FILED
Oct. 30, 2019
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	**§**	
ALEXANDER LOUIS BEDNAR	**§**	**CAUSE NO. 62368**
STATE BAR CARD NO. 24044456	**§**	

FIRST AMENDED PETITION FOR RECIPROCAL DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, Alexander Louis Bednar (hereinafter called "Respondent"), showing as follows:

1. This action is commenced by Petitioner pursuant to Part IX of the Texas Rules of Disciplinary Procedure. Petitioner is also providing Respondent a copy of Section 7 of this Board's Internal Procedural Rules, relating to Reciprocal Discipline Matters.

2. Respondent is a member of the State Bar of Texas and is licensed but not currently authorized to practice law in Texas. Respondent may be served with a true and correct copy of this First Amended Petition for Reciprocal Discipline at Alexander Louis Bednar, 3221 NW 192nd Terrace, Edmond, Oklahoma 73012.

3. On or about January 11, 2018 a Complaint (Exhibit 1) was filed with the Supreme of the State of Oklahoma in a matter styled, *State of Oklahoma ex rel. Oklahoma Bar Association, Complainant v. Alexander Louis Bednar, Respondent, OBAD #2166 SCBD #6618.*

4. On or about June 1, 2018, a Trial Panel Report (Exhibit 2) was filed in the Supreme Court of the State of Oklahoma Before the Professional Responsibility Tribunal in a matter styled,

State of Oklahoma ex rel. Oklahoma Bar Association, Complainant v. Alexander Louis Bednar, Respondent, SCBD #6618.

5. On or about March 12, 2019 a Proceeding for Bar Discipline (Exhibit 3) was entered in the Supreme Court of the State of Oklahoma in a matter styled, *State of Oklahoma ex rel. Oklahoma Bar Association, Complainant v. Alexander Louis Bednar, Respondent, SCBD #6618,* that states in pertinent part as follows:

… RESPONDENT IS DISBARRED AND ORDERED TO PAY ALL COSTS …

6. On or about April 29, 2019, an Order (Exhibit 4) was entered in the Supreme Court of the State of Oklahoma in a matter styled, *State of Oklahoma ex rel. Oklahoma Bar Association, Complainant v. Alexander Louis Bednar, Respondent,* SCBD 6618, denying Respondent's Motion for Rehearing.

7. On or about May 31 2019, an Order (Exhibit 5) was entered in the Supreme Court of the State of Oklahoma in a matter styled, *State of Oklahoma ex rel. Oklahoma Bar Association, Complainant v. Alexander Louis Bednar, Respondent,* SCBD 6618, striking Respondent's request to the Supreme Court to review and reconsider his case.

8 In the Proceeding for Bar Discipline, the Professional Responsibility Tribunal (Tribunal) found that Bednar did not respond to the Complaint or to the Bar's Motion to Deem Allegations Admitted. The Tribunal deemed the allegations admitted and, after a two-week trial, found that the record of disciplinary proceedings supported a finding, upon a clear and convincing standard, that Bednar violated Oklahoma Rules of Professional Conduct (ORPC) 1.1, 1.3, 3.1, 3.2, 3.3, 3.4, 4.2, 4.4(a), 8.1(b), 8.2(a), 8.4(c)-(d) and Rules Governing Disciplinary Proceedings (RGDP) 1.3 and 5.2. Respondent failed to uphold his obligations to cooperate in the grievance process or properly respond to inquiries throughout the disciplinary proceeding. He repeatedly

failed to act in good faith, asserted frivolous claims and issues, and demanded irrelevant and oppressive discovery. He failed to competently represent his clients or to exercise due diligence in verifying the truth of pleadings he submitted. Respondent continually persisted in unauthorized communications with a person represented by counsel after reiterated requests to desist. He lacked candor with the court and failed to make reasonable efforts to expedite litigation or notify defendants in actions he filed. Finally, Respondent submitted fraudulent filings, directly and intentionally misrepresented facts, and knowingly disobeyed a court order. Respondent's behavior was prejudicial to the administration of justice and caused numerous parties unnecessary pecuniary loss and personal harm.

9. Bednar violated the following Oklahoma Rules of Professional Conduct:

1.1 A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

1.3 A lawyer shall act with reasonable diligence and promptness in representing a client.

3.1 A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

3.2 A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

3.3 (a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.

(4) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer which will enable the tribunal to make an informed decision, whether or not the facts are adverse.

3.4 A lawyer shall not:

(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;

(d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or

(f) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:

(1) the person is a relative or an employee or other agent of a client; and

(2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

4.2 In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

4.4(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.

8.1(b) An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

8.2(a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

8.4(c)-(d) It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation and to engage in conduct that is prejudicial to the administration of justice.

Rules Governing Disciplinary Proceedings (RGDP):

1.3 The commission by any lawyer of any act contrary to prescribed standards of conduct, whether in the course of his professional capacity, or otherwise, which act would reasonably be found to bring discredit upon the legal profession, shall be grounds for disciplinary action, whether or not the act is a felony or misdemeanor, or a crime at all. Conviction in a criminal proceeding is not a condition precedent to the imposition of discipline.

5.2 After making such preliminary investigation as the General Counsel may deem appropriate, the General Counsel shall either (1) notify the person filing the grievance and the lawyer that the allegations of the grievance are inadequate,

> incomplete, or insufficient to warrant the further attention of the Commission, provided that such action shall be reported to the Commission at its next meeting, or (2) file and serve a copy of the grievance (or, in the case of an investigation instituted on the part of the General Counsel or the Commission without the filing of a signed grievance, a recital of the relevant facts or allegations) upon the lawyer, who shall thereafter make a written response which contains a full and fair disclosure of all the facts and circumstances pertaining to the respondent lawyer's alleged misconduct unless the respondent's refusal to do so is predicated upon expressed constitutional grounds. Deliberate misrepresentation in such response shall itself be grounds for discipline. The failure of a lawyer to answer within twenty (20) days after service of the grievance (or recital of facts or allegations), or such further time as may be granted by the General Counsel, shall be grounds for discipline. The General Counsel shall make such further investigation of the grievance and response as the General Counsel may deem appropriate before taking any action.

10. Copies of the Complaint, Trial Panel Report, Proceeding for Bar Discipline, Order denying Motion for Rehearing, and Order striking request to review and reconsider, are attached hereto as Petitioner's Exhibits 1 through 5, and made a part hereof for all intents and purposes as if the same were copied verbatim herein. Petitioner expects to introduce certified copies of Exhibits 1 through 5 at the time of hearing of this cause.

11. Petitioner prays that, pursuant to Rule 9.02, Texas Rules of Disciplinary Procedure, that this Board issue notice to Respondent, containing a copy of this First Amended Petition with exhibits, and an order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice, why the imposition of the identical discipline in this state would be unwarranted. Petitioner further prays that upon trial of this matter that this Board enters a judgment imposing discipline identical with that imposed by the Supreme Court of the State of Oklahoma and that Petitioner have such other and further relief to which it may be entitled.

Respectfully submitted,

Seana Willing
Chief Disciplinary Counsel

Judith Gres DeBerry
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
Telephone: 512.427.1350
Telecopier: 512.427.4167
Email: jdeberry@texasbar.com

Judith Gres DeBerry
Bar Card No. 24040780

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that upon receipt of the Order to Show Cause from the Board of Disciplinary Appeals, I will serve a copy of this First Amended Petition for Reciprocal Discipline and the Order to Show Cause on Alexander Louis Bednar by personal service.

Alexander Louis Bednar
3221 NW 192nd Terrace
Edmond, Oklahoma 73012

Judith Gres DeBerry

INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through June 21, 2018

Contents

INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through June 21, 2018

I. GENERAL PROVISIONS

Rule 1.01. Definitions

(a) "BODA" is the Board of Disciplinary Appeals.

(b) "Chair" is the member elected by BODA to serve as chair or, in the Chair's absence, the member elected by BODA to serve as vice-chair.

(c) "Classification" is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a "complaint" or an "inquiry."

(d) "BODA Clerk" is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.

(e) "CDC" is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.

(f) "Commission" is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.

(g) "Executive Director" is the executive director of BODA.

(h) "Panel" is any three-member grouping of BODA under TRDP 7.05.

(i) "Party" is a Complainant, a Respondent, or the Commission.

(j) "TDRPC" is the Texas Disciplinary Rules of Professional Conduct.

(k) "TRAP" is the Texas Rules of Appellate Procedure.

(l) "TRCP" is the Texas Rules of Civil Procedure.

(m) "TRDP" is the Texas Rules of Disciplinary Procedure.

(n) "TRE" is the Texas Rules of Evidence.

Rule 1.02. General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and determining disciplinary proceedings. But TRDP 15.01 [17.01] applies to the enforcement of a judgment of BODA.

Rule 1.03. Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

Rule 1.04. Appointment of Panels

(a) BODA may consider any matter or motion by panel, except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.

(b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

Rule 1.05. Filing of Pleadings, Motions, and Other Papers

(a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.

(1) Email Address. The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.

(2) Timely Filing. Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

(3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.

(4) Exceptions.

(i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry is not required to be filed electronically.

(ii) The following documents must not be filed electronically:

a) documents that are filed under seal or subject to a pending motion to seal; and

b) documents to which access is otherwise restricted by court order.

(iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.

(5) Format. An electronically filed document must:

(i) be in text-searchable portable document format (PDF);

(ii) be directly converted to PDF rather than scanned, if possible; and

(iii) not be locked.

(b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).

(c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:

(1) an "/s/" and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or

(2) an electronic image or scanned image of the signature.

(d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.

(e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

Rule 1.06. Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition must be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent's signature.

Rule 1.07. Hearing Setting and Notice

(a) **Original Petitions.** In any kind of case initiated by the CDC's filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the hearing date must be at least 30 days from the date that the petition is served on the Respondent.

(b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.

(c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.

(d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately following the docket call, the Chair will set and announce the order of cases to be heard.

Rule 1.08. Time to Answer

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

Rule 1.09. Pretrial Procedure

(a) **Motions.**

(1) Generally. To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.

(2) For Extension of Time. All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:

(i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;

(ii) if an appeal has been perfected, the date when the appeal was perfected;

(iii) the original deadline for filing the item in question;

(iv) the length of time requested for the extension;

(v) the number of extensions of time that have been granted previously regarding the item in question; and

(vi) the facts relied on to reasonably explain the need for an extension.

(b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.

(c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.

(d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:

(1) marked;

(2) indexed with the title or description of the item offered as an exhibit; and

(3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

Rule 1.10. Decisions

(a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

(b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:

(1) as required by the TRDP; and

(2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.

(c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

Rule 1.11. Board of Disciplinary Appeals Opinions

(a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.

(b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.

(c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

Rule 1.12. BODA Work Product and Drafts

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA's adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

Rule 1.13. Record Retention

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

Rule 1.14. Costs of Reproduction of Records

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

Rule 1.15. Publication of These Rules

These rules will be published as part of the TDRPC and TRDP.

II. ETHICAL CONSIDERATIONS

Rule 2.01. Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases

(a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

(b) A current BODA member must not serve as an expert witness on the TDRPC.

(c) A BODA member may represent a party in a legal malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

Rule 2.02. Confidentiality

(a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.

(b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.

(c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction

Rule 2.03. Disqualification and Recusal of BODA Members

(a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.

(b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.

(c) These rules do not disqualify a lawyer who is a member of, or associated with, the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse himor herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

III. CLASSIFICATION APPEALS

Rule 3.01. Notice of Right to Appeal

(a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule.

(b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. The form must include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

Rule 3.02. Record on Appeal

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

IV. APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01. Perfecting Appeal

(a) **Appellate Timetable.** The date that the evidentiary judgment is signed starts the appellate timetable under this section. To make TRDP 2.21 [2.20] consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21 [2.20].

(b) **Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21 [2.20].

(1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

(2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

(c) **Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

(d) **Time to File.** In accordance with TRDP 2.24 [2.23], the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.

(e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

Rule 4.02. Record on Appeal

(a) **Contents.** The record on appeal consists of the evidentiary panel clerk's record and, where necessary to the appeal, a reporter's record of the evidentiary panel hearing.

(b) **Stipulation as to Record.** The parties may designate parts of the clerk's record and the reporter's record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.

(c) **Responsibility for Filing Record.**

(1) Clerk's Record.

(i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk's record.

(ii) Unless the parties stipulate otherwise, the clerk's record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel's charge, any findings of fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

(iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk's record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk's record cannot be timely filed, and give the date by which he or she expects the clerk's record to be filed.

(2) Reporter's Record.

(i) The court reporter for the evidentiary panel is responsible for timely filing the reporter's record if:

a) a notice of appeal has been filed;

b) a party has requested that all or part of the reporter's record be prepared; and

c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.

(ii) If the court reporter is unable for any reason to prepare and transmit the reporter's record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter's record cannot be timely filed, and give the date by which he or she expects the reporter's record to be filed.

(d) **Preparation of Clerk's Record.**

(1) To prepare the clerk's record, the evidentiary panel clerk must:

(i) gather the documents designated by the parties' written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);

(ii) start each document on a new page;

(iii) include the date of filing on each document;

(iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;

(v) number the pages of the clerk's record in the manner required by (d)(2);

(vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and

(vii) certify the clerk's record.

(2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.

(3) The table of contents must:

(i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each document begins;

(ii) be double-spaced;

(iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;

(iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and

(v) if the record consists of multiple volumes, indicate the page on which each volume begins.

(e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:

(1) file each computer file in text-searchable Portable Document Format (PDF);

(2) create electronic bookmarks to mark the first page of each document in the clerk's record;

(3) limit the size of each computer file to 100 MB or less, if possible; and

(4) directly convert, rather than scan, the record to PDF, if possible.

(f) **Preparation of the Reporter's Record.**

(1) The appellant, at or before the time prescribed for

perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The reporter's record must be certified by the court reporter for the evidentiary panel.

(2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records.

(3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.

(4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise

(6[1]) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.

(g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.

(h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

(i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

[1] So in original.

Rule 4.03. Time to File Record

(a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.

(b) **If No Record Filed.**

(1) If the clerk's record or reporter's record has not been timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.

(2) If no reporter's record is filed due to appellant's fault, and if the clerk's record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

(i) the appellant failed to request a reporter's record; or

(ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.

(c) **Extension of Time to File the Reporter's Record.** When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.

(d) **Supplemental Record.** If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

Rule 4.04. Copies of the Record

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

Rule 4.05. Requisites of Briefs

(a) **Appellant's Filing Date.** Appellant's brief must be filed within 30 days after the clerk's record or the reporter's record is filed, whichever is later.

(b) **Appellee's Filing Date.** Appellee's brief must be filed

within 30 days after the appellant's brief is filed.

(c) **Contents.** Briefs must contain:

(1) a complete list of the names and addresses of all parties to the final decision and their counsel;

(2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;

(3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;

(4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;

(5) a statement, without argument, of the basis of BODA's jurisdiction;

(6) a statement of the issues presented for review or points of error on which the appeal is predicated;

(7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;

(8) the argument and authorities;

(9) conclusion and prayer for relief;

(10) a certificate of service; and

(11) an appendix of record excerpts pertinent to the issues presented for review.

(d) **Length of Briefs; Contents Included and Excluded.** In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

(e) **Amendment or Supplementation.** BODA has discretion to grant leave to amend or supplement briefs.

(f) **Failure of the Appellant to File a Brief.** If the appellant fails to timely file a brief, BODA may:

(1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;

(2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or

(3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

Rule 4.06. Oral Argument

(a) **Request.** A party desiring oral argument must note the request on the front cover of the party's brief. A party's failure to timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

(b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:

(1) the appeal is frivolous;

(2) the dispositive issue or issues have been authoritatively decided;

(3) the facts and legal arguments are adequately presented in the briefs and record; or

(4) the decisional process would not be significantly aided by oral argument.

(c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

Rule 4.07. Decision and Judgment

(a) **Decision.** BODA may do any of the following:

(1) affirm in whole or in part the decision of the evidentiary panel;

(2) modify the panel's findings and affirm the findings as modified;

(3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or

(4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:

(i) the panel that entered the findings; or

(ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.

(b) Mandate. In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

Rule 4.08. Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27 [2.26]. The committee must consist of six members: four attorney members and two public members randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

Rule 4.09. Involuntary Dismissal

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

(a) for want of jurisdiction;

(b) for want of prosecution; or

(c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring a response or other action within a specified time.

V. PETITIONS TO REVOKE PROBATION

Rule 5.01. Initiation and Service

(a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23 [2.22].

(b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02. Hearing

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

VI. COMPULSORY DISCIPLINE

Rule 6.01. Initiation of Proceeding

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

Rule 6.02. Interlocutory Suspension

(a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA must suspend the Respondent's license to practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

(b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

(1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.

(2) If the criminal sentence is not fully probated:

(i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or

(ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.

(c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

VII. RECIPROCAL DISCIPLINE

Rule 7.01. Initiation of Proceeding

To initiate an action for reciprocal discipline under TRDP Part IX, the CDC must file a petition with BODA and request an Order to Show Cause. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

Rule 7.02. Order to Show Cause

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

Rule 7.03. Attorney's Response

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

VIII. DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01. Appointment of District Disability Committee

(a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2), or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

(b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.

(c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.

(d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.

(e) Should any member of the District Disability Committee become unable to serve, the BODA Chair must appoint a substitute member.

Rule 8.02. Petition and Answer

(a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service must comply with Rule 1.06.

(b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.

(c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

Rule 8.03. Discovery

(a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.

(b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam ordered by the District Disability Committee.

(1) Motion. The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(2) Report. The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.

(c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

Rule 8.04. Ability to Compel Attendance

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

Rule 8.05. Respondent's Right to Counsel

(a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.

(b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

Rule 8.06. Hearing

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

Rule 8.07. Notice of Decision

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

Rule 8.08. Confidentiality

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

IX. DISABILITY REINSTATEMENTS

Rule 9.01. Petition for Reinstatement

(a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.

(b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

(c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

Rule 9.02. Discovery

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

Rule 9.03. Physical or Mental Examinations

(a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.

(b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.

(c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

(d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.

(e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

Rule 9.04. Judgment

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

X. APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS

Rule 10.01. Appeals to the Supreme Court

(a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.

(b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.

(c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.

ORIGINAL

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FILED

DEC 21 2017

Office Of Chief Justice
Bar Docket

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

STATE OF OKLAHOMA *ex rel.*)
OKLAHOMA BAR ASSOCIATION,)

ORIGINAL
Receipted
Marshall
Recorded
Certified
Opinion

Complainant,) RULE 6

v.) OBAD # 2166

ALEXANDER LOUIS BEDNAR,) SCBD #

Respondent.)

FILED
SUPREME COURT BAR DOCKET
STATE OF OKLAHOMA
JAN 11 2018

6618

COMPLAINT

State of Oklahoma *ex rel.* Oklahoma Bar Association (Complainant), by and through its First Assistant General Counsel Loraine Dillinder Farabow, for its complaint against Alexander Louis Bednar (Respondent), alleges and states:

1. The Respondent is a member of the Oklahoma Bar Association ("OBA") and is licensed to practice law by the Supreme Court of the State of Oklahoma. Respondent was so licensed at all times relevant to this Complaint.

2. To the best knowledge, information, and belief of the Complainant, the Respondent has committed specific acts which constitute professional misconduct in violation of the Oklahoma Rules of Professional Conduct (ORPC) 5 O.S. 2011, ch. 1, app. 3-A, and the Rules Governing Disciplinary Proceedings (RGDP), 5 O.S. 2011, ch.1, app. 1-A, and are cause for professional discipline as provided in the RGDP. These standards of conduct, adopted and enforced by the Supreme Court of the State of Oklahoma, provide guidelines by which all attorneys are to practice law in Oklahoma.

3. These proceedings are commenced pursuant to Rule 6, RGDP.

EXHIBIT
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4. The official Oklahoma Bar Association roster address of the Respondent is: Alexander Louis Bednar, OBA# 19635, 3030 N.W. Expressway, Suite 200, Oklahoma City, OK 73013. Respondent's mailing address, however, as listed with the Oklahoma Bar Association is: 15721 Via Bella, Edmond, Oklahoma 73013.

COUNT I: THE PIKE GRIEVANCE

5. On or about December 18, 2014, Respondent was paid a $15,000.00 retainer by Dorothy Pike ("Pike) to represent her great-grandson, Austin Proctor ("Proctor"), in a first degree murder case in Oklahoma County. Respondent had never handled a murder case before.

6. On March 17, 2015, Respondent was fired. He agreed at that time to refund $10,000.00 to the Proctor family. The family hired Attorney Irven Box to represent Proctor and asked Respondent to turn over the unearned fees to Box.

7. On March 25, 2015, Respondent faxed Box a note stating he would like to meet and was "happy to write a check and go over work done." Although Box declined to meet, he wrote Respondent on March 31, 2015 advising that he had received several calls from Proctor's family asking whether Respondent had sent Box a check for the unearned fees. Respondent did not respond to Box's March 31, 2015 correspondence.

8. Thereafter, Box saw Respondent at the courthouse and asked about the money. Respondent assured Box that he would be sending a refund check for the Proctor family for the unearned fees. Respondent failed, however, to do so.

9. On June 3, 2015, Pike filed a grievance against Respondent with the OBA alleging he had failed to refund the $10,000.00. In his written response, Respondent stated he was shocked at the grievance and claimed he told Irven Box that he had actually

"earned much, much more than the partial retainer [he] had been paid." Respondent also claimed that in their conversation at the courthouse, Box told him was no need to send anything to his office as "he had been well paid by the family" and that there was no need to provide an accounting. Respondent also stated that he worked "extremely hard" from December 8, 2014 until March 2015 on Proctor's case. Respondent also advised, "I don't recall ever indicating I would return 10,000 dollars, although I am open to paying Ms. Pike a reasonable amount as a good faith courtesy since she is part of my wife's family."

10. With his response, Respondent enclosed a "partial billing record, indicating the large amount of work that was done." In the partial billing statement, Respondent claimed Ms. Pike agreed to pay $30,000.00 as a partial retainer through preliminary hearing and that he had earned in excess of the $15,000.00 she had paid. Respondent's accounting alleged he performed multiple hours of research and review of the file and claimed Pike actually owed him a balance of $1,450.39 as of December 29, 2014.

11. In order to verify Respondent's accounting, the OBA made multiple requests for Respondent to provide a copy of Austin Proctor's file and for Respondent to provide a full accounting; including the work he claimed to have performed from December 30th to the date Respondent was fired on March 17, 2015.

12. Despite multiple requests by the OBA for Respondent to provide a copy of Proctor's file and a complete accounting of his services, Respondent failed to comply.

13. As a result of Respondent's failure to provide a full and fair disclosure and response to the investigation, a subpoena duces tecum was issued commanding his sworn testimony and production of the Proctor file and a full accounting at the Oklahoma Bar Center on January 13, 2017. Respondent was served in person with the subpoena duces

tecum on December 28, 2016.

14. On the afternoon of January 12, 2016, Respondent hand-delivered a "Motion For Protective order and To/Quash Subpoena for lack of Specificity, Convenience, For Invasion of Privilege, and Request for Dismissal of Causes of Action Due to Conclusive Information Previously Provided to Loraine Farabow and Investigators, and For Expedited Hearing on the Issue of Dismissal" to the OBA. By agreement, Respondent's deposition was passed until his motion could be considered and ruled on by the Chair of the Professional Responsibility Commission ("PRC").

15. By letter dated January 30, 2017, the Chair of the PRC denied Respondent's request/demand for a "hearing" before the commission for the purpose of challenging/resisting the subpoena served upon him by the OBA. Said letter referred Respondent to Rule 2.8(c) and (d), RGDP as the appropriate remedy for challenging a subpoena issued and served pursuant to an investigation initiated by the General Counsel.

16. On February 13, 2017, Respondent was served with another subpoena duces tecum commanding his appearance, sworn testimony and the production of records on March 2, 2017 at 9:30 a.m. at the Oklahoma Bar Center. Said subpoena set forth specific documents and evidence to produce relating to the Pike grievance and other disciplinary investigations wherein Respondent had failed to provide a written response containing a full and fair disclosure of all the facts and circumstances pertaining to his alleged misconduct as required by Rule 5.2, RGDP.

17. On March 2, 2017, the morning of his scheduled deposition, Respondent hired Attorney Tom Riesen to represent him. As a courtesy to Mr. Riesen to allow him to become familiar with the grievances that were the subject of the deposition, the deposition

was continued by agreement of the parties to March 22, 2017.

18. On March 22, 2017, Respondent appeared for his deposition but failed to produce his client file and a complete accounting for the Proctor case to demonstrate he earned the $15,000.00 retainer fee he was paid in December of 2014. Although the deposition was scheduled to take place from 1:00 p.m. until 7:00 p.m., Respondent claimed he was unaware of this fact and advised that he needed to leave early to pick up his child from after-school care by 5:00 p.m. The parties agreed to conclude Respondent's deposition on April 7, 2017 at 10:00 a.m.

19. On April 7, 2017, the fourth scheduled deposition date, Respondent contacted and advised his attorney he was ill and could not attend his deposition. Respondent sent a text message to his attorney including a screen shot of a medical form from a clinic stating he had been seen and treated that morning. The deposition was continued on the premise that Respondent and his attorney would provide the OBA with a date and time in which to conclude Respondent's deposition.

20. By letter dated May 23, 2017, the OBA advised Respondent, through his attorney, that Respondent's failure to schedule a date to conclude his deposition, as previously agreed, was considered to be a "wilful refusal to cooperate with the Professional Responsibility Commission's previously issued subpoena duces tecum with which Mr. Bednar was personally served."

21. Respondent reconsidered his position and his deposition was then scheduled for and concluded on June 7, 2017. At that time, Respondent claimed he had not understood that he had failed to provide the OBA with the Proctor file and stated he believed he had already provided the OBA with a copy of the file.

22. Respondent's actions constitute a pattern of professional misconduct in violation of the mandatory provisions of Rule 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b), 8.4(c), 8.4(d), ORPC, and Rule 1.3 and 5.2, RGDP, and warrant the imposition of professional discipline.

COUNT II: THE TAYLOR GRIEVANCE

23. On October 28, 2015, Susan Pritchard hired Respondent to represent her in an emergency guardianship action concerning a newborn granddaughter who had been born and was located in the State of Washington. Pritchard wanted to have the infant released from the custody of Spokane County Child Protective Services to her care.

24. In a previous guardianship action for another grandchild in 2013, Ms. Pritchard had retained the services of Oklahoma City Attorney Shannon Taylor ("Taylor") for approximately $5,000.00.

25. Ms. Pritchard did not have sufficient funds at the time to hire Taylor in 2015, so she paid Respondent approximately $600.00 in cash and gave him the legal documents Taylor had prepared in her other grandchild's case to use as a template.

26. Respondent prepared the initial documents including a Waiver of Notice and Consent to Guardianship (hereinafter "Waiver/Consent") for Pritchard's daughter, Shelby Stark ("Stark"), who was the biological mother of the infant. Respondent also prepared a Waiver/Consent for the putative biological father, Jermy Upton ("Upton"), to execute, as well.

27. Both Stark and Upton were then residents of and physically present in the State of Washington. Attorney Karrina Guilbault ("Guilbault") of the Public Defender's Office in Spokane, Washington was appointed to represent Stark.

28. Respondent prepared and e-mailed Waiver/Consent forms for both parents to execute to Pritchard on November 2, 2015. After reviewing the forms, Pritchard asked Respondent to correct the name of the child on the paperwork as Respondent had simply copied Taylor's work, including the child's name from the previous guardianship/adoption. Respondent made the correction and e-mailed the forms to Pritchard and to Pritchard's daughter, Stark.

29. Later that afternoon, Stark and Upton appeared at the Public Defender's Office in Spokane County, Washington. Stark told her attorney, Guilbault, that Respondent had e-mailed the documents that needed to be signed, but she had no way to print them.

30. At 1:49 p.m. (Pacific Time), Guilbault had Stark forward the e-mails to her and Guilbault printed the Waiver/Consent forms for the parents to sign. Stark signed her form and had it notarized at the Public Defender's Office. Upton, however, did not have a photo I.D. with him so the Public Defender's Office could not notarize his signature.

31. Stark contacted her mother. Pritchard, in turn, then contacted Respondent seeking his advice about the fact that the Spokane County Public Defender's Office could not notarize Upton's signature.

32. As Stark was communicating back and forth with her mother, Guilbault stepped into the hallway and telephoned Respondent directly to explain that Upton's Wavier/Consent form could not be notarized without a photo I.D. As Guilbault was in the process of speaking with Respondent, Stark came out into the hallway and said she had just spoken to her mother, who had been given instructions by Respondent for Upton to simply sign the form and return it without being notarized.

33. At 2:45 PM Pacific Time, Guilbault e-mailed a copy of Stark's signed and

notarized Consent/Waiver as well as a copy of Upton's signed, **but un-notarized Consent/Waiver**, to Respondent and to Pritchard. In the e-mail, Guilbault specified she was sending the father's signed, but un-notarized Waiver/Consent form.

34. On the afternoon of November 2, 2015, Respondent filed an emergency Guardianship Petition in Oklahoma County on Pritchard's behalf.

35. On November 3, 2015, Respondent filed additional documents in the guardianship case including both parents' purported Waiver/Consent forms. Respondent and Pritchard then appeared before Judge Kirby who appointed Pritchard as the guardian of her granddaughter.

36. After obtaining guardianship of her granddaughter, Pritchard brought the infant to Oklahoma. Pritchard then returned to Attorney Shannon Taylor to handle the adoption of the child. Pritchard provided Taylor with all of the documentation she had regarding the newest guardianship, including the e-mail from Guilbault.

37. When reviewing the pleadings, Taylor noticed that the Waiver/Consent forms that were given to her by Pritchard were not file-stamped. On or about November 15, 2015, Taylor obtained a copy of the file-stamped Waiver/Consent forms from the Oklahoma County Court Clerk's Office. Upon reviewing the forms, Taylor realized that contrary to Guilbault's e-mail, Upton's consent form that had been filed in the current guardianship was not only notarized but purportedly had been notarized by Taylor's legal assistant, Abigail Webb ("Webb"), in Oklahoma on November 2, 2015.

38. When Taylor showed Webb the alleged notarized Waiver/Consent form signed by Upton, Webb advised she had no knowledge of or information about the

document or how her notary seal and signature could have appeared on the Waiver/Consent that was filed in the 2015 case. Webb checked to see if her notary seal was safely stored in her office and confirmed that it was.

39. Taylor then compared the purported notarization on Upton's 2015 Consent/Waiver with that from a Verification Page on the Petition for Adoption that Taylor had previously filed on behalf of Pritchard in a prior adoption. Taylor found that the notary signature and section of both documents were identical. After speaking with Webb and Pritchard, Taylor surmised that Respondent "cut and pasted" the notary section from the earlier adoption form onto the 2015 Waiver/Consent and was then photocopied and filed in the current case.

40. On December 1, 2015, Taylor filed a grievance with the OBA and attached sworn affidavits from both Webb and Pritchard denying any knowledge of or participation in the cutting/pasting of the notarization of Upton's Waiver/Consent form. By letter dated December 9, 2015, the OBA advised Respondent it was opening Taylor's grievance for formal investigation and that he was required to respond within twenty (20) days.

41. In his written response to the grievance, which was not received until January 15, 2016, Respondent claimed that Pritchard sent him the completed Waiver/Consent forms for Stark and Upton and that Pritchard must have cut and pasted the notary section herself; despite the e-mails between Respondent and Pritchard and the e-mail from Guilbault which contradict his claim.

42. At a minimum, in light of Guilbault's November 2, 2015 discussion with Respondent on the telephone of her inability to notarize Upton's form as well as Guilbault's e-mail to Respondent confirming same, Respondent was on notice that Upton's

Waiver/Consent form had not been notarized. Therefore, if Respondent *had* received a notarized Waiver and Consent from Pritchard, as he claimed in his written response to the OBA, he knew or should have known that it was not legitimate and had been fabricated.

43. Respondent's actions constitute a pattern of professional misconduct in violation of the mandatory provisions of Rule 3.3, 8.1(b), 8.4(c), 8.4(d), ORPC and Rule 1.3 and 5.2, RGDP and warrant the imposition of professional discipline.

COUNT III: THE GOODWIN GRIEVANCE

44. Attorney Kyle Goodwin and his law partner Edward Lee represent RCB Bank in a foreclosure action against Respondent and Respondent's former wife in Oklahoma County District Court, Case No. CJ-2015-192, *RBC Bank v. Alex Bednar, et al.* The lawsuit arose from a delinquent loan executed by Respondent and his former wife in favor of RCB Bank and sought judgment for breach of contract, foreclosure of a Mortgage, and a claim of fraudulent inducement related to alleged false statements made by Respondent about his status as a lawyer and his income at the time he applied for the loan.

45. During the course of the lawsuit, Respondent filed Chapter 7 bankruptcy, after which RCB Bank filed an Adversary Proceeding, seeking to prevent Respondent from discharging the debt owed to the bank.

46. On November 30, 2015, Goodwin and Lee filed a grievance against Respondent with the OBA alleging: that Respondent routinely failed to remit copies of pleadings he filed on behalf of himself and his wife; that Respondent consistently engaged in abusive discovery practices; that Respondent failed to follow rules of civil procedure and local court rules; and that Respondent employed a strategy of seeking the recusal of judges on the eve of important court dates.

47. By letter dated December 4, 2015, the OBA notified Respondent of Goodwin's grievance and requested a response within twenty (20) days. Respondent did not respond until January 15, 2016. Respondent's written response failed to provide a full and fair disclosure of all relevant facts concerning the specific allegations set forth in the grievance that he had engaged in professional misconduct. Instead, Respondent complained about Goodwin's behavior and alleged that Goodwin signed his name on a petition that contained statements Goodwin knew to be false; that Goodwin had not responded to e-mails or telephone calls from Respondent; and that Goodwin refused to drop the allegations of fraud in his petition despite knowing it was not well grounded in fact or law.

48. By letter dated February 8, 2016, Respondent was notified by the OBA that his response did not comply with Rule 5.2, RGDP, and that he needed to submit a supplemental response, providing a full and fair disclosure to the allegations filed against him, within five (5) days.

49. On or about February 26, 2016, Bednar submitted a second response to Goodwin's grievance. In his supplemental response, Respondent continued to attack Goodwin, stating that Goodwin "***manifested himself .....as a boisterous, childish, inappropriate person, prone to mood shifts" who had "attacked [Respondent] without letting him speak***". Ultimately, Respondent denied that any of his actions rose to the level of unprofessional conduct, and stated that, **"It should be Mr. Goodwin who needs to be examined for professional misconduct.**"

50. The OBA's investigation of the grievance and Respondent's actions in this

litigation revealed the following, set forth in paragraphs 51 through 56 *infra*, regarding Respondent seeking the recusal of judges in this case:

51. On November 6, 2015, Respondent sought the recusal of Judge Thomas Prince in open court on the same day Judge Prince was to hear argument on the Plaintiff's Motion for Partial Summary Judgment. Respondent waited to seek the recusal of Judge Thomas Prince after almost a year of litigation.

52. In seeking Judge Prince's recusal, Respondent failed to follow Local Rule 15, in that he filed his written "Motion to Withdraw Judge Thomas Prince" before requesting an *in camera* meeting. After Respondent made the request in open court, an *in camera* conference was then held.

53. Although Judge Prince believed he could be fair and impartial in presiding over the case, he recused himself from the case because he had been requested to do so. The case was then reassigned to Judge Don Andrews.

54. Thereafter, on December 20, 2016, Goodwin filed an "Application for Writ of Assistance" asking the district court to enter an order directing the Sheriff to remove Respondent from the subject property. This Application was set for hearing on February 2, 2017. On January 27, 2017, Respondent filed a "Notice of Rule 15 Procedural Request to Judge Andrews to Consider Recusal and Transfer Out of County for Forum Non-Conveniens and for Stay of All Adjudication." Said pleading advised that an *in camera* request for recusal had been made.

55. On January 31, 2017, just two days before the hearing on Plaintiff's Application for Writ of Assistance, Respondent filed a "Motion to Recuse" seeking the recusal of Judge Andrews. On February 13, 2017, Judge Andrews overruled Respondent's

Motion to Recuse.

56. On February 21, 2017, Respondent then filed a "Motion to Recuse for Appearance of Lack of Impartiality and for Forum Non Conveniens."

57. The OBA's investigation also revealed the following instances, as set forth in paragraphs 58 through 65 *infra*, wherein Respondent filed pleadings late and made discovery requests which appear to have no purpose other than to delay the proceedings or harass the opposing party and/or the attorneys for the plaintiff and further, demonstrate Respondent's lack of competency in the practice of law:

58. Although the petition in this case was filed on January 13, 2015, Respondent did not timely file his Answer. Respondent did not file an Answer to the Petition until March 11, 2015.

59. Respondent filed counterclaims in this lawsuit on November 6, 2015, almost eight months after filing his Answer and without receiving leave of the court to do so.

60. Bednar sought discovery from opposing counsel by issuing a subpoena duces tecum to Kyle Goodwin, in which he sought: all insurance policies owned by Kyle Goodwin, including malpractice insurance; all communications between Kyle Goodwin and RCB Bank after February 2015; all communications between Kyle Goodwin and Judge Barbara Swinton regarding Respondent; and all communications between Kyle Goodwin and the OBA regarding Respondent.

61. Respondent also issued a subpoena duces tecum to RCB Bank President Jim Gray, in which he commanded Gray to produce: all insurance policies in the possession of RCB Bank; a comprehensive list of all RCB assets in Oklahoma County; and the amount of profit earned by RCB Bank in the preceding five (5) years.

62. Respondent repeatedly failed to remit copies of pleadings he filed to Kyle Goodwin, despite the Court's admonition. RCB Bank filed two motions requiring a precise method of service on April 2, 2015 and on December 10, 2015. Additionally, on February 10, 2017, Goodwin filed "RCB's Response to Bednar's Second Motion to Recuse the Assigned Judge to this Matter" wherein Goodwin stated that Respondent had failed to remit to opposing counsel his Motion to Recuse filed on January 31, 2017. Instead, Goodwin had to retrieve the recusal motion from OSCN.

63. Respondent often failed to timely file a response to pleadings filed by RCB Bank, or when he did so, filed his response late or and/or on the same day as the scheduled hearing.

64. Respondent repeatedly filed essentially the same motions regarding the same rulings as 'motions to reconsider' or 'motions to vacate' in an attempt to re-litigate unsuccessful arguments he advanced.

65. Respondent even sued RCB Bank, its president and other employees, as well as its attorneys in Oklahoma County District Court Case, No. CJ-2016-4321, *Bednar v. RCB Bank, James Gray, Debra Williams, Kyle Goodwin, and William Lewis.*

66. Respondent's actions constitute a pattern of professional misconduct in violation of the mandatory provisions of Rule 1.1, 1.3, 3.2, 3.4, 8.1(b), 8.4(d), ORPC and Rule 1.3 and 5.2, RGDP and warrant the imposition of professional discipline.

COUNT IV: RESPONDENT'S PATTERN OF IMPROPERLY SEEKING THE RECUSAL OF JUDGES, IMPUGNING THE INTEGRITY OF THE JUDICIARY, AND ATTEMPTING TO DISGUISE, THE SAME LEGAL REQUEST BY CHANGING THE NAME OF THE PLEADING

67. Respondent has abused the judicial recusal process in a manner that is

prejudicial to the proper administration of justice. Respondent's attempts to have judges recuse from his cases have often been on the eve of or after adverse rulings and appear to be used as a delay tactic and procedural weapon designed to run up litigation costs or delay the effect of judgments entered in cases. Respondent has routinely sought the same legal remedy, after his original motion has been ruled upon, by simply changing the name of the pleading or moving for "reconsideration" of the previous order of the court.

68. Since 2015, Respondent has sought the recusal of judges, and/or reconsideration of prior court orders, in the following cases as set forth in paragraphs 69 through 95, *infra*.

COUNT IV(A): LIEBEL V. BEDNAR, ET AL.

69. In *Liebel v. Bednar, et al.*, Oklahoma County District Court Case No. CJ-2009-11652, Respondent filed a "Motion to Disqualify Judge" on May 19 and 20, 2015 seeking the recusal of Judge Bernard Jones. Respondent also filed a "Supplement to Motion to Reassign Case in Support of Reassignment Based on Existing Statutes" seeking the disqualification of Judge Jones.

70. After Judge Jones was appointed a federal magistrate in the United States District Court for the Western District of Oklahoma, the *Liebel v. Bednar et al.* case was assigned to Judge Aletia Timmons. On April 1, 2016, Respondent sought the recusal of Judge Timmons by written motion in violation of Local Rule 15. Respondent then made an in camera request for disqualification at the previously set Status Conference on April 13, 2016. Judge Timmons denied Respondent's Motion to Withdraw her from presiding over the case at that time.

71. On August 17, 2016, Respondent filed an "Amended Motion to Withdraw Judge Timmons" after she dismissed the case against him. Said motion was denied by Chief Judge Tim Henderson on August 18, 2016 based on his finding "that it has no evidence that Rule 15 was procedurally followed."

COUNT IV(B): EAVES V. MATTHEWS, ET AL.

72. In *Eaves v. Matthews, et al.*, Canadian County District Court Case No. CJ-2014-653, Judge Gary Miller recused, *sua sponte*, after repeated contentious incidents in court involving Respondent and Attorney Edward Saheb ("Saheb"). On August 28, 2015, Judge Miller issued the following court minute: "THE COURT THIS DAY WARNS MR. BEDNAR & MR. SAHEB THAT IF THEY DO NOT STOP NAME CALLING, BACK BITING AND ARGUING BEFORE THIS COURT THE COURT WILL IMPOSE SANCTIONS; AND THAT APPLIES TO BOTH CASES, CJ-2014-653 & CJ-2015-272." On October 30, 2015, Judge Miller recused himself from the *Eaves* case (and from *Turner v. Bray*, Canadian County District Court Case No. CJ-2015-272, *infra* at paragraphs 75 through 78) and referred it to the Presiding District Judge of Oklahoma County for all further consideration and reassignment.

73. On November 5, 2015, an Administrative Order was issued assigning the *Eaves* case to Oklahoma County District Court Judge Barbara Swinton. A notice of hearing was filed in the case setting it for December 18, 2015. On December 17, 2015, Respondent filed a Motion to Disqualify Judge. In said written motion, Respondent alleged he had "multiple concerns about the appearance of the lack of impartiality as well as concerns about bias related to this case and related to previous matters involving Mr.

Bednar." Respondent included a footnote to his motion alleging Judge Swinton told "individuals" in the Exchange Club for the Prevention of Child Abuse, including his wife,:

> . . . negative things about Mr. Bednar regarding his relationship with Judge Lisa Hammond. Mrs. Bednar filed a judicial complaint against Judge Lisa Hammond after being assaulted by Hammond at a social function. In such complaint, it was mentioned that Judge Swinton had indicated negative things about Mr. Bednar.

In said motion, Respondent also alleged Judge Swinton violated the judicial canons by discussing an *in camera* request he made for her recusal in another case and stated, "Furthermore, Mr. Bednar is aware of Judge Swinton defaming Mr. Bednar to other persons, and simply is not comfortable litigating any matters in front of her, whether as an attorney or as a party." Respondent also made statements in his motion concerning certain actions involving Oklahoma County District Court Judge Thomas Prince.

74. On December 18, 2015, Judge Swinton sustained Defendant Freedom Mortgage Corporation's Motion for Summary Judgment. On January 22, 2016, Respondent filed a "Motion to Strike Judge Swinton's Minute Order of December 18, 2015 as a Pending Motion to Recuse was Priorly [sic] Filed and Judge Swinton Was Not Free to Proceed With the Case Until the Challenge to Her Impartiality Was Adjudicated." After a journal entry was filed on March 18, 2016, Respondent then filed a "Motion to Vacate Order Per Court's Inherent Powers Within Thirty Days and Incorporation by Reference of Outstanding Motions to Disqualify Judge and to Strike Docket Entry Filed." On September 14, 2016, Judge Swinton was appointed to the Oklahoma Court of Civil Appeals and the *Eaves* case was reassigned to Oklahoma County District Court Judge Don Andrews.

COUNT IV(C): TURNER V. BRAY, ET AL.

75. On October 30, 2015, in *Turner v. Bray*, Canadian County District Court Case No. CJ-2015-272, Judge Miller entered a court minute which held:

> THIS COMES ON TODAY ON THE PLAINTIFF'S APPLICATION FOR AN EMERGENCY ORDER TO VACATE DEFAULT JUDGMENT FOR PROCEDURAL IRREGULARITIES AND TO PREVENT GARNISHMENT AS PLAINTIFF WAS NOT PROPERLY SERVED AND LACKED NOTICE OF THE JULY 31, 2015 HEARING. PLAINTIFF APPEARS WITH MR. BEDNAR. THE DEFENDANT APPEARS WITH MR. SAHEB. COURT REPORTER IS JULEE THUMMEL. THE COURT HEARS ARGUMENTS OF COUNSEL AND TESTIMONY. AT THE CONCLUSION OF THE HEARING, THE COURT FINDS DEFAULT WAS ENTERED JULY 31, 2015. **THE MOTION, WHICH IS DISGUISED AS AN APPLICATION, WAS FILED BY THE PLAINTIFF ON 10/23/2015. THE COURT HAD PREVIOUSLY ADMONISHED MR. BEDNAR TO MAKE SURE HE CAN DO BY MOTION WHAT HE IS ATTEMPTING TO DO BY MOTION AND TO CALL IT AN APPLICATION DOESN'T CHANGE THE FACT THAT IT IS A MOTION TO VACATE. AT THIS TIME, THE COURT FINDS IT DOES NOT HAVE JURISDICTION BECAUSE IT IS OUTSIDE THE TERM AND IT IS NOT A PETITION TO VACATE.** COURT IS WITHOUT JURISDICTION TO SUSTAIN A MOTION. THE APPLICATION IS DENIED. JUDGE MILLER

(emphasis added).

76. On November 5, 2015, an Administrative Order was filed reassigning the case to Oklahoma County District Court Judge Aletia Haynes Timmons after Judge Miller's *sua sponte* recusal and request that it be reassigned to Oklahoma County. On February 5, 2016, Judge Timmons granted the defense attorneys' motion to quash and request for a protective order as a result of Respondent issuing subpoenas to take their depositions. Respondent made an oral motion at the hearing for Judge Timmons to recuse, which she overruled. Respondent then filed a "Motion to Disqualify Judge and to Strike Minute Order of February 5, 2016" wherein he alleged Judge Timmons had engaged in "grossly inappropriate conduct in the courtroom on February 5, 2016, unbecoming of a judge and

accusing her of having ex parte communication with defense attorneys Saheb and Brooks Ray, claiming the Judge "personally attacked" him and "falsely accused him of filing motions she said had previously been heard and ruled on, and refused to allow Mr. Bednar to show her how incorrect and untrue her allegations were." Respondent also stated that Judge Timmons had targeted and harassed him and "publicly humiliate[d]" him. Respondent further stated in his motion that Judge Timmons:

> . . . still enraged . . . summarily denied all of Plaintiff's timely and properly filed Motions, stating on the record as her reason for denial that the Motions and the Petition had previously been ruled on (an incorrect fact), and issued a sanction AGAINST Mr. Bednar for allegedly having filed frivolous motions, WHEN JUDGE TIMMONS REFUSED TO HEAR LEGITIMATE POINTS OF FACT AND LAW IN EACH OF THE MOTIONS, NOW RESET TWICE . . . Judge Timmons' ex parte activities and reliance on false premises (lies by Defense counsel) as reason for bias are extremely disturbing.

77. On February 10, 2016, Respondent's motion to disqualify Judge Timmons was heard by Oklahoma County Chief Judge Timothy Henderson. On February 16, 2016, Respondent filed an "Aid to the Court Regarding Proposed Order for Motion to Disqualify Judge Timmons from Cases Involving Alex Bednar." In this document, Respondent expressed his concern ". . .that Judge Timmons is willing to misrepresent the truth regarding ex parte communications in Mr. Bednar's divorce matter, and in open court in this case show bias against his attorney Mr. Bednar, by demeaning him. On February 17, 2016, Judge Henderson's Order Denying Motion to Disqualify Judge and to Strike Minute Order was filed.

78. On March 21, 2016, Respondent filed a Petition in Error in the *Turner* case, Case No. DF-114824. On June 20, 2016, said appeal was dismissed by the Oklahoma Supreme Court, on its own motion, as premature because the February 5, 2016

handwritten decision, titled "Court Minute" was not in proper appealable form.

COUNT IV(D): BEDNAR V. BEDNAR

79. On April 8, 2016, a Motion to Settle Journal Entry was scheduled to be heard in *Bednar v. Bednar*, Oklahoma County District Court Case No. FD-2014-4499. On that date, Respondent made an *in camera* request for Judge Martha Oakes to recuse. Judge Oakes recused and the case was reassigned to Judge Barry Hafar. Judge Hafar recused and the matter was reassigned to Judge Harold Haralson on April 13, 2016.

80. A trial on the merit was held on or about August 31, 2016 in the *Bednar* divorce case and the matter was taken under advisement. On September 2, 2016, Judge Haralson granted the parties' divorce and ruled on all outstanding motions in a Memorandum Order. On September 12, 2016, Respondent filed a "Motion to Vacate in Part the September 2, 2016 'Memorandum Order' or in the Alternative, For New Trial."

81. On or about September 20, 2016, Respondent filed a Notice of Rule 15 Hearing Set on September 28, 2016 in his divorce case. On September 28, 2016, Judge Haralson denied Respondent's request for his recusal. On October 14, 2016, Respondent filed a Motion to Recuse seeking Judge Haralson's recusal. On October 31, 2016, Respondent filed a "Motion to Recuse Judge Haralson Due to Apparent Bias" and a "Motion to Set Aside Decree on Court's Own Motion to Settle and Order of October 20, 2016 For Violation of Rule 15 As a Court is Not to Adjudicate Any Matter Until the Rule 15 Matter is Exhausted, and to Move this Venue for Forum Non Conveniens."

82. On November 15, 2016, Judge Haralson entered an order denying Respondent's motions in the divorce case. On December 14, 2016, Respondent then filed

a Notice of Rule 15 In Camera Meeting and on December 15, 2016, Respondent filed a "Motion to Reconsider, and For Court to Set Aside Order Pursuant to Its Inherent Powers Within Thirty Days."

83. On December 30, 2016, Judge Haralson denied Respondent's motion for his recusal in the divorce case. Respondent filed that same day a "Motion to Recuse Judge Haralson Due to Apparent Bias and To Compel Him Not to Rule on Any Issues Until After Adjudication of the Rule 15 Matter is Complete."

84. On or about January 5, 2017, Chief Judge Henderson denied Respondent's motion to recuse Judge Haralson. On January 10, 2017, Respondent filed a "Motion to Reconsider" asking Judge Henderson to reconsider his decision and to "consider supporting evidence of the fact that Judge Hammond had previously made negative comments to other judges regarding Alexander Bednar, thereby supporting the fact this is a forum non conveniens for Mr. Bednar." Judge Henderson heard Respondent's Motion to Reconsider on February 2, 2017 and again denied it.

85. On February 14, 2017, Respondent filed an Application to Assume Original Jurisdiction and Petition for Writ of Mandamus with the Oklahoma Supreme Court in Case No. 115766, *Bednar v. The Honorable Howard Haralson*, Judge of Oklahoma County. On March 27, 2017, the Oklahoma Supreme Court assumed original jurisdiction and denied the petition for writ of mandamus brought pursuant to the Rule 15 disqualification proceeding. The Court granted the request by the real party in interest for sanctions against Respondent under Rule 1.191(j), Oklahoma Supreme Court Rule.

COUNT IV(E): RCB BANK V. BEDNAR, ET AL.

86. As previously alleged and set forth in paragraphs 51 through 56 of "Count III",

supra, Respondent sought the recusal of judges in Oklahoma County District Court, Case No. CJ-2015-192, *RBC Bank v. Alex Bednar, et al.*

COUNT IV(F): SAHEB V. BEDNAR

87. In *Saheb v. Bednar*, Oklahoma County Case No. CJ-15-472, Respondent filed a "Motion to Reassign Case Pursuant to Local Rule 6 and Rule 15" seeking to withdraw Judge Thomas Prince. Said motion was filed although no *in camera* request had been made by Respondent of Judge Prince. On April 14, 2015, Judge Prince voluntarily recused and the case was reassigned to Judge Barbara Swinton.

88. On June 5, 2015, a journal entry of judgment was entered by Judge Swinton in the *Saheb* case. After filing several motions to set aside the court's judgment, on January 14, 2016, Respondent filed a "Motion to Recuse Judge Swinton and For Administrative Reassignment Pursuant to Local Rule 15 and Local Rules." In this written motion, Respondent alleged Judge Swinton previously published defamatory information about him regarding Judge Hammond. Respondent further alleged Judge Swinton's "defamatory comments" about him "was subject of a Judicial Complaint filed by Mr. Bednar's wife against Judge Hammond, after having been assaulted by Judge Hammond at a social function." Respondent attached, as an exhibit to his motion, a copy of the Judicial Complaint form his ex-wife filed against Judge Hammond in December of 2009.

89. On February 9, 2016, Saheb filed a dismissal in the case against Respondent. As a result, Judge Swinton found that Respondent's Motion to Recuse was moot. On February 19, 2016, Respondent filed a "Supplement to January 14, 2016 Motion to Recuse Judge Swinton." On February 26, 2016, Respondent filed an Aid to the Court

in Support of Special Appearance and Request to Recuse Swinton from All Cases With Mr. Bednar." On March 7, 2015, the Chief District Judge Don Deason heard Respondent's motion and denied it because he ". . . believe[d] this case to be entirely dismissed."

90. On April 14, 2016, Respondent filed a "Motion to Reconsider Order of March 7, 2016." Judge Deason denied the same on April 14, 2016. On April 19, 2016, Respondent filed an Application to Assume Original Jurisdiction and Petition for Writ of Mandamus, in Supreme Court Case No. 114914, seeking to recuse Judge Swinton and to strike the June 5, 2015 Order.

91. On May 16, 2016, Respondent also filed a Petition in Error in *Saheb v. Bednar*, Case No. 115, 005, before the Oklahoma Supreme Court. By Order dated September 12, 2016, Respondent's appeal was dismissed as untimely to seek review of the June 5, 2015 order. The Court held that "t]he April 14, 2016 order involves a post-judgment motion to disqualify Judge Swinton, which was addressed by this Court in *Bednar v. The Honorable Barbara Swinton*, case No. 114,914."

92. In the law suits set forth in "Count IV," *supra*, Respondent engaged in frivolous, abusive and vexatious litigation tactics by moving to recuse multiple judges (often on the eve of or promptly after receiving adverse rulings) frequently (and often without following proper Rule 15 procedures) and alleging unsubstantiated bias, prejudice, and abuse; and by filing repetitive motions to reconsider prior adverse rulings.

93. During the OBA's investigation of these cases, Respondent failed to timely respond to multiple requests by the OBA and failed to provide full and fair disclosures, other than to deny that his litigation tactics, motions to recuse, or suing opposing counsel and third parties violated any rules of professional conduct.

94. In meetings with the OBA and during his deposition, Respondent failed to provide relevant, responsive documents in support of his actions despite being served with a subpoena duces tecum on the grounds. Respondent claimed his evidence and legal theories are protected by the attorney client privilege (when often, Respondent is his own client).

95. Respondent's actions constitute a pattern of professional misconduct in violation of the mandatory provisions of Rule 1.1, 1.3, 3.1, 3.2, 3.3, 8.1(b), 8.2(a), 8.4(d), ORPC and Rule 1.3 and 5.2, RGDP and warrant the imposition of professional discipline.

COUNT V: RESPONDENT'S PATTERN OF IMPROPER, VEXATIOUS, BAD FAITH, FRIVOLOUS, AND ABUSIVE DISCOVERY TACTICS INVOLVING OPPOSING COUNSEL, COURT PERSONNEL, AND TRIAL JUDGES

COUNT V(A): RCB BANK V. BEDNAR, ET AL.

96. In addition to Respondent's improper, vexatious, bad faith, frivolous, and abusive discovery tactics in his foreclosure case, *RCB Bank v. Bednar, et al.*, as set forth in "Count III", *supra*, Respondent has also employed such misconduct in additional cases as set forth in paragraphs 97 through 104, *infra.*

COUNT V(B): TURNER V. BRAY

97. On November 23, 2015, in *Turner v. Bray*, Canadian County District Court Case No. CJ-2015-272, Judge Timmons *sua sponte* quashed subpoenas Respondent had issued for the depositions of opposing counsels in the case, Saheb and Attorney Brooks Ray ("Ray"). Judge Timmons set the actual hearing on the motion to quash and for a protective order for February 5, 2016.

98. On February 5, 2016, Judge Timmons granted defense counsels' motion to quash and sanctioned Respondent $5,000.00 for issuing "vexatious, frivolous and oppressive repeated conduct." Judge Timmons further ordered that, "Mr. Bednar is prohibited from issuing subpoenas to attorneys in this case without prior court approval" and ordered the sanction payable to Attorney Saheb and Attorney Ray in the amount of $2,500.00 each within ten days. Respondent did not pay his sanctions as ordered.

COUNT V(C): BEDNAR V. BEDNAR

99. In *Bednar v. Bednar*, Oklahoma County District Court Case No. FD-2014-4499, Respondent filed a "Motion to Withdraw Attorney Chris Harper from Further Representation as He has Become a Witness and as His Client has Divulged His Attorney Communications," noticed opposing counsel, Attorney Harper, for a deposition and subpoenaed, in part, Harper's malpractice insurance policy as well as "all . . . communications with Jill Bednar since October 2014." On September 2, 2016, Judge Haralson granted the parties' divorce and ruled on all outstanding motions in a Memorandum Order. Respondent moved to set aside part of the order or, in the alternative, for a new trial. Respondent then filed a "Motion to Compel Deposition" on September 13, 2016 seeking to depose his ex-wife.

100. On January 3, 2017, Respondent filed a Notice of Subpoena in his divorce case wherein he subpoenaed Renee Hildebrandt, Oklahoma County Trial Court Administrator, for a deposition regarding her "interaction with Judge Haralson about a victim protective order in this case."

COUNT V(D): SAHEB V. BEDNAR

101. In *Saheb v. Bednar*, Oklahoma County Case No. CJ-15-472, Respondent issued a subpoena duces tecum to the "Webmaster of OSCN.NET" at the Oklahoma Judicial Center commanding the production of any and all e-mails since July 1, 2008 in the OSCN.net network bearing the name "Alexander Bednar," "Alex Bednar," "Mr. Bednar," or "Bednar."

102. On February 18, 2016, in the *Saheb v. Bednar case*, Respondent issued a subpoena duces tecum to the Webmaster of OSCN.NET commanding the production of any e-mails of Judges Barbara Swinton, Aletia Timmons, and Bernard Jones since July 1, 2008 bearing variations of his name, Saheb, or Brooks Ray. On February 26, 2016, "Attorney General's Special Appearance and Motion to Quash Subpoena and Brief in Support" was filed in the *Saheb v. Bednar* case.

103. On February 23, 2016, in the *Saheb v. Bednar case*, Respondent issued an Attorney Subpoena for Deposition to Judge Swinton seeking to depose her regarding *ex parte* communications with Farhad Saheb and questions regarding her actions in the case.

104. Respondent's actions constitute a pattern of professional misconduct in violation of the mandatory provisions of Rule 1.1, 1.3, 3.1, 3.4, 4.4, 8.4(d), ORPC and Rule 1.3, RGDP and warrant the imposition of professional discipline.

COUNT VI: THE JOHNSON GRIEVANCE

105. On May 13, 2016, the OBA received a grievance from Johnson alleging that in January of 2016, he paid Respondent a $3,000 fee to set up a special needs trust fund. Johnson alleged that Respondent ceased communicating with him and failed to perform

any services on his behalf.

106. Respondent failed to timely respond to the OBA's initial inquiry of May 18, 2016 as well as subsequent inquires made by certified mail, email, and telephone requests.

107. On September 27, 2016 Respondent sent a short letter stating that his computer was broken and he was unable to fully respond. In this response, Respondent claimed he "worked extremely hard on a myriad of issues, and what exists now is a fee dispute." Respondent also stated that during some of the time he was working on Johnson's issues, he suffered from health issues and that he would be happy to share all of his work product with Johnson.

108. The OBA's investigation showed that Johnson's retainer fee was deposited into Respondent's trust account and drawn against it in increments from January 23 - 26, 2016. Johnson indicated that the matter with Respondent was resolved and that he did not wish to pursue his complaint.

109. Respondent nonetheless failed to timely respond to multiple requests for a response and information from the OBA.

110. Respondent's actions constitute a pattern of professional misconduct in violation of the mandatory provisions of Rule 8.1(b), ORPC and Rule 1.3 and 5.2, RGDP and warrant the imposition of professional discipline.

COUNT VII: THE KEENEY AND SHAW GRIEVANCES

111. George Keeney ("Keeney") is a certified public accountant, a certified financial and forensics fraud examiner, and a charter global management accountant.

112. In the spring of 2015, Keeney was appointed to serve as the Guardian of the Estate of Marion Campbell, an incapacitated adult. A short time later, he was also

appointed to serve as the substitute Trustee of the Ward's trust and was hired to perform a forensic accounting of the Ward's assets and expenses.

113. Keeney's review of the finances and assets of the ward indicated that her heirs were taking advantage of her financially and wasting assets. According to Keeney, his work progressed in an orderly manner until April 2016, at which time Respondent was hired by some of the Ward's children and grandchildren.

114. On April 18, 2016, Respondent called Keeney and attempted to interrogate him about the Ward's finances. Respondent demanded that Keeney produce a multitude of paperwork and financial records. This was despite the fact that Keeney had made it clear to Respondent at the beginning of the call that he had an attorney, James Shaw ("Shaw"), and that all questions should be directed to his attorney.

115. After Keeney told Shaw about the telephone call from Respondent, Shaw called Respondent and advised him that he represented Keeney and that all future communications should be directed to him and not his client.

116. On May 5, 2016, Keeney and Attorney Sara Murphy (who served as Co-Guardian of the Ward) were scheduled to participate in a telephonic conference with the health care provider, the Ward's daughter, Sara Daharsh ("Daharsh"), and the Ward's granddaughter, Katherine McLain ("McLain"). Daharsh and McLain were co-guardians of the Ward.

117. Respondent appeared as a "surprise" participant in the conference call and again attempted to question Keeney, Murphy, and the health care representatives regarding financial matters, accountings, and other issues regarding the Ward's care; despite having been previously advised by Shaw that he was not to communicate with his

client, Keeney.

118. On May 6, 2016, Respondent again telephoned Keeney directly. During that conversation, Respondent falsely told Keeney that his attorney, Mr. Shaw, had said it was okay for Respondent to call Keeney directly. Respondent again demanded financial documents that were a part of Keeney's financial review. Keeney told Respondent he was not sure if he could provide those to Respondent and that he would check with his attorney. Respondent asked for Keeney's e-mail address during that conversation and afterwards e-mailed Keeney stating, "Look forward to the Synergy expenses and within a week a copy of the checks you have been going through."

119. After the call, Keeney contacted Shaw who advised that he had never authorized Respondent to call Keeney.

120. On May 6, 2016 at 5:15 p.m., Shaw e-mailed Respondent stating: "Mr. Bednar. I represent George Keeney, which you know. Do not communicate with him. Any communication for him should be directed to me as his counsel. Also, you will not receive any information from me until you send me a file-stamped copy of your entry of appearance for whomever you are representing."

121. Despite Shaw's explicit instructions, Respondent continued to communicate with Keeney by mail. Thereafter, Respondent falsely asserted in pleadings he filed in court that Keeney had "promised to produce" documents.

122. Within the course of two months, Respondent filed multiple baseless, harassing, and defamatory pleadings which served no purpose other than to harass and run up legal costs to the financial detriment of the Ward.

123. On May 11, 2106, Respondent filed for and appeared at an Emergency

Hearing wherein he threatened to sue Attorney Sara Murphy for "bad mouthing" his clients. He announced that his clients were also going to sue the health care provider, Synergy.

124. Judge Allen Welch took the matter under advisement, but specified in its written order that Synergy was not to be terminated without further order of the court.

125. The next day, on May 12, 2016, Respondent and his clients terminated the health care provider, thus leaving the Ward in a medically vulnerable position. Respondent then demanded that Keeney issue a check for $3,500 to pay for a new health care company to provide in-home care for the Ward.

125. Shaw advised Respondent by e-mail that Keeney had agreed to provide the check "based solely on his concern that without providing the payment for Visiting Angels, [the Ward] would be without necessary care due to your client's termination of Synergy." Shaw further stated, "Just to be clear: Mr. Keeney had no input into the termination of Synergy by your clients."

126. Respondent thereafter appeared before Judge Welch and misrepresented that Keeney and Shaw had "approved" the replacement caregivers.

127. On May 12, 2016, Shaw e-mailed Respondent and Attorney William Lewis (who represented Attorney Sara Murphy) and specifically requested that all communication among the parties be restricted to counsel. Shaw advised that this included copying represented parties on e-mails. Despite that request, Respondent continued to send e-mails to Keeney in which he threatened that Keeney would be liable for slandering his clients and for subjecting them to criminal prosecution and claiming that Keeney had no authority to perform the work he had been hired to do.

128. On May 25, 2016, Keeney filed a grievance against Respondent with the

OBA. On May 31, 2016, Shaw filed a grievance against Respondent with the OBA. Said grievances alleged the unauthorized contacts by Respondent with Keeney, threats, and specifically the waste of the Ward's financial assets due to Respondent's voluminous pleadings and actions.

129. On May 27, 2016, Respondent filed a civil suit against Synergy, Keeney, and Attorney Sara Murphy on behalf of Daharsh and McLain and the Ward's estate.

130. By letter dated June 15, 2016, the OBA advised Respondent of Keeney's grievance and requested his written response within twenty (20) days.

131. By letter dated June 15, 2016, the OBA advised Respondent of Shaw's grievance and requested his written response within twenty (20) days.

132. Respondent failed to respond to the OBA's requests for a written response to either the Keeney or Shaw grievance until September 27, 2016.

133. In his written response to the Keeney grievance, Respondent denied any wrongdoing and said the complaint "was likely the result of his attorney Jim Shaw requesting him to do so. Respondent stated Keeney had been prosecuted for embezzlement in 1994 (but failed to mention that the charge was dismissed after the preliminary hearing) and alleged that Keeney mismanaged funds and misrepresented facts about the Ward's finances.

134. In his written response to the Shaw grievance, Respondent denied any wrongdoing and claimed Shaw's complaint was "childish, likely due to conversations he had with the unscrupulous firm Kyle Goodwin belongs to. Jim Shaw is a childish, unprofessional attorney who threatened me after I sued his client, George Keeney, and who, with Keeney, has received large sums of money from billing [the Ward]'s estate."

135. Respondent's actions constitute a pattern of professional misconduct in violation of the mandatory provisions of Rule 1.1, 3.3, 4.2, 8.1(b), 8.4(d), ORPC and Rule 1.3 and 5.2, RGDP and warrant the imposition of professional discipline.

COUNT VIII: RESPONDENT'S FRIVOLOUS LAWSUIT AGAINST OKLAHOMA COUNTY JUDGES

136. On April 13, 2016, Respondent filed a civil suit against Judges Barbara Swinton, Judge Aletia Timmons, and Judge Thomas Prince in Oklahoma Co. District Court, Case No. CJ-2016-1923.

137. Respondent alleged that the judges violated their judicial canons for abuse of office and for actions outside their judicial capacities such as "publicly humiliating" and defaming him at social events. No dates, locations, statements to third persons, or other set of facts were alleged to put the defendants on notice as to when or where such actions allegedly occurred.

138. The case was transferred to Judge Duel in Logan County. Respondent failed to ever serve any of the judges.

139. On June 8, 2016, the Attorney General entered a special appearance for the judges and filed a motion to dismiss on the grounds of judicial immunity. On and June 29, 2016, privately retained counsel for Judge Timmons also filed a special appearance and motion to dismiss on the grounds of judicial immunity. The motions were set for hearing on July 14, 2016.

140. On July 14, 2016, Respondent failed to appear at the hearing on the motions and the case was dismissed with prejudice. Judge Duel issued a court minute on July 15, 2016.

141. On August 15, 2016, Respondent filed a Motion to Set Aside Dismissal on the grounds that the case had not yet commenced because he had not served the petition on any of the defendants.

142. On September 2, 2016, the Attorney General filed a responsive pleading on the grounds that 12 O.S. 2003 states that "a civil action is commenced by the filing of a petition with the court."

143. On October 16, 2016, Respondent filed a First Amended Petition in which he added a fourth judge, Lisa Hammond, as a defendant to the suit alleging similar claims of libel, slander, and intentional infliction of emotional distress.

144. On October 20, 2016, Judge Duel held a hearing and Respondent appeared. Duel overruled Respondent's Motion to set Aside Dismissal.

145. On October 25, 2016, Respondent filed a "Motion to Reconsider Order of October 25, 2016 For Good Cause Shown," but failed to ever set the matter for hearing.

146. On December 8, 2016, the Attorney General filed a response.

147. The OBA opened this case for investigation by letter dated January 13, 2017. Respondent failed to respond to the OBA's multiple requests for a response.

148. As a result of his failure to provide a full and fair response to this and the other grievances, Respondent was served with a subpoena on February 13, 2017 which commanded his appearance for a deposition on March 2, 2017.

149. On March 1, 2017, Respondent e-mailed a response to this grievance to Investigator Blasier wherein he stated his suit against the judges was an "ongoing case" and denied that suing the judges violated any ethical or professional duties. Respondent stated it was wrong for the OBA to open an investigation against him for "exercising his

right to access the courts to stop harm from occurring to [him]."

150. When Respondent was finally deposed regarding his law suit against the judges, he refused to provide specific information to show that his claims of being slandered were meritorious; claiming that such information was attorney-client privileged (Respondent is representing himself *pro se* in the lawsuit against the judges).

151. On November 27, 2017, Judge Duel denied Respondent's "Motion to Reconsider Denial of Motion to Set Aside Dismissal." Additionally, Judge Duel determined Respondent's Amended Petition, ". . . changing the Heading and adding an additional Defendant," was done without seeking or obtaining permission of the Court and that "[a]ll pleadings filed subsequent to this Court's order sustaining Motions to Dismiss filed by the Defendants were improperly filed by the Plaintiff." Judge Duel further held, "If Plaintiff had been given leave to amend the Petition, the Amended Petition did nothing to cure the defects. No additional evidence was presented that would sway this Court's decision."

152. Respondent's actions constitute a pattern of professional misconduct in violation of the mandatory provisions of Rule 1.1, 3.1, 8.1(b), 8.2(a), 8.4(c), and 8.4(d), ORPC and Rule 1.3 and 5.2, RGDP and warrant the imposition of professional discipline.

COUNT IX: RESPONDENT'S FAILURE TO COOPERATE WITH THE OBA'S REQUESTS FOR MEDICAL INFORMATION

153. Respondent resigned pending disciplinary proceedings from the U.S. District Court, Western District of Oklahoma on May 1, 2012 on charges including allegations of: witness intimidation, missing deadlines, altering court documents, being sanctioned $1,000 for discovery abuse; failing to appear at deposition hearings, sending emails to witnesses in which he threatened to file lawsuits against them for fraud and breach of contract if they

testified; having orders filed against him wherein the judge described Respondent's actions in three cases as demonstrating a pattern of missing deadlines and seeking reconsideration "that is typical in the Respondent's cases," being sanctioned $20,000 for altering a Final Joint Pretrial Report and putting opposing counsel's electronic signature on it without his consent. Respondent's resignation from the Western District was tantamount to disbarment.

154. As a result of Respondent's discipline in the Western District of Oklahoma, he was suspended for one year by the 10th Circuit Court of Appeals. Based on Respondent's discipline in the Western District and 10th Circuit, on September 27, 2012, the OBA filed a Rule 7 reciprocal disciplinary action against him.

155. On January 31, 2013, during his disciplinary hearing before the PRT, Respondent submitted, as mitigation, that he had been diagnosed with Executive Dysfunction and had suffered from it at the time of his misconduct before the Western District of Oklahoma. Respondent testified that, now that he was diagnosed and was taking medication prescribed by his treating psychiatrist, he could assure the Professional Responsibility Tribunal ("PRT") that he would continue to take his medication(s) to control his impulsiveness and follow the advice and treatment plan as recommended.

156. Respondent's psychiatrist and the psychologist who tested Respondent both testified it was their opinion that in addition to Intuniv, Respondent needed additional medication such as a stimulant to curb his impulsive behavior. They also recommended that Respondent be monitored and seen by a psychiatrist every six months to determine the effectiveness of the medication(s) as well as his compliance with taking his medication(s).

157. In the Trial Panel Report filed on February 26, 2013, the PRT recommended that Respondent be suspended for a minimum of one year pursuant to Rule 7 and Rule 10 and that Respondent's reinstatement be "conditioned upon his submission to a full psychiatric evaluation to be conducted by a neutral, qualified mental health professional to explore Respondent's previous alleged diagnosis of a 'Spike 9' personality and/or the possibility of any other mental health disorders and that Respondent receive such psychiatric, psychological, or other treatment that may be prescribed as a result thereof."

158. On March 18, 2013, Respondent filed a motion for a protective order and to seal all pleadings, transcripts, and exhibits per HIPAA. Respondent also filed a "Notice of Compliance with the PRT Recommendation, and Expectation of Psychiatric Evaluation Results for Determination of Current Fitness to Practice Law." In said notice, Respondent stated he had scheduled a psychiatric evaluation and would provide the Bar and the Court with the results as soon as they are available.

159. On April 1, 2013, the Oklahoma Supreme Court denied Respondent's motion to seal the record "in the interests of protecting the public." Said order further instructed Respondent NOT TO FILE the results of his psychiatric examination unless ordered to do so by the Court. The following day, on April 2, 2013, the Court issued an opinion suspending Respondent for one year in *State ex rel. Oklahoma Bar Ass'n v. Bednar*, 2013 OK 22, 299 P.3d 488 (5-4 decision; dissenting Justices would have suspended Respondent for two year and one day).

160. On March 31, 2016, during its investigation of multiple grievances filed against Respondent, the OBA e-mailed him stating that, due to the nature of the grievances under investigation and the concern that Respondent's physical and/or mental

health might again be affecting his practice of law, the OBA was requesting "any and all information regarding your current medications, your prescribed medications, any and all mental and physical diagnoses, and your current mental/physical healthcare providers' information." Respondent did not comply with the OBA's request.

161. In April of 2016, during a meeting with the Respondent, he continued to refuse to provide the OBA with any information regarding his current medical and psychological state.

162. On January 13, 2017, the OBA opened this matter for formal investigation. Respondent failed to respond to multiple requests and was subpoenaed on February 13, 2017 for his deposition. Although the OBA deposed Respondent for three and ½ hours on March 22, 2017, Respondent failed to bring any documentation responsive to the subpoena duces tecum concerning his medical and psychological records. Respondent also refused to answer any questions regarding his current medications and medical and/or mental health care or provide documentation as requested and subpoenaed; despite Respondent's prior sworn testimony during his 2013 disciplinary hearing (regarding his diagnosis of Executive Dysfunction and his promise to comply with taking necessary medications and continuing to participate in therapeutic counseling sessions to manage his disability).

163. Respondent stated he would provide relevant medical, psychological, and prescription records and information if the OBA would agree to sign a HIPPA protective order whereby the parties agreed that only the Oklahoma Supreme Court could review the information. Respondent requested he be allowed to appear before the PRC and present his request that the OBA should have to sign a protective order.

164. By letter dated September 22, 2017, the PRC Chair denied Respondent's request to appear before the Commission and discuss his concerns and the proposed protective order. The Chair also advised Respondent's refusal to produce such informaton and testify regarding same during his deposition was noted.

165. Respondent's actions constitute a pattern of professional misconduct in violation of the mandatory provisions of Rule 8.1(b), ORPC and Rule 1.3 and 5.2, RGDP and warrant the imposition of professional discipline.

COUNT XI: RESPONDENT'S MISREPRESENTATIONS TO JUDGE PARRISH

166. Respondent represented the Wilson family in a wrongful death suit filed in Oklahoma County District Court, Case No. CJ-2012-3378, *Wilson v. Saadah, et al.* Respondent's lawsuit was based upon the purported medical opinion of Dr. Chestnut. Dr. Chestnut had retired and moved from the United States and was residing in Norway in 2015.

167. Multiple attempts were made by opposing counsel, Gary Rife, to subpoena Dr. Chestnut for his deposition. Judicial assistance was made and Judge Patricia Parrish issued an order that Dr. Chestnut's deposition would be taken on December 8, 2015. The Chestnuts were scheduled to return to Oklahoma during that time for a medical procedure for Mrs. Chestnut.

168. On the date that Dr. Chestnut was to be deposed, Respondent filed a motion to quash wherein he claimed that he had never been noticed of the deposition because it had been served on Attorney Ed Saheb, whom he had previously shared an office with in Norman and Oklahoma City. Respondent advised the court that his witness was "unable to attend the deposition as he was receiving medical care and treatment." Judge Parrish,

relying upon Respondent's representations to her, struck the deposition of Dr. Chestnut that was scheduled for that afternoon.

169. When Dr. Chestnut did not appear for his deposition, Attorney Rife filed a motion for sanctions against Respondent.

170. On February 3, 2015, a hearing was held before Judge Parrish regarding the circumstances surrounding Dr. Chestnut's previously scheduled deposition. Judge Parrish heard the sworn testimony of several of the lawyers involved in the case, including Respondent. The statements established that Respondent had been given notice of the deposition and had even e-mailed opposing counsel about rescheduling it.

171. Judge Parrish found that Respondent had misrepresented facts to the court, withheld information such as the availability of Dr. Chestnut, and permanently recused herself from any future cases with Respondent stating, "I do not trust what you told me and failed to tell me in your motion to quash." Judge Parrish further stated her need for permanent recusal from Respondent's cases ". . . because it would not be fair to your client because I will not take at face value anything you tell me, that I feel like you might be misrepresenting or not putting in all the information." Following the hearing, Judge Parrish entered an administrative order permanently recusing herself from any case involving Respondent.

172. This grievance was opened for formal investigation on October 31, 2017. In his written response dated November 27, 2017, Respondent requested that Bar Counsel be recused from his cases. Respondent failed to provide a full and fair disclosure of all relevant facts surrounding the events set forth in the transcript of the hearing before Judge Parrish that was the subject matter of the grievance. Respondent stated no sanctions were

imposed by the court (because the case settled and the motion was ruled moot) and denied violating his professional duties. Respondent further stated "NO IDENTIFIED HUMAN BEING HAS FILED A COMPLAINT AGAINST ME regarding such matter" and noted his concern that the OBA was reaching out to attorneys to subtly encourage them to file bar complaints against him.

173. Respondent's actions constitute a pattern of professional misconduct in violation of the mandatory provisions of Rule 3.3, 3.4, 8.1(b), 8.4(c), 8.4(d), ORPC and Rule 1.3 and 5.2, RGDP and warrant the imposition of professional discipline

COUNT XII: RESPONDENT'S MISCONDUCT IN A DEPRIVED CHILD CASE

174. During an interview of Oklahoma County District Judge Haralson regarding his observations of and experience with Respondent in the *Bednar* divorce case, the judge advised that there had been a recent incident wherein Respondent had filed inappropriate pleadings in a deprived child case in juvenile court. Judge Haralson referred the OBA to contact Judge Sue Johnson who had presided over the matter.

175. Judge Johnson confirmed that on March 29, 2017, Respondent filed an entry of appearance on behalf of foster parents wherein he listed himself as an attorney with the "Children's Legal Rights Center." Respondent also filed at that time the following pleadings: "Foster Parents' Emergency Motion to Halt Trial Reunification Based on New Medical Report (Attached)," a "Petition for Guardianship and Appointment of Guardian of the Person of a Minor," "Foster Parents' Emergency Motion to Halt Unsupervised Visits," and "Foster Parent's Motion to Intervene." With these pleadings, Respondent attached an un-redacted copy of doctors' reports which contained confidential and protected medical and personal information about the child and biological parents.

176. Respondent's pleadings also referred to and attached a copy of a confidential report from the Oklahoma Department of Human Services addressed to the District Attorney's Office dated March 29, 2017. Neither the foster parents nor Respondent should have had access to any of these reports. The court entered a minute order that the attachment to the motion be "removed and placed in sealed envelope, as the document is confidential."

177. This grievance was opened by the OBA on October 31, 2017 upon receipt of a certified copy of the pleadings from the deprived case. In the OBA's letter advising Respondent he was required to respond, it specifically requested: "In particular, please address the manner in which you obtained the confidential medical records and the Report to the District Attorney that was provided by the Oklahoma Department of Human Services dated March 29, 2016."

178. In his written response dated November 27, 2017, Respondent failed to provide a full and fair disclosure of all relevant facts and did not address how he obtained the confidential documents he had attached to and filed with his pleadings. Instead, Respondent requested that the OBA's General Counsel and First Assistant General "recuse from further administrative action against him pursuant to Rule 3.4 due to flagrant constitutional violations and knowing purposeful harassment without basis, and an existing lawsuit and . . . for dismissal under 12 OS 2012(b) for failure to state a claim, for lack of evidence, lack of complainant, as no sanctions were imposed by the court of competent jurisdictions, and as proper procedure was followed." Respondent stated this grievance was "yet another bizarre case opened up by the general counsel without any registered person complainant and essentially asking me to explain why a client asked for relief under

the law. This is another example of harassment . . ." Respondent stated his clients, the foster parents, had standing in juvenile cases and a "presumptive right to adopt a foster child they have cared for such child after fourteen months . . ."

179. Respondent's actions constitute a pattern of professional misconduct in violation of the mandatory provisions of Rule 1.1, 3.4, 8.1(b), 8.4(d), ORPC and Rule 1.3 and 5.2, RGDP and warrant the imposition of professional discipline.

ENHANCEMENT

180. On or about April 2, 2013, Respondent was suspended from the practice of law for one year by the Oklahoma Supreme Court in a Rule 7, RGDP, reciprocal disciplinary proceeding in *State ex rel. Oklahoma Bar Ass'n v. Alexander Louis Bednar*, 2013 OK 22, 299 P.3d 488. Said discipline was based upon Respondent's resignation from the United States District Court for the Western District of Oklahoma while disciplinary proceedings were pending on May 1, 2012 and his suspension from the Tenth Circuit Court of Appeals for a minimum of one year. Per the Oklahoma Supreme Court's findings of facts:

> The Western District charges included allegations of witness intimidation, missing deadlines, and altering court documents. In December 2011, the Honorable Vicki Miles-LaGrange sanctioned Respondent $1,000 for discovery abuse: failing to appear at deposition hearings, which is a violation of Oklahoma Rules of Professional Conduct (ORPC) Rules 1.3 and 8.4(d), and Rule 1.3, RGDP. The following month, the Honorable Stephen Friot sent a complaint of professional misconduct regarding the Respondent to Judge Miles-LaGrange. The complaint included emails sent by the Respondent to witnesses in which he threatened to file lawsuits against them for fraud and breach of contract if they testified. These actions constitute violations of Rules 3.4(a), 3.4(f), and 8.4(d) OPRC, as well as Rule 1.3, RGDP2 . Also in January 2012, the Honorable Lee West sent Judge Miles-LaGrange copies of orders in three separate cases handled by Respondent. Judge West described all three as demonstrating a pattern of missing deadlines and seeking reconsideration that is typical in the Respondent's cases. These

> actions constitute violations of OPRC Rules 1.1, 1.3, 3.23 , 8.4(d), and Rule 1.3, RGDP. The Honorable Tim Leonard also sent a memo to Judge Miles-LaGrange regarding the Respondent. Judge Leonard had sanctioned Respondent $20,000 for altering a Final Joint Pretrial Report and putting opposing counsel's electronic signature on it without his consent. These actions violated OPRC Rules 3.3, 3.4, 8.4(c), 8.4 (d), and Rule 1.3, RGDP. These charges and Respondent's resignation led to his one-year federal suspension [from the Tenth Circuit Court of Appeals].

Bednar, *supra* at ¶5.

WHEREFORE, premises considered, Complainant requests that the Respondent be disciplined as this Court finds equitable and proper, and for such other relief as this Court finds appropriate.

Done at the direction of the Professional Responsibility Commission this the 21st day of December, 2017.

R. Richard Sitzman

Richard Sitzman, Chair
Professional Responsibility Commission

AND

Loraine D. Farabow, OBA No. 16833
First Assistant General Counsel
Oklahoma Bar Association
P.O. Box 53036
Oklahoma City, OK 73152
405.416.7083(o) 405.416.7007(f)

ATTORNEY FOR COMPLAINANT

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 21st day of December, 2017, a true and correct copy of the foregoing Complaint was mailed by certified mail, return receipt requested, to Alexander L. Bednar, Respondent, at 3030 N.W. Expressway, Suite 200, Oklahoma City, OK 73013 ***and*** at 15721 Via Bella, Edmond, Oklahoma 73013; and by first class mail, postage prepaid, to: M. Joe Crosthwait, Jr., Chief Master of the Professional Responsibility Tribunal, 1384 S. Douglas Blvd., Midwest City, OK 73130.

Loraine D. Farabow

I, John D. Hadden, Clerk of the Appellate Courts of the State of Oklahoma do hereby certify that the above and foregoing is a full, true and complete copy of the Complaint in the above entitled cause, as the same remains on file in my office.

In Witness Whereof I hereunto set my hand and affix the Seal of said Court at Oklahoma City, this 7th day of June 2019.

Clerk

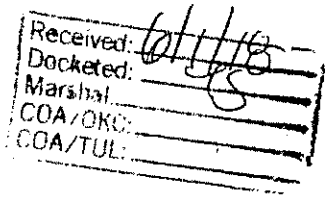
By _____ DEPUTY

ORIGINAL

FILED
SUPREME COURT BAR DOCKET
STATE OF OKLAHOMA
JUN - 1 2018
JOHN D. HADDEN
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA
BEFORE THE PROFESSIONAL RESPONSIBILITY TRIBUNAL

STATE OF OKLAHOMA *ex rel.*, OKLAHOMA BAR ASSOCIATION,	)	RULE 6, RGDP
v.	)	SCBD # 6618
ALEXANDER LOUIS BEDNAR, Respondent.	)	



TRIAL PANEL REPORT

This matter was heard for two weeks beginning on April 23, 2018 and ending mid-afternoon on May 4, 2018. The Complainant was represented by First Assistant General Counsel Loraine Dillinder Farabow. The Respondent appeared *pro se*. The Complainant complied with the Pre-Trial Scheduling Order and all exhibits listed were admitted together which were offered in the course of the hearing and admitted. Three exhibits offered by Respondent were admitted.

The Complainant called a total of twenty-nine (29) witnesses and the Respondent called five (5) witnesses.

The Complaint contains Eleven (11) counts[1] and forty-four pages together with an allegation in support of enhancement of discipline. As is set forth *infra,* the allegations of the Complaint were deemed admitted prior to the commencement of the hearing before the Trial Panel pursuant to Rule 6.4 of the Rules Governing Disciplinary Procedure (RGDP), 5 O.S. 2011, ch. 1, app. 1-A.

The Respondent, Alexander Louis Bednar, was previously suspended by this Court for a period of one year beginning April 2, 2013, pursuant to Rule 7, RGDP, following his resignation and hence effective disbarment from the United States District Court for the Western District of Oklahoma.

[1] The Complaint is misnumbered going from Count IX to Count XI and finally Count XII. Reference herein is to the numbering assigned in the Complaint. Count IV contains subparts A-F and Count V contains subparts A-D.

EXHIBIT
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The Rule violations prompting the Federal Court disbarment included violations of Rules 1.1, 1.3, 3.2, 3.3, 3.4(a) and (f), and 8.4(c) and (d) of the Oklahoma Rules of Professional Conduct (ORPC), 5 O.S. 2011, ch. 1, app. 3-A and Rule 1.3, RGDP. More specifically, Respondent was accused of discovery abuses, witness intimidation by threatening to file lawsuits against them for fraud if they testified, a pattern of missing deadlines, constantly requesting reconsideration of rulings which had gone against him, and altering a Final Pretrial Report and attaching the opposing counsel's signature to same without authority. This latter infraction resulted in a $20,000.00 sanction.

At the conclusion of Respondent's suspension, and after filing the required Affidavit with this Court in July, 2014, he resumed the practice of law. He also resumed, as set forth in the allegations contained in the Complaint in this matter and established by clear and convincing evidence at the hearing on this matter, a pattern of lying and cheating (which in polite and professional parlance is and hereafter referred to as "a pattern of lack of candor") to the Court as well as to opposing counsel and others. Additionally, he undertook an endless stream of Rule 15 Requests for Recusal all of which were either done procedurally improperly or at strategic moments from which there is no reasonable conclusion except that Respondent did so to gain a delay and thereby an advantage and hence for an improper purpose. Never mind they were frequently based on fictitious 'facts'.

Respondent finds no impediment to seeking a change of venue after judgment has been entered and the case concluded. Not to be overlooked is Respondent's continuous stream of Motions to Reconsider. Once overruled, these motions would frequently reappear, like other pleadings, as not so cleverly disguised clones but with new appellations. If not taking "No" for an answer were a virtue, Mr. Bednar would be a Saint.

Respondent's more recent litigation and discovery abuses together with his pattern of lack of candor reflect that in the build up to his earlier Western District disbarment he was but a mere piker. The evidence in this matter demonstrates clearly and convincingly that Respondent uses his license to practice law to bully and sue anyone whom he perceives might be talking badly about him or know about his prior relationship with a sitting judge, or to try to force a recusal, or perhaps just to be mean. The record reflects that he files frivolous and abusive lawsuits but often neglects to have many of the hapless

defendants served. He routinely engages in discovery practices which, intentional or not, harass and intimidate. The single thread in the cases and instances which are the subject of the Complaint and as to which there is overwhelming evidence before the PRT is that there are few true facts to support the utter lack of supportive law.

Prior to the filing of the Complaint, the Respondent's cooperation with the General Counsel in the various investigations was either non-existent or only supported by false statements and forged or false documents. Once served with the formal complaint on January 11, 2018, Respondent did not file an Answer. After Complainant filed a Motion to Deem Allegations Admitted on January 31, 2018. Respondent did not file a Response to it nor did he even then attempt to file an Answer to the Complaint itself.

Finally, the Presiding Master entered an Order sustaining the Motion to Deem Allegations Admitted on April 3, 2018. The docket reflects throughout these proceedings, both before and after the Order Deeming Allegations Admitted, a plethora of "Special Appearances" by the Respondent in this Court as well as before the Trial Panel, seeking, *inter alia*, the recusal of the Presiding Master, appointment of a special master, and disqualification of the Assistant General Counsel Loraine Farabow. Such actions by Respondent were necessarily overruled summarily by both the Trial Panel as well as this Court because they were either not pursued procedurally correctly or because they were frivolous. Generally, it was for both reasons.

On the fourth day of the hearing, the Respondent filed yet another "Special Appearance" demanding an evidentiary hearing as to a witness which he asserted had perjured herself. This Court summarily deferred that to the Trial Panel which overruled it.

Approximately seven weeks after the Scheduling Order was entered and four weeks before the hearing date, Respondent issued multiple subpoenas duces tecum addressed primarily to judges and lawyers which sought voluminous and clearly undiscoverable, irrelevant, and mostly privileged materials. Almost all were improperly served and allowed only 7 or 8 days to comply and were subject to being quashed for those reasons alone without regard to the patent frivolity of their substance. When the Presiding Master ordered Respondent to file a Response to the multitude of Motions to Quash the subpoenas he had issued, Respondent complained he couldn't possibly

respond to them in the time allotted (the same time he allowed those subpoenaed to comply) and still prepare for the hearing.

During the hearing, the Respondent was the exemplification of "unprofessional". He was frequently late at the beginning of sessions and when called out on it stated he had been there but outside the hearing room, delayed by security, had been stuck in an elevator at the courthouse, and so on. It was, of course, never Respondent's fault. He complained numerous times, beginning on the first day of the hearing, that his computer had been damaged by security "wanding" it, compromising his ability to defend himself in the hearing. He even demanded payment by the OBA for its repair or replacement by presenting a bill. Those responsible for security denied having ever "wanded" the computer.

Throughout much of the hearing the Respondent was disruptive and argumentative. His objections to Complainant's questions to witnesses were rarely well founded and almost always wildly off the mark. Whether this is the result of incompetence or a desire of the Respondent to disrupt and delay the proceedings is irrelevant.

In *State ex rel. Oklahoma Bar Association v. Godlove*, 2013 OK 38, 318 P.3d 1086, Justice Steven Taylor wrote that "We have not before been presented in an attorney disciplinary hearing with facts in which a lawyer abused the judicial system to the extent that Godlove has done here...There is a fine line between zealous advocacy and harassing, frivolous litigation. *Godlove* has not only overstepped the line, she has trampled it."

In the case at bar, the Trial Panel respectfully suggests that the *Godlove* standard has been not only overstepped, but has been trampled by Alexander Bednar. There is, however, an important distinction between *Godlove* and Bednar. Whereas *Godlove* not only failed to file an Answer to the Complaint or appear for the PRT hearing, Bednar failed to file an Answer but did appear for the hearing. Respondent's conduct in that appearance alone begs for enhancement of discipline.

As previously mentioned, the Trial Panel entered its Order Deeming Allegations Admitted as required under Rule 6.4, RGDP. Nonetheless, and as set forth in that Order, the Panel properly required the Complainant to establish by clear and convincing evidence the material elements of each rule violation alleged, but nonetheless permitted

the Respondent to challenge that evidence by cross examination and relevant evidence. With only occasional, even rare, compliance with the urging of the Trial Panel and the Presiding Master directing the Respondent to challenge the evidence and witnesses' testimony as it related to the rules violations, Respondent would almost without exception focus his efforts to either justifying his actions giving rise to the violations or attack the witness personally rather than the witness' credibility.

The Respondent was either unable or unwilling to comprehend the parameters thus set forth. Regardless, his conduct in the hearing demonstrates his unfitness to practice law. To get the full flavor of Respondent's conduct, a reading of almost any portion of the transcript will suffice. Special attention should be paid to his frequent soliloquies advancing his theories of extraordinary persecution of him and bias by the bench and bar of Oklahoma County because of his past relationship with a Judge and his vague, unsupported assertions that everyone was talking about him and against him.

In this connection, it is noted that Respondent defended his actions giving rise to his prior suspension on ADHD and Executive Dysfunction which, as he then asserted, if he took his medicine, he could overcome. Interestingly, no such defense was asserted this time nor did Respondent provide medical information to the General Counsel during this investigation. This topic is more fully discussed herein.

COUNT I: THE PIKE GRIEVANCE

The Trial Panel finds by clear and convincing evidence the factual allegations contained in Paragraphs 5-21 of the Complaint and hence finds that the Respondent violated the mandatory provisions of Rule 1.3, 1.4, 1.5, 1.15, 1.16(d), 8.1(b), 8.4 (c), and 8.4(d) of the Rules of Professional Conduct and Rules 1.3 and 5.2 of the Rules Governing Disciplinary Procedure.

Respondent's conduct from the moment he was paid a $15,000.00 retainer for the defense in a capital murder case[2] through the conclusion of the PRT hearing was in all respects agonizingly obfuscatory, decidedly deceptive, constantly contradictory, and wholly inadequate. And given that Respondent was plainly trying to delay and deceive

[2]Respondent had never before handled a murder case.

both his client[3] and the Complainant, he was not the least bit clever in this devious undertaking — or in any of them for that matter.

Rather than provide an accounting of the time and effort he had spent in the matter prior to the grievance, despite repeated requests, or respond to the multiple inquiries of the bar counsel during its investigation[4], Respondent sought to establish the value of his services in the course of the PRT hearing. Such was inadequate, untimely, unpersuasive, and undoubtedly conjured up.

COUNT II: THE TAYLOR GRIEVANCE

The Trial Panel finds by clear and convincing evidence the factual allegations contained in Paragraphs 23-42 of the Complaint and hence finds that the Respondent violated the mandatory provisions of Rules 3.3, 8.1(b), 8.4(c), and 8.4(d) of the Rules of Professional Conduct and Rules 1.3 and 5.2 of the Rules Governing Disciplinary Procedure.

Respondent's conduct as to this count was likewise obfuscatory and deceptive. An inordinate amount of time was consumed as the Respondent sought to prove that it was not he who forged a written consent and waiver in a guardianship matter, but rather his client. He painstakingly, or more accurately painfully, showed step by step how it just might be true that his client had cut and paste the notarization because she had the opportunity and motive as a supposedly desperate grandmother seeking guardianship of her infant grandchild. Respondent failed to explain why he would have presented to the judge the waivers and consents when he knew, and had to know, that one of them could not possibly have been signed and notarized in Oklahoma that very day when the person who signed it was physically in Washington State.

Respondent then had the audacity to file in this Court another of his "Special Appearances" asking this time to strike the testimony of his former client on the allegation of perjury regarding the document falsification or forgery of the notarization in question

[3] The person initiating the grievance was the grandmother who paid the retainer on behalf of the criminal defendant and who sought an accounting and a refund. She was assisted in the preparation of the grievance by the attorney who assumed representation after the Respondent was terminated.

[4]One of the multiple excuses given by Respondent for not providing an accounting is that all of his records were on his laptop that wasn't working.

and demanding an immediate "statutory hearing." This Court immediately deferred to the Trial Panel which denied same. The Trial Panel was then and is now of the opinion that the only perjury was that perpetrated by Respondent.

COUNT III: THE GOODWIN GRIEVANCE

The Trial Panel finds by clear and convincing evidence the factual allegations contained in Paragraphs 44-65 of the Complaint and hence finds that the Respondent violated the mandatory provisions of Rules 1.1, 1.3, 3.2, 3.4, 8.1(b), and 8.4(d) of the Rules of Professional Conduct and Rules 1.3 and 5.2 of the Rules Governing Disciplinary Procedure.

This Count relates to a foreclosure action of Respondent's and his then-wife's home.[5] Respondent used every trick in the book, and some not in the book, to stall and prevent the action. He failed to provide copies of filings to opposing counsel, sued the owner of the bank which held the mortgage and its employees and its attorneys and sought discovery from them most of which was totally outside the lines and clearly frivolous and harassing6. He sought recusal of the judges assigned to his case procedurally improperly and at times clearly designed to disrupt and delay the foreclosure proceedings. And one for the record book --- Respondent, after Judge Andrews denied yet another Motion to Recuse, this one on the eve of a hearing on Plaintiff's Application for a Writ of Assistance, filed a "Motion to Recuse for Appearance of Lack of Impartiality and for Forum Non Conveniens."

[5]Plaintiff's foreclosure action included a claim for fraudulent inducement related to alleged false statements made by Respondent about his status as a lawyer about the time of his earlier suspension and the amount of his income. The Trial Panel was firmly persuaded at the hearing that Respondent had falsified e-mails supporting his argument that the bank was aware of his status. This, together with his "responses" to the grievance requested by the OBA, demonstrates Respondent's utter contempt for the disciplinary process and the truth.

[6]Respondent sought, *inter alia,* Plaintiff's lawyer's malpractice insurance and all communications between Plaintiff's lawyer and the Plaintiff.

COUNT IV: RESPONDENT'S PATTERN OF IMPROPERLY SEEKING THE RECUSAL OF JUDGES, IMPUGNING THE INTEGRITY OF THE JUDICIARY, AND ATTEMPTING TO DISGUISE THE SAME LEGAL REQUEST BY CHANGING THE NAME OF THE PLEADING

AND

COUNT V: RESPONDENT'S PATTERN OF IMPROPER, VEXATIOUS, BAD FAITH, FRIVOLOUS, AND ABUSIVE DISCOVERY TACTICS INVOLVING OPPOSING COUNSEL, COURT PERSONNEL, TRIAL JUDGES

As to Count IV, subparts A-F, the Trial Panel finds by clear and convincing evidence the factual allegations contained in Paragraphs 67-94 of the Complaint and hence finds that the Respondent violated the mandatory provisions of Rules 1.1, 1.3, 3.1, 3.2, 3.3, 8.1(b), 8.2(a) and 8.4(d) of the Rules of Professional Conduct and Rules 1.3 and 5.2 of the Rules Governing Disciplinary Procedure.

As to Count V, subparts A-D, the Trial Panel finds by clear and convincing evidence the factual allegations contained in Paragraphs 96-103 of the Complaint and hence finds that the Respondent violated the mandatory provisions of Rules 1.1, 1.3, 3.1, 3.4, 4.4, and 8.4(d) of the Rules of Professional Conduct and Rule 1.3 of the Rules Governing Disciplinary Procedure.

As to the facts in these two counts there can be no reasonable dispute. The Trial Panel necessarily, or perhaps unnecessarily, was subjected to hours of the testimony of multiple judges and practicing attorneys, interspersed with a constant barrage of inane objections and other interruptions by Respondent, that to those devoted to the ideals of the legal profession and the principles of the Rules of Professional Conduct are utterly repugnant. One must read the transcript to fully "appreciate" the record.

COUNT VI: THE JOHNSON GRIEVANCE

The Trial Panel does not find by clear and convincing evidence the factual allegations contained in Paragraphs 105-109 of the Complaint.

COUNT VII: THE KEENEY AND SHAW GRIEVANCES

The Trial Panel finds by clear and convincing evidence the factual allegations contained in Paragraphs 111-134 of the Complaint and hence finds that the Respondent violated the mandatory provisions of Rules 1.1, 3.3, 4.2, 8.1(b), and 8.4(d) of the Rules

of Professional Conduct and Rules 1.3 and 5.2 of the Rules Governing Disciplinary Procedure.

Of all the grievances mounted against Respondent, these are perhaps the most egregious of the egregious. In both the conduct leading to the grievances as well as in the conduct of Respondent during this part of the PRT hearing, the Respondent is the embodiment of unscrupulous. From his direct disobedience of Judge Welch's clear and unambiguous Order, to his repeatedly knowingly contacting a represented party, to his insistence in the hearing that the Order he disobeyed should not have been entered, to filing abusive and baseless pleadings, Respondent's conduct is an affront to the bar and indeed to human decency. To put the finishing touch on all he did, he sought to have the guardian of a ward arrested under the auspices he dishonestly created.

COUNT VIII: RESPONDENT'S FRIVOLOUS LAWSUIT AGAINST OKLAHOMA COUNTY JUDGES

The Trial Panel finds by clear and convincing evidence the factual allegations contained in Paragraphs 136-151 of the Complaint and hence finds that the Respondent violated the mandatory provisions of Rules 1.1, 3.1, 8.1(b), 8.2(a), 8.4(c), and 8.4(d) of the Rules of Professional Conduct and Rules 1.3 and 5.2 of the Rules Governing Disciplinary Procedure.

Perhaps the most telling fact in this grievance, though there are many, is Respondent's refusal, when deposed, to provide information as to the alleged meritorious nature of his claims of slander. He refused to answer based on attorney-client privilege even though he is *pro se.*

The remaining allegations proved by clear and convincing evidence show the continued abuse of the process by Respondent, disregard for court rules and orders, renaming pleadings requesting the same relief, filing pleadings after a case has been dismissed, and failure to respond to a grievance when directed to by the General Counsel.

COUNT IX: RESPONDENT'S FAILURE TO COOPERATE WITH THE OBA'S REQUESTS FOR MEDICAL INFORMATION

The Trial Panel finds by clear and convincing evidence the factual allegations contained in Paragraphs 153-164 of the Complaint and hence finds that the Respondent violated the mandatory provisions of Rule 8.1(b) of the Rules of Professional Conduct and Rules 1.3 and 5.2 of the Rules Governing Disciplinary Procedure.

This Count arises out of the prior disciplinary matter wherein Respondent was suspended for one year following his effective disbarment from the Western District of Oklahoma. In that proceeding, Respondent blamed his conduct on a variety of mental disorders and assured the Trial Tribunal in that proceeding that he would take the prescribed medication for those disorders and obtain on-going counselling. After his suspension was completed and then a variety of grievances had been filed with respect to the Respondent, the General Counsel requested information regarding his current medical and mental status together with information regarding treatment, if any. Respondent failed to cooperate and to provide that information without an Order restraining the public disclosure of that information.

The record is not clear as to exactly what transpired with respect to such an Order prior to the filing of the formal Complaint. What is clear is that prior to the filing of a formal Complaint and for twenty days thereafter all information regarding all grievances is confidential and were that information to be used to assert personal incapacity to practice law, it would be contained within a Complaint filed under Rule 10 (RGDP) the proceedings of which are confidential.

Perhaps in a stretch and without the particular facts of this case and the prior disciplinary matter in which Respondent himself interjected the issue of mental health, a reasonable argument could be made by a Respondent that a protective order of some sort ought to be entered prior to a Respondent being compelled to disclose such information. But in this particular case, Respondent himself had raised the issue and the conduct alleged in the grievances giving rise to the current Complaint, was remarkably similar to that giving rise to the Western District disbarment.

The Trial Panel is of the opinion that Respondent's repeated failure to provide such information was unreasonable under the particular facts of this case and that he acted in an effort to obstruct and delay the grievance process and that therefore his conduct warrants the imposition of discipline. Not to be overlooked of course is the fact that the allegations of this Count, together with all others, are deemed admitted by virtue of Respondent's failure to file an Answer to same.

COUNT XI: RESPONDENT'S MISREPRESENTATIONS TO JUDGE PARRISH

The Trial Panel finds by clear and convincing evidence the factual allegations contained in Paragraphs 166-172 of the Complaint and hence finds that the Respondent violated the mandatory provisions of Rule 3.3, 3.4, 8.1(b), 8.4(c), and 8.4(d) of the Rules of Professional Conduct and Rules 1.3 and 5.2 of the Rules Governing Disciplinary Procedure.

This Count involves nothing more and nothing less than the Respondent walking into Judge Parrish's chambers just before the noon hour with a Motion to Quash a Deposition Subpoena for a client of Respondent and for a deposition scheduled right after the lunch hour that same day. Respondent told the Judge that he had just learned of the proposed deposition and could not possibly attend because of commitments out of county. Based on that representation the Judge signed an Order Quashing the subpoena. The Judge subsequently learned that Respondent did have knowledge of the deposition and that the scheduling of same had been agreed upon by all — including the Respondent — a fact that he later admitted to her.

The Respondent, in the course of the PRT hearing, sought to justify his deception by all manner of explanations. Amongst these were that the Order Quashing the Subpoena did not state the reason it was to be quashed, that the party seeking to depose Respondent's client (an expert) was not harmed because Respondent was not going to use the person as a witness, and that there were other dates and times considered for the deposition. And of course he maintained that he really did have to be out of county. But he never addressed the simple fact that he had lied to the judge.

Moreover, he could not explain why there were two Orders Quashing the Deposition Subpoena but one stating additional information which was not on the Order which Judge Parrish signed. The other appears to have been FAXED from opposing counsel's office FAX machine at Respondent's request. The Trial Panel is of the firm belief that the Respondent falsified this second Order and requested an employee of the opposing counsel to FAX it to others from that FAX machine.

Based on her experience with Mr. Bednar in this matter, Judge Parrish entered an Order permanently recusing herself from any cases in which Mr. Bednar is counsel, now

or in the future. She testified she had never before and has never since felt compelled to enter such an order regarding any other lawyer.

COUNT XII: RESPONDENT'S MISCONDUCT IN A DEPRIVED CHILD CASE

The Trial Panel finds by clear and convincing evidence the factual allegations contained in Paragraphs 174-178 of the Complaint and hence finds that the Respondent violated the mandatory provisions of Rule 1.1, 3.4, 8.1(b), and 8.4(d) of the Rules of Professional Conduct and Rules 1.3 and 5.2 of the Rules Governing Disciplinary Procedure.

This Count arises from a juvenile matter. It came to the attention of a Juvenile Court Judge that Respondent had filed a Motion and attached to it information which the Judge believed should not have been in the possession of the Respondent and that the Respondent should not have used that information in a pleading. The real issue in this Count is not whether or not the Respondent should have had and used this information, although both the Presiding Juvenile Court Judge and the assigned trial judge were quite certain it was unlawful. No authority was provided for that position. But in the investigation of the grievance, the General Counsel repeatedly requested the Respondent to tell them how the Respondent came into possession of those documents. Respondent did not respond to those requests. Such a request is a reasonable request and the Respondent's failure to answer in any way is grounds for discipline.

CONCLUSION

The Trial Panel finds that the allegations of the Complaint as to Counts I, II, III, IV, V, VII, VIII, IX, XI, and XII have been both deemed admitted by the Respondent's failure to submit an Answer and established by clear and convincing evidence. The Trial Panel also suggests that a finding with respect to just one of Counts I, II, III, IV, V, VII, VIII, or XI in this case warrant the discipline recommended.

The Trial Panel finds without the slightest reservation or hesitation that the Respondent is unfit in all respects to be licensed as an attorney and recommends that he be permanently disbarred, that his name be stricken from the roll of attorneys, and that he be ordered to pay the costs of this proceeding.

Respectfully submitted this 1st day of June, 2018.

M. Joe Crosthwait, Jr., Presiding Master

Rodney D. Ring, Lawyer Member

James W. Chappel, Lay Member

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 1st day of June, 2018, at the direction of the Presiding Master of the Professional Responsibility Tribunal, a true and correct copy of the foregoing document was sent first-class mail, to:

M. Joe Crosthwait, Jr.
THE CROSTHWAIT LAW FIRM
1384 S. Douglas Boulevard
Midwest City, Oklahoma 73130
TRIAL PANEL PRESIDING MASTER

Rodney D. Ring
300 Timberdell Road
Norman, OK 73019
TRIAL PANEL LAWYER MEMBER

James W. Chappel
6175 Richard Lane NE
Norman, OK 73026
TRIAL PANEL NON-LAWYER MEMBER

Alexander Bednar
3030 NW Expressway, Suite 200
Oklahoma City, OK 73112
RESPONDENT

15721 Via Bella
Edmond, OK 73013

I, John D. Hadden, Clerk of the Appellate Courts of the State of Oklahoma do hereby certify that the above and foregoing is a full, true and complete copy of the Joint Brief of Appellees in the above entitled cause, as the same remains on file in my office.

In Witness Whereof I hereunto set my hand and affix the Seal of said Court at Oklahoma City, this 7th day of November 2019.

Clerk

By _____ DEPUTY

15

ORIGINAL

2019 OK 12

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT BAR DOCKET
STATE OF OKLAHOMA
MAR 12 2019
JOHN D. HADDEN
CLERK

State of Oklahoma ex rel. Oklahoma Bar Association,	)	
Complainant,	)	
v.	)	SCBD 6618
	)	FOR OFFICIAL PUBLICATION
Alexander L. Bednar,	)	
Respondent.	)	

Rec'd (date) 3-12-19
Posted
Mailed
Distrib
Publish yes no

PROCEEDING FOR BAR DISCIPLINE

¶0 The Oklahoma Bar Association filed an eleven-count Complaint charging Alexander L. Bednar with numerous violations of the Oklahoma Rules of Professional Conduct and the Rules Governing Disciplinary Proceedings. Respondent failed to file proper responses to the grievances against him, an answer to the Complaint, or a response to the Motion to Deem Allegations Admitted. After a lengthy hearing, the Professional Responsibility Tribunal recommended disbarment. Upon *de novo* review, we agree.

RESPONDENT IS DISBARRED AND ORDERED TO PAY COSTS.

Loraine Dillinder Farabow, Oklahoma Bar Association, Oklahoma City, Oklahoma, for Complainant.
Alexander L. Bednar, Oklahoma City, Oklahoma, *Pro Se*.

PER CURIAM:

¶1 Alexander L. Bednar (Respondent) is a member of the Oklahoma Bar Association (Bar) and is licensed to practice law in Oklahoma. The Bar initiated this

EXHIBIT 3

action under Rule 6 of the Rules Governing Disciplinary Proceedings (RGDP), 5 O.S.2011, ch.1, app. 1-A, by filing an eleven-count Complaint on December 21, 2017. Respondent did not respond to the Complaint or to the Bar's Motion to Deem Allegations Admitted. The Professional Responsibility Tribunal (Trial Panel) deemed the allegations admitted and after a two-week trial found Respondent violated the Oklahoma Rules of Professional Conduct (ORPC) 1.1, 1.3, 1.4, 1.5, 1.15, 1.16(d), 3.1, 3.2, 3.3, 3.4, 4.2, 4.4, 8.1(b), 8.2(a), 8.4(c)-(d), 5 O.S.2011, ch. 1, app. 3-A, and RGDP 1.3 and 5.2. The Trial Panel recommended Respondent be permanently disbarred and ordered to pay the costs of the proceedings.

I. STANDARD OF REVIEW

¶2 The Supreme Court of Oklahoma possesses original, exclusive, and nondelegable jurisdiction to control and regulate the practice of law, licensing, ethics, and discipline of attorneys. 5 O.S.2011, § 13; RGDP 1.1; *State ex rel. OBA v. Braswell*, 1998 OK 49, ¶ 6, 975 P.2d 401, 404. The purpose of our licensing authority is not to punish the offending lawyer but to safeguard the interests of the public, the courts, and the legal profession. *State ex rel. OBA v. Friesen*, 2016 OK 109, ¶ 8, 384 P.3d 1129, 1133. To determine whether discipline is warranted and what sanction, if any, is to be imposed, the Court conducts a full-scale, nondeferential, *de novo* review of all relevant facts. *State ex rel. OBA v. Schraeder*, 2002 OK 51, ¶ 5, 51 P.3d 570,

574.

¶3 While accorded great weight, the report and recommendations of the Trial Panel are merely advisory in nature and carry no presumption of correctness. *State ex rel. OBA v. Boone*, 2016 OK 13, ¶ 3, 367 P.3d 509, 511; *State ex rel. OBA v. Anderson*, 2005 OK 9, ¶ 15, 109 P.3d 326, 330. Likewise, the specific rule violations listed in the complaint do not limit our discretion. *See State ex rel. OBA v. Bedford*, 1997 OK 83, ¶ 15, 956 P.2d 148, 152. The ultimate decision-making authority rests with this Court. *Anderson*, 2005 OK 9, ¶ 15, 109 P.3d at 330.

II. PRIOR DISCIPLINE

¶4 On April 2, 2013, we suspended Respondent's license to practice law for one (1) year under RGDP 7.7. *See State ex rel. OBA v. Bednar (Bednar I)*, 2013 OK 22, 299 P.3d 488. The reciprocal disciplinary proceeding resulted from Respondent's voluntary resignation from the United States District Court for the Western District of Oklahoma pending disciplinary proceedings and his one-year suspension from the United States Court of Appeals for the Tenth Circuit. *Id.* ¶¶ 5, 16, 299 P.3d at 490, 492. In that proceeding, we found Respondent engaged in witness intimidation, discovery abuse, threatening retaliatory lawsuits, a pattern of missing deadlines, improperly seeking reconsideration after adverse rulings, and fraudulent alteration of court documents, the last of which resulted in a $20,000 sanction. *Id.* ¶¶ 5, 12, 299

P.3d at 490-91.

¶5 In *Bednar I*, Respondent submitted evidence of a recent ADHD diagnosis as mitigation. *Id.* ¶ 6, 299 P.3d at 491. Respondent assured the Trial Panel then that he would continue taking prescribed medications and participating in therapeutic counseling to manage his impulsive behaviors affecting his practice of law. Complaint ¶ 155. After a hearing to determine if the matter should be treated as an RGDP 10 proceeding, which would assess his personal capacity, the Court found that Respondent's diagnosis did not alleviate him of personal responsibility. *Bednar I*, 2013 OK 22, ¶¶ 9, 14-15, 299 P.3d at 491. Declining to convert the prior discipline to RGDP 10, we did not require proof of any continuing treatment from Respondent. Instead, we specifically noted that the treatment he was receiving did not appear to curb his impulsive behaviors. *Id.* ¶ 14, 299 P.3d at 492. On July 30, 2014, Respondent filed his affidavit of reinstatement without order pursuant to RGDP 11.8.

III. CURRENT DISCIPLINARY PROCEEDINGS

A. Allegations Deemed Admitted

¶6 In response to grievances filed by former clients, the Bar investigated Respondent and on December 21, 2017, filed a formal Complaint setting forth eleven (11) counts of professional misconduct. In substance, these counts allege Respondent engaged in abusive discovery tactics, misrepresentations to courts, forgery of court

documents, misappropriation of client funds, unauthorized contacts with opposing parties, a pattern of missing deadlines, untimely and improper motions for recusal, and retaliatory and frivolous lawsuits.

¶7 The Bar submitted evidence that Respondent was properly served with notice of the Complaint. On December 21, 2017, the Bar mailed copies of the formal Complaint to Respondent's official roster address and residence; Respondent signed for one copy on January 6, 2018. The Bar also hired a process server who served Respondent with the Complaint on January 10, 2018. In each of these notices, the Bar included a letter advising Respondent that RGDP 6.4 "requires an answer to be filed on your behalf with the Chief Justice within twenty (20) days of today's date[, and i]n the event you do not answer within twenty (20) days, the charges shall be deemed admitted." The Bar also enclosed copies of relevant documents serving as the bases for the grievances so that Respondent could review and address them in his response.

¶8 Respondent did not file an answer to the Complaint. Instead, he filed numerous "special appearance[s]," requests for recusal, subpoenas duces tecum, and other motions. With no timely answer from Respondent, the Bar filed a Motion to Deem Allegations Admitted on January 31, 2018. At the Scheduling Conference the same day, the Trial Panel said it would take the motion under advisement, explaining to Respondent that although he was out of time, it still believed an answer to the

allegations would be "of great value to the Court." Sched. Conf. Tr. 116-17, Jan. 31, 2018. Although Respondent appeared at the Scheduling Conference and filed many motions, at no time did he file an answer to the Complaint or to the Motion to Deem Allegations Admitted.

¶9 After taking the motion under advisement for over two months, the Trial Panel issued an order on April 3, 2018, deeming the allegations of the Complaint admitted, pursuant to RGDP 6.4.[1] At the Pre-Trial Conference Hearing on April 16, 2018, the Trial Panel reiterated to Respondent that the allegations had been deemed admitted. There, and many times throughout the proceedings, the Trial Panel explained that it would hear evidence regarding the material elements of the Complaint and then, assuming those elements were established, evidence regarding appropriate discipline. Despite these notices, the transcripts reveal that Respondent spent much of the evidentiary hearing re-litigating already decided or irrelevant issues, such as his 2013

[1] In this order, the Trial Panel specifically considered our analysis of RGDP 6.4 in *State ex rel. OBA v. Knight*, 2015 OK 59, ¶ 20, 359 P.3d 1122, 1128, stating:

> This Tribunal does not discern any public interest relating to the merits of this proceeding which would require deviation from the mandatory language of Rule 6.4, or for consideration of evidence other than that related to determining the discipline to be imposed; provided, however, that in accordance with extant case law, on hearing of this matter, Complainant shall be required to present competent evidence as to each material allegation of the Complaint.

discipline.[2] After the hearing, the Trial Panel found clear and convincing evidence for ten (10) of the eleven (11) counts and concluded, "without the slightest reservation or hesitation[,] Respondent is unfit in all respects to be licensed as an attorney." Trial Panel Rep. 12.

B. Due Process Allegations

¶10 Respondent alleges the investigative process was "fraught with procedural and substantive due process violations," claiming: the grievances lacked specificity; the Bar was biased against him; and the Trial Panel improperly deemed the allegations admitted, quashed subpoenas, refused to issue a new Scheduling Order, and declined to recuse its Presiding Master. Resp't's Br. 7-10. The Bar contends that Respondent was afforded "every opportunity to participate" in the fact-finding stages of the proceedings, yet chose not to fully avail himself of those opportunities – as evidenced by his failure to respond to the Complaint or Motion to Deem Allegations Admitted, refusal to submit an exhibit or witness list even after being granted extensions, and decision to wait seven weeks after the Scheduling Order to issue over thirty (30) subpoenas, almost all of which were improperly served and sought primarily

[2] The Trial Panel recounts Respondent's conduct at the hearing as "the exemplification of unprofessional. He was frequently late[,] . . . disruptive[,] and argumentative[, and] . . . would almost without exception focus his efforts to either justifying his actions giving rise to the violations or attack witnesses personally rather than the witness'[sic] credibility." Trial Panel Rep. 4-5.

privileged or protected information.

¶11 Respondent claims "trial by ambush," arguing that the Bar had years to investigate and prepare its case-in-chief while he was afforded insufficient time. Under the Scheduling Order, Respondent was to submit his exhibit list by March 30, 2018 and complete discovery by April 6, 2018. The day before his exhibit list was due, Respondent requested an extension of time, to which the Bar agreed. Respondent also requested an extension of the discovery deadline, to which the Bar also agreed. Respondent, however, failed to comply with either extended deadline, and the Bar moved to preclude any documents Respondent sought to introduce at trial. Despite the Bar's motion, the Trial Panel permitted Respondent to submit an exhibit list as well as any documentary evidence by April 20, the Friday before the hearing was scheduled to begin on Monday, April 23. When the Trial Panel ordered him to respond to the many motions to quash filed by the witnesses he subpoenaed, Respondent complained that he could not possibly respond in the time allotted, which was the same amount of time he allowed for his intended witnesses to comply.

¶12 Additionally, Respondent claims the Bar's exhibits were not adequately identified. The record reveals that the Bar made its exhibits available to Respondent on April 6, 2018, in accordance with the Scheduling Order. Respondent, however, did not retrieve them until April 10; then at the hearing nearly two weeks later, the Bar had

to assist Respondent in cutting open the exhibit boxes for the first time. Hr'g Tr. vol. 1, 88-90, Apr. 23, 2018.

¶13 The Bar states that Respondent had ample time to prepare a defense against the allegations of the Complaint, and he "engaged in every possible action to subvert the truth and delay the proceedings." The Trial Panel reports that despite receiving sufficient notice and opportunity, Respondent spent much of the hearing giving "frequent soliloquies advancing his theories of extraordinary persecution of him and bias by the bench and [B]ar." Trial Panel Rep. 5. Compliance with due process simply requires that the Bar allege facts sufficient to put the attorney on notice of the charges and allow an opportunity to respond to the allegations. *State ex rel. OBA v. Giger*, 2003 OK 61, ¶ 14 n.17, 72 P.3d 27, 34 n.17 (citing *State ex rel. OBA v. Johnston*, 1993 OK 91, ¶ 19, 863 P.2d 1136, 1143). Thorough review of the record reveals that Respondent's allegations of due process violations are without merit.

C. Burden of Proof

¶14 RGDP 6.4 mandates that if the respondent fails to answer the complaint, "the charges *shall* be deemed admitted." 5 O.S.2011, ch. 1, app. 1-A (emphasis added). Once allegations are deemed admitted, evidence "shall be submitted for the purpose of determining the discipline to be imposed." *Id.*; *see also State ex rel. OBA v. Mirando*, 2016 OK 72, ¶ 23, 376 P.3d 232, 239-40; *State ex rel. OBA v. Smith*, 2016

OK 19, ¶ 27, 368 P.3d 810, 815; *State ex rel. OBA v. Trenary*, 2016 OK 8, ¶ 15, 368 P.3d 801, 807; *Knight*, 2015 OK 59, ¶ 19 n.16, ¶ 22 n.24, 359 P.3d at 1128 n.16, 1130 n.24. Nonetheless, admissions must be supported in the record; therefore, we still review the entire disciplinary proceeding, including the merits of the complaint, motion to deem allegations admitted, exhibits, stipulations, pleadings, and Trial Panel report. *Knight*, 2015 OK 59, ¶ 22, 359 P.3d at 1130; *State ex rel. OBA v. Mothershed*, 2011 OK 84, ¶ 69, 264 P.3d 1197, 1223; *State ex rel. OBA v. Bolton*, 1995 OK 98, ¶ 7 n.11, 904 P.2d 597, 601 n.11.

¶15 Even when allegations are deemed admitted, the Court will impose discipline only upon finding that clear and convincing evidence was presented demonstrating the misconduct. RGDP 6.12(c); *State ex rel. OBA v. Seratt*, 2003 OK 22, ¶¶ 44, 48, 66 P.3d 390, 397-98. Clear and convincing evidence is evidence sufficient, both in quality and quantity, to produce a firm conviction of the truth of the allegations. *State ex rel. OBA v. Wilcox*, 2009 OK 81, ¶ 3, 227 P.3d 642, 647. To make this assessment, we must receive a record that permits "(a) an independent on-the-record determination of the critical facts and (b) the crafting of an appropriate discipline." *Schraeder*, 2002 OK 51, ¶ 6, 51 P.3d at 574. Here, we received a voluminous record consisting of the transcripts, exhibits, Trial Panel Report, and corpus of pleadings filed. This record is sufficient for our review.

D. Complaint Facts & Findings

¶16 We review the counts in the Complaint not by numerical order, but rather by conduct increasing in severity. References are to the numbers assigned in the Complaint; we note that the Complaint did not contain a "Count X."

1. Failures to Respond to Requests for Information

¶17 In the following four counts, we address Respondent's refusals to provide requested information to the Bar – in two instances reasonably, and in two others in violation of the rules.

Count IX: Failure to Cooperate with Bar's Request for Medical Information

¶18 Investigating grievances filed against Respondent that appeared to be similar to his misconduct in the prior discipline, the Bar e-mailed Respondent on March 30, 2016, requesting that he provide any and all information regarding current medications, prescribed medications, healthcare providers, and mental and physical diagnoses. Bar Ex. 139C. The Bar explained in this correspondence that it sought this information based on a concern that Respondent's physical and/or mental health might again be affecting his practice of law. *Id.* Over the next year, Respondent refused to provide the requested information, asserting that those records were confidential.

¶19 After opening a formal investigation, the Bar deposed Respondent on March 22, 2017, wherein Respondent agreed to answer questions regarding his health status and

produce the requested documentation if the Bar would agree to a protective order limiting the use and disclosure of that information. The Professional Responsibility Commission denied Respondent's request on September 22, 2017. Bar Ex. 142. The Bar submits that Respondent's request and noncompliance were unreasonable because Bar investigations remain confidential under RGDP 5.7.[3] The Trial Panel concluded that Respondent's demand for a protective order was properly refused because "Respondent himself had raised the issue" as mitigation in the 2013 discipline, and because the prior and current grievances were so similar. Trial Panel Rep. 10.

¶20 Although Respondent originally inserted his health diagnosis as mitigation in the prior discipline and attested he would continue treatment, we believe those statements were in line with a conditional waiver and relate only to those proceedings. Under title 43A, section 1-109 of the Oklahoma Statutes, mental health treatment information is considered confidential and privileged. The Bar notes the confidentiality of investigations under RGDP 5.7, but seems to ignore that formal complaints and all filings with respect thereto are public records under RGDP 6.1.[4]

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[3] "Investigations by the General Counsel and the Commission shall be confidential, and the results thereof shall not be made public until authorized by the Supreme Court or as provided in Rule 6.1." RGDP 5.7, 5 O.S.2011, ch. 1, app. 1-A.

[4] "Upon the expiration of the respondent's time to answer, the complaint and the answer, if any, shall thereupon be lodged with the Clerk of the Supreme Court and the complaint, as well as all further filings and proceedings with respect thereto, shall be a matter of public record." RGDP (continued...)

Likewise, while proceedings under RGDP 10 typically remain confidential, RGDP 10.12[5] makes an exception where disciplinary proceedings are involved. Further, we do not believe RGDP 10.4[6] applies because Respondent did not interject his mental health as mitigation here. Accordingly, while Respondent's refusal to submit medical records foreclosed the possibility of the Bar proceeding under Rule 10,[7] we do not find that such a refusal amounts to professional misconduct under the circumstances.

Count I: Pike Grievance

¶21 In December 2014, Dorothy Pike hired Respondent to represent her great-grandson (Client) in a first-degree murder case and paid Respondent a $15,000 retainer fee. Pike terminated Respondent in March 2015, and hired new counsel. On March 25, 2015, Respondent faxed Pike's replacement counsel, stating that he would

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[4](...continued)
6.1, 5 O.S.2011, ch. 1, app. 1-A.

[5] "Except where disciplinary proceedings are involved (Rule 10.4), all proceedings under this Rule 10 shall remain confidential and shall not be a matter of public record, unless otherwise ordered by the Supreme Court." RGDP 10.12, 5 O.S.2011, ch. 1, app. 1-A.

[6] In pertinent part, RGDP 10.4 states: "Whenever in a disciplinary proceeding brought under these rules, *the respondent interposes present mental incompetence as a ground for abating the proceeding,* the Trial Panel . . . shall determine whether the respondent is mentally incapable to defend or assist his counsel in defending against the charges." 5 O.S.2011, ch. 1, app. 1-A (emphasis added).

[7] *See State ex rel. OBA v. Leonard*, 2016 OK 11, ¶ 25, 367 P.3d 498, 507 (where attorney similarly foreclosed the Bar's opportunity to prove incapacity under RGDP 10 by refusing to fully disclose medical records).

like to meet and go over the work performed in Client's case and that he was "[h]appy to write a check." Bar Ex. 14. The next day, replacement counsel responded that he did not believe it was necessary to meet with Respondent or to discuss any work performed. *Id.* Five days later, replacement counsel followed up, asking Respondent about the status of a refund check. *Id.*

¶22 Pike filed a grievance against Respondent on June 3, 2015, alleging Respondent had promised yet failed to refund $10,000 of her retainer fee. On June 10, the Bar notified Respondent of the grievance and requested a written response within twenty (20) days, pursuant to RGDP 5.2. Respondent timely replied on June 26, 2015, stating that he did not recall ever agreeing to refund $10,000, but would be willing to return a reasonable amount as a good-faith courtesy since Pike was related to his former wife. Bar Ex. 4. Respondent claimed that he had earned more than the $15,000 retainer prior to his termination, and he included a partial billing record for December 3 through December 29, 2014. *Id.* In this partial record, Respondent showed he had worked 67.5 hours at a rate of $250.00/hour and incurred costs of $77.00 in mileage to visit Client in jail. Based on these records, Respondent claimed Pike actually owed him $1,450.39. Respondent also claimed that the $15,000 was only a partial payment of an originally agreed upon retainer fee of $30,000.

¶23 The Bar then made multiple requests for a copy of the case file and a full

accounting of work performed for the remainder of his representation. Respondent did not provide the additional information, repeatedly asserting that he was unable to comply due to his computer being broken and undergoing repair. Neither Respondent nor Pike provided a copy of any billing agreement, and at the hearing Pike testified that one did not exist. Pike further testified that although she had paid Respondent $15,000, he was handling the case *pro bono* and charging only for things that cost him money, such as a lie detector test and a rehabilitation program for Client. Hr'g Tr. vol. 2, 418-19, Apr. 24, 2018. Pike admitted that after she terminated Respondent, he never told her an exact amount for the refund he allegedly promised. The Bar's investigator testified that this Count was pursued because he didn't believe that Respondent did the work reflected in his submitted bill. Hr'g Tr. vol. 1, 177-78, Apr. 23, 2018. The Trial Panel found clear and convincing evidence that Respondent failed to respond to the Bar's requests for a full accounting of work performed and failed to refund the unearned portion of the fee.

¶24 RGDP 1.4(b) provides that controversies regarding fee amounts shall not be a basis for disciplinary charges unless the fee "is extortionate or fraudulent." 5 O.S.2011, ch. 1, app. 1-A. Respondent timely responded to the Bar with a partial accounting of work performed, showing that no refund was due. Despite the allegations, the Trial Panel did not permit Respondent to put on evidence supporting

the reasonableness of his fee or the time he billed. Further, after his termination, Respondent offered to meet with replacement counsel and go over the work he performed. It is not apparent in the record that after turning down Respondent's offer, replacement counsel ever asked Respondent for a copy of the file. The record suggests confusion surrounding Respondent's willingness to issue a good-faith refund – a refund which does not actually appear to be required. Accordingly, we do not find clear and convincing evidence of professional misconduct regarding the fee disagreement or Respondent's failure to provide additional requested information.

Count VI: Withdrawn Grievance

¶25 In May 2016, the Bar received a client grievance alleging that Respondent had accepted a $3,000 retainer fee to set up a trust for the client, yet Respondent failed to perform any services and soon ceased all communication with him. The Bar informed Respondent of the grievance by letter on May 18, 2016, detailing the allegations and requesting his written response within twenty (20) days. Respondent failed to provide a timely response, and the Bar made numerous additional requests for information via certified mail, e-mail, and telephone. Bar Ex. 95.

¶26 It was not until September 21, 2016, four months after the Bar's initial inquiry, that Respondent sent a letter stating his computer was broken, and he was therefore unable to retrieve the requested information. He then stated that he had "worked

extremely hard on a myriad of issues," and what existed was a fee dispute. Bar Ex. 96. Before the Bar filed its formal Complaint, the client informed the Bar that the concern had been resolved, and he no longer wished to pursue the grievance against Respondent. The Trial Panel did not find sufficient evidence to support Count VI. We agree as to the underlying grievance but disagree as to Respondent's failure to timely respond. We find clear and convincing evidence that Respondent failed to respond to the Bar's lawful demand for information in Count VI .

Count XII: Misconduct in a Deprived Child Case

¶27 Count XII arises from a juvenile proceeding in which Respondent represented the foster parents of a young child. In March 2017, Respondent filed pleadings wherein he attached confidential medical reports containing protected information about the biological parents and the child, plus a confidential report from the Oklahoma Department of Human Services, which was addressed to the District Attorney's Office. Finding that neither the foster parents nor Respondent should have ever had access to said reports, the district court ordered that all such confidential information contained in Respondent's pleading be immediately "removed and sealed." Bar Ex. 153G; *see also* Hr'g Tr. vol. 7, 1768, May 1, 2018. The court further ordered that Respondent turn in all records that he or his clients "obtained through unknown sources." Bar Ex. 153G.

¶28 Despite repeated requests during the Bar's investigation, Respondent failed to address how he obtained these confidential documents. Instead, he requested recusal of Bar counsel, alleging "flagrant constitutional violations and knowing purposeful harassment." Bar Ex. 152. Respondent claimed the grievance should be dismissed because "no sanctions were imposed by the court." *Id.* At the Trial Panel hearing, both the presiding juvenile court judge and the trial judge testified that Respondent's possession and use of these reports were improper. Hr'g Tr. vol. 7, 1768, 1772-76, May 1, 2018. No authority, however, was cited for that position. The Trial Panel stated that the "real issue in this Count" was how Respondent came into possession of the documents. At no point has Respondent answered that question. We find clear and convincing evidence that Respondent failed to respond to requests for information in Count XII. Overall, Respondent did not commit professional misconduct in Counts I or IX; however, he failed to respond to the Bar's investigation in Counts VI and XII in violation of ORPC 8.1(b)[8] and RGDP 5.2.[9]

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[8]

> [A] lawyer in connection with a . . . disciplinary matter, shall not: . . .
> (b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

ORPC 8.1(b), 5 O.S.2011, ch. 1, app. 3-A.

[9]

> After making such preliminary investigation as the General Counsel may deem

(continued...)

2. Lack of Candor, Frivolous Filings, and Dilatory Practices

Count III: Goodwin & Lee Grievance

¶29 Count III relates to Respondent's conduct in *RCB Bank v. Bednar*, No. CJ-2015-192 (Okla. Cty. Dist. Ct.), a foreclosure action which arose from a delinquent loan that Respondent and his former wife executed with RCB Bank. The bank filed its petition on January 13, 2015, seeking judgment for breach of contract, foreclosure on a mortgage, and fraudulent inducement – alleging Respondent made knowingly false statements regarding his income and suspended status as a lawyer at the time of his loan application. Respondent failed to answer the petition until nearly two months later on March 11, 2015. He sought additional time from the court to answer, yet violated that allowance as well. On the day the bank's motion for summary judgment was scheduled, almost eight (8) months after filing his answer, Respondent filed

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[9](...continued)
appropriate, the General Counsel shall . . . file and serve a copy of the grievance (or, in the case of an investigation instituted on the part of the General Counsel or the Commission without the filing of a signed grievance, a recital of the relevant facts or allegations) upon the lawyer, who shall thereafter make a written response which contains a full and fair disclosure of all the facts and circumstances pertaining to the respondent lawyer's alleged misconduct unless the respondent's refusal to do so is predicated upon expressed constitutional grounds. Deliberate misrepresentation in such response shall itself be grounds for discipline. The failure of a lawyer to answer within twenty (20) days after service of the grievance (or recital of facts or allegations), or such further time as may be granted by the General Counsel, shall be grounds for discipline.

RGDP 5.2, 5 O.S.2011, ch. 1, app. 1-A.

counterclaims without receiving leave to do so. On that same day, Respondent sought the recusal of Judge Prince in open court,[10] failing to comply with District Court Rule 15.[11]

¶30 Following this request for recusal, attorneys for the bank, Kyle Goodwin and Edward Lee, filed a grievance against Respondent on November 30, 2015. In whole, the grievance alleges Respondent's: (1) routine failure to remit copies of pleadings he filed; (2) abusive discovery tactics; (3) failure to follow elementary rules of civil procedure; (4) bad-faith strategy of seeking recusal of judges on the eve of court dates; and (5) general unfitness to practice law. After being notified of the grievance in June 2016, Respondent failed to respond timely. In his response over three (3) months later, Respondent did not disclose relevant facts surrounding the incident; instead he pointed to the conduct and personality of his accuser, Goodwin. The Bar notified Respondent that his response did not comply with RGDP 5.2, and Respondent later filed an

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[10]

> [Judge Prince]: So to say it was brought in good faith? He had a legitimate reason, but he waited until the eve of a hearing to ask it. He utilized a tactic I thought was improper by filing a motion to recuse in public prior to filing a Rule 15 – prior to having a Rule 15 conference. . . . [T]he fact that he did it in such a manner that it was *on the eve of a hearing and filed a motion in public prior to having a Rule 15*, it leads me to question motives.

Hr'g Tr. vol. 8, 960-61, May 2, 2018 (emphasis added).

[11] This rule requires that the lawyer make an in camera request before filing any motion to disqualify a judge and provides that "if such request is not satisfactorily resolved, not less than ten (10) days before the case is set for trial[,] a motion to disqualify a judge or to transfer a cause to another judge may be filed." R. for Dist. Cts. of Okla. 15(a), 12 O.S.2011, ch. 2, app.

untimely supplemental response in which he continued to lodge personal attacks and shift the blame for the drawn out litigation.

¶31 Judge Prince ultimately agreed to recuse, and the case was reassigned to Judge Andrews. The bank filed an Application for Writ of Assistance to remove Respondent from the foreclosure property, and a hearing was set for February 2, 2017. Just two days before the hearing, Respondent filed a motion for recusal of Judge Andrews as well. Judge Andrews overruled Respondent's motion, and a week later Respondent filed yet another motion for recusal, raising essentially the same arguments.

¶32 The record reveals that Respondent conducted abusive and harassing discovery in the proceeding. He demanded production of, among other things, a comprehensive list of the bank's assets; insurance policies for the bank; personal insurance policies for the bank president and its attorneys; and all e-mails and text messages that referenced Respondent in any way, *including those Goodwin had with his client, RCB Bank.*[12] Additionally, Respondent sued RCB Bank, its president, other bank employees, and its attorneys personally in *Bednar v. RCB Bank*, No. CJ-2016-4321

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[12] Regarding the timing of these discovery requests, Goodwin stated:

> While under the protective umbrella of Rule 15, Bednar issued the abusive discovery set forth above, knowing that Judge Prince was not free to rule upon either the foreclosure or the discovery issues. . . . [T]his conduct evinces Bednar's willingness to abuse both procedures for recusal and the discovery code as a means of staving off adverse decisions.

Bar Ex. 44.

(Okla. Cty. Dist. Ct.).

¶33 Respondent provided Goodwin with documents he purports are "exculpatory e-mails" in which he accurately disclosed his income and suspension. He claims unfairness based on lack of discovery of these e-mails and Goodwin's failure to investigate them. Lodging these claims, Respondent makes virtually no citation to the record. Testimony and exhibits presented at the hearing clearly demonstrate these contentions are false.

¶34 The bank did in fact investigate Respondent's fraud in failing to disclose his true income and suspension. Goodwin testified that the copies of "e-mails" that Respondent provided to him lacked the time and date stamp automatically generated in every e-mail sent from an RCB e-mail account. Likewise, after searching, Goodwin found no record of the purported e-mails outside the copies Respondent provided him. Goodwin stated it was his belief that Respondent manufactured the documents in a "Hail Mary" effort to conceal his fraud on the bank. The Trial Panel concluded that the purported e-mails lacked authenticity. We agree.

¶35 Further, in his briefing to this Court, Respondent misrepresents the testimony of Judge Andrews at the evidentiary hearing. Respondent claims Judge Andrews admitted to error justifying his recusal request when in fact Judge Andrews testified that he believed there was no good-faith basis for Respondent's request and that it was

generally a delay tactic.[13] The Trial Panel concluded that Respondent "used every trick in the book, and some not in the book, to stall and prevent the action." Trial Panel Rep. 7. Exhibits presented, as well as the testimony of Goodwin and Judges Prince and Andrews, convince us that Respondent intentionally delayed the lawful foreclosure of his home. The record is replete with examples of Respondent's lack of candor, abusive discovery tactics, bad-faith delay attempts, and strategy of improperly seeking the recusal of judges. We find clear and convincing evidence that Respondent committed professional misconduct in Count III.

¶36 The remainder of Counts addressed in this section – Counts IV, V, VIII, and XI – came about as a result of the Bar's investigation into other allegations of misconduct. Respondent disputes the legitimacy of these grievances, arguing they did not arise from any "identified human being." Under RGDP 5.1(a), however, the Bar may "in [its] discretion, institute an investigation on the basis of facts or allegations . . . brought to their attention in any manner whatsoever." 5 O.S.2011, ch. 1, app. 1-A. Throughout the proceedings, Respondent requested that counsel for the Bar recuse

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> [Judge Andrews]: What I believe is, when you requested my recusal from the case, that that was -- there was no good-faith basis for that request. . . . I didn't believe there was any bias or prejudice on my part. . . . [G]enerally, I think it's -- it's a delay tactic. If you ask for recusal, there's a suspension, a stay of all proceedings, so it's a delay tactic. I believe that was your motivation.

Hr'g Tr. vol. 4, 930, 934, Apr. 26, 1018.

herself, claiming she was conspiring with other attorneys and subtly encouraging Bar complaints against him. Evidence of Respondent's actions in these cases and comprehensive review of the Bar's investigation into them demonstrate these Counts are not the product of an antagonistic prosecutor as Respondent claims.

Count VIII: Frivolous Lawsuits Against Judges

¶37 On April 13, 2016, Respondent filed a petition in Oklahoma County District Court against Judges Barbara Swinton, Aletia Timmons, and Thomas Prince for intentional infliction of emotional distress. *Bednar v. Hon. Barbara Swinton*, No. CJ-2016-1923 (Okla. Cty. Dist. Ct.). Respondent alleged the judges abused their offices and violated judicial canons by "targeting" and "publicly humiliating" Respondent. After filing his petition, Respondent failed to serve any of the three judges as defendants. Learning about the lawsuit on their own, each of the judges moved to dismiss the case on June 8, 2016, through private counsel and the Attorney General's Office, based on failure to state a claim and judicial immunity.

¶38 Respondent was mailed a copy of these motions and notice of the date, time, and location of the hearing on the motions, which was set for July 14, 2016. Respondent failed to file any timely response to the motions to dismiss. On the date of the hearing, *Respondent failed to appear or to provide the court with any notice or explanation for his lack of appearance.* Granting the judges' motions to dismiss with prejudice on July

14, 2016, the district court stated:

> [Respondent] has shown a complete lack of respect to this court by failing to appear without any communication with the court whatsoever. The Court Clerk of Oklahoma County is hereby ordered to contact by certified mail [Respondent] and order him to appear before this court within thirty days and explain why he should not be sanctioned.

Bar Ex. 138M.

¶39 Then on August 15, 2016, Respondent filed a Motion to Set Aside Dismissal With Prejudice, claiming that dismissal was premature because he "had not commenced his case and had not served the petition." Denying the motion on October 20, 2016, the district court plainly held: "In a single sentence 12 O.S. 2003 says otherwise." Bar Ex. 138U. The court then cited the statute directly: "A civil action is commenced by filing a petition with the court." 12 O.S.2011, § 2003.

¶40 On October 10, 2016, Respondent filed an Amended Petition in which he tried to add an additional judge-defendant *after the lawsuit had been dismissed with prejudice*. On November 23, 2016, Respondent filed a Motion to Reconsider. The court denied both by letter, stating that all pleadings by Respondent were improperly filed, and his attempt to revive the litigation by "changing the Heading and adding an additional Defendant" was done "without permission of this Court." Bar Ex. 138X.

¶41 The Bar opened its investigation by letter on January 13, 2017, and Respondent failed to comply with multiple requests for information. On February 13, 2017, the Bar

subpoenaed Respondent for deposition on March 2, 2017. One day before the deposition, Respondent e-mailed the Bar investigator, claiming that the case against the judges was "on-going" and it was wrong for the Bar to punish him for "exercising his right to access the courts." Respondent was eventually deposed on March 22 and June 7, 2017. The Trial Panel summarized:

> Perhaps the most telling fact in this grievance, though there are many, is Respondent's refusal, when deposed, to provide information as to the allegedly meritorious nature of his claims of slander. He refused to answer based on attorney-client privilege even though he is *pro se*.

Trial Panel Rep. 9.

¶42 Respondent's actions stemming from Count VIII "show the continued abuse of process, . . . disregard for court rules and orders, renaming pleadings requesting the same relief, [and] filing pleadings after a case has been dismissed." Trial Panel Rep. 9. We find clear and convincing evidence that Respondent committed professional misconduct in Count VIII.

Count IV: Improperly Seeking Recusal, Impugning the Integrity of the Judiciary, Attempting to Disguise Same Legal Requests with Different Titles & Count V: Abusive Discovery Tactics and Unauthorized Contacts

¶43 Counts IV and V arise from several cases in various district courts. In support of these counts, the Bar submitted numerous exhibits as well as the testimony of Judges Bernard Jones, Aletia Timmons, Barbara Swinton, Thomas Prince, Don

Andrews, Martha Oakes, Howard Haralson, Retired Judge Gary Miller, and attorneys Chris Harper and Kyle Goodwin. Testimony of these individuals as well as a bevy of court pleadings demonstrate that Respondent routinely engaged in a continuous pattern of filing frivolous motions and improperly seeking the recusal of judges on the eve of, or directly after, adverse rulings.[14] Case by case, the Complaint shows how

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[14] *Liebel v. Bednar*, No. CJ-2009-11652 (Okla. Cty. Dist. Ct.): Motion To Disqualify Judge (May 19, 2015) (regarding Judge Jones); [Second] Motion To Disqualify Judge (May 20, 2015) (regarding Judge Jones); Supplement To Motion To Reassign Case In Support Of Reassignment Based On Existing Statutes (May 20, 2015) (regarding Judge Jones); Amended Motion To Withdraw Judge Timmons (Aug. 17, 2016) (where court found there was "no evidence that Rule 15 was procedurally followed").

Eaves v. Matthew, No. CJ-2014-653 (Can. Cty. Dist. Ct.): Special Appearance Of . . . Public Adjuster For Plaintiffs In Support Of Motion To Withdraw Saheb, And Notice Of Intent To File Cross Claim Against Freedom Mortgage For Employing His Own Attorney Who Has Taken An Adverse Financial Position . . . , And Also Supporting Injunctive Relief Against Freedom Mortgage (July 31, 2015); Motion To Disqualify Judge (Dec. 17, 2015) (regarding Judge Swinton and falsely claiming defamation as well as a physical assault by another district judge); Motion To Strike Judge Swinton's Minute Order Of December 18, 2015 As A Pending Motion To Recuse Was Priorly [sic] Filed And Judge Swinton Was Not Free To Proceed With The Case Until The Challenge To Her Impartiality Was Adjudicated (Jan. 22, 2015); Aid To The Court (Conclusive Evidence Demonstrating Threshold Of The Appearance Of Impropriety Has Been Reached, Supporting Recusal) (Jan. 22, 2016); Motion To Vacate Order Per Court's Inherent Powers Within Thirty Days, And Incorporation By Reference Of Outstanding Motions To Disqualify Judge And To Strike Docket Entry (Mar. 18, 2016); Motion To [sic] Leave To Amend Petition And Add Parties (Mar. 18, 2016).

Turner v. Bray, No. CJ-2015-272 (Can. Cty. Dist. Ct.): Motion To Withdraw [Defendant's Counsel] For Violations Of Title 5 And Conflicts Of Interest (July 17, 2015); Motion To Set Aside Journal Entry And Response To Motion For Fees (July 17, 2015); Application For Emergency Order To Vacate Default Judgment For Procedural Irregularity (Oct. 23, 2015); Petition To Vacate Default Judgment For Procedural Irregularity (Oct. 30, 2015); Emergency Motion To Halt Defendant's Garnishment As Premature (Nov. 30, 2015); Motion To Disqualify Judge And To Strike Minute Order Of February 5, 2016 (Feb. 9, 2016) (regarding Judge Timmons); Aid To Court Regarding Proposed Order For Motion To Disqualify The Judge (Feb. 16, 2016) (regarding Judge Timmons); *see also* Court Minute (Oct. 23, 2015) (finding Respondent repeatedly delayed the hearing on a

(continued...)

Respondent utilized this strategy as a "procedural weapon designed to run up litigation costs and delay the effect of judgments entered." Complaint ¶ 67.[15]

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[14](...continued)
motion to compel and disobeyed the earlier court order to produce documents).

Bednar v. Bednar, No. FD-2014-4499 (Okla. Cty. Dist. Ct): Respondent's Objection And Request To Strike September 21, 2015 Motion And Ex Parte Order Of Same Day For Failure To Include Undersigned In Ex Parte Meeting With Judge, For Misrepresentation To Court, And Procedural Violations (Sept. 23, 2015); Motion To Withdraw Attorney. . . From Further Representation As He Has Become A Witness And As His Client Has Divulged His Attorney Communications (Sept. 24, 2015); Motion To Set Aside Decree On Court's Own Motion To Settle And Order Of October 20, 2016 For Violation Of Rule 15 As A Court Is Not To Adjudicate Any Matter Until The Rule 15 Matter Is Exhausted, And To Move This Venue For Forum Non Conveniens (Oct. 31, 2016); Motion To Recuse Judge Haralson Due To Apparent Bias (Oct. 31, 2016); Motion To Reconsider, And For Court to Set Aside Order Pursuant To Its Inherent Powers Within Thirty Days (Dec. 15, 2016); Motion To Recuse Judge Haralson Due To Apparent Bias And To Compel Him Not To Rule On Any Issues Until After Adjudication Of The Rule 15 Matter (Dec. 30, 2015); Supplemental Motion To Recuse, And Support For Forum Non Conveniens (Jan. 4, 2017); Motion To Reconsider (Jan. 10, 2017).

Saheb v. Bednar, No. CJ-2015-472 (Okla. Cty. Dist. Ct.): Motion To Recuse Judge Swinton And For Administrative Reassignment Pursuant To Rule 15 And Local Rules (Jan. 14, 2016); Supplement To January 14, 2016 Motion To Recuse Judge Swinton (Feb. 19, 2016); Attorney Subpoena For Deposition Of Judge Swinton (Feb. 23, 2016); Aid To The Court In Support Of Special Appearance And Request To Recuse Judge Swinton From All Cases With Mr. Bednar (Feb. 26, 2016); Motion To Reconsider Order Of March 7, 2016 (Apr. 6, 2015) (filed after the case had been dismissed).

[15] Below is an excerpt from the February 5, 2016 hearing in *Turner v. Bray*, No. CJ-2015-272, where Respondent filed vexatious pleadings, asked for Judge Timmons's recusal (following Judge Miller's recusal), and the court granted a $5,000 sanction against Respondent:

> The Court: No. No, this is after judgment. You can't intervene after judgment, when judgment has been rendered. So the Motion to Intervene will be denied. . . . And we've discussed this, at least, 12 times, because you filed Motions and I said you're post judgment, so these motions should not have been filed.
> [Respondent]: Judge, there's --
> The Court: Am I correct, Counsel?
> [Respondent]: You're correct.
> The Court: Okay.
> [Respondent]: Judge, just to clarify that history of the case --

(continued...)

¶44 The record confirms that on over thirty (30) occasions in the five (5) cases presented by the Bar, Respondent filed essentially the same motions for reconsideration, motions to vacate, or requests for recusal after a ruling had already been made.[16] Court filings and the testimony regarding each of these cases illustrate

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[15](...continued)

> The Court: No, I don't need to clarify it. I've pulled the pleadings, I have looked at the docket sheet. I have seen that Judge Miller has ruled on these Motions repeatedly. . . The same Motions, slightly different title, same substance, ruled on over and over and over again.
> [Respondent]: Yes. But this time it's different, Judge.
> The Court: No, it's not. . . . [I]t's clear to me, based on what I have read, that you had a propensity not to serve people with notice of the hearing and then come and say you served them with no proof of that, and then we have to do Motions to Vacate, Motions to Set Aside, because you have not served people. You served the Motion for the subpoena in this case by fax, which is improper. . . [Judge Miller] specifically overruled that. And then you came to Oklahoma County because you requested, or Judge Miller recused because of these pleadings that are flying around that make no sense. . . . So then you filed the same Motion in front of me, November 20th, on an emergency, which I told you was not an emergency. It was post judgment. . . . I told you that.
> [Respondent]: You did, Judge. . . .
> The Court: So you filed and you set a hearing on it anyway. . . . I'm not going to resign or either disqualify myself, because this is another pattern you have of making up disqualification reasons for court personnel, for lawyers, whenever the case is not going your way. I've seen it in four cases. . . . There's no evidence, as found by Judge Miller, and again found by me. I find that the continued filing of the same motions in Canadian County and Oklahoma County is vexatious. . . . It is a pattern of conduct where you have been warned and sanctioned from one end of Federal Court to State Court on.

Bar Ex. 76QQ.

[16] Regarding Respondent's improper attempt to vacate an adverse court order in *Turner v. Bray*, No. CJ-2015-272, the district court stated:

> The motion, which is disguised as an application, was filed by [Respondent] on 10/23/2015. The court had previously admonished [Respondent] to make sure he can do by motion what he is attempting to do by motion and to call it an application

(continued...)

Respondent's efforts to saturate the court dockets, frustrate the litigation, and prolong the proceedings. At the evidentiary hearing, Judge Haralson concluded:

> The way it continued on and on and on . . . it wasn't anything that happened by accident[;] it wasn't anything that happened by mistake; it was a very calculated and very continued way of behavior that is absolutely inappropriate for a licensed attorney in the state of Oklahoma.

Hr'g Tr. vol. 7, 1837, May 1, 2018. Respondent's attempts to take a second, third, or fourth bite at the proverbial apple imposed burdensome costs on courts, opposing parties, and his clients. His pattern of misconduct impugns public confidence in an impartial judiciary. We find clear and convincing evidence that Respondent committed professional misconduct in Counts IV and V.

Count XI: Misrepresentations to Judge Parrish

¶45 Count XI stems from Respondent's representation of a family in a wrongful death suit in Oklahoma County. The merits of this lawsuit purportedly turned on the

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[16](...continued)
doesn't change the fact that it is a motion to vacate.

Bar Ex. 76A. Regarding the numerous pleadings Respondent filed in *Bednar v. Bednar*, No. FD-2014-4499, Judge Haralson testified that at every turn Respondent sought to delay the proceedings:

> Absolutely a lot of wasted time and a lot of delay. . . [Respondent] just kept filing new motions to reconsider or motion to vacate, for new trial. It was always the same - - the same material, the same allegations, and it was just - - it was frustrating. It took up time. It took time away from other cases, because we had to schedule time to hear and rehear things that had been heard and reheard. And that's why it became necessary for me to be very specific and enter the length and depth of explanation in the orders that I entered, was because we needed to be clear and try to explain, but it didn't seem to help.

Hr'g Tr. vol. 7, 1834-35, May 1, 2018; *see also* Bar Ex. 81UU.

medical opinion of Dr. Chestnut, who had since retired and moved to Norway. After Respondent represented that he had no way of contacting this key witness, opposing counsel spent thousands of dollars locating and serving Dr. Chestnut in Norway to obtain his deposition. Bar Ex. 146. After much discussion and difficulty among the parties, the district court ordered that Dr. Chestnut's deposition would take place on December 8, 2015, when Dr. Chestnut was scheduled to return to Oklahoma for a medical procedure.

¶46 On the day the witness was to be deposed, however, Respondent filed a motion to quash, wherein he misrepresented to the district court that he had never received notice of the deposition from opposing counsel, and based on this lack of notice he was unable to attend. Relying on Respondent's statements, the court struck the deposition. *Id.* It was later established that Respondent had in fact been notified of the deposition and had even exchanged several e-mails with opposing counsel attempting to reschedule it. After the witness did not appear for deposition, opposing counsel filed a motion for sanctions against Respondent.

¶47 During this time period, two separate purported orders quashing the deposition came to light. Bar Ex. 149G, 189. The first merely struck the deposition, whereas the second bore additional language regarding another witness. Calvin Sharpe, attorney for Dr. Chestnut, testified at the Trial Panel hearing that Respondent had shown up at

his law firm on the day the deposition was quashed, while Sharpe was in court, and instructed Sharpe's legal assistant to fax the nonconforming, second order to all other parties. Hr'g Tr. vol. 7, 1714, 1718-19, May 1, 2018. Respondent later admitted that he created the second order. Bar Ex. 149L.

¶48 In February 2015, the district court, Judge Parrish presiding, found that Respondent had intentionally misrepresented facts and withheld information from the court. Based on these misrepresentations, Judge Parrish ultimately recused herself permanently from any future cases with Respondent, stating:

> I do not trust what you have told me and what you failed to tell me in your motion to quash. My ruling is going to be, Mr. Bednar, I will not hear any cases of yours from this point forward, because it would not be fair to your client because I will not take at face value anything you tell me. . . . I feel like you might be misrepresenting or not putting in all the information.

Bar Ex. 149L. Judge Parrish testified that she has never before and has "never since" found it necessary to enter such an order. Hr'g Tr. vol. 7, 1701, May 1, 2018.

¶49 In his response to the Bar's investigation, Respondent denied any professional misconduct, relying on the fact that "no sanctions were imposed." He fails to mention, however, that opposing counsel's motion for sanctions was ruled moot due to the case later settling. The Trial Panel reports that over the course of the hearing, Respondent "sought to justify his deception by all manner of explanations." Trial Panel Rep. 11. Regarding the two court orders, the Panel concluded that it "is of the firm belief that

the Respondent falsified this second [o]rder and requested an employee of the opposing counsel to fax it to others from that fax machine." *Id.* We agree. We find that e-mail records, the transcripts from proceedings on December 19, 2014 and February 3, 2015, and the testimony of Judge Parrish and two attorneys provide clear and convincing evidence that Respondent committed professional misconduct in Count XI.

¶50 Respondent has abused the legal system, wasted court resources, and sought to impugn public confidence in the judiciary through deceptive and dilatory tactics employed in Counts III, IV, V, VIII, and XI. The Trial Panel concluded:

> The evidence in this matter demonstrates clearly and convincingly that Respondent uses his license to practice law to bully and sue anyone whom he perceives might be talking badly about him or know about his prior relationship with a sitting judge, or try to force a recusal, or perhaps just to be mean. The record reflects that he files frivolous and abusive lawsuits but often neglects to have many of the hapless defendants served. He routinely engages in discovery practices which, intentional or not, harass and intimidate. The single thread in the cases and instances which are the subject of the Complaint and as to which there is overwhelming evidence before the [Trial Panel] is that there are few true facts to support the utter lack of supportive law.

Trial Panel Rep. 2-3. We find Respondent committed professional misconduct in Counts III, IV, V, VIII, and XI in violation of ORPC 1.1,[17] 1.3,[18] 3.1,[19] 3.2,[20] 3.3,[21]

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[17] "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation." ORPC 1.1, 5 O.S.2011, ch. 1, app. 3-A.

[18] "A lawyer shall act with reasonable diligence and promptness in representing a client." (continued...)

3.4,[22] 4.4(a),[23] 8.1(b), 8.2(a),[24] 8.4(c)-(d),[25] and RGDP 1.3[26] and 5.2.

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[18](...continued)
ORPC 1.3, 5 O.S.2011, ch. 1, app. 3-A.

[19] "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous." ORPC 3.1, 5 O.S.2011, ch. 1, app. 3-A.

[20]"A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client." ORPC 3.2, 5 O.S.2011, ch. 1, app. 3-A.

[21] In pertinent part, ORPC 3.3, 5 O.S.2011, ch. 1, app. 3-A, provides:

> (a) A lawyer shall not knowingly:
> (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
> (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client . . .
> (3) offer evidence that the lawyer knows to be false. . . .
> (4) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client.
> (b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. . . .
> (d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer . . . whether or not the facts are adverse.

[22] In pertinent part ORPC 3.4, 5 O.S.2011, ch. 1, app. 3-A, provides that a lawyer shall not:

> (a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. . . .
> (b) falsify evidence, counsel or assist a witness to testify falsely . . .
> (c) knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;
> (d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;
> (e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence.

[23] "In representing a client, a lawyer shall not use means that have no substantial purpose (continued...)

3. Fraud & Misrepresentation to the Court

Count II: Taylor Grievance

¶51 In October 2015, Client hired Respondent to represent her in an emergency guardianship action regarding her newborn granddaughter who was located in Washington state. Previously, Client employed another attorney, Shannon Taylor, in a separate guardianship case regarding another grandchild. Not having sufficient funds to rehire Taylor, Client hired Respondent and gave him copies of the Waiver of Notice and Consent for Guardianship forms that Taylor had prepared in the previous case.

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[23](...continued)
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." ORPC 4.4(a), 5 O.S.2011, ch. 1, app. 3-A.

> [24] A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

ORPC 8.2(a), 5 O.S.2011, ch. 1, app. 3-A.

[25] "It is professional misconduct for a lawyer to: . . . (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation[, or] (d) engage in conduct that is prejudicial to the administration of justice." ORPC 8.4(c)-(d), 5 O.S.2011, ch. 1, app. 3-A.

[26] In pertinent part, RGDP 1.3, 5 O.S.2011, ch. 1, app. 1-A, provides:

> The commission by any lawyer of any act contrary to prescribed standards of conduct, whether in the course of his professional capacity, or otherwise, which act would reasonably be found to bring discredit upon the legal profession, shall be grounds for disciplinary action, whether or not the act is a felony or misdemeanor, or a crime at all.

¶52 On November 2, 2015, Respondent returned the forms to Client, indicating that he had completed them for the next steps in the guardianship action. Immediately noticing Respondent had not even changed the name of the child from the previous case, Client requested that Respondent make the correction. After Respondent made the necessary alterations, the mother and putative father then signed the forms. As required, the mother had her form notarized, but the father, not having a valid form of identification required for notarization, did not. Respondent communicated that the father should simply return the signed form without notarization. The mother's attorney e-mailed the forms to Respondent from Washington, specifically noting that the father's form was signed but had not been notarized. Respondent filed the guardianship petition that same day and filed the waiver and consent forms the following day.

¶53 After being awarded guardianship, Client hired her former attorney, Taylor, to handle the adoption proceedings. While working on the adoption, Taylor noticed that her copy of the waiver and consent from the guardianship was not file-stamped. After obtaining the file-stamped copy, Taylor was surprised to find that the father's consent form was purportedly notarized by Taylor's own legal assistant. Taylor showed the document to her assistant, who denied notarizing the form and confirmed that her seal was safely stored in her office. Taylor surmised that the image of the seal appeared to

have been cut and pasted from the waiver and consent forms prepared by Taylor in the previous case – the same forms which Client had given to Respondent.

¶54 On December 1, 2015, Taylor filed a grievance against Respondent, attaching sworn affidavits from Client and Taylor's legal assistant denying any knowledge of or participation in the notarization. In an untimely response, Respondent denied altering the document and claimed instead that it was Client who had perpetrated the fraud. The Trial Panel stated that despite the "inordinate amount of time" that Respondent spent at the hearing blaming his client, he failed to ever address why he would have submitted the documents "when he knew, and had to know, that one of them could not possibly have been signed and notarized in Oklahoma that very day when the person who signed it was physically in Washington State." Trial Panel Rep. 6.

¶55 The Trial Panel summarized Respondent's conduct as "obfuscatory and deceptive," stating it was "of the opinion that the only perjury was that perpetrated by Respondent." *Id.* We are unconvinced by Respondent's attempts to blame his client. At the very least, Respondent was on notice that the form was not properly notarized, and as the attorney on the case, he is responsible for verifying the truth of pleadings he submits. Indeed, Respondent stipulates that he "did not verify their accuracy."

Resp't's Br. 13. We find clear and convincing evidence that Respondent committed professional misconduct in Count II.

Count VII: Keeney & Shaw Grievance

¶56 Count VII arises from a guardianship proceeding in which Respondent was hired in April 2016, by the children and grandchildren of Ward, an incapacitated adult. George Keeney, a certified public accountant and financial and forensics fraud examiner, was appointed co-guardian of Ward's estate and substitute trustee of Ward's trust. As one of his first actions in the case, Respondent called Keeney and attempted to interrogate him about Ward's finances. Declining to discuss the matter, Keeney informed Respondent he was represented by an attorney, James Shaw, and that Respondent should direct all questions to him. Keeney informed his attorney of the interaction, who then called Respondent directly and advised that he represented Keeney and all future communications should be directed to him, not his client.

¶57 A few weeks later, Respondent appeared unexpectedly in a conference call with co-guardians of Ward and the Ward's health care provider, Synergy. During this call, Respondent again tried to question Keeney and others regarding Ward's finances and other health care issues. Then, on May 6, 2016, Respondent telephoned Keeney again, this time falsely representing that Shaw had agreed to their communications. Hr'g Tr. vol. 6, 1321-22, 1324-25, Apr. 30, 2018. Shaw later e-mailed Respondent the

following: "Mr. Bednar, I represent George Keeney, which you know. Do not communicate with him. Any communication for him should be directed to me as his counsel." Bar Ex. 108B. Despite this explicit instruction, Respondent continued to attempt communications via phone and e-mail, requesting financial records and threatening to sue Keeney and others if they did not comply.[27] Bar Ex. 108C-F.

¶58 Over the next two months, Respondent filed numerous pleadings which served only to harass opposing counsel and inflate legal costs imposed on Ward's estate.[28] On May 6, 2016, he filed for an Emergency Hearing during which he threatened to sue attorney and co-guardian Sara Murphy for "bad mouthing" his clients and announced he would sue the health care provider, Synergy. The district court ordered that Synergy was not to be terminated without further order of the court. Bar Ex. 133M. *The next*

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[27] Regarding these unauthorized communications, Keeney testified:

> [T]here were at least 40, if not 50, e-mails, most of which dealt with matters that, to someone who had not had my level of experience, would have been very intimidating, threats of litigation, threats of defamation claims, anticipated litigation against Synergy, against Sara Murphy, against me. Just -- it was just an ongoing onslaught of emails that were [sic] totally inappropriate.

Hr'g Tr. vol. 6, 1325-26, Apr. 30, 2018.

[28] *E.g.*, Bar Ex. 108A, Motion To Quash Subpoenas And For Protective Order (May 23, 2016) (wherein Respondent falsely represented to the court that Keeney and Shaw threatened the guardians of Ward with criminal prosecution).

day, Respondent and his clients violated the district court's order and terminated Synergy, leaving Ward in a medically vulnerable position.[29]

¶59 After terminating Synergy, Respondent demanded that Keeney issue a check for $3,500 to pay for a replacement health care company. Shaw advised Respondent by e-mail that "Keeney had no input into the termination of Synergy" and would agree to provide the payment "based solely on his concern that without providing the payment, Ward would be without necessary care due." Respondent then falsely represented to the district court that Keeney had approved the replacement health care company. The same day that Respondent demanded payment from Keeney, Shaw again e-mailed Respondent requesting that all communications between lawyers for the parties be restricted to counsel. Bar Ex. 116. Despite this reiterated request, Respondent continued to e-mail Keeney – threatening defamation suits and claiming Keeney had no authority to perform the work he was hired to do.

¶60 On May 25, 2016, Keeney filed a grievance against Respondent, and on May 31, 2016, Shaw filed a separate grievance. On May 27, 2016, Respondent filed a civil

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[29] Respondent later claimed he "did not understand" the order of the court. Regarding this, Judge Welch testified:

> I like Mr. Bednar, I think of him as a friend, so it pained me then and it pains me now to suggest. *He knew what the order of the Court was and he didn't like the order of the Court, and he then proceeded to do what he intended to do in spite of and contrary to the order of the Court.*

Hr'g Tr. vol. 5, 1261-62, Apr. 27, 2018 (emphasis added).

suit against Keeney, Murphy, and Synergy on behalf of his clients and Ward's estate. Bar Ex. 134A-B. The Bar advised Respondent of Keeney's and Shaw's grievances by letter dated June 15, 2016, and requested his written response within twenty (20) days. Respondent failed to respond to either grievance for nearly three (3) months.

¶61 In his response, Respondent stated that he had "not violated any ethical duties or statutes" and asked the Bar to dismiss both complaints based on "lack of standing." Bar Ex. 103. Regarding Keeney's grievance, Respondent denied any wrongdoing and suggested the complaint was likely just a result of his attorney advising him to do so. Respondent lodged accusations of embezzlement and mismanagement of funds; he claimed Keeney "dubbed" a report from DHS and "admitted to numerous violations of his fiduciary and ethical duties." *Id.* Regarding Shaw's grievance, Respondent denied any wrongdoing and claimed Shaw's complaint was "childish, likely due to conversations he had with the unscrupulous firm Kyle Goodwin belongs to." He continued name-calling, stating that Shaw was "childish" and "unprofessional" and "has received large sums of money from billing [Ward]'s estate." *Id.*

¶62 At the hearing, the Bar presented e-mail records and testimony from Keeney, Shaw, Murphy, and Judge Welch. The testimony of these individuals demonstrates consistently how Respondent's involvement in the case imposed great financial harm on Ward and elevated the cost of litigation from "modest" to "through the roof." Hr'g

Tr. vol. 6, 1337, 1345, Apr. 30, 2018.[30] Respondent submitted an hour-and-forty-minute audio recording which he claims disproves the testimony of Keeney and Murphy. Resp't Ex. 3. Respondent failed to authenticate it as required by 12 O.S.2011, § 2901. The Trial Panel concluded:

> Of all the grievances mounted against Respondent, these are perhaps the most egregious of the egregious. In both the conduct leading to the grievances as well as in the conduct of Respondent during this part of the PRT hearing, the Respondent is the embodiment of unscrupulous. From his direct disobedience of Judge Welch's clear and unambiguous Order, to his repeatedly knowingly contacting a represented party, to his insistence in the hearing that the Order he disobeyed should not have been entered, to filing abusive and baseless pleadings, *Respondent's conduct is an affront to the [B]ar and indeed to human decency.*

Trial Panel Rep. 9 (emphasis added).

¶63 Throughout the hearing and in his briefing to this Court, Respondent has not once tried to take stock of how his actions in this case were improper. Instead, he shirks all responsibility for the financial and personal harm inflicted on Ward, attempts to justify his unauthorized communications, and continues to argue that the Order he

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[30] Attorney Murphy testified:

> [T]here are bad lawyers that don't do research and show up late or don't answer phone calls, but this went above and beyond anything I've ever experienced. This not only was damaging to my practice, it -- it took time and money away from all the people involved. But, most importantly, this hurt [Ward,] who was incapacitated and could not make decisions for herself and I believe cost her literally hundreds of thousands of dollars. . . . Before [Respondent] got involved, the case was going smoothly. . . . [T]he moment he became a part of this, it was pure chaos.

Hr'g Tr. vol. 6, 1611-12, Apr. 30, 2018.

disobeyed was wrong. We find clear and convincing evidence that Respondent committed professional misconduct in Count VII. We find that Respondent's professional misconduct in Counts II and VII violates ORPC 3.3, 3.4, 8.1(b), 8.4(c)-(d) and RGDP 1.3 and 5.2. Further, Respondent violated ORPC 3.1 and 4.2[31] with his actions in Count VII.

IV. VIOLATIONS

¶64 Upon careful examination, we find that the record of disciplinary proceedings supports a finding, upon a clear and convincing standard, that Respondent violated ORPC 1.1, 1.3, 3.1, 3.2, 3.3, 3.4, 4.2 , 4.4(a), 8.1(b), 8.2(a), 8.4(c)-(d) and RGDP 1.3 and 5.2. Respondent failed to uphold his obligations to cooperate in the grievance process or properly respond to inquires throughout the disciplinary proceeding. He has repeatedly failed to act in good faith, asserted frivolous claims and issues, and demanded irrelevant and oppressive discovery. He has failed to competently represent his clients or to exercise due diligence in verifying the truth of pleadings he submitted. Respondent continually persisted in unauthorized communications with a person represented by counsel after reiterated requests to desist. He lacked candor with the court and failed to make reasonable efforts to expedite litigation or notify defendants

[31] ORPC 4.2 mandates that "a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order." 5 O.S.2011, ch. 1, app. 3-A.

in actions he filed. Finally, Respondent submitted fraudulent filings, directly and intentionally misrepresented facts, and knowingly disobeyed a court order. Respondent's behavior is prejudicial to the administration of justice and has caused numerous parties unnecessary pecuniary loss and personal harm.

V. DISCIPLINE

A. Mitigation and Enhancement

¶65 "In fashioning the degree of discipline to be imposed . . . the Court shall consider prior misconduct where the facts are charged in the complaint and proved and the accused has been afforded an opportunity to rebut such charges." RGDP 1.7. Consideration of prior discipline serves to aid the Court in making its decision and to enhance any discipline to be imposed. RGDP 6.2; *State ex rel. OBA v. Mothershed*, 2003 OK 34, ¶ 41, 66 P.3d 420, 428. The Bar relies on Respondent's discipline in *Bednar I* for enhancement. Respondent argues that enhancement is inappropriate because the 2013 discipline "remains to be investigated." This is wholly inaccurate. We find Respondent's prior discipline to be appropriate for enhancement.

¶66 In *Bednar I*, we declared that Respondent's actions indicated a "disturbing pattern of behavior with a key element being the lack of forthrightness." 2013 OK 22, ¶ 11, 299 P.3d at 491. While egregious on their own, Respondent's acts of misconduct today are elevated by his resolute attempts to cover up, shift blame, and deny any form

of wrongdoing in the face of clear evidence to the contrary. Although we may consider mitigating circumstances to assess the appropriate measure of discipline, *State ex rel. OBA v. Durland*, 2003 OK 32, ¶ 15, 66 P.3d 429, 432, no such mitigation exists in this record that would cause our judgment to diminish.[32]

B. Appropriate Discipline

¶67 Appropriate discipline "is that which is (1) consistent with the discipline imposed upon other lawyers who have committed similar acts of professional misconduct and (2) avoids the vice of visiting disparate treatment of an offending lawyer." *Schraeder*, 2002 OK 51, ¶ 6, 51 P.3d at 574. As stated previously, the main purpose of our disciplinary authority is not to punish the offending lawyer, but to safeguard the interests of the public, the courts, and the legal profession. *Friesen*, 2016 OK 109, ¶ 8, 384 P.3d at 1133. Preservation of the public's confidence in the legal system is essential to its success, and such confidence depends on our willingness to impose severe discipline when appropriate. *State ex rel. OBA v. Gassaway*, 2008 OK 60, ¶ 80, 196 P.3d 495, 510. A second purpose of discipline is to deter the attorney

[32] Previously, we considered Respondent's diagnosis as mitigation regarding ORPC 3.2. *Bednar I*, 2013 OK 22, ¶ 17, 299 P.3d at 492. Respondent chose, however, not to provide evidence toward that end; therefore we do not consider it here. Additionally, representing himself as a *pro se* litigant, Respondent is held to the same standard as a licensed attorney. *L'ggrke v. Sherman*, 2009 OK 80, ¶ 8, 223 P.3d 383, 385. Plus, of course, at all times while acting as his own counsel, Respondent *was a licensed attorney*.

from similar future conduct. *State ex rel. OBA v. Godlove*, 2013 OK 38, ¶ 22, 318 P.3d 1086, 1094.

¶68 "A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation." ORPC 8.4 cmt. 2; *Gassaway*, 2008 OK 60, ¶ 75, 196 P.3d at 509. The record shows a pattern of repeated offenses by Respondent, some minor and some egregious. The grievances cover a span of time beginning not long after Respondent was reinstated as an attorney, indicating an indifference to his legal obligation and a lack of deterrence following his prior discipline.

¶69 In *State ex rel. OBA v. Thomas*, 1995 OK 145, ¶¶ 7-8, 911 P.2d 907, 910, we disbarred an attorney who presented a forged "order" to his client in an effort to misrepresent the neglected status of the case and who failed to timely respond to the grievance against him. Thomas admitted to forging the document, but attempted to shift the blame for it being delivered to the client. *Id.* Even though Thomas never actually submitted the forgery to the court, we still found disbarment appropriate, stating: "Fraud and misrepresentation by an attorney toward his client are serious forms of misconduct. Likewise, the forging of legal documents is a serious breach of legal ethics which constitutes illegal conduct involving moral turpitude and justifies imposition of the *most severe discipline.*" *Id.* ¶ 15, 911 P.2d at 913 (emphasis added)

(citations omitted). While Respondent did not neglect a client's case like in *Thomas*, he filed a fraudulent notarization, altered other court documents, and directly violated a court order – in each instance blaming his clients or opposing counsel for the resulting harm.

¶70 Perhaps most similar, in *State ex rel. OBA v. Godlove*, 2013 OK 38, 318 P.3d 1086, we disbarred an attorney for frivolous litigation tactics and discovery abuses. Like Respondent, Godlove failed to respond to grievances or answer the formal complaint against her. *Id.* ¶¶ 4-5, 318 P.3d at 1088. We found Godlove committed misconduct in at least eighteen cases, where she filed at least twenty-four pleadings collaterally attacking final orders and at least seventeen requests for recusal of judges after adverse rulings. *Id.* ¶¶ 9, 10, 13, 318 P.3d at 1089-90. Godlove also knowingly disobeyed a direct court order by filing abusive pleadings wherein she would file motions, fail to appear, and then request to vacate the resulting adverse orders. *Id.* ¶ 17, 318 P.3d at 1091. Evaluating appropriate discipline, we noted Godlove's failure to cooperate with the Bar's investigation and continued misconduct after her former discipline and sanctions. *Id.* ¶¶ 23-25, 318 P.3d at 1094. We stated:

> For the extensive violations of the rules governing lawyers' conduct and for ignoring these proceedings, we find that disbarment is necessary to stop the abuse of the system hailed on it by Godlove's frivolous, multiple, duplicate filings and to end the disservice to her clients, to

> opposing parties, to opposing counsel, and to judges presiding over cases in which she is involved.
>
> There is a fine line between zealous advocacy and harassing, frivolous litigation. Godlove has not only overstepped the line, she has trampled it. We have a duty to protect against the type of frivolous litigation undertaken by Godlove.

Id. ¶¶ 26-27, 318 P.3d at 1094-95. Today we carry out this same duty. As in *Godlove*, Respondent's patterned behavior "has shown a total lack of respect for this Court and the process and rules that protect the public from errant lawyers." *Id.* ¶ 25, 318 P.3d at 1094.[33] Zealous advocacy does not necessitate, nor does it prompt, intimidation or harassment; Respondent has exhibited both in his practice of law.

¶71 We are convinced, under a clear and convincing standard, of Respondent's sustained abuse of the legal system and retaliatory harassment of opposing counsel and the courts. We see no real evidence that Respondent appreciates the seriousness of his fraud and deceit, examples of which saturate the record. He adamantly denies his wrongdoing and attempts to justify some of the most maligning and egregious behaviors the Court has encountered. Our promulgated rules governing licensed attorneys require much more, and in fact, were fashioned to protect the public from this type of delinquency. Anything less than disbarment would invite further

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[33] We note that, unlike *Godlove*, Respondent participated in the Trial Panel hearing and did not fail to update his address with the Bar. These distinctions, however, do not overcome the abundance of Respondent's additional misconduct – filing fraudulent pleadings, altering court documents, and directly misrepresenting facts to district courts.

victimization and greater disintegration of public confidence in the legal system of this State. Likewise, to avoid disparate treatment, consistency requires that we disbar Respondent.

VI. ASSESSMENT OF COSTS

¶72 The Bar has asked this Court to assess costs in the amount of $28,298.13. RGDP 6.16 provides that where violations are proven, the costs shall be surcharged against the disciplined lawyer unless remitted in whole or in part by the Supreme Court for good cause shown. We have previously held that costs assessed against an attorney may be reduced in part where the Bar fails to prevail on all of the counts charged.[34]

¶73 Here, Respondent prevailed fully on two of the eleven counts, and in two others, we found violations only in his failure to respond. On the other hand, by filing frivolous, redundant pleadings, attempting to relitigate his prior discipline, and failing to respond to grievances as they were submitted, Respondent's behavior ballooned the costs of the proceedings exponentially. Accordingly, we reduce the costs assessed against Respondent to $20,580.48, which shall be paid within ninety (90) days of the

[34] *See, e.g., Gassaway*, 2008 OK 60, ¶¶ 86-87, 196 P.3d at 511 (where we reduced costs after attorney prevailed on nine out of fifteen counts, but we also considered attorney's actions in increasing costs and disproportionate evidence in certain counts); *State ex rel. OBA v. Funk*, 2005 OK 26, ¶ 78, 114 P.3d 427, 441 (where we reduced costs by two-thirds after attorney prevailed on two of three counts); *State ex rel. OBA. v. Israel*, 2001 OK 42, ¶ 32, 25 P.3d 909, 916 (same).

effective date of this opinion. RGDP 6.16

VII. CONCLUSION

¶74 Upon *de novo* review, we find clear and convincing evidence of Respondent's professional misconduct in nine of the eleven counts. We order that he be disbarred from the practice of law, his name be stricken from the roll of attorneys, and he pay the costs of this proceeding in the amount of $20,580.48. Pursuant to RGDP 9.1, Respondent is required within twenty (20) days to notify all clients, via certified mail, of his inability to represent them and the necessity to promptly retain new counsel. Respondent is also required to withdraw from all pending cases and file an affidavit stating his compliance with RGDP 9.1 and a list of clients notified with both the Clerk of the Supreme Court and the Professional Responsibility Commission.

RESPONDENT IS DISBARRED AND ORDERED TO PAY COSTS.

Wyrick, V.C.J., Winchester, Edmondson, Reif, Darby, JJ., concur;
Gurich, C.J., Combs, J., recused;
Kauger, Colbert, JJ., not participating.

I, John D. Hadden, Clerk of the Appellate Courts of the State of Oklahoma do hereby certify that the above and foregoing is a full, true and complete copy of the Opinion in the above entitled cause, as the same remains on file in my office.

In Witness Whereof I hereunto set my hand and affix the Seal of said Court at Oklahoma City, this 5th day of August 2017.

Clerk

By _____ DEPUTY

1043272806

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FILED
SUPREME COURT BAR DOCKET
STATE OF OKLAHOMA
APR 29 2019
JOHN D. HADDEN
CLERK

STATE OF OKLAHOMA, ex rel.
OKLAHOMA BAR ASSOCIATION,

Complainant,

v.

ALEXANDER L. BEDNAR,

Respondent.

SCBD 6618

ORDER

The Respondent's Motion for Rehearing comes on for consideration this day in conference. Rehearing is denied.

DONE BY ORDER OF THE SUPREME COURT on April 29, 2019.

ACTING CHIEF JUSTICE

CONCUR: Darby, V.C.J.; Winchester, Edmondson, Reif, JJ. and Lewis, S.J.

NOT-PARTICIPATING: Kauger and Colbert, JJ.

RECUSED: Gurich, C.J. and Combs, J.

Rec'd (date) 4/29/19
Posted
Mailed
Distrib
Publish ___yes ___no

EXHIBIT
4

I, John D. Hadden, Clerk of the Appellate Courts of the State of Oklahoma do hereby certify that the above and foregoing is a full, true and complete copy of the Order in the above entitled cause, as the same remains on file in my office.

In Witness Whereof I hereunto set my hand and affix the Seal of said Court at Oklahoma City, this 5th day of March 2011.

Clerk

By _____ DEPUTY

1043274936

FILED
SUPREME COURT BAR DOCKET
STATE OF OKLAHOMA
MAY 31 2019
JOHN D. HADDEN
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

State of Oklahoma ex rel. Oklahoma Bar Association,

Complainant,

v.

Alexander Louis Bednar,

Respondent.

SCBD 6618

ORDER

On May 28, 2019, Respondent Alexander Bednar filed a request for the Supreme Court to review and reconsider this matter, attaching numerous documents, including confidential matters. This Court entered an opinion in this case on March 12, 2019. On April 29, 2019, this Court denied Respondent's motion for rehearing. This case was closed on May 10, 2019.

Oklahoma Supreme Court Rule 1.13(e) provides, "No motion or application for rehearing or review will be accepted for filing after the denial of a petition for rehearing." Respondent's filing on May 28, 2019, is hereby stricken.

Done by Order of the Supreme Court on May 31, 2019.

James R. Winchester
ACTING CHIEF JUSTICE

Mailed (date) 5/31/19
Posted
Mailed
Distrib
Publish yes

EXHIBIT
5

I, John D. Hadden, Clerk of the Appellate Courts of the State of Oklahoma do hereby certify that the above and foregoing is a full, true and complete copy of the Order in the above entitled cause, as the same remains on file in my office.

In Witness Whereof I hereunto set my hand and affix the Seal of said Court at Oklahoma City, this 7th day of March 2017.

Clerk

By _____ DEPUTY