

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



FILED
4/21/22

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

**IN THE MATTER OF
ALFONSO KENNARD, JR.
STATE BAR CARD 24036888**

§
§
§

CAUSE NO. 65861

**RESPONDENT ALFONSO KENNARD'S FIRST AMENDED
ORIGINAL ANSWER AND RESPONSE TO PETITION FOR
RECIPROCAL DISCIPLINE AND MOTION TO DISMISS**

TO THE BOARD OF DISCIPLINARY APPEALS:

Respondent, Alfonso Kennard, Jr. ("Kennard") hereby enters a general denial (with explanation) to any and all, singular and plural, claims of Petitioner, Commission for Lawyer Discipline, now asserted or ever to be asserted against him in this Petition for Reciprocal Litigation. Respondent has shown cause why the Board of Disciplinary Appeals ("BODA") should not take any discipline, reciprocal or otherwise, against Respondent, Alfonso Kennard, Jr. Moreover, given the clear rationale and reasoning contained herein, a full-blown hearing is not necessary, Petitioner is unable to meet the requisite burdens of proof, and this matter should be summarily dismissed.

I. BACKGROUND STATEMENT AND VERIFIED FACTS

a. Some Personal and Professional Background

Respondent, Alfonso Kennard, Jr. ("Kennard") is a life-long Texan having grown up in El Paso, Texas. Mr. Kennard was raised by his mother, a cafeteria worker, and worked very hard to attend the University of Notre Dame on a full academic scholarship, and, subsequently, St. Mary's University School of Law. At Notre Dame, Kennard served as President of the Class of 1999 and as Student Body President at St. Mary's Law.

After graduation and after nearly a decade of working for large national defense firms, including but not limited to, Epstein Becker Green, Mr. Kennard opened his own employment and civil rights law firm on April 17, 2011, as a Professional Corporation. Exhibit 1, Respondent's Professional Corporation documents.

Alfonso Kennard, as the founding shareholder, is and has been the **sole shareholder in Kennard Law, P.C. since its inception**. Exhibit 1. This will be uber-important for reasons discussed further below. It is worth noting that Kennard has trained many lawyers that have either remained with the Firm or gone on to be recruited by large national and international law firms and are flourishing as legal practitioners.

Respondent, Alfonso Kennard earned his Board Certification in Employment Law by the Texas Board of Legal Specialization in 2010. Kennard was named a Texas Super Lawyer Rising Star in 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017 (less than 2% of all attorneys are selected for this honor). In 2018, 2019, 2020, 2021 and 2022, Kennard was named a Texas Super Lawyer. Additionally, Kennard is AV-Rated by Martindale Hubbell and has also received the Judicial AV selection each of the last four years. Judges are polled and asked to identify the best attorneys by practice area, and Kennard has been selected as one of the top employment law attorneys according to judges that handle these matters in Texas, both in Federal and State Court. Kennard also serves as a mentor to Latino entrepreneurs as part of the Latino Business Action Network at the Graduate School of Business at Stanford University. Kennard also spent three years serving as President of the Notre Dame Alumni Association for Houston.

Kennard has three children, Ava (14), Alfonso III (12), and Grace (9)—who he happens to share a birthday with. He has coached all their sports teams and is currently the team announcer for the Post Oak Little League Minors RiverDogs.

b. **What Was Kennard Doing in Minnesota?**

Kennard retained a cloud service/case management systems provider in Texas for everyday business use for his growing law firm, Kennard Law, P.C. Unfortunately, the provider failed to provide reliable service to Kennard Law. The company, Uptime Systems, although based in Minnesota, advertised and solicited client law firms all over the country, and provided services in Texas as well. Kennard was one of their first clients in Texas. Unfortunately, over time, Uptime Systems was more concerned with expansion and less concerned with servicing the clients they had, including his law firm.

On occasion, the cloud servers would be down for several days at a time. As such, Kennard Law could not consistently operate, and the productivity loss was beyond frustrating. This fell on deaf ears at Uptime. Kennard refused to continue paying for the substandard services, filed a lawsuit in Harris County, Texas and Uptime had also threatened to delete Kennard Law's stored client data. It is worth noting that the Minnesota court allowed Uptime to delete client-proprietary data. This is not justice.

It is also worth noting that the Minnesota Supreme Court, around the same time it denied Kennard due process (as will be discussed further), issued an Opinion that overturned a felony rape conviction because the woman was willingly intoxicated at the time of the rape. See <https://www.usatoday.com/story/news/politics/2021/03/27/minnesota-supreme-court-drunk-rape-victim-not-incapacitated/7027981002/>. The Minnesota Supreme Court ruled that a person can't be found guilty of sexually assaulting someone, who is mentally incapacitated due to intoxication, if that person became intoxicated by voluntarily ingesting drugs or alcohol. See *State of Minnesota v. Khalil* (Minn. Sup. Ct. 2021). The Minnesota Supreme Court basically overturned a felony rape conviction because the victim had been drinking. This is not justice.

The dispute between Kennard and Uptime Systems ended up in Minnesota—absolutely not by choice, but because of a choice of venue provision in the Uptime contract. Kennard Law sued Uptime however, the Texas state district court upheld a Minnesota choice of law provision contained in the services agreement. Uptime then turned around and immediately sued Kennard Law, P.C. in Minnesota.

Kennard Law (which is Kennard) did not have the financial resources at that time to spend \$50,000.00 to \$100,000.00 or more to hire counsel to defend the underlying matter filed by Uptime in Minnesota against Kennard. For Kennard, payroll and bills came first, and this was simply not in the budget. This was even more the case during Covid. He would ultimately be left to defend himself and the law firm he has given his life to against the frivolous action brought in Minnesota.

Kennard did appear *pro se*¹ on behalf of his Professional Corporation in state court and then subsequently in Federal Court in Minnesota. This is absolutely true. In sum, Kennard got “home cooked” by virtue of not being allowed to defend himself because he was an attorney in Texas, and despite his constant attempts to represent himself and his law firm *pro se*. **Kennard has never represented, nor sought to represent, anyone else in Minnesota ever, other than himself.** As will be discussed below, this was at all times allowable under Minnesota statute.

Attorneys for Uptime, while their lawsuit was pending in Minnesota, reported Mr. Kennard’s appearing *pro se* to the State Bar of Minnesota as an alleged violation. Kennard did respond to the Minnesota Bar by repeatedly informing them that he was representing Kennard Law P.C. as the sole shareholder of the entity **only**. The Minnesota Bar, not satisfied with Kennard’s multiple responses that he was only representing himself, opted to take the alleged disciplinary issue to the Supreme Court of Minnesota.

¹ It is important to note that Kennard never tried or intended to solicit or represent any cases in Minnesota other than defending his corporation as the sole shareholder in that state.

This part of the story took place during the peak of Covid-19. Kennard did not receive timely notice of the Minnesota Supreme Court proceedings. Kennard had no access to the Minnesota filing system. Kennard received no alerts via electronic means during the heart of the pandemic and “work from home” era. Kennard allowed all employees to work from home for their safety and to accommodate their need to care for children where no daycare was available. In sum, Kennard received no notice of the proceedings against him until it was deemed “too late.” This is not due process.

Shortly after the Covid-19 pandemic began in March 2020, Kennard Law maintained no physical office space, all employees worked from home, and the Minnesota Supreme Court failed to send electronic notices to Alfonso Kennard, Jr. Kennard raised those issues on multiple occasions to the Minnesota Supreme Court and was denied relief each and every time. This is not due process.

Contrary to allegations, Kennard **did** file a motion for and in fact obtained *pro hac vice* status in Uptime’s Minnesota case against him. Exhibit 2, Docket Sheet as it relates to Kennard’s *pro hac vice* Motion for self-representation only. Kennard was not trying to “sneak around” pretending to be a Minnesota lawyer. Nothing could be further from the truth. Kennard has never sought admission to the Minnesota Bar and never will. Kennard has never advertised in Minnesota. Kennard has never represented a client in Minnesota—not ever.

Kennard did file his *pro hac vice* Application on July 17, 2020. The Court granted that Pro Hac Vice Application for Kennard on July 28, 2020. Less than a month later and on August 27, 2020, Uptime’s counsel moved to revoke Kennard’s *pro hac vice* status. Briefing ensued for months. The Court ultimately granted Uptime’s motion and revoked Kennard’s *pro hac vice* status (as well as sanctioned him).

Subsequently, the Minnesota Appellate Court's dated the disciplinary Order against Mr. Kennard on March 9, 2021.

The Court wholly failed to issue the Order electronically to Mr. Kennard. The Court sent Respondent a notice of the Order via Certified Mail (#7018 1830 0002 1141 9729). The certified letter sent by the Office of the Clerk to Mr. Kennard was postmarked March 12, 2021, **three (3) days after the Order was issued.**

The Order, mailed on March 12, 2021, would presumptively have been received at a minimum, three (3) days after that (which would be March 15, 2021). Respondent did not receive the certified letter from the Office of the Clerk until March 18, 2021.²

Respondent Kennard's subsequent Motion/Petition to vacate the Order was timely postmarked by FedEx on March 26, 2021.

Despite Respondent's timeliness, the Minnesota Disciplinary Body absolutely refused to accept Respondent Kennard's Motion for Reconsideration and Rehearing.³ They didn't even read it. It was denied on arrival. This is not due process.

Neither the state or federal courts in Minnesota (nor the Minnesota Bar) ever considered the fact (nor was it argued) that Mr. Kennard is and always has been the 100 percent sole shareholder of his corporation and during the pendency of the lawsuit in Minnesota. This is incredibly important. Why?

² Mr. Kennard verifies these facts in the attached Sworn Verification.

³ Rule 140.1 presumes that Notice has actually been afforded to the Respondent via the electronic system and that Respondent is made aware that an Order was issued. That was absolutely not the case here. Respondent only received the letter on March 18, 2021. This makes perfect sense because the certified letter was sent on a Friday from Minnesota and received by Respondent on the next Thursday (and since the letter was likely not sent by the post office until after the weekend). Kennard also enclosed a check for \$100.00 since he has been unable to locate an electronic method to process a fee. He also provided his email to: alfonso.kennard@kennardlaw.com and since the Minnesota electronic filing system will (and still does not) allow Kennard alerts or filing privileges

Minnesota law allows the sole shareholder of a corporation to represent themselves in a Minnesota court—regardless of whether they are an attorney or not. Kennard was ultimately right all along. He was 100 % within his rights to represent Kennard Law P.C. in any Minnesota court. Granted, Kennard never got far enough in any process to raise this issue formally. Nonetheless, it does not change the fact that Kennard did not violate any law or ethical rule in Minnesota by representing himself. This was lost on the Minnesota tribunals. It must not be lost here—in Texas—the only State he is licensed in and the only State he wants to be licensed in.

II. GENERAL DENIAL

Respondent, Alfonso Kennard, Jr. hereby enters a general denial (with explanation) to any and all, singular and plural, claims of Petitioner, Commission for Lawyer Discipline, now asserted or ever to be asserted against him in this Petition for Reciprocal Litigation. Respondent has shown cause why the Board of Disciplinary Appeals (“BODA”) should not take any discipline, reciprocal or otherwise, against Respondent, Alfonso Kennard, Jr. Respondent incorporates all eligible defenses herein.

III. SPECIFIC DENIAL, DEFENSES AND RESPONSES TO PETITIONER’S PETITION

A. Respondent, Alfonso Kennard, Jr., did not violate the Unauthorized Practice of Law rule, as codified, in Minnesota. As such, there can be no “reciprocal discipline” where there was no violation to begin with. The Minnesota court system never realized this, but certainly would have if: (1) the grieving attorney for Uptime Systems had met his duty of candor to the tribunal by addressing that Minnesota law allows self-representation here, and (2) Kennard had been given actual due process to defend himself and had been properly given notice of filings and orders.

B. Alfonso Kennard, Jr., is and has been the sole shareholder of Kennard Law since its inception in 2011. That means, he could at all times represent Kennard Law in Minnesota, and even in Texas for that matter. There would have been no violation here, either.

C. The Minnesota Statute is clear. See Minnesota Statute 481.02 **Unauthorized Practice of Law** Subsection 3 **Permitted actions** (the provisions of this section shall not prohibit): (15) the sole shareholder of a corporation from appearing on behalf of the corporation in court.

481.02 MINNESOTA STATUTES 2021

Subd. 3. **Permitted actions.** The provisions of this section shall not prohibit:

(1) any person from drawing, without charge, any document to which the person, an employer of the person, a firm of which the person is a member, or a corporation whose officer or employee the person is, is a party, except another's will or testamentary disposition or instrument of trust serving purposes similar to those of a will;

(2) a person from drawing a will for another in an emergency if the imminence of death leaves insufficient time to have it drawn and its execution supervised by a licensed attorney-at-law;

(3) any insurance company from causing to be defended, or from offering to cause to be defended through lawyers of its selection, the insureds in policies issued or to be issued by it, in accordance with the terms of the policies;

(4) a licensed attorney-at-law from acting for several common-carrier corporations or any of its subsidiaries pursuant to arrangement between the corporations;

(5) any bona fide labor organization from giving legal advice to its members in matters arising out of their employment;

(6) any person from conferring or cooperating with a licensed attorney-at-law of another in preparing any legal document, if the attorney is not, directly or indirectly, in the employ of the person or of any person, firm, or corporation represented by the person;

(7) any licensed attorney-at-law of Minnesota, who is an officer or employee of a corporation, from drawing, for or without compensation, any document to which the corporation is a party or in which it is interested personally or in a representative capacity, except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will, but any charge made for the legal work connected with preparing and drawing the document shall not exceed the amount paid to and received and retained by the attorney, and the attorney shall not, directly or indirectly, rebate the fee to or divide the fee with the corporation;

(8) any person or corporation from drawing, for or without a fee, farm or house leases, notes, mortgages, chattel mortgages, bills of sale, deeds, assignments, satisfactions, or any other conveyances except testamentary dispositions and instruments of trust;

(9) a licensed attorney-at-law of Minnesota from rendering to a corporation legal services to itself at the expense of one or more of its bona fide principal stockholders by whom the attorney is employed and by whom no compensation is, directly or indirectly, received for the services;

(10) any person or corporation engaged in the business of making collections from engaging or turning over to an attorney-at-law for the purpose of instituting and conducting suit or making proof of claim of a creditor in any case in which the attorney-at-law receives the entire compensation for the work;

(11) any regularly established farm journal or newspaper, devoted to general news, from publishing a department of legal questions and answers to them, made by a licensed attorney-at-law, if no answer is accompanied or at any time preceded or followed by any charge for it, any disclosure of any name of the maker of any answer, any recommendation of or reference to any one to furnish legal advice or services, or by any legal advice or service for the periodical or any one connected with it or suggested by it, directly or indirectly;

(12) any authorized management agent of an owner of rental property used for residential purposes, whether the management agent is a natural person, corporation, partnership, limited partnership, or any other business entity, from commencing, maintaining, conducting, or defending in its own behalf any action in any court in this state to recover or retain possession of the property, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal;

(13) any person from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state pursuant to the provisions of section [504B.375](#) or sections [504B.185](#) and [504B.381](#) to [504B.471](#) or from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state for the recovery of rental property used for residential purposes pursuant to the provisions of section [504B.285, subdivision 1](#), or [504B.301](#), except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal, and provided that, except for a nonprofit corporation, a person who is not a licensed attorney-at-law shall not charge or collect a separate fee for services rendered pursuant to this clause;

(14) the delivery of legal services by a specialized legal assistant in accordance with a specialty license issued by the supreme court before July 1, 1995;

(15) the sole shareholder of a corporation from appearing on behalf of the corporation in court; or

(16) an officer, manager, partner, or employee or an agent of a condominium, cooperative, or townhouse association from appearing on behalf of a corporation, limited liability company, partnership, sole proprietorship, or association in conciliation court or in a district court action removed from conciliation court, in accordance with section [491A.02, subdivision 4](#).

D. Alfonso Kennard Jr., as the sole shareholder of his corporation **had the absolute right to represent his corporation (Kennard Law) in Court in Minnesota when it was sued by Uptime.**

See Exhibit 3 Minnesota Statute 481.02. re: Unauthorized Practice of Law.

E. Kennard did not violate any statute or disciplinary rule of the state of Minnesota. While opposing counsel, the courts and the disciplinary process were “concerned” that Kennard was not licensed in Minnesota, all wholly failed to question, ascertain or even consider that Kennard was the sole shareholder of his corporation and therefore within his right to defend his sole shareholder corporation. **Kennard was and is always legally allowed to represent his own entity in both Texas and Minnesota, regardless of being licensed in Minnesota or not.**

F. Kennard has not violated any Texas disciplinary rule by representing his own entity, of which he does and has owned 100 percent of all shares pertaining thereto. Kennard never sought to represent any other client or entity. He appeared in courts in Minnesota, at all times, strictly to

represent Kennard Law as a defendant in matter with a Minnesota choice of venue provision.

Again, this is allowed by Minnesota statute. At all times in Minnesota State Court, Kennard appeared as “pro se,” and did not represent that he was an attorney licensed in Minnesota. In Minnesota federal court, Kennard appeared “pro hac vice,” and at no time represented himself to be licensed to practice in the State of Minnesota.

G. Petitioner fails to satisfy the legal requirements necessary to bring this action against Kennard. In fact, it appears that this panel may lack jurisdiction to hear this matter given that no statute or ethical rule was violated. Even if not, Petitioner is wholly unable to meet the clear and well-stated requirements necessary to bring this type of action.

H. The State Bar of Texas website (www.texasbar.com) shows the standard for all attorneys and the world to see, and states clearly and unequivocally as follows:

RECIPROCAL DISCIPLINE

If an attorney is disciplined in another jurisdiction **where the attorney is licensed to practice law,** the CDC **may** seek the identical or “reciprocal” discipline. These proceedings are filed with the Board of Disciplinary Appeals. The CDC files a petition for reciprocal discipline, which includes a certified copy of the order of discipline from the other jurisdiction and requests that the lawyer be disciplined in Texas. BODA notifies the attorney, who has 30 days to show why imposition of the identical discipline in Texas would be unwarranted. Defenses available to the attorney include the following:

- The procedure in the other jurisdiction was so lacking in notice or opportunity to be heard that the attorney was deprived of due process.
- There was such an infirmity of proof in the other jurisdiction that the conclusion that was reached should not be accepted as final.
- Imposition of identical discipline would result in grave injustice.
- That the misconduct established in the other jurisdiction warrants a substantially different discipline in this state.
- That the misconduct for which the attorney was disciplined in the other jurisdiction does not constitute professional misconduct in this state.

Absent establishment of a defense, BODA shall impose discipline identical, to the extent practicable, with that imposed by the other jurisdiction. Appeals from decisions in reciprocal discipline cases are to the Supreme Court of Texas.

I. Petitioner cannot get past the first sentence of the standard for “reciprocal discipline,” **which requires that the attorney be licensed in the other jurisdiction for reciprocal discipline to even be allowed to be pursued by the CDC.** Moreover, the CDC “may” pursue discipline (**but only if** the attorney was actually licensed in the other state)—but it is not required. Counsel for CDC has stated that she had no choice but to pursue this because of the rule. This is incorrect according to the rule as presented to Texas attorneys on the topic at www.texasbar.com

J. Petitioner cannot show that Kennard was ever licensed in Minnesota, and Kennard has at all times represented that he is not. The standard is clear: discipline can only be sought only “**if** an attorney is disciplined **in another jurisdiction where the attorney is licensed to practice law.**” That is clearly not the case here. **Petitioner cannot satisfy this case-definitive requirement. This matter must be dismissed.**

K. Kennard did not violate a rule by representing himself. The Minnesota statute is clear, even if this was lost on the tribunals in Minnesota. Kennard was not licensed “in another jurisdiction,” and therefore, “reciprocal discipline” would be a travesty of justice and ruin a twenty (20) plus year career; a career that started way before then when Kennard worked hard to make something of himself starting when he was a child growing up in El Paso, Texas.

L. Petitioner relies heavily on the *Teater* matter. This Opinion does not apply here at all. **Teater was actually dual-licensed in Texas and Kentucky.** Kentucky requested reciprocal discipline from Texas. Teater failed to appear at any hearing in any State. Kennard has appeared. Teater had a default judgement against her in Kentucky and Texas. Kennard is participating. Teater was licensed in the state where she was first disciplined. Kennard is not and has never been licensed in Minnesota. Minnesota has requested reciprocal discipline, yet Kennard was never

licensed there⁴. Thus, the standard for reciprocal discipline is not, and cannot be met. *Teater* simply does not apply.

	KENNARD	v.	TEATER
Dual Licensed			X
Licensed in Texas	X		X
Licensed in Kansas			X
Appeared	X		
Default Judgment			X

M. Summarily, Teater was in fact licensed in the State (Kentucky) requesting reciprocal discipline from Texas—that is the difference, and a huge difference at that. Teater was actually licensed in the State requesting discipline from Texas, while Kennard is not, has not, and has never tried to be and therefore, Kennard is not “eligible” for reciprocal discipline in Texas.

N. Respondent, Alfonso Kennard, Jr., Kennard further alleges that the procedure followed in Minnesota on the disciplinary matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process as Kennard timely requested a rehearing as set out, above. Due Process was at all times lacking in Minnesota, which failed to provide notice to Kennard of the proceedings as they were happening. Kennard submitted a timely response based on the date a certified letter was finally received, yet the Minnesota court outright refused to hear it or even file it in their system.

⁴ Petitioner cannot ignore that licensure in the other jurisdiction is a specific requirement for bringing an action for reciprocal discipline in Texas.

O. Respondent Alfonso Kennard, while legitimately representing his sole shareholder corporation, did apply and was granted *pro hac vice* status.⁵ Kennard clearly followed the rules to be heard in federal court in Minnesota, which he was not even required to do given that Minnesota allows self-representation, regardless of “attorney status” to anyone representing their 100 percent owned entity.

P. Respondent, Alfonso Kennard, did cooperate with the Minnesota State Bar. Kennard did speak to the representative of the Minnesota Bar several times (as well as emailed) and explained that he was the 100 percent owner of the entity he was representing, and only that entity.

Q. A grave injustice would be committed if a 20-year attorney has his career ruined for doing something (representing himself and his entity only in another jurisdiction) that he was never prohibited from doing under Minnesota and Texas Law in the first place. TBLS and SBOT have opted to not discipline Kennard for any Minnesota-related issues presented (Kennard self-reported to both); BODA must do the same.

R. There is clearly an infirmity of proof coming from Minnesota, which wholly failed to address or recognize that the conduct it “suspended” Kennard for was not worthy of suspension to begin with and because Kennard was at all times allowed under Minnesota law to represent his entity—which he owns 100 percent of. Kennard would absolutely be allowed to represent his own law firm in Texas as well. There would be no violation here and, there was no violation in Minnesota, either.

⁵ Importantly, there is much mention of an Order that corporations must be represented by attorneys. However, there are clear exceptions to having an attorney and the Court failed to specify same. Counsel for Uptime neglected their duty of candor by failing to advise the court of this statute. Alfonso Kennard, Jr., as the sole shareholder of the corporation can and could at all times represent it in court. He could also represent the corporation under Minnesota law. He would be allowed to do the same in Texas. There was no violation anywhere.

IV. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Respondent, Alfonso Kennard prays this Board finds that any and all discipline against him as noticed pursuant to 9.02 Texas Rules of Disciplinary Procedure is found unwarranted and this matter be dismissed in its entirety.

Respectfully Submitted,



/s/ Ellen Sprovach
Ellen Sprovach
Texas State Bar ID 24000672
ellen.sprovach@kennardlaw.com
5120 Woodway Dr., Suite 10010
Houston, Texas 77056
(713) 742-0900 (main)
(832) 558-9412 (facsimile)

**ATTORNEY IN CHARGE
FOR RESPONDENT**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument has been forwarded via e-mail on this 21st day of April 2022.

Jackie Truitt
Executive Assistant
Board Of Disciplinary Appeals
Po Box 12426
Austin, Tx 78711

Via E-mail: filing@txboda.org

Amanda Kates
Assistant Disciplinary Counsel
State Bar of Texas

Via E-mail: Amanda.kates@texasbar.com

/s/ Ellen Sprovach
Ellen Sprovach

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

IN THE MATTER OF
ALFONSO KENNARD, JR.
STATE BAR CARD 24036888

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CAUSE NO. 65861

VERIFICATION OF ALFONSO KENNARD, JR.

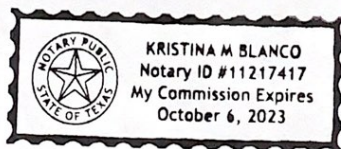
1. "My name is Alfonso Kennard, Jr.; I am over the age of eighteen (18) and I am fully competent to make this declaration. All of the facts stated herein are true and correct and are based upon my personal knowledge. The documents attached are true and correct copies.
2. I am the Sole Shareholder for Kennard P.C. My law firm just recently had its 10th year anniversary. Prior to running this firm, I worked for several years for large defense firms after graduating from St. Mary's School of Law and the University of Notre Dame. I have been licensed as an attorney in Texas since 2002.
3. The facts contained in Respondent Alfonso Kennard's Amended Original Answer, Response to Petition For Reciprocal Discipline and Motion to Dismiss are true and correct.

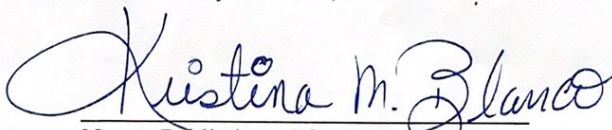
I declare under penalty of perjury under the laws of the state of Texas that the facts I have provided on this form and any attachments are true.



ALFONSO, KENNARD, JR.

Subscribed and sworn to before me on this 30th day of March, 2022.




Notary Public in and for the State of Texas

My commission expires October 6, 2023

EXHIBIT 1

Form 203

Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709

Filing Fee: \$300

**Certificate of Formation
Professional Corporation**

Filed in the Office of the
Secretary of State of Texas
Filing #: 801412940 04/17/2011
Document #: 364260720002
Image Generated Electronically
for Web Filing

Article 1 - Entity Name and Type

The filing entity being formed is a professional corporation. The name of the entity is:

Kennard Law P.C.

The name must contain one of the words of organization required for business corporations or an abbreviation thereof, or the phrase "Professional Corporation" or the initials "P.C." The name must not be the same as, deceptively similar to or similar to that of an existing corporate, limited liability company, or limited partnership name on file with the secretary of state. A preliminary check for the "name availability" is recommended.

Article 2 - Registered Agent and Registered Office

☐ A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

OR

☒ B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

Alfonso Kennard Jr

C. The business address of the registered agent and the registered office address is:

Street Address:

3746 Rocky Ledge Lane Katy TX 77494

Consent of Registered Agent

☐ A. A copy of the consent of registered agent is attached.

OR

☒ B. The consent of the registered agent is maintained by the entity.

Article 3 - Directors

The number of directors constituting the initial board of directors and the names and addresses of the person or persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualified are set forth below:

Director 1: **Alfonso Kennard Jr**

Address: **3746 Rocky Ledge Lane Katy TX, USA 77494**

Article 4 - Authorized Shares

The total number of shares the corporation is authorized to issue and the par value of each of such shares, or a statement that such shares is without par value, is set forth below.

Number of Shares	Par Value (must choose and complete either A or B)	Class	Series
10000	<input type="checkbox"/> A. has a par value of \$ <input checked="" type="checkbox"/> B. without par value.		

If the shares are to be divided into classes, you must set forth the designation of each class, the number of shares of each class, and the par value (or statement of no par value), of each class. If shares of a class are to be issued in series, you must provide the designation of each series. The preferences, limitations, and relative rights of each class or series must be stated in the space provided for supplemental information.

Article 5 - Purpose

The purpose for which the corporation is organized is for the rendition of the professional service set forth below (only one specific type of professional service is permitted) and services ancillary to the rendition thereto.

Legal/Attorney services and consultation

Supplemental Provisions / Information

[The attached addendum, if any, is incorporated herein by reference.]

Effectiveness of Filing

☒ A. This document becomes effective when the document is filed by the secretary of state.

OR

☐ B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Organizer

The name and address of the organizer is set forth below.

Alfonso Kennard Jr. **3746 Rocky Ledge Lane, Katy, TX 77494**

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Alfonso Kennard Jr.

Signature of organizer.

FILING OFFICE COPY

EXHIBIT 2

07/17/2020	5	MOTION for Admission Pro Hac Vice for Attorney Alfonso Kennard, Jr.. Filing fee \$ 100, receipt number AMNDC-7891987 filed by Kennard Law, P.C.. (Minenko, Michael) (Entered: 07/17/2020)
07/28/2020	6	TEXT ONLY ENTRY: ORDER granting 5 Motion for Admission Pro Hac Vice of Attorney Alfonso Kennard for Kennard Law, P.C. Approved by Magistrate Judge Elizabeth Cowan Wright on 7/28/2020. (NAH) (Entered: 07/28/2020)
08/05/2020	7	ORDER/NOTICE: Rule 26 Meeting Report due by 8/17/2020. TELEPHONIC Pretrial Conference set for 8/24/2020 at 11:00 AM before Magistrate Judge Elizabeth Cowan Wright. Signed by Magistrate Judge Elizabeth Cowan Wright on 8/5/2020. (Attachments: # 1 Consent Form)(TMA) (Entered: 08/05/2020)
08/14/2020	8	NOTICE of Appearance by Steven M. Cerny on behalf of Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	9	RULE 7.1 DISCLOSURE STATEMENT. There is no parent corporation, publicly held corporation or wholly-owned subsidiary to report for Plaintiff Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	10	MOTION to Remand to State Court , MOTION for Attorney Fees filed by Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	11	NOTICE OF HEARING ON MOTION 10 MOTION to Remand to State Court MOTION for Attorney Fees : Date and time to be determined. (Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	12	MEMORANDUM in Support re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service, # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	13	AFFIDAVIT of Steven M. Cerny in SUPPORT OF 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC. (Attachments: # 1 Exhibit(s) Exhibit 1, # 2 Exhibit(s) Exhibit 2, # 3 Exhibit(s) Exhibit 3, # 4 Exhibit(s) Exhibit 4, # 5 Exhibit(s) Exhibit 5, # 6 Exhibit(s) Exhibit 6, # 7 Exhibit(s) Exhibit 7, # 8 Exhibit(s) Exhibit 8, # 9 Exhibit(s) Exhibit 9, # 10 Exhibit(s) Exhibit 10, # 11 Exhibit(s) Exhibit 11, # 12 Exhibit(s) Exhibit 12, # 13 Exhibit(s) Exhibit 13, # 14 Exhibit(s) Exhibit 14, # 15 Exhibit(s) Exhibit 15)(Cerny, Steven) (Entered: 08/14/2020)

08/14/2020	14	PROPOSED ORDER TO JUDGE re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/14/2020)
08/14/2020	15	MEET and CONFER STATEMENT re 10 Motion to Remand to State Court, Motion for Attorney Fees filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/14/2020)
08/17/2020	16	(Text-Only) NOTICE TO ATTORNEY regarding Dispositive Motions briefing schedule: All dispositive motions must comply with Local Rule 7.1(c). Responses to dispositive motions shall be filed with the Court on or before 21 days after the service of the supporting memorandum to the original motion. Replies to responsive briefs shall be filed 14 days after the service of the response to the dispositive motion. <u>Upon the motion being fully briefed and filed, counsel for the moving party shall email Chief Judge Tunheims chambers at Tunheim_Chambers@mnd.uscourts.gov to request a hearing date.</u> Upon receiving from Chief Judge Tunheims Courtroom Deputy a hearing date, time and location, the moving party shall file the amended notice of hearing at that time. (HAZ) (Entered: 08/17/2020)
08/17/2020	17	REPORT of Rule 26(f) Planning Meeting. Filed by Uptime Systems, LLC. Jointly Signed by Kennard Law, P.C..(Cerny, Steven) (Entered: 08/17/2020)
08/18/2020	18	ORDER: The Pretrial conference scheduled for 8/24/20 is CANCELLED. See ORDER for details. Signed by Magistrate Judge Elizabeth Cowan Wright on 8/18/2020.(TMA) (Entered: 08/18/2020)
08/27/2020	19	MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC. (Cerny, Steven) (Entered: 08/27/2020)
08/27/2020	20	NOTICE OF HEARING ON MOTION 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. : Motion Hearing set for 10/2/2020 at 01:00 PM in Video Conference (no courtroom) before Magistrate Judge Elizabeth Cowan Wright. (Cerny, Steven) (Entered: 08/27/2020)
08/28/2020	21	MEMORANDUM in Support re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service, # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 08/28/2020)

08/29/2020	22	Declaration of Steven M. Cerny in Support of 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC. (Attachments: # 1 Exhibit 1)(Cerny, Steven) (Entered: 08/29/2020)
08/29/2020	23	PROPOSED ORDER TO JUDGE re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/29/2020)
08/29/2020	24	MEET and CONFER STATEMENT re 19 Motion for Miscellaneous Relief filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 08/29/2020)
08/29/2020	25	CERTIFICATE OF SERVICE by Uptime Systems, LLC re 21 Memorandum in Support of Motion, (Cerny, Steven) (Entered: 08/29/2020)
08/31/2020	26	MOTION to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C.. (Attachments: # 1 Exhibit(s), # 2 Exhibit(s))(Kennard, Alfonso) (Entered: 08/31/2020)
08/31/2020	27	PROPOSED ORDER TO JUDGE re Defendant's Motion to Amend Answer 26 Motion to Alter/Amend/Supplement Pleadings. (Kennard, Alfonso) (Entered: 08/31/2020)
08/31/2020	28	MEET and CONFER STATEMENT re 26 Motion to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C..(Kennard, Alfonso) (Entered: 08/31/2020)
09/04/2020	29	(Text-Only) ORDER/NOTICE: Motion Hearing on Plaintiff's Motion to Amend is set for 10/15/2020 at 10:00 AM before Magistrate Judge Elizabeth Cowan Wright via videoconference. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/4/2020.(TMA) (Entered: 09/04/2020)
09/04/2020	30	RESPONSE in Opposition re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Kennard Law, P.C.. (Attachments: # 1 Exhibit(s), # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Kennard, Alfonso) (Entered: 09/04/2020)
09/04/2020	31	PROPOSED ORDER TO JUDGE re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Kennard Law, P.C..(Kennard, Alfonso) (Entered: 09/04/2020)
09/08/2020	33	(Text-Only) ORDER/NOTICE: Motion Hearing on Defendant's Motion to Amend is reset for 10/26/2020 at 01:00 PM before Magistrate Judge Elizabeth Cowan

		Wright. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/8/2020.(TMA) (Entered: 09/08/2020)
09/18/2020	34	RESPONSE in Opposition re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. , 5 MOTION for Admission Pro Hac Vice for Attorney Alfonso Kennard, Jr.. Filing fee \$ 100, receipt number AMNDC-7891987, 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Kennard Law, P.C.. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate Certificate of Compliance, # 2 Exhibit(s) Ex. 1)(Kennard, Alfonso) (Entered: 09/18/2020)
09/18/2020	35	PROPOSED ORDER TO JUDGE re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. , 5 MOTION for Admission Pro Hac Vice for Attorney Alfonso Kennard, Jr.. Filing fee \$ 100, receipt number AMNDC-7891987 filed by Kennard Law, P.C..(Kennard, Alfonso) (Entered: 09/18/2020)
09/18/2020	36	Reply to Response to Motion re 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate, # 2 Certificate of Service)(Cerny, Steven) (Entered: 09/18/2020)
09/18/2020	37	Second Declaration of Steven M. Cerny in Support of 10 MOTION to Remand to State Court MOTION for Attorney Fees filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 09/18/2020)
09/22/2020	38	LETTER TO MAGISTRATE JUDGE by Uptime Systems, LLC <i>Requesting Permission to File Reply Memorandum in Support of Motion to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr.</i> . (Cerny, Steven) (Entered: 09/22/2020)
09/22/2020	39	(Text-Only) ORDER/NOTICE TO ATTORNEY. This case is before the Court on the Motion to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Plaintiff (Dkt. 19). IT IS ORDERED that local counsel for Defendant Kennard Law, P.C., Michael Minenko, appear at the Zoom hearing on the Motion to Revoke. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/22/2020.(TMA) (Entered: 09/22/2020)
09/22/2020	40	(Text-Only) ORDER/NOTICE: Motion Hearing on Motion to revoke pro hoc vice status (Dkt. 19) is reset for 10/7/2020 at 09:30 AM before Magistrate Judge Elizabeth Cowan Wright.(TMA) (Entered: 09/22/2020)
09/22/2020	41	(Text-Only) ORDER in Response to 38 Letter to Magistrate Judge.This case is before the Court on Defendants request to file a reply brief of no more than 2,000 words in support of its Motion to Revoke (Dkt. 38). The request is GRANTED. Defendant may file a reply of no more than 2,000 words on or before

		September 28, 2020. Ordered by Magistrate Judge Elizabeth Cowan Wright on 9/22/2020.(TMA) (Entered: 09/22/2020)
09/28/2020	42	Reply to Response to Motion re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service, # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 09/28/2020)
10/05/2020	43	LETTER TO MAGISTRATE JUDGE by Uptime Systems, LLC . (Attachments: # 1 Petition For Disciplinary Action)(Cerny, Steven) (Entered: 10/05/2020)
10/06/2020	44	First MOTION for Leave to File Reply/Surreply filed by Kennard Law, P.C.. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate Certificate of Compliance, # 2 Exhibit(s) Ex. 1, # 3 Exhibit(s) Ex. 2, # 4 Exhibit(s) Ex. 3)(Kennard, Alfonso) (Entered: 10/06/2020)
10/07/2020	45	Minute Entry for proceedings held before Magistrate Judge Elizabeth Cowan Wright: granting 44 Motion for Leave to File Reply/Surreply; Motion Hearing held on 10/7/2020 re 19 MOTION to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. filed by Uptime Systems, LLC, 44 First MOTION for Leave to File Reply/Surreply filed by Kennard Law, P.C.. (Court Reporter Renee Rogge) (EMCS) (Entered: 10/07/2020)
10/07/2020	46	ORDER. If Mr. Kennard wishes to make an oral argument on the Motion to Revoke, Mr. Kennard is ordered to file a letter showing good cause why he should be permitted to do so, in view of his failure to appear at the October 7 hearing, no later than 9:00 a.m. on October 8, 2020. Signed by Magistrate Judge Elizabeth Cowan Wright on 10/7/2020.(EMCS) (Entered: 10/07/2020)
10/08/2020	47	LETTER TO MAGISTRATE JUDGE by Kennard Law, P.C. . (Kennard, Alfonso) (Entered: 10/08/2020)
10/12/2020	48	MEMORANDUM in Support re 26 MOTION to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C.. (Attachments: # 1 Certificate of Compliance)(Kennard, Alfonso) (Entered: 10/12/2020)
10/13/2020	49	TRANSCRIPT of Motions Hearing held on 10/7/2020 before Magistrate Judge Elizabeth Cowan Wright. (19 pages). Court Reporter: Renee Rogge. For a copy of the transcript, please file a Transcript Request under <i>Other Filings/Other Documents</i> . Transcript temporarily sealed to determine if redactions are required. Parties have 7 days to file a Notice of Intent to Request Redaction or Notice that No

		<p><i>Redaction is Required.</i> In accordance with Judicial Conference policy and Local Rule 80.1, the transcript may be released and made remotely electronically available to the public in 90 days. For further information on redaction procedures, please review Local Rule 5.5 and Case Information >Transcripts, Court Reporters and Digital Audio Recordings.</p> <p>Notice Intent/No Intent to Request Redactions due 10/20/2020. Redaction Request due 11/3/2020. Redacted Transcript Deadline set for 11/13/2020. Release of Transcript Restriction set for 1/11/2021.</p> <p>(RAR) (Entered: 10/13/2020)</p>
10/14/2020	50	ORDER/NOTICE TO ATTORNEY regarding 26 MOTION to Alter/Amend/Supplement Pleadings filed by Kennard Law, P.C. Signed by Magistrate Judge Elizabeth Cowan Wright on 10/14/2020.(EMCS) (Entered: 10/14/2020)
10/30/2020	51	AMENDED NOTICE of Hearing on Motion: 10 MOTION to Remand to State Court MOTION for Attorney Fees : Motion Hearing set for 12/1/2020 at 10:30 AM in Video Conference (no courtroom) before Chief Judge John R. Tunheim. (Cerny, Steven) (Entered: 10/30/2020)
11/20/2020	52	MOTION for Sanctions filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service)(Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	53	NOTICE OF HEARING ON MOTION 52 MOTION for Sanctions : Motion Hearing set for 12/14/2020 at 01:00 PM in Video Conference (no courtroom) before Magistrate Judge Elizabeth Cowan Wright. (Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	54	MEMORANDUM in Support re 52 MOTION for Sanctions filed by Uptime Systems, LLC. (Attachments: # 1 Certificate of Service, # 2 LR7.1/LR72.2 Word Count Compliance Certificate)(Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	55	Declaration of Steven M Cerny in Support of 52 MOTION for Sanctions filed by Uptime Systems, LLC. (Attachments: # 1 Exhibit(s) Exhibit 1, # 2 Exhibit(s) Exhibit 2, # 3 Exhibit(s) Exhibit 3, # 4 Exhibit(s) Exhibit 4, # 5 Exhibit(s) Exhibit 5, # 6 Exhibit(s) Exhibit 6, # 7 Exhibit(s) Exhibit 7, # 8 Exhibit(s) Exhibit 8, # 9 Exhibit(s) Exhibit 9, # 10 Exhibit(s) Exhibit 10, # 11 Exhibit(s) Exhibit 11, # 12 Exhibit(s) Exhibit 12)(Cerny, Steven) (Entered: 11/20/2020)

11/20/2020	56	MEET and CONFER STATEMENT re 52 Motion for Sanctions filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 11/20/2020)
11/20/2020	57	PROPOSED ORDER TO JUDGE re 52 MOTION for Sanctions filed by Uptime Systems, LLC.(Cerny, Steven) (Entered: 11/20/2020)
11/23/2020	58	MEMORANDUM in Opposition re 52 MOTION for Sanctions filed by Kennard Law, P.C.. (Attachments: # 1 LR7.1/LR72.2 Word Count Compliance Certificate)(Minenko, Michael) (Entered: 11/23/2020)
11/23/2020	59	DECLARATION of Michael J. Minenko in Opposition to 52 MOTION for Sanctions filed by Kennard Law, P.C..(Minenko, Michael) (Entered: 11/23/2020)
11/25/2020	60	ORDER granting 19 Motion. Plaintiffs Motion to Revoke Pro Hac Vice Status of Alfonso Kennard, Jr. (Dkt. 19) is GRANTED and Alfonso Kennard, Jr.s pro hac vice admission to the District of Minnesota is REVOKED. Signed by Magistrate Judge Elizabeth Cowan Wright on 11/25/2020. (TMA) (Entered: 11/25/2020)

EXHIBIT 3

481.02 UNAUTHORIZED PRACTICE OF LAW.

Subdivision 1. **Prohibitions.** It shall be unlawful for any person or association of persons, except members of the bar of Minnesota admitted and licensed to practice as attorneys at law, to appear as attorney or counselor at law in any action or proceeding in any court in this state to maintain, conduct, or defend the same, except personally as a party thereto in other than a representative capacity, or, by word, sign, letter, or advertisement, to hold out as competent or qualified to give legal advice or counsel, or to prepare legal documents, or as being engaged in advising or counseling in law or acting as attorney or counselor at law, or in furnishing to others the services of a lawyer or lawyers, or, for a fee or any consideration, to give legal advice or counsel, perform for or furnish to another legal services, or, for or without a fee or any consideration, to prepare, directly or through another, for another person, firm, or corporation, any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or, for a fee or any consideration, to prepare for another person, firm, or corporation, any other legal document, except as provided in subdivision 3.

Subd. 2. **Corporations.** No corporation, organized for pecuniary profit, except an attorney's professional firm organized under chapter 319B, by or through its officers or employees or any one else, shall maintain, conduct, or defend, except in its own behalf when a party litigant, any action or proceeding in any court in this state, or shall, by or through its officers or employees or any one else, give or assume to give legal advice or counsel or perform for or furnish to another person or corporation legal services; or shall, by word, sign, letter, or advertisement, solicit the public or any person to permit it to prepare, or cause to be prepared, any will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or hold itself out as desiring or willing to prepare any such document, or to give legal advice or legal services relating thereto or to give general legal advice or counsel, or to act as attorney at law or as supplying, or being in a position to supply, the services of a lawyer or lawyers; or shall to any extent engage in, or hold itself out as being engaged in, the business of supplying services of a lawyer or lawyers; or shall cause to be prepared any person's will or testamentary disposition or instrument of trust serving purposes similar to those of a will, or any other legal document, for another person, firm, or corporation, and receive, directly or indirectly, all or a part of the charges for such preparation or any benefits therefrom; or shall itself prepare, directly or through another, any such document for another person, firm, or corporation, except as provided in subdivision 3.

Subd. 3. **Permitted actions.** The provisions of this section shall not prohibit:

(1) any person from drawing, without charge, any document to which the person, an employer of the person, a firm of which the person is a member, or a corporation whose officer or employee the person is, is a party, except another's will or testamentary disposition or instrument of trust serving purposes similar to those of a will;

(2) a person from drawing a will for another in an emergency if the imminence of death leaves insufficient time to have it drawn and its execution supervised by a licensed attorney-at-law;

(3) any insurance company from causing to be defended, or from offering to cause to be defended through lawyers of its selection, the insureds in policies issued or to be issued by it, in accordance with the terms of the policies;

(4) a licensed attorney-at-law from acting for several common-carrier corporations or any of its subsidiaries pursuant to arrangement between the corporations;

(5) any bona fide labor organization from giving legal advice to its members in matters arising out of their employment;

(6) any person from conferring or cooperating with a licensed attorney-at-law of another in preparing any legal document, if the attorney is not, directly or indirectly, in the employ of the person or of any person, firm, or corporation represented by the person;

(7) any licensed attorney-at-law of Minnesota, who is an officer or employee of a corporation, from drawing, for or without compensation, any document to which the corporation is a party or in which it is interested personally or in a representative capacity, except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will, but any charge made for the legal work connected with preparing and drawing the document shall not exceed the amount paid to and received and retained by the attorney, and the attorney shall not, directly or indirectly, rebate the fee to or divide the fee with the corporation;

(8) any person or corporation from drawing, for or without a fee, farm or house leases, notes, mortgages, chattel mortgages, bills of sale, deeds, assignments, satisfactions, or any other conveyances except testamentary dispositions and instruments of trust;

(9) a licensed attorney-at-law of Minnesota from rendering to a corporation legal services to itself at the expense of one or more of its bona fide principal stockholders by whom the attorney is employed and by whom no compensation is, directly or indirectly, received for the services;

(10) any person or corporation engaged in the business of making collections from engaging or turning over to an attorney-at-law for the purpose of instituting and conducting suit or making proof of claim of a creditor in any case in which the attorney-at-law receives the entire compensation for the work;

(11) any regularly established farm journal or newspaper, devoted to general news, from publishing a department of legal questions and answers to them, made by a licensed attorney-at-law, if no answer is accompanied or at any time preceded or followed by any charge for it, any disclosure of any name of the maker of any answer, any recommendation of or reference to any one to furnish legal advice or services, or by any legal advice or service for the periodical or any one connected with it or suggested by it, directly or indirectly;

(12) any authorized management agent of an owner of rental property used for residential purposes, whether the management agent is a natural person, corporation, partnership, limited partnership, or any other business entity, from commencing, maintaining, conducting, or defending in its own behalf any action in any court in this state to recover or retain possession of the property, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal;

(13) any person from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state pursuant to the provisions of section 504B.375 or sections 504B.185 and 504B.381 to 504B.471 or from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state for the recovery of rental property used for residential purposes pursuant to the provisions of section 504B.285, subdivision 1, or 504B.301, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal, and provided that, except for a nonprofit corporation, a person who is not a licensed attorney-at-law shall not charge or collect a separate fee for services rendered pursuant to this clause;

(14) the delivery of legal services by a specialized legal assistant in accordance with a specialty license issued by the supreme court before July 1, 1995;

(15) the sole shareholder of a corporation from appearing on behalf of the corporation in court; or

(16) an officer, manager, partner, or employee or an agent of a condominium, cooperative, or townhouse association from appearing on behalf of a corporation, limited liability company, partnership, sole proprietorship, or association in conciliation court or in a district court action removed from conciliation court, in accordance with section 491A.02, subdivision 4.

Subd. 3a. **Real estate closing services.** Nothing in this section shall be construed to prevent a real estate broker, a real estate salesperson, or a real estate closing agent, as defined in section 82.55, from drawing or assisting in drawing papers incident to the sale, trade, lease, or loan of property, or from charging for drawing or assisting in drawing them, except as hereafter provided by the supreme court.

Subd. 4. **Mortgage foreclosure fees.** It shall be unlawful to exact, charge or receive any attorney's fee for the foreclosure of any mortgage, unless the foreclosure is conducted by a licensed attorney at law of Minnesota and unless the full amount charged as attorney's fee is actually paid to and received and retained by such attorney, without being, directly or indirectly, shared with or rebated to any one else; and it shall be unlawful for any such attorney to make any showing of receiving such a fee unless the attorney has received the same or to share with or rebate to any other person, firm, or corporation such fee, or any part thereof, received by the attorney; but such attorney may divide such fee with another licensed attorney at law maintaining the other's place of business and not an officer or employee of the foreclosing party, if such attorney has assisted in performing the services for which the fee is paid, or resides in a place other than that where the foreclosure proceedings are conducted and has forwarded the case to the attorney conducting such foreclosure.

Subd. 5. **Corporate fiduciary agents.** It shall be unlawful for any corporation, appearing as executor, administrator, guardian, trustee, or other representative, to do the legal work in any action, probate proceeding or other proceeding in any court in this state, except through a licensed attorney at law of Minnesota maintaining the attorney's own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or representative. No attorney's fee shall be charged or paid or received in any such case, unless actually paid to and received and retained by such an attorney at law maintaining the attorney's own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or representative; and it shall be unlawful for such attorney to represent in any manner receiving any sum as a fee or compensation unless the same has been actually received or, directly or indirectly, to divide with or rebate to any person, firm, or corporation any part of any such fee or consideration received by the attorney in any such case; but such attorney may divide such fee with another licensed attorney at law maintaining the other's own place of business and not an officer or employee of such executor, administrator, guardian, trustee, or other representative, if such attorney has assisted in performing the services for which the fees are paid, or resides in a place other than that where the action or proceedings are conducted and has forwarded the case to the attorney conducting the action or proceedings.

Subd. 6. **Attorneys of other states.** Any attorney or counselor at law residing in any other state or territory in which the attorney has been admitted to practice law, who attends any term of the supreme court, court of appeals, or district court of this state for the purpose of trying or participating in the trial or proceedings of any action or proceedings there pending, may, in the discretion of the court before which the attorney appears in the action or proceeding, be permitted to try, or participate in the trial or proceedings in, the action or proceeding, without being subject to the provisions of this section, other than those set forth in subdivision 2, providing the state in which the attorney is licensed to practice law likewise grants permission to members of the state bar of Minnesota to act as an attorney for a client in that state under the same terms.

Subd. 7. **Lay assistance to attorneys.** Nothing herein contained shall be construed to prevent a corporation from furnishing to any person lawfully engaged in the practice of law, such information or such clerical service in and about the attorney's professional work as, except for the provisions of this section, may be lawful, provided, that at all times the lawyer receiving such information or such services shall maintain full, professional and direct responsibility to the attorney's clients for the information and services so received.

Subd. 8. **Penalty; injunction.** (a) Any person or corporation, or officer or employee thereof, violating any of the foregoing provisions shall be guilty of a misdemeanor; and, upon conviction thereof, shall be punished as by statute provided for the punishment of misdemeanors. It shall be the duty of the respective county attorneys in this state to prosecute violations of this section, and the district courts of this state shall have sole original jurisdiction of any such offense under this section.

(b) A county attorney or the attorney general may, in the name of the state of Minnesota, or in the name of the State Board of Law Examiners, proceed by injunction suit against any violator of any of the provisions above set forth to enjoin the doing of any act or acts violating any of said provisions.

(c) In addition to the penalties and remedies provided in paragraphs (a) and (b), the public and private penalties and remedies in section 8.31 apply to violations of this section.

Subd. 9. **Construing subdivision.** Nothing in subdivision 3a shall be construed to allow a person other than a licensed attorney to perform or provide the services of an attorney or be construed to otherwise conflict with this section.

History: (5687-1) 1931 c 114 s 1; 1959 c 476 s 1; 1969 c 9 s 87; 1974 c 406 s 49; 1981 c 168 s 1; 1983 c 247 s 173,174; 1986 c 444; 1987 c 377 s 6; 1988 c 695 s 3-5; 1991 c 299 s 1; 1992 c 376 art 1 s 1; 1992 c 497 s 1; 1992 c 591 s 1; 1993 c 321 s 1; 1994 c 502 s 1; 1994 c 568 s 2; 1997 c 174 art 12 s 70; 1999 c 86 art 1 s 74; 1999 c 199 art 2 s 19

NOTE: This section was deemed unconstitutional to the extent that it attempts to require courts to allow nonattorneys to appear in court on behalf of corporations in *Haugen v. Superior Development, Inc.*, 819 N.W.2d 715 (Minn. Ct. App. 2012), citing *Nicollet Restoration, Inc. v. Turnham*, 486 N.W.2d 753 (Minn. 1992).

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

**IN THE MATTER OF
ALFONSO KENNARD, JR.
STATE BAR CARD 24036888**

§
§
§

CAUSE NO. 65861

**ORDER GRANTING RESPONDENT
ALFONSO KENNARD'S MOTION TO DISMISS**

This Board of Disciplinary Appeals has reviewed the Respondent's Motion for to Dismiss and finds that the Motion should be GRANTED for the reasons stated therein. It is therefore ORDERED that Petition for Reciprocal Discipline is DISMISSED.

Signed this _____ day of _____, 2022.

Presiding Judge