues collection. Lastly, the bar will perform routine testing of its continuity and security systems, as well as continuing to educate staff.

7.1.3 FY 2021 / 2022

In FY 2021/22, Infrastructure projects will revolve around the routine capital replacement programs for hardware and software, barring any major technical changes in the market that might force other initiatives. The bar will also be evaluating desktop virtualization for the next cycle of desktop replacements.

Please note that while desired technology objectives are highlighted here and targeted for specific fiscal year periods, this timeline is subject to change. Some or all objectives may be added, realigned or dropped dependent upon operational or financial factors, or by board direction. It should also be noted that some objectives appear in multiple fiscal years. This is largely due to the fact that many objectives are expected to span one or more fiscal periods; or be implemented in a phased approach in more than one fiscal year; or represent an objective that is ongoing in nature.

7.2 Technology Goals List

This section contains those technology objectives that are targeted for current three year planning cycle. These are grouped by Strategic Focus Area as defined in Section 2.5.

7.2.1 Strategic Focus Area #1: Infrastructure

<i>Renew Microsoft Volume Licensing for server, desktop, and office suite software</i>
<i>Replace Desktop computers and regional server equipment for State Bar Offices based on asset life cycle.</i>
<i>Replace printers and scanners based upon asset life cycle.</i>
<i>Replace server VMware virtualization infrastructure. Evaluate on-premise vs. off-premise infrastructure and well as hybrid public/private cloud services.</i>
<i>Replace backup storage technology to better support virtualization infrastructure, improve recoverability, and enhance backup speeds.</i>
<i>Replace network switching infrastructure in Texas Law Center to maintain support and improve security.</i>
<i>Evaluate replacement of current Law Center PBX system, call center software with VOIP based technology.</i>
<i>Expand and improve availability of wireless access in SBOT facilities.</i>
<i>Replace/upgrade meeting room technology and audio visual equipment in Texas Law Center.</i>

7.2.2 Strategic Focus Area #2: Business Systems

<i>Upgrade various systems to current vendor levels.</i>
<i>Replace Advertising Review Information Management System</i>
<i>Evaluate Replacement of Client Attorney Assistance Program (CAAP) Case management system</i>
<i>TexasbarCLE improvements to include email communications selection, upgraded security, and additional functionality for Event manager and online services.</i>
<i>TexasbarBooks improvements, to include better accounting/customer billing integration</i>

<i>Migrate Client Security Fund application to fully integrate into Justware and eliminate additional third party application.</i>
<i>Improve automated reconciliation processes for Attorney Compliance systems to reduce staff workload, decrease security risk and increase productivity.</i>
<i>Evaluate increased use of telephone API integration to increase staff call-center efficiency.</i>

7.2.3 Strategic Focus Area #3: E-Business

<i>Provide new email communications management features for Texasbar.com</i>
<i>Provide improved online reporting design and workflow for Advertising Review system.</i>
<i>Provide online payment capability for Advertising Review</i>
<i>Provide improved payment processing for submission of annual dues and donations.</i>
<i>Provide online submission and fee payment for Advertising Review requests</i>
<i>Provide improved markup and review capability and improved workflow for Advertising Review process with increased ability to collaborate with members.</i>
<i>Provide improved Firm Billing process for law firms.</i>

7.2.4 Strategic Focus Area #4: Security, Continuity and Compliance

<i>Evaluate and contract for additional Managed Security services to safeguard member data.</i>
<i>Renew hotsite services to support all state bar facilities in the event of emergency or disaster.</i>
<i>Conduct roundtable Security and Business Continuity Tests, and onsite tests to validate various security and recovery scenarios.</i>
<i>Investigate cloud/remote hosting facilities to reduce facility footprint and energy consumption requirements</i>
<i>Expand use of document indexing and retrieval systems/ services</i>
<i>Evaluate new systems to improve Texas Law Center security.</i>

<i>Implement new email encryption and private (DLP) information detection software</i>
<i>Continue regular external security penetration testing for key sites/networks to meet PCI DSS requirements</i>
<i>Conduct security awareness classes for staff, educating a re-familiarizing them with required security policy and procedures.</i>
<i>Utilize managed phishing to evaluate vulnerabilities and address staff education issues.</i>

ADMINISTRATION OF RULES OF EVIDENCE • ADVERTISING REVIEW • ANNUAL MEETING
CHILD ABUSE AND NEGLECT • CONTINUING LEGAL EDUCATION • COURT RULES
DISABILITY ISSUES • DIVERSITY IN THE PROFESSION • JURY SERVICE • LAW FOCUSED EDUCATION
LAW PRACTICE MANAGEMENT • LAWS RELATING TO IMMIGRATION AND NATIONALITY • LAWYERS' ASSISTANCE PROGRAM
LEGAL SERVICES TO THE POOR IN CIVIL MATTERS • LEGAL SERVICES TO THE POOR IN CRIMINAL MATTERS
LOCAL BAR SERVICES • MINIMUM CONTINUING LEGAL EDUCATION

2018-2019 State Bar of Texas

COMMITTEE REPORTS

Committee reports are included in the July issue of the *Texas Bar Journal* to update Texas lawyers on State Bar activities. The reports do not necessarily reflect the position or official policy of the State Bar of Texas, which is formulated by the State Bar Board of Directors or by the membership through referendum. For more information or to complete a Committee Volunteer Interest Form, go to texasbar.com/committees or call 800-204-2222, ext. 1516.

PATTERN JURY CHARGES—BUSINESS, CONSUMER, INSURANCE, AND EMPLOYMENT • PATTERN JURY CHARGES—CRIMINAL
PATTERN JURY CHARGES—FAMILY AND PROBATE • PATTERN JURY CHARGES—GENERAL NEGLIGENCE, INTENTIONAL PERSONAL
TORTS, AND WORKERS COMPENSATION • PATTERN JURY CHARGES—MALPRACTICE, PREMISES, AND PRODUCTS
PATTERN JURY CHARGES—OIL AND GAS • PATTERN JURY CHARGES—OVERSIGHT
PROFESSIONALISM • PUBLIC AFFAIRS • REAL ESTATE FORMS
TEXAS BAR JOURNAL BOARD OF EDITORS • WOMEN IN THE PROFESSION

ADMINISTRATION OF RULES OF EVIDENCE

Leslie Sara Hyman, Chair

The Administration of Rules of Evidence Committee continues to evaluate the rules of evidence to ensure they are internally consistent, match the actual practice of law, and, to the extent possible, track the Federal Rules of Evidence.

Issues currently under substantive review, and the subcommittee chairpersons:

Alex Bell chairs a subcommittee considering whether audit response letters should be included within the protections of Rule 503.

Peter Haskel chairs a subcommittee considering amendments to Rule 503(b)(1)(C).

Johnathan Stone chairs a committee considering whether the limited accountant privilege contained in the Texas Occupations Code warrants a change to the Texas Rules of Evidence.

Two subcommittees chaired by Bell are reviewing the latest changes to the federal authentication and hearsay rules to determine whether to make corresponding changes to the Texas rules.

In March, the committee formed a subcommittee to review the Texas Supreme Court's decision in *In re City of Dickinson* to consider whether to propose amendments to the rules in light of the decision.

ADVERTISING REVIEW

Chuck Noteboom, Chair

Letters sent to lawyers about non-compliance were changed and now there is no referral to disciplinary counsel by bar staff without Advertising Review Committee approval. Lawyers can now appeal staff decisions about compliance to the ARC.

Advertising Review Rules were simplified and are in the approval process. The committee created an educational initiative for encouraging lawyers to report ads (Rule 7.07 of the Texas Disciplinary Rules of Professional Conduct), including webpages, as the committee wants to avoid imposing penalties for failing to do so.

The committee is researching law office marketing firms, especially ones where

lawyers pay to be on "best lawyer lists," to ensure validity. A rating service for lawyer services vendors is in the beginning stage. The concept is to protect Texas lawyers by allowing lawyers only to visit the website and review these services, similar to Google or Yelp reviews.

ANNUAL MEETING

Karen Burgess, Co-Chair

Cliff Gunter, Co-Chair

The 2019 Annual Meeting took place in Austin on June 13-14. The Annual Meeting Committee offered a diverse selection of quality CLE.

With more than 80 informative learning sessions, this year's meeting featured programs for everyone, from the first-year associate to the seasoned professional. State Bar sections provided practice-specific programs as well as joint events, including the Adaptable Lawyer Track, the Business Law Section and Corporate Counsel Section, and a legislative update.

During Friday's General Session, 2018-2019 President Joe K. Longley gave parting remarks, and Randall O. Sorrels was sworn in as 2019-2020 president of the State Bar. At the Texas Young Lawyers Association reception, 2018-2019 TYLA President Sally Pretorius thanked young lawyers for their service and gave farewell remarks. Victor Flores was sworn in as the 2019-2020 president of TYLA. The Austin community and law firms statewide deserve acknowledgement and gratitude for their dedicated support of the Annual Meeting.

Be sure to mark your calendars for the 2020 Annual Meeting in Dallas on June 25-26.

CHILD ABUSE AND NEGLECT

Tiffany Crouch Bartlett, Chair

Since 1985, the Child Abuse and Neglect Committee has worked to ameliorate child abuse and neglect by creating resources for the public and planning continuing legal education tracts for attorneys. In August 2018, the committee presented a Child Abuse and Neglect Workshop at the 44th annual Advanced Family Law Course

in San Antonio, which included sessions about the ethical duties of attorneys, judicial ethics, and a caselaw update.

In January 2018, the State Bar Board of Directors approved the Child Protection Law Section. Members of the committee were instrumental in forming the section, and some now serve on the section's council. During the bar's biennial committee review, the board's Committee Review Subcommittee recommended that the committee be sunsetted in favor of the section, since the Child Protection Law Section would afford more opportunities to serve the core missions of public and attorney education. To learn more about improving the practice of child protection law, please go to childprotectionlawtx.com.

CONTINUING LEGAL EDUCATION

Hon. Xavier Rodriguez, Chair

The Continuing Legal Education Committee met with the State Bar Board of Director's Professional Development Subcommittee and bar staff to propose topics for CLE programs and to discuss challenges and opportunities facing TexasBarCLE and TexasBarBooks. TexasBarCLE will emphasize in its programs practical consequences—how changes in law affect practice. Scholarships are available for all CLE programs and TexasBarBooks publications. The number of applicants has steadily grown allowing more attorneys to attend events. Expanding webcasts and online classes remains a priority.

In 2018, the committee drafted a joint resolution with the Board PDP Subcommittee urging recognition of the technical competency requirement. After consideration by the Committee on Disciplinary Rules and Referenda, the Texas Supreme Court amended Texas Disciplinary Rules of Professional Conduct Rule 1.01 to reflect that remaining proficient in the practice of law includes knowledge of technology benefits and risks. TexasBarCLE and the Computer & Technology Section have created free videos addressing these technology issues, listed online at texasbar.com/tech-resources.

TexasBarBooks added the *Texas Probate System* to its online subscription service. The TexasBarBooks online library now includes all TexasBarBooks practice manuals. New editions in the Texas Pattern Jury Charges and the Texas Criminal Pattern Jury Charges series were also released this year.

COURT RULES

Giana Ortiz, Chair

In September 2018, the Court Rules Committee submitted a proposal to the Texas Supreme Court establishing a procedure for victims who are minors to identify anonymous cyberbullies. The committee also proposed an amendment to Texas Rule of Civil Procedure 21a to clarify that parties may serve discovery via electronic filing.

In March 2019, the committee submitted a number of proposed amendments for consideration. First, the committee proposed a new rule providing mandatory trial continuance for the parental leave of a lead attorney upon the birth or adoption of a child, regardless of the applicant's gender. Second, the committee proposed an amendment to Texas Rule of Civil Procedure Rule 190.4 to clarify that a continuance does not modify other discovery-control-plan dates, absent an agreement or court order. Third, the committee proposed an amendment to Texas Rule of Civil Procedure Rule 193.3(b) to clarify that a court may impose sanctions for the failure of a party to comply with a privilege-log request. Finally, the committee proposed an amendment to Texas Rule of Civil Procedure Rule 273 to clarify jury submission procedure.

The committee continues to consider and analyze other proposed rule amendments including to Texas Rules of Civil Procedure Rules 99, 107, 190.3, 199.4 and Texas Rule of Appellate Procedure Rule 49, as well as a proposed process for statewide vacation letters.

DISABILITY ISSUES

Sean Pevsner, Chair

This year, the Disability Issues Committee continued to educate the public and members of the bar on legal issues

facing Texans with disabilities. Guest speakers visited the committee to speak on disability rights law. The committee collaborated with these speakers to create CLE courses on supported decision-making and obtaining bar exam accommodations. The committee is planning a disabled veterans' benefits course and continues to cosponsor the Special Education, Child Welfare, and the Juvenile Justice System CLE.

The committee continues to support Texas courthouse compliance with Title II of the Americans with Disabilities Act by collaborating with different state courts to ensure court personnel are providing reasonable accommodations to people with disabilities who attend court hearings. The committee supports State Bar compliance by advising the board of directors and State Bar staff on ADA issues.

To learn more about the Disability Issues Committee and the CLE courses, go to texasbar.com/disabilityissues.

DIVERSITY IN THE PROFESSION

Glen Hill, Chair

The Diversity in the Profession Committee continued to enhance opportunities for attorneys from diverse backgrounds and to increase the participation of these attorneys in State Bar activities. The committee furthered these goals by promoting its flagship program, the Texas Minority Counsel Program, or TMCP, and sponsoring several statewide mentoring and education programs. TMCP provided mentoring, networking, and business development opportunities for attorneys who desire to work in or with law firms, corporations, or government entities. The committee sponsored the Texas Minority Law Student Program at UNT Dallas College of Law and Texas Tech University School of Law, which gave law students advice on clerkship and networking and mock interview feedback from local attorneys. This year, the committee facilitated the Texas Minority Attorney Program, which provided networking opportunities for solo practitioners and small-firm attorneys from diverse backgrounds.

The committee obtained in-kind

sponsorships to offset bar exam preparation course tuition for five class of 2019 law school graduates. Additionally, the committee applied for a grant from the Texas Bar Foundation to increase the number of scholarships and provide the scholarship program with dependable resources for fiscal year 2020.

JURY SERVICE

Kaci Singer, Chair

The purpose of the Jury Service Committee is to improve the treatment of jurors within the judicial process and to develop and implement programs to ensure broad citizenship and support.

In 2015, the Legislature designated the first week of May as Jury Appreciation Week. The committee has provided information to judges and clerks regarding ideas for celebrating the week, including the ability to order stickers for those serving on a jury during the week.

This year, the committee began preparing a public service announcement regarding jury service as well as an announcement sharing information on perpetual jury service scams seen throughout the state and country.

LAW FOCUSED EDUCATION

Kevin Vela, Chair

The Law Focused Education Committee launched the web-based project *What Do Attorneys Do?* Scenarios added this year showcase different types of attorneys and were designed to start discussions with students during classroom visits. The committee also added grade level activities and an elementary book list to the website. These resources aid attorneys during classroom visits and allow students to explore the roles of lawyers. In response to requests, the committee created a section providing Celebrate Freedom Week ideas. These materials are available for free download on the State Bar of Texas Law-Related Education website, texaslre.org.

Using these web-based programs, committee members gave presentations to classrooms, community groups, and local bar associations. Members continued to meet with local school districts, private school networks, and community

groups, providing materials developed by the LRE department. Members also spoke at events and promoted the use of the website.

LAW PRACTICE MANAGEMENT

Penny Robe, Chair

The Law Practice Management Committee worked to fulfill its three purposes: (1) programs, publications, and other activities conducive to the effective, ethical management of the delivery of legal services; (2) the delivery of legal services at reasonable prices, with sufficient return to ensure the viability of the profession; and (3) an increase in the management knowledge and skills of the members of the bar.

The committee began the year presenting a daylong seminar on June 22, 2018, at the State Bar of Texas Annual Meeting in Houston. Throughout the year, members of the committee provided ongoing mentorship and training to lawyers in the Texas Opportunity & Justice Incubator.

In 2018, the committee contributed ideas and support to the Lawyer Well-Being Roundtable initiative where it focused on law practice management as a stress reduction tool for Texas lawyers.

Finally, the committee continued to support the Law Practice Management website, found at texaslawpractice.com. The website had an average of approximately 1,600 visitors per month. "What to do if Your Attorney Dies, Disappears, Becomes Disabled, or is Suspended or Disbarred" remained the most visited webpage, as well as the most frequently asked question on the Law Practice Management hotline and email forum.

LAWS RELATING TO IMMIGRATION AND NATIONALITY

Linda Alice Brandmiller, Chair

The Laws Relating to Immigration and Nationality Committee had another active year developing creative ways to educate and connect the bar and beyond on trending immigration issues. New *Ten Minute Mentor* videos include I-9s, citizenship, asylum, and the caravan. The website was

launched, and the committee submitted articles to the *Texas Bar Journal* for an immigration issue in May.

The fall Rio Grande Valley meeting included an update from the public defender, a former forensic consultant for the South Texas Human Rights Center, and the committee participated in citizenship training with ARISE, which is currently working on Department of Justice accreditation.

The winter El Paso meeting included a visit to the U.S. consulate in Ciudad Juárez, Mexico. Meeting with staff offers insight into new policies and practices and allows the committee to prepare clients and attorneys for visa processing. The committee received information from a Citizenship and Immigration Services adjudicator and the legal coordinator from Annunciation House, which receives hundreds of released immigrants weekly.

The summer meeting continues to be coordinated with the Immigration and Nationality Law Section at the Annual Meeting in Austin. The committee has invited State Bar officers to events throughout the year to share information.

LAWYERS' ASSISTANCE PROGRAM

Vickie Mather, Chair

The Lawyers' Assistance Program Committee aids the Texas Lawyers' Assistance Program, or TLAP, in facilitating substance use, mental health disorders, and well-being programs.

The Law School and Special Populations Subcommittee made over 30 presentations about well-being to law students and was present at every Texas law school orientation this year. The subcommittee sponsored five wellness forums during ABA Mental Health Week and provided information at wellness fairs. TLAP is coordinating with the Texas Young Lawyers Association and the Office of Minority Affairs to expand its outreach.

The Anti-Stigma Subcommittee prepared materials attacking the stigma of getting help with mental health issues and distributed them to places lawyers frequent. In May, TLAP filmed a video featuring recovering bar leaders that breaks down this stigma.

The Improving Help to the Impaired Lawyer Subcommittee initiated a project in which attorneys from each major community in Texas provide important information about local resources and support groups for mental health and substance use. The subcommittee plans to launch a telephonic program to support lawyers in rural areas.

To get help with mental health and substance abuse issues, please call the confidential TLAP line at 800-343-8527 (TLAP).

LEGAL SERVICES TO THE POOR IN CIVIL MATTERS

Brian McGiverin, Chair

The Legal Services to the Poor in Civil Matters Committee serves as a clearinghouse to monitor developments in and facilitate coordination of efforts with legal aid providers, private organizations, and local bars. The volunteer members of the committee help the State Bar of Texas Board of Directors carry out one of the bar's core missions: to "assure all citizens equal access to justice."

Every year, the committee applauds efforts that increase access to justice through its Pro Bono Excellence Awards. This year's recipients were recognized at the State Bar's Annual Meeting in June. The committee worked to diversify attendance at access to justice breakouts at the Bar Leaders Conference, which takes place on July 26-27 in Houston. The committee is also organizing events and distributing information for Pro Bono Week in October.

The committee is developing model local rules and recommendations for improving the Texas Rules of Civil Procedure that will reduce unintended negative consequences for indigent parties in the legal system. The committee will actively engage with stakeholders in the areas of family law and consumer debt, as well as with legal aid providers and the judiciary.

LEGAL SERVICES TO THE POOR IN CRIMINAL MATTERS

Fred Hernandez, Chair

The Legal Services to the Poor in Criminal Matters Committee serves one of the State Bar's purposes by providing

legal services to and combatting current legal issues of the indigent. The committee comprises members of the judiciary, prosecution, and public defense, as well as representatives of court administration, state agencies, and nonprofit organizations with a focus on indigent defense.

Projects this year included: (1) creating a “Padilla project” resource to help courts and indigent defense counsel meet their *Padilla* obligations; (2) preparing a report about the value of a state defender’s office that would be the equivalent of the state prosecuting attorney’s office; (3) developing continuing legal education webinars on indigent defense issues; and (4) reviewing state mentoring programs to develop recommendations for mentoring indigent defense attorneys.

The committee also received excellent recommendations for its Michael K. Moore and Warren Burnett awards. The awards recognize individuals or groups who provide exceptional research or writing representing significant contributions to the knowledge and practice of law as well as providing quality legal representation to indigent defendants in Texas. This year’s recipients will be recognized at the State Bar’s Advanced Criminal Law Course.

LOCAL BAR SERVICES

Santos Vargas, Chair

The Local Bar Services Committee has the express purpose of enhancing communication between State Bar leadership and local bar leaders to assist local bars in the management and development of their associations. The committee’s signature event, the Bar Leaders Conference, brings local bar leaders and State Bar officers and directors together to discover resources and new strategies to tackle common challenges.

The committee also plans the annual Law Day contest and Stars of Texas Bars Awards. The State Bar and Texas Young Lawyers Association presented statewide awards at the Law Day ceremony in Austin. This year’s theme, “Free Speech, Free Press, Free Society,” encouraged students to reflect on why the separation of powers is fundamental to our constitutional purpose. The Stars of Texas Bars Awards recognize local bar associations.

Award recipients were acknowledged at the Bar Leaders Recognition Luncheon during the 2019 Annual Meeting on June 13 in Austin.

Outreach to local bar associations through State Bar leadership, staff, and the committee remains strong. Some of the resources available to local bars include speaker coordination, membership assistance, program coordination, and guidance on creating a new association.

MINIMUM CONTINUING LEGAL EDUCATION

Nathan Anderson, Chair

The Minimum Continuing Legal Education Committee administers the program of minimum continuing legal education as established by Article XII of the State Bar Rules. The MCLE Department received more than 650,000 attendance records and 30,000 applications for accreditation of CLE activities this year, and over 90% of submissions were received electronically via the MCLE website.

The committee continued its study of the Accreditation Standards for CLE Activities to determine if definitions need revisions due to recent wellness and technology initiatives. The committee also evaluated the effectiveness of the sponsor and member portals that allow for online submissions and tracking course applications.

This year, the MCLE Committee initiated a study of interactive online CLE programs. The purpose of this study was to consider changes to the Texas MCLE regulations that would allow credit for interactive or gaming type CLE programs, such as interactive courtroom skills programs. Sponsors of interactive CLE may apply for provisional MCLE accreditation if they are able to estimate time of completion for their activities and agree to forward evaluations and participation results to the MCLE Committee for review.

PATTERN JURY CHARGES—BUSINESS, CONSUMER, INSURANCE, AND EMPLOYMENT

William John Chriss, Chair

The Texas Pattern Jury Charges—

Business, Consumer, Insurance, and Employment Committee is pleased to have published its 2018 edition.

The volume has been updated to reflect new statutory and caselaw. The contracts section has been expanded to include new questions and instructions on ambiguity and on reformation as an affirmative cause of action. It also now includes materials on money had and received, voluntary payment, and unjust enrichment. Our committee has worked closely with the PJC—Oil and Gas Committee’s volume for several years to draft new contracts material and to update existing material included in the contracts section of both volumes.

The committee has also worked closely with the other PJC volumes and the PJC Oversight Committee to update comments relating to broad form submission and the preservation of charge error and to include new material on Fifth Amendment privilege.

The committee is now working on its 2020 edition and will continue to work closely with the other volumes to address overlapping issues.

The committee will post all new drafts to texasbarbooks.net before publication and welcomes input from the bench and bar. Please send comments, questions, and suggestions for new topics to books@texasbar.com.

PATTERN JURY CHARGES—CRIMINAL

Wendell A. Odom, Chair

The Pattern Jury Charges—Criminal Committee is responsible for maintaining four published volumes of model jury instructions for use in criminal cases. The committee recently released the 2018 edition of the second volume of the series, *Texas Criminal Pattern Jury Charges—Defenses*. In this edition, the self-defense instructions have been supplemented with instructions on the threat of deadly force under Texas Penal Code § 9.04 and an alternative instruction concerning the effect of finding the defendant committed a weapons offense. The volume also includes revisions to the self-defense commentary and new instructions on the reasonable discipline, educator-student, and guardian-incom-

petent defenses. The committee has also made substantial headway on its revisions to *Texas Criminal Pattern Jury Charges—Intoxication, Controlled Substance & Public Order Offenses*, to be released later this year.

PATTERN JURY CHARGES—FAMILY AND PROBATE

JoAl Cannon Sheridan, Chair

Following the publication of the 2016 edition of *Texas Pattern Jury Charges—Family & Probate*, the committee made several updates for the 2018 edition. The instruction on joint managing conservators was revised to include an explanation of geographic restrictions. The committee added a new question and comment on reimbursement of attorneys' fees by a party who has acted in bad faith or without just cause in guardianship proceedings. Commentary on exculpatory clauses in express trusts was revised and included a new instruction on bad faith and a revised instruction on intentional conduct. The committee is monitoring 2019 legislation that will require updates to the existing charges and comments for incorporation in the 2020 edition.

Drafts of the committee's work will be posted on texasbarbooks.net before publication. Feedback is welcomed from the bench and bar members. Comments and questions, as well as suggestions for new topics to be included in future editions, may be sent to books@texasbar.com.

PATTERN JURY CHARGES—GENERAL NEGLIGENCE, INTENTIONAL PERSONAL TORTS, AND WORKERS COMPENSATION

Daniel B. Linebaugh, Chair

The committee continues reviewing the 2018 volume for any appropriate updates for the next publication. As such, the committee is in the process of updating the commentary to PJC 3.4 (Unavoidable Accident) and PJC 28.3 (Personal Injury Damages—Basic Question) to include citations to more recent caselaw. Additionally, in accordance with the *Nabors* opinion, the committee is updating PJC 10.12 (Negligent Entrustment—Reckless, Incompetent, or Unlicensed Driver) and 10.13 (Neg-

ligent Entrustment—Defective Vehicle) to provide the term injury as a bracketed option for these jury questions.

The committee is evaluating what refinements, if any, are appropriate to the nuisance and theft liability chapters. The committee is currently studying PJC 28.8 (Exclusionary Instruction for Other Condition) and 28.9 (Exclusionary Instruction for Preexisting Condition That Is Aggravated) to ensure that they are provided proper context and accurately reflect Texas law.

Finally, the committee is investigating whether jury charges based on pre-2003 law should remain in the 2020 edition of the book.

The committee welcomes new ideas and may be contacted at books@texasbar.com.

PATTERN JURY CHARGES—MALPRACTICE, PREMISES, AND PRODUCTS

Jack E. McGehee, Chair

The Pattern Jury Charges—Malpractice, Premises, and Products Committee continues to develop new charges and commentary addressing numerous areas of law. In medical malpractice, the committee continues to evaluate Emergency Medical Treatment and Labor Act questions, preservation of error, and statutory references where the underlying statutes have been modified. The committee is also reviewing emergency medical care issues following the *Texas Health Presbyterian Hospital v. D.A. & M.A.* opinion. Additional work continues in the new section involving actions against attorneys, with additional charges that address issues such as degree of care and liability under the Deceptive Trade Practices Act. The committee continued to refine premises liability sections where the plaintiff was an invitee. The committee is also watching for guidance involving the Texas Tort Claims Act, allocation of damages in certain employee injury cases, and other areas. The committee has increased its communication with other PJC committees to standardize common interest areas. The committee understands the importance of its work and is truly dedicated to "getting it right."

PATTERN JURY CHARGES—OIL AND GAS

Ricardo Morales, Chair

The Pattern Jury Charges—Oil and Gas Committee is pleased to have published its second edition. The committee met regularly to draft new material and update existing charges. The 2018 edition includes an updated contracts section with new questions on reformation as an affirmative cause of action and ambiguity. The committee worked with the Business and Oversight committees on material included in those volumes.

The committee is updating materials and developing new topics for the 2020 edition. The committee is expanding its Improper Use of Real Property Section and will work with PJC—General Negligence as it develops material relevant to both volumes. The committee will update sections as needed to reflect new caselaw and statutory law and will draft additional questions to address any gaps in the current charges. The committee will continue to work closely with the other volumes and PJC Oversight.

The committee will post drafts of new charges prior to publications. Comments and questions from the bench and bar, as well as suggestions for new topics, are welcome and may be sent to books@texasbar.com.

PATTERN JURY CHARGES—OVERSIGHT

Jane Bland, Chair

The Pattern Jury Charges—Oversight Committee refers developments in Texas law and public comments to the appropriate PJC committee, resolves inconsistencies and differing approaches in the volumes through collaboration with the PJC committees, and reviews proposed additions and revisions before publication. The committee provides feedback to the volumes and seeks the best way to alert Texas practitioners to changes in the law.

This year, the committee approved numerous additions, including misappropriation of trade secrets (PJC Business); self-defense, deadly force, and tampering with government records (PJC Criminal); property damage in light of *J & D Towing, LLC v. Am. Alternative Ins. Corp.*, 478 S.W.3d 649,

676 (Tex. 2016); proportionate responsibility (PJC General Negligence and PJC Malpractice); nuisance (PJC General Negligence); and premises liability in light of *United Scaffolding v. Levine*, 537 S.W.3d 463, 471 (Tex. 2017).

A task force with representatives from the PJC committees, chaired by John Gsanger, completed its work on pattern instructions for mental anguish. The committee approved updates to the preservation of error and admonitory instruction sections for volumes with punitive damages.

The committee seeks input from practicing trial lawyers for improvements to the Texas Pattern Jury Charges. Comments or questions may be sent to books@texasbar.com.

PROFESSIONALISM

Suzanne M. Duvall, Chair

The Professionalism Committee identifies factors that influence professionalism and seeks ways to improve the development of new lawyers and their relationships with the judiciary and fellow bar members.

In July 2018, the committee presented a seminar at the Bar Leaders Conference, where attendees learned practical tips for “Day of Civility” presentations, providing a mentorship program, and promoting ethics programs to their members. The committee will present again on July 27 at the 2019 conference in Houston. The committee also works with the Texas Center for the Judiciary Curriculum Committee to include professionalism courses in its CLE curriculum.

The Professionalism Committee provides ongoing services, including a “mentor bank” for attorneys seeking mentoring throughout the state; “Need Ethics,” a database of speakers willing to speak on ethics to local bar associations; a how-to guide for assisting local bars in presenting their own Day of Civility; and partnerships with law schools to promote professionalism from the ground up. The committee also provides Texas Lawyer’s Creed pamphlets for lawyers to give to their clients and posters for judges to display in their courtrooms, available upon request.

PUBLIC AFFAIRS

Rudy A. England, Chair

During the 2018-2019 bar year, the

Public Affairs Committee worked to ensure the continued success of its Open Government Seminar at the 2019 State Bar Annual Meeting. The committee’s mission is to expand public understanding of the legal system and to foster relations with the news media to advance that goal.

The Open Government Seminar, hosted June 14, provided valuable panel discussions for lawyers, media, and the public. The panels offered lively and informed discussions titled “Open Government Law: Vaccine for ‘Fake News’ or Sometime Pathogen?” and “Legislative Update: Trends in Open Government.”

The committee also hosted the 2018 Texas Gavel Awards, which recognize outstanding Texas journalism that enhances public understanding of our legal system. Learn more about the awards at texasbar.com/gavelawards.

REAL ESTATE FORMS

Sara E. Dysart, Chair

The Real Estate Forms Committee maintains the *Texas Real Estate Forms Manual*, which is sold in three forms—hard copy, hard copy with a digital download, and via subscription based. The digital download version has enhanced word processing forms and a PDF file of the manual. The goal of the committee is to maintain the manual as the most up-to-date, comprehensive, and practical publication of its kind. It is not intended to be a treatise on Texas real estate law. It is intended to be a starting point for recognizing the issues, addressed in its 26 chapters, and to provide legal forms to be used by Texas attorneys as they draft documents for real estate transactions. This spring the State Bar of Texas will publish a 2019 supplement to the third edition that will update content and forms.

TEXAS BAR JOURNAL BOARD OF EDITORS

Miles J. LeBlanc, Chair

The *Texas Bar Journal* is the official publication of the State Bar of Texas. In print since 1938, the magazine serves as a publication of record for the Texas Supreme Court, a scholarly legal journal, and the association magazine for the State Bar of Texas. Each month (except for August), the *Texas Bar Journal* is mailed to approx-

imately 117,000 subscribers, is available in digital format, and is the only publication reaching every lawyer in Texas. The board of editors reviews legal article submissions, develops issue topics, and helps set the general editorial direction for the magazine.

In 2018-2019, the Texas Bar Journal Board of Editors examined a number of subjects, including wellness, environmental law, cybersecurity, real estate law, equality in the workplace, criminal law, discovery, and transportation law. The *Journal* also featured coverage of the Texas Young Lawyers Association’s project *Proud to Be an American*. The board offered an informative “Year in Review” issue, introduced a State Bar of Texas director spotlight column, and conducted its annual Short Story Contest.

WOMEN IN THE PROFESSION

Karla Pascarella, Chair

The Women in the Profession Committee reassessed the committee’s goals to determine whether they have been met or if they are still relevant. The committee restated goals, prioritized increasing attendance to accomplish these goals, and created a subcommittee structure to ensure consistent progress.

This year, the committee made comments to the Court Rules Committee regarding paternity/maternity leave in the courtroom and is creating a “#MeToo Movement” project for submission to the State Bar’s blog. The committee used Betty Chapman’s book *Rough Road to Justice: The Journey of Women Lawyers in Texas* to shed light on the history of women’s participation in the State Bar. Chapman attended a book signing on behalf of the committee and attended the State Bar’s 2019 Annual Meeting and the Texas Minority Attorney Program.

The committee also built foundations for several continuing projects: a CLE presentation addressing the status of women in the profession for local and woman bar associations, a program identifying the limitations of and creating solutions for social media platforms and online interaction, and a mentorship program for women practitioners in rural areas. The committee continues to redefine the role of State Bar women attorneys. **TBJ**

ADMINISTRATIVE AND PUBLIC LAW • AFRICAN-AMERICAN LAWYERS • ALTERNATIVE DISPUTE RESOLUTION

ANTITRUST AND BUSINESS LITIGATION • APPELLATE • ASIAN PACIFIC INTEREST • AVIATION LAW • BANKRUPTCY LAW • BUSINESS LAW

CHILD PROTECTION LAW • CIVIL LIBERTIES AND CIVIL RIGHTS • COLLABORATIVE LAW • COMPUTER AND TECHNOLOGY • CONSTRUCTION LAW

CONSUMER AND COMMERCIAL LAW • CORPORATE COUNSEL • CRIMINAL JUSTICE • ENTERTAINMENT AND SPORTS LAW

ENVIRONMENTAL AND NATURAL RESOURCES LAW • FAMILY LAW • GENERAL PRACTICE, SOLO, AND SMALL FIRM

GOVERNMENT LAW • HEALTH LAW • HISPANIC ISSUES

2018-2019 State Bar of Texas

SECTION REPORTS

Section reports are included in the July issue of the *Texas Bar Journal* to update Texas lawyers on State Bar section activities. Section membership and dues are voluntary. These reports do not necessarily reflect the position or official policy of the State Bar of Texas, which is formulated by the State Bar Board of Directors or by the membership through referendum. The Animal Law Section did not submit a report. For more information or to join a section, go to texasbar.com/sections or call 800-204-2222, ext. 1420.

IMMIGRATION AND NATIONALITY LAW • INSURANCE LAW • INTELLECTUAL PROPERTY LAW • INTERNATIONAL LAW

JUDICIAL • JUSTICE OF THE PEACE COURTS • JUVENILE LAW • LABOR AND EMPLOYMENT LAW • LAW STUDENT DIVISION

LEGISLATIVE AND CAMPAIGN LAW • LGBT LAW • LITIGATION • MILITARY AND VETERANS LAW • MUNICIPAL JUDGES

NATIVE AMERICAN LAW • OIL, GAS, AND ENERGY RESOURCES LAW • PARALEGAL DIVISION • POVERTY LAW • PUBLIC UTILITY LAW

REAL ESTATE, PROBATE, AND TRUST LAW • SCHOOL LAW • TAX • WOMEN AND THE LAW • WORKERS' COMPENSATION

ADMINISTRATIVE AND PUBLIC LAW*April Griffin, Chair*

The section saw great success on its significant projects, the 2018 Advanced Texas Administrative Law Seminar held August 16-17 and the annual Mack Kidd Administrative Law Moot Court Competition.

The moot court competition is designed to introduce Texas law students to administrative law and to provide experience in brief writing and presenting oral arguments before higher court justices and experienced administrative law practitioners. The 2018 winning team came from Baylor Law School, prevailing in the championship round argued before the 3rd Court of Appeals in Austin's Chief Justice Jeff Rose, Justice Melissa Goodwin, and then Justice Michael Toth.

This year's seminar—co-sponsored by the University of Texas School of Law Continuing Legal Education Department—will be held at the AT&T Executive Education and Conference Center in Austin on August 15-16 and will offer 13.25 hours of CLE credit, including one hour of ethics. All seminar attendees are invited to a networking reception following the first day's program. Section members are eligible for a \$25 discount on registration fees and the seminar will also be offered via live webcast by the law school.

Section members receive the *Texas Tech Administrative Law Journal*, financially supported by the section, and a quarterly online newsletter.

AFRICAN-AMERICAN LAWYERS*Ebony R. Rivon, Chair*

The African-American Lawyers Section, or AALS, supports local African-American bar associations and Black Law Students Associations, or BLSA, by providing financial assistance to support legal education, community engagement, and equal justice initiatives. AALS was pleased to sponsor the following events, all of which raised scholarships for minority students: Houston Lawyers Association Scholarship and Awards Gala, J. L. Turner Legal Association Foundation Scholarship Gala (Dallas), L. Clifford Davis Legal Association Gala (Fort Worth), San Antonio Black Lawyers Association Scholarship

Gala, and Virgil C. Lott Golf Classic (Austin Black Lawyers Association).

The section hosted meet and greets designed to connect BLSA students, local bar leaders, and AALS members, develop relationships, and encourage involvement in their organizations and the section. AALS also granted sponsorship requests to BLSA chapters to allow them to attend their regional, state, and national conventions and competitions.

The section hosted the third Annual Summit at UNT Dallas College of Law, which offered members six hours of free CLE with panelists from state and federal judges to in-house counsel and experienced trial attorneys. This year, AALS recognized Wesley Terrell (Trailblazer Award), Judge Tonya Parker (Distinguished Jurist Award), and Rhonda Hunter (Outstanding Achievement Award).

ALTERNATIVE DISPUTE RESOLUTION*Trey Bergman, Chair*

The Alternative Dispute Resolution Section has continued its efforts to encompass all forms of ADR, including arbitration and mediation for all practice groups both domestic and international. *The Alternative Dispute Resolution Handbook* is now published and resides in the "members only" portion of the section's website. The website is being updated to accommodate the increased size of *The Handbook* and ensure secure access for members only. A daily news feed subscription to Lexology with domestic and international arbitration and ADR matters is being arranged. Certification in ADR is being explored with the Texas Board of Legal Specialization. The award-winning ADR blog continues to regularly post timely topics. The annual January advanced ADR training seminar in Austin had a record attendance in 2019 and is next scheduled for January 24, 2020. The basic arbitration training took place again on March 27, 2019, in Austin, with another large attendance. Section members across the state provided complimentary CLE through "roadshow" lunch presentations. Member benefits include reduced tuition to all seminars, free online access to *The Handbook*, and a free subscription to the daily Lexology feed. Join now to help the cause.

ANTITRUST AND BUSINESS LITIGATION*Lucas C. Wohlford, Chair*

The Antitrust and Business Litigation Section strives to provide resources and educational opportunities to its members, focusing on antitrust enforcement and complex commercial litigation that may affect Texas and Texas lawyers.

The section's 2019 annual meeting included a presentation titled "Antitrust in the Amazon Era: The New Brandeis Movement, Consumer Welfare, and the Future of Antitrust Theory." The presentation featured a moderated debate between two leading commentators on antitrust and competition policy—Elyse Dorsey, attorney adviser to Federal Trade Commission Commissioner Noah Joshua Phillips, and Sandeep Vaheesan, of the Open Markets Institute.

In addition, the section presented its annual Distinguished Counselor Award to Tom Jackson, of Dallas, at the 2019 annual meeting. The award recognizes service to the section, excellence in antitrust or business litigation, and high professionalism and ethical standards.

Finally, the section continued its tradition of supporting initiatives promoting law school pro bono, lawyer assistance, and access to justice programs by making donations to Texas Tech University School of Law, the Texas Access to Justice Foundation, and the Texas Lawyers' Assistance Program, and by sponsoring a law school intern in the Antitrust Division of the Office of the Attorney General of Texas.

APPELLATE*Justice Brett Busby, Chair*

The section had a productive year thanks to the council and committee chairs, who are among the best lawyers in the appellate bar. If you are not a committee member and would like to work with these lawyers, please go to tex-app.org to learn about committees and contact me to get involved.

The section offers many valuable member benefits, including free online CLE videos on appellate topics that are updated regularly. The section sponsors opportunities for members to meet appellate judges, collaborate with local bar associations on diversity programs, and operate an appellate pro bono program

that allows advocates to gain experience while helping Texans in need.

The section has a new Forms Committee, which is creating a list of frequently filed appellate motions. These forms will be available to members online.

Do you have an appeal raising an issue important to the appellate bar? Remember the Amicus Brief Committee, which screens requests for amicus participation and, if approved, finds a lawyer to write a brief for the section pro bono. These briefs do not advocate a particular outcome; they express the section's position that a key issue warrants resolution for the benefit of the bench, the bar, and litigants.

ASIAN PACIFIC INTEREST

Chi Reece, Chair

The Asian Pacific Interest Section hosted its 24th Annual Conference this April in Austin. In addition to CLEs and networking, the section presented the following awards: Best Under 40—Shruti Krishnan, Albert Liou, and Bill Richmond; Affiliate of the Year—South Asian Bar Association of Dallas/Fort Worth; Pro Bono Attorney—Michael Lee; Outstanding Mentor—Jason Shyung; Champion of Diversity—Audrey Chang; and the Justice Wellington Chew Award—Russell T. Wong. The luncheon keynote featured Judge James C. Ho, of the 5th Circuit Court of Appeals, and Judge Peter Sakai, of the 225th District Court in Bexar County. The evening awards gala keynote was given by Albert Li, of Ottobock North America. The section appreciates its sponsors for the event. The section also revamped its website and published quarterly newsletters highlighting accomplishments of its members and other notable members of the community.

AVIATION LAW

Bruce Marshall, Chair

The Aviation Law Section hosted its second fall CLE program in November 2018 in San Antonio and provided a number of excellent speakers on a variety of aviation industry topics. Work still continues on the section's efforts to create the new specialty area in aviation law. The requisite signatures were obtained in 2018 and a draft application is currently under review by the Texas Board of Legal

Specialization. The section website was recently updated. Information about the section's leadership, events, and CLE materials are now readily available online.

This year's midyear meeting was again hosted in conjunction with the SMU Air Law Symposium on the morning of March 29 and included a CLE program along with a brief section meeting. Also, the section's scholarship program was expanded and made available to law students attending all Texas law schools. The scholarship was awarded on June 13 during the section meeting at the State Bar of Texas Annual Meeting in Austin.

Finally, the section planned and provided an informative CLE program for the Annual Meeting on June 13 with outstanding speakers from many sectors of the aviation industry.

BANKRUPTCY LAW

Layla Milligan, Chair

The Bankruptcy Law Section has been actively fulfilling its purposes: to promote the study of bankruptcy law, report on laws and decisions affecting parties in the bankruptcy process, provide a forum for the legal and financial communities, and to provide and facilitate pro bono legal services.

The section recently held its biennial Bench Bar Conference in Austin. Bankruptcy judges, attorneys, trustees, and financial professionals from across Texas attended and were offered a variety of CLE topics covering consumer and business bankruptcy issues.

The section continues to host webinars on both consumer and business bankruptcy law topics that are free to its members. Information about these webinar programs can be found at statebaroftexasbankruptcy.com.

The Young Lawyers Committee has been assisting with its MoneyWise program, a course offered by volunteer bankruptcy attorneys and judges to high school students and adults to teach financial literacy in a fun and interesting way.

The section also sponsors the Elliott Cup, a law school moot court competition in which teams argue before 5th Circuit-area bankruptcy attorneys and volunteer judges. The 2019 competition was held in Dallas.

The Bankruptcy Law Section offers many opportunities to learn, volunteer, and grow in the practice of bankruptcy law.

BUSINESS LAW

Evan A. Young, Chair

The Business Law Section's redeveloped website continues to provide more value for its members. Many resources on the website are available to the public, but section members can access an incredible array of scholarship, data, and useful forms with just clicks of a button. Full access to the *Texas Journal of Business Law*, a trove of written materials helpful to practitioners in every business law field, annotated forms, on-demand webinars, and fresh legislative updates are just some of the improvements available. Many of the section's committees have pages with even more details about their work and opportunities for committee members to interact, including new committees like Blockchains and Virtual Currencies, which are at the cutting edge. All section members are encouraged to become more involved—and all Texas lawyers are invited to join the section.

In addition to the ever-improving and expanding website, the Business Law Section continues its traditional work. For example, the section assists the Legislature in its goal of ensuring the uniformity and high quality of Texas business law, looks to increase the reach of its mentorship program, and hopes to engage as many of its members in person as it can at its multiple CLE programs.

CHILD PROTECTION LAW

Justice Debra H. Lehrmann, Chair

The Child Protection Law Section's first full year was a rousing success. After just 14 months, membership has grown to 878!

Last year the inaugural CLE in Austin sold out within a week, and the excellent reviews of the event suggest the section is on the right track. And this year's sold-out CLE in Dallas—with 341 registrants—only confirms the importance of and need for deeper knowledge and education in the area of child protection law, which the section is committed to delivering.

To that end, the website, childprotectionlawtx.com, offers information on proposed legislation and significant updates in the field, as well as information on upcoming events and how prospective members may join the section.

Section members prepared the curriculum for the section's CLE at the State Bar of Texas Annual Meeting and the section workshop, which will be held on August 12-15 at the Advanced Family Law Seminar in San Antonio. I am immensely proud of the section's efforts, and I'm grateful to the bar for supporting this young and growing section as it endeavors to support those who protect our state's most valuable resource—its children.

CIVIL LIBERTIES AND CIVIL RIGHTS

Candace M. Groth, Chair

The Civil Liberties and Civil Rights Section had a wonderful 2018-2019. The 13th annual Bill of Rights Course was a success, drawing civil rights and constitutional law practitioners, law professors, and judges from across the nation. Highlights from this year's course, which occurred on May 17, 2019, included lectures titled "The Third Amendment: The Runt Piglet of the Bill of Rights," "Corporate Constitutional Rights," and "Searching for Data Privacy," as well as a presentation of the 2019 Patrick Wiseman Award. The section also had its Annual Membership Meeting on May 17, 2019.

Additionally, the section co-sponsored a half-day CLE at the State Bar of Texas Annual Meeting with the Appellate Section featuring Texas Supreme Court, 5th Circuit, and U.S. Supreme Court updates and a presentation on the Pledge of Allegiance. Furthermore, the section continues to sponsor the *Texas Journal on Civil Liberties & Civil Rights*, which members of the section receive as part of their membership. The section also began a total upgrade of its website to make it more dynamic and meaningful for members. The new website is expected to go live later next year. Exciting things are happening and the section looks forward to an even better 2019-2020.

COLLABORATIVE LAW

Brett A. Christiansen, Chair

The collaborative law movement continues its rapid growth not only in family law but also into most every practice area. The section continued its focus of educating colleagues, clients, and prospects on the benefits of collaborative law and fine-tuning its message to include what collaborative is and what it isn't. The section is diligently working to dispel myth and misinformation that surrounds this innovative tool in the toolbox of dispute resolution options. The section amended its bylaws to welcome professionals participating as neutrals to become members of the section. The annual Collaborative Law Conference was a two-day event held in Dallas that showcased presenters from the state's practice leaders and was themed "Breaking Bad." Presentations included in-depth analysis of matters gone awry and the creative means used to bring parties back together and refocus on resolution. The year concluded with an informative, thought-provoking CLE presented by Linda Alvarez at the State Bar Annual Meeting. Alvarez is a leader and co-founder of the Conscious Contracting movement, which advances agreements aligned with each party's values and is designed to stimulate and sustain positive relationships and enterprises.

COMPUTER AND TECHNOLOGY

Sammy Ford IV, Chair

The mission of the Computer and Technology Section is to be a resource to the legal profession in matters involving technology. This mission is especially important in light of the Texas Supreme Court's recent change to paragraph 8 of the comment to Rule 1.01 of the Texas Disciplinary Rules of Professional Conduct. That change made clear that to maintain competence in the practice of law includes knowing about relevant technology.

For the second year, the section sponsored "With Technology and Justice for All CLE." This year's CLE focused on building a resilient law practice that could weather various natural and other disasters. The section publishes *Circuits*, a quarterly members-only newsletter,

and has added videos to its series titled *Tech Bytes*, which is available to all Texas lawyers at texasbar.com/tech-resources.

Section members continue to enjoy the Texas Legal app, which provides access to Texas rules and codes with links to caselaw. The final event this year was the Adaptable Lawyer Track, which included programming, a section general membership meeting, and a "Tweet and Greet" gathering held during the State Bar of Texas Annual Meeting in Austin. For more information, contact the administrator at admin@sbot.org.

CONSTRUCTION LAW

Matthew J. Sullivan, Chair

The Construction Law Section focuses the majority of its efforts on the continuing education of its 2,650 members through CLE programs and scholarly publications. In addition to serving as a joint sponsor of two CLE programs, the section publishes the *Construction Law Journal* semi-annually, a monthly caselaw update known as the *Change Order*, and will soon provide webinars on timely topics. The section supports the Texas Access to Justice Foundation and will donate \$25,000 this year to provide funds for legal services to low-income Texans.

The annual Basic Course in Texas Construction Law was held December 13-14, 2018, in Austin, where 177 attendees learned about a variety of introductory topics. Over 900 attendees participated in the 32nd annual Construction Law Conference on February 28 and March 1, 2019, in San Antonio, where attendees heard presentations on cutting-edge topics. The section raised more than \$40,000 for Helping a Hero—an organization that provides accessible housing to severely wounded U.S. veterans—which was the designated charity for this year's conference. The *Construction Law Journal*, published with assistance from student editors at South Texas College of Law Houston, included seven articles on a variety of topics. For more information, go to constructionlawsection.org.

CONSUMER AND COMMERCIAL LAW

Esther Chavez, Chair

Continuing its tradition of offering the highest-quality CLE, the section hosted

two well-received programs: a half-day event at the State Bar Annual Meeting and a two-day program on advanced consumer and commercial law topics. The section's next advanced program will be September 5-6 in Austin and will feature the newly established Mark Kincaid Memorial Lecture on insurance law.

The section's 2018 Richard Alderman Award for CLE Excellence was awarded to Jill Campbell, of BakerRipley in Houston.

The section announced its 2019 Craig Jordan Consumer Protection Writing Competition, which was established to provide law students an opportunity to offer perspectives on the challenges facing consumers in today's marketplace. First place receives a \$4,000 award.

Finally, the section continues to offer members free subscriptions to:

- its acclaimed *Journal of Consumer & Commercial Law*, published in cooperation with the University of Houston Law Center; and
- the Lexology news feed featuring articles on timely consumer and commercial law decisions.

The section also hosts a group email list through Texas Bar Connect, where members may post questions and receive comments from other members.

More information about the section's activities is available at txconsumerlawyers.org.

CORPORATE COUNSEL

Jeffrey J. Walker, Chair

The Corporate Counsel Section serves more than 4,600 lawyers who represent companies in Texas, including in-house counsel and outside counsel. The section provides many benefits to its members including promotion of quality CLE for no charge or at discounted rates, invitations to complimentary local and statewide networking events, and collaboration with company legal departments to provide on-site programs directed to their unique needs. Programs for this bar year include the State Bar Annual Meeting CLE program co-sponsored with the Business Law Section, In-House Counsel 101 and Advanced In-House Counsel co-sponsored with TexasBarCLE, the Corporate Counsel Institute co-sponsored with the

University of Texas School of Law, and a Legal Ethics & Compliance program co-sponsored with the Rowling Center at SMU Dedman School of Law. Valuable resources and updates are provided to members through the section's publications, including the highly regarded *Corporate Counsel Review* published at the South Texas College of Law Houston, the section newsletter *Corporate Counsel Currents*, and *Newsstand*. The section has long supported pro bono organizations by awarding grants to pro bono providers and by providing pro bono service opportunities in Texas, as outlined in the section website at texascorporatcounsel.com.

CRIMINAL JUSTICE

Kenda Culpepper, Chair

The Criminal Justice Section's mission is to promote collaboration between judges, prosecutors, and defense lawyers to benefit the criminal justice system. Council members have diligently worked together this year to improve services for all members, such as revamping the website, newsletter, and bylaws and working on new and effective trial notebook supplements. The section continues to allow free membership for lawyers in their first two years of practice.

To maintain the section's commitment to providing low-cost CLE opportunities to lawyers in underserved regions, the section provided a daylong CLE to practitioners in South Texas and hosted a half-day criminal law CLE at the State Bar Annual Meeting. The section also worked with the Texas District & County Attorneys Association to produce a free online *Brady* CLE and worked with the Texas Criminal Defense Lawyers Association to produce a CLE to help lawyers and judges understand the process and purposes of sex offender registration and deregistration. The section offered \$15,000 in member scholarships to criminal justice conferences throughout Texas.

The section formed an exciting collaborative and exploratory task force with the Texas Department of Public Safety to create new protocols improving the timeliness and efficacy of preliminary drug lab testing procedures.

ENTERTAINMENT AND SPORTS LAW

Victoria Helling, Chair

The Texas Entertainment and Sports Law Section, or TESLAW, continued providing members with information about the applicable law surrounding arts, entertainment, and sports.

At the State Bar's Annual Meeting in June 2018, TESLAW offered the "Best Legal Practices for Advertising on Social Media" and "10 Biggest Gaming Decisions" CLE programs and an exclusive insight from attorney and past chair Mike Farris, who represented the plaintiff in the well-known *Fifty Shades of Grey* litigation before a jury in Fort Worth, resulting in a \$13.2 million judgment in Farris' client's favor.

In November, the Entertainment Law Institute provided programs that ran the gamut of music, film, and fashion. A special boot camp course, Entertainment Law 101, was held the day before ELI, providing a concise overview of entertainment law basics.

All section members receive the quarterly e-newsletter *TESLAW Tidbits*, which provides summaries of recent court decisions as well as helpful practice documents. Additionally, members receive the semiannual *Texas Entertainment and Sports Law Journal*, which provides in-depth analysis of legal issues facing the entertainment and sports industries.

TESLAW is a section for lawyers who actively practice in the fields of art, entertainment, and sports law, as well as those who are simply interested.

ENVIRONMENTAL AND NATURAL RESOURCES LAW

Steve McMillen, Chair

I became chair in August 2018 with three goals: 1) update the bylaws; 2) energize the standing committees; and 3) oversee creating a new website. The section succeeded in updating its bylaws, which were approved by the State Bar of Texas Board of Directors in February. The six standing committees, now formalized in the bylaws, are essential to the section's mission. The Law School Committee oversees practitioner panels, and so far, the committee has visited Texas A&M University School of Law and University of Houston Law Center. The committee awards academic scholar-

ships in memory of Buck J. Wynne and eight summer internships with government agencies in Texas. The Pro Bono and Community Outreach Committee awarded grants to TreeFolks, Texas Trees Foundation, and Trees for Houston to support tree planting throughout Texas. The Education Committee sent Emily Rogers and Greg Ellis to speak on water law at the State Bar's Annual Meeting and is planning its annual Superconference. The Website and Technology Committee is working to bring online a new website soon. Finally, after several years of service, Lyn Clancy is stepping down as editor in chief of the *Texas Environmental Law Journal*, the primary publication overseen by the Publications Committee.

FAMILY LAW

Stephen J. Naylor, Chair

For many years the Family Law Section's Pro Bono Committee has led the way pairing indigent litigants and attorneys via its "attend our CLE and take 2 cases" project. This year the section has seminars scheduled for Cleburne, Huntsville, Longview, McAllen, Victoria, and Wichita Falls. Membership in the Family Law Section is only \$40 a year, and you receive the *Family Lawyer's Essential Tool Kit*, a quarterly *Family Law Section Report*, and discounts on State Bar family law seminars. If you are already a member, thank you. If not, please join.

The Family Law Section continues to produce some of the best publications to aid its members in the practice of law: the *Family Law Checklists*, *Predicates Manual*, *Family Law At Your Fingertips*, the *Family Lawyer's Essential Toolkit*, and the *Client Handbook*. The section also sells DVDs that instruct clients regarding depositions, trials, mediation, and a social media presence. The Formbook Committee recently released a new update to the *Texas Family Law Practice Manual*, an essential tool every family law attorney should have in his or her office. If you are interested in purchasing any of these publications, please go to shotfam.org.

GENERAL PRACTICE, SOLO, AND SMALL FIRM

Kevin W. Mutscher, Chair

In the past year the General Practice,

Solo, and Small Firm Section has undertaken several projects, one of which will soon arrive in print form for members. The *Solo and Small Firm Development* 2019 edition is an update of a 2007 edition. Members will find value in that publication.

The council is also in the development stages of producing an annotation to the *Texas Disciplinary Rules of Professional Conduct*. It is intended that the annotation will cross-reference the rules with ethics opinions.

The section has continued to produce a half-day seminar at the State Bar of Texas Annual Meeting as well as co-sponsor the General Practice Institute at Baylor Law School. The institute is now in its 42nd year. Similarly, the *General Practice Digest* has continued to be published three times a year.

The section has continued to keep an eye on State Bar activities and inform members of those activities. In the past year those activities have included audits and the costs thereof, revisions to rules, and new mandatory methods by which bar dues must be paid—and upon whom the burden of compliance rests.

GOVERNMENT LAW

Enid Howard, Chair

The Government Law Section continues to provide common ground, services, and resources for State Bar members dealing with the challenges of state and local government. The section promotes a better understanding of the law relating to municipal corporations and other public bodies through roadshows, meetings, and studying, analyzing, and disseminating current information concerning legislation and judicial decisions. Together with co-sponsorship from the Texas Young Lawyers Association and local bar associations, the section presents roadshows in Tyler, Texarkana, and Dallas, bringing dynamic speakers to government lawyers in communities that do not often receive "live" CLE.

In January 2019, the section held a two-day CLE centered on a historic outreach event by the Texas Supreme Court and Arkansas Supreme Court. The Government Law Section was part of the team that coordinated the CLE formed around the timing of the oral arguments.

The section will host the 2019 Advanced Government Law Seminar July 24-26 in Austin. Speakers will present topics useful for new government lawyers as well as material that will assist lawyers who have been practicing in government law for many years. The section also keeps updating its website to bring current resources and information to members.

HEALTH LAW

Hal Katz, Chair

The Health Law Section continues to focus on creating better understanding and cooperation among attorneys and other professionals involved in the health care industry. It is currently planning the 32nd annual Texas Health Law Conference, which will be held October 6-8 in Austin and titled "Objective Clear, and Destination Uncertain." The conference is co-sponsored by the Texas Hospital Association and will be held at the AT&T Executive Education and Conference Center, with an estimated 13.75 hours of CLE credit, including one hour of ethics.

Major initiatives of the section include recruiting and engaging young lawyers, increasing its presence and use of social media, and tracking proposed and adopted health law related rules in the *Texas Register*. The section was also active in monitoring and providing feedback on proposed Texas legislative changes dealing with a medical power of attorney.

HISPANIC ISSUES

Justice Gina Benavides, Chair

An ongoing goal of the Hispanic Issues Section is to promote diversity in the legal profession. The section accomplished this goal by promoting diversity within the State Bar of Texas. The section has been actively promoting diversity on the State Bar of Texas Board of Directors by submitting qualified names for the at-large director. The sections also ensures that it is included in CLE programs, especially since bar meetings and programs have been in the Austin area, which can limit representation of minorities. The section has offset this by doing free CLE programs in Lubbock and Tyler.

The section also addresses the ongoing immigration issues at the border by partnering with the American Bar Asso-

ciation Commission on Hispanic Legal Rights & Responsibilities and its chair, Richard Pena, to provide pro bono services in the Rio Grande Valley. Betty Balli Torres, a former section chair, spent a weekend assisting in the processing of asylum seekers and refugees. The section will continue to work on this endeavor.

The section hopes to continue to serve as the voice of Hispanic attorneys and its community to bring their concerns to the attention of the State Bar.

IMMIGRATION AND NATIONALITY LAW

Lisa Sotelo, Chair

The Immigration and Nationality Law Section has focused its efforts on revamping its structure to ensure sustainability and guide the coming years' officers in providing more tangible and regular resources to its members. The section's bylaws have been revised, and its new website is set to launch by the second quarter of 2019. The new site will provide updates and resources to members, including volunteer/pro bono opportunities and options to obtain CLE or watch previously recorded, brief training, or informational videos related to immigration and nationality law.

The section reported more than 16,000 pro bono hours with over 17% of its members reporting. The section is also developing an annual pro bono project in collaboration with the State Bar's Legal Access Division and Family Law Section.

The section sponsored a networking social at the State Bar of Texas Advanced Immigration Law Conference in Houston and worked with the Laws Relating to Immigration and Nationality Committee, or LRIN, to share information and updates. Section officers joined the LRIN Committee on its annual consulate tour in Ciudad Juárez, Mexico, and is looking to expand the consular tours to other posts along the border to invite more section member participation.

INSURANCE LAW

Lisa A. Songy, Chair

The Insurance Law Section launched its new and improved website—please check it out. Additionally, the section continued its longstanding tradition of providing quality continuing legal

education, including informative webinars as well as quality in-person seminars. In March, the section presented “How to Try an Insurance Case” and followed it up with the Advanced Insurance Law Seminar and annual Casino Night, a top-notch seminar in San Antonio at which the Legends Award was presented to a very deserving individual. Thanks to all those who helped plan and speak at the events. Your hard work is appreciated.

The section continued its efforts at providing quality publications to membership. *Right Off the Press* continues to provide caselaw updates on important new decisions. The *Journal of Texas Insurance Law*, available in both print and digital format, published in-depth analysis of pressing legal issues unique to insurance practice. A new articles feature on the website published on-point, concise discussions of key insurance issues. Finally, in an attempt to bring back the collegiality of the practice of law, the section hosted networking happy hours around the state.

INTELLECTUAL PROPERTY LAW

Kirby Drake, Chair

The Intellectual Property Law Section continued its pro bono tour educating entrepreneurs on IP law in Waco this year.

In February, the section held the Advanced Intellectual Property Course in Dallas, including a presentation by U.S. Patent and Trademark Office Commissioner for Trademarks Mary Boney Denison.

The 2019 Annual Meeting in Austin included 6 hours of CLE as well as awards and a keynote presentation by Larry Hornbeck.

The Advanced Patent Litigation Course will be held in July in San Antonio.

This year also has been a year of firsts for the section.

The section introduced the IP Legends series, an initiative designed to capture the life and vitality of lawyers who have made their mark on IP law in Texas through written or recorded interviews. The first interviewee was Tom Morris, an Amarillo trial attorney who is well known in the IP community for having successfully argued the *Graham v. John Deere Co.* case at the U.S. Supreme Court. This is the seminal case on patent obviousness and continues to be regularly

cited over 40 years after it was first decided.

The section also held its first Trademark Boot Camp, educating attorneys, paralegals, and law students on trademark law.

INTERNATIONAL LAW

Tom Wilson, Chair

The International Law Section focused on Mexico, culminating in a three-day trip to Mexico City, which featured two half-days of CLE presentations. The section held its 31st Annual Institute in cooperation with the Mexico Center of the Rice University Baker Institute. A highlight of the Annual Institute was a keynote address by Mexico's Supreme Court Justice Eduardo Medina Mora. The section also had programs in Austin (on international legal issues in the technology industry), San Antonio (on international legal issues in the health industry), Houston (on the international legal impact of the #MeToo movement), and Dallas (on the development of international lawyers and on immigration). New to the section was a quarterly newsletter of which three editions have been published and are available to all at ilstexas.org/resources/ils-newsletter. The section's International Human Rights Committee sent a letter to 95 in-house counsel in Texas on the impact of international human rights issues on Texas companies and conducted a poll of in-house counsel that showed all wanted more information on the topic. The committee also awarded its annual writing contest scholarship to Chantal Carriere, of the University of Houston Law Center.

JUDICIAL

Hon. Randy M. Clapp, Chair

The section's focus this year was judicial compensation. Texas judges have received only two pay raises in the past 18 years. This is a topic of interest if Texas wants to continue to attract judicial candidates from among experienced and successful attorneys. The Judicial Compensation Commission has recommended a 15% increase in judicial compensation.

Past efforts have failed for reasons that seemingly have nothing to do with judicial compensation.

Ultimately, the Legislature passed a bill that would increase judicial compensation based on longevity. This would reward judges who desire to stay on the bench (and who manage to get re-elected). At press time, this bill was pending before the governor.

JUSTICE OF THE PEACE COURTS

Howard M. Bookstaff, Chair

Several board members have been instrumental in providing educational opportunities for the attorneys and justices of the peace members of the section. During the past year, the section had a CLE luncheon presentation on the "Renewal and Revival of Judgments" and added material to the website. The section also had a CLE presentation at the Annual Meeting on June 13, 2019, followed by a social that afternoon.

The purpose of the section is to: (1) further the administration of justice in the justice courts; (2) provide a forum for the exchange of information on matters of practice and procedure in justice courts; (3) provide information and educational opportunities for the membership; and (4) cooperate closely with the State Bar of Texas and other professional organizations in developing, supporting, and promoting legal and professional activities affecting justice of the peace courts.

In addition to licensed attorneys in good standing with the State Bar of Texas, membership in the Justice of the Peace Courts Section is open to all current and former Texas justices of the peace. Justices of the peace who are not licensed attorneys can become associate members of the section.

JUVENILE LAW

Kaci Singer, Chair

The Juvenile Law Section held its 32nd annual Juvenile Law Conference in Austin in February. Over 400 people attended from all juvenile law disciplines, including judiciary, prosecution, defense, state agency, probation, and law enforcement. The section continues to emphasize juvenile justice psychology and theory, law and legal practicum, practical implementation, and best practices in the educational information it provides. The section will sponsor its 33rd annual conference in

Galveston February 16-19, 2020.

The section continues to provide multiple networking opportunities at its annual conference. It is also seeking to expand its reach by offering advertisement for and networking opportunities in connection with local juvenile law conferences.

The section also seeks to provide more meaningful resources to its members, such as updated forms and contact information for members. The section requests that members provide input and ideas on ways to increase member input and involvement.

LABOR AND EMPLOYMENT LAW

Teresa Valderrama, Chair

Among the larger and more diverse sections, the Labor and Employment Law Section consists of attorneys who represent both employers and employees, as well as in-house and government attorneys concerned with workplace law issues. Because the section strives to represent interests across a diverse constituency, the section does not ordinarily take sides on legislation affecting workers.

The section promotes efficient litigation, conflict resolution, and trial skills development focused on workplace law issues, including through the sponsorship of two CLE programs annually and the publishing of a newsletter every two months, featuring relevant and important decisions during the year.

Reflecting the balance of interests, the section's council consists of an equal number of employee and employer attorneys, and the chair rotates between them. The section strives to make cohesion, candor, and concern for clients its hallmark, as it builds friendships that cross many lines.

LAW STUDENT DIVISION

Taylor Winn, Chair

The Law Student Division had another active year, and once again many students took advantage of joining the division online. For a \$15 annual membership fee, law students receive many of the great benefits that are available to licensed attorneys, including a monthly subscription to the *Texas Bar Journal*, the Texas Young Lawyers Association *eNews*, and free access to Fastcase and

Casemaker. Each student receives a student bar card, a free T-shirt, and free registration to TexasBarCLE live and video replay seminars and complimentary written materials.

LEGISLATIVE AND CAMPAIGN LAW

Ross Peavey, Chair

As one of the fastest growing new sections of the State Bar, the Legislative and Campaign Law Section continues to build on the success of previous years. Hosted in December, the section's most recent annual CLE featured a panel discussion by the Texas Legislative Council on best practices for legislative drafting, an overview of legislative procedure, and an insider's preview of the 86th Legislature. The section looks forward to continuing this event.

The section issued several newsletters throughout the year featuring analyses of recent court decisions involving elections, redistricting, and campaign finance. The Texas Ethics Commission has issued a number of important new rules and opinions recently and the section has worked hard to update members about its important work. The section continues to work with the Texas Board of Legal Specialization to create a certification in the areas of legislative and campaign law.

The section participated in the State Bar Annual Meeting by providing a half-day CLE that provided a legislative and ethics update as well as a presentation on state and federal election law. The section ended the year with a meet and greet that allowed section members to network and make connections in this growing practice area.

LGBT LAW

Nicole LeBoeuf, Chair

The LGBT Law Section began the 2018-2019 year at the State Bar of Texas Annual Meeting in Houston in June 2018 by hosting CLE, leading a local LGBT Bar Association's Affiliates Congress, hosting two evening receptions, and participating in the Diversity Forum. The section again worked closely with the State Bar to produce a full day of live CLE covering LGBT legal topics in December 2018 called "LGBTQ

Legal Issues in Changing Times: What Every Texas Practitioner Needs to Know,” bringing the section’s total CLE offerings to more than 1.5 days for the year. The topics included LGBT family law issues, LGBT issues in immigration and employment law, and the criminalization of HIV. The LGBT Law Section also cooperated with developing local LGBT bar associations by cosponsoring programming.

LITIGATION

Wes Christian, Chair

The Litigation Section continued to thrive this year by providing valuable grants, publications, and programs. The section provided more than \$85,955 in grants and scholarships principally to those who provide legal aid to those less fortunate.

The section also published the highly acclaimed *News for the Bar* and *The Advocate*, which a lawyer recently used to win a key hearing on an anti-SLAPP motion. Both publications keep section members current on caselaw and events impacting our practice.

The section additionally provided the thought-provoking and character-building Texas Legal Legends program. Last year, the program inducted Harriet Miers, Carolyn Wright-Sanders, and James C. Harrington as Texas Legal Legends. These lawyers continuously used their law licenses to effect positive change by enforcing the rule of law, acting as gatekeepers of justice for all, exposing and stopping systemic fraud (which damages citizens in multiple business settings), and making a difference in the lives of countless citizens in this great state.

The section also continued its fiscal responsibility program by enforcing its recently passed reimbursement policies and developing a corporate short- and long-term planning committee to examine how lawyers will practice in the future and how that impacts the needs of members.

MILITARY AND VETERANS LAW

Lisa Windsor, Chair

The Military and Veterans Law Section serves active duty/reserve judge advocates, former service members, government

civilian attorneys, and anyone interested in representing military members and veterans. The section’s Facebook page provides members with up-to-date news, answers attorney questions on military/veterans law, and advertises clients needing assistance. Section members routinely provide pro bono representation to indigent veterans and participate in veterans’ free legal clinics.

On February 22, the section co-sponsored the Veterans Justice Clinic with the Texas Criminal Defense Lawyers Association, presenting topics on Veterans Justice Outreach, Veterans Affairs appeals, military discharges, and the recent U.S. Supreme Court session. The section’s spring CLE, held March 29-30 in Salado, trained participants on the effect of antimalarial drugs on service members’ mental health, the use of biometrics, military prevention of sexual assault, and the VA Caregiver Support program. At the State Bar Annual Meeting in Austin on June 14, experts presented on the military status of immigrants in positions of vital national interest, restrictions on free speech in the Uniform Code of Military Justice, processing sex crime allegations, representing veterans with mental illnesses, and ethics in sexual assault cases.

The section welcomes any suggestions on topics of interest and how it may better serve its membership.

MUNICIPAL JUDGES

Hon. Laura Anderson, Chair

Over 5.2 million cases were filed in 940 municipal courts throughout Texas last year. In every case, procedural justice is paramount. Procedural justice occurs when people are treated with respect, they understand the process, they have a chance to be heard, and they believe they have been treated fairly. When procedural justice occurs, people are more likely to obey court orders.

Fifty-eight percent of municipal judges in Texas are attorneys and many of those attorneys also serve as magistrates. Almost 700,000 magistrate warnings were given by municipal judges last year. In light of the recent litigation and proposed legislation on bail reform,

the Municipal Judges Section co-sponsored a discussion on bail reform at the Texas Municipal Courts Education Center’s judge seminar in Addison. The topic remains important as evidenced by the discussions at the State Bar Annual Meeting and TMCEC legislative updates.

Not only are 1,317 municipal judges throughout the state handling on average over 3,600 cases, they also understand that traffic safety initiatives save lives by gaining compliance and driver responsibility. By engaging the community and providing traffic safety materials, municipal judges don’t have to wait until someone steps into their courtroom to explain the importance of traffic safety.

NATIVE AMERICAN LAW

Ray Torgerson, Chair

The Native American Law Section has been productive in the 2019 State Bar year. Members have been involved in various matters, including ongoing federal challenges to the Indian Child Welfare Act, peyote conservation issues in South Texas, and monitoring proposed legislation in the Texas Legislature.

At the State Bar Annual Meeting in Austin, the section participated in the Diversity Forum on June 13 and hosted several CLE sessions on June 14. CLE topics included ongoing federal challenges to the Indian Child Welfare Act, a caselaw update on national and local levels, and ethics. The section held its annual business meeting on June 14, following the CLE presentations.

The section also is planning an annual meeting for January 2020. The section continues to work on its long-term goals of increasing membership—especially among young attorneys—and increasing attendance and participation at conferences. The section’s website is texasnativeamericanlawsection.com.

OIL, GAS, AND ENERGY RESOURCES LAW

Kathleen E. Magruder, Chair

The Oil, Gas, and Energy Resources Law Section is older than the State Bar itself. Thus, it was fitting that the section celebrated its 80th anniversary in September 2018 with a gala held in

conjunction with the Advanced Oil, Gas and Energy Resources Law Course. Jack Balagia provided a thoughtful and insightful keynote address about the relevance of the section's practice, and the section applauded the many accomplishments it has achieved over the years.

As in previous years, the section sponsored a number of CLE programs during 2018 in its continuing effort to support its members through education. The section also published quarterly section reports containing updates on changes in the law along with articles concerning topics of current interest.

The section continued its program of supporting new entry to the practice by supporting law students who have an interest in practicing energy law. The section provided internships with five state agencies and awarded scholarships to the two highest-grade recipients in the general oil and gas courses given at Texas law schools.

Also of note, members of the section participate in the continuing process of updating the *Texas Pattern Jury Charges—Oil & Gas*.

PARALEGAL DIVISION

Stephanie R. Sterling, President

The Paralegal Division had another active year. All new and renewing members can access applications online. Renewing members are required to have six CLE hours, of which one hour must be in ethics. The division digitally publishes a quarterly professional magazine, *Texas Paralegal Journal*, and keeps members up to date with its monthly e-newsletter, Paralegal Pulse, and various specific event e-blasts. The website, txpd.org, is a wealth of information for members containing copies of the division's publications, an online CLE calendar listing educational opportunities throughout the state, and a job bank. The division collaborates with the Texas Board of Legal Specialization to promote the TBLS Board Certified Paralegal exam in eight specialty areas of law. This year, the division's annual meeting will be in conjunction with the annual

Texas Advanced Paralegal Seminar September 18-20 in Austin, and the theme is "There's No Place Like TAPS—20 Years of CLE Excellence." The keynote speaker will be Judge Darlene Byrne, of the 126th Civil District Court in Travis County. This seminar provides up to 14 TBLS-approved CLE hours over three days. In lieu of speaker and volunteer gifts, the division will donate funds to the Austin Bar Foundation.

POVERTY LAW

Alberto Mesta, Chair

The Poverty Law Section had a productive year. At the annual meeting at the 2018 Poverty Law Conference, several individuals were honored for their service advocating for low-income communities. The honorees were Jerome Wesevich and Tracy Odvody-Figueroa from Texas RioGrande Legal Aid for their work on disaster relief legal issues arising from Hurricane Harvey. The section also honored John Henneberger from Texas Housers, a nonprofit that supports low-income Texans' efforts to achieve the American dream of a decent, affordable home in a quality neighborhood. The next Poverty Law Conference will be held August 27-30 in Austin. The conference offers targeted continuing legal education with a public interest focus and features presentations from knowledgeable poverty law practitioners and private attorneys. The section established a grant to fund innovative ideas to help nonprofits advocate for the indigent community in Texas.

Along with the Texas Access to Justice Foundation, the section conducted a poverty simulation at the State Bar Annual Meeting to help participants understand what it might be like to be a part of a typical low-income family trying to survive from month-to-month. The section also presented on how settlements impact a client's state and federal public benefits.

PUBLIC UTILITY LAW

Ron Moss, Chair

The Public Utility Law Section pro-

vides opportunities for utility law practitioners in Texas to interact with and learn from each other. One of the most important events sponsored by the section is its annual conference, which will be held this year on August 9 at the AT&T Executive Education and Conference Center in Austin. The conference typically includes commissioners or executive staff from state agencies such as the Public Utility Commission of Texas, the Texas Commission on Environmental Quality, and the Railroad Commission of Texas, who share their perspectives on issues of importance to regulated entities such as electric, natural gas, telecommunications, and water utilities. Speakers and attendees from private practice and the public sector interact to make this an enriching and economical day of CLE. During the years in which the Legislature is in session, as it is this year, the annual conference also provides a valuable opportunity for utility law practitioners to analyze and discuss how new legislation affects their clients and constituencies.

REAL ESTATE, PROBATE, AND TRUST LAW

David Dickson, Chair

The Real Estate, Probate, and Trust Law Section's extensive 2019 legislative program addressing guardianships, decedents' estates, trusts, and related matters proceeded through the Texas Legislature. The section will present session updates relating to real estate, probate, and trust law. REPTL honored Robert "Doc" Watson (real estate) and Jerry Frank Jones (probate) as its 2018 Distinguished Lifetime Achievement Award recipients. The section published four quarterly issues of the *REPTL Reporter* and sent e-blasts containing information relevant to members throughout the year. Section members enjoyed more than \$30,000 in discounts on registration fees for TexasBarCLE seminars. The Public Service Committee awarded a \$10,000 grant to Texas Community Building with Attorney Resources for providing legal assistance to low-income Texans. The Student

Writing Contest winners received \$4,500 in awards. REPTL continues its partnership with the Oil, Gas, and Energy Resources Law Section in funding the Texas Title Standards Joint Editorial Board. All 18 members of the section's 2018-2019 Leadership Academy completed their course on March 29, 2019, at the Texas Law Center in Austin. Under the leadership of former council member Shannon Guthrie, the candidates were required to attend four full-day meetings over the past eight months and complete a group project.

SCHOOL LAW

Mark Tilley, Chair

The School Law Section comprises individuals who represent the interests of parents, students, employees and employee organizations, educational institutions and their governing bodies, and state and national education-related agencies and associations. This broad diversity of interests and an atmosphere of collegiality and professional cooperation help make the School Law Section a unique group committed to the interests of all its constituents. The section is dedicated to providing information on legal issues arising in Texas schools to a wide range of legal practitioners and education law-related associations by offering high-quality CLE and opportunities for networking with colleagues. The 34th annual UT School Law Conference, held February 28-March 1 in Austin, was a great success thanks to UT LAW CLE, the planning committee, and the presenters. The section will hold its 33rd annual School Law Retreat July 19-20 at the Hyatt Regency Lost Pines Resort and Spa near Bastrop. This popular tradition provides an opportunity for CLE and socializing with colleagues and their families in a relaxed environment. At the retreat, the section will present the Kelly Frels Lifetime Achievement Award, which was given to David Thompson in 2018 in recognition of his outstanding contributions to school law.

TAX

Catherine C. Scheid, Chair

Benefits of the Tax Section include:

a website (texassection.org) featuring a 24/7 CLE library (free CLE hours for members), *Texas Tax Lawyer* that is published three times a year (featuring tax articles, outlines, and comments the section submitted to the U.S. Department of the Treasury, the IRS, and the Texas Comptroller of Public Accounts), and a link to join committees; CLEs during the year, such as Tax Law Day, Property Tax Seminar, the Tax Workshop program (an un-taped, in-depth interactive seminar focusing on one topic with government and prominent private practice speakers), Annual Meeting, the International Tax Symposium, and a monthly tax update with professor Bruce McGovern at noon on the first Wednesday of each month; and the Leadership Academy, which helps future tax leaders take ownership of their careers. You can serve the Tax Section by writing a comment on proposed regulations, representing a taxpayer in the U.S. Tax Court with the Pro Bono Committee, training service members to be certified return preparers to help the soldiers complete their income tax returns, or joining a committee and meeting wonderful colleagues.

WOMEN AND THE LAW

Deborah L. Cordova, Chair

The Women and the Law Section had a productive year. On November 13, 2018, the section supported the Hidalgo County Bar Association Women's Bar Section at its 10th Annual Heart Gallery of Hidalgo County, whose mission is to promote awareness, understanding, and adoption of children in the foster care program. The section also supported the Texas Women Lawyers, or TWL, at its Annual Meeting and CLE in March. Council member Natasha R. Martinez was honored by TWL with the Brenda Tso Rising Young Lawyer Award.

The section's *Women's Advocate* newsletter highlighted members, local organizations, and articles written by members. The section's top-quality telephonic CLE programs were well attended and included

topics on "Avoiding Online Liability" and "The Employment Law Landscape." The section also conducted its first writing competition for Texas law students, which called for essays identifying and analyzing legal challenges for women in Texas and/or nationwide.

The section hosted the CLE "Identifying and Overcoming Obstacles and Stereotypes" at the State Bar Annual Meeting followed by the section's Council and Membership Meeting and presented the following awards: Sarah T. Hughes Women Lawyers of Achievement Award, Louise B. Raggio Award, Barbara Culver Clack Award, and Harriet E. Miers Writing Competition Award.

WORKERS' COMPENSATION

Ken Wrobel, Chair

The laws and rules governing this section continue to evolve. The area of highest concern has been over the protection of first responders. This legislative session shed new light on this area between wanting to support the first responders and the immense financial burden on the communities.

The board recently enacted updated bylaws and the section has linked together on Texas Bar Connect.

The 2018 Advanced Workers' Compensation Seminar provided discussions on medical and legal topics. The section hosted a golf tournament that benefitted Kids' Chance of Texas, an organization that provides scholarships to children whose parent was killed or catastrophically injured when working. The recipient of the 2018 Barbed Wire Award went to Joe Anderson, of Burns Anderson Jury & Brenner, for his years of service and dedication to this area of law.

The 2019 Advanced Workers' Compensation Seminar will again be held in August in Austin. There will be a half-day seminar that provides an introduction and basics to this area of law and then two days for the advanced seminar. The section will again hold a charitable event at Top Golf before the seminar and a social event after its annual section meeting. **TBJ**