

No. 54174



**Before the Board of Disciplinary Appeals**  
**Appointed by**  
**The Supreme Court of Texas**

CARY WILLIAM SCHULMAN,  
APPELLANT,

V.

COMMISSION FOR LAWYER DISCIPLINE,  
APPELLEE

*On Appeal from the Evidentiary Panel  
For the State Bar of Texas District 6-1  
No. D0071246131*

**MOTION FOR EN BANC RECONSIDERATION OF  
EMERGENCY MOTION TO STAY SUSPENSION PENDING REVIEW OF  
EVIDENTIARY PANEL'S DENIAL OF MOTION TO STAY PENDING APPEAL**

**TO THE HONORABLE BOARD OF DISCIPLINARY APPEALS:**

**I.**

On June 6, 2014, Appellate and Movant herein, filed a Motion seeking to review the Evidentiary Panel's, out of the ordinary, denial of movant's Motion to Stay Suspension Pending Appeal. The Motion contains substantial support evidencing that the Evidentiary Panel erred in denying the stay of the suspension

pending appeal. Contemporaneously, movant filed an emergency stay of the suspension merely to provide this Board an opportunity to hear the motion.

Movant incorporates his Emergency Motion for a Temporary Stay and Movant's Sworn Motion for Review of Evidentiary Panel's Denial of Motion to Stay Suspension Pending Appeal as if fully set forth herein verbatim.

Obviously, if a temporary stay is not entered, the relief in the motion to review the evidentiary panel's denial of a stay pending appeal becomes ineffectual as movant is required to take swift and irreversible actions if the suspension is not stayed. It would be impracticable and nearly impossible to then go back to the courts and clients — should this Board reverse the evidentiary panel's denial of the stay pending appeal — and reclaim the position in the case. It is unfair to the clients, to movant, and to the legal profession. Of course, stays pending appeals are frequently granted and favored, especially as when here, the movant provided uncontroverted evidence meeting his burden to establish that he is not a threat to the public or his clients.

On June 10, 2014, the Chair Presiding denied the emergency motion to stay the suspension pending the Board review and decision on the morion to review the evidentiary panel's denial of the stay pending appeal. Again, this negates movant's request for relief; the stay pending the appeal to this Board. The Motion for Review and the emergency motion for stay detail how the hearing on the motion for stay was twice delayed after an initial attempted denial of an opportunity for movant to even have his motion heard. Neither the

Evidentiary Panel nor the Commission acted with any urgency in hearing the stay motion and a short extension of the temporary stays which were entered multiple time in order to hear the motion for stay is proper in order to preserve the relief being requested in the motion to have this Board review the decision of the evidentiary panel.

Considering that the Chief Disciplinary Counsel breached confidentiality in this matter — which is admitted to on the record and undisputed — and in the interests of fairness and justice in allowing movant an opportunity to present his Motion to Review the Denial of the Stay Pending Appeal, a temporary stay should be entered. This is no legitimate basis not to grant movant this opportunity, in law or equity. No harm will occur in granting the temporary stay as months of delays have already occurred not at the hands of movant. There is no compelling reason not to grant such a stay, as the CDC never sought an interim suspension pending the grievance and presented no evidence and did not refute movant's evidence the slightest. Movant has ordered the transcript of the hearing and the clerk's record, however, again, if a temporary stay is not entered, then the relief sought is negated and will be useless. By that time, movant will have already been required to notify all courts and clients of the suspension.

## II.

### CONCLUSION/PRAYER

WHEREFORE, PREMISES CONSIDERED, movant prays for an En Banc reconsideration of the emergency motion to stay the suspension pending this Board's opportunity to review the motion to review the denial of the stay pending appeal and prays that the Board issue a emergency stay, and further grant Movant's Motion for Review of the Denial of the Stay Pending Appeal and for any and all further relief to which Movant is justly entitled.

Respectfully Submitted,

**SCHULMAN | MATHIAS, PLLC**

/s/ Cary Schulman  
Cary W. Schulman  
Bar No. 00797390  
8390 LBJ Freeway,  
Suite 500 Dallas, Texas 75243  
Phone: (214) 739-0100  
Fax: (214) 739-0151  
Email: [Cary@CWSlegal.com](mailto:Cary@CWSlegal.com)  
RESPONDENT PRO SE

### **Certificate of Service**

This is to certify that the above instrument has been served on the Chief Disciplinary Counsel by facsimile and email on this 10th day of June, 2014.

\s\ Cary Schulman  
Cary W. Schulman  
Attorney Pro Se

### **Certificate of Conference**

On June 6, 2014, I called and spoke with Tana VanHamme, counsel for the CDC who was unable to make a decision on the motions for stay and the motion for review and stated she would get back with me shortly. However, she has yet to call me back. Further, I emailed/faxed appellate counsel for the CDC, a request to discuss these matters, however, I have yet to receive a return telephone call to discuss the motions. I therefore present this motion seeking reconsideration relaying that it is apparently the CDC's position that they are opposed.

\s\ Cary Schulman  
Cary W. Schulman  
Attorney Pro Se