NO. 67843

BEFORE THE BOARD OF DISCIPLINARY APPEALS

APPOINTED BY

THE SUPREME COURT OF TEXAS

LAUREN ASHLEY HARRIS
STATE BAR OF TEXAS NO. 24080932,
APPELLANT,

FILED
Aug 07 2023
THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

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 SUR-REPLY TO *APPELLEES' REPLY TO APPELLANT'S RESPONSE TO* APPELLEES' MOTION TO DISMISS FOR WANT OF JURISDICTION

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TO THE HONORABLE BOARD OF DISCIPLINARY APPEALS:

COMES NOW, APPELLANT, LAUREN ASHLEY HARRIS, and files this her Supplemental Response,[1] or otherwise titled ***Sur-Reply to*** *Appellees' Reply to Appellant's Response to* ***Appellees' Motion to Dismiss for Want of Jurisdiction,***

[1] Appellant's Response in Opposition to Appellees' Motion to Dismiss for Want of Jurisdiction was filed by 5:00 p.m. on the date BODA set forth for filing same, June 23, 2023, but this filing, in truth, was not complete; Appellant therefore noted within same, at the conclusion of the motion "Appellant will supplement," and intends this instrument to supplement that response -- or be a sur-reply, whichever/however -- acceptable to BODA.

pursuant to the Board of Disciplinary Appeals ("BODA") Internal Procedure Rules ("IPR") Rule 1.09(a)(1),[2] 4.09(a),[3] and Texas Rules of Appellate Procedure ("TRAP") Rule 42.3(a),[4] Rule 44.3: which reflects, an appellate court, here BODA:

> **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[5]

and TRAP Rule 44.4, where again BODA **must not dismiss an appeal**[6] if:

> **(1)** the trial court's erroneous action or failure or refusal to act prevents the proper presentation of a case to the court of appeals; and
> **(2)** the trial court can correct its action or failure to act.
> **(b)***Court of Appeals Direction if Error Remediable*. If the circumstances described in (a) exist, **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**.[7]

Appellant asserts that pursuant to the foregoing, BODA must not dismiss this appeal where the Evidentiary Panels' actions and omissions have prevented the proper presentation of this case before BODA[8] – and where BODA's pending ruling on the instant matter has been made a large part of Petitioner/Appellee's arguments/positions to date:

a) preventing the opposing party/its attorneys from properly addressing nor having the Evidentiary Panel enter a Formal Bill of Exceptions[9] which relief, is set forth/requested in Respondent's Verified Motion for Formal Bill of Exceptions filed June 7, 2023 [Supp. CR. 0507]; and ordered by BODA within the June 9, 2023 order trasnmsitted to all parties, which suspended briefing

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[2] *See* TEX. BD. DISCIPLINARY APP. INTERNAL PROC. R. 1.09(a)(1), *Pretrial Procedures, Motions, Generally:* 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.

[3] *See* TEX. BD. DISCIPLINARY APP. INTERNAL PROC. R. 4.02(c)(1),

[4] *See* Tex. R. App. P. 42.3(a), *Involuntary Dismissal in Civil Cases, for want of jurisdiction.*

[5] ***(empahasis added.)*** Tex. R. App. P. 44.3.

[6] ***(empahasis added.)*** Tex. R. App. P. 44.4(a).

[7] Tex. R. App. P. 44.4(a)(1)(2) and (b).

[8] Which include, but are not limited to the items as set forth within the June 7, 2023 filing of Appellant/Respondent's Request for Formal Bill of Exceptions [Supp. CR. 0507-0511] and the July 31, 2023 filing of *Appellant's Motion to Correct and Supplement the Reporter's Record.*

[9] Tex. R. App. P. 33.2, *Formal Bill of Exceptions.*

deadlines for this matter pending the entry of the Formal Bill of Exceptions by the Evidentiary Panel; **as well as**

b) by Appellee in opposition to *Appellant's Motion to Correct and Supplement the Reporter's Record* filed July 31, 2023.

Therefore, Appellant submits that BODA must not dismiss this appeal:

a) for the substantive reasons, objections and arguments set forth in *Appellee's Response in Opposition to the Appellee's Motion to Dismiss* filed June 23, 2023 and herein at length – **but, further,**

b) pursuant to TRAP 44.3, and TRAP 44.4 – where BODA **must not render a ruling of dismissal of this appeal**

i. until BODA directs the Evidentiary Panel to correct/remediate its errors for which Appellant has moved BODA for relief/to direct/enter orders for relief of same contemplated by Appellant's filings listed above. [Supp. C.R. 0508-0511];

ii. **i**n accordance with TRAP 44.4(b), BODA **must** direct the [Evidentiary Panel] to correct the error, and then BODA **will proceed as if the erroneous action or failure to act had not occurred**.[10]

In support thereof, Appellant submits as follows:

I.
THE *Mitschke* DECISION & POLICY OF THE TEXAS SUPREME COURT

A. *The Supreme Court's Holding: Mitschke*

1. Appellant submits that *Mitschke v. Borromeo*, 645 S.W.3d 251, 266 (Tex. 2022) is a binding precedent that BODA must follow in its decision to find appellate jurisdiction in this appeal. In this recent and relevant Supreme Court decision, entered February 22, 2022, one which the Appellate Section of the State Bar of Texas ("SBOT") filed an Amicus Curiae Brief,[11] noting the importance of the Supreme Court's ruling on the timeliness of appeals.

[10] Tex. R. App. P. 44.4(a)(1)(2) and (b).

[11] https://www.texasbar.com/AM/Template.cfm?Section=Meeting_Agendas_and_Minutes&Template=/CM/ContentDisplay.cfm&ContentID=55662; On Petition for Review from the Seventh Court of Appeals, Amarillo, Texas Nos. 07-20-00282-CV & 07-20-00283-CV. See *Mitschke v. Borromeo*, 645 S.W.3d 251, 266 (Tex. 2022).

2. *Mitschke* expressly overrules *Philbrook,* and with that case overruled, *Mitschke* holds:

> A properly filed motion for new trial extends a trial court's plenary power over the judgment and extends the time to file a notice of appeal…[i]n this case, the notice of appeal was timely only if the deadlines were extended, which depended on whether petitioner's motion for new trial was effective. The court of appeals …dismissed the appeal for lack of jurisdiction … we conclude that petitioner's filing error did not deprive the court of appeals of subject-matter jurisdiction, and we therefore reverse and remand for consideration of the merits."[12]

> [When an act or omission] …cannot be classified as anything other than a "clerical defect,"…such defects are not barriers to our exercise of jurisdiction.[13] The primary 'factor which determines whether jurisdiction has been conferred on the appellate court is not the form or substance of the bond, certificate or affidavit, but whether the instrument was filed in a bona fide attempt to invoke appellate court jurisdiction.'[14] [W]e have repeatedly reversed courts of appeals for deploying unduly technical readings of the rules to block merits consideration of an appeal.

> [W]e have instructed the courts of appeals to construe the [rules] reasonably, yet liberally, so that the right to appeal is not lost by imposing requirements not absolutely necessary to effect the purpose of a rule.[15] In this context, being "reasonable" leads to being "liberal"… [w]here that intent is to provide leeway, a permissive construction is the right one[16] **…**we now can affirm that "[t]his Court has consistently treated minor procedural mishaps with leniency, preserving the right to appeal.[17] In this case, however, we do not need a particularly "liberal," "permissive," or "lenient" construction to confirm that a motion for new trial with an error like Mitschke's was timely filed (and that, derivatively, so was his notice of appeal).

> Refusing to find appellate jurisdiction here is inconsonant with our cases—except *Philbrook.* With that case overruled, we now hold that when a party timely attacks an order that grants a final judgment and then files a notice of appeal that is otherwise timely, the court of appeals must deem the appeal to have been timely perfected despite a non-prejudicial procedural defect…Mitschke's motion for new trial effectively extended the trial court's plenary power under Rule 329b and,

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[12] *Edward James Mitschke, Jr., Individually and as a Representative of Cody Mitschke, Deceased v. Marida Faiva del Core Borromeo and Blackjack Ranch, L.L.E.* (No. 21-0326); *Mitschke v. Borromeo*, 645 S.W.3d 251, 266 (Tex. 2022).

[13] *Mitschke,* 645 S.W.3d at 258.

[14] *Id.* citing *In re J.M.,* 396 S.W.3d 528, 530 (Tex. 2013) (per curiam).

[15] *Id.* citing *Verburgt v. Dorner*, 959 S.W.2d 615, 616–17 (Tex. 1997); accord *In re R.D.,* 304 S.W.3d 368, 370 (Tex. 2010) (quoting *Verburgt* in a case involving the rules of civil procedure).

[16] *Id.* citing *Torres v. Oakland Scavenger Co.*, 487 U.S. 312, 319 (1988) (Scalia, J., concurring).

[17] *Id.* citing *Ryland Enters., Inc. v. Weatherspoon*, 355 S.W.3d 664, 665 (Tex. 2011).

> correspondingly, the appellate timelines under Rule 26.1(a). Mitschke's appeal therefore was timely...[18]

3. This case presents a Notice of Appeal – filed on May 8, 2023, [CR. 0653-0654] within 90 days of the February 7, 2023 judgment signing [CR. 0195] – but only timely if the appellate deadlines were extended: just as in *Mitschke,* where the jurisdiction of the appeal depended on whether petitioner's motion for new trial was effective, this appeal depends on the effectiveness of Appellant's post-judgment filings to extend the appellate deadlines.

4. The Supreme Court answered this issue directly within *Mitschke,* holding that a ***mere filing error in a motion for new trial did not deprive the court of appeals of subject-matter jurisdiction.***[19] Refusal to find appellate jurisdiction due to mere misfiling is inconsistent with Supreme Court's rulings, when Appellant's February 20, 2023 motion [CR. 0205-0223] as well as its March 10, 2023 motion for new trial [CR. 0309, 0311-0339],[20] clearly identified the judgment they both assailed, [CR. 0205-0223, 0309, 0311-0339] were served on Appellees, and Appellant's misfiling is not resultant any improper purpose (nor has same been alleged by Appellee).

5. Appellees have presented no argument regarding Appellant's filing causing any prejudice to the CFLD, and frankly, to make this argument only on

[18] *Id.*
[19] ***(emphasis added.)*** *see Id.*
[20] *See also* [CR. 0280-0308], [CR. 0340].

appeal is inequitable based upon all parties proceeding after its filing as if Appellant's computation of time, March 10, 2023, was not improper itself – merely arguing that it was otherwise untimely due to clerical error for lack of signature.

6. Failing to allege anything about March 9, 2023, instead, the CDC forced Appellant to go forward with a hearing ***on her motion*** **which she did not request, notice or set,** and for which Appellant had affirmatively communicated the desire to have such Motion to Stay ruled on by submission. Failure to press for an instruction at the time of an improper argument waives the complaint.[21]

7. Yet, in the case that the March 9, 2023 date actually rendered Appellant's March 10, 2023 filing for new trial ineffective, the CDC should have *moved to strike same or merely argued it was outside the Panel's plenary jurisdiction* – anything, which should have sought to avoid the Panel from ruling on the motion if this appellate motion to dismiss was viable; but, instead/ inexplicably

a. forcing Appellate to argue not only the Motion to Stay under duress, but then
b. without Appellant yet even considering that the March 10, 2023 motion was contemplated yet for hearing and where none had been requested, set nor noticed by either party/without prior mention at all -- while already appearing under duress,
c. Guerra additionally forced Appellant to argue in this setting her Motion for New Trial and Appellant carried the burden on both motions
d. but simultaneously advising Appellant that none of her exhibits would be admitted for same, and
    i. that the setting, -- which if not already the CDC's hearing, setting same without request of Appellant, it certainly became the CDC's setting after Appellant's prior notice/clear intent for ruling by submission;

[21] *Fowler v. Garcia*, 687 S.W.2d 517, 520 (San Antonio 1985, no writ); *Busse v. Pacific Cattle Feeding Fund No. 1, Ltd.*, 896 S.W.2d 807, 815 (Texarkana 1995, writ den.).

ii. therefore Guerra mandated moving forward in a CFLD hearing, but on Appellant's motions and Appellant's burden of proof , over Appellant objections/requests for time to cure;

e. and while the CDC also made the decision to forego organizing court reporter attendance,

f. denied the continuances requested by "proper" filing of the exhibits/to obtain a court reporter, only citing that **the hearing** "was for" Respondent.

g. Moreover, refusing to produce the record of the hearing after Appellant's Motion to Supplement and Correct the Reporter's Record, which it is the CDC's policy to record, and where this is the only record only due to the choices of the CDC, and

h. the 14-2 Panel, as with all matters herein, merely complied with Guerra, mentioned no untimely filed exhibits were to be considered upon Guerra's assertion that none of Appellant's 479 pages were allowed, and over all objections of Appellant, that Appellant must argue her motions to have them heard right then, because "we're already here."

8. Effectively, Guerra was not only the trainer of the DGC for the roles as impartial arbitrators; organizer of the entire procedure, the CDC advocate attorney; the gatekeeper of document filings in the record as Evidentiary Clerk; the Court Recorder, and holder of Court Reporter attendance by hostage, denying the request to produce the recording as the only record, but, also, Guerra has truly also operated as the Panel Chair/Panel itself.

9. Further, here, as in *Mitschke*, prejudice was not even possible under these facts as Appellees:

a. had notice of Appellant's motions, even if misfiled, and all post-judgment filings were clearly made with the intent to assail the default judgment or alternatively, pursue appeal before BODA, {CR. 0205-0223, 0309, 0311-0339] therefore no confusion existed; and

b. Appellees have not disputed Appellant's certification that they were served, nor have they identified any other prejudice, **aside from their understandable desire to win by default**[22]

[22] *See Mitschke,* 645 S.W.3d at 258.

i. *(here again, after already proceeding with a no-notice default judgment against Appellant in the underlying proceedings and directly in contravention to BODA's direct precedents for service of process)*

ii. But which cannot sustain a dismissal for want of jurisdiction based on these facts, where just as reflected in *Mitschke*: **"[p]rejudice, however, requires a distinct showing of harm, which respondents do not assert."**[23]

10. Both as in *Mitschke,* and *State ex rel. Durden*, Appellant's notices of appeal [CR. 0195] and post-judgment motions {CR. 0205-0223, 0309, 0311-0339] identified Appellant's intent to appeal, and the parties undoubtedly understood the matters for which Appellant sought appeal, so there is ***no question of surprise or confusion***, and therefore, Appellant has shown her "bona fide" attempt to invoke BODA jurisdiction:

> Durden's notices of appeal, docketing statements, and post-notice motions …expressly described his intent to appeal[24]…[t]he parties undoubtedly understood…the… orders…at issue on appeal, and thus there is no question of unfair surprise or confusion. We conclude that Durden made a "bona fide" attempt to invoke appellate jurisdiction over the…orders.[25] When a party has timely made a bona fide attempt to invoke appellate jurisdiction, the court of appeals must accept the deficient notice or give the party an opportunity to amend and refile it to perfect the appeal.[26]

11. Here and in *Mitschke,* Appellant's February 20, 2023 timely filing of Respondent's motion [CR. 0205-0223] assailing the judgment effectively extended

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[23] ***(emphasis added).*** *Id.* referring generally to Tex. R. Civ. P. 329b; *see also*. *Hone v. Hanafin*, 104 S.W.3d 884, 887 (Tex. 2003); *see, e.g., In re Elizondo*, 544 S.W.3d 824, 829 (Tex. 2018) (orig. proceeding). *In re Burlington Coat Factory Warehouse of McAllen*, Inc., 167 S.W.3d 827, 829 (Tex. 2005); *Lane Bank Equip. Co. v. Smith S. Equip., Inc.*, 10 S.W.3d 308, 310 (Tex. 2000).

[24] **[Emphases added in original.]** *State ex rel. Durden v. Shahan*, 658 S.W.3d 300, 304-05 (Tex. 2022)

[25] *Id.* citing *See Warwick Towers Council of Co-Owners ex rel. St. Paul Fire & Marine Ins. Co. v. Park Warwick, L.P.* , 244 S.W.3d 838, 839 (Tex. 2008) (holding insurer that filed notice of appeal only in its insured's name made a bona fide attempt to invoke appellate jurisdiction over its own challenges to trial court's judgment).

[26] Id. citing *Grand Prairie Indep. Sch. Dist. v. S. Parts Imports, Inc.* , 813 S.W.2d 499, 500 (Tex. 1991).

the trial court's plenary power under the Texas Rules of Civil Procedure ("TRCP") Rule 329b and, correspondingly, the appellate timelines under Rule 26.1(a).

12. Appellant's Notice of Appeal filed/perfected within ninety-days on May 8, 2023 [CR. 0653-0654] *(at latest, and earliest on February 20, 2023 by premature notice/perfected by entry of the March 24, 2023 orders)* is a timely filed Notice of Appeal invoking *[BODA]* jurisdiction[27] and where Appellant's "actions … constituted 'a bona fide attempt to invoke the appellate court jurisdiction,'"[28] **as *Mitschke*'s appeal therefore was timely, so is Appellant's.**

B. Policy for all Appeals from the Supreme Court of Texas

13. Furthermore, the Supreme Court has emphasized:

> Texas favors a policy allowing an appellant the opportunity to cure a procedural defect so that a case may be decided on its merits."[29] Again and again, the supreme court has reiterated that "[r]ather than disposing of appeals based on harmless procedural defects, '[we] should reach the merits of an appeal whenever reasonably possible.'"[30]

14. The Supreme Court of Texas:

> has never wavered from the principle that appellate courts should not dismiss an appeal for a procedural defect whenever any arguable interpretation of the Rules of Appellate Procedure would preserve the appeal.[31] The supreme court has instructed numerous times that a timely filed, but defective, notice of appeal is effective to invoke our jurisdiction.[32] To that end,[the supreme court] has repeatedly instructed that 'a court of appeals has jurisdiction over any appeal in

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[27] *See In re A.C.T.M.* No. 13-23-00040-CV (Tex. App. Jun. 15, 2023) citing Tex.R.App.P. 25.1, 26.1; *see Garza v. Hibernia Nat. Bank*, 227 S.W.3d 233 (Tex. App.- Houston [1st Dist.] 2007, no pet.).

[28] *See Id.*; *See Blankenship v. Robins*, 878 S.W.2d 138, 139 (Tex. 1994) 16 (per curiam).

[29] *See McClean v. Livingston*, 486 S.W.3d 561, 564-65 (Tex. 2016); *Harkcom v. State*, 484 S.W.3d 432, 434 (Tex. Crim. App. 2016).

[30] *Horton v. Stovall*, 591 S.W.3d 567, 567 (Tex. 2019) (per curiam) (*citing Perry v. Cohen*, 272 S.W.3d 585, 587 (Tex. 2008))

[31] *Id. citing Verburgt v. Dorner*, 959 S.W.2d 615, 616 (Tex. 1997); *Chen,* 645 S.W.3d at 775; *see Warwick Towers Council of Co-Owners v. Paul Warwick, L.P.*, 244 S.W.3d 838, 839 (Tex. 2008) ("Our consistent policy has been to apply rules of procedure liberally to reach the merits of the appeal whenever possible.").

[32] *See generally In re J.M.*, 396 S.W.3d at 530 ("In cases challenging the validity of a notice of appeal, '[the Texas Supreme] Court has consistently held that a timely filed document, even if defective, invokes the court of appeals' jurisdiction." (*quoting Sweed v. Nye,* 323 S.W.3d 873, 875 (Tex. 2010) (per curiam)).

which the appellant files an instrument in a bona fide attempt to invoke the appellate court's jurisdiction.'[33]

[T]o slam the courthouse door against [an appellant] who [is] entitled to full consideration of [her] claims on the merits," especially when the right at issue is of paramount constitutional importance, is abdication.[34]

Appellate jurisdiction was found:

- In a case where a notice of appeal was filed in the wrong cause number, the supreme court held this did not defeat the appellate court's jurisdiction to review an appeal from the correct cause number.[35]
- In a case where an appellant filed a notice of appeal as to only one final order, but discussed two final orders in his brief, the supreme court held this defect did not defeat the appellate court's jurisdiction to review both orders.[36]
- In a case where a party was omitted from a notice of appeal, the supreme court held that this did not defeat the appellate court's jurisdiction to review an appeal from that party.[37]
- In the case where the notice was filed in the wrong cause number, the motion for new trial was effective to extend time to perfect appeal.[38]
- In the case where the supreme court instructed an appellate court to treat an appeal from unappealable interlocutory order as a petition for writ of mandamus.[39]
- In the case where the supreme court held that the appellate court erred in dismissing a restricted appeal for want of jurisdiction when the original notice of restricted appeal was timely filed, but the amended notice of restricted appeal was not.[40]
- In the case where the supreme court held that the court of appeals should ordinarily accept the appellant's explanations [for untimely filings] as reasonable Absent a finding that an appellant's conduct was deliberate or intentional.[41]
- In the case where the supreme court held dismissals for want of jurisdiction based on a rule of appellate procedure should not occur unless "absolutely necessary to effect the purpose of a rule."[42]
- In the case where a motion for rehearing filed within the time period for filing a motion for new trial may extend the appellate timetable if it "seek[s] to set

[33] *Id. citing Chen v. Razberi Techs., Inc*., 645 S.W.3d 773, 782 (Tex. 2022).
[34] Id. citing *Ass'n of Data Processing Serv. Orgs. v. Camp,* 397 U.S. 159, 178 (1970).
[35] *Blankenship*, 878 S.W.2d at 138.
[36] *Maxfield v. Terry,* 888 S.W.2d 809, 811 (Tex. 1994).
[37] *State ex rel. Durden v. Shahan*, 658 S.W.3d 300, 305 (Tex. 2022).
[38] *Mitschke*, 645 S.W.3d at 266.
[39] *CMH Homes v. Perez*, 340 S.W.3d 444, 454 (Tex. 2011).
[40] *Sweed*, 323 S.W.3d at 875 (*Houser v. McElveen*, 243 S.W.3d 646, 647 (Tex. 2008).
[41] *Hone v. Hanafin*, 104 S.W.3d 884, 887 (Tex. 2003)
[42] *Verburgt,* 959 S.W.2d at 616

aside an existing judgment and request[s] relitigation of the issues."[43]

15. **Should BODA deny Appellant jurisdiction and dismiss this appeal, then Appellant[44] will be forced to file an Equitable Bill of Review with the Evidentiary Panel** and waste judicial time and resources when BODA is properly poised to hear the appeal on its merits and **[j]udicial economy is not served when a case, ripe for decision, is decided on a procedural technicality of this nature.[45]**

II.
THE FEBRUARY 20, 2023 MOTION ASSAILS THE JUDGMENT EXTENDS THE APPELLATE DEADLINES & *ALTERNATIVELY,* IS A PREMATURE NOTICE OF APPEAL

16. The State Bar of Texas ("SBOT") District 14 Grievance Committee, Evidentiary Panel 14-2 entered its Default Judgment of Partially Probated Suspension (hereinafter the "judgment") against Appellant on February 7, 2023. [CR. 0195-0202].

17. On February 20, 2023, Appellant filed her *Respondent's Motion to Stay Execution of Default Judgment of Partially Probated Suspension Pending Panel Rulings an/or Appeal and Request for Record.* [CR. 0205-0223].

A. The February 20, 2023 Motion Assailed the Judgment

18. Any post-judgment motion that assails the judgment,[46] "such as a motion for rehearing, was post-judgment motion, similar to motion for new trial,

[43] *Mitschke*, 645 S.W.3d at 266 citing *Finley*, 4 S.W.3d, at 321. 227. *Id. (citing Polley v. Odom*, 937 S.W.2d 623, 625-26 (Tex. App.-Waco 1997, no writ); *Ramirez v. Get "N" Go # 103*, 888 S.W.2d 29, 31 (Tex. App.-Corpus Christi 1994).

[44] Other than any appeal of BODA's decision to the Supreme Court, as permitted.

[45] *Id. ciitng Silk v. Terrill*, 898 S.W.2d 764, 766 (Tex. 1995).

[46] such as the motions as set forth under TRDP's Rule 2.21: motion for new hearing, motion to modify the judgment, or motions for new trial

that extended appellate timetable under TRAP 26.1."[47] ***Any timely filed instrument will invoke the appellate court's jurisdiction if it demonstrates a bona fide attempt to do so.***[48] Thus, courts must grant parties a reasonable opportunity to correct a procedural defect before they dismiss an appeal on that ground,[49] even when titled incorrectly, and where here, Appellant timely filed the February 20, 2023 motion, a post-judgment motion, [CR. 0205-0223]. which, if in all things granted, sought a new trial and therefore, sought a substantive change in the judgment as entered, and where:

> *any timely filed* instrument which is found to assail the trial court's judgment extends the time for perfecting the appeal, …[c]onsequently, an appellate timetable is extended from thirty days to ninety days, the basis of any such timely filed *[yet incorrectly titled instrument.]*[50]

19. The policies and case law of the Supreme Court of Texas prevents dismissal of this action where its repeated instructions to appellate courts [*BODA]* that appeals should be decided on the merits rather than dismissed for a procedural defect,

> therefore any perceived failure/procedural formalities must not result in this case's dismissal, especially in light of Appellant's willingness to cure and her clear intent to seek a new trial before the evidentiary panel, ot the alternative, a clear intent to appeal to BODA if, and when, her relief was denied.[51]

20. The Appellant's February 20, 2023 Motion [CR. 0205-0223]. assails the judgment, requesting to set-aside the default and grant a new trial, *albeit not tiled same*, but when Courts discern if a motion, no matter how titled, is a properly

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[47] TEX. R. APP. P. 26.1; *see Dept., Public Safety v. Fecci 989* S.W.2d 135 (Tex. App. 1999).

[48] *Mitschke* , 645 S.W.3d at 261 ; *In re J.M.* , 396 S.W.3d at 530.

[49] *Higgins v. Randall Cnty. Sheriff's Off.* , 257 S.W.3d 684, 685 (Tex. 2008).

[50] TEX.R.APP.P. 41(a)(1); *see Gomez v. Tex. Dep't of Crim. Justice,* 896 S.W.2d 176, 177 (Tex. 1995); *see also Miller Brewing Co. v. Villarreal,* 822 S.W.2d 177, 179 (Tex.App. — San Antonio 1991), *rev'd on other grounds,* 829 S.W.2d 770 (Tex. 1992).

[51] *See Mitschke v. Borromeo* , 645 S.W.3d 251, 260-61 (Tex. 2022) ; *In re J.M.* , 396 S.W.3d 528, 530 (Tex. 2013); *Verburgt v. Dorner* , 959 S.W.2d 615, 616-17 (Tex. 1997).

filed a post-judgment motion:[52]

> courts look to the substance of the document rather than its title or caption.[53] Substance is not determined solely from a caption or introduction.[54] Instead, substance is gleaned from the body of the instrument and the prayer for relief.[55]

21. Therefore, the February 20, 2023 filing "may be considered a request for a new trial because, if granted, a trial would have resulted."[56] [CR. 0205-0223]. The motion not only requests a rehearing which, if granted, would have resulted in a new trial, it includes the contemporaneous contemplation of Respondent's imminent filing of her Motion for New Trial [CR. 0311-0339] which effectively becomes a **supplemental** motion to the February 20, 2023 filing [CR. 0205-0223] which is more inclusive, rather than less, of the rule for **amended** motions:

> [w]ithin thirty days, the number of amended motions for new trial may be filed and is not limited, but the overruling of one motion precludes filing another.[57]

22. Appellant specifically **titled** this Motion to include the plain language, clear intent to assail the judgment denoting "Pending Panel Rulings" which are explained within the first page/body of the motion ***as to be filed contemporaneously with the Motion for New Trial***:

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[52] *Lane Bank Equip. v. Smith Southern Equip.*, 10 S.W.3d 308, 314 (Tex. 2000); *see Gomez v. Texas Department of Criminal Justice,* 896 S.W.2d 176, 176–177 (Tex. 1995); see also *Padilla v. LaFrance*, 907 S.W.2d 454, 458–459 (Tex. 1995) (motion for reconsideration extended appellate timetable for filing transcript).

[53] *Barry v. Barry*, 193 S.W.3d 72, 74 (Tex. App.—Houston [1st Dist.] 2006, no pet.).

[54] *Finley v. J.C. Pace Ltd.*, 4 S.W.3d 319, 320 (Tex. App.—Houston [1st Dist.] 1999, no pet.).

[55] *Id.*

[56] *See Mitschke*, 645 S.W.3d at 266 citing *Finley*, 4 S.W.3d, at 321. 227. *Id. (citing Polley v. Odom*, 937 S.W.2d 623, 625-26 (Tex. App.-Waco 1997, no writ); *Ramirez v. Get "N" Go # 103*, 888 S.W.2d 29, 31 (Tex. App.-Corpus Christi 1994**).**

[57] *See* Tex. R. Civ. P. 329b(b); *see also.Agenda for the May U-5, 1979 Meeting of the Advisory Committee for the Supreme Court of Texas*, at 43. *See* Tex. R. App. P. 21.4(b) (providing that defendant may file amended motion for new trial "[w]ithin 30 days after the date when the trial court imposes or suspends sentence in open court")." *Kelley v. State*, No. 03-14-00622-CR, at *2 (Tex. App. Feb. 11, 2016)

In total, Respondent intends to make **contemporaneous filings for Panel** review:
1. This Motion to Stay Execution of Default Judgment of Partially Probated Suspension pending this Panel's ruling/the BODA Appeal and Request for Record; and
2. Respondent's Motions to Set Aside/Modify the Judgment and/or Motion to Vacate/for New Trial; and in support of **the motions**, requests and notices listed herein and above… [CR. 0205].

23. Footnote 1 specifically provides:

Respondent intends to file this Motion and Request as soon as practicable, so as not to violate the suspension if stay is denied. However, **the second Motion** will take more time and Respondent shall file it as soon thereafter as possible. [CR. 0205].

24. The motion therefore not only asserts Appellant's intent to assail the judgment by a contemporaneous filing of the supplemental motion for new trial, mentioning it as the second of two filings, **but also** lists the abridged reasons for new trial:

As discussed in the Motions to Set Aside/Modify and/or Motion to Vacate Judgment/for new Trial, the undersigned was not served with process at her place of work, nor was her parent's permanent address served with process for any portion of notice for the of the default hearing…[CR. 0205-0206].

The facts of Respondent's position will be provided **in detail in the subsequent filing regarding the default judgment before the Panel**. However, in the interest of time and attempting compliance, this motion for stay is filed as soon as possible so as to place no doubt on the undersigned desire to abide by the Rules…[CR. 0206].

These facts, reviewed in light of the past eleven years that Respondent has practiced law, without any findings of misconduct against her, all reflect Respondent has met her burden and support this Panel's granting of a stay of execution of the judgment, where clearly Respondent is not a danger to clients or to the public if allowed to continue practicing **while seeking new trial/appeal**. [CR. 0209].

And mentions specifically within the prayer:

…during the pendency of **exhausting all avenues for new trial/appeal…**[CR. 0210].

B. <u>The February 20, 2023 filing, Alternatively as a Premature Notice of Appeal</u>

25. Further, the February 20, 2023 filing provides, in the alternative, and alternatively brought herein -- a premature notice of appeal, citing that should the "Pending Panel Rulings" result in a denial of her motions for new trial, ***appeal was sought before BODA, reflected by the title itself <u>"an/or Appeal"</u>.***[58] [CR. 0205-0223].

26. Therefore, alternatively, this filing can be considered the first of many premature notices of appeal,[59] as Appellant specifically <u>copied BODA on the filing, and all filings thereafter</u>, and therein provided: the Record is requested **in advance of the BODA appeal, for use in an appeal to the BODA.** [CR. 0210].

27. Under TRAP 27.1(a): In a civil case, a prematurely filed notice of appeal is effective and deemed filed on the day of, but after, the event that begins the period for perfecting the appeal.[60] Therefore, alternatively, the Panels' entry of the March 24, 2023 Orders overruling both the February 20, 2023 motion [CR. 0628] and March 10, 2023 *Respondent's Motion to Set-Aside/Vacate the Default Judgment of*

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[58] *See In re Norris*, 371 S.W.3d 546, (Tex. App. 2012)(where motion for new trial is filed, Rule 306c mandates that "the appeal is perfected at the time of the order overruling the motion for new trial, instead of when [the notice of appeal was] first given at the rendition of the judgment); see also *City of Corpus Christi v. Gregg*, 289 S.W.2d 746, 748-49 (Tex. 1956)(where a motion for new trial is required to be filed, and is filed, the appeal is perfected at the time of the order overruling the motion for new trial, instead of when first given at the rendition of the judgment.)

[59] Appellant further made reference to her intent to appeal to BODA within every filing thereafter, including *Respondent's Verified Notice: Supplemental Facts* [CR. 0397-0410] and *Respondent's Requests to the Panel: Preservation of Error and BODA Appeal [*CR. 0413-0424]. *See In re Norris*, 371 S.W.3d 546, (Tex. App. 2012)(where motion for new trial is filed, Rule 306c mandates that "the appeal is perfected at the time of the order overruling the motion for new trial, instead of when [the notice of appeal was] first given at the rendition of the judgment); see also *City of Corpus Christi v. Gregg*, 289 S.W.2d 746, 748-49 (Tex. 1956)(where a motion for new trial is required to be filed, and is filed, the appeal is perfected at the time of the order overruling the motion for new trial, instead of when first given at the rendition of the judgment.)

[60] *See* Tex. R. App. Pro. 27.1(a).

Partially Probated Suspension and for New Trial (received by Appellant on March 27, 2023) [CR. 0631] was the effective date that the appeal herein was perfected.

28. Here, entry of the Orders removed all doubt that the Appellant's requested relief, for rehearing/modification/new trial were explicitly denied by the Evidentiary Panel, and therefore the removal of such relief further removed that the appeals were brought in the alternative, and although premature when filed, became effective and deemed filed on the day of, but after, the Appellant's requested relief assailing the judgment was denied.

29. Tex. R. App. P. 25.1(b) reflects that *Jurisdiction of Appellate Court*:

> The filing of a notice of appeal by any party invokes the appellate court's jurisdiction over all parties to the trial court's judgment or order appealed from. Any party's failure to take any other step required by these rules, including the failure of another party to perfect an appeal under (c), does not deprive the appellate court of jurisdiction but is ground only for the appellate court to act appropriately…[61]

30. Thus, Appellant's alternative premature Notice of Appeal first brought by the February 20, 2023 motion was perfected upon the overruling of both the February 20, 2023 motion [CR. 0205-0223] and Motion for New Trial on March 24, 2023 – therefore BODA obtained plenary exclusive jurisdiction as of that date.[62]

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[61] *See* Tex. R. App. P. 25.1(b). A reasonable and, frankly, textual interpretation of the rules of appellate procedure is one that classifies the … notice of appeal as a timely filed notice of appeal, effective to invoke our jurisdiction. *See* Tex. R. App. P. 25.1, 27.1(a), 27.2. Any other interpretation is not "absolutely necessary," and is thus inappropriate. *See Chen*, 645 S.W.3d at 775.

[62] Tex.R.App.P. 25.1, 27.1(a) ("In a civil case, a prematurely filed notice of appeal is effective and deemed filed on the day of, but after, the event that begins the period for perfecting the appeal."). *In re Norris*, 371 S.W.3d 546, 550 (Tex. App. 2012) citing *Miles v. Ford Motor Co.*,914 S.W.2d 135, 138 (Tex.1995) (citing *Ammex Warehouse Co. v. Archer*,381 S.W.2d 478 (holding that when appeal is perfected, appellate court "acquires plenary exclusive jurisdiction over the

III.
TO ADDRESS APPELLANT'S MARCH 10, 2023 FILING

31. Where the BODA IPR 1.03(c) states in "computing any period of time prescribed or allowed by these rules, the day of the act or event after which the designated period of time begins to run is not to be included," Appellant considered that February only has 28 days when calculating 30 days from the date after February 7, 2023, and calculated it to be Friday, March 10, 2023.[63]

A. Allegation of Untimely filing Ignored by Petitioner and Evidentiary Panel

32. As asserted by Appellee, Appellant was not aware, until receipt of Appellee's Motion to Dismiss for Want of Jurisdiction, that the Petitioner/Appellee, the Commission for Lawyer Discipline ("CFLD") was of the position that Appellant/*Respondent's Motion to Set-Aside/Vacate the Default Judgment and for New Trial* was not timely filed. [CR. 0333].

> **"[A] party should not be punished 'for failure to [timely file the motion for new trial when the allegation of lateness is] ignored by [both the opposing party] and the court.'"**[64] Instead, "the decisions of the courts of appeals [should] turn on substance rather than procedural technicality."[65] Furthermore, Appellant's actions, in accordance with the abstract, constituted "a bona fide attempt to invoke the appellate court jurisdiction."[66] For

entire controversy" subject to trial court's right to grant a motion for new trial)); *see also* Tex.R. Civ. P. 329b (providing rules regarding post-trial motions for new trial and motions to modify, correct, or reform judgments).

[63] *See* Declaration of Appellant included herein.

[64] **(Emphasis added)** *Mueller v. Saravia,* 826 S.W.2d 608, 609 (Tex. 1992), *quoting Southland Paint Co., Inc. v. Thousand Oaks Racket Club,* 687 S.W.2d 455, 457 (Tex.App. — San Antonio 1985, no writ).

[65] *City of San Antonio v. Rodriguez,* 828 S.W.2d 417, 418 (Tex. 1992), *quoted in Mueller,* 826 S.W.2d at 609; *see also Crown Life Ins. Co. v. Estate of Gonzales,* 820 S.W.2d 121 (Tex. 1991).

[66] *Mueller,* 826 S.W.2d at 609; *see also City of San Antonio,* 828 S.W.2d at 418; *Grand Prairie Indep. Sch. Dist. v. Southern Parts Imports,* 813 S.W.2d 499, 500 (Tex. 1991).

these reasons, to grant the Appellee's motion to dismiss for want of jurisdiction would be improper.[67]

33. **The allegation of lateness was ignored by both the CFLD/opposing party and the court [Evidentiary Panel]:** *Petitioner's Response in Opposition to the Respondent's Motion to Set-Aside/Vacate the Default Judgment and for New Trial,* [CR. 0342] mentions that Appellant's March 10, 2023 filing was made at 8:38 p.m. on Friday, March 10, 2023 [CR. 0309], which reference is only made mention in relation being made after 5:00 p.m. on that date, and also references that it lacked signature, **but no mention was made as to being untimely for March 9, 2023, only asserted upon CDC appellate counsel's arguments herein.** Albeit in the criminal context and when a motion for new trial was granted rather than denied, in *State v. Moore*, the Texas Court of Criminal Appeals held that:

> TRAP Rule 21.4 does not operate as a limitation on the trial court's jurisdiction or authority to rule on an amendment to a timely filed motion for new trial, even when untimely filed.[68] Consequently, absent an objection from the State, the trial court may rule on an untimely amended motion within the seventy-five-day period within which the original motion for new trial must be ruled upon.[69] However, when the State objects to the timeliness of the amendment under Rule 21.4, the trial court should limit its ruling to the original motion, and the granting of a new trial based upon matters first raised in an untimely amendment constitutes reversible error.[70] **Conversely, if the State fails to object to the timeliness of the amendment before the trial court, *it may not complain on appeal that the trial court erred in granting a new trial based on grounds raised in an untimely amendment*.[71]**

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[67] *See Id.*

[68] *State v. Moore* 225 S.W.3d 556, 568-69 (Tex. Crim. App. 2007).

[69] *Id.* at 569.

[70] *Id.* at 570.

[71] *Id.*; *see also* Tex. R. App. P. 33.1(a)(1) (to preserve complaint for appellate review, "the record must show that the complaint was made to the trial court").

34. Therefore, where absent the CFLD objection, Appellant should not be punished for the allegation of untimely filing, instead, BODA's decision should turn on substance rather than procedural technicality, and whereas here, Appellant's actions -- in accordance with the abstract, constituted "a bona fide attempt to invoke the appellate court jurisdiction" -- then BODA must deny Appellee's motion to dismiss for want of jurisdiction.

B. Timely Filing

35. The Texas Rules of Disciplinary Procedure ("TRDP") govern the underlying evidentiary proceedings in conjunction with the Texas Rules of Civil Procedure ("TRCP") and the TRAP. In contrast to the BODA IPR Rule 1.05(a)(2) – which sets forth that a document is considered filed on the same date, if before 5:00 p.m. -- the TRDP and the TRAP render a timely filing before midnight the date of filing, so long as not a Saturday, Sunday or holiday.[72]

36. The Texas Supreme Court confirmed in *Coastal Banc SSB v. Helle* that:

> [w]hen a dispute arises as to the filing date of an instrument essential to a courts *[sic]* appellate jurisdiction, **the date the instrument is tendered to the clerk** controls, and **not the file-stamp date**.[73]. The evidence the court deemed sufficient to establish that the appellant had filed the required materials included affidavits from appellant's counsel, an affidavit from the county clerk who had received the filing, and copies of shipping receipts.[74]

[72] Tex. R. Civ. P. 21(f)(5) and Tex. R. App. P. 9.2(c)(4).

[73] *Coastal Banc SSB v. Helle* 988 S.W.2d 214, 216 (Tex. 1999) (per curiam) (citing Jamar v. Patterson, 868 S.W.2d 318, 319 (Tex. 1993)). 269; (citing *Weik v. Second Baptist Church*, 988 S.W.2d 437, 438-39 (Tex. App.-Houston [1st Dist.] 1999, pet. denied) (concerning late-filed appeal bond).

[74] *See Coastal Banc,* 988 S.W.2d at 215-16.

37. The Appellate Courts further confirm "an instrument is deemed filed when it is left with the clerk, regardless of whether a file mark is placed on the instrument."[75]

> [t]he indorsement creates a refutable presumption regarding the date and time that the document was delivered to the court;[76] … stating that the instrument is deemed filed at the time it is delivered to clerk, regardless of whether instrument is file marked.[77]

38. The original filing was made on Friday, March 10, 2023 before midnight, [CR. 0309] and therefore was filed March 10, 2023, [CR. 0309] **not** the date is was file-marked, March 13, 2023. [CR. 0311].

C. Clerical Error, Lack of Signature

39. Counsel should sign their names to motions and pleadings "to make themselves responsible for what is stated in them, and so as to leave no doubt as to the parties for whom they appear."[78] However, the lack of signature, or "failure to comply with the formal requirement for a signature, is not fatal to the pleading; **the trial court may not treat an unsigned pleading or motion as a nullity merely because counsel failed to sign their names to it**."[79]

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[75] *Landrum v. State*, 153 S.W.3d 635, 637 (Tex. App. 2004)

[76] *Opinion No. JC-0323* (Ops. Tex. Atty. Gen. Jan. 5, 2001) *citing State v. Miller*, Nos. 99CA2506 00CA2539, 2000 WL 1273467, at *2 (Ohio App. [4th Dist.] Aug. 31, 2000); 76 C.J.S. *Records* § 6 (1994).

[77] *See Birdwell*, 996 S.W.2d at 382-83 (discussing use of file mark as evidence in civil and criminal cases)*Biffle*, 785 S.W.2d at 144 (

[78] *Simmons v. Fisher*, 46 Tex. 126, 129. But it has often been held that the signature to a pleading is a formal requisite and that failure to comply with the requirement is not fatal to the pleading. Simmons v. Fisher, 46 Tex. 126, 129, citing *Boren v. Billington*, 82 Tex. 137, 138, 18 S.W. 101; *Fidelity Casualty Co. v. Lopatka*, 60 S.W. 268; *O'Donnell v. Chambers*, 163 S.W. 138, application for writ of error refused; *Shipp v. Anderson*, 173 S.W. 598.

[79] *In re Estate of Herring*, 970 S.W.2d 583, 588-89 (Tex. App. 1998), citing *W.C. Turnbow Petroleum Corp. v. Fulton*, 194 S.W.2d 256, 257 (Tex. 1946) (amended motion for new trial); see also *Frank v. Corbett*, 682 S.W.2d 587, 588 (Tex.App.-Waco 1984, no writ); *Home Sav. of America FSB v. Harris County Water Control and Imp. Dist. No. 70*, 928 S.W.2d 217, 219 (Tex.App.-Houston [14th Dist.] 1996, no writ); *R.T.A. Intern., Inc. v. Cano*, 915 S.W.2d 149, 151 (Tex.App.-Corpus Christi 1996, writ denied) (default judgment improper based on failure of defendant to sign answer); 2 R.

40. In *Greene,* the same issue is addressed, which specifically notes that:

> [d]ue to its potential dispositive effect on this appeal, we first address an argument raised …[which] contends that …the motion for new trial was not timely filed and a nullity…but if motion for new trial untimely, then notice of appeal is same.
>
> The judgment was signed..January 31, 2003. An unsigned motion for new trial …was timely submitted on February 27, 2003. The attorney filed a corrected signature page on March 24, 2003, more than thirty days after…judgment was signed…and order denying motion for new trial …signed…April 28, 2003, less than 105 days after the judgment was signed. **The absence of the attorney's signature did not make the original motion a nullity. Instead, the motion was a conditional motion until the signature was filed, and the filing of the conditional motion triggered the appellate timetables. Consequently, the signature was filed and the hearing was held within the trial court's plenary power. We therefore conclude that Suzanne's motion for new trial was timely and we do have jurisdiction over this appeal.**[80]

41. On at least two occasions, the Texas Supreme Court has considered the question of what constitutes "filing" a motion for new trial for purposes of calculating the appellate timetable.[81]

> The Texas Supreme Court, acknowledging its previous "long line of cases," held "that a document is 'filed' when it is tendered to the clerk, or otherwise put under the custody or control of the clerk." Therefore, the Court held that the motion for new trial was *conditionally* filed when the motion was tendered to the trial court clerk and that date controlled for purposes of starting the appellate timetable.[82]

42. The original filing on March 10, 2023 [CR.0280-0309], due to clerical error, without signature, was considered **a conditional filing** which, to Appellant's computation, was timely on March 10, 2023 [CR. 0309} to extend the

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McDonald, Texas Civil Practice § 7:19 (1992); *Loomis Land Cattle Co. v. Wood,* 699 S.W.2d 594, 596-97 (Tex.App.-Texarkana 1985, writ ref'd n.r.e.) (citing *McDonald*).

[80] **(emphasis added),** *see Greene v. Greene,* No. 02-03-134-CV, (Tex. App. Jun. 24, 2004). *See also Ealy v. EVC Engage, LLC,* No. 01-21-00095-CV, 2022 Tex. App. LEXIS 9404, at *10-11 (Tex. App.—Houston [1st Dist.] Dec. 22, 2022, pet. filed)citing *Garza v. Garcia*, 137 S.W.3d 36, 37 (Tex. 2004).

[81] *See Ealy v. EVC Engage, LLC,* No. 01-21-00095-CV, 2022 Tex. App. LEXIS 9404, at *10-11 (Tex. App.—Houston [1st Dist.] Dec. 22, 2022, pet. filed), citing *Garza*, 137 S.W.3d 36, at 37 (Tex. 2004); and *Jamar v. Patterson*, 868 S.W.2d 318, 318 (Tex. 1993).

[82] *Id.* citing *Jamar* at 319.

deadlines, and the correction filed the next day containing Appellant's signature, [CR. 0340] although more than 30 days after the February 7, 2023 judgment {CR. 0195] -- but before the Evidentiary Panel's Order denying same on March 24, 2023 [CR. 0631]-- was less than 105 days of the judgment, rendering BODA to hold appellate jurisdiction of this appeal.

WHEREFORE PREMISES CONSIDERED for these reasons, Appellant, Lauren Ashley Harris, **prays that BODA enter an Order which denies the Motion to Dismiss for Want of Jurisdiction and finds that BODA has jurisdiction over this appeal to proceed on the merits**; or, alternatively, at minimum, pursuant to TRAP 44.3 and 44.4, BODA postpone ruling herein until BODA enters orders directing the Evidentiary Panel to remedy its erroneous actions, failures, and refusals to act which have prevented the proper presentation of this case to BODA,[83] and grant all other relief to Appellant -- whether general or special, at law or in equity -- that BODA finds her to be justly entitled.

Respectfully Submitted,

/S/ LAUREN A. HARRIS
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[83] As reflected in the June 7, 2023 filing of Respondent's Formal Bill of Exceptions [Supp. CR. 0507-0511] and the July 31, 2023 filing of *Appellant's Motion to Correct and Supplement the Reporter's Record* at minimum.

CERTIFICATE OF SERVICE

This is to certify that the above and foregoing Appellant's Sur-Reply to Appellee's Reply to Appellant's Response to Appellee's Motion to Dismiss for Want of Jurisdiction has been served by electronic transmission on Appellee, The Commission for Lawyer Discipline, through its counsel, the Office of the Chief Disciplinary Counsel, and filed with the Board of Disciplinary Appeals on this day, the 7th day of August, 2023, as follows:

VIA E-MAIL:
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/s/Lauren Harris
Lauren A. Harris

DECLARATION

STATE OF TEXAS §
§
COUNTY DALLAS

I, LAUREN A. HARRIS, DOB 08/07/86, address 4975 Morris Ave., Apt 1343 Addison Texas 75001, am of sound mind, over 18 years of age and fully comprehend this sworn declaration upon which I sign below. Under penalty of perjury, I swear the facts as recited herein are within my personal knowledge and are true and correct. Further, I have personally found and inserted the citations and web-published links provided the foregoing motion, AI was not utilized in this document.

Dated: 08/07/2023 */s/Lauren Harris*
Lauren A. Harris