



FILED  
Feb 06 2026

THE BOARD of DISCIPLINARY APPEALS  
Appointed by the Supreme Court of Texas

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

**IN THE MATTER OF  
THELMA M. ANDERSON,  
STATE BAR CARD NO. 24091728**

**CAUSE NO. 71154**

**RESPONDENT'S MOTION TO ABATE AND HOLD PROCEEDINGS IN ABEYANCE  
FOR LACK OF PERSONAL JURISDICTION, DEFECTIVE SERVICE, AND  
CONSTITUTIONAL DUE PROCESS VIOLATIONS**

COMES NOW Respondent files this Motion to Abate and Hold Proceedings in Abeyance pursuant to BODA Internal Procedural Rule 1.09 and respectfully shows:

This Motion is filed as a special appearance only. Respondent expressly preserves all objections to personal jurisdiction, service, constitutional due process, and ultra vires governmental action. Nothing herein constitutes waiver.

**I. SUMMARY THE BOARD LACKS PERSONAL JURISDICTION**

The Board cannot lawfully proceed because the initiating pleading was never served in compliance with BODA service rules or the Texas Rules of Civil Procedure, and jurisdiction therefore never attached. Disciplinary Counsel has admitted in writing that attempts to serve the Original Petition were unsuccessful. No TRCP-compliant return of service exists, and the absence of lawful service cannot be cured through amended pleadings, actual notice, or participation under objection.

Texas law is clear that personal jurisdiction is dependent upon proper service. Without lawful service of the initiating petition, any subsequent proceeding is jurisdictionally defective and constitutionally infirm.

**II. GOVERNING LAW**

**A. BODA RULES**

**Rule 1.06 — Mandatory Service of Petition**

BODA Rule 1.06 requires lawful service of the initiating petition through personal service, certified mail return receipt requested, or a method authorized under the Texas Rules of Civil Procedure reasonably calculated to provide notice. This rule requires completed service capable of proof. Attempted service does not satisfy the rule.

**Rule 1.07 — Hearing Timing**

Rule 1.07 requires that a hearing may not occur until at least 30 days after service of the petition. Where service never occurred, the hearing clock never begins.

**Rule 1.09 — Motion Relief Authority**

Rule 1.09 authorizes Respondent to seek relief where jurisdictional or procedural defects prevent lawful continuation of proceedings.

## **B. TEXAS RULES OF CIVIL PROCEDURE**

### **TRCP Rule 106 — Service Methods**

Rule 106 requires completed service through authorized methods. Failed attempts do not constitute service and cannot confer jurisdiction.

### **TRCP Rule 107 — Proof of Service**

Rule 107 requires a verified return establishing who served, how service occurred, and when service was completed. If service fails, the return must document diligence and failure. No such return exists in this case.

## **III. CONTROLLING TEXAS SUPREME COURT LAW SERVICE IS JURISDICTIONAL**

Texas Supreme Court precedent requires strict compliance with service rules.

In *Wilson v. Dunn*, 800 S.W.2d 833 (Tex. 1990), the Court held that actual notice does not substitute for proper service. Jurisdiction depends upon citation issued and served in the manner required by law.

In *Uvalde Country Club v. Martin Linen Supply Co.*, 690 S.W.2d 884 (Tex. 1985), the Court held that failure to affirmatively demonstrate strict compliance with service rules renders service invalid.

In *Primate Construction, Inc. v. Silver*, 884 S.W.2d 151 (Tex. 1994), the Court reaffirmed that strict compliance is mandatory, and jurisdiction cannot be supported by defective service. These cases establish that jurisdiction cannot be presumed, implied, or created by later conduct.

## **IV. DISCIPLINARY COUNSEL ADMITTED SERVICE NEVER OCCURRED**

From September 2025 through December 2025, Respondent repeatedly placed Disciplinary Counsel and the Board on written notice that service of the Original Petition had not occurred and repeatedly demanded proof of service.

- A. On **September 4, 2025**, Respondent notified Disciplinary Counsel that the underlying criminal case was on appeal and requested abatement, placing Disciplinary Counsel on notice of jurisdictional and due process issues.
- B. On **September 6, 2025**, Respondent issued a formal Notice of Non-Service disputing alleged service and requesting investigation into who submitted any alleged return of service, where service allegedly occurred, and who allegedly accepted service.
- C. Respondent continued to demand proof of service on **September 19, 2025**, and **September 25, 2025**, receiving no proof of service.
- D. Respondent again demanded proof of service on **December 4, 2025**, and clarified on **December 5, 2025**, that Respondent had not confirmed service of any petition and continued to demand proof of service of the Original Petition.
- E. Respondent demanded proof of citation and service details on **December 11, 2025**, and followed up again on **December 12, 2025**.

F. Respondent again demanded proof of service of the Original Petition on **December 15, 2025**, and **December 16, 2025**, expressly stating that proceedings cannot lawfully continue on an unserved petition.

**G. Exhibits attached**

Despite these repeated written demands over a period exceeding three months, Disciplinary Counsel did not produce TRCP-compliant proof of service.

Instead, on **December 16, 2025**, Disciplinary Counsel admitted in writing that attempts to serve the Original Petition prior to the originally scheduled July 25, 2025, hearing was unsuccessful.

This admission confirms that service was never completed. Under BODA Rule 1.06 and TRCP Rules 106 and 107, unsuccessful attempts do not constitute lawful service and cannot confer jurisdiction.

**V. AMENDED PETITIONS CANNOT CREATE JURISDICTION**

Texas law does not allow amended pleadings to cure failure to serve an initiating petition. Amended pleadings may supersede prior pleadings only after jurisdiction has been established. They cannot create jurisdiction retroactively, replace required service, or validate proceedings initiated without jurisdiction. The Texas Supreme Court has consistently rejected attempts to substitute notice or participation for lawful service.

**VI. ACTUAL NOTICE DOES NOT CREATE JURISDICTION**

Even if Respondent had notice of proceedings, jurisdiction cannot be created without lawful service. Under *Wilson v. Dunn*, actual notice does not substitute for service. Participation under objection does not waive jurisdictional defects.

Respondent consistently objected to service and jurisdiction and repeatedly demanded proof of service.

**VII. MISREPRESENTATIONS REGARDING SERVICE CONFIRMATION**

Disciplinary Counsel later represented that Respondent confirmed service of the Second Amended Petition. This is incorrect. Respondent's preserved communications demonstrate that Respondent repeatedly disputed service and repeatedly demanded proof of service of the Original Petition.

Mischaracterizing disputed communications as confirmation of service does not satisfy service requirements under Texas law or BODA rules.

**VIII. TIMELINE ESTABLISHES DILIGENCE AND NOTICE**

Between September and December 2025, Respondent made at least nine documented requests for proof of service and correction of defective service. Despite these repeated requests, Disciplinary Counsel failed to produce proof of service and ultimately admitted service attempts were unsuccessful.

This timeline demonstrates diligence by Respondent and confirms that Disciplinary Counsel had actual notice of the service defect and failed to cure it.

#### **IX. DUE PROCESS VIOLATIONS**

Proceeding without lawful service violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 19 of the Texas Constitution. Service of process is the mechanism by which constitutional notice is provided. Proceedings conducted without lawful service deprive Respondent of constitutional notice and opportunity to be heard.

#### **X. ULTRA VIRES GOVERNMENT ACTION**

Proceeding without jurisdiction exceeds lawful authority and constitutes ultra vires governmental action. Orders issued without jurisdiction are void and subject to collateral attack.

#### **XI. ABATEMENT IS REQUIRED**

Because service never occurred, proof of service does not exist, and jurisdiction never attached, this proceeding must be abated pending lawful service and jurisdictional determination. Proceeding under these circumstances' risks issuance of void orders.

#### **XII. PRAYER**

Respondent respectfully requests that the Board:

1. Abate this proceeding and hold it in abeyance;
2. Require Disciplinary Counsel to produce lawful proof of service of the Original Petition;
3. Prohibit further proceedings absent lawful jurisdiction;
4. Grant all further relief to which Respondent is entitled.

#### **XIII. FINAL LEGAL POSITION**

The Board cannot exercise jurisdiction over an initiating petition that was never lawfully served. No amendment, notice, internal procedural rule, or participation can substitute for mandatory service required by BODA rules, Texas Rules of Civil Procedure, and constitutional due process.

Respectfully submitted,

THELMA M. ANDERSON  
Respondent