



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

**IN THE MATTER OF
ROBERT B. EVANS, III
STATE BAR CARD NO. 24034767**

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§
§

CAUSE NO. 67842

**RESPONDENT'S MOTION TO STRIKE PETITIONER'S
RESPONSE TO RESPONDENT'S MEMORANDUM IN OPPOSITION TO
PETITIONER'S PETITION FOR RECIPROCAL DISCIPLINE, OR IN THE
ALTERNATIVE, MOTION FOR CONTINUANCE**

TO THE BOARD OF DISCIPLINARY APPEALS:

COMES NOW, Respondent Robert B. Evans, III ("Respondent"), and files this Motion to Strike Petitioner's Response to Respondent's Memorandum in Opposition to Petitioner's Petition for Reciprocal Discipline ("Motion to Strike"), or in the alternative, Motion for Continuance ("Motion for Continuance"). In support thereof, Respondent would show the Board of Disciplinary Appeals ("BODA" or "Board") the following:

1. The above referenced reciprocal discipline matter is set for trial before BODA on Friday, July 26, 2024.
2. Rule 1.09(c) of BODA's Internal Procedural Rules provides that "[i]n any disciplinary proceeding before BODA, except with leave, all trial brief and memoranda must be filed with the BODA clerk no later than ten days before the day of the hearing."
3. On January 16, 2024, Respondent filed his Memorandum in Opposition to Petitioner's Petition for Reciprocal Discipline ("Respondent's Memorandum").
4. At 3:00 p.m. on January 25, 2024, Petitioner filed Petitioner's Response to Respondent's Memorandum ("Petitioner's Response"), with three hundred and fifteen pages of exhibits attached.

5. Petitioner filed Petitioner's Response less than twenty-four hours before the start of trial, without obtaining leave as is required under Rule 1.09(c). In addition, Petitioner's Response contains new information and asserts new allegations of professional misconduct against Respondent which are not appropriately before the Board in this reciprocal discipline proceeding. *See* TEX. R. DISCIPLINARY P. 9.03. Petitioner's exceedingly late filing deprives Respondent of his opportunity to meaningfully respond to Petitioner's allegations against him and Petitioner should not be permitted to engage in the disfavored practice of trial by ambush.

6. For the foregoing reasons, Respondent moves the Board to STRIKE Petitioner's Response to Respondent's Memorandum in Opposition to Petitioner's Petition for Reciprocal Discipline and to STRIKE Petitioner's corresponding exhibits.

7. Alternatively, Respondent moves the Board to continue the trial set for July 26, 2024, to allow Respondent adequate time to respond to Petitioner's voluminous filing, which contains three hundred and fifteen pages of exhibits and new allegations that are not contained in the previous filings in this matter.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Respondent Robert B. Evans, III, prays that the Board grant Respondent's Motion to Strike, or in the alternative, that the Board grant Respondent's Motion for Continuance, and that the Board grant Respondent all such other and further relief, at law or in equity, to which he may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a true and correct copy of the foregoing was delivered on January 25, 2024, to the following:

Amanda Kates
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