



FILED

Feb 11 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 RENEWED AND SUPPLEMENTAL MOTION TO ABATE AND
HOLD PROCEEDINGS IN ABEYANCE FOR LACK OF PERSONAL JURISDICTION,
DEFECTIVE SERVICE, CONSTITUTIONAL DUE PROCESS VIOLATIONS, AND
PRESERVATION OF THE INTEGRITY OF THE DISCIPLINARY RECORD**

COMES NOW Respondent and files this Motion to Abate and Hold Proceedings in Abeyance pursuant to BODA Internal Procedural Rule 1.09. This Motion is filed as a special appearance only. Respondent preserves all objections to personal jurisdiction, defective service, constitutional due process, and ultra vires governmental action, and nothing herein constitutes waiver. Newly produced evidence confirms the initiating petition was never lawfully served, personal jurisdiction never attached, and the Affidavit of Non-Service produced February 10, 2026, confirms unsuccessful service attempts and the jurisdictional defect asserted since September 2025.

**I. SUMMARY THE BOARD LACKS PERSONAL JURISDICTION AND
PERSONAL JURISDICTION HAS NEVER ATTACHED**

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.

- The Original Petition was never lawfully served under BODA Rule 1.06
- Disciplinary Counsel admitted service attempts were unsuccessful
- No TRCP Rule 107 compliant proof of service exists
- Jurisdiction cannot be created through amendment, notice, or participation under objection
- Material constitutional defense evidence remains unavailable through separate litigation
- Proceeding under these circumstances violates due process

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. FACTUAL BACKGROUND SERVICE FAILURE, WITHHOLDING, AND CONTINUING PREJUDICE

The disciplinary proceeding was triggered by the Original Petition, not the Amended Petition, and the Original Petition was never lawfully served. The filing of an Amended Petition does not cure failure of service or create jurisdiction. On August 15, 2025, an Amended Petition was filed without completed lawful service, and on September 3, 2025, an email with a tracking number was transmitted in an apparent attempt to substitute electronic notice for lawful service. Electronic transmission does not satisfy BODA Rule 1.06 or Texas Rules of Civil Procedure service requirements for initiating pleadings.

A. Early Written Notice of Service Defect

September 4, 2025, Respondent formally notified counsel:

- Criminal appeal pending
- Abatement required
- Proof of service demanded

B. September 6, 2025 — Formal Notice of Non-Service issued.

C. September 8, 2025 — Follow-up proof-of-service demand.

D. Repeated Proof-of-Service Demands

E. Respondent demanded proof on:

- September 6, 2025
- September 19, 2025
- September 25, 2025
- December 4, 2025
- December 5, 2025
- December 11, 2025
- December 12, 2025
- December 15, 2025
- December 16, 2025
- January 31, 2026
- February 6, 2026

V. DISCIPLINARY COUNSEL ADMITTED SERVICE NEVER OCCURRED

The disciplinary proceeding is based on an Original Petition that was never lawfully served. Petition Activity and Improper Service Substitution Attempt. August 15, 2025, amended petition filed No completed lawful service occurred. September 3, 2025, email with tracking number transmitted in apparent attempt to substitute electronic notice for lawful service of an initiating petition. 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. Electronic transmission does not satisfy BODA Rule 1.06 or TRCP service requirements.

- A. On September 4, 2025, Respondent notified Disciplinary Counsel after receiving an email on September 3, 2025, of an Amended Petition. Respondent communicated that the underlying criminal case was on appeal and requested abatement, placing Disciplinary Counsel on notice of jurisdictional, lack of service and due process issues.
- B. On September 4, 2025, Respondent sent over pdf breakdown request that included the proof of service request.
- C. 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.
- D. **September 8, 2025**, follow-up proof-of-service demand.
- E. Respondent continued to demand proof of service on **September 19, 2025**, and **September 25, 2025**, receiving no proof of service.
- F. 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.
- G. Respondent demanded proof of citation and service details on **December 11, 2025**, and followed up again on **December 12, 2025**.
- H. 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 an unserved petition.
- I. Counsel Admission of Failed Service
 - A. **December 16, 2025**, Counsel admitted service attempts were unsuccessful.
 - B. **January 31, 2026**, follow-up proof-of-service demand.
 - C. Respondent submitted Motion on February 9, 2026, identifying the Petitioner continued withholding of the request proof of service of the original petition that Respondent should have received during the original request in September.
 - D. Petitioner filed on February 10, 2026, response which included in the introduction section
 - E. **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.

February 10, 2026, Affidavit of Non-Service produced.

Delay from first written request to production:

- 21 Weeks
- 147 Days
- 5 Months

VI. AMENDED PLEADINGS AND ACTUAL NOTICE CANNOT CREATE PERSONAL JURISDICTION

Texas law does not permit amended pleadings, actual notice, or participation under objection to cure a failure to lawfully serve an initiating petition. Personal jurisdiction must exist before amended pleadings can have legal effect.

While amended pleadings may supersede prior pleadings for purposes of live allegations once jurisdiction has been established, amended pleadings cannot create jurisdiction retroactively, cannot substitute for required service of an initiating petition, and cannot validate proceedings initiated without lawful service. Amended pleadings cannot cure failure of service of an initiating pleading and cannot create personal jurisdiction where none attached.

Similarly, actual notice of a proceeding does not substitute for lawful service. The Texas Supreme Court has repeatedly held that jurisdiction depends upon service in the manner required by law, not awareness of the proceeding itself

Participation under express jurisdictional objection likewise does not waive jurisdictional defects or create jurisdiction where none exists. Respondent consistently and expressly objected to service and personal jurisdiction and repeatedly demanded lawful proof of service throughout the pendency of this matter.

Because the initiating petition was never lawfully served, and because jurisdiction must be established through proper service not amendment, notice, or participation personal jurisdiction never attached, and continuation of proceedings would be jurisdictionally defective and constitutionally infirm.

VII. BOARD DENIAL OF ABATEMENT WHILE JURISDICTIONAL EVIDENCE WAS WITHHELD AND MISREPRESENTATIONS REGARDING SERVICE STATUS

The Board denied Respondent's prior Motion to Abate at a time when Respondent lacked access to jurisdiction-determinative service evidence already within Petitioner's possession. At the time of that denial, service of the Original Petition was actively disputed, proof of service had been repeatedly requested over multiple months, constitutional and appellate issues had been raised, and personal jurisdiction remained unresolved.

Despite these repeated requests and jurisdictional objections, the Affidavit of Non-Service confirming that service attempts were unsuccessful was not produced until after multiple proceedings had been scheduled and litigated. Respondent was therefore required to litigate jurisdiction without access to dispositive documentary evidence confirming that lawful service had never occurred.

Respondent further addresses subsequent representations suggesting that Respondent confirmed service of the Second Amended Petition. That representation is incorrect. Respondent's preserved written communications demonstrate that Respondent consistently

disputed service, repeatedly demanded proof of service of the Original Petition, and expressly preserved jurisdictional objections throughout these proceedings. Respondent has never waived service objections and has never confirmed lawful service of the initiating petition.

The delayed disclosure of jurisdiction-determinative service evidence, combined with inaccurate characterization of Respondent's service position, forced litigation of jurisdiction on an incomplete record and created structural prejudice. Under these circumstances, continuation of proceedings risks adjudication without lawful jurisdiction and undermines fundamental due process, requiring abatement.

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. CONTINUING CONSTITUTIONAL PREJUDICE MATERIAL EVIDENCE UNAVAILABLE

Separate governmental records ordered released by the Texas Attorney General remain unavailable due to separate litigation. The Board is not responsible for production. However, proceeding while material constitutional defense evidence remains unavailable creates substantial due process risk. The disciplinary proceeding is predicated on a criminal matter under constitutional challenge, including:

- Prosecutorial misconduct
- Brady violations
- Ineffective assistance
- Retaliatory prosecution
- False testimony

X. VIII. PATTERN OF CONDUCT AND DISCIPLINARY RECORD INTEGRITY CONCERNS

Respondent respectfully raises concerns regarding the completeness and accuracy of the procedural record where jurisdiction-determinative service evidence was not produced for approximately twenty-one weeks despite repeated written requests.

During this time:

- Jurisdiction was actively contested
- Motions were litigated without full jurisdictional disclosure
- Proceedings continued while dispositive service evidence remained undisclosed

XI. REQUEST FOR DISCIPLINARY OR REMEDIAL REVIEW OF COUNSEL CONDUCT

Respondent respectfully requests that the Board consider whether remedial action, referral, or review is appropriate regarding the extended delay in producing jurisdiction-determinative service evidence.

Respondent respectfully notes:

- Respondent respectfully notes:
- Service evidence directly impacts jurisdiction
- Proof of non-service was repeatedly requested over approximately five months.
- The Affidavit of Non-Service appears to have existed prior to February 2026 production
- The delay required Respondent to litigate jurisdiction without access to material procedural evidence.

Respondent does not speculate as to subjective intent. However, the circumstances support review of whether service obligations were knowingly or recklessly disregarded. Respondent further respectfully notes that delayed disclosure of jurisdiction-determinative service evidence raises concerns implicating core professional obligations, including duties of candor toward a tribunal, fairness in adjudicative proceedings, and avoidance of conduct prejudicial to the administration of justice, as reflected in the Texas Disciplinary Rules of Professional Conduct.

Respondent respectfully requests that the Board consider whether referral, review, or remedial measures are appropriate to preserve the integrity of the disciplinary process and ensure full procedural transparency moving forward.

XII. CUMULATIVE STRUCTURAL PREJUDICE

Combined effect of:

- Failure of lawful initiating service
- 21-week delay in disclosure of non-service evidence
- Pending criminal appeal
- Withheld material records under separate litigation
- Creates structural constitutional prejudice.

XIII. 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.

XIV. ABATEMENT IS REQUIRED

Because service never occurred, proof of service does not exist, non-service has now been admitted, jurisdiction never attached, and outstanding evidence due to a pending order and related constitutional litigation remains outstanding, this proceeding must be abated pending lawful service and jurisdictional determination. Proceeding under these circumstances' risks issuance of void orders.

XV. PRAYER

Respondent respectfully requests that the Board:

1. Abate proceedings and hold in abeyance
2. Require production of any remaining service documentation
3. Prohibit further proceedings absent lawful jurisdiction
4. Consider whether remedial or disciplinary review is appropriate regarding delayed production of jurisdiction-determinative service evidence
5. Grant all further relief Respondent is entitled to

XVI. 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