



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

IN THE MATTER OF
NEJLA KASSANDRA KEYFLI LANE,
STATE BAR CARD NO. 24095557

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TX CAUSE NO. 67623

EMERGENCY MOTION

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**EMERGENCY MOTION TO RECONSIDER BODA’S NOVEMBER 16, 2023,
SUSPENSION ORDER**

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Respondent Nejla Kassandra Keyfli Lane (“Lane”), appearing *pro se*, respectfully requests that the Board of Disciplinary Appeals (“BODA” or “Board”) take one of the following actions: (1) either *vacate* the Judgment of Partially Probated Suspension (hereinafter “Judgment”) in Cause No. 67623, issued by BODA on November 16, 2023, or, (2) in the alternative, *assuming arguendo*, that the Illinois disciplinary proceedings were *not* so deficient in due process or flawed as to create a clear conviction; in such a case, Lane still contends that any Texas reciprocal discipline imposed by BODA should be concurrent, *non pro tunc*, with the effective date of the Illinois suspension (the original jurisdiction). Furthermore, (3) as another alternative, Lane requests that the Board STAY the Judgment until the resolution of this matter currently pending before the Supreme Court of Texas. In support of this this Emergency Motion Lane states as follows:

Statement of Facts and Grounds for the Emergency Motion:

1. Firstly, this Emergency Motion (“Motion”) is filed primarily pursuant to Texas Rule of Disciplinary Procedure 17.06's limitation provision. Lane seeks, in the first instance, the vacation of the Judgment. Alternatively, Lane request that the suspension imposed by BODA be made concurrent with the original jurisdiction, *non pro tunc*, effective February 7, 2023. In another alternative, Lane seeks a stay on the suspension until the resolution of this matter before the Supreme Court of Texas.

2. On October 27, 2023, BODA conducted a hearing on the reciprocal discipline matter, case no. 67623. Following this, on November 16, 2023, BODA issued a suspension. *If this suspension is imposed*, it will result in *irreparable harm* to Lane's legal career, livelihood, professional reputation and her mental well-being.
3. Lane's Emergency Motion is primarily revolving around the issue of the State Bar of 'Texas' and BODA's *Lack of Jurisdiction*, as stipulated in Texas Rule of Disciplinary Procedure 17.06's limitation provision. This rule explicitly states that "[n]o attorney may be disciplined for *Professional Misconduct* that occurred more than four years before the date *on which a Grievance alleging the Professional Misconduct is received by the Chief Disciplinary Counsel*." Lane reported the alleged misconduct that occurred in June of 2017, to the Chief Disciplinary Counsel ("CDC"), Seana Willing, on July 29, 2020. (See **Exh. A**, combined emails *sent/received* by the Chief Disciplinary Counsel).

According to the Definition section Rule 1.06 (§ R):

Texas Rule of Disciplinary Procedure: "Grievance" means a written statement, from whatever source, apparently intended to allege *Professional Misconduct by a lawyer*, or lawyer Disability, or both, received by the Office of the Chief Disciplinary Counsel. (Emphasis added) (Tex. R. D. P., updated September 1, 2023. P. 4).

4. It is undisputed that the alleged attorney's *Professional Misconduct occurred* on **April 18, 2017**, **June 23, 2017**, and on **June 26, 2017**, respectively. Lane properly reported this alleged professional misconduct to CDC on July 29, 2020, thereby fulfilling her duty to report herself. (See **Exh. A**, & **B-1**, Citation issued from United States District Court for the Northern District of Illinois "NDIL" on November 14, 2017).
5. As a direct consequence of this alleged professional misconduct, Lane was suspended from the Illinois General Bar for six months and from the Illinois Trial Bar for twelve months, with the suspension taking effect on **January 22, 2018**. Consequently, *the four-year limitation provision*

outlined in Texas Rule of Disciplinary Procedure 17.06 (“Rule 17.06”) **expired on June 25, 2021**. (See **Exh. B-2**, Order of Suspension from NDIL).

6. Subsequently, Lane was reinstated to the General Bar **on August 7, 2018**, and to the Trial Bar **on June 11, 2019**, respectively. (See **Exh. B-3**, Orders of reinstatements).
7. However, two years later, on **August 28, 2019**, Illinois State Bar filed a Complaint against Lane for the **same alleged attorney professional misconduct** (“professional misconduct”). (See **Exh. C**, Illinois Complaint, filed by Illinois Attorney Registration and Disciplinary Commission “ARDC”).
8. As a result of the alleged attorney professional misconduct, the Hearing Board and Review Board recommended a nine (9) months suspension for Lane from the Illinois State Bar. This suspension was stayed after six (6) months by a six-month period of probation, subject to the conditions as recommended by the Review Board. (See **Exh. D**, Mandate of Illinois Supreme Court, on **January 17, 2023**, affirming Review Board’s Report and Recommendation to suspend Lane **effective on February 7, 2023**).
9. Despite Lane reporting the alleged Professional Misconduct on **July 29, 2020**, to the Chief Disciplinary Counsel (“CDC”), Seana Willing¹, well before the expiration of the four-years limitation provision on **June 25, 2021**, as outlined in **Rule 17.06**, the CDC decided not to pursue a reciprocal discipline at that juncture. Consequently, both State Bar of Texas and BODA lost jurisdiction to prosecute Lane for this email incident that occurred on or before **June 26, 2017**. (See **Exh. A**, emails of reporting).

¹ Seana Willing was Chief Disciplinary Counsel (CDC) when Lane communicated with her on 7/2/2020, Lane specifically mentioned that this alleged misconduct transpired in **June of 2017**. Judith Gres DeBerry is her Assistant Disciplinary Counsel, never mentioned to Lane the four-year limitation rule which was about to expire in June of 2021.

10. Therefore, when Lane notified the CDC, a Grievance alleging the professional misconduct was indeed received by the CDC. However, the CDC chose not to prosecute Lane for this alleged attorney misconduct that occurred on or before June 26, 2017. *Id.*
11. During this email communication, *inter alia*, Ms. Willing clarified that on **January 22, 2018**, when the Federal District Court suspended Lane for violations of ABA Model Rules of Professional Conduct Rules 3.5(d) and 8.4(d), the Texas Disciplinary Rules of Professional Conduct (**TDRPC**) **Rule 8.03**, did not account for discipline from a federal court or federal agency. Simply put, **TDRPC Rule 8.03** *neither recognized* nor required a self-reporting for discipline imposed by a federal court or federal agency. It's important to note, however, that Lane did not conceal her federal court suspension from the CDC for the alleged misconduct that occurred on or before **June 26, 2017**. (*Id.*).
12. On **February 3, 2023**, *Lane once again reported her suspension* by the Illinois State Bar and attached the Mandate dated January 17, 2023. In her communication, she also mentioned her defenses, specifically referring to the “ex post facto law”. However, it had become too late to discipline Attorney Lane for alleged professional Misconduct that *occurred more than four years prior to the date* on which a Grievance alleging the professional misconduct was *received* by the CDC. Consequently, it was no longer possible to discipline Lane on or after June 25, 2021, pursuant to R. 17.06(A). (*See Exh. A*).
13. However, just one day before the effective suspension date, on February 6, 2023, a catastrophic earthquake² struck Lane’s hometown in Hatay/Antakya, Turkey (“hometown”). This natural disaster resulted in devastating losses for Lane, including the loss of her entire family. Within hours of the disaster, Lane received heart-wrenching news that her entire family in Turkey was

² This earthquake in Antakya continued over days and weeks.

either lost or still trapped under the rubble, including her two beloved sisters, among others. This devastating news left Lane in a state of profound psychological and mental shock, compelling her to immediately travel to Turkey to assist her family.

14. Unable to properly focus or conduct proper research on her suspension order of February 7, 2023, Lane wanted to be with her surviving relatives. Lane embarked on two trips to Turkey, the first on February 15, 2023, and the second on July 5, 2023. Lane's primary purpose in traveling was to support her family in their search for missing relatives, provide financial assistance, cover funeral expenses, and offer much-needed emotional comfort during this incredibly challenging time. The pain Lane felt is indescribable, nobody can fully comprehend the anguish she endured during the weeks and months following the earthquake. Lane suffering is beyond anyone's imagination.
15. However, on May 30, 2023, Lane accepted personal service and was personally served with the First Amended Order to Show Cause. (*See* **Exh. E**, First Amended Order to Show Cause). Despite still experiencing extreme mental anguish and post-traumatic stress disorder ("PTSD"), when Lane accepted the First Amended Order to Show Cause, she was still grieving the loss of her immediate family member. This profound emotional turmoil left her mentally and emotionally unable to think clearly, function effectively, or conduct proper research. (*See* **Exh. E**).
16. On June 28, 2023, to the best of her abilities, when Lane responded with her Objection to the First Amended Order to Show Cause on Petition for Reciprocal Discipline, she did not explicitly assert the Rule 17.05 limitation defense. This decision was influenced by Lane's ongoing direct communication with Assistant Disciplinary Counsel, Judith DeBerry. Ms. DeBerry was extremely compassionate and understood Lane's extreme mental anguish, when she provided Lane with the First Amended Order to Show Cause, with the defenses outline in the Texas Rule of Disciplinary Procedure ("TRDP") under Rule 9.04 (A)-(E). Consequently, Lane' response on June 28, 2023,

focused solely on the defenses outlined under Rule 9.04, while also asserting the “Ex Post Facto Law defense”.

17. Due to these circumstances mentioned above, Lane did not explicitly assert the Rule 17.05(a) limitation defense, because the “limitation defense” was not listed as one of the defenses under Tex. Rule D.P.R. 9.04. Nevertheless, Lane was ***not required to plead this limitation defense because Rule 17.06 “expressly prohibits”*** the tribunal from imposing discipline after four years, regardless of whether Lane had pleaded limitation as a defense.
18. The BODA, as the tribunal hearing Lane’s Reciprocal discipline matter, is obligated to follow the Rule 17.06. The Board members are obligated to follow the Texas Rules of Disciplinary Procedure starting with the **“Preamble”** (Tex. Rule of Disciplinary Procedure, updated September 1, 2023, p. 2). This Preamble, delegates specific responsibilities to the Board of Directors of the State Bar of Texas, which include the following:

The Supreme Court of Texas has the constitutional and statutory responsibility within the State *for the lawyer discipline and disability system, and has inherent power to maintain appropriate standards of professional conduct and to dispose of individual cases of lawyer discipline* and []. ***To carry out this responsibility, the Court promulgates the following rules for lawyer discipline and disability proceedings.*** Subject to the inherent power of the Supreme Court of Texas, the responsibility for administering and supervising lawyer discipline and disability is delegated to the Board of Directors of the State Bar of Texas. Authority to adopt rules of procedure and administration not inconsistent with these rules is vested in the Board. This delegation is specifically limited to the rights, powers, and authority herein expressly delegated. (Emphasis added). (*Id.* Tex. R. D. P.)

19. On June 28, 2023, Lane’s response included the Ex Post Facto law defense, citing the case ***Stogner v. California***, 539U.S. 607(2003). The case held that “Ex post facto laws, within the words and the intent of the prohibition include: first, every law that makes an action done before the passing of the law, and which was innocent when done, criminal; and punishes such action; second, every law that aggravates a crime, or makes it greater than it was, when committed; third, every law that changes the punishment, and inflicts a greater punishment, than the law annexed

to the crime, when committed; and fourth, every law that alters the legal rules of evidence, and receives less, or different, testimony, than the law required at the time of the commission of the offence, in order to convict the offender. All these, and similar laws, are manifestly unjust and oppressive.” See *Stogner v. California*, 539 U.S. 607, 609 (2003).

20. On October 27, 2023, reciprocal disciplinary action was called for a hearing before BODA, in violation of Rule 17.06, which explicitly prohibits the Board Members from pursuing any case after four years. Subsequently, on November 16, 2023, a Judgment of Partially Probated Suspension was issued by BODA. (See **Exh. F**, BODA Suspension Order).
21. Similar to Lane’s case, in *In re Delhomme v. Commission for Lawyer Discipline*, the Court held that “[i]n this case involving a disciplinary proceeding against a lawyer, Beverly Delhomme appeals the trial court’s judgment that she committed professional misconduct, asserting that the claim is time-barred under the pertinent statute of limitations. We conclude that the initial citizen’s grievance was timely filed, but because that complaint was dismissed, the state bar’s subsequently filed complaint and petition were subject to a limitations defense. Consequently, the state bar’s complaint is *time-barred*.³ We reverse and render judgment that this matter be dismissed. (Emphasis added). (Court of Appeals of Texas, Dallas, No. 05-02-01646-CV, decided August 19, 2003). However, Lane’s alleged “professional misconduct that occurred on April 18, June 23, and June 26, 2017, respectively,” unlike Ms. Beverly Delhomme’s case mentioned above, Lane’s was not dismissed. It proceeded contrary to R. 17.06.
22. Evidently, Lane’s entire professional life has been profoundly impacted by the three emails that sent in April and June of 2017, well beyond the four-year jurisdictional time limitation—in fact, six year and five months ago. Since January 2018, Lane has faced publicly humiliate not only in

³ Resolving the first issue as we do, we need not reach Delhomme’s other issues.

Law360 but also in other Law Journals, effectively destroying her reputation beyond repair. However, when we consider the aggregated six-month suspensions in each jurisdiction, the total exceeds over two years. These periods include the time when disciplinary actions were pending in each state bar. The excessive suspension encroaches upon Lane's rights to life, liberty, and the pursuit of happiness, particularly in terms of her ability to maintain her livelihood. Lane has been punished for the same incident more than double, triple or, even quadruple times, this ongoing punishment continues to this date, almost seven years later.

23. Notably, in BODA's Judgment dated November 16, 2023, Lane observes that one Board member, Bill Ogden, did not participate in the decision. However, two of the Board members dissented. These dissenting Board members are Honorable Justice W.C. Kirkendall, a Judge in 2nd 25th Judicial District since 2005-present, without providing an accompanying opinion; and the Commissioner⁴, Jason E. Boatright, a former Justice of the Texas Fifth Court of Appeal, Justice Emeritus, explicitly expressed his dissenting views along with a supporting opinion. (*See Exh. F*, BODA Judgment).

24. Lane firmly believes that these two Board members or Directors have adhered to the Texas Rules of Disciplinary Procedure, as outlined in the Preambles dated September 21, 2023. In light of this belief, Lane incorporates by reference and includes a verbatim copy of the complete dissenting opinion authored by Hon. Judge Jason Boatright, Justice Emeritus of the Fifth Court of Appeals: (*See Exh. F*, pp. 10-16, displayed in a different font).

⁴ Mr. Boatright has held senior legal positions in state government in both Dallas and Austin. He is a former justice of the Texas Fifth District Court of Appeals, the appellate court that reviews trial court decisions in Collin, Dallas, Grayson, Hunt, Kaufman and Rockwall counties. Previously, he was director of the general counsel section of the Texas Railroad Commission, the agency that regulates the Texas oil and gas industry. He was also director of the Texas Attorney General's opinions division, which issues official written legal opinions to government officials on the meaning of state laws and regulations. Mr. Boatright writes frequently on the Texas Constitution and the history of Texas laws and regulations.

“I. The statute of limitations prohibited us from disciplining Lane

In 2017, Lane sent three inappropriate emails to a federal magistrate judge in the Northern District of Illinois. In 2018, the Northern District suspended her for the emails. In 2023, the Illinois Supreme Court suspended her for them again. And now we have suspended her a third time.

We should not have done that. The Rules of Disciplinary Procedure prohibit us from imposing discipline for conduct that occurred more than four years earlier. We are far past the deadline here. We should have denied the request for reciprocal discipline and dismissed the case.

a. In attorney discipline cases, the statute of limitations restricts our power

Rule of Disciplinary Procedure 17.06(a) provides that no “attorney may be disciplined for Professional Misconduct that occurred more than four years before the date on which a Grievance alleging the Professional Misconduct” was received by the CDC. A Grievance is a “written statement, from whatever source, apparently intended to allege Professional Misconduct” received by the CDC. Tex. Rules Disciplinary P. R. 1.06(R), *reprinted in* Tex. Gov’t Code Ann., tit. 2, subtit. G, app. A-1. In Lane’s case, the CDC received a complaint from Illinois. It is a written statement alleging conduct that constitutes Professional Misconduct in Texas, so it is a Grievance. *Id.*

The copy of the Grievance that the CDC submitted to us was certified by the Illinois Supreme Court clerk’s office on February 14, 2023, which was over five years after Lane sent the emails. Because the CDC received the Grievance more than four years after the Professional Misconduct at issue, Rule 17.06 prohibits us from disciplining Lane.

b. Lane did not have to plead limitations as a defense

Conclusion of Law 2 notes that Lane did not plead limitations as an affirmative defense. However, she did not have to. Chapter 16 of the Civil Practice & Remedies Code requires a party

in a civil suit to bring a claim within a certain period of time, and Rule of Civil Procedure 94 requires the opposing party to plead limitations as a defense to that claim. But in attorney discipline cases, limitations does not require a party to begin a disciplinary proceeding within a period of time; it prohibits a tribunal from imposing discipline after a period of time. Tex. Rules Disciplinary P. R. 17.06(a). Unlike civil cases, where limitations imposes complementary obligations on the parties as adversaries, limitations in attorney disciplinary cases does not impose any obligation on the parties, it obliges us not to impose discipline after limitations expires.

Lane does not have the power, through her failure to plead a limitations defense, to authorize us to do what Rule 17.06(a) expressly forbids. Consequently, we do not have authority to impose discipline in this case, regardless of whether Lane pleaded limitations as a defense.

The Judgment relies on three authorities for concluding otherwise. First, it cites *Beard v. Commission for Lawyer Discipline*, 279 S.W.3d 895 (Tex. App.—Dallas 2009, pet. denied), which held that limitations must be pleaded as an affirmative defense in attorney discipline cases, or it is waived. But *Beard* was not a reciprocal discipline case. *Id.* at 899. Reciprocal discipline has its own rule regarding affirmative defenses, Rule of Disciplinary Procedure 9.04. That rule lists five affirmative defenses that are available to respondents in reciprocal discipline cases. A respondent has to plead and prove at least one of them to avoid the imposition of discipline. Limitations is not on the list. Tex. Rules Disciplinary P. R. 9.04. *Beard* did not address Rule 9.04 or the fact Rule 17.06 is a restriction on our power, not a pleading requirement.

The second authority the Judgment cites for the idea that limitations must be pleaded as an affirmative defense is Rule of Civil Procedure 94. That rule requires parties in civil cases to plead

limitations, but this is a reciprocal discipline case, not a civil case, so Rule of Civil Procedure 94 does not apply here; Rule of Disciplinary Procedure 9.04 does.

The third authority the Judgment cites is BODA Internal Procedural Rule 1.03, which provides that the Rules of Civil Procedure apply to disciplinary matters except as varied by our rules or to the extent practicable. Rule of Disciplinary Procedure 9.04 lists the defenses available to respondents in reciprocal discipline, so Rule of Civil Procedure 94 does not apply here.

The exclusion of limitations from the list of available defenses in Rule 9.04 is consistent with the fact that limitations in attorney discipline cases is a restriction on our power rather than a pleading requirement for the parties: a party cannot remove a prohibition on our use of power by failing to plead limitations, just as it cannot enforce a restriction against us by pleading limitations.

In reciprocal discipline cases, the statute of limitations is not a pleading requirement and limitations is not an available affirmative defense. Therefore, the Judgment was wrong to conclude that limitations must be pleaded or it is waived.

c. The Grievance did not go through classification, but it did not have to

In Conclusion of Law 3, the Judgment suggests that the “Grievance” mentioned in Rule 17.06 is not the sort of “information” that starts a reciprocal discipline case in Rule 9.01. After all, the CDC is required to examine each Grievance to determine whether it should be classified as an Inquiry, Complaint, or Discretionary Referral, and there is no room for that process in reciprocal discipline cases. Tex. Rules Disciplinary P. R. 2.10, 9.01. So it is natural to assume, as the Judgment does in Conclusion of Law 3, that the “information” the CDC receives in a reciprocal discipline case is not a “Grievance” that starts the statute of limitations.

However, Rule 17.06 lists exceptions to the general rule that a tribunal cannot discipline someone after four years. One of the exceptions is compulsory discipline. *Id.* R. 17.06(B). A compulsory discipline case does not begin when the CDC receives a Grievance. *Id.* R. 8.01. Nor is there any room in compulsory discipline for the grievance classification process. *Cf. Id.* R. 2.10.

If it were true that the statute of limitations does not apply to a case unless there is a Grievance that goes through the classification process, limitations could not apply to compulsory discipline cases. But because the statute of limitations expressly states that compulsory discipline is an exception, limitations would have applied to compulsory discipline cases absent the exception. This means that the statute of limitations applies to disciplinary actions in which proceedings are not commenced with a Grievance that goes through the classification process.

Reciprocal discipline cases are not on the list of exceptions to the statute of limitations in Rule 17.06, so the statute of limitations applies to reciprocal discipline.

The Judgment interprets Rule 17.06 without giving effect to exceptions like compulsory discipline. It cannot do that; it has to give effect to every provision in the Rules of Disciplinary Procedure. *In re Caballero*, 272 S.W.3d 595, 599-600 (Tex. 2008). Because the Judgment does not give effect to the exceptions in Rule 17.06—or to the rule’s prohibition on our power to impose discipline after four years—the Judgment’s interpretation of Rule 17.06 is wrong.

d. Professional Misconduct occurred in 2017, not 2023

Professional Misconduct is defined as “conduct that occurs in another jurisdiction, including before any federal court or federal agency, and results in the disciplining of an attorney in that other jurisdiction.” Tex. Rules Disciplinary P. R. 1.06(CC)(2). Conclusion of Law 4 in the Judgment says this language means that Lane did not commit Professional Misconduct until January 17,

2023, when she was disciplined in Illinois. But Rule 1.06 defines Professional Misconduct in terms of the *conduct* that results in discipline, not the discipline itself.

Lane sent the emails at issue in April and June of 2017. That conduct resulted in discipline. Thus, under Rule 1.06, the Professional Misconduct occurred in 2017.

e. Our conclusions of law are not Supreme Court precedents

Conclusion of Law 5 discusses our *Bruno* decision from 2021. In that case, we made a conclusion of law in which we noted that we had previously denied Bruno’s motion to dismiss. *In re Bruno*, BODA Case No. 65864, aff’d, 21-0964 (Tex. Sep. 2, 2022). In his motion to dismiss, *Bruno* had argued that the statute of limitations in Rule 17.06 barred discipline in his case.

Bruno appealed our judgment—not the denial of his motion to dismiss, which had already happened and which our judgment merely noted, but the entirety of our decision. In the Supreme Court, *Bruno* raised seven issues, including one about limitations. The conduct at issue in his case had occurred more than seven years earlier, so he argued that BODA’s decision to impose discipline violated the “spirit and language” of Rule 17.06. The Court affirmed our decision.

Conclusion of Law 5 says we “held” in *Bruno* that reciprocal discipline was not time-barred under Rule 17.06. That is not quite what we did in *Bruno*—we merely noted that we had previously announced our decision to deny *Bruno*’s motion to dismiss under Rule 17.06—but leave that to the side. Notice we are implying that our conclusion of law about limitations in *Bruno* has binding precedential value because the Supreme Court affirmed our decision in that case.

I fully accept that the Supreme Court’s decision to affirm our judgment in a particular case commands us to resolve analogous cases the same way. But I do not think the Court’s decision to

affirm is meant to give precedential authority to the conclusions of law we make in support of the judgment, particularly in a case like *Bruno* with multiple independent grounds for our decision.

To be clear, I am not saying the Supreme Court *could* not give our conclusions of law binding effect as legal precedents; rather, I suspect the Court *does* not do that.

When the Supreme Court affirms one of our decisions, I think it is resolving a particular case, not adopting each of our conclusions of law as a rule of decision with binding force in future cases. Otherwise, our conclusions of law would constitute a new body of law—*body law*—that would not only bind us, but district and appellate courts too. That is not what our conclusions of law do. They are just fragments of legal reasoning that explain our judgment in a case.

We can correct our prior errors and we should have done so here. The rules did not require Lane to plead limitations as an affirmative defense; they prohibited us from imposing discipline after four years. We should have obeyed the rules and dismissed this case.

II. Disciplining Lane was a grave injustice

In her response to the petition for reciprocal discipline, Lane pleaded that identical discipline would be a grave injustice. No Texas judicial decision has defined the term “grave injustice,” but it seems to refer to a decision that would be particularly inequitable given the facts and law in a particular case. *See, e.g., Caldwell v. Barnes*, 975 S.W.2d 535, 539 (Tex. 1998).

When the government takes away someone’s ability to earn a living, as we have done here, it can destroy a person’s life. That is a grave matter. And now Lane has been suspended three times for sending three emails six years ago a thousand miles away from here. That is particularly inequitable. *See id.* The worst part of it is the triple jeopardy, but the fact that it happened so long

ago and so far away from here is bad too. And yes, Lane deserved to be punished for her emails, but she had already been punished for them—twice. And now we have punished her again.

Because destroying someone’s livelihood is a grave matter, and because doing so a third time for just one thing is unjust, our decision to suspend Lane was a grave injustice.

Under Rule 9.04, we have to enter orders that we deem necessary and appropriate in reciprocal discipline cases. Even if discipline were not barred by limitations, an order denying the CDC’s request for reciprocal discipline would have been necessary and appropriate to prevent a grave injustice in Lane’s case.”

(END OF DISSENTING OPINION OF JUSTICE BOATRIGHT). (See **Exh. F**, pp. 10-16).

25. If BODA does not vacate the Judgment of November 16, 2023, *in the alternative*, Lane respectfully requests that BODA’s imposed discipline should coincide, run concurrently, *non pro tunc*, because Lane notified the CDC of the Illinois suspension order. (See **Exh. A**, Lane’s notifications with Chief Disciplinary Counsel, Seana Willing).

26. Furthermore, Lane has ceased to practice law on or before February 7 through August 6, 2023. Lane argues that her Illinois suspension should run concurrently and/or *nunc pro tunc* with the Texas suspension. *In re Kristal L. Peters’* matter, Ms. Peters suggests that any disciplinary sanction be imposed upon her *nunc pro tunc*, as disciplinary authorities in other jurisdictions have found appropriate. “An attorney sanctioned by the disciplinary authorities of another jurisdiction should ordinarily serve his or her reciprocal District of Columbia suspension concurrently with the suspension imposed in the original disciplining jurisdiction.” *In re Soininen*, 853 A.2d 712, 728 (D.C. 2004) (quoting *In re Goldberg*, 460 A.2d 982, 985 (D.C. 1983)). However, “*if the attorney unreasonably delays in notifying Disciplinary Counsel* that he or she has been disciplined in another state, or if the attorney engages in the practice of law in the District of

Columbia while suspended elsewhere, then a more severe sanction may be justified.” (Emphasis added). *In re Goldberg*, 460 A.2d at 985. (D.C. 1983). In reciprocal discipline cases, we impose a suspension or disbarment *nunc pro tunc* when the affected attorney files an affidavit stating that he has not practiced law in the District of Columbia subsequent to the date to which the *nunc pro tunc* suspension retroactively runs. See *In re Goldberg*, 460 A.2d 982, 985 (D.C. 1983) (when an attorney promptly notifies Bar Counsel of disciplinary proceedings in another jurisdiction and voluntarily stops practicing in the District of Columbia during the period of suspension in the original jurisdiction, *concurrent suspension will be the norm*); District of Columbia Court of Appeals Board on Professional Responsibility Rule 8.5(b). The reason for the Board's recommending two different dates for the two suspensions to begin was its view that the reciprocal disciplinary actions should operate *nunc pro tunc* to, but not earlier than, *the beginning date of the discipline in the foreign jurisdiction*. Respondent filed an affidavit pursuant to *In re Goldberg* stating that he had not practiced law in the District of Columbia subsequent to August 11, 1988. (*Emphasis added*).

Similarly, on September 25, 2023, Northern District of Texas imposed reciprocal discipline, suspending Lane from the bar of its Court and stated:

“We find that Lane’s membership in the bar of this Court should be suspended, as it has been in Illinois, for 6 months. “[W]hen a district court learns that a member of its bar has been subject to discipline by another jurisdiction, the identical discipline is typically imposed.” *In re Smith*, 123 F.Supp.2d 351, 355 (N.D. Tex. 2000) (three-judge panel) (per curiam) (quoting *In re Hoare*, 155 F.3d 937, 940 (8th Cir. 1998)), aff’d, 275 F.3d 42 (5th Cir. 2001) (table) (per curiam).

Public records indicate that Lane’s suspension began February 7, 2023, and ended August 7, 2023. [] During that period of time, the only matter this panel could find in this Court involving Lane is this disciplinary matter. In such circumstances, our Court has previously concluded that no further period is needed for reciprocal discipline (because the disciplined lawyer sat out from this Court for the same period the lawyer sat out of the other disciplining court). *In re Klayman*, No. 3:20-MC-043B, Doc. 26, Dec. 16, 2020. The remaining question is what to do about the Illinois 6-month period of supervision. It is not a viable option for the Court to keep Illinois supervision in place in this Court. That supervision requires Lane to practice under the supervision

of a licensed attorney. That supervising attorney is presumably licensed in Illinois and not the Northern District of Texas. The Courts options are therefore either imposing no further supervision in this Court or establishing a separate supervision framework in this Court. The Court concludes that the former approach is appropriate, and no further supervision is needed here. Over one month has elapsed since Lane was reinstated under supervision. Her de facto suspension in Texas has amounted to over 7 months—1 month over the original suspension. The Court concludes this additional 1 month of de facto suspension is sufficient to equate to a longer period of supervision. ***Accordingly, we impose reciprocal discipline, deem the suspension to have been served, and consider this matter CLOSED.***

(Emphasis added) (*See Exh. G, Order from NDTX [DE11], Exh. A, Lane’ reporting to CDC, on 2/3/23*).

27. In the alternative, BODA should be concurrent with the original suspension in Illinois, or ***non pro tunc*** (effective from the original date of the Illinois suspension order-February 7, 2023). After notifying Northern District of Texas (“NDTX”) of the order suspending Lane from the practice of law in Illinois, effective February 7, 2023. The NDTX issued an Order, [DE11] which imposed reciprocal discipline, specifying that it should be concurrent and deeming the suspension to have been served, thus closing the matter. (*See Exh. G [DE11], Order of United States District Court Northern District Texas – Dallas Division, imposing reciprocal discipline, concurrent, deemed suspension to have been served, and consider this matter CLOSED*).
28. For reasons stated above, Lane requests that the reciprocal discipline imposed by BODA shall also be concurrent, ***non pro tunc***, with the original jurisdiction, because Lane did not practice law in Texas from on or before January 2023 until September 15, 2023, as she was dealing with the loss of her family members in Turkey. On September 15, 2023, after she was automatically reinstated in Illinois, Lane filed her **first** case: the Original Petition for Divorce in Fort Bend County, Texas. (*See Exh. H, redacted Case, showing filing date of 9/15/2023*).
29. Accordingly, per ***In Re Goldberg*** standard, Lane has timely notified CDC on February 3, 2023 of her suspension. Lane has ceased to practice law since on or before February 7, 2023, and filed her affidavit of compliance with Illinois and Michigan disciplinary agencies. Additionally, if the

purpose of discipline is not punishment, but to protect the public, the courts, and the legal profession, accordingly, Lane's alleged misconduct was not for unethical reason.

30. Furthermore, prior to the discipline matter before NDIL, was licensed to practice in three States: Michigan, Illinois, and Texas, respectively. At the time of the Illinois suspension order, Lane was no longer an active member of the State of Michigan⁵, as she held active licenses in Illinois and Texas. Lane's primary practice area was immigration law, allowing her to represent clients before the Board of Immigration Appeals (BIA), the Immigration Courts, and the Department of Homeland Security (DHS) ("three authorities").
31. Consequently, these consecutive suspensions⁶, when aggregated, have resulted in a total suspension period exceeding two years. As noted by the Honorable Justice Emeritus and the Board member, Jason Boatright, in his dissent above (II. Disciplining Lane was a grave injustice), this extended suspension unequivocally constitutes a grave injustice. Additionally, the pending disciplinary actions, *inter alia*, have the adverse effect of prevent Lane from practicing law before the three authorities⁷. This not only deprives Lane of her livelihood but also severely impairs her ability to earn a gainful living.
32. Irreparable harm will be incurred by the time this matter is heard before the Supreme Court of Texas, as the six-month suspension period will have already been completed, rendering the hearing moot. Considering the serious consequences that Lane faces due to the suspension imposed by BODA, she respectfully requests BODA to grant this Emergency Motion to Vacate, or impose identical discipline as imposed by NDTX, *non pro tunc*, or in the alternative to stay Judgment to prevent the suspension from taking effect until the jurisdictional issue before the Supreme Court

⁵ After March 2020, Covid-19 related financial issue, Lane was already suspended in the State of Michigan for non-payment of bar dues.

⁶ Adds to the duration of Lane's actual 6-months suspension.

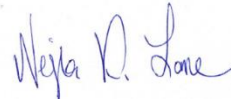
⁷ 8 CFR §1003.107, Reinstatement upon expiration of suspension(s).

of Texas is fully adjudicated. Lane emphasizes that disposing of this matter before the need for briefing it before the Supreme Court of Texas to prevent the unnecessary expenditure of Court's time and resources and it will also prevent Lane from enduring any further grave injustice, undue financial, and emotional hardship.

WHEREFORE Lane prays that:

(A). That this BOARD "BODA" grant this Emergency Motion to Vacate the November 16, 2023, BODA Judgment; or, **(B).** In the alternative, impose identical discipline, *non pro tunc*, as the Northern District of Texas, Dallas Division; or, **(C).** In another alternative, that this BOARD Stay this Judgment until the resolution of this pending matter before the Supreme Court of Texas, which will serve to prevent the irreparable harm that would otherwise result from the imposition of suspension while the jurisdictional issue is being addressed; and **(D).** Such other relief this Board (BODA) deems just and equitable.

Respectfully Submitted,



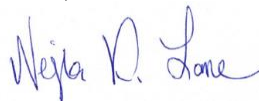
Respondent Attorney Lane

Nejla K. Lane, Esq. | State Bar Card No. 24095557
8004 Niederwald Strasse
Kyle, Texas 78640
Phone: (512)216-7500 | Fax: (866)444-4024
Nejla@LaneKeyfli.com

ATTORNEY DECLARATION

My name is NEJLA KASSANDRA KEYFLI LANE, my date of birth is FEBRUARY 1964, and my address is 8004 Niederwald Strasse, Kyle, Texas 78640 and HAYS COUNTY. Pursuant to §132.001. I declare under penalty of perjury that the foregoing Attorney Response is true and correct. Executed in HAYS County, State of TEXAS, on the 4th day of December 2023.

Nejla Lane, Declarant



Attorney Nejla Lane

CERTIFICATE OF SERVICE

I hereby certify that that on December 4, 2023, the service was accomplished by emailing a true and correct of the Motion to Vacate, addressed to the Board of Disciplinary Appeals, in the matter of Nejla Kassandra Keyfli Lane, to the following information confirms the details of the service:

Recipients:

Judith Gres DeBerry, Attorney for Petitioner

Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel

State Bar of Texas

Email Address: Judith.DeBerry@texasbar.com

Email Address: filing@txboda.org

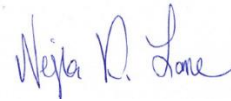
Jenny Hodgkins

Via E-Mail: Jenny.Hodgkins@texasbar.com

Executive Assistant Board of Disciplinary Appeals (BODA)

I affirm that the above-mentioned information is true, accurate and correct to the best of my knowledge.

Nejla Kassandra Keyfli Lane



Respondent Nejla Lane

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

IN THE MATTER OF
NEJLA KASSANDRA KEYFLI LANE,
STATE BAR CARD NO. 24095557

§
§
§
§
§

TX CAUSE NO. 67623

EMERGENCY MOTION

=====

**EMERGENCY MOTION TO RECONSIDER BODA’S NOVEMBER 16, 2023,
SUSPENSION ORDER**

=====

EXHIBITS: TABLE OF CONTENTS

<i>Exhibit No.:</i>	<i>Content:</i>
<u>Exh. A</u>	Combined emails sent/received by the Chief Disciplinary Counsel, Seana Willing, on July 29, 2020 P. 2, 3, 4, 5
<u>Exh. B-1</u>	Citation issued from United States District Court for the Northern District of Illinois “NDIL” on November 14, 2017 P. 2
<u>Exh. B-2</u>	Order of Suspension from NDIL P. 3
<u>Exh. B-3</u>	Orders of reinstatements P. 3
<u>Exh. C</u>	Illinois Complaint, filed by Illinois Attorney Registration and Disciplinary Commission “ARDC” P. 3
<u>Exh. D</u>	Mandate of Illinois Supreme Court, on January 17, 2023, affirming Review Board’s Report and Recommendation to suspend Lane effective on February 7, 2023 P. 3
<u>Exh. E</u>	First Amended Order to Show Cause P. 5
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<u>Exh. G</u>	Docket Entry [DE11] from Norther District of Texas, Dallas P. 17
<u>Exh. H</u>	Lane first filing in Fort Bend County Texas 9/15/2023 P. 17



FW: CDRR Comment: I have been suspended from federal bar for six month

1 message

Seana Willing <Seana.Willing@texasbar.com>
To: "nejla@lanekeyfli.com" <nejla@lanekeyfli.com>

Wed, Jul 29, 2020 at 2:27 PM

Ms. Lane,

Would you clarify if you are trying to report discipline from the Illinois State Bar or the suspension from federal court to the State Bar of Texas Chief Disciplinary Counsel's Office? Under current rules (TDRPC 8.03), we would only require you to report discipline from a state regulatory agency (such as the Illinois State Bar) not discipline from a federal court or agency. There is a proposed rule that is subject to public comments through the website you left your comment on; it is not the current rule and does not impact you in connection with the federal suspension.

Thank you!

Seana Willing

Chief Disciplinary Counsel

State Bar of Texas

(512) 427-1350

From: nejla@lanekeyfli.com <nejla@lanekeyfli.com>

Sent: Wednesday, July 29, 2020 1:07 PM

To: cdr <cdr@TEXASBAR.COM>

Subject: CDRR Comment: I have been suspended from federal bar for six month

*** State Bar of Texas External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact	
First Name	Nejla
Last Name	Lane
Email	nejla@lanekeyfli.com
Member	Yes
Barcard	24095557

Feedback	
Subject	I have been suspended from federal bar for six month

Comments
<p>To Whom It May Concern: First of all I like to apologize for not writing to you sooner. I am a non local attorney since 2015. In June of 2017, during a bitter divorce and federal wiretap litigation. I the attorney for the Plaintiff lost my temper and complaint to the presiding judge (not exparte) about her ruling. She told me not send her anymore email regarding the merits of the order. I sent her another email asking them to correct an order before publishing it in the efilng terminal for everyone to see. This conduct was cited and I was suspended as a result of sending said emails to the judge. I was told to take anger management course prior to being reinstated. I have done this and have been reinstated at the Federal level but this is currently being handled in the state bar of Illinois. ARDC. I need to send this citations and reinstatement to Texas State Bar but I don't know how - can somebody please call me or email me? Nejla Lane 512-216-7500</p>



Atty Nejla Lane atty#24095557 order to suspend her 6 months

1 message

Nejla Lane <nejla@lanekeyfli.com>

Fri, Feb 3, 2023 at 1:39 PM

To: cdcinfo@texasbar.com, Seana Willing <Seana.Willing@texasbar.com>

Dear Sir/Madam:

Please see attached Order from the Illinois Supreme Court to suspend me effective 2/7/2023.

Illinois Supreme Court Denied the Petition for Leave to File Exception.

I believe the suspension is unconstitutional. I have defenses.

I have attached the Petition for Leave to File Exceptions to the recommendation to be suspended, but it was DENIED.

See attached, the Mandate for 6 months suspension, the proposed, sought relief and the filed exception.

Please let me know the next step.

Regards,

~Nejla K. Lane, Esq.



Av. Nejla K. Lane, Esq. - Founding President

6041 N. Cicero Ave. Ste. 1/2(half) Chicago, IL 60646

(773) 777 4440 | F: (866) 444 4024 | cell: (773) 621-1389

nejla@LaneKeyfli.com | www.KeyfliLaw.com

CIVIL | CRIMINAL | IMMIGRATION
**ILLINOIS | TEXAS | ALL FEDERAL COURT &
THE SUPREME COURT OF THE UNITED STATES OF AMERICA**

CONFIDENTIALITY NOTICE -

The information contained in this email communication is confidential. And may also be subject to the attorney-client privilege, or may constitute privileged information. It is intended only for the use of the individual to whom it is addressed. If you are not the intended recipient, you are hereby notified that its use and dissemination, or distribution, or copying, is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone or forward the original message back to us. Unauthorized interception of this email is a violation of federal criminal law.

CIRCULAR 230 NOTICE: In accordance with current Treasury Regulations, please note that any tax advice given in this message (and in any attachments) is not intended or written to be used, and cannot be used by any person, for the purpose of (i) avoiding tax penalties or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this message.

✓✓ Sender notified by
Mailtrack

4 attachments

20230117- Suspension NKL MR Mandate.pdf
177K

Petitioner's efiled copy of proposed exception for filing.pdf
241K

20221027 - 1- PLFE - Volume 1 for Printing job.pdf
1478K

20221017 - 2- PLFE - Volume 2 for printing.pdf
6158K

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In the Matter of)	
)	No. 17 D 43
Nejla Cassandra Lane)	
)	(Before the Executive Committee)
An Attorney)	

CITATION

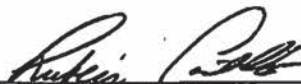
It appearing that the following facts are true:

1. Nejla Cassandra Lane was admitted to practice before the general bar of this Court on January 11, 2007 and before the trial bar of this Court on August 27, 2014;
2. On March 30, 2017, Ms. Lane renewed her trial bar membership;
3. On October 31, 2017, the Honorable Sheila Finnegan notified the Executive Committee of the attached memorandum and exhibits outlining Ms. Lane's correspondence and actions before the Court while she was representing the plaintiff in case number 14 C 8431 *Barry Epstein v. Paula Epstein*;
4. Beginning on April 17, 2017, Ms. Lane sent emails to Magistrate Judge Finnegan's Proposed Order email account to complain about rulings. Despite being informed in writing by Magistrate Judge Finnegan that the communication was improper, Ms. Lane continued sending lengthy emails, using unprofessional and inappropriate language;
5. Pursuant to the American Bar Association Model Rules of Professional Conduct, Rule 3.5(d), a lawyer shall not engage in conduct intended to disrupt a tribunal;
6. Pursuant to the American Bar Association Model Rules of Professional Conduct, Rule 8.4(d), it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;
7. The Executive Committee has reviewed Magistrate Judge Finnegan's report and exhibits, therefore

IT IS ORDERED that, pursuant to Rule 83.28(c) of the Local Rules of this Court, Nejla Kassandra Lane inform this Court, within twenty-eight (28) days of receipt of this Citation, of any claim by her, predicated upon the grounds set forth in Local Rule 83.28, why the imposition of discipline by this Court, due to Ms. Lane's actions before Magistrate Judge Finnegan, would be unwarranted and the reasons therefore.

ENTER:

FOR THE EXECUTIVE COMMITTEE



Chief Judge

DATED: November 17, 2017

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

In the Matter of the Discipline of)
) No. 18 MC 40
Nejla Kassandra Lane,)
) (Before the Executive Committee)
an attorney)

ORDER

This Order finds that attorney Nejla Kassandra Lane has committed misconduct in violation of Rules of Professional Conduct 3.5(d) and 8.4(d), which are incorporated through Local Rule 83.50, by repeatedly acting in an unprofessional, disrespectful, and threatening manner, including sending inappropriate email messages to a judge's Proposed Order email account. This Order imposes discipline on Ms. Lane for those violations.

Ms. Lane has been a member of the General Bar of this Court since January 11, 2007, and became a member of the Trial Bar of this Court on August 27, 2014. Ms. Lane recently appeared in 14 C 8431, *Barry Epstein v. Paula Epstein*, before Magistrate Judge Sheila Finnegan.

On October 31, 2017, Judge Finnegan submitted a complaint to the Executive Committee. According to the complaint, beginning on April 17, 2017, Ms. Lane sent emails to Judge Finnegan's Proposed Order email account to complain about rulings. For example, Ms. Lane stated in her final email on June 26, 2017 (also sent to Judge Finnegan's law clerk, Allison Engel): "The more I read this order, again and again, I am sick to my stomach, and I get filled with anger and disgust over this 'fraudulent' order by this court!" Ms. Lane concluded: "You both, Allison and J. Finnegan, have done me wrong, and depicted me very poorly in your public order. How dare you do that to me?! What goes around comes around, justice will be done at the end! I wonder how you people sleep at night? Including Scott [Schaefers, Paula Epstein's attorney]! Thank you Allison! Great job!"

Despite being advised in writing by Judge Finnegan that the communication was improper, Ms. Lane continued sending lengthy emails, using unprofessional, inappropriate, and threatening language during the course of the proceedings in *Epstein*. Some of the misconduct included referring to Judge Finnegan's orders as "outrageous" and stating that, "Judges are helping the criminal to escape

punishment by forcing to shorten all deadlines!!!”

On November 14, 2017, on behalf of the Executive Committee, the Clerk of Court sent a Citation to Ms. Lane along with a copy of Judge Finnegan’s complaint, directing her to respond. In her response, Ms. Lane apologized to Judge Finnegan for sending the “emotionally charged emails that now appear to have been inappropriate . . .” Ms. Lane attempted to explain her conduct by asserting that she was “under extreme pressure to ensure that justice was served” and that she harbors “deep concerns about Judge Finnegan’s impartiality.” While Ms. Lane apologized, she continued to support her decision to use unprofessional and inappropriate language.

In light of the record, the Executive Committee finds that Ms. Lane violated Rule of Professional Conduct 3.5(d) by “engag[ing] in conduct intended to disrupt a tribunal.” Ms. Lane also violated Rule 8.4 by “engag[ing] in conduct that is prejudicial to the administration of justice.” As described above, Ms. Lane’s reactions to the judge’s decisions prejudiced the administration of justice. Due to the misconduct, the Executive Committee finds that Ms. Lane intended to disrupt the proceedings.

On the question of what discipline to impose, the nature of the violation and the repeated instances of disruption weigh in favor of a serious disciplinary sanction. In mitigation, Ms. Lane has apologized to Judge Finnegan. On balance, the Executive Committee orders that


- a. Nejlá Kassandra Lane is suspended from the General Bar of this Court for six months. No sooner than six months from the date of this Order, Ms. Lane may petition the Executive Committee for reinstatement to the General Bar. Not only must the petition meet Local Rule 83.30(d)’s reinstatement standard and burden of proof, the petition must be supported by records demonstrating that Ms. Lane has sought professional assistance to comply with the Rules of Professional Conduct and to deal effectively with her management of anger.
- b. Nejlá Kassandra Lane is suspended from the Trial Bar for one year. No sooner than 12 months from the date of this Order, Ms. Lane may petition the Executive Committee for reinstatement to the Trial Bar. The Executive Committee finds that the misconduct committed shows that Ms. Lane is not able to serve as lead counsel during a trial for at least the one-year period. To lift the suspension, she must meet Local Rule 83.30(d)’s reinstatement standard and burden of proof at the end

of the one-year period. and must submit records demonstrating that she has sought professional assistance

- c. Within 21 calendar days of the docketing of this order, Nejla Cassandra Lane shall notify by certified mail, return receipt requested, all clients to whom she is responsible for pending matters before this Court of the fact that she cannot continue to represent them during the suspension from the General Bar.
- d. Any login credentials issued to Nejla Cassandra Lane for access to the electronic filing system of this Court shall be disabled until she is reinstated to active status in the general bar of this Court.
- e. Within 35 days of the entry of this Order, Nejla Cassandra Lane shall file with the Assistant to the Clerk of the Court a declaration indicating her address to which subsequent communications may be addressed.
- f. Nejla Cassandra Lane shall keep and maintain records evidencing her compliance with this order so that proof of compliance will be available if needed for any subsequent proceeding instituted by or against her.
- g. Any further offensive behavior may lead to further disciplinary action, including, but not limited to, disbarment.
- h. The Clerk is directed to enter this Order into the public record.
- i. The Clerk is directed to send a copy of this order and all relevant documentation to the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois.

ENTER:

FOR THE EXECUTIVE COMMITTEE



Chief Judge

DATED: January 22, 2018

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

In the Matter of)
) 17 D 43
Nejla K. Lane)
) (Before the Executive Committee)
An Attorney)

ORDER

Upon consideration of the motion of Nejla K. Lane for reinstatement to the general bar of this Court and it appearing that there is good cause shown, and the Executive Committee being fully advised in the premises;

IT IS ORDERED that Nejla K. Lane’s motion for reinstatement to the general bar of this Court is granted.

ENTER:
FOR THE EXECUTIVE COMMITTEE



Chief Judge

DATED: August 7, 2018

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

In the Matter of)
) 17 D 43
Nejla K. Lane)
) (Before the Executive Committee)
An Attorney)

ORDER

Upon consideration of the motion of Nejla K. Lane to be reinstated to active status in the trial bar of this Court, and it appearing that there is good cause shown, and the Executive Committee being fully advised in the premises;

IT IS ORDERED that Nejla K. Lane's motion for reinstatement to active status in the trial bar of this Court is granted.

ENTER:

FOR THE EXECUTIVE COMMITTEE



Chief Judge

DATED: June 11, 2019

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:

NEJLA K. LANE,
Attorney-Respondent
No. 6290003.

Commission No. 2019PR00074

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Christopher Heredia, pursuant to Supreme Court Rule 753(b), complains of Respondent, Nejla Cassandra Lane, who was licensed to practice law in Illinois on November 6, 2006, and alleges that Respondent has engaged in the following conduct which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

(Conduct intended to disrupt a tribunal, false or reckless statements about a judge, and conduct prejudicial to the administration of justice)

1. At all times alleged in this complaint, Respondent owned and operated the law firm of Lane Legal Services, P.C., later known as the law firm of Lane Keyfli Law, Ltd. (collectively, "Respondent's law firm").
2. At all times alleged in this complaint, Respondent maintained and used the email addresses of nejlane@gmail.com and nejla@lanekeyfli.com.
3. On May 23, 2011, Paula Epstein ("Paula") filed a petition in the Circuit Court of Cook County seeking to dissolve her marriage to Barry Epstein ("Epstein"). The matter was captioned *Paula Epstein v. Barry Epstein*, and was assigned case number 11 D 5245.

4. In or around August 2012, Respondent and Epstein agreed that Respondent would represent Epstein in the dissolution of marriage matter against Paula pending in the Circuit Court of Cook County. The parties agreed that Respondent's legal fee for her representation would be an hourly fee agreement, with a \$10,000 security retainer, to be paid by Epstein at the outset of representation, and an hourly rate of \$300 per hour for office work, and \$350 per hour for time and work out of the office in court.

5. In or around October 2014, while the domestic relations matter was still pending, Respondent and Epstein agreed that Respondent would also represent Epstein in a federal action related to the dissolution of marriage matter, alleging multiple violations of the federal Wiretap Act under Title 18, Section 2520, of the United States Code. The parties agreed that Respondent's legal fee for her representation in relation to this federal action would be an hourly fee agreement, at an hourly rate of \$400 per hour for office work, and \$450 per hour for time and work out of the office in court.

6. On October 27, 2014, Respondent filed a complaint on Epstein's behalf against Paula and Jay Frank ("Frank"), Paula's attorney in the domestic relations matter, in the United States District Court for the Northern District of Illinois, Eastern Division. The matter was captioned *Barry Epstein v. Paula Epstein and Jay Frank*, case number 1:14-cv-08431, and assigned to Hon. Thomas M. Durkin ("Judge Durkin"), and Magistrate Judge Sheila Finnegan ("Judge Finnegan").

7. In relation to case number 14-cv-08431, attorney Scott Schaefers ("Schaefers") represented Paula, and attorney Norman Barry ("Barry") represented Frank, who was later dismissed as a co-defendant to the complaint.

8. In the complaint, described in paragraph 6, above, Epstein alleged that Paula and Frank violated the federal Wiretap Act by intercepting, accessing, downloading, and printing Epstein's private emails, without Epstein's authorization, in furtherance of Paula's interests in the then-pending state dissolution of marriage matter, described in paragraph 3, above.

9. During the pendency of case number 14-cv-08431, Judge Finnegan maintained an email account, known as the proposed order email account ("proposed order account"), with an email address of Proposed_Order_Finnegan@ilnd.uscourts.gov. Judge Finnegan maintained the proposed order account to allow the parties to communicate with the court regarding the submission of proposed orders, pre-settlement conference letters, scheduling issues, and other logistical matters. In maintaining the proposed order account, Judge Finnegan sent and received emails from the proposed order account, which was monitored by and accessible only to Judge Finnegan and members of her staff. Under Judge Finnegan's written case procedures and standing orders, the proposed order account was maintained and used, when appropriate, in all matters assigned to her docket.

10. April 17, 2017, Respondent filed an emergency motion on Epstein's behalf in case number 14-cv-08431 seeking an extension of time to complete Paula's deposition.

11. On April 18, 2017, Judge Finnegan entered an order in case number 14-cv-08431 denying Respondent's emergency motion, referred to in paragraph 10, above.

12. On that same date, in response to an email Judge Finnegan sent to the parties regarding the denial of Respondent's emergency motion, Respondent wrote an email addressed to Judge Finnegan, and sent it to the proposed order account, Schaefer and Scott White ("White"), Judge Finnegan's courtroom deputy, via their individual work email addresses.

13. In her April 18, 2019 email to Judge Finnegan, referred to in paragraph 12, above,

Respondent stated, in part, the following:

“Thank you for this quick response, Judge Finnegan. BUT ... Today in court no matter what I said to you, you had already made up your mind...”

* * *

“...yet since the beginning you never seem to doubt anything he says, as you appear to doubt me.”

* * *

“Still, I stated to you in open court that ‘I don’t want to be hated’ for doing my job, but it sure seems that way, as I never get a break, Scott [Schaefer] is the lucky guy who senses same as he can just pick up the phone to call you knowing he will get his way...or for so-called the Posner Defense.”

* * *

“Still, it’s not fair that my client (and I) is [sic] being treated badly for suing his wife/ex wife, and everyone is protecting Paula - why? Since when does ‘two’ wrongs make a ‘right’? How am I to prove my case if I am not given a fair chance to do my work, properly?”

14. On April 19, 2017, Judge Finnegan responded by email to Respondent’s April 18, 2017 email, described to in paragraphs 12 and 13, above. Judge Finnegan, in her April 19, 2017 email sent to Respondent, Schaefer, and White, admonished Respondent for Respondent’s use of the proposed order account, and stated that Respondent was prohibited from sending any emails to the proposed order account in the future in order to argue the merits of a motion, share feelings about past rulings, or discuss the case generally. Judge Finnegan also stated that in the event that Respondent sent additional emails similar to her April 18, 2017 email, she would enter an order barring all emails to the proposed order account without leave of the court.

15. On June 15, 2017, Respondent filed a motion on Epstein's behalf in case number 14-cv-08431 seeking an extension of time to complete discovery and for leave to depose Frank, who had already been dismissed as a co-defendant.

16. On June 23, 2017, Judge Finnegan entered an order in case number 14-cv-08431 denying Respondent's motion, described in paragraph 15, above. On the same date, Allison Engel ("Engel"), Judge Finnegan's law clerk, emailed a copy of Judge Finnegan's June 23, 2017 order to Respondent and Schaefer.

17. On that same date, in response to Engel's June 23, 2017 email, described in paragraph 16, above, Respondent wrote an email addressed to Engel, and sent it to the proposed order account, Engel, and Schaefer, via their individual work email addresses.

18. In her June 23, 2017 email to Engel, referred to in paragraph 17, above, Respondent stated, in part, the following:

"I'm very upset, I do not agree with Judge Finnegan's order and I will depose the former co-defendant, Jay Frank, despite the fact this court is protecting him and his co-conspirer! Scott Schaefer had no standing to challenge my subpoena to depose Jay Frank! I'm entitled to depose him! And I will call him to testify [sic] at trial to show the world what a corrupt lawyer he is! And the judges who protect this criminal by squeezing the discovery deadlines!!! No no no! This is outrageous order of Judge Finnegan and it will be addressed accordingly! Judges are helping the criminal to escape punishment by forcing to shorten all deadlines!!! This Judge is violating my client's rights first by the truncated discovery deadlines and now helping Plaintiff to escape punishment for wrongs she committed! I'm outraged by the miscarriage of justice and judges are in this to delay and deny justice for my client! I'm sickened by this Order!!!"

19. On June 26, 2017, also in response to Engel's June 23, 2017 email, Respondent wrote another email addressed to Engel, and sent it to the proposed order account, Engel, and Schaefer, via their individual work email addresses.

20. In her June 26, 2017 email to Engel, referred to in paragraph 19, above, Respondent described what she perceived to be errors in Judge Finnegan's June 23, 2017 order, characterized the order as "flawed", accused Judge Finnegan of engaging in *ex parte* communications, and stated, in part, the following:

"Plaintiff's motion is not late just because this court decided not to extend discovery deadlines, to protect the Defendant! I have asked this court numerous times for an extension of all cutoff deadlines, without avail. Take this into account when drafting your flawed order."

* * *

"For anyone to insult me in this degree calls questions [sic] this court's sincerity and veracity. How dare you accuse me of not having looked at the SC docket regularly."

* * *

"How do you know I did not see the SC order???? Where do you get this information? Ex Parte communications with Defendant's attorney, Scott? - smearing dirt behind my back?"

* * *

"The more I read this order, again and again, I am sick to my stomach, and I get filled with anger and disgust over this 'fraudulent' order by this court!"

* * *

"You both, Allison and J. Finnegan, have done me wrong, and depicted me very poorly in your public order. How dare you do that to me?! What goes around comes around, justice will be done at the end! I wonder how you people sleep at night? Including Scott! Thank you Allison! Great job!"

21. At the time Respondent wrote and sent the emails described in paragraphs 13, 18, and 20, above, Respondent's conduct was disruptive and was intended to disrupt the court. At the time Respondent sent the emails described in paragraphs 13, 18, and 20, above, Respondent

knew or should have known that her statements to Judge Finnegan and her staff members would unnecessarily prolong the proceeding, and disparage the court and its process.

22. At the time Respondent wrote and sent the emails described in paragraphs 13, 18, and 20, above, Respondent's statements about Judge Finnegan's integrity and impartiality were false.

23. At the time Respondent wrote and sent the emails described in paragraphs 13, 18, and 20, above, Respondent knew that her statements about Judge Finnegan's integrity and impartiality were false or made with reckless disregard as to their truth or falsity.

24. On June 27, 2017, Judge Finnegan entered an order in case number 14-cv-08431 admonishing Respondent for violating her directives regarding the proposed order account in her April 19, 2017 email, referred to in paragraph 14, above, and for making statements in her emails which Judge Finnegan described as "highly inappropriate." Judge Finnegan ordered Respondent to immediately cease all email communications with her and her staff, ordered Respondent to address any scheduling issues by contacting only the courtroom deputy, and that additional action would be taken to address Respondent's conduct.

25. On October 31, 2017, after the conclusion of Epstein's federal action and state dissolution of marriage proceeding, Judge Finnegan submitted a complaint to the Executive Committee of the United States District Court for the Northern District of Illinois ("Executive Committee") based on Respondent's conduct, described in paragraphs 13, 18, and 20, above.

26. On November 14, 2017, the Executive Committee issued a citation ordering Respondent to respond to Judge Finnegan's submission, and inform the court why the imposition of discipline against her would be unwarranted.

27. On January 22, 2018, following Respondent's citation response and the Executive Committee's review of the matter, the Executive Committee entered an order finding that Respondent engaged in the conduct described paragraphs 13, 18, and 20, above, in violation of Rules 3.5(d) and 8.4(d) of the Rules of Professional Conduct. In imposing discipline on Respondent for her conduct, the Executive Committee's order suspended Respondent from practicing before the General Bar for a period of six months from, and the Trial Bar for a period of 12 months, and prohibited her from serving as lead counsel in any trial for at least one year. The order also required that, as part of any reinstatement petition, Respondent must demonstrate having sought professional assistance in her compliance with the Rules of Professional Conduct and anger management.

28. By reason of the conduct described above, Respondent has engaged in the following misconduct:

- a. engaging in conduct intended to disrupt a tribunal, by conduct including sending emails on April 18, 2017, June 23, 2017 and June 26, 2017 to Judge Finnegan, Allison Engel, and Scott White, through the Proposed Order email account, which were disruptive and were intended to disrupt the court, in violation of Rule 3.5(d) of the Illinois Rules of Professional Conduct (2010);
- b. making a statement that a lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, by conduct including drafting and sending emails which questioned Judge Finnegan's integrity and impartiality by stating, in part: "Scott is the lucky guy who senses same as he can just pick up the phone to call you knowing he will get his way..." in her April 18, 2017 email; "And I will call him to testify [sic] at trial to show the world what a corrupt lawyer he is! And the judges who protect this criminal by squeezing the discovery deadlines!!!" and "Judges are helping the criminal to escape punishment by forcing to shorten all deadlines!!! This Judge is violating my client's rights first by truncated discovery deadlines and now helping Plaintiff to escape punishment for

wrongs she committed!" in her June 23, 2017 email; and "For anyone to insult me in this degree calls questions [sic] this court's sincerity and veracity," "Where do you get this information? Ex Parte communications with Defendant's attorney, Scott? - smearing dirt behind my back?" and "The more I read this order, again and again, I am sick to my stomach, and I get filled with anger and disgust over this 'fraudulent' order by this court!" in her June 26, 2017 email, in violation of Rule 8.2(a) of the Illinois Rules of Professional Conduct (2010); and

- c. engaging in conduct that is prejudicial to the administration of justice, by conduct including sending emails on April 18, 2017, June 23, 2017 and June 26, 2017 to Judge Finnegan through the Proposed Order email account, which necessitated additional actions taken by Judge Finnegan and caused the expenditure of additional court resources, including Judge Finnegan's April 18, 2017 email to the parties limiting Respondent's future use of the proposed order email account, the entry of Judge Finnegan's June 27, 2017 court order prohibiting Respondent from sending any emails to her or her staff, and Judge Finnegan's referral of Respondent's conduct to the Executive Committee of the United States District Court for the Northern District of Illinois, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator respectfully requests that this matter be assigned to a panel of the Hearing Board, that a hearing be held, and that the panel make findings of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Christopher Heredia
Christopher Heredia

Christopher Heredia
Counsel for the Administrator
130 East Randolph Drive, Suite 1500
Chicago, Illinois 60601
Telephone: (312) 565-2600
Email: ARDCeService@iardc.org
Email: cheredia@iardc.org
MAINLIB_#1160562_v1



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721

CYNTHIA A. GRANT
Clerk of the Court

(217) 782-2035
TDD: (217) 524-8132

January 17, 2023

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

Nejla K. Lane
6000 N Cicero Ave. Apt. 503
Chicago, IL 60646

In re: In re: Nejla K. Lane
M.R.031402

Today the following order was entered in the captioned case:

Petition by respondent for leave to file exceptions to the report and recommendation of the Review Board. Denied. Respondent Nejla K. Lane is suspended from the practice of law for nine (9) months, with the suspension stayed after six (6) months by a six (6) month period of probation subject to the following conditions, as recommended by the Review Board:

- a. Respondent's practice of law shall be supervised by a licensed attorney acceptable to the Administrator. Respondent shall provide the name, address, and telephone number of the supervising attorney to the Administrator. Within the first thirty (30) days of probation, respondent shall meet with the supervising attorney and meet at least once a month thereafter. Respondent shall authorize the supervising attorney to provide a report in writing to the Administrator, no less than once every quarter, regarding respondent's cooperation with the supervising attorney, the nature of respondent's work, and the supervising attorney's general appraisal of respondent's practice of law;
- b. Respondent shall provide notice to the Administrator of any change in supervising attorney within fourteen (14) days of the change;
- c. Prior to the completion of the period of probation, respondent shall attend and successfully complete the ARDC Professionalism Seminar;

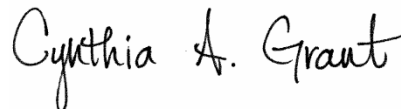
- d. Respondent shall comply with the provisions of Article VII of the Illinois Supreme Court Rules on Admission and Discipline of Attorneys and the Illinois Rules of Professional Conduct and shall timely cooperate with the Administrator in providing information regarding any investigations relating to her conduct;
- e. Respondent shall attend meetings as scheduled by the Commission probation officer;
- f. Respondent shall notify the Administrator within fourteen (14) days of any change of address;
- g. Respondent shall reimburse the Commission for the costs of this proceeding as defined in Supreme Court Rule 773, and shall reimburse the Commission for any further costs incurred during the period of probation; and
- h. Probation shall be revoked if respondent is found to have violated any of the terms of probation. The remaining period of suspension shall commence from the date of the determination that any term of probation has been violated.

Suspension effective February 7, 2023.

Respondent Nejla K. Lane shall reimburse the Client Protection Program Trust Fund for any Client Protection payments arising from her conduct prior to the termination of the period of suspension/probation.

Order entered by the Court.

Very truly yours,



Clerk of the Supreme Court

cc: Michelle Thome
Steven Robert Splitt

STATE OF ILLINOIS
SUPREME COURT

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the 9th day of January, 2023.

Present: Mary Jane Theis, Chief Justice
Justice P. Scott Neville, Jr. Justice David K. Overstreet
Justice Lisa Holder White Justice Joy V. Cunningham
Justice Elizabeth M. Rochford Justice Mary K. O'Brien

On the 17th day of January, 2023, the Supreme Court entered the following judgment:

M.R.031402

In re:

Nejla K. Lane.

Attorney Registration & Disciplinary
Commission

2019PR00074

Petition by respondent for leave to file exceptions to the report and recommendation of the Review Board. Denied. Respondent Nejla K. Lane is suspended from the practice of law for nine (9) months, with the suspension stayed after six (6) months by a six (6) month period of probation subject to the following conditions, as recommended by the Review Board:

- a. Respondent's practice of law shall be supervised by a licensed attorney acceptable to the Administrator. Respondent shall provide the name, address, and telephone number of the supervising attorney to the Administrator. Within the first thirty (30) days of probation, respondent shall meet with the supervising attorney and meet at least once a month thereafter. Respondent shall authorize the supervising attorney to provide a report in writing to the Administrator, no less than once every quarter, regarding respondent's cooperation with the supervising attorney, the nature of respondent's work, and the supervising attorney's general appraisal of respondent's practice of law;
- b. Respondent shall provide notice to the Administrator of any change in supervising attorney within fourteen (14) days of the change;
- c. Prior to the completion of the period of probation, respondent shall attend and successfully complete the ARDC Professionalism Seminar;
- d. Respondent shall comply with the provisions of Article VII of the Illinois Supreme Court Rules on Admission and Discipline of Attorneys and the Illinois Rules of Professional Conduct and shall timely cooperate with the Administrator in providing information regarding any investigations relating to her conduct;
- e. Respondent shall attend meetings as scheduled by the Commission probation officer;
- f. Respondent shall notify the Administrator within fourteen (14) days of any change of address;

- g. Respondent shall reimburse the Commission for the costs of this proceeding as defined in Supreme Court Rule 773, and shall reimburse the Commission for any further costs incurred during the period of probation; and
- h. Probation shall be revoked if respondent is found to have violated any of the terms of probation. The remaining period of suspension shall commence from the date of the determination that any term of probation has been violated.

Suspension effective February 7, 2023.

Respondent Nejla K. Lane shall reimburse the Client Protection Program Trust Fund for any Client Protection payments arising from her conduct prior to the termination of the period of suspension/probation.

As Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, I certify that the foregoing is a true copy of the final order entered in this case.



IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of said Supreme Court, in Springfield, in said State, this 17th day of January, 2023.

Cynthia A. Grant
Clerk,
Supreme Court of the State of Illinois



FILED

Jun 26 2023

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

AFFIDAVIT

THE STATE OF TEXAS

COUNTY OF Travis

BEFORE ME, the undersigned authority, on this day personally appeared Kelly Land, who, being by me duly sworn, deposed as follows:

"My name is Kelly Land. I am employed by myself as a process server. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

I have no interest pecuniary or otherwise in Cause No. 67623; *In the Matter of Nejla Cassandra Keyfli Lane, State Bar Card No. 24095557*, Before the Board of Disciplinary Appeals, Appointed by the Supreme Court of Texas

The following documents came to hand for service on 5/22, 2023, at 5:00 o'clock P.m.: A letter dated May 22, 2023, addressed to Nejla Cassandra Keyfli Lane, a First Amended Order to Show Cause on Petition for Reciprocal Discipline issued by the Board of Disciplinary Appeals, and a copy of the Commission for Lawyer Discipline's First Amended Petition for Reciprocal Discipline.

On 5/30, 2023, at 7:00 o'clock P.m., I delivered in hand to a person known to me to be Nejla Cassandra Keyfli Lane at 8004 Niederrwald Strasse, Kyle, TX 78640 (full address, city, state and zip code), a letter dated May 22, 2023, addressed to Nejla Cassandra Keyfli Lane, a First Amended Order to Show Cause on Petition for Reciprocal Discipline and Hearing Notice issued by the Board of Disciplinary Appeals, and a copy of the Commission for Lawyer Discipline's First Amended Petition for Reciprocal Discipline, true and correct copies of which are attached hereto."

FURTHER Affiant saith not.

Kelly Land
(Signature)

Kelly Land
(Printed Name)

SWORN AND SUBSCRIBED before me on the 31st day of May 2023.

(stamp or seal)



[Signature]
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

May 22, 2023

Via Personal Service

Nejla Cassandra Keyfli Lane
8004 Niederwald Strasse
Kyle, Texas 78640

Re: Cause No. 67623; *In the Matter of Nejla Cassandra Keyfli Lane, State Bar Card No. 24095557*, Before the Board of Disciplinary Appeals, Appointed by the Supreme Court of Texas

Dear Ms. Lane:

Attached please find the following documents in connection with the above-styled and numbered cause:

1. First Amended Order to Show Cause on Petition for Reciprocal Discipline and Hearing Notice issued by the Board of Disciplinary Appeals setting this matter for Friday, July 28, 2023, at 9:00 a.m. in the courtroom of the Supreme Court of Texas, Austin, Texas; and
2. First Amended Petition for Reciprocal Discipline, which includes Supreme Court of Texas, Board of Disciplinary Appeals Internal Procedural Rules.

The Chief Disciplinary Counsel is required to proceed with the initiation of reciprocal discipline as set out in the Texas Rules of Disciplinary Procedure, Part IX, Reciprocal Discipline, which states:

Rule 9.01 Orders From Other Jurisdictions: Upon receipt of information indicating that an attorney licensed to practice law in Texas has been disciplined in another jurisdiction, the Chief Disciplinary Counsel shall diligently seek to obtain a certified copy of the order or judgment of discipline from the other jurisdiction, and file it with the

P.O. Box 12487, Capitol Station, Austin, Texas 78711, 512.427.1350, FAX 512.427.4167

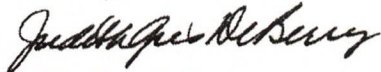
Nejla Kassandra Keyfli Lane
May 22, 2023
Page Two

Board of Disciplinary Appeals along with a petition requesting that the attorney be disciplined in Texas. A certified copy of the order or judgment is prima facie evidence of the matters contained therein, and a final adjudication in another jurisdiction that an attorney licensed to practice law in Texas has committed Professional Misconduct is conclusive for the purposes of a Disciplinary Action in this state ...

The Texas Rules of Disciplinary Procedure mandate that the Chief Disciplinary Counsel of the State Bar of Texas seek reciprocal discipline against a Texas-licensed lawyer when discipline has been imposed upon him or her in another jurisdiction. Our office has no discretion in this regard under the Rules.

Please contact me if you wish to discuss this matter further.

Sincerely,



Judith Gres DeBerry
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas

JGD/tbg

Attachments: First Amended Order to Show Cause on Petition for Reciprocal Discipline and
Hearing Notice
First Amended Petition for Reciprocal Discipline

STATE BAR OF TEXAS



FILED
May 16 2023

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

Office of the Chief Disciplinary Counsel

May 16, 2023

Ms. Jenny Hodgkins
Board of Disciplinary Appeals
Supreme Court of Texas
P. O. Box 12426
Austin, Texas 78711

Via e-filing to filing@txboda.org

Re: 67623; *In the Matter of Nejla Cassandra Keyfli Lane, State Bar Card No. 24095557;*
Before the Board of Disciplinary Appeals, Appointed by the Supreme Court of Texas

Dear Ms. Hodgkins:

Attached please find the First Amended Petition for Reciprocal Discipline of Respondent, Nejla Cassandra Keyfli Lane. Please file the original Amended Petition with the Board and return a copy to me.

Pursuant to Rule 9.02 of the Texas Rules of Disciplinary Procedure, request is hereby made that the Board issue a show cause order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice why the imposition of the identical discipline upon Respondent in this State would be unwarranted.

Thank you for your assistance in this matter. Please do not hesitate to call if you have any questions.

Sincerely,

Judith Gres DeBerry
Assistant Disciplinary Counsel
State Bar of Texas

JGD/tbg

P.O. Box 12487, Capitol Station, Austin, Texas 78711-2487, 512.427.1350, Fax 512.427.4167



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

IN THE MATTER OF §
NEJLA KASSANDRA KEYFLI LANE, § **CAUSE NO. 67623**
STATE BAR CARD NO. 24095557 §

FIRST AMENDED PETITION FOR RECIPROCAL DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called “Petitioner”), brings this action against Respondent, Nejla Cassandra Keyfli Lane, (hereinafter called “Respondent”), showing as follows:

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

2. Respondent is a member of the State Bar of Texas and is licensed and authorized to practice law in Texas. Respondent may be served with a true and correct copy of this First Amended Petition for Reciprocal Discipline at Nejla Cassandra Keyfli Lane, 8004 Niederwald Strasse, Kyle, Texas 78640.

3. Attached hereto and made a part hereof for all intents and purposes as if the same were copied verbatim herein, is a true and correct copy of a set of documents in the Lane matter styled Before the Hearing Board of the Illinois Attorney Registration and Disciplinary Commission, *In the Matter of: Nejla K. Lane, Attorney-Respondent No. 6290003*, Commission No. 2019PR00074, consisting of the Administrator's Complaint filed on August

28, 2019; Report and Recommendation of the Hearing Board filed on November 4, 2021; Report and Recommendation of the Review Board filed July 12, 2022; and the Supreme Court Order and Mandate entered on January 17, 2023, relating to the matter styled **In Re: Nejla K. Lane**, Supreme Court No. M.R. 31402, Commission No. 2019PR00074 (Exhibit 1). Petitioner expects to introduce a certified copy of Exhibit 1 at the time of hearing of this cause.

4. On or about August 28, 2019, an Administrator's Complaint was filed Before the Hearing Board of the Illinois Attorney Registration and Disciplinary Commission, which states in pertinent part as follows:

28. By reason of the conduct described above, Respondent has engaged in the following misconduct:
 - a. engaging in conduct intended to disrupt a tribunal, by conduct including sending emails on April 18, 2017, June 23, 2017 and June 26, 2017 to Judge Finnegan, Allison Engel, and Scott White, through the Proposed Order email account, which were disruptive and were intended to disrupt the court, in violation of Rule 3.5(d) of the Illinois Rules of Professional Conduct (2010);
 - b. making a statement that a lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, by conduct including drafting and sending emails which questioned Judge Finnegan's integrity and impartiality by stating, in part: "Scott is the lucky guy who senses same as he can just pick up the phone to call you knowing he will get his way ... " in her April 18, 2017 email; "And I will call him to testify [sic] at trial to show the world what a corrupt lawyer he is! And the judges who protect this criminal by squeezing the discovery deadlines!!!" and "Judges are helping the criminal to escape punishment by forcing to shorten all deadlines!!! This Judge is violating my client's rights first by truncated discovery deadlines and now helping Plaintiff to escape punishment for wrongs she committed!" in her June 23, 2017 email; and "For anyone to insult me in this degree calls questions [sic] this court's sincerity and veracity," "Where do you get this information? Ex Parte communications with Defendant's attorney, Scott? - smearing dirt behind my

back?" and "The more I read this order, again and again, I am sick to my stomach, and I get filled with anger and disgust over this 'fraudulent' order by this court!" in her June 26, 2017 email, in violation of Rule 8.2(a) of the Illinois Rules of Professional Conduct (2010); and

- c. engaging in conduct that is prejudicial to the administration of justice, by conduct including sending emails on April 18, 2017, June 23, 2017 and June 26, 2017 to Judge Finnegan through the Proposed Order email account, which necessitated additional actions taken by Judge Finnegan and caused the expenditure of additional court resources, including Judge Finnegan's April 18, 2017 email to the parties limiting Respondent's future use of the proposed order email account, the entry of Judge Finnegan's June 27, 2017 court order prohibiting Respondent from sending any emails to her or her staff, and Judge Finnegan's referral of Respondent's conduct to the Executive Committee of the United States District Court for the Northern District of Illinois, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

5. On or about November 4, 2021, a Report and Recommendation of the Hearing Board was filed, which states in pertinent part as follows on page 1:

SUMMARY OF THE REPORT

Respondent engaged in misconduct when she sent multiple emails to a magistrate judge and her law clerk containing false or reckless statements impugning the judge's integrity. Based on the pattern of misconduct, the factors in aggravation, the minimal factors in mitigation, and the relevant case law, we recommend that Respondent be suspended for nine months, with the suspension stayed after six months by six months of probation.

6. On or about July 12, 2022, a Report and Recommendation of the Review Board was filed, which states in pertinent part as follows on page 26:

. . . We therefore adopt the sanction recommended by the Hearing Board. We find this recommended sanction to be commensurate with Respondent's misconduct, consistent with discipline that has been imposed for comparable misconduct, and sufficient to serve the goals of attorney discipline, act as a deterrent, and preserve the public's trust in the legal profession.

CONCLUSION

For the foregoing reasons, we recommend that Respondent be suspended from the practice of law for nine months, with the suspension stayed after six months by a six-month period of probation, subject to the conditions recommended by the Hearing Board.

7. On or about January 17, 2023, a Supreme Court Order and Mandate were entered in the Supreme Court of Illinois, which states in pertinent part as follows:

Petition by respondent for leave to file exceptions to the report and recommendation of the Review Board. Denied. Respondent Nejla K. Lane is suspended from the practice of law for nine months, with the suspension stayed after six (6) months by a six (6) month period of probation subject to the following conditions, as recommended by the Review Board:

- a. Respondent's practice of law shall be supervised by a licensed attorney acceptable to the Administrator. Respondent shall provide the name, address, and telephone number of the supervising attorney to the Administrator. Within the first thirty (30) days of probation, respondent shall meet with the supervising attorney and meet at least once a month thereafter. Respondent shall authorize the supervising attorney to provide a report in writing to the Administrator, no less than once every quarter, regarding respondent's cooperation with the supervising attorney, the nature of respondent's work, and the supervising attorney's general appraisal of respondent's practice of law;
- b. Respondent shall provide notice to the Administrator of any change in supervising attorney within fourteen (14) days of the change;
- c. Prior to the completion of the period of probation, respondent shall attend and successfully complete the ARDC Professionalism Seminar;
- d. Respondent shall comply with the provisions of Article VII of the Illinois Supreme Court Rules on Admission and Discipline of Attorneys and the Illinois Rules of Professional Conduct and shall timely cooperate with the Administrator in providing information regarding any investigations relating to her conduct;

- e. Respondent shall attend meetings as scheduled by the Commission probation officer;
- f. Respondent shall notify the Administrator within fourteen (14) days of any change of address;
- g. Respondent shall reimburse the Commission for the costs of this proceeding as defined in Supreme Court Rule 773, and shall reimburse the Commission for any further costs incurred during the period of probation; and
- h. Probation shall be revoked if respondent is found to have violated any of the terms of probation. The remaining period of suspension shall commence from the date of the determination that any term of probation has been violated.

Suspension effective February 7, 2023.

Respondent Nejla K. Lane shall reimburse the Client Protection Program Trust Fund for any Client Protection payments arising from her conduct prior to the termination of the period of suspension/probation.

Order entered by the Court.

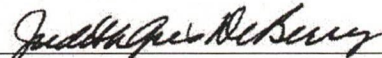
8. Petitioner prays that, pursuant to Rule 9.02, Texas Rules of Disciplinary Procedure, that this Board issue notice to Respondent, containing a copy of this Petition with exhibits, and an order directing Respondent to show cause within thirty (30) days from the date of the mailing of the notice, why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

Respectfully submitted,

Seana Willing
Chief Disciplinary Counsel

Judith Gres DeBerry
Assistant Disciplinary Counsel

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



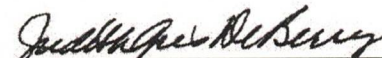
Judith Gres DeBerry
Bar Card No. 24040780

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

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

Nejla Kassandra Keyfli Lane
8004 Niederwald Strasse
Kyle, Texas 78640



Judith Gres DeBerry



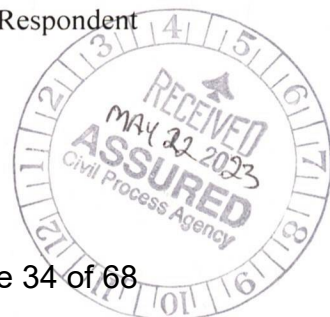
**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY THE
SUPREME COURT OF TEXAS**

IN THE MATTER OF §
NEJLA KASSANDRA KEYFLI LANE, § **CAUSE NO. 67623**
STATE BAR CARD NO. 24095557 §

**FIRST AMENDED ORDER TO SHOW CAUSE ON PETITION
FOR RECIPROCAL DISCIPLINE AND HEARING NOTICE**

Pursuant to Texas Rules of Disciplinary Procedure (“TRDP”) Part IX, the Commission for Lawyer Discipline, Petitioner, filed its First Amended Petition for Reciprocal Discipline against Nejla Cassandra Keyfli Lane, Respondent, on May 16, 2023. The Petition states that on or about January 17, 2023, the Supreme Court of Illinois issued a Supreme Court Order and Mandate in a disciplinary case styled *In re: Nejla K. Lane*, Supreme Court No. M.R. 31402, Commission No. 2019PR00074, in which the Court suspended Respondent from the practice of law for nine months, with the suspension stayed after six months by a six month period of probation. The Court adopted the Report and Recommendations of the Review Board of the Illinois Attorney Registration and Disciplinary Commission, finding Respondent in violation of Rules 3.5(d), 8.2(a), and 8.4(d) of the Illinois Rules of Professional Conduct. A true and correct copy of the First Amended Petition for Reciprocal Discipline, which includes the Order and Mandate of the Illinois Supreme Court, is attached hereto and incorporated herein for all purposes as if set forth in full.

It is, therefore, **ORDERED** that Respondent Nejla Cassandra Keyfli Lane shall, within thirty (30) days from the date of service, show cause why the imposition of identical discipline, to the extent practicable, in Texas by the Board of Disciplinary Appeals pursuant to Texas Rule of Disciplinary Procedure 9.02, would be unwarranted. If Respondent is served by mail, Respondent



shall show cause within thirty (30) days from the date of mailing of this First Amended Order to Show Cause. Respondent should consult Part IX of the Texas Rules of Disciplinary Procedure regarding the failure to file an answer. Failure to file a timely answer may waive Respondent's right to raise the defenses set forth in Texas Rule of Disciplinary Procedure 9.04 and limit the scope of the hearing to exclude presentation of any such defenses. See TEX. RULES DISCIPLINARY P. R. 9.01-04; BODA INTERNAL PROCEDURAL RULES R. 7.03.

It is further **ORDERED** that this matter is set for hearing before the Board on Friday, July 28, 2023 at 9:00 a.m. in the courtroom of the Supreme Court of Texas, Austin, Texas.

SIGNED this 22nd day of May 2023.



CHAIR PRESIDING

INTERNAL PROCEDURAL RULES

BOARD OF DISCIPLINARY APPEALS

Current through June 21, 2018

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INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Current through June 21, 2018

I. GENERAL PROVISIONS

Rule 1.01. Definitions

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

Rule 1.02. General Powers

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

Rule 1.03. Additional Rules in Disciplinary Matters

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

Rule 1.04. Appointment of Panels

- (a) BODA may consider any matter or motion by panel,

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

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

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

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

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

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

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

- (4) Exceptions.

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

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

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

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

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

- (5) Format. An electronically filed document must:

- (i) be in text-searchable portable document format (PDF);
- (ii) be directly converted to PDF rather than scanned, if possible; and
- (iii) not be locked.

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

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

- (1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or
- (2) an electronic image or scanned image of the signature.

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

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

Rule 1.06. Service of Petition

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

Rule 1.07. Hearing Setting and Notice

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

(b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the

request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23 [2.22], the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.

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

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

Rule 1.08. Time to Answer

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

Rule 1.09. Pretrial Procedure

(a) Motions.

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

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

- (i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;
- (ii) if an appeal has been perfected, the date when the appeal was perfected;
- (iii) the original deadline for filing the item in question;
- (iv) the length of time requested for the extension;
- (v) the number of extensions of time that have been granted previously regarding the item in question; and

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

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

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

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

- (1) marked;
- (2) indexed with the title or description of the item offered as an exhibit; and
- (3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

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

Rule 1.10. Decisions

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

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

- (1) as required by the TRDP; and
- (2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.

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

Rule 1.11. Board of Disciplinary Appeals Opinions

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

(b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in

the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.

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

Rule 1.12. BODA Work Product and Drafts

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

Rule 1.13. Record Retention

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

Rule 1.14. Costs of Reproduction of Records

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

Rule 1.15. Publication of These Rules

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

II. ETHICAL CONSIDERATIONS

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

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

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

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

Rule 2.02. Confidentiality

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

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

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

Rule 2.03. Disqualification and Recusal of BODA Members

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

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

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

III. CLASSIFICATION APPEALS

Rule 3.01. Notice of Right to Appeal

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

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

Rule 3.02. Record on Appeal

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and

all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

IV. APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01. Perfecting Appeal

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

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

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

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

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

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

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

Rule 4.02. Record on Appeal

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

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

(c) Responsibility for Filing Record.

(1) Clerk's Record.

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

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

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

(2) Reporter's Record.

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

- a) a notice of appeal has been filed;
- b) a party has requested that all or part of the reporter's record be prepared; and
- c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.

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

(d) Preparation of Clerk's Record.

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

- (i) gather the documents designated by the parties'

written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);

(ii) start each document on a new page;

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

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

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

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

(vii) certify the clerk's record.

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

(3) The table of contents must:

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

(ii) be double-spaced;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹ So in original.

Rule 4.03. Time to File Record

(a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless

a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.

(b) If No Record Filed.

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

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

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

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

(c) Extension of Time to File the Reporter's Record.

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

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

Rule 4.04. Copies of the Record

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

Rule 4.05. Requisites of Briefs

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

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

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

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

- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
- (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
- (3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;
- (4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;
- (5) a statement, without argument, of the basis of BODA's jurisdiction;
- (6) a statement of the issues presented for review or points of error on which the appeal is predicated;
- (7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;
- (8) the argument and authorities;
- (9) conclusion and prayer for relief;
- (10) a certificate of service; and
- (11) an appendix of record excerpts pertinent to the issues presented for review.

(d) **Length of Briefs; Contents Included and Excluded.**

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

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

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

- (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's

failure to timely file a brief;

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

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

Rule 4.06. Oral Argument

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

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

- (1) the appeal is frivolous;
- (2) the dispositive issue or issues have been authoritatively decided;
- (3) the facts and legal arguments are adequately presented in the briefs and record; or
- (4) the decisional process would not be significantly aided by oral argument.

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

Rule 4.07. Decision and Judgment

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

- (1) affirm in whole or in part the decision of the evidentiary panel;
- (2) modify the panel's findings and affirm the findings as modified;
- (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
- (4) reverse the panel's findings and remand the cause for further proceedings to be conducted by:

(i) the panel that entered the findings; or

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

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

Rule 4.08. Appointment of Statewide Grievance Committee

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

Rule 4.09. Involuntary Dismissal

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

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

V. PETITIONS TO REVOKE PROBATION

Rule 5.01. Initiation and Service

- (a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23 [2.22].
- (b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23 [2.22], the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02. Hearing

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

VI. COMPULSORY DISCIPLINE

Rule 6.01. Initiation of Proceeding

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

Rule 6.02. Interlocutory Suspension

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

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

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

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

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

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

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

VII. RECIPROCAL DISCIPLINE

Rule 7.01. Initiation of Proceeding

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

Rule 7.02. Order to Show Cause

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

Rule 7.03. Attorney's Response

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

VIII. DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01. Appointment of District Disability Committee

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

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

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

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

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

Rule 8.02. Petition and Answer

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

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

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

Rule 8.03. Discovery

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

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

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

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

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

Rule 8.04. Ability to Compel Attendance

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

Rule 8.05. Respondent's Right to Counsel

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

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

Rule 8.06. Hearing

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

Rule 8.07. Notice of Decision

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

Rule 8.08. Confidentiality

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

IX. DISABILITY REINSTATEMENTS

Rule 9.01. Petition for Reinstatement

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

(b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension

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

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

Rule 9.02. Discovery

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

Rule 9.03. Physical or Mental Examinations

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

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

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

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

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

Rule 9.04. Judgment

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

X. APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS

Rule 10.01. Appeals to the Supreme Court

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

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

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



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

<p>IN THE MATTER OF NEJLA KASSANDRA KEYFLI LANE, STATE BAR CARD NO. 24095557</p>	<p>§ § §</p>	<p>CAUSE NO. 67623</p>
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JUDGMENT OF PARTIALLY PROBATED SUSPENSION

On the 27th day of October, 2023, the above-styled and numbered reciprocal disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner appeared by attorney and announced ready. Respondent, Nejla Cassandra Keyfli Lane, appeared and announced ready. All questions of fact and all issues of law were submitted to the Board of Disciplinary Appeals for determination. Having considered the pleadings on file, having received evidence, and having heard the argument of counsel, the Board of Disciplinary Appeals is of the opinion that Petitioner is entitled to entry of the following findings, conclusions, and orders:

Findings of Fact. The Board of Disciplinary Appeals finds that:

- (1) Respondent, Nejla Cassandra Keyfli Lane, Bar Card No. is 24095557, is an attorney licensed and authorized by the Supreme Court of Texas to practice law in the State of Texas.
- (2) This reciprocal discipline proceeding did not originate with a “Grievance” as that term is defined in the Texas Rules of Discipline Procedure and used in those Rules and in the State Bar Act, TEX. GOV’T CODE § 81.001 *et seq.*
- (3) On or about August 28, 2019, the Administrator of the Illinois Attorney Registration and Disciplinary Commission filed a complaint against Respondent, alleging that she engaged in conduct that violated Illinois Rules of Professional Conduct 3.5(d), 8.2(a), and 8.4(d).
- (4) Following a hearing at which Respondent appeared *pro se*, the Hearing Board of the Illinois Attorney Registration and Disciplinary Commission

issued a Report and Recommendation on or about November 4, 2021, stating in pertinent part:

The Administrator proved by clear and convincing evidence that Respondent sent three emails to Magistrate Judge Finnegan's email account containing statements about Magistrate Judge Finnegan's integrity that were false or made with reckless disregard as to their truth or falsity. By sending the inappropriate emails, particularly after being instructed not to do so, Respondent engaged in conduct that disrupted the tribunal and prejudiced the administration of justice.

- (5) The Hearing Board found that Respondent violated Illinois Rules of Professional Conduct 8.2(a), 3.5(d), and 8.4(d). Based on the nature of the misconduct, and having considered factors in aggravation and mitigation, the Hearing Board recommended that Respondent be suspended for nine months, with the suspension stayed after six months by six months of probation subject to certain conditions.
- (6) Respondent appealed, challenging the Hearing Board's findings of misconduct and sanction recommendation.
- (7) On or about July 12, 2022, the Review Board of the Illinois Attorney Registration and Disciplinary Commission issued a Report and Recommendation, which states in pertinent part:

We conclude that the Hearing Board's findings are not against the manifest weight of the evidence. . . .

Respondent has failed to show that the Hearing Board's findings that she violated Rule 8.2(a) are against the manifest weight of the evidence. . . .

[W]e affirm the Hearing Board's finding that Respondent violated Rule 3.5(d). . . .

We see no basis in the record for reversing the Hearing Board's conclusion that Respondent violated Rule 8.4(d). . . .

We therefore adopt the sanction recommended by the Hearing Board. We find this recommended sanction to be commensurate with Respondent's misconduct, consistent with discipline that has been imposed for comparable misconduct, and sufficient to serve the goals of attorney discipline, act as a deterrent, and preserve the public's trust in the legal profession. . . .

For the foregoing reasons, we recommend that Respondent be suspended from the practice of law for nine months, with the suspension stayed after six months by a six-month period of probation, subject to the conditions recommended by the Hearing Board.

- (8) In short, the Review Board affirmed the Hearing Board's findings as to Respondent's violation of Illinois Rules of Professional Conduct 8.2(a), 3.5(d), and 8.4(d), and agreed with the Hearing Board's recommended sanction.
- (9) Respondent filed in the Supreme Court of Illinois a petition for leave to file exceptions to the Review Board's Report and Recommendation.
- (10) Under Illinois Supreme Court Rule 753, reports of the Review Board shall be reviewed only upon leave granted by the Supreme Court of Illinois, or on the Court's own motion, and "[w]hether a petition for leave to file exceptions will be granted is a matter of sound judicial discretion." ILL. S. CT. R. 753(e)(1), (2).
- (11) On or about January 17, 2023, the Supreme Court of Illinois issued an Order and Mandate, which states in pertinent part:

Petition by respondent for leave to file exceptions to the report and recommendation of the Review Board. Denied. Respondent Nejla K. Lane is suspended from the practice of law for nine months, with the suspension stayed after six (6) months by a six (6) month period of probation . . . as recommended by the Review Board

- (12) In Illinois disciplinary proceedings, the Supreme Court of Illinois has sole authority to impose disciplinary sanctions against lawyers for misconduct, except that a Hearing Board or Review Board may order a reprimand. ILL. S. CT. R. 753(c)(3), (d)(3); 770. "Conduct of attorneys which violates the [Illinois] Rules of Professional Conduct . . . shall be grounds for discipline by the [Illinois Supreme] Court." *Id.* ILL. S. CT. R. 770.
- (13) When the Supreme Court denied Respondent's request for leave to file exceptions to the Review Board's Report and Recommendation and thereafter ordered the recommended discipline based on the Report and Recommendation, the Court made final the findings that Respondent committed professional misconduct by violating Illinois Rules of Professional Conduct 3.5(d), 8.2(a), and 8.4(d). *See* ILL. S. CT. R. 753(c)(3), (d)(3); 770. The Court, in its discretion, declined to reconsider the Review Board's findings, and the Court could order an attorney suspended only if the attorney's conduct violated the Illinois Rules of Professional Misconduct. Thus, the Order and Mandate issued by the

Supreme Court of Illinois is final as to both professional misconduct and sanction.

- (14) Respondent, Nejla Kassandra Keyfli Lane, is the same person as the Nejla K. Lane, who is the subject of the Order and Mandate issued by the Supreme Court of Illinois, the Report and Recommendation issued by the Review Board, and the Report and Recommendation issued by the Hearing Board.
- (15) Respondent filed a timely answer to the First Amended Order to Show Cause and to the First Amended Petition for Reciprocal Discipline, in which she raised defenses under Texas Rule of Disciplinary Procedure 9.04(A), (B), and (C).
- (16) Respondent did not plead a limitations defense or assert that Texas Rule of Disciplinary Procedure 17.06 bars reciprocal discipline in this case.

Conclusions of Law. Based upon the foregoing findings of facts, the Board of Disciplinary Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. TEX. R. DISCIPLINARY P. R. 7.08(H); 9.01–.04.
- (2) Respondent did not plead or otherwise assert a limitations defense, and limitations was not put at issue in the hearing before the Board. Therefore, to the extent this case might have involved a limitations issue, such defense has been waived. “The mandatory nature of the language in [Rule 17.06’s limitations provision] does not prevent the waiver of a statute of limitations due to the failure to plead it as an affirmative defense.” *Beard v. Comm’n for Lawyer Discipline*, 279 S.W.3d 895, 899-900 (Tex. App.—Dallas 2009, pet. denied); see TEX. R. CIV. P. 94 (“In pleading to a preceding pleading, a party shall set forth affirmatively . . . statute of limitations . . . and any other matter constituting an avoidance or affirmative defense.”); BODA INTERNAL PROCEDURAL RULE 1.03 (“Except as varied by these rules and to the extent applicable, the TRCP . . . apply to all disciplinary matters before BODA . . .”).
- (3) Even if limitations had been properly raised, Texas Rule of Disciplinary Procedure 17.06 would not bar the Board from ordering reciprocal discipline. Rule 17.06 provides that “[n]o attorney may be disciplined for Professional Misconduct that occurred more than four years before the date on which a Grievance alleging the Professional Misconduct is received by the Chief Disciplinary Counsel.” TEX. R. DISCIPLINARY P. R. 17.06(A). However, reciprocal discipline proceedings, like the instant proceeding, are not initiated by the receipt of a “Grievance.” Instead, “[u]pon receipt of information indicating that an attorney licensed to practice law in Texas has been disciplined in another jurisdiction,” the Chief Disciplinary Counsel

(CDC) initiates a reciprocal discipline proceeding by filing a certified copy of the order or judgment of discipline from the other jurisdiction, along with a petition for reciprocal discipline. TEX. R. DISCIPLINARY P. R. 9.01. The documents admitted during the hearing as the Commission's Exhibit 1, which include a certified copy of the Supreme Court of Illinois's disciplinary order, and supporting reports and pleadings, do not constitute a "Grievance" within the meaning of Rules 1.06(R) and 17.06(A), because they do not allege a violation of the Texas Disciplinary Rules of Professional Conduct. Moreover, reading the rules as a whole, if such documents were a "Grievance," they would be subject to the classification, investigation, just cause determination, lawyer election, and evidentiary hearing procedures contained in Rules 2.10, 2.12, 2.14-15, and 2.17, as well as Texas Government Code sections 81.073-.075, which apply to a proceeding initiated by a "Grievance." Such an interpretation of the rules would make it impossible to give effect to both the mandatory "Grievance" provisions of Part II of the Rules and Part IX of the Rules, which establishes the mechanism for reciprocal discipline. *See In re Caballero*, 272 S.W.3d 595, 599-600 (Tex. 2008) (applying statutory construction principles to the Texas Rules of Disciplinary Procedure to "give effect to all [provisions'] words and, if possible, [] not treat any [rule] language as mere surplusage" and to "not give one provision a meaning out of harmony or inconsistent with other provisions" (internal citations omitted)).

- (4) In addition or in the alternative, reciprocal discipline is based on "Professional Misconduct" as defined in Texas Rule of Disciplinary Procedure 1.06(CC)(2), which does not occur until the lawyer is disciplined in another jurisdiction for misconduct that occurred there. TEX. R. DISCIPLINARY P. R. 1.06(CC)(2) (defining "Professional Misconduct" as misconduct occurring in another jurisdiction that "results in the disciplining of the attorney in that other jurisdiction"). Respondent, therefore, did not commit "Professional Misconduct" in Texas under Rule 1.06(CC)(2) until she was disciplined for her conduct in Illinois on January 17, 2023. Thus, the limitations provision in Rule 17.06 would not bar reciprocal discipline in this case even if the petition for reciprocal discipline or documents admitted as the Commission's Exhibit 1 were considered a "Grievance."
- (5) The Supreme Court of Texas recently affirmed a Board judgment suspending a lawyer as reciprocal discipline in a case in which the Board held that reciprocal discipline was not time-barred under Rule 17.06. *See In re Bruno*, BODA Case No. 65864, aff'd, 21-0964 (Tex. Sept. 2, 2022); *see also In re Graham*, BODA Case No. 54877, aff'd, 14-0923 (Tex. May 1, 2015).
- (6) Respondent's prior discipline for the underlying conduct provides no basis for the Board to refrain from imposing reciprocal discipline, as reciprocal discipline can only be based on another jurisdiction's adjudication of professional misconduct and discipline. TEX. R. DISCIPLINARY P. R. 9.01-.04.
- (7) Respondent failed to establish a defense under Texas Rule of Disciplinary Procedure 9.04(A), (B), and (C) by clear and convincing evidence, and

Respondent waived defenses under Rule 9.04(D) and (E) by failing to raise them in her answer.

- (8) The Supreme Court of Illinois's final adjudication in the disciplinary proceeding against Respondent is conclusive.
- (9) Reciprocal discipline identical, to the extent practicable, to that imposed by the Supreme Court of Illinois must be imposed in this case. TEX. R. DISCIPLINARY P. R. 9.03-.04.
- (10) Respondent should be suspended from the practice of law for a period of nine (9) months, consisting of six (6) months active suspension followed by three (3) months of probation.
- (11) This Board retains jurisdiction during the full term of probation imposed by this judgment to hear a motion to revoke probation. TEX. RULES DISCIPLINARY P. R. 2.22.

It is, accordingly, **ORDERED, ADJUDGED, and DECREED** that Respondent Nejla Cassandra Keyfli Lane, State Bar Card No. 24095557, is hereby **SUSPENDED** from the practice of law for a period of nine (9) months. Respondent shall be actively suspended from the practice of law for a period of six (6) months beginning November 16, 2023, and extending through May 15, 2024. The three (3) month period of probated suspension shall begin on May 16, 2024, and shall extend through August 15, 2024, under the following terms and conditions.

Terms of Active Suspension

It is further **ORDERED** that during the term of active suspension ordered herein, or that may be imposed upon Respondent by the Board of Disciplinary Appeals as a result of a probation revocation proceeding, Respondent Nejla Cassandra Keyfli Lane shall be prohibited from practicing law in Texas, holding herself out as an attorney at law, performing any legal services for others, accepting any fee directly or indirectly for legal services, appearing as counsel or in any representative capacity in any proceeding in any state or federal court in Texas or before any Texas administrative body, or holding herself out to others or using her name, in any manner, in

conjunction with the words “attorney at law,” “attorney,” “counselor at law,” “Esquire,” “Esq.,” or “lawyer.”

It is further **ORDERED** that Respondent Nejla Cassandra Keyfli Lane shall, within thirty (30) days of the signing of this judgment, notify in writing each and every justice of the peace, judge, magistrate, administrative judge or officer, and chief justice of each and every court or tribunal in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address, and telephone number of the client(s) Respondent is representing in that court or tribunal. Respondent is **ORDERED** to mail copies of all such notifications to the Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711.

It is further **ORDERED** that Respondent Nejla Cassandra Keyfli Lane shall, within thirty (30) days of the signing of this judgment, file with the State Bar of Texas, Chief Disciplinary Counsel’s Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), an affidavit stating that Respondent has notified in writing each and every justice of the peace, judge, magistrate, administrative judge or officer, and chief justice of each and every court or tribunal in which Respondent has any matter pending of the terms of this judgment, the style and cause number of the pending matter(s), and the name, address and telephone number of the client(s) Respondent is representing in that court or tribunal.

It is further **ORDERED** that Respondent Nejla Cassandra Keyfli Lane shall, within thirty (30) days of the signing of this judgment, notify each of Respondent’s current clients and opposing counsel, if any, in writing, of the terms of this judgment. In addition to such notification, Respondent Nejla Cassandra Keyfli Lane is **ORDERED** to return any files, papers, unearned monies, and other property, if any, which belongs to clients and former clients and is in

Respondent's possession or control, to the respective clients or former clients or to another attorney at the client's or former client's request, within thirty (30) days of the date of this judgment, if requested.

It is further **ORDERED** that Respondent Nejla Kassandra Keyfli Lane shall, within thirty (30) days of the signing of this judgment, file with the State Bar of Texas, Chief Disciplinary Counsel's Office, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), an affidavit stating that all current clients and opposing counsel have been notified of Respondent's suspension and that all files, papers, monies and other property belonging to all current clients have been returned as ordered herein. If Respondent should be unable to return any file, papers, money, or other property requested by any client or former client, Respondent's affidavit shall state with particularity the efforts made by Respondent with respect to each particular client and the cause of her inability to return to said client any file, paper, money, or other property.

It is further **ORDERED** that Respondent Nejla Kassandra Keyfli Lane shall, within thirty (30) days of the signing of this judgment, surrender her law license and permanent State Bar Card to the Statewide Compliance Monitor, Office of the Chief Disciplinary Counsel, State Bar of Texas, P.O. Box 12487, Capitol Station, Austin, Texas 78711, for transmittal to the Clerk of the Supreme Court of Texas.

Terms of Probation

It is further **ORDERED** that during all periods of suspension, Respondent Nejla Kassandra Keyfli Lane shall be under the following terms and conditions:

1. Respondent shall not violate any term of this judgment or the disciplinary judgment issued by the Supreme Court of Illinois on January 17, 2023.
2. Respondent shall not engage in professional misconduct as defined by Rule 1.06(CC) of the Texas Rules of Disciplinary Procedure.

3. Respondent shall not violate any state or federal criminal statutes.
4. Respondent shall keep the State Bar of Texas membership department notified of current mailing, residence, and business addresses and telephone numbers.
5. Respondent shall comply with Minimum Continuing Legal Education requirements.
6. Respondent shall comply with Interest on Lawyers Trust Account (IOLTA) requirements.
7. Respondent shall promptly respond to any request for information from the Chief Disciplinary Counsel in connection with any investigation of any allegations of professional misconduct.

Probation Revocation

Upon determination that Respondent Nejla Cassandra Keyfli Lane has violated any term or condition of this judgment, or if Respondent is adjudged by a tribunal of Illinois to have violated the terms of the disciplinary order or judgment entered in Illinois, the Chief Disciplinary Counsel may, in addition to all other remedies available, file with this Board a motion to revoke probation pursuant to Texas Rule of Disciplinary Procedure 2.22, and must then serve a copy of said motion on Respondent pursuant to Texas Rule of Civil Procedure 21a.

Should a motion to revoke probation be filed, this Board will conduct an evidentiary hearing to determine by a preponderance of the evidence whether Respondent has violated any term or condition or requirement of probation. If this Board finds grounds for revocation, it will enter an order revoking probation and placing Respondent on active suspension for the full term of suspension, without credit for any term of probation served prior to revocation.

It is further **ORDERED** that any conduct on the part of Respondent Nejla Cassandra Keyfli Lane which serves as the basis for a motion to revoke probation may also be brought as independent grounds for discipline as allowed under the Texas Disciplinary Rules of Professional Conduct and Texas Rules of Disciplinary Procedure.

It is further **ORDERED** that this Judgment of Partially Probated Suspension shall be made a matter of public record and that notice of this disciplinary action shall be published in the *Texas Bar Journal*.

Signed this 16th day of November 2023.



CHAIR PRESIDING

Board member Bill Ogden did not participate in this decision.

Board member W.C. Kirkendall dissents without opinion. Board member Jason Boatright filed a dissenting opinion.

Board member Jason Boatright, dissenting:

I respectfully dissent from the Board's Judgment and write separately to explain why.

I. The statute of limitations prohibited us from disciplining Lane

In 2017, Lane sent three inappropriate emails to a federal magistrate judge in the Northern District of Illinois. In 2018, the Northern District suspended her for the emails. In 2023, the Illinois Supreme Court suspended her for them again. And now we have suspended her a third time.

We should not have done that. The Rules of Disciplinary Procedure prohibit us from imposing discipline for conduct that occurred more than four years earlier. We are far past the deadline here. We should have denied the request for reciprocal discipline and dismissed the case.

a. In attorney discipline cases, the statute of limitations restricts our power

Rule of Disciplinary Procedure 17.06(a) provides that no "attorney may be disciplined for Professional Misconduct that occurred more than four years before the date on which a Grievance alleging the Professional Misconduct" was received by the CDC. A Grievance is a "written

statement, from whatever source, apparently intended to allege Professional Misconduct” received by the CDC. Tex. Rules Disciplinary P. R. 1.06(R), *reprinted in* Tex. Gov’t Code Ann., tit. 2, subtit. G, app. A-1. In Lane’s case, the CDC received a complaint from Illinois. It is a written statement alleging conduct that constitutes Professional Misconduct in Texas, so it is a Grievance. *Id.*

The copy of the Grievance that the CDC submitted to us was certified by the Illinois Supreme Court clerk’s office on February 14, 2023, which was over five years after Lane sent the emails. Because the CDC received the Grievance more than four years after the Professional Misconduct at issue, Rule 17.06 prohibits us from disciplining Lane.

b. Lane did not have to plead limitations as a defense

Conclusion of Law 2 notes that Lane did not plead limitations as an affirmative defense. However, she did not have to. Chapter 16 of the Civil Practice & Remedies Code requires a party in a civil suit to bring a claim within a certain period of time, and Rule of Civil Procedure 94 requires the opposing party to plead limitations as a defense to that claim. But in attorney discipline cases, limitations does not require a party to begin a disciplinary proceeding within a period of time; it prohibits a tribunal from imposing discipline after a period of time. Tex. Rules Disciplinary P. R. 17.06(a). Unlike civil cases, where limitations imposes complementary obligations on the parties as adversaries, limitations in attorney disciplinary cases does not impose any obligation on the parties, it obliges us not to impose discipline after limitations expires.

Lane does not have the power, through her failure to plead a limitations defense, to authorize us to do what Rule 17.06(a) expressly forbids. Consequently, we do not have authority to impose discipline in this case, regardless of whether Lane pleaded limitations as a defense.

The Judgment relies on three authorities for concluding otherwise. First, it cites *Beard v. Commission for Lawyer Discipline*, 279 S.W.3d 895 (Tex. App.—Dallas 2009, pet. denied), which held that limitations must be pleaded as an affirmative defense in attorney discipline cases, or it is waived. But *Beard* was not a reciprocal discipline case. *Id.* at 899. Reciprocal discipline has its own rule regarding affirmative defenses, Rule of Disciplinary Procedure 9.04. That rule lists five affirmative defenses that are available to respondents in reciprocal discipline cases. A respondent has to plead and prove at least one of them to avoid the imposition of discipline. Limitations is not on the list. Tex. Rules Disciplinary P. R. 9.04. *Beard* did not address Rule 9.04 or the fact Rule 17.06 is a restriction on our power, not a pleading requirement.

The second authority the Judgment cites for the idea that limitations must be pleaded as an affirmative defense is Rule of Civil Procedure 94. That rule requires parties in civil cases to plead limitations, but this is a reciprocal discipline case, not a civil case, so Rule of Civil Procedure 94 does not apply here; Rule of Disciplinary Procedure 9.04 does.

The third authority the Judgment cites is BODA Internal Procedural Rule 1.03, which provides that the Rules of Civil Procedure apply to disciplinary matters except as varied by our rules or to the extent practicable. Rule of Disciplinary Procedure 9.04 lists the defenses available to respondents in reciprocal discipline, so Rule of Civil Procedure 94 does not apply here.

The exclusion of limitations from the list of available defenses in Rule 9.04 is consistent with the fact that limitations in attorney discipline cases is a restriction on our power rather than a pleading requirement for the parties: a party cannot remove a prohibition on our use of power by failing to plead limitations, just as it cannot enforce a restriction against us by pleading limitations.

In reciprocal discipline cases, the statute of limitations is not a pleading requirement and limitations is not an available affirmative defense. Therefore, the Judgment was wrong to conclude that limitations must be pleaded or it is waived.

c. The Grievance did not go through classification, but it did not have to

In Conclusion of Law 3, the Judgment suggests that the “Grievance” mentioned in Rule 17.06 is not the sort of “information” that starts a reciprocal discipline case in Rule 9.01. After all, the CDC is required to examine each Grievance to determine whether it should be classified as an Inquiry, Complaint, or Discretionary Referral, and there is no room for that process in reciprocal discipline cases. Tex. Rules Disciplinary P. R. 2.10, 9.01. So it is natural to assume, as the Judgment does in Conclusion of Law 3, that the “information” the CDC receives in a reciprocal discipline case is not a “Grievance” that starts the statute of limitations.

However, Rule 17.06 lists exceptions to the general rule that a tribunal cannot discipline someone after four years. One of the exceptions is compulsory discipline. *Id.* R. 17.06(B). A compulsory discipline case does not begin when the CDC receives a Grievance. *Id.* R. 8.01. Nor is there any room in compulsory discipline for the grievance classification process. *Cf. id.* R. 2.10.

If it were true that the statute of limitations does not apply to a case unless there is a Grievance that goes through the classification process, limitations could not apply to compulsory discipline cases. But because the statute of limitations expressly states that compulsory discipline is an exception, limitations would have applied to compulsory discipline cases absent the exception. This means that the statute of limitations applies to disciplinary actions in which proceedings are not commenced with a Grievance that goes through the classification process.

Reciprocal discipline cases are not on the list of exceptions to the statute of limitations in Rule 17.06, so the statute of limitations applies to reciprocal discipline.

The Judgment interprets Rule 17.06 without giving effect to exceptions like compulsory discipline. It cannot do that; it has to give effect to every provision in the Rules of Disciplinary Procedure. *In re Caballero*, 272 S.W.3d 595, 599-600 (Tex. 2008). Because the Judgment does not give effect to the exceptions in Rule 17.06—or to the rule’s prohibition on our power to impose discipline after four years—the Judgment’s interpretation of Rule 17.06 is wrong.

d. Professional Misconduct occurred in 2017, not 2023

Professional Misconduct is defined as “conduct that occurs in another jurisdiction, including before any federal court or federal agency, and results in the disciplining of an attorney in that other jurisdiction.” Tex. Rules Disciplinary P. R. 1.06(CC)(2). Conclusion of Law 4 in the Judgment says this language means that Lane did not commit Professional Misconduct until January 17, 2023, when she was disciplined in Illinois. But Rule 1.06 defines Professional Misconduct in terms of the *conduct* that results in discipline, not the discipline itself.

Lane sent the emails at issue in April and June of 2017. That conduct resulted in discipline. Thus, under Rule 1.06, the Professional Misconduct occurred in 2017.

e. Our conclusions of law are not Supreme Court precedents

Conclusion of Law 5 discusses our *Bruno* decision from 2021. In that case, we made a conclusion of law in which we noted that we had previously denied Bruno’s motion to dismiss. *In re Bruno*, BODA Case No. 65864, aff’d, 21-0964 (Tex. Sep. 2, 2022). In his motion to dismiss, Bruno had argued that the statute of limitations in Rule 17.06 barred discipline in his case.

Bruno appealed our judgment—not the denial of his motion to dismiss, which had already happened and which our judgment merely noted, but the entirety of our decision. In the Supreme Court, Bruno raised seven issues, including one about limitations. The conduct at issue in his case

had occurred more than seven years earlier, so he argued that BODA’s decision to impose discipline violated the “spirit and language” of Rule 17.06. The Court affirmed our decision.

Conclusion of Law 5 says we “held” in *Bruno* that reciprocal discipline was not time-barred under Rule 17.06. That is not quite what we did in *Bruno*—we merely noted that we had previously announced our decision to deny Bruno’s motion to dismiss under Rule 17.06—but leave that to the side. Notice we are implying that our conclusion of law about limitations in *Bruno* has binding precedential value because the Supreme Court affirmed our decision in that case.

I fully accept that the Supreme Court’s decision to affirm our judgment in a particular case commands us to resolve analogous cases the same way. But I do not think the Court’s decision to affirm is meant to give precedential authority to the conclusions of law we make in support of the judgment, particularly in a case like *Bruno* with multiple independent grounds for our decision.

To be clear, I am not saying the Supreme Court *could* not give our conclusions of law binding effect as legal precedents; rather, I suspect the Court *does* not do that.

When the Supreme Court affirms one of our decisions, I think it is resolving a particular case, not adopting each of our conclusions of law as a rule of decision with binding force in future cases. Otherwise, our conclusions of law would constitute a new body of law—bodala— that would not only bind us, but district and appellate courts too. That is not what our conclusions of law do. They are just fragments of legal reasoning that explain our judgment in a case.

We can correct our prior errors and we should have done so here. The rules did not require Lane to plead limitations as an affirmative defense; they prohibited us from imposing discipline after four years. We should have obeyed the rules and dismissed this case.

II. Disciplining Lane was a grave injustice

In her response to the petition for reciprocal discipline, Lane pleaded that identical discipline would be a grave injustice. No Texas judicial decision has defined the term “grave injustice,” but it seems to refer to a decision that would be particularly inequitable given the facts and law in a particular case. *See, e.g., Caldwell v. Barnes*, 975 S.W.2d 535, 539 (Tex. 1998).

When the government takes away someone’s ability to earn a living, as we have done here, it can destroy a person’s life. That is a grave matter. And now Lane has been suspended three times for sending three emails six years ago a thousand miles away from here. That is particularly inequitable. *See id.* The worst part of it is the triple jeopardy, but the fact that it happened so long ago and so far away from here is bad too. And yes, Lane deserved to be punished for her emails, but she had already been punished for them—twice. And now we have punished her again.

Because destroying someone’s livelihood is a grave matter, and because doing so a third time for just one thing is unjust, our decision to suspend Lane was a grave injustice.

Under Rule 9.04, we have to enter orders that we deem necessary and appropriate in reciprocal discipline cases. Even if discipline were not barred by limitations, an order denying the CDC’s request for reciprocal discipline would have been necessary and appropriate to prevent a grave injustice in Lane’s case.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Exh. G

IN THE MATTER OF, §
§ Misc. Action No. 3:23-MC-0024-B
Nejla Kassandra K. Lane §

Before Judges BOYLE AND STARR AND SCHOLER, District Judges

ORDER

The Illinois Supreme Court, on January 17, 2023, issued an order that suspended Nejla K. Lane, Esquire, from the practice of law in Illinois for 6 months, followed by 6 months of probation where she is to be supervised by another attorney. (Doc. 9-1 at 55). Lane is also a member of the Texas bar and our bar. Lane was obligated to provide notice of her Illinois discipline to this Court, and she did so. This Court ordered Lane to show cause why it should not impose reciprocal discipline. (Doc. 1). Lane made three filings, each arguing why this Court should not impose reciprocal discipline. (Docs. 2, 6, 8). Because she contests the imposition of reciprocal discipline, this matter is before this three-judge panel. See N.D. Tex. Civ. R. 83.8(h)(3).

“In a reciprocal discipline case, we give effect to the disciplining court’s order unless one or more of three factors dictate that we not do so.” *In re McTighe*, 131 F.Supp.2d 870, 872 (N.D. Tex. 2001) (three-judge panel) (per curiam).

Supreme Court precedent has established that a state court disbarment should be accorded federal effect, unless it appears from “an intrinsic consideration of the state record” (1) that the state proceeding was wanting in due process, (2) that the proof in the state proceeding was so infirm “as to give rise to a clear conviction on our part that we could not consistently with our duty, accept” the state court’s conclusion as final, or (3) that to do so would [“]for some other grave reason . . . conflict with the duty which rests upon us not to disbar except upon

the conviction that, under the principles of right and justice, we were constrained so to do.”

In re Dawson, 609 F.2d 1139, 1142 (5th Cir. 1980) (quoting *Selling v. Radford*, 243 U.S. 46, 51 (1917), and citing cases).

Having conducted intrinsic review of the pertinent underlying records and considered the *Selling* factors, we find that the Illinois disciplinary proceedings were not wanting in due process; that the proof in that proceeding was not so infirm as to give rise to a clear conviction on our part that we could not, consistently with our duty, accept that Court’s conclusion as final; and that doing so would not, for some other grave reason, conflict with the duty that rests upon us not to impose discipline except upon the conviction that, under the principles of right and justice, we were constrained to do so.¹

We find that Lane’s membership in the bar of this Court should be suspended, as it has been in Illinois, for 6 months. “[W]hen a district court learns that a member of its bar has been subject to discipline by another jurisdiction, the identical discipline is typically imposed.” *In re Smith*, 123 F.Supp.2d 351, 355 (N.D. Tex. 2000) (three-judge panel) (per curiam) (quoting *In re Hoare*, 155 F.3d 937, 940 (8th Cir. 1998)), *aff’d*, 275 F.3d 42 (5th Cir. 2001) (table) (per curiam).

Public records indicate that Lane’s suspension began February 7, 2023 and ended August 7, 2023. Attorney Registration & Disciplinary Commission of the Supreme Court of Illinois,

1

We are also not persuaded by Lane’s argument that mandatory reporting under Texas Disciplinary Rule of Professional Conduct 8.03 is an ex post facto clause violation as applied to her. As her argument goes, her punishment was for conduct occurring in 2017, and Rule 8.03 did not take its current form until September 2020. But here, the reciprocal discipline is for the Illinois proceeding, not the federal discipline that preceded the Illinois discipline. The Illinois discipline had a hearing in March 2021, a hearing board report and recommendation in November 2021, a review board report and recommendation in July 2022, and an Illinois Supreme Court order in January 2023. This reciprocal discipline is for a 2023 order—well after the current form of Rule 8.03 took effect in September 2020.

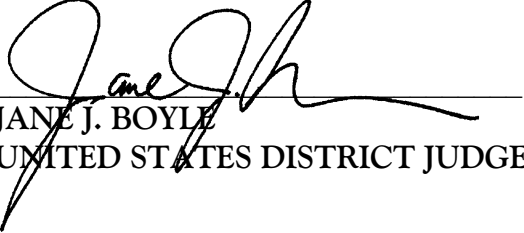
Nejla K. Lane, at <https://www.iardc.org/Lawyer/PrintableDetails/5b0ca371-ab64-eb11-b810-000d3a9f4eeb> (last visited Sept. 14, 2023). During that period of time, the only matter this panel could find in this Court involving Lane is this disciplinary matter. In such circumstances, our Court has previously concluded that no further period is needed for reciprocal discipline (because the disciplined lawyer sat out from this Court for the same period the lawyer sat out of the other disciplining court). *In re Klayman*, No. 3:20-MC-043B, Doc. 26, Dec. 16, 2020.

The remaining question is what to do about the Illinois 6-month period of supervision. It is not a viable option for the Court to keep Illinois supervision in place in this Court. That supervision requires Lane to practice under the supervision of a licensed attorney. That supervising attorney is presumably licensed in Illinois and not the Northern District of Texas. The Courts options are therefore either imposing no further supervision in this Court or establishing a separate supervision framework in this Court.

The Court concludes that the former approach is appropriate, and no further supervision is needed here. Over one month has elapsed since Lane was reinstated under supervision. Her de facto suspension in Texas has amounted to over 7 months—1 month over the original suspension. The Court concludes this additional 1 month of de facto suspension is sufficient to equate to a longer period of supervision. Accordingly, we impose reciprocal discipline, deem the suspension to have been served, and consider this matter CLOSED.

IT IS SO ORDERED this 25th day of September, 2023.

FOR THE PANEL:


JANE J. BOYLE
UNITED STATES DISTRICT JUDGE

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

Cause Number: 23-DCV-308768

IN THE MATTER OF THE MARRIAGE OF

Petitioner: CINDY ROSELAND (f/k/a Seda Gullu)
*Print first, middle and last name of the spouse
filing for divorce.*

An
d

Respondent: MEHMET GULLU

*Print first, middle and last name of other
spouse.*

Fort Bend County - 387th Judicial District
In the _____
(Court Number)

District Court
 County Court at
Law

FORT BEND Countv. Texas

AND IN THE INTEREST OF:

*(Print the initials of each child you and your spouse have together who is under 18 or still in
high school.)*

[REDACTED]

Original Petition for Divorce

1. Discovery

Discovery in this case is intended to be conducted under **level 3** of rule 190 of the Texas Rules of Civil Procedure.

Preservation of Evidence: Respondent is put on notice to preserve and not destroy, conceal, or alter any evidence or potential evidence relevant to the issues in this case, including tangible documents or items in Respondent's possession or subject to Respondent's control and electronic documents, files, or other data generated by or stored on Respondent's home computer, work computer, storage media, portable systems, electronic devices, online repositories, or cell phone.

2. No Objection to Assignment of Case to Associate Judge

Petitioner has no objects to the assignment of this matter to an associate judge for a trial on the merits or presiding at a jury trial.