

NO. 67843



FILED

Jul 16 2024

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**

---

**LAUREN ASHLEY HARRIS**

*STATE BAR OF TEXAS NO. 24080932,*

*APPELLANT,*

*v.*

**COMMISSION FOR LAWYER DISCIPLINE,**

*APPELLEE.*

---

*On Appeal from Cause No. 202000647 [North]*

*District 14 Grievance Committee*

*Evidentiary Panel 14-2 of the State Bar of Texas*

---

**APPELLANT'S 1ST AMENDED MOTION FOR A**

**COMPLETE & ACCURATE CLERK'S RECORD:**

**CORRECTIONS & SUPPLEMENT**

**& UNOPPOSED REQUEST FOR EXTENSION OF TIME TO FILE APPELLANT'S BRIEF**

---

*TO THE HONORABLE BOARD OF DISCIPLINARY APPEALS:*

COMES NOW, APPELLANT, LAUREN ASHLEY HARRIS, and files this her Motion for a Complete and Accurate Clerk's Record: Corrections and Supplement, seeking an Order from the Board of Disciplinary Appeals ("BODA") directing the

Clerk of the Evidentiary Panel to correct, supplement, certify, and transmit the *complete and accurate* clerk's Record to BODA -- where the currently missing items are material to the record of this appeal.<sup>1</sup>

BODA abated this matter at least by its August 2023 Order, *if not in June 2023*, when remanding this matter back to the Evidentiary Panel with instructions that it conducts a hearing on Appellant's bills of exceptions; at that time BODA also ordered the Evidentiary clerk to file a supplemental clerk's record; yet, as seen in the listed items held below the items requested include those explicitly necessary for appellant to brief the issues in this Appeal, and must be part of the appellate record. Upon the items being supplemented to correct the errors therein, and absent any additional errors or omissions, Appellant respectfully requests the inclusion of an additional extension of time to set the briefing deadline and until the complete record is before BODA as the complete record contains information critical to this matter.

---

<sup>1</sup> Appellant filed *Appellant's Motion to Correct and Supplement the Reporter's Record* on July 31, 2023 as the Reporter's Record is also deficient in this action.

## A. CLERK'S RECORD

1. Appellant's requested relief is brought pursuant to the Texas Rules of Appellate Procedure ("TRAP") Rules: 34.5(c)(1), (d),<sup>2</sup> and 34.6,<sup>3</sup> as well as TRAP 44.3<sup>4</sup> 44.4,<sup>5</sup> and Appendix C to the TRAP, Rule 1;<sup>6</sup> further, BODA Internal Procedure Rules: ("IPR") 1.09,<sup>7</sup> 4.02(c)(1),<sup>8</sup> 4.02(e),<sup>9</sup> 4.02(d),<sup>10</sup> Rule 4.02(h), *Inaccuracies or Defects*,<sup>11</sup> and specifically IPR Rule 4.03(d):

[i]f 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.<sup>12</sup>

2. The Clerk did not follow the directives of the IPR 4.02(c)(1)(ii) -- which reflects: (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.

---

<sup>2</sup> See Tex. R. App. P. 34.5(c)(1)] (the Appellate record may be supplemented at any time; the distinction is eliminated from former rules between supplementation requests made before submission and those made after submission; see also Tex. R. App. P. 34.5(d), *Defects or Inaccuracies*

<sup>3</sup> See Tex. R. App. P. 34.6 (if relevant item has been omitted from clerk's record or reporter's record, either trial court, appellate court, or any party by letter, may direct clerk or reporter to prepare, certify, and file supplement containing omitted item in appellate court).

<sup>4</sup> See Tex. R. App. P. 44.3: an appellate court must not ...dismiss an appeal for formal defects or irregularities in appellate procedure without allowing a reasonable time to correct or amend the defects or irregularities.

<sup>5</sup> See Tex. R. App. P. 44.4, an appellate court must not dismiss an appeal if a trial court's acts or refusals to act have prevented the proper presentation of the case before the appellate court; if the trial court's actions or inactions can be remediated, then the court of appeals must direct the trial court to correct the error. The court of appeals will then proceed as if the erroneous action or failure to act had not occurred.

<sup>6</sup> See Tex. R. App. P. FIVE app C., Rule 1, Clerk's Record.

<sup>7</sup> See TEX. BD. DISCIPLINARY APP. INTERNAL PROC. R. 1.09(a)(1), *Pretrial Procedures, Motions, Generally*.

<sup>8</sup> See TEX. BD. DISCIPLINARY APP. INTERNAL PROC. R. 4.02(c)(1), *Responsibility on Appeal for Filing Clerk's Record*.

<sup>9</sup> See TEX. BD. DISCIPLINARY APP. INTERNAL PROC. R. 4.02(e), *Electronic Filing of the Clerk's Record*.

<sup>10</sup> See TEX. BD. DISCIPLINARY APP. INTERNAL PROC. R. 4.02(d), *Preparation of Clerk's Record*.

<sup>11</sup> See TEX. BD. DISCIPLINARY APP. INTERNAL PROC. R. 4.02(h), *Inaccuracies or Defects*.

<sup>12</sup> See TEX. BD. DISCIPLINARY APP. INTERNAL PROC. R. 4.03(d) *Supplemental Record*. See also *Gallagher v. Fire Ins. Exchange*, 950 S.W.2d 370, 371 (Tex. 1997) (*holding that supplementation is available whether the party omitted items from the record by mistake or on purpose*).

(ii) Unless the parties stipulate otherwise, the clerk's record on appeal must:

- (1) *contain the items listed in TRAP 34.5(a):*
- (2) *any other paper on file with the evidentiary panel,*
  - a) including the election letter,
  - b) all pleadings on which the hearing was held,
  - c) the docket sheet,
  - d) the evidentiary panel's charge,
  - e) any findings of fact and conclusions of law,
  - f) all other pleadings,
  - g) the judgment or other orders appealed from,
  - h) the notice of decision sent to each party
  - i) any post submission pleadings and briefs, and
  - j) the notice of appeal.

3. Rule 34.5(d) of the TRAP reflects:

- "[i]f anything relevant is omitted from the clerk's record." The supplementation rules "ensure[] that the record on appeal accurately reflects all of the evidence that was seen by, used by, or considered by the trial judge at the time he made a ruling."<sup>13</sup> "request for preparation of supplemental clerk's record."<sup>14</sup> **supplementation of the record** "[is the appropriate remedy;
- Items omitted from record:
  - (a) If relevant item has been omitted from clerk's record or reporter's record, either trial court, appellate court, or any party by letter, may direct clerk or reporter to prepare, certify, and file supplement containing omitted item in appellate court.<sup>15</sup>

4. Moreover, the technical requirements of the clerk's record

preparation reflect (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);
- (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);

---

<sup>13</sup> *Amador v. State*, 221 S.W.3d 666, 677 (Tex. Crim. App. 2007).

<sup>14</sup> See TRAP 34.5(c).

<sup>15</sup> [Tex. R. App. P. 34.5(c)(1)—clerk's record;

(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, this was not completed they started over each supplement.

(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;

(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.;

(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.

5           Additionally,  
whereas the court reporter did  
transcribe the January 26, 2024  
Formal Bills of Exception hearing  
before Evidentiary Panel 14-2,  
and within same the CDC clearly  
indicated on the record she would  
complete certain tasks, and then  
never did same, the lack of

7

1   to be in the record, and that's -- if I need to submit  
2   those proposed orders to you, I will.  
3                           (Pause in proceedings.)  
4                           MS. HARRIS: Let me -- do you guys need a  
5   copy of that? (Pause.) Can you hear me?  
6                           PANEL CHAIR PEACE: Yes, we -- I can hear  
7   you.  
8                           MS. HARRIS: Did you have a copy of the  
9   proposed orders, Panel Chair?  
10                          PANEL CHAIR PEACE: I do not have a copy  
11   of the proposed orders.  
17                          PANEL CHAIR PEACE: Any other argument or  
18   anything more that we need to discuss before we  
19   deliberate?  
20                          MS. HARRIS: Based on the fact that I do  
21   believe everything that I've filed in -- in furtherance  
22   of the bill of exceptions, even after the 7th, is valid  
23   for the panel's consideration, then I would hope that  
24   Ms. -- Ms. Brittany, if you don't mind making sure that  
25   the panel chair has access to all of the matters that

necessary documents and explicit verbal assurances to the contrary -- being on the record and warranted to Appellant,

12

1	I've filed related to the bill of exceptions, including
2	proposed orders and the original.
3	MS. PAYNTON: Yes, ma'am.
4	MS. HARRIS: Okay.

but which never occurred -- -- then this request is highlighted again what the category of request for ALL communications with the Panel which relates to Appellant when Respondent, and in any cause number of Appellant before the Panel not limited to this appeal. Where those items will be a supplement to the Clerks record, but truly are also exhibits to the Reporter's Record, then Appellant seeks inclusion of both for BODA's review and ruling.

6. Specifically, below is the line-item explanation of record items/categories of items currently missing -- resulting in the inaccurate and incomplete record. Notably, these missing items can be generally described in the following categories, and no matter whether items were omitted items from the record by mistake or on purpose:<sup>16</sup>

- |     |                                                                                                                                                                                                                                              |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I.  | The Index and therefore the Record is incorrect where a number of entries are labeled with the date the CDC FILEMARKED the item, not when it was actually transmitted. by email server of appellant to the CDC/served on the CDC;            |
| II. | All Recordings by Zoom, as is the custom of the CDC of all hearings for Respondent, such as the November 12, 2020 settings, the January 27, 2023 setting, March 24, 2023 setting, , and the January 26, 2024 setting -- where the CDC served |

<sup>16</sup> Gallagher v. Fire Ins. Exchange, 950 S.W.2d 370, 371 (Tex. 1997)]

as the reporter for November 20, 2020 and March 24 2023 hearing and Appellant is seeking same for use in disciplinary matter allowed under TDRP Rule 2.16;

- III. all documentation to support the recording or ack thereof of the March 24, 2023 hearing
- IV. All communications with any panel member that explain communications outside of deliberations to support the upward departure in sanction recommendation email title for default judgment.
- V. The CDC removed Appellant's bates labels and therefore have altered the Record from the way that Appellant presented it from the Original and exhibits in Formal bill of Exceptions -- the CDC would be within their rights to add their own in accordance with the rules of proception but not alter Appellants their own but they cannot alter my exhibits
- VI. The items are not in chronological order.
- VII. Supplement with all communications sent and received to and from Appellant and the Panel for not only 202000647 but any other cause, explicitly the 202005425 and 20200143 as seen in default signed judgment email title
- VIII. all pre-evidentiary petition communications and letters
- IX. All phone logs or fax notifications of calls made to respondent
- X. specifically, all emails for the 202000647 investigator
- XI. Respondent responses and documents
- XII. IVH panel letters and assignment
- XIII. IVH panel offers, how made
- XIV. All post-evidentiary petition communications
- XV. All phone logs or fax notifications of calls made to respondent
- XVI. all emails for scheduling court reporter for January 27 2023 setting
- XVII. Notification letter Rule 2.20 for default judgment.
- XVIII. Any stipulations or waiver of 45 notice for the March 24, 2023 hearing
- XIX. Panel Assignment letter and for March 24, 2023 hearing, notice of panel members to Appellant
- XX. All communications regarding exhibit binder 0001-0479
- XXI. hearing report for November 20, 2020, March 23, 2023 and January 26, 2024 setting
- XXII. all emails to and from court reporters for any hearing whether retained or not for March 24 setting as I was not included

XXIII.	notice of hearing for March 24 2023 setting
XXIV.	All emails with Guerra regarding the hearing
XXV.	All <i>ex parte</i> emails with any panel member related to any claim with or about Respondent/Appellant
XXVI.	Specifically, all emails that transmitted proposed orders to Biggs or panel chairs as Appellant was not on any communications
XXVII.	and the promise of getting the panel the Formal Bills of Exception proposed orders in the January 26, 2024, hearing on the record and saying would be copied on them but never received a thing, please provide the transmission denial to the panel for that date before deliberations
XXVIII.	All emails and phone calls/logs messages or texts with Panel Chair in any case for appellant which could contain the proposed orders the panel signed for all orders but especially also the March 24, 2023 proposed orders and
XXIX.	and one sending proposed orders to Biggs during the hearing
XXX.	All Records from the SBOT related to changing my attorney profile information on the portal for SBOT and the decision to waylay my disciplinary file transmission
XXXI.	All domination to support the policy of the CDC to not provide a deficiency notice of exhibits that would then be excluded without notice such as First exhibit binder
XXXII.	Judicial notice, Pamphlets, current versions
XXXIII.	Venue 2.11 each of these venues: AT THE TIME OF GRIEVANCE FILING NOT AT TIME of service or decision arbitrarily made by CDC.
XXXIV.	the definition of <i>ex parte</i> communications between committee members and the office of the CDC during evidentiary hearings. <sup>9</sup>
XXXV.	Where the Panel's own Guides/policies state: Panel members should not engage in <i>ex parte</i> communications with the parties or witnesses to a proceeding, including CDC attorneys or staff, Respondent or Respondent's counsel, or Complainant. Discussions related to a pending matter should only occur in the presence of representatives from both parties. <sup>10</sup>



7/ **Notification of the Evidentiary Judgment:** The clerk of EVP has a duty to provide a copy and must notify the parties of the judgment as set out under the Texas disciplinary rules.<sup>17</sup>

8 Further, the Supreme Court’s 2011 Opinion first issued in *Schaefer*,<sup>18</sup> overruled on other grounds, specifically addresses the CDC role as the administrative staff to the evidentiary panels: “Importantly, the Office of the Chief Disciplinary Counsel acts as staff for the grievance committee panel in limited circumstances such as those now before us and must scrupulously adhere to the rules when *[acting as such]* for Evidentiary Panels.”<sup>19</sup>

9 **Appeal Technicalities:** The Texas high courts emphasize that a party’s right to appeal should not depend on technicalities.<sup>20</sup> Requiring a motion to be filed within the same 15-day window as the late notice of appeal is a technical requirement. Currently, the lack of an initial motion to extend is remedied in civil cases by allowing a party to subsequently provide a reasonable explanation, as required by Rule 44.3. That is, a court of appeals cannot dismiss an appeal for formal defects or irregularities in appellate procedure without allowing a reasonable time to correct or amend.<sup>21</sup> But the need to “amend” an “implied”

---

<sup>17</sup> TRDP 2.21 [2.20]

<sup>18</sup> Overruled after rehearing by the Supreme Court’s 2012 Memorandum Opinion.

<sup>19</sup> (*emphasis added*) *Schaefer v. Commission for Lawyer Discipline*, No. 44292, (Tex. April 20, 2012).

<sup>20</sup> See *McClellan v. Livingston*, 486 S.W.3d 561, 564-65 (Tex. 2016); *Harkcom v. State*, 484 S.W.3d

<sup>21</sup> See *id.*

motion can be eliminated by changing the rule to permit a motion for extension to be filed after the grace period; the rule itself could make clear that only the notice would be required.<sup>22</sup> The goal should be to reach the merits, not dismiss a case on procedural technicalities. Appellant respectfully asks these orders by the Board, pursuant to Rule 2.23 of the Texas Rules of Disciplinary Procedure, Rule 42.3 of the Texas Rules of Appellate Procedure,

10. Some additional rules that assist in supporting the requests of appellant herein set forth in the TRCP where:

**RULE 74. FILING WITH THE COURT DEFINED** The filing of pleadings, other papers and exhibits as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and time and forthwith transmit them to the office of the clerk.

**RULE 75b. FILED EXHIBITS: WITHDRAWAL** All filed exhibits admitted in evidence or tendered on bill of exception shall, until returned or otherwise disposed of as authorized by Rule 14b, remain at all times in the clerk's office or in the court or in the custody of the clerk.

**RULE 75a. FILING EXHIBITS: COURT REPORTER TO FILE WITH CLERK** The court reporter or stenographer shall file with the clerk of the court all exhibits which were admitted in evidence or tendered on bill of exception during the course of any hearing, proceeding, or trial.

**RULE 76. MAY INSPECT PAPERS** Each attorney at law practicing in any court shall be allowed at all reasonable times to inspect the papers and records relating to any suit or other matter in which he may be interested.

11. Appellant respectfully asks BODA to order the Clerk of the Evidentiary Panel to correct the record. Where the clerk's record has not been accurately and completely filed, Appellant further seeks a second extension for the

---

<sup>22</sup> See, e.g., Tex. R. App. P. 28.3(d).

time to file her brief, which briefing schedule is respectfully requested from BODA upon completion of the errors as consistent with Tex. R. App. P. 38.6.

12. Appellant must seek a correct and accurate record here as if forced to brief now, it would prejudice her ability to prove her issues as in the absence of a clerk's record, there can be no appeal.<sup>23</sup> When there is no reporter's record, appellate court review is generally limited to complaints involving errors of law, erroneous pleadings or rulings, erroneous charges, irreconcilable conflicts of jury findings, summary judgments, and fundamental error.<sup>24</sup> When the appellant, through no fault of his own, is unable to obtain a reporter's record, the appellate court may reverse the judgment.<sup>25</sup> The burden is on the appellant to see that a sufficient record is presented to show error requiring reversal.<sup>26</sup>

### **B. MOTION TO CORRECT AND SUPP: THE REPORTER'S RECORD**

13 Appellant also re-urges and seeks a ruling on her Motion to Correct and Supplement the Reporter's Record, filed July 31, 2023 before BODA in this

---

<sup>23</sup> See *W. Credit Co. v. Olshan Enters., Inc.*, 714 S.W.2d 137, 138 (Tex. App.—Houston [1st Dist.] 1986, no writ) (dismissing an appeal for failing to file a transcript or what is now referred to as the clerk's record).

<sup>24</sup> *Protechnics Int'l, Inc. v. Tru-Tag Sys., Inc.*, 843 S.W.2d 734, 735 (Tex. App.—Houston [14th Dist.] 1992, no writ); *Collins v. Williamson Printing Corp.*, 746 S.W.2d 489, 491 (Tex. App.—Dallas 1988, no writ); See *Bexar Cty. Criminal Dist. Attorney's Office v. Mayo*, 773 S.W.2d 642, 643 (Tex. App.—San Antonio 1989, no writ) (declaring conclusions of law will not bind the appellate court if erroneous).

<sup>25</sup> See *Smith v. Smith*, 544 S.W.2d 121, 123 (Tex. 1976) (granting a new trial to the petitioner based on his "inability to procure a statement of facts" or reporter's record).

<sup>26</sup> Tex.R.App.P. 50(d); *Escontriadas v. Apodaca*, 629 S.W.2d 697, 699 (Tex.1982).

Cause, which Appellant adopts and incorporates by reference as if fully set forth herein.<sup>27</sup>

14. Explicitly set forth in that motion, and re-urged here again, are the factual realities that result from allowing a state agency to "oversee" the entire disciplinary system without any checks and balances -- illustrating that the roles traditionally held by Clerks of the Court and prosecutors, the judiciary and of these proceedings are laid out and shown to be inequitably stacked -- against attorneys subject of the disciplinary system.

15 Appellant again asks BODA to make a ruling that requires the CDC to offer an explanation of the lack of recording or the recordings of the hearings as is their custom by Zoom, but where the Office of Chief Disciplinary Counsel have never explained nor produced the November 12, 2020 hearing transcripts, being of this matter, North and 20200048.

16. The placement of the same attorney and her staff into each of the positions here, guiding the Panels, prosecuting the attorneys, and controlling the docket -- and more -- rails against the very pillars of equity, fairness, and unbiased adjudication on which the legal profession is based. Instead, it has created an

---

<sup>27</sup> RULE 58. ADOPTION BY REFERENCE Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion, so long as the pleading containing such statements has not been superseded by an amendment as provided by Rule 65.

inherently inequitable and clear conflict of interest in these proceedings which the CDC unrelentingly, is allowed to leverage to their own devices.

C. MOTION FOR JUDICIAL NOTICE

17. With such illumination as the proper process in the policies of the CDC Procedure Guides originally appended to the Motion to Supplement and Correct the Reporter's Record, such as:

The administrative support staff of the Office of the Chief Disciplinary Counsel will arrange for the presence of a court reporter or audio/visual recording at hearings. [APP. 1] [APP.2].

18. Due to the importance of the information within the Procedural Guides authored by the CDC--essentially the state agency handbook for these proceedings--especially because the CDC's interpretation of the rules and procedures provide context not included in the plain language of the TRDP, Appellant seeks the BODA to take judicial notice of these materials.

19. Moreover, as the *SBOT Open Records Dept.'s "Full Release" under Public Information Act* made on May 5, 2023 by the SBOT Open Records Department ("ORD"), being also the CDC, the "full release" of records to Appellant,<sup>28</sup> after Appellant remitted a \$255.00 fee to the SBOT, was not a full release. Upon receipt,

---

<sup>28</sup> However, this production has only served to confuse Appellant, and question what it is the CDC and the SBOT believe to be the respective duties under, under which set of rules to which they must adhere -- for this purpose, providing a suspended member with the full release of records of her own disciplinary file.

Appellant was surprised to learn that the previously requested disciplinary file, which was outright denied, had actually been partially included in the release. But not fully, and still missing the November 12, 2020 hearings recordings, still sought by the contents of this motion.

20. The SBOT released files responsive to several requests for public information by Appellant, regarding Appellant and her SBOT statutory profile and online portal access, physical address history, the request have not actually been fully released nor finalized, is still open, and pending, and incomplete/missing many known and unknown records. However, the matters that have been released, to date, reflect as follows: SBOT release of public records from official PIA response regarding Respondent's statutory profile and online portal login and address information show that the system identifier "NCOA" changed Appellant's statutory profile address several times, and even through this post-judgment period. These records and the pleadings of opposing counsel, rulings in prior disciplinary proceedings, all which data source cannot reasonably be questioned, and must be judicially noticed by the Panel/Board which further, prevent positions and bar assertions in this actions, negate offers of proof as submitted in this action by the CDC as contrary to positions taken in those other matters or in precedent for this area of law under stare decisis.

**21. Reciprocal Discipline.** Further, appellant seeks BODA's judicial notice of the lack of reciprocal discipline entered against appellant by the U.S. District Court Northern District of Texas, Dallas Division; which show cause proceeding commenced on February 23, 2023 by the Honorable Judge Jane J. Boyle of the U.S. District Court for the Northern District of Texas, the Dallas Division, entering an Order for Respondent to Show Cause why the Court should not impose Reciprocal Discipline in the Northern District, as Respondent was admitted before the Northern District. The Show Cause Order was entered upon receipt of a Judgment Alert sent by Guerra of the Office of the Chief Disciplinary Counsel on the date the Judgment was entered, February 7, 2023. The alert which summarized the Judgment terms, and while indicating that if a Court seeks a copy of the Judgment, to reach out to the Office; however, the alert also attaches the full Default.

22. Respondent filed responsive documents under seal with the Court on March 17, 2023, and the Court entered its second Order on March 21, 2023, which declined to make the Reciprocal Ruling at that time and provided Respondent with further instructions.<sup>29</sup>

**23. Complete Record.** The reviewing court cannot review the legal or factual sufficiency of the evidence in the absence of a complete record.<sup>30</sup> When an

---

<sup>29</sup> 0577-0579/HARRIS 0629-0632

<sup>30</sup> *Englander Co. v. Kennedy*, 428 S.W.2d 806, 807 (Tex. 1968) (per curiam); *Andrews v. Sullivan*, 76 S.W.3d 702, 705 (Tex. App.—Corpus Christi 2002, no pet.).

appellant fails to bring forward a complete record on appeal, it is presumed that the omitted portions are relevant to the disposition of the appeal.<sup>31</sup> An incomplete reporter's record prevents the reviewing court from determining whether a particular ruling by the trial court is reversible error in the context of the entire case.<sup>32</sup> Without a complete reporter's record or a complete clerk's record, the appellate court will presume that the omitted evidence supports the trial court's judgment.<sup>33</sup>

24     **Review Precluded.** This precludes the reviewing court from finding reversible error --<sup>34</sup>stating reversible error is precluded unless the court of appeals "concludes that the error complained of: (1) probably caused the rendition of an improper judgment; or (2) probably prevented the appellant from properly presenting the case to the court of appeals") because "[a] reviewing court must examine the entire record . . . to determine whether an error was reasonably calculated to cause[,] and probably did cause[,] the rendition of an improper judgment."<sup>35</sup>

---

<sup>31</sup> *Enter. Leasing Co. of Hous. v. Barrios*, 156 S.W.3d 547, 549–50 (Tex. 2004) (per curiam); *Guthrie v. Nat'l Homes Corp.*, 394 S.W.2d 494, 495 (Tex. 1965).

<sup>32</sup> *Christiansen v. Prezelski*, 782 S.W.2d

<sup>33</sup> *Simon v. York Crane & Rigging Co.*, 739 S.W.2d 793, 795 (Tex. 1987); *Murray v. Devco, Ltd.*, 731 S.W.2d 555, 557 (Tex. 1987).

<sup>34</sup> *seen in* TEX. R. APP. P. 44.1(a)(1)–(2):

<sup>35</sup> *Christiansen v. Prezelski*, 782 S.W.2d



25. **Presumption as to Record.** A presumption on appeal exists that nothing omitted from the record is relevant to any of the specified points or to the disposition of the case on appeal.<sup>36</sup> However, the failure of the appellant to comply with Rule 34.6(c) will cause the reviewing court to presume that the omitted evidence supports the trial court's judgment.<sup>37</sup>

26. **Erroneous Exclusion** The Court discussed at length the proper harm analysis under Rule 44.2(b) when a piece of evidence is erroneously excluded.<sup>38</sup> The Court stated that an "appellate court should consider everything in the record, including any testimony or physical evidence admitted for the jury's consideration, the nature of the evidence supporting the verdict, the character of the alleged error and how it might be considered in connection with other evidence in the case."

27 **Date of Notice.** The Court further stated that "when the claimed error is the exclusion of a relevant piece of evidence . . . conducting a meaningful harm analysis would necessarily require consideration of all evidence which was admitted at trial. In short, the lower court should examine the record as a whole when conducting a harm analysis under Section 4.01. To perfect appeal, the date

---

<sup>36</sup> *Bethune*, 53 S.W.3d at 377; *Producer's Constr. Co. v. Muegge*, 669 S.W.2d 717, 718 (Tex. 1984) (per curiam).

<sup>37</sup> *Christiansen v. Prezelski*, 782 S.W.2d 842, 843 (Tex. 1990) (per curiam); *Sandoval v. Comm'n for Lawyer Discipline*, 25 S.W.3d 720, 722 (Tex. App.—Houston [14th Dist.] 2000, pet. denied); *Kwik Wash Laundries, Inc. v. McIntyre*, 840 S.W.2d 739, 742 (Tex. App.—Austin 1992, no writ).

<sup>38</sup> In *Morales v. State*, 32 S.W.3d 862, 867 (Tex. Crim. App. 2000),

the evidentiary judgment is signed is signed starts the appellate timetable under to make TRDP 2.21 [2.20] consistent with this requirement. Which notice is missing herein.

28. **Panel Composition** "BODA observed that "the [evidentiary panel] chair introduced only the members present on the record and did not name the absent members of the panel," thus creating uncertainty as to whether the evidentiary panel lacked a necessary public member."<sup>39</sup>

"The Grievance Committee should timely advise respondent attorneys of the composition of the evidentiary panel from which the quorum was drawn to hear the case. But generally speaking, reasonable diligence by the attorney requires more than occurred here. Faced with an incomplete evidentiary panel, the respondent-attorney must inquire as to panel composition and object if the composition requirements are not satisfied. Should an attorney fail to appear at an evidentiary hearing, she makes her task more difficult and should obtain the hearing report and preserve error through a timely post-judgment motion."<sup>40</sup>

Where appellant has not been provided ANY hearing reports but for the January 27, 2023 default, this motion seeks same to brief properly the panel's configuration, and where appellant brought this matter up before the panel in several filings and requests.

29. Attached hereto, or very shortly following this amended motion's filing, Appellant will file the very specific list made by -- first, combining the three separate Clerk indexes filed before BODA to date: (1) the Original, filed June , 2023;

---

<sup>39</sup> . *Id.*17.

<sup>40</sup> *See* TEX. R. DISCIPLINARY P. 2.22

(2) the Supplemental, filed August 8, 2023, and lastly the (3) Second Supplemental, filed February 16, 2024 -- and thereafter, enlarged by addition of rows to specifically denote, chronologically, the items missing from same and, provide the dates and names/title is the specifically missing items that Appellant is currently aware exist but are not included.

30. Further, without notice regarding the evidentiary petition and lack of service of process that Guerra even sought to contact Appellant, let alone remove her income and prospects competently for her chosen profession -- regular life proceeded normally for Appellant with the SBOT in the pendency of the evidentiary axe, Appellant paid dues, attended CLEs, Appellant ordered a Certificate of Good standing from the CDC itself on December 12, 2022, for use in job applications.

31. For this transaction the CDC accepted Appellant's remitted payment, and Appellant received from the CDC an email transmission attaching same, as well as a separate cover for the receipt, and the PDF certificate of good standing itself; but, in all these direct communications with the CDC, they did not include -- any notice whatsoever to Appellant related to the pending evidentiary proceedings which would soon thereafter remove the good standing of that

certificate and provide a no-notice default suspension from the practice of law/termination from employment.<sup>41</sup>

32. Accordingly, an important predicate for a successful appeal is to establish what facts were found by the [evidentiary panel]. In *Amador*, the Court of Criminal Appeals explained that when the parties and the trial court treat evidence as formally introduced and when the trial court considers that evidence in its ruling, even if the evidence was not formally offered and introduced into evidence or contained in the original appellate record, that evidence should be properly included in an appellate record to be considered.<sup>42</sup>

33. Similarly, in that case as here, where that trial court and the parties treated the search warrants and supporting affidavits as formally introduced and because the trial court *necessarily* considered them when ruling on whether they lacked probable cause, then that Court found they should properly be included in the appellate record and considered by this Court on rehearing, and must adhere to the mandates and standards of which is delegated to the legal assistants of the assigned CDC counsel, captive employees of the CDC.<sup>43</sup>

---

<sup>41</sup>

<sup>42</sup> Beginning at 224 with by the appellate court. See *id.* at 673–74; see also *Harden v. State*, 417 S.W.2d 170, 174 (Tex. Crim. App. 1967) (when assessing sufficient of evidence, Court of Criminal Appeals requested and considered photograph that had been shown to jury but not formally introduced or included in appellate record)

<sup>43</sup> The purported “Clerk’s Record” in this appeal was filed on June 1, 2023, and is signed “Cassidy M. Orozco, Evidentiary Clerk” who has served from time-to-time as an alternate point of contact to Brittany Paynton, the assistant/point of contact for Appellant in “filing” documents before the Evidentiary Panel or serving matter or serving Laurie Guerra in the underlying evidentiary proceedings.

Based on ADT's allegations, the court of appeals requested a response from the real parties in interest and granted the emergency motion, staying the ongoing trial. *Id.* After the real parties in interest filed a response and motion for sanctions, pointing out the deficiencies in ADT's record, ADT filed a response to the motion for sanctions and a **supplemental record** that included the full reporter's record. *Id.* at \*3. The court of appeals **imposes sanctions** "with caution and only after careful deliberation."<sup>44</sup>

- ADT responded that it was not necessary to submit the full transcript with its petition to comply with the rules of appellate procedure, which "require only that a relator attach a 'transcript of any relevant testimony from any underlying proceeding.'"<sup>45</sup> The court disagreed. **The court concluded that "ADT clearly failed to provide this court with that portion of the reporter's record that would have informed this court of [the trial judge's] reasoning for not granting the motion for continuance."**<sup>46</sup> "Had ADT provided this court with the full reporter's record . . . it is highly unlikely that this court would have granted the stay of the ongoing trial or requested a response from [the real parties in interest]." *Id.*

- The conduct of ADT's counsel was considered in light of a lawyer's obligations to maintain the highest standards of ethical conduct and to provide a fair and accurate understanding of the facts and law applicable to their case<sup>47</sup>. The court also stated that a lawyer's duty of honesty and candor to the appellate court includes fairly portraying the record on appeal and in original proceedings.<sup>48</sup> Accordingly, the court concluded that the imposition of a sanction for the attorneys' fees expended in responding to the petition for writ of mandamus pursuant to Rule of Appellate Procedure 52.11. *Id.* (citing TEX. R. APP. P. 52.11(d)).

34. Petitioner's counsel, this Response, and the post-judgment action generally, reflects a disconnect from the industry standards, tenor of practice before the Texas State and federal courts, acceptable and unacceptable conduct of counsel, communication and actions which are not appropriate while in the zealous advocacy of a client.

35. Respondent asserts that if this is the manner in which the panels and CDC operate in all cases, and the experiences of Respondent from 2019 to the

---

<sup>44</sup> *Id.* at \*4 (citing TEX. R. APP. P. 52.11(d)).

<sup>45</sup> *Id.* (citing TEX. R. APP. P. 52.7(a)(2)).

<sup>46</sup> *Id.* at \*5.

<sup>47</sup> *Id.* at \*4 (citing Tex. R. Disciplinary Prof'l Conduct preamble, para. 1; Texas Supreme Court, Standards for Appellate Conduct, available at <http://www.supreme/rules/conduct.asp>).

<sup>48</sup> *Id.* (citing *In re Lerma*, 144 S.W.3d 21, 27 (Tex. App. — El Paso 2004, orig. proceeding); *Schlaflly v. Schlaflly*, 33 S.W.3d 863, 873 (Tex. App. — Houston [14th Dist.] 2000, pet. denied)).

present in the pre-evidentiary panel period with the investigator/investigatory hearings/and conduct of counsel in due diligence and the intentionally misleading and inequitable actions as a recurring theme now – and this is normal par for the course --- then it is a manifest failure of the attorney discipline system -- and the attorney discipline system is a manifest failure -- although the Evidentiary Panel requirements and duties under the District Grievance Committee are clear, where when the clerk’s record is incomplete, appellant or any other party should seek to supplement the record.<sup>49</sup>

36 Texas Rule of Appellate Procedure 34.5(d) allows supplementation of the record “[i]f anything relevant is omitted from the clerk’s record.” The supplementation rules “ensure[] that the record on appeal accurately reflects all of the evidence that was seen by, used by, or considered by the trial judge at the time he made a ruling.”<sup>50</sup>

#### PRAYER

WHEREFORE, PREMISES CONSIDERED, Appellant respectfully prays that this Panel will grant this, Appellant's Motion for Complete Clerk’s Record: correct and Supplement this Appellate Record in all things; or in the alternative,

---

<sup>49</sup> TEX. R. APP. P. 34.5(c).

<sup>50</sup> *Amador v. State*, 221 S.W.3d 666, 677 (Tex. Crim. App. 2007).

that this Court schedule this matter for a hearing prior to trial on the merits and that at such hearing this Motion will be in all things granted.

Appellant respectfully requests that BODA enter an Order instructing the Clerk, the Office of the Chief Disciplinary Counsel, to: make a full and complete record of these proceedings by any method necessary; to include all information related to this cause at every stage of proceeding -- from the date the Grievance was filed, on or about January 15, 2020 – through the date Order is entered. Respondent seeks Panel ruling instructing the Clerk to make a complete record of non-privileged materials which shall include, but are not limited to, the following, as well as the list included herein above and the chart list to follow with specific document names and titles and dates:

- |                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I. All correspondence related to all testimony and evidence developed at all pre-trial hearings in this cause, all objections made by counsel, and all orders entered by the Court.                                                                   |
| II. The entire voir dire examination of the jury panel during the trial of this cause on the merits, all objections made by counsel and all orders entered by the Court.                                                                              |
| III. All opening statements by counsel for the prosecution and counsel for during the Investigatory Hearing all objections made thereto and the rulings of the Court thereon.                                                                         |
| IV. All testimony of any and all witnesses during the guilt/innocence hearing and punishment hearing, if any.                                                                                                                                         |
| V. The contents and copy of all recordings including but, not limited to, video and/or audio, that were recorded during the pre-Investigatory, Investigatory, Evidentiary and post-Judgment proceedings and hearings in this case, before the Panels. |

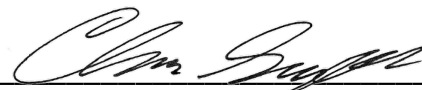
- |                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| VI. The contents of all exhibits that are read by any witness or by counsel, to the jury and/or to the Panel                                                                                                                                                        |
| VII. All testimony and ex -parte communications with the Panel adduced at hearings held outside the presence of the jury during the guilt/innocence hearing and the punishment hearing, if any.                                                                     |
| VIII. All communications between the Panel and the CDC or third parties and the CDC for Appellant.                                                                                                                                                                  |
| IX. All arguments made by counsel for the prosecution during hearings out of hearings and for the punishment hearing, if any.                                                                                                                                       |
| X. All objections made by counsel for the Defendant and for the prosecution and all rulings of the Court thereon, during the pre-trial hearings, the hearing to determine the guilt/innocence, and the punishment hearing, if any.                                  |
| XI. All objections to the Court's charge and all requested instructions made by counsel for the Defendant and counsel for the prosecution during the guilt/innocence hearing and the punishment hearing, if any; and all rulings of the Court with respect thereto. |
| XII. All bills of exception, evidence and testimony introduced thereon and the ruling of the Panel with hearing reports and evidence of proposed orders actually transmitted to the Panel                                                                           |
| XIII. All items as set forth in this Motion.                                                                                                                                                                                                                        |

Appellant also respectfully requests that the deadline for briefing on the substantive issues in the case be set once the complete reporter's record has been filed.



**Respectfully,**

**CARPENTER & ASSOCIATES, P.C.**



Joshua Carpenter  
State Bar No. 24090907  
*josh@carplawfirm.com*

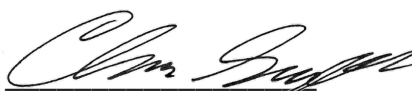
Christopher Snyder  
State Bar No. 24098451  
*chris@carplawfirm.com*

James Metcalf  
State Bar No. 24140131  
*jmetcalf@carplawfirm.com*

555 Republic Drive, Suite 510  
Plano, Texas 75074  
Tel: (972) 455-8700  
Fax: (972) 767-5599  
*filing@carplawfirm.com*  
*Attorneys for Appellant,*  
*Lauren Ashley Harris.*

**CERTIFICATE OF CONFERENCE**

As required by Texas Rule of Appellate Procedure 10.1(a)(5), Chris Snyder personally conferred with Michael G. Graham, Counsel for Appellee, Commission for Lawyer Discipline. who indicated he does not oppose a thirty-day extension of the deadline to brief the substantive issues in this case.

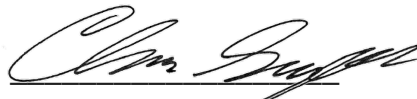


Christopher Snyder

**CERTIFICATE OF SERVICE**

As required by Texas Rule of Appellate Procedure 6.3 and 9.5(b),(d),(e), I certify that a true and correct copy of the foregoing document was served on all other parties via the method indicated below originally on July 15, 2024, and again this date July 16, 2024:

Michael G. Graham  
Counsel for Appellee, Commission for Lawyer Discipline  
via email to [michael.graham@texasbar.com](mailto:michael.graham@texasbar.com)

  
Christopher Snyder