



THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY THE SUPREME COURT OF TEXAS
REPORT 2021

THE BOARD OF DISCIPLINARY APPEALS

APPOINTED BY THE SUPREME COURT OF TEXAS

CHAIR

David M. González, *Austin*

VICE CHAIR

Kelli M. Hinson, *Dallas*

MEMBERS

Jessica Z. Barger, *Houston*

Guy Choate, *San Angelo*

Joseph F. Cleveland, Jr., *Fort Worth*

Mike Gregory, *Denton*

Michael C. Gross, *San Antonio*

Rudy K. Metayer, *Austin*

Mike Mills, *McAllen*

William W. Ogden, *Houston*

Nancy J. Stone, *Amarillo*

Cindy V. Tisdale, *Granbury*

SUPREME COURT OF TEXAS LIAISON

The Honorable Justice Debra H. Lehrmann

STAFF

Jenny Hodgkins, *Executive Director/General Counsel*

Matthew Greer, *Deputy Director/Counsel*

Jackie L. Truitt, *Executive Assistant*

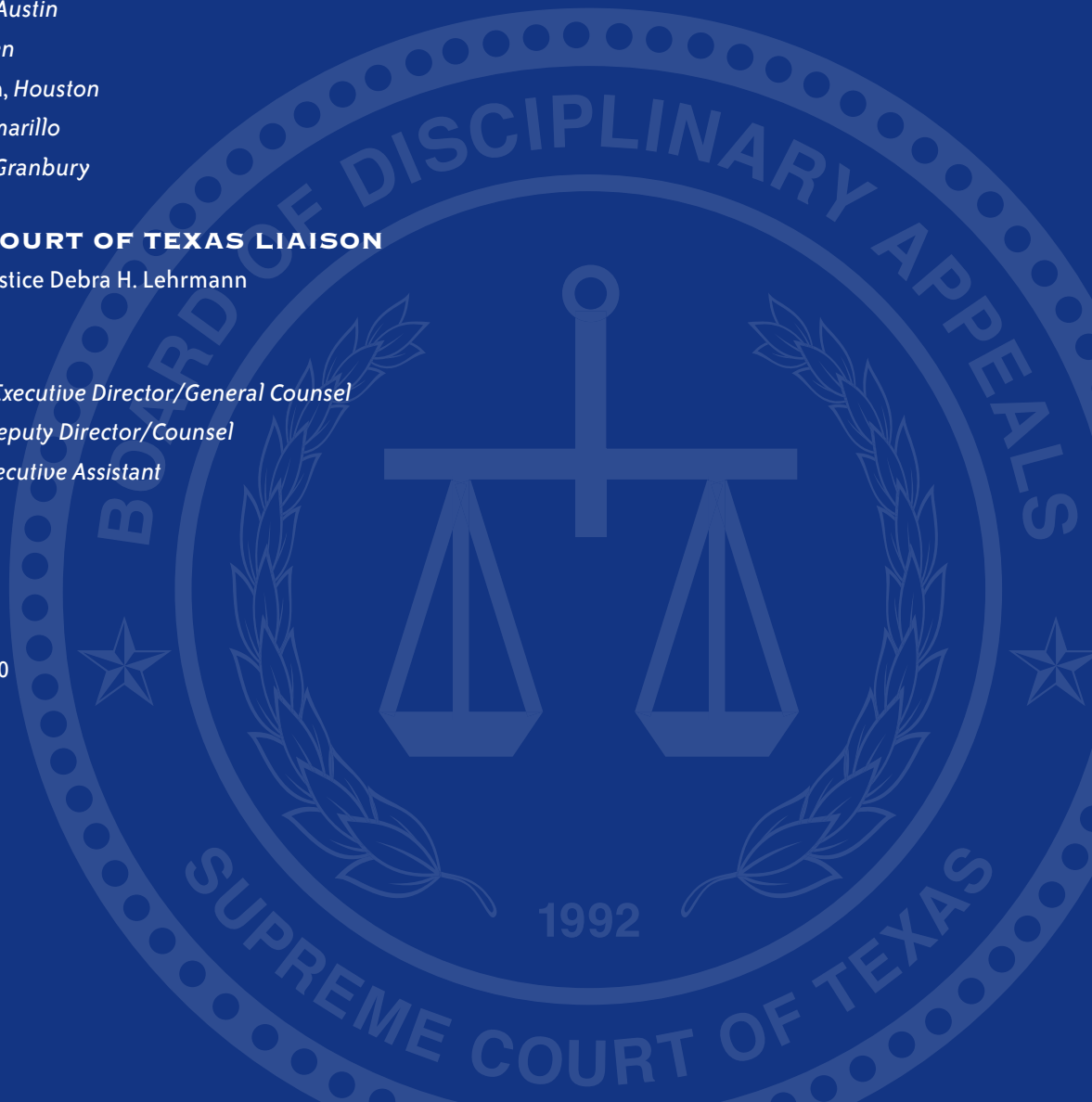
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FROM THE CHAIR

October 1, 2021:

Under the exceptional leadership of Executive Director and General Counsel Jenny Hodgkins, I am proud to report that the Board of Disciplinary Appeals grew even stronger during these unprecedented times. Deputy Director Matthew Greer has been a tremendous addition to BODA, and the stability provided by Jackie Truitt proved invaluable as staff worked remotely.



I am pleased to submit the Annual Report for Fiscal Year June 1, 2020 through May 31, 2021 to the Supreme Court of Texas and to the State Bar Board of Directors. During the past fiscal year, the Board conducted all conferences and hearings remotely. Our Board of twelve lawyers gathered over conference calls and Zoom to complete the following work:

- Disposed of 1,112 matters
- Decided 37 disciplinary cases resulting in final judgment
- Met en banc four times over Zoom for hearings
- Conducted remote en banc hearings in 18 reciprocal discipline, 8 compulsory discipline, and 3 probation revocation cases, for which the Board sat as a trial court and heard evidence from witnesses
- Heard oral argument remotely in an evidentiary appeal, for which the Board sat as an appellate court
- Utilized Zoom for pretrial conference and to consider motions
- Met en banc 6 times over Zoom for conferences
- Welcomed and trained three new members
- Held 40 telephone panel conferences to render classification appeal decisions in three-member panels
- Reversed the dismissal of 89 grievances, returning them for just cause investigations
- Kept the docket current
- Had all appeals to the Texas Supreme Court affirmed

The members of the Board are committed to being an integral part of our professional disciplinary process and appreciate the Supreme Court appointing us to serve the Bar and its members. We are proud of our diversity, representing all geographic areas of the State of Texas, and various practice areas. And we are proud of what we accomplished during a year that required flexibility and adaptation. We believe our dedication and experience continues to have lasting, positive benefits for the Bar.

A handwritten signature in black ink that reads "David M. González".

David M. González
Chair of the Board of Disciplinary Appeals, 2020–2021



THE BOARD OF DISCIPLINARY APPEALS

APPOINTED BY THE SUPREME COURT OF TEXAS

MEMBERS 2020–2021



Jessica Z. Barger of Houston is a partner in Wright Close & Barger, LLP. She is board certified in civil appellate law by the Texas Board of Legal Specialization. She graduated from South Texas College of Law in 2001, where she was on the law review as the notes and comments editor. In addition to being a Texas Super Lawyer in 2019-2021, Ms. Barger was named one of the Best Lawyers of America for appellate law in 2017–2021 and one of the top 100 female lawyers in appellate law by the Texas Lawyer in 2021. She serves the Houston Bar Association (HBA) as a member of the pro bono committee, a member of the council for HBA appellate section, as chair of the speakers committee for the HBA appellate section, and as chair of the outreach committee. Ms. Barger was appointed in 2019.



Guy Choate is a partner in Webb, Stokes & Sparks, L.L.P. in San Angelo and has been board certified in personal injury law since 1985. He graduated from the University of Houston Law Center, where he was a member of the Order of the Barons Honor Society. Mr. Choate has served on the State Bar of Texas Board of Directors and on its Executive Committee. He received a State Bar of Texas Presidential Citation in 2008 and the John Howie Spirit of Mentorship Award in 2007. He is a sustaining member of the Texas Trial Lawyers Association and served as president during the 2005 legislative session. He is a life fellow of the Texas Bar Foundation, a sustaining member of the American Board of Trial Advocates and served as the president of the Texas American Board of Trial Advocates in 2016. He is a sustaining member of the American Association for Justice and a sustaining member of the Tom Green County Bar Association, having served as president from 1994 to 1995. He has been a Texas Super Lawyer since 2003. Mr. Choate was appointed to the Board in 2019.

MEMBERS 2020–2021



Joseph F. Cleveland, Jr. of Fort Worth is a partner in Brackett & Ellis, P.C. He graduated from Mississippi College School of Law with special distinction. He has practiced in the area of commercial and intellectual property litigation for over 20 years. He is board certified in civil trial law by the Texas Board of Legal Specialization. He is a fellow of the Texas Bar Foundation and a fellow of the Tarrant County Bar Foundation and serves as its chair. Mr. Cleveland served as chair of the trade secrets committee of the Intellectual Property Law Section of the State Bar of Texas and received the Chair's award in 2018 for outstanding service to the Section. He has been named a Texas Super Lawyer since 2005 and recognized as one of the Best Lawyers in America for commercial litigation and intellectual property litigation since 2011. Mr. Cleveland was appointed in 2019.



David M. González, Chair, is a partner in Sumpter & González, L.L.P. in Austin. He is board certified in criminal law and serves as an adjunct professor in the Trial Advocacy Program at the University of Texas School of Law. He also has served as a special prosecutor for Williamson County, Travis County, Kendall County, and Panola County. He is a member of the disciplinary committee of the U.S. District Court for the Western District of Texas and previously served on the District 9 grievance committee of the State Bar of Texas from 2012 to 2015. He is a graduate of Dartmouth College and Stanford Law School. Mr. González was appointed to the Board in 2015 and reappointed in 2018.



Mike Gregory of Denton has been board certified in family law by the Texas Board of Legal Specialization for over 40 years. He is a trained mediator, arbitrator, and collaborative lawyer. Mr. Gregory has been named a Texas Super Lawyer in alternative dispute resolution since 2013 and in family law from 2002 to 2012. He served on the board of trustees of the Collaborative Law Institute of Texas from 2003 until 2007 and was president of the Denton County Collaborative Professionals from 2005 to 2009. He is a sustaining life fellow of the Texas Bar Foundation and a life member of the Texas Family Law Foundation. He served on the State Bar of Texas Board of Directors from 2008 until 2011. He is a past president of the Texas Academy of Family Law Specialists. He is a member of the Dallas County Bar Association and the Denton County Bar Association and served as its president from 1983 to 1984. He received his J.D. and a B.B.A. (finance) from the University of Texas at Austin. He served in the United States Marine Corps as a judge advocate from 1970 to 1974. Mr. Gregory was appointed to the Board in 2018.



Michael C. Gross is a partner in Gross & Esparza, P.L.L.C. in San Antonio. He graduated from Trinity University in 1984 and received his J.D. from St. Mary's University in 1987. He served as a judge advocate in the United States Marine Corps from 1988 to 1992. He is board certified in criminal trial advocacy by the National Board of Trial Advocacy and is board certified in criminal law and criminal appellate law by the Texas Board of Legal Specialization. He was named Defender of the Year by the San Antonio Criminal Defense Lawyers Association in 2008 and again in 2009. He served as president of the San Antonio Criminal Defense Lawyers Association in 2011. He currently serves as an officer with the Texas Criminal Defense Lawyers Association. Mr. Gross was appointed to the Board in 2018 and was reappointed in 2021.



Kelli M. Hinson, Vice Chair, is a partner in the Dallas law firm of Carrington Coleman Sloman & Blumenthal, LLP and serves as the firm's general counsel. She practices in the areas of commercial litigation and professional liability, representing law firms, hospitals, companies, and the professionals who run them. She received a B.B.A., summa cum laude, from McMurry University and a J.D., magna cum laude, from Southern Methodist University Dedman School of Law, where she was a member of the SMU Law Review and Order of the Coif. She was a member of the District 6 Grievance Committee of the State Bar of Texas from 2017 to 2018 and has served as chair of the Dallas Bar Association Legal Ethics Committee. Ms. Hinson was appointed to the Board in 2018 and was reappointed in 2021.

MEMBERS 2020–2021



Rudy K. Metayer of Austin is a civil litigator at Chamberlain McHaney, PLLC. He is the Chair of the African-American Lawyers Section of the State Bar of Texas and a Fellow to the Texas Bar Foundation, in addition to numerous other past and present leadership positions within the legal profession. He has been the recipient of numerous awards recognizing his service to the Bar, the legal profession, and the community, including Texas Young Lawyers Association President’s Award of Merit in 2016, Greater Austin Black Chamber of Commerce Advocate of the Year in 2017, Travis County Recognition of Service Award in 2018, Austin Bar Association Outstanding Young Lawyer in 2019, and the LBJ School of Public Affairs Outstanding Young Alumni “Rising Leader” Award in 2019. He served on the District 9 grievance committee of the State Bar of Texas from 2013 to 2020, during which time he served as a panel chair. In the community, he was elected to the City Council of the City of Pflugerville in 2017 and serves the community through a number of other civic engagements. He received a B.A., M.A., and J.D. from the University of Texas at Austin. Mr. Metayer was appointed to the Board in 2020.



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



William W. (Bill) Ogden is Of Counsel to Kean Miller, L.L.P. in Houston. He has had a trial and appellate practice in Houston since 1977, originally as a partner in a predecessor firm to Locke Lord, then as a founding partner in his own firm, Ogden, Gibson, Broocks & Hall, for 25 years before its merger with Kean Miller. He has been board certified in civil appellate law since 1996 and has been named to Woodward-White’s “Best Lawyers in America” in First Amendment Law since 1991. He has previously served as a Director, District 4, State Bar of Texas (2008-11), and served two terms as a Trustee of the Texas Center for Legal Ethics (2013-19). He is a sustaining life fellow of the Texas Bar Foundation and the Houston Bar Foundation. He has both his undergraduate degree (B.A. in mathematics with highest honors, 1973) and law degree (J.D. with honors, 1977) from the University of Texas at Austin. Mr. Ogden was appointed to the Board in 2020.



Nancy J. Stone practices complex commercial law in Amarillo. She received a B.S. with honors from the University of Texas, a M.S. from the University of Houston, and a J.D. from South Texas College of Law, where she was a member of Phi Delta Phi and the South Texas Law Journal, 1982–1983. She is a member of the Civil Justice Reform Act Advisory Committee. She is a member of the Amarillo and American Bar Associations, Texas Trial Lawyers Association, and The Association of Trial Lawyers of America. Ms. Stone was appointed to the Board in 2018 and was reappointed in 2021.



Cindy V. Tisdale practices family law at the Law Office of Cindy V. Tisdale, PLLC in Granbury and is Of Counsel with Lynch, Chappell & Alsup, P.C. in Midland. She graduated from Baylor University and Baylor University School of Law. She is board certified in family law from the Texas Board of Legal Specialization. Ms. Tisdale is a fellow in the American Academy of Matrimonial Lawyers, a fellow in the International Academy of Matrimonial Lawyers, and a sustaining life member of the Texas Bar Foundation. She has served the Bar in numerous capacities including as Chair of the State Bar of Texas Board of Directors, Chair of the Family Law Section of the State Bar of Texas, Chair of the Texas Bar Foundation, Vice Chair of the Texas Academy of Family Law Specialists, member of the American Board of Trial Advocates, and a member of the Texas Bar College. Ms. Tisdale was appointed to the Board in 2020.

THE BASICS

The Board of Disciplinary Appeals is a tribunal of twelve attorneys appointed by the Supreme Court of Texas to serve up to two three-year terms. Members represent diverse geographic and law practice areas, from solo practitioner to small firm to large firm, practicing in areas including family law, criminal defense, corporate and business litigation, complex commercial litigation, intellectual property, employment law, civil and criminal appellate law, and ethics and malpractice.

Since 2012, the Honorable Debra H. Lehrmann has served as the Supreme Court of Texas liaison to the Board. The Board and BODA staff are grateful to Justice Lehrmann for her guidance and support throughout the years.



*Justice Debra Lehrmann,
BODA Liaison*

The Board operates under the State Bar Act, the Texas Rules of Disciplinary Procedure (TRDP), the Board of Disciplinary Appeals Internal Procedural Rules (IPR), and case law. The Board has both appellate and original jurisdiction. In the last fiscal year, the Board disposed of 1,112 matters, consistently maintaining a current docket. The Board meets en banc quarterly and confers weekly in three-member panels by telephone conference.

The Board is supported by three full-time staff members: an executive director and general counsel, a deputy director and counsel, and an executive assistant. Together, the staff manage the BODA operations and budget, handle the BODA docket and records, advise the Board on legal issues, coordinate hearings and conferences, communicate with litigants and the public, maintain the BODA website and YouTube channel, produce the annual report, and work with related groups in the attorney disciplinary system in Texas and in other states.

BODA maintains a website at txboda.org. In addition to all published BODA opinions, the website provides information about Board members, jurisdiction, operations, and resources to assist litigants. Copies of the BODA annual report beginning in 2005 are available on the website. The current docket is posted, and all recent and archived decisions since 2002 are fully searchable. Videos of en banc hearings and oral arguments are available for most public cases on the BODA website and are posted on BODA's YouTube channel. The Texas Disciplinary Rules of Professional Conduct, Texas Rules of Disciplinary Procedure, and BODA Internal Procedural Rules can be accessed from the BODA website.



BODA STAFF

The BODA staff has extensive experience supporting the Board, appearing before the Board, reviewing the Board’s decisions on appeal, working within the attorney disciplinary system, working within the judicial system, and advising judges deciding contested cases.

Jenny Hodgkins joined BODA as Executive Director and General Counsel in April 2020. With over twenty years in public and private law practice, Ms. Hodgkins brings a wealth of specialized legal and administrative experience to BODA. She served the Supreme Court of Texas for over fifteen years as Staff Attorney to Justice Paul W. Green, where she advised the Court and managed a team that helped write opinions on cutting-edge legal issues. Before that, she served as Staff Attorney for Original Proceedings, handling mandamus and other emergency matters. In her time at the Supreme Court, she worked with twenty-two justices, supervised the drafting of over 185 published opinions, and managed countless appeals—including BODA appeals. Ms. Hodgkins practiced administrative and environmental law in private practice for several years before entering public service. Ms. Hodgkins graduated summa cum laude from Texas Tech School of Law, where she was editor-in-chief of the Texas Tech Law Review and Order of the Coif.

Matt Greer has served as BODA’s Deputy Director and Counsel since June 2020. Mr. Greer brings to BODA significant civil and appellate litigation experience, with extensive experience with the attorney disciplinary system. He is board certified in civil appellate law by the Texas Board of Legal Specialization and previously served as appellate counsel in over 70 disciplinary appeals before the Board, the courts of appeals, and the Supreme Court. His expertise as to the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure, along with his knowledge of appellate practice and procedure, are valuable assets to the Board.

Having worked for BODA since 2000, Executive Assistant Jackie Truitt provides the Board with continuity and a wealth of knowledge about BODA processes and procedures. Ms. Truitt manages the BODA office and is the first point of contact for litigants and the public. She assists with case intake and management, docket control, record management, coordination of classification panels and en banc hearings, and much more.



OPERATIONS DURING COVID-19 PANDEMIC

BODA has remained fully operational during the COVID-19 pandemic. On March 13, 2020, the State Bar of Texas released employees from in-person work at the Texas Law Center, where BODA's offices are located, until further notice. At that time, the BODA staff transitioned to working remotely, while continuing to check and process the BODA mail twice weekly. Throughout the fiscal year, BODA's staff utilized technology to stay connected and ensure that the Board continued to perform its duties and fulfill its responsibilities.

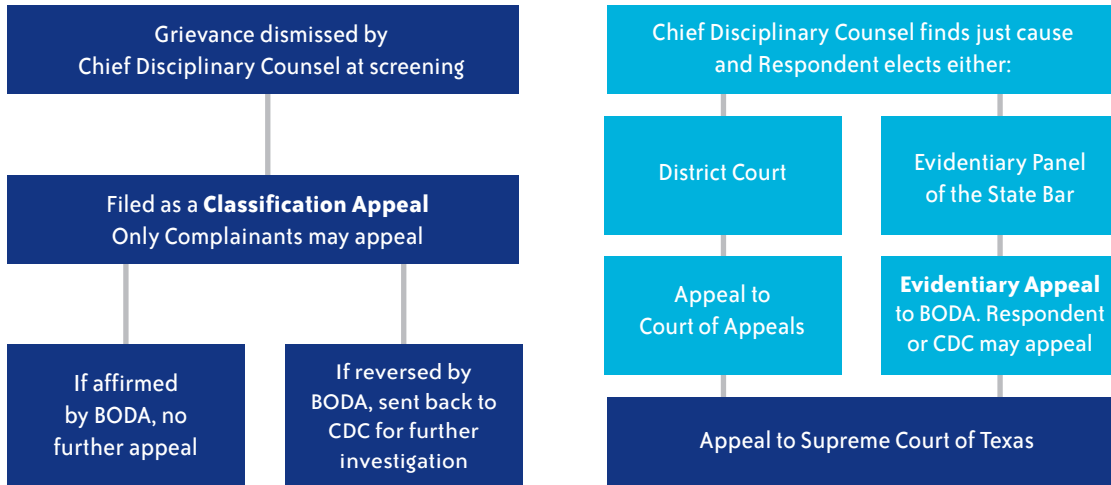
In compliance with the Supreme Court of Texas's emergency orders regarding the COVID-19 state of disaster, BODA developed procedures for remote proceedings, allowing litigants, Board members, and BODA staff to participate through remote connection. With guidance from the Supreme Court and the Office of Court Administration, BODA utilized Zoom as a platform for remote hearings and conferences. BODA staff developed procedures for witness testimony, submission of evidence, livestreaming of hearings, and confidential Board deliberations.

The Board continued its usual schedule of panel telephone conferences to discuss classification appeals. Between March 1, 2020 and the end of the fiscal year (May 31, 2021), the Board considered and disposed of 1,460 classification appeals. The total processing time for classification appeals increased during the initial months of the pandemic, but processing time has since been reduced. During the last fiscal year, the average processing time from BODA's receipt of the grievance file to the issuance of a decision was reduced to 17 days, a significant reduction from pre-pandemic processing times.

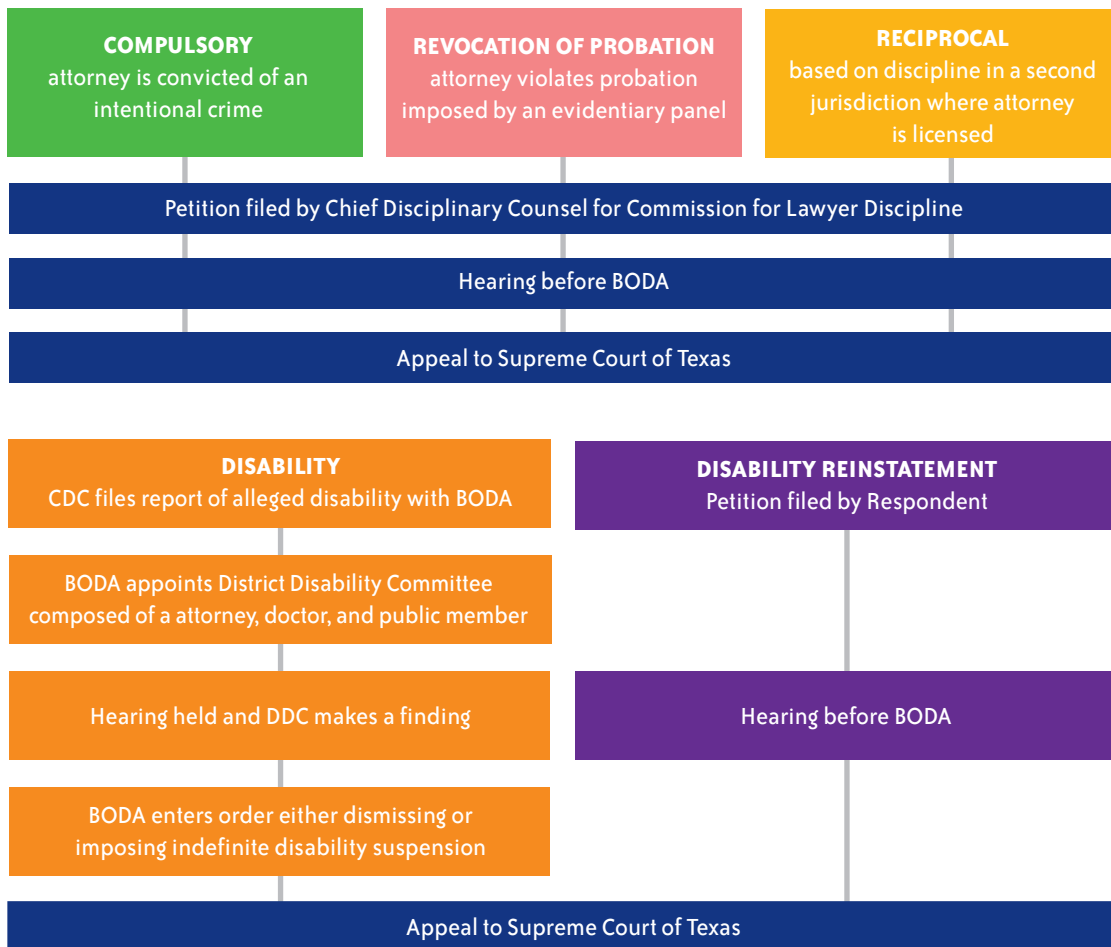
During the fiscal year, the Board conducted four en banc hearings via remote connection through Zoom, hearing 18 reciprocal discipline, 8 compulsory discipline, and 3 probation revocation cases. During hearings in which the Board sat as a trial court, the Board considered and ruled on motions, heard witness testimony, considered exhibits offered by parties, ruled on objections, questioned witnesses and counsel, and utilized breakout rooms to deliberate. During the hearing in which the Board sat as an appellate court, the Board heard oral argument and questioned parties and counsel. In addition to en banc hearings, panels of the Board utilized Zoom to conduct a pretrial conference, consider motions related to an appellant's inability to afford costs for preparation of the reporter's record, and confer as to the disposition of other motions.

BODA appreciates the flexibility and understanding of all who have helped to minimize risks to the health and safety of BODA staff, Board members, litigants, and the public through the last fiscal year. BODA especially thanks Chair David González and Vice-Chair Kelli Hinson, and former Chair Kathy Kinser, for their leadership during a time of change and uncertainty. With their steadfast commitment to serving the Bar and the public, a spirit of adaptability and innovation, and an unparalleled level of professionalism, BODA has been able to continue ensuring that cases are heard and decided in a timely manner, and that the process continues to work despite the challenges of the pandemic. The Board looks forward to a return to in-person proceedings during this upcoming fiscal year, consistent with guidance from the Supreme Court and the Office of Court Administration.

APPELLATE JURISDICTION GRIEVANCES FILED WITH STATE BAR OF TEXAS



ORIGINAL JURISDICTION



JURISDICTION

The Board has jurisdiction to decide six types of disciplinary matters: compulsory discipline cases, reciprocal discipline cases, revocation-of-probation cases, disability and reinstatement cases, appeals from evidentiary judgments, and appeals from classification decisions. TEX. GOV'T CODE §§ 81.072–.0751; TRDP Part VII–IX, XII. “BODA shall have and exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings.” *In re State Bar of Tex.*, 113 S.W.3d 730, 734 (Tex. 2003) (citing BODA IPR § 1.02). With the exception of appeals from classification screening decisions, which are final, the Board’s decisions are appealable directly to the Supreme Court of Texas. TEX. GOV'T CODE § 81.0751(a)(2); TRDP 7.11. The Board may render judgment in any disciplinary matter with or without written opinion. BODA IPR § 1.11.

ORIGINAL JURISDICTION

COMPULSORY DISCIPLINE (TRDP PART VIII; BODA IPR PART VI)

The Board has exclusive original jurisdiction to hear petitions for compulsory discipline filed by the State Bar of Texas Chief Disciplinary Counsel (CDC) on behalf of the Commission for Lawyer Discipline when an attorney has been convicted of, or placed on deferred adjudication for, an “Intentional Crime” as defined in TRDP § 1.06(V)—that is, any “Serious Crime” that requires proof of knowledge or intent as an essential element or any crime involving misapplication of money or other property held as a fiduciary. “Serious Crime,” as defined in TRDP § 1.06(GG), includes barratry; any felony involving moral turpitude; any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other property; or any attempt, conspiracy, or solicitation of another to commit any of these. Compulsory discipline results in either suspension of the attorney’s license for the term of the criminal sentence or disbarment.

If an attorney convicted of an Intentional Crime has been sentenced to prison, the Board must disbar the attorney. If the attorney’s criminal sentence is fully probated or the attorney has been placed on deferred adjudication, the Board has discretion to either disbar the attorney or suspend for the term of the criminal probation. If an attorney convicted of an Intentional Crime has appealed the conviction and the appeal is pending at the time the CDC files the compulsory discipline action, the Board will place the attorney on interlocutory suspension pending the outcome of the appeal; the Board then retains jurisdiction to enter final judgment when the appeal of the conviction becomes final.

RECIPROCAL DISCIPLINE (TRDP PART IX; BODA IPR PART VII)

The Board has exclusive original jurisdiction to hear petitions for reciprocal discipline filed by the CDC on behalf of the Commission for Lawyer Discipline. Texas attorneys who are licensed in another jurisdiction are subject to identical discipline, to the extent practicable, in Texas following a disciplinary sanction in that other jurisdiction.

REVOCAION OF PROBATION (TRDP PART II; BODA IPR PART V)

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

DISABILITY AND REINSTATEMENT (TRDP PART XII; BODA IPR PART VIII–IX)

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

APPELLATE JURISDICTION

APPEAL FROM AN EVIDENTIARY JUDGMENT (TRDP PART II; BODA IPR PART IV)

The Board has appellate jurisdiction to review a judgment by a State Bar of Texas district grievance committee evidentiary panel. Either the Commission for Lawyer Discipline or an attorney against whom discipline has been imposed may appeal the judgment from an evidentiary proceeding, challenging dismissal of a complaint, findings of professional misconduct, or sanction imposed. Appeals to the Board from evidentiary judgments proceed similarly to civil appeals with a notice of appeal, record, briefs, and oral argument. The Board reviews evidentiary questions under a substantial-evidence standard, reviews questions of law de novo, and reviews sanctions for abuse of discretion. Evidentiary appeals are decided en banc, and the Board may decide an evidentiary appeal with or without oral argument. The Board may affirm in whole or in part, modify the judgment and affirm as modified, reverse the judgment in whole or in part and render the judgment it determines should have been entered, or reverse the judgment and remand the complaint for a new hearing.

CLASSIFICATION APPEALS (TRDP PART II; BODA IPR PART III)

The CDC screens every writing received that alleges professional misconduct by an attorney. The CDC analyzes grievances to determine whether the writing describes conduct which, if true, constitutes professional misconduct cognizable under the Texas Disciplinary Rules of Professional Conduct (TDRPC). If the CDC determines that the writing does not allege misconduct or is otherwise not actionable and dismisses the grievance, the complainant can appeal that decision to the Board.

BODA provides a one-page form in English and Spanish that the CDC includes with the notice letter to complainants when grievances are dismissed. To appeal the dismissal, the complainant need only sign the form and send it to BODA by email, regular mail, or fax within 30 days of receipt of the notice. BODA then notifies the complainant and the respondent attorney that an appeal was filed and requests a copy of the original grievance from the CDC. The CDC transmits the grievance to BODA, and in the event of an amended grievance, the CDC also sends the original grievance. The Board considers only the information sent to the CDC before screening. If a complainant sends new information to BODA, the documents must be returned to the complainant, and the complainant is informed that the Board cannot consider them.

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

Once BODA receives the grievance from the CDC, on average 20 days after the request, the grievance is assigned to a three-member panel for decision. The panel and at least one of BODA's staff attorneys discuss the grievance by telephone conference, on average 17 days after the grievance is received from the CDC. Panel members vote to either affirm or reverse the dismissal of the grievance, and the Board will take action in accordance with the majority vote. Reversal requires a finding that the grievance alleges at least one violation of a specific rule under the TDRPC, and results in the upgrade of a grievance to a complaint. Any panel member may refer a grievance to the entire Board for en banc consideration.

Once the Board has decided a classification appeal, BODA notifies the complainant, the respondent attorney, and the CDC of the decision. If the Board reverses the dismissal, the notice includes the specific TDRPC rule(s) alleged to have been violated, and the complaint is returned to the CDC for investigation as to just cause. If the Board affirms the dismissal, the notice states that the decision is final and not appealable. After the notice is sent, the appeal is complete and BODA closes its file. The Board does not make public its disposition of any grievance, and its deliberations are confidential.

During Fiscal Year 2020–2021, the Board reversed 8.3 percent of the classification appeals.

DISPOSITIONS

JUNE 1, 2020 THROUGH MAY 31, 2021

COMPULSORY DISCIPLINE

During the last fiscal year, the Board decided or disposed of the following eight petitions for compulsory discipline and motions for entry of final judgment in compulsory cases. Additional case details are available on BODA's website at txboda.org.

Perry Cortese, 00790508, was convicted of Conspiracy to Commit Mail and Wire Fraud and Conspiracy to Commit Money Laundering. He was sentenced to 300 months of incarceration, followed by 36 months of supervised release. Mr. Cortese appealed the judgments. They were affirmed and are final. He is disbarred. Case No. 59813.

Vincent P. Dhooghe, 05798950, pled guilty to Sexual Assault of a Child. He was sentenced to four years in prison. The judgment is final. He is disbarred. Case No. 65008.

W. Thomas Finley, 07025500, pled guilty to Theft of Property \geq \$200,000. In an order of deferred adjudication, Mr. Finley was placed on community supervision for a term of ten years. The order is final. He is disbarred. Case No. 63670.

Paul Houston Lavalley, 11998625, was convicted of Tampering with or Fabricating Physical Evidence and was sentenced to five years in prison, with the sentence of confinement suspended. He appealed his criminal conviction. BODA entered an Interlocutory Order of Suspension suspending Mr. Lavalley from the practice of law pending his appeal. BODA retains jurisdiction to enter a final judgment if the criminal conviction become final. Mr. Lavalley appealed the Interlocutory Order of Suspension to the Supreme Court of Texas in Case No. 21-0457. The appeal is pending. Case No. 64480.

Jack Stephen Pursley, 24046667, was convicted of Conspiracy to Defraud the United States and Tax Evasion, and was sentenced to two years of confinement, followed by two years of supervised release. He appealed his criminal convictions. By agreement, BODA entered an Interlocutory Order of Suspension suspending Mr. Pursley from the practice of law pending his appeal. BODA retains jurisdiction to enter a final judgment if the criminal convictions become final. Case No. 64921.

Ramon Gerardo Rios, 24062966, pled guilty to Misapplication of Fiduciary Property. In an order of deferred adjudication, Mr. Rios was placed on community supervision for a period of ten years. The order is final. Mr. Rios is suspended from the practice of law until September 22, 2027. Case No. 64719.

Marc Maraman Tittlebaum, 24028044, pled guilty to Theft of Property. In an order of deferred adjudication, Mr. Tittlebaum was placed on community supervision for one year. The order is final. During the pendency of this compulsory discipline action, Mr. Tittlebaum resigned in lieu of discipline. Case No. 64482.

Guillermo Vega, 20533700, pled guilty to Failure to file a Report of Cash Payments over \$10,000 Received in a Trade or Business. He was sentenced to thirteen months of confinement, followed by three years of supervised release. The judgment is final. Mr. Vega passed away during the pendency of this compulsory discipline action, and the matter was dismissed without prejudice. Case No. 64481.

RECIPROCAL DISCIPLINE

During the last fiscal year, the Board decided the following eighteen petitions for reciprocal discipline. Additional case details are available on BODA's website at txboda.org.

ARIZONA:

Shasta Marie Nolte, 24071455, by agreement, was placed on probation by order of the Supreme Court of the State of Arizona for two years. She was found in violation of Arizona Rules of Professional Conduct, Ethics Rules (ER) 1.2 (scope of representation and allocation of authority between client and lawyer), ER 1.3 (diligence), ER 1.4 (communication), ER 1.5(b) (fees), ER 3.1 (meritorious claims and contentions), ER 5.1 (law firms and associations), and ER 8.4(d) (misconduct). By agreement, Ms. Nolte is suspended from the practice of law in Texas for two years, fully probated. Case No. 65078.

COLORADO:

Robert Phillip Odle, 00793172, by agreement, was suspended from the practice of law by order of the Supreme Court, State of Colorado for six months, followed by a three-year probation. In two separate disciplinary matters, he was found in violation of Colorado Rules of Professional Conduct 1.7(a) (conflict of interest), 8.4(a) and 1.8(j) (attempted sexual relationship with client), 1.15A(a) (commingling of client funds), 1.3 (diligence), 1.4(a)(4) (communication), and 1.4(b) (communication). By agreement, Mr. Odle is suspended from the practice of law in Texas for six months followed by a three-year, fully probated suspension. Case Nos. 65165, 65166.

Gwendolyn Jean Shotwell, 18304210, by agreement, was placed on probation by order of the Supreme Court, State of Colorado for one year. She was found in violation of Colorado Rule of Professional Conduct 8.4(b) (criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer). By agreement, Ms. Shotwell is suspended from the practice of law in Texas for one year, fully probated. Case No. 64557.

David Robert Steinman, 00791727, was suspended from the practice of law by order of the Supreme Court, State of Colorado for six months, with three months to be served and three months to be stayed upon completion of a one-year probation. He was found in violation of Colorado Rule of Professional Conduct 8.4(c) (dishonesty). By agreement, Mr. Steinman is suspended from the practice of law in Texas for three months, followed by a one-year probated suspension. Case No. 65234.

FLORIDA:

David Andrew Jaynes, 10595790, was disbarred by order of the Supreme Court of Florida. He was found in violation of Rule Regulating the Florida Bar 3-5.1(h) (compliance with terms of suspension). Although duly cited and noticed, Mr. Jaynes failed to appear. He is disbarred. Case No. 64476.

Ilya Torchinsky, 24095196, filed a Petition for Disciplinary Revocation in the Supreme Court of Florida, in which he voluntarily relinquished his law license while requesting leave to apply for reinstatement after five years. The court granted the petition, which is tantamount to disbarment. Following the commencement of reciprocal disciplinary proceedings in Texas, Mr. Torchinsky resigned in lieu of discipline. Case No. 64475.

LOUISIANA:

A Louisiana Attorney, by agreement, accepted a private admonition by the Louisiana Attorney Disciplinary Board. The attorney was admonished for a violation of Louisiana Rule of Professional Conduct 7.7(c) (failure to file an advertisement with the Louisiana State Bar Association). By agreement, the attorney was subject to a private reprimand in Texas. Case No. 64920.

Dina Fae Domangue, 24049570, was issued a public reprimand by the Louisiana Attorney Disciplinary Board. She was found in violation of Louisiana Rules of Professional Conduct 1.3 (diligence), 1.4(a) (communication), 1.16(d) (termination of representation; return of papers and property; return of unearned fee); 8.1(c) (failure to cooperate with Office of Disciplinary Counsel investigation); and 8.4(a) (misconduct). By agreement, Ms. Domangue was subject to a public reprimand in Texas. Case No. 65486.

Alex James Washington, Jr., 24107554, by agreement, accepted a suspension of his law license for one year and one day with the suspension deferred in its entirety, subject to his successful completion of a two-year probation. He was found in violation of Louisiana Rules of Professional Conduct 1.15(a) and (f) (mishandling of client trust account) and 5.3 (failure to supervise non-lawyer employee). By agreement, Mr. Washington is suspended from the practice of law in Texas for two years, fully probated. Case No. 64776.

NEVADA:

Leila Louise Hale, 24088781, by agreement, accepted a public reprimand by the State Bar of Nevada, Southern Nevada Disciplinary Board. She was reprimanded for violations of Nevada Rules of Professional Conduct 1.5 (unreasonable fee) and 5.3 (responsibilities regarding non-lawyer assistant). By agreement, Ms. Hale was subject to a public reprimand in Texas. Case No. 65263.

NEW MEXICO:

Jose Marcos Perales Pina, 24091472, was permanently disbarred by order of the Supreme Court of the State of New Mexico. He was found in contempt for his failure to comply with a prior order of suspension in violation of New Mexico Rule of Professional Conduct 17-212 (governing resigned, disbarred, or suspended attorneys). Following the commencement of reciprocal disciplinary proceedings in Texas, Mr. Perales Pina resigned in lieu of discipline. Case No. 64720.

OKLAHOMA:

Alexander Louis Bednar, 24044456, was disbarred by order of the Supreme Court of the State of Oklahoma. He was found in violation of Oklahoma Rules of Professional Conduct 1.1 (competence), 1.3 (diligence), 3.1 (frivolous action), 3.2 (unreasonable delay), 3.3 (dishonesty toward tribunal), 3.4 (discovery abuse), 4.2 (communication with parties represented by counsel), 4.4(a) (embarrass, delay, or burden a third person), 8.1(b) (failure to respond in a disciplinary matter), 8.2(a) (false or reckless statements regarding the qualifications or integrity of a judge), and 8.4(c, d) (conduct involving dishonesty, fraud, deceit, or misrepresentation and conduct prejudicial to the administration of justice). He is disbarred. Mr. Bednar appealed the Board's Judgment of Disbarment to the Supreme Court of Texas. The Court affirmed BODA's judgment. Supreme Court Case No. 21-0163; BODA Case No. 62368.

Lon Darley, 05384850, filed an Application for Order Approving Resignation Pending Disciplinary Proceedings with the Supreme Court of the State of Oklahoma. The court granted the application. Although duly cited and noticed, Mr. Darley failed to appear. He is disbarred. Case No. 64476.

TENNESSEE:

William A. Cohn, 04512980, was publicly censured by order of the Supreme Court of Tennessee. He was found in violation of Tennessee Rules of Professional Conduct 1.15(c) (safekeeping property and funds) and 8.4(a) (misconduct). By agreement, Mr. Cohn was subject to a public reprimand in Texas. Case No. 64478.

Cassidy Ann Teater, 24080044, was prohibited from the practice law by order of the Supreme Court of Tennessee, which noted that the order was tantamount to disbarment. She was found in violation of Tennessee Rules of Professional Conduct 1.1 (competence), 1.3 (diligence), 1.4(a) (communication), 1.5 (fees), 1.16(d) (termination of representation), 3.2 (expediting litigation), and 8.4(a) (misconduct). Although duly cited and noticed, Ms. Teater failed to appear. She is disbarred. Case No. 64721.

A Tennessee Attorney, was issued a private reprimand by the Supreme Court of Tennessee due to the attorney's violation of Tennessee Rule of Professional Conduct 5.5(a) (unauthorized practice of law). By agreement, the attorney was subject to a private reprimand in Texas. Case No. 64949.

VIRGINIA:

Traci Leigh Bransford, 02897520, by agreement was suspended from the practice of law for thirty days by the Circuit Court for the City of Chesapeake. She was found in violation of Virginia Rules of Professional Conduct 1.3(a) (diligence), 1.4(a) (communication), 1.15(a)(1) (safekeeping of client funds), 1.15(b)(5) (disbursement of client funds), 1.16(a) (failure to terminate or decline representation), 7.1 (false or misleading communication about the lawyer or the lawyer's services), and 8.4 (conduct that reflects adversely on the lawyer's honesty, trustworthiness, or fitness to practice law). By agreement, Ms. Bransford was suspended from the practice of law in Texas for thirty days. Case No. 64637.

REVOCAION OF PROBATION

During the last fiscal year, the Board decided the following three petitions for revocation of probation. Additional case details are available on BODA's website at txboda.org.

Gaylyn Leon Cooper, 04774700, by agreement, was suspended from the practice of law for four years, ending January 28, 2025, after he materially violated the terms and conditions of a judgment of fully probated suspension. Case No. 65079.

Ward B.B. Davison, 24066787, was suspended from the practice of law for twelve months, ending November 19, 2021, after he materially violated the terms and conditions of a judgment of partially probated suspension. Case No. 64755.

Kirby Jerome Portley, 24085865, by agreement, was suspended from the practice of law for 36 months, ending July 30, 2023, after he materially violated the terms and conditions of a judgment of partially probated suspension. Case No. 64516.

DISABILITY AND REINSTATEMENT

During the last fiscal year, the Board decided no petitions for disability suspension. Case details regarding previous disability cases are available on BODA's website at txboda.org.

EVIDENTIARY APPEALS

During the last fiscal year, the Board decided or disposed of the following eight evidentiary appeals. Additional case details are available on BODA's website at txboda.org.

Arturo A. Guzman, 08654525. Granted the parties' Agreed Motion to Dismiss an appeal from a default judgment of disbarment entered by the District 15-2 Grievance Committee after the committee granted Respondent's Motion for New Trial. Case No. 64407.

Jeffrey Thompson Jones, 00794048. Dismissed appeals from two judgments of partially probated suspension entered by the District 13-2 Grievance Committee after the committee granted Respondent's Motions for New Trial. Case Nos. 63824, 63825.

Robert Aaron Markle, 24098037. Dismissed for want of prosecution appeals from four default judgments signed by the District 3-2 grievance committee. The grievance committee imposed three four-year partially probated suspensions, with two years of active suspension, and one four-year active suspension. Mr. Markle appealed BODA's order dismissing for want of prosecution to the Supreme Court of Texas in case no. 20-0498. The Court dismissed the appeal for want of prosecution. Case Nos. 63671, 63672, 63673, 63674.

A Texas Attorney, Affirmed in part and reversed in part a judgment of a twelve-month, fully probated suspension entered by the District 17-2 Grievance Committee. BODA reversed the Grievance Committee's judgment as to the alleged violations of TDRPC 1.03(a) and (b) (communication) but affirmed the Grievance Committee's judgment finding a violation of TDRPC 8.04(a)(8) (failure to timely respond to grievance). BODA rendered judgment on the violation of TDRPC 8.04(a)(8) and entered a judgment of private reprimand. Case No. 64263.

CLASSIFICATION APPEALS

During the last fiscal year, the Board decided 1,075 appeals reviewing grievance classification decisions. Of those, the Board reversed 89, upgrading those grievances to complaints and returning them to the CDC for investigation as to just cause.

APPEALS TO SUPREME COURT OF TEXAS

All decisions by the Board, other than classification appeals, may be appealed to the Supreme Court of Texas. Unlike an ordinary appeal to the Supreme Court, appeals from the Board's judgments are not subject to discretionary review, but instead are taken as a matter of right. Each appeal is adjudicated by the Court on the merits. From June 1, 2020 through May 31, 2021, two appeals were filed with the Court from the Board's judgments, with those appeals challenging the Board's decisions in a total of five cases. One appeal remained pending from the prior fiscal year. The Court has affirmed the judgment in two of the three pending appeals and dismissed the other pending appeal for want of prosecution.

STATISTICS

JUNE 1, 2020 THROUGH MAY 31, 2021

ALL CASES FILED AND DECIDED

	Filed	Decided
Appeal of a dismissed grievance	1,071	1,075
Appeal of an evidentiary panel judgment	2	8
Compulsory discipline	7	8
Reciprocal discipline	20	18
Revocation of probation	3	3
Disability	0	0
Total cases	1,103	1,112

HEARINGS AND CONFERENCES

En banc conferences	6
En banc hearings	4
Weekly panel telephone conferences	40
Average panel docket	28

APPEALS TO SUPREME COURT OF TEXAS

Decisions appealed to Supreme Court during FY 20-21	5
Appeals pending before Supreme Court from FY19-20	1
Cases decided by Supreme Court as of Sept. 10, 2020	6
Appeals from FY20-21 still pending	0
Affirmance rate by Supreme Court	100%

APPEAL OF DISMISSED GRIEVANCES (CLASSIFICATION APPEALS)

Grievances screened by CDC*	7,007
Upgraded for investigation by CDC*	1,946
Dismissed by CDC*	4,870
Appeals from dismissal	1,071/4,870 (21% of cases dismissed)
Dismissal reversed by the Board	89/1,071 (8.3% of classification appeals)

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

CLASSIFICATION APPEAL TIMELINE

Average time to receive file from CDC	20 days
Average time to decide appeal after file received	17 days
Average total time from filing to decision	37 days

CLASSIFICATION APPEAL REVERSALS: RULES CITED BY THE BOARD

Most Common TDRPC Violations Alleged	Reversals
1.03 Communication	39
1.01 Competent and Diligent Representation	24
1.14 Safekeeping Property	18
1.15(d) Return of File or Unearned Fee	12

CLASSIFICATION APPEAL REVERSALS: RULES CITED BY THE BOARD

# Violations Cited	Reversals
1	40
2	44
3	5
	89 Total

CLASSIFICATION APPEALS: BOARD REFERRALS

Referred to	No.
Client-Attorney Assistance Program	3
Commission on Judicial Conduct	1
Unauthorized Practice of Law Committee	2
Board of Law Examiners	1

THE BOARD OF DISCIPLINARY APPEALS

APPOINTED BY THE SUPREME COURT OF TEXAS

MEMBERS 1992–2021

S. Jack Balagia, Houston*	2000-2005	Mary Alice McLarty, Dallas	1992-1994
Robert A. Black, Beaumont *	2013-2019	Rudolph K. “Rudy” Metayer, Austin	2020-
Faye M. Bracey, San Antonio	1992-1995;	Mike Mills, McAllen	2015-2021
	1999-2003	William “Bill” Ogden, Houston	2020-
Alice A. Brown, Houston	2006-2012	Evelina Ortega, El Paso	1994-1997
Kathy Owen Brown, Dallas **	2000-2006;	Clement H. Osimetha, Dallas	2002-2008
	2008-2014	Thomas E. Pitts, Lubbock * **	2003-2009
David A. Chaumette, Sugar Land	2008-2014	Carol E. Prater, Temple	2003-2009
Paul D. Clote, Houston * **	2002-2008	Deborah Pullum, Tyler	2014-2020
Jeanne C. “Cezy” Collins, El Paso	2013-2019	Deborah J. Race, Tyler	2007-2013
Frank Costilla, Brownsville	1995-2001	William J. Rice, Houston	1992-1993
Jack R. Crews, Temple †	2009-2015	Eduardo Roberto Rodríguez, Brownsville	
Yolanda de León, Harlingen	2002-2008		1992-1995
Josephine V. Dye, Dallas	1996-2002	Ben Selman, Waco *	1995-2001;
Ramon Luis Echevarria II, Houston	2012-2018		2006-2012
Robert Flowers, Austin †	2001-2007	Stanley M. Serwatka, El Paso **	1997-2003
Susan Saab Fortney, Lubbock	1995-1999	JoAl Cannon Sheridan, Austin * **	2008-2014
James S. Frost, Seguin * **	1994-1997;	Charles L. Smith, San Antonio	2006-2012
	2000-2006	Nancy J. Stone, Amarillo	2018-
Alexander J. Gonzales, Austin	1994-2000	George A. Taylor, San Antonio	2012-2018
David M. González, Austin * **	2015-2021	Cindy V. Tisdale, Granbury	2020-
Jose I. Gonzalez-Falla, Austin **	2003-2009	Bill Turner, Bryan	1996-2002
William D. Greenhill, Fort Worth	2001-2007	Karen L. Watkins, Austin *	2001-2007
Mike Gregory, Denton	2018-2021	Steven J. Watkins, Houston *	1992-2000
Michael C. Gross, San Antonio	2018-	Thomas H. Watkins, Austin *	1992-1994,
Gary R. Gurwitz, McAllen	2009-2015		2001
Kelli M. Hinson, Dallas **	2018-	J. Michael Watson, Houston	1996-2002
Wendy Adele Humphrey, Lubbock	2015-2018	Cheryl B. Wattle, Dallas	1992-1995
Rhonda F. Hunter, Dallas	1993-1996	Carol Herring Weir, San Antonio †	1995-2001
Tim James, Nacogdoches	1993-1996	Thomas David Wells III, Paris †	1992-1993
Roland K. Johnson, Fort Worth	2013-2019	Robert J. Werner, Austin	1994-2000
Marvin W. Jones, Amarillo * **	2009-2015	Gaines West, College Station * **	1992-1996;
John E. Kinney, Austin	1992		1997-2003
Kathy Kinser, Dallas *	2014-2020	Thomas J. Williams, Fort Worth	2007-2013
David N. Kitner, Dallas * **	2012-2018		
W. Clark Lea, Midland *	2007-2013		
Ann Crawford McClure, El Paso	1992		
John J. “Mike” McKetta III, Austin	2014-2020		

* Chair ** Vice Chair † Deceased

