



FILED

Oct 04 2024

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

No. 69845

BOARD OF DISCIPLINARY APPEALS

ON APPEAL FROM

**EVIDENTIARY PANEL 4-6 OF
THE STATE BAR DISTRICT NO. 4 GRIEVANCE COMMITTEE**

VY THUAN NGUYEN,
State Bar of Texas Card No. 24060334,
Appellant,

v.

COMMISSION FOR LAWYER DISCIPLINE,
Appellee,

APPELLANT VY THUAN NGUYEN'S BRIEF

SHEPHERD PREWETT PLLC

Billy Shepherd
Texas Bar No. 18219700
bshepherd@spcounsel.com
Stephen R. Bailey
sbailey@spcounsel.com
Texas Bar No. 01536660
770 South Post Oak Lane, Suite 420
Houston, Texas 77056
Telephone No. (713) 955-4440
Facsimile No. (713) 766-6542
ATTORNEYS FOR APPELLANT
VY THUAN NGUYEN

October 4, 2024

Identity of Parties and Counsel

Appellant:

Vy Thuan Nguyen

- Appellate Counsel: Billy Shepherd
Texas Bar No. 18219700
bshepherd@spcounsel.com
Stephen R. Bailey
sbailey@spcounsel.com
Texas Bar No. 01536660
770 South Post Oak Lane, Suite 420
Houston, Texas 77056
Telephone No. (713) 955-4440
- Trial Counsel: Pro Se

Appellee:

Commission for Lawyer Discipline

- Appellate Counsel: Michael G. Graham
michael.graham@texasbar.com
Office of the Chief Disciplinary Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
Telephone No. (512) 427-1350
- Trial Counsel: E. William Nichols II
wnichols@texasbar.com
Assistant Disciplinary Counsel
4801 Woodway Dr., Suite 315-W
Houston, Texas 77056
Telephone No. (713) 758-8200

Table of Contents

Identity of Parties and Counsel	i
Table of Contents	ii
Record References	iv
Statement Regarding Oral Argument	iv
Statement of Jurisdiction.....	iv
Index of Authorities.....	v
Statement of the Case	1
Issues Presented.....	1
Statement of Facts	3
A. Nguyen.	3
B. The CFLD’s Petition And The Evidentiary Hearing.....	3
C. The Trang Lau Complaint.	4
D. The Cody Martin Complaint.....	6
E. The Billy Joe Parrish Complaint.....	7
F. The Kyle Kraesig Complaint.	11
G. The Jason Nasra Complaint.....	13
H. The Testimony Of The SBOT Investigator.	14
I. The Panel’s Decision.	15
J. Post-Hearing Filings.....	17
Argument and Authorities	18
A. The Remote Hearing Conducted By The Panel Was Unauthorized And Constituted Structural Error Requiring Reversal.....	18
B. The Panel Abused Its Discretion By Arbitrarily Limiting The Hearing Of Five Unrelated Complainants And Complaints To One Day.....	25
C. The Panel Abused Its Discretion In Permitting Joinder Of Five Unrelated Complainants And Complaints For Trial.....	27

D. The Cumulative Errors By The Panel Resulted In An Unfair Hearing.....	34
E. The Panel Abused Its Discretion By Imposing Excessive Sanctions.....	36
Conclusion	42
Certificate of Compliance.....	43
Certificate of Service	44
Appendix.....	45

Record References

The record consists of the Clerk's Record and the Reporter's Record. References to the Clerk's Record are indicated by the letters "CR" followed by the referenced page number(s). References to the Reporter's Record are indicated by the letters "RR" followed by the referenced page number(s).

Statement Regarding Oral Argument

Under Rule 4.06 of the Internal Procedural Rules of the Board of Disciplinary Appeals, Appellant Vy Thuan Nguyen respectfully requests oral argument.

Statement of Jurisdiction

The Board of Disciplinary Appeals has jurisdiction over this appeal under Rule 2.23 of the Texas Rules of Disciplinary Procedure, and Rules 1.02 and 4.01 of the Internal Procedural Rules of the Board of Disciplinary Appeals.

Index of Authorities

• Cases

<i>Archer v. State</i> , 548 S.W.2d 71 (Tex. Civ. App.—El Paso 1977, writ ref’d n.r.e.)	38
<i>Ashby v. State</i> , 283 S.W.2d 270 (Tex. Civ. App.—Dallas 1955, no writ)	37
<i>City of Houston v. Bates</i> , 406 S.W.3d 539 (Tex. 2013)	19
<i>F.F.P. Operating Partners, L.P. v. Duenez</i> , 237 S.W.3d 680 (Tex. 2007)	31
<i>Fibreboard Corp. v. Pool</i> , 813 S.W.2d 658 (Tex. App.—Texarkana, writ denied)	34, 35
<i>Gaia Envtl., Inc. v. Galbraith</i> , 451 S.W.3d 398 (Tex. App.—Houston [14th Dist.] 2014, pet. denied)	23
<i>Galindo v. State</i> , 535 S.W.2d 923 (Tex. Civ. App.—Corpus Christi 1976, no writ)	39
<i>Hebison v. State</i> , 615 S.W.2d 866 (Tex. Civ. App.—Houston [1st Dist.] 1981, no writ)	38
<i>Hernandez v. State</i> , 683 S.W.3d 586 (Tex. App.—Dallas 2024, no pet.)	23, 24
<i>Hicks v. State</i> , 422 S.W.2d 539 (Tex. Civ. App.—Houston [14th Dist.] 1967, writ ref’d n.r.e.)	37
<i>Howell v. State</i> , 559 S.W.2d 432 (Tex. Civ. App.—Tyler 1977, writ ref’d n.r.e.)	38

<i>Hyundai Motor Co. v. Vasquez</i> , 189 S.W.3d 743 (Tex. 2006)	32
<i>In re Academy, Ltd.</i> , 625 S.W.3d 19 (Tex. 2021)	26, 27
<i>In re Hochheim Prairie Farm Mut. Ins. Ass'n</i> , 296 S.W.3d 907 (Tex. App.—Corpus Christi 2009, orig. proceeding)	30, 33
<i>In re Ruffalo</i> , 390 U.S. 544 (1968)	23, 24
<i>In re S.A.G.</i> , 403 S.W.3d 907, 918 (Tex. App.—Texarkana 2013, pet. denied)	24
<i>Kinney v. Batten</i> , No. 01-21-00394-CV, 2023 Tex. App. LEXIS 1389 (Tex. App.— Houston [1st Dist.] Mar. 2, 2023, no pet. h.)	25
<i>Klein v. Sporting Goods, Inc.</i> , 772 S.W.2d 173 (Tex. App.—Houston [14th Dist.] 1989, writ denied)	34
<i>Lakeside Village Homeowners Association, Inc. v. Belanger</i> , 545 S.W.3d 15 (Tex. App.—El Paso 2017, pet. denied)	34, 35
<i>Longoria v. Exxon Mobil Corp.</i> , No. 04-15-00536-CV, 2016 Tex. App. LEXIS 7917 (Tex. App.—San Antonio July 27, 2016, pet. denied)	27-28
<i>Lorusso v. Members Mut. Ins. Co.</i> , 603 S.W.2d 818 (Tex. 1980)	33
<i>Musselwhite v. State Bar of Texas</i> , 786 S.W.2d 437 (Tex. App.—Houston [14th Dist.] 1990, writ denied)	38
<i>Narasimha v. State</i> , No. 05-15-01410-CR, 2016 Tex. App. LEXIS 11771 (Tex. App.— Dallas Oct. 31, 2016, pet. ref'd)	23, 24

<i>Oakwood Mobile Homes, Inc. v. Cabler</i> , 73 S.W.3d 363, 375 (Tex. App.—El Paso 2002, pet. denied)	29
<i>Quick v. City of Austin</i> , 7 S.W.3d 109 (Tex. 1998)	19
<i>Royal Petroleum Corp. v. Dennis</i> , 160 Tex. 392, 332 S.W.2d 313 (Tex. 1960)	28
<i>Searcy v. State Bar</i> , 604 S.W.2d 256 (Tex. Civ. App.—San Antonio 1980, writ ref'd n.r.e.)	37
<i>Sims v. Brackett</i> , 885 S.W.2d 450 (Tex. App.—Corpus Christi 1994, writ denied)	26
<i>State v. Baker</i> , 539 S.W.2d 367 (Tex. Civ. App.—Austin 1976, writ ref'd n.r.e.)	39
<i>State v. Ingram</i> , 511 S.W.2d 252 (Tex. 1974)	39
<i>State v. Pevehouse</i> , 483 S.W.2d 565 (Tex. Civ. App.—Eastland 1972, writ ref'd n.r.e.)	39
<i>Steere v. State</i> , 445 S.W.2d 253 (Tex. Civ. App.—Houston [1st Dist.] 1969, writ dism'd)	37
<i>Suggs v. Fitch</i> , 64 S.W.3d 658 (Tex. App.—Texarkana 2001, no pet.)	23
<i>Texas Land Drilling Co. v. First State Bank & Trust Co. of Port Lavaca</i> , 445 S.W.2d 571 (Tex. Civ. App.—Corpus Christi 1969, writ ref'd n.r.e.)	32-33

• **Rules**

Tex. R. Disc. Proc. 1.01	16, 36
Tex. R. Civ. P. 1.03	15, 16, 17, 33, 36

Tex. R. Disc. Proc. 2.12	19, 20
Tex. R. Disc. Proc. 2.15	20
Tex. R. Disc. Proc. 2.17	19
Tex. R. Disc. Proc. 8.04	15, 36
Tex. R. App. P. 9.4	43
Tex. R. Civ. P. 21d	21
Tex. R. Civ. P. 40	28, 29, 31, 32, 33
Tex. R. Civ. P. 48	32, 33

- **Secondary Authority**

Susan A. Bandes & Neal Feigenson, <i>Essay: Empathy and Remote Legal Proceedings</i> , 51 Sw. L. Rev. 20 (2021)	22
---	----

Statement of the Case

The Commission for Lawyer Discipline (“CFLD”) filed a petition against Appellant Vy Thuan Nguyen (“Nguyen”) based on five unrelated grievance complaints filed by five unrelated complainants regarding five unrelated matters. All of the complaints were heard together on May 8, 2024 in a one-day, remote evidentiary hearing conducted by Zoom and telephonic connection, after which the Evidentiary Panel found misconduct with regard to certain allegations; found no misconduct with regard to other allegations; and imposed a sanction of disbarment and payment of the CFLD’s attorney’s fees. Nguyen requested findings of fact and conclusions of law, which the Panel entered, and filed a motion for new trial, which the Panel denied. Nguyen timely appealed.

Issues Presented

Nguyen presents the following issues for review, including any sub-issues or related issues that may reasonably be considered in connection with the following issues.

1. Whether conducting a remote (by Zoom and telephonic connection) evidentiary hearing was a structural error requiring automatic reversal.
2. Whether the Panel’s decision to limit the trial of five unrelated complaints, each requiring

completely different evidence, to a single day was arbitrary and an abuse of discretion.

3. Whether the Panel's refusing to order separate evidentiary hearings on the five unrelated complaints made the basis of the CFLD's petition was an abuse of discretion.
4. Whether the Panel's cumulative errors in conducting a remote evidentiary hearing, limiting the hearing on five unrelated grievance complaints to one day, and refusing to hold separate hearings on the unrelated complaints requires reversal.
5. Whether the Panel abused its discretion by imposing excessive sanctions against Nguyen.

Statement of Facts

A. Nguyen.

Nguyen has been licensed and practicing law in Texas for more than 16 years. *RR 269*. She has been admitted to practice in many immigration courts and federal courts, in addition to the courts of the State of Texas, and has primarily represented clients in Harris, Bell, and Travis Counties. *Id.* Nguyen sits on the Unauthorized Practice of Law Committee. *Id.* She is proud of her Vietnamese heritage and remains active in the Vietnamese community of Houston. *Id.* Nguyen has served as a mentor to several young lawyers hired out of law school. *RR 269-270*.

B. The CFLD's Petition And The Evidentiary Hearing.

The CFLD filed its Petitioner's Original Petition (the "Petition") against Nguyen on August 31, 2023. *CR 125*. The Petition alleged disciplinary rule violations based on five unrelated grievance complaints filed by five unrelated complainants regarding five unrelated matters. *CR 132*. The complainants were: (1) Trang Lau; (2) Cody Martin; (3) Billy Joe Parrish; (4) Kyle Kraesig; and (5) Jason Nasra. *Id.*

On May 8, 2024, the Panel conducted a one-day, remote evidentiary hearing on all five of the unrelated grievance complaints.

C. The Trang Lau Complaint.

With respect to Trang Lau (“Lau”), the CFLD alleged that, on September 1, 2021, Lau hired Nguyen to represent her in a child-support modification matter for which Lau paid Nguyen a \$1,500 retainer. *CR 126-127*. The CFLD alleged that, after Nguyen was hired, she failed to respond to Lau’s phone calls and emails requesting information and status updates on the matter. *Id.* The CFLD also alleged that Nguyen did not timely file a response to the grievance complaint filed by Lau. *Id.*

Lau testified that she had initially hired Nguyen to handle child-support modification matters and, subsequently, in connection with a parental termination case. *RR 58*. According to Lau, during Nguyen’s first year of the representation, Nguyen’s communication with her was poor and, at one point, Lau wrote a letter to Nguyen terminating her representation and requesting a refund of the \$1,500 fee. *RR 60-61, 64*. Lau testified that, when Nguyen did not timely respond to Lau’s request for a refund, Lau “felt like I needed to report Vy to the State Bar for not responding.” *RR 64-65*.

Lau testified that, after she filed her complaint with the Bar, her communications with Nguyen substantially improved and she decided not to terminate Nguyen. *RR 65-66*. She also testified that she no longer desires to prosecute her complaint against Nguyen. *RR 68*. Lau testified that, when she filed her grievance complaint, she thought the State Bar would simply instruct Nguyen that she needed to have better communications with Lau and was not aware that Nguyen could be disbarred or suspended from practicing law on the basis of her complaint. *Id.* Lau testified that she did not want Nguyen to lose her license or the ability to practice law. *RR 66-67*. Lau stated that, as of the date of the evidentiary hearing, she was pleased with Nguyen's representation and wanted Nguyen to continue to represent her. *Id.*

Nguyen conceded that she had probably been "spread too thin" during the 2021-2022 timeframe, which may have accounted for any failure to adequately communicate with Lau. *RR 210*. Nguyen further stated that she wanted to "take accountability" for her lack of communication with Lau, but was pleased that Lau is now satisfied with her representation and wants her to continue it. *Id.*

D. The Cody Martin Complaint.

With respect to Cody Martin (“Martin”), the CFLD alleged that, on April 12, 2022, Nguyen failed to remit \$3,500 from her IOLTA account to Martin, who was Nguyen’s opposing counsel in a divorce matter. *CR 126-127*. The CFLD alleged that the \$3,500 was for attorney’s fees that the divorce court ordered Nguyen to pay to Martin, but Nguyen failed or refused to pay the money and subsequently failed to appear for hearing set by Martin on a motion to enforce the order awarding his attorney’s fees. *CR 127*.

Martin testified that Nguyen had represented to Martin and Martin’s client (the husband) that she had \$3,500 from her client (the wife) in her IOLTA account and that those funds would be used to pay the attorney’s fees agreed to in an agreed order to be submitted to the court in the divorce proceeding. *RR 30-31*. Martin testified that, after the order was entered by the court, Nguyen did not pay him the \$3,500 despite calls and emails requesting the money. *RR 31*. He testified that he filed a motion with the court to enforce the attorney’s fees award, but that Nguyen failed to appear for the hearing. *RR 31*. Martin stated that he felt his only practical recourse was to file a grievance complaint

against Nguyen because he knew that he would not be able to obtain an order garnishing funds in Nguyen's IOLTA account. *RR 31-32*.

Nguyen testified that she did not pay the money because it was withdrawn from her IOLTA account by the financing company that her client had borrowed money from to pay Nguyen's attorney's fees, Fresh Start Funding ("Fresh Start"). *RR 205-206*. She explained that her client's agreement with Fresh Start entitled Fresh Start to have access to the funds for purposes of a "drawback" in the event the client failed to make her monthly payments and that is in fact what had happened with regard to the \$3,500. *Id.* Nguyen testified that her fees had also not been paid by her client. *RR 206-207*. Nguyen pointed out that the motion to enforce that Martin filed was only against Nguyen's client—not Nguyen—even though the motion was filed after the hearing at which the order to pay Martin's attorney's fees had been entered. *Id.*

E. The Billy Joe Parrish Complaint.

With respect to Billy Joe Parrish ("Parrish"), the CFLD alleged that, on February 5, 2020, Parrish hired Nguyen to obtain proof of his citizenship so that he could renew his commercial driver's license. *CR 126*. The CFLD alleged that, during the representation, Nguyen failed

to respond to Parrish's phone calls and emails requesting information and status updates, and failed to file documents or make headway in the matter. *Id.* Parrish did not attend the hearing to testify because, according to his wife Tammy Parrish ("Tammy"), Parrish understood that he was to be available for the Zoom hearing at 9:00 a.m. and he had to leave for work before he was notified to log into the hearing at approximately 12:40 p.m. *RR 122, 143.* While Tammy testified, she did not have any paperwork pertaining to the representation at the time.

Tammy testified that Parrish was born in Germany and was adopted by a United States serviceman there, but had been in the United States since he was approximately 18 months old. *RR 125.* She stated that he had applied for a routine renewal of his commercial driver's license for his work with a trucking firm, but was informed that he needed proof of citizenship that he did not have. As a result, Parrish contacted Nguyen to investigate the matter and, if necessary, assist him in applying for citizenship. *RR 125-128.* According to Tammy, during their first discussion, Nguyen said that it would be a "piece of cake" because Parrish and/or Tammy had already done most of the work to gather necessary documents. *RR 128.* Tammy testified that she and

Parrish presented Nguyen an adoption decree, a social security card that Parrish had obtained, and some other documents reflecting Parrish's high school attendance. *RR 145-146*. Tammy testified that they paid Nguyen \$1,750 for the representation, but over the following three years Nguyen neither obtained proof of Parrish's citizenship nor applied for citizenship on his behalf. *RR 130*. Tammy testified that Nguyen failed to respond to emails, calls, and text messages. *RR 135*.

Tammy further testified that on at least one occasion she was informed by Nguyen that the U.S. Citizenship and Immigration Services (USCIS) was backlogged due to the COVID shutdown and was not answering the phones or the online customer service portal. *RR 145*. Ultimately, Tammy and Parrish contacted another attorney who recommended that Parrish not pursue obtaining citizenship but, because of Parrish's age, apply for a green card instead. *RR 137-138*.

After Parrish retained the new attorney and authorized him to proceed, Parrish received a green card. Tammy testified that, although Parrish had retained Nguyen to obtain citizenship, Nguyen did not explain the option of just filing for a green card instead. *RR 171*. Tammy

testified that, because of the delay, Parrish eventually lost his job. *RR 140.*

Nguyen pointed out that the date she was retained by Parrish, February 5, 2020, was just a few weeks before the national COVID shutdown. *RR 145.* Nguyen testified that, at the first meeting with Parrish, she explained to him and Tammy that, if his adoptive father brought Parrish with him when he returned to the United States, there should be some record of his adoption and naturalization with the USCIS if he entered the country as the adoptive child of a United States servicemember. *RR 227.* The adoption decree indicated that Parrish had been adopted in Germany, and Nguyen explained that there should also be a record of his naturalization because he would have required a passport to enter the United States with his adoptive father. *RR 226-227.*

It was unclear to Nguyen how Parrish would have obtained a social security card without having been naturalized when he entered the country as a child. *RR 227-229.* Nguyen explained that, because it had occurred more than 50 years earlier, she would have to research the laws in effect when he originally entered the country and try to find out if any naturalization paperwork had ever been filed on his behalf. *RR 227-228.*

Nguyen's initial goal was to ascertain whether Parrish was ever naturalized and, if not, what naturalization proceedings may have been initiated on his behalf. *Id.* Nguyen recommended filing a Freedom of Information Act request to locate any missing information that might explain whether and why Parrish never obtained citizenship. *RR 229-231.* Eventually Nguyen informed Tammy that it did not appear that Parrish had sufficient information to pursue an N400 Application for Naturalization. *RR 172.* Nguyen testified that she did her best to try to find a way for Parrish to obtain his naturalization (citizenship), understanding that is what Parrish had requested. *RR 231-232.*

F. The Kyle Kraesig Complaint.

With respect to Kyle Kraesig ("Kraesig"), the CFLD alleged that, on July 28, 2021, Kraesig hired Nguyen to represent him in a divorce proceeding and paid her a retainer of \$1,800. *CR 127.* The CFLD alleged that, after Kraesig agreed to a mediated settlement agreement in the divorce case, he asked Nguyen questions about it and Nguyen failed to explain the matter to him to the extent necessary to allow him to make informed decisions. *Id.* The CFLD alleged that, although the divorce was

finalized on May 25, 2022, Nguyen failed to timely inform Kraesig of the entry of the decree or respond to his earlier requests for information. *Id.*

Kraesig testified that another lawyer from Nguyen's office attended the mediation with him in January 2022, where the settlement agreement was signed. *RR 78-80; see also Petitioner's Misconduct Exhibit 6.* Kraesig said that, after the mediation, he tried to contact Nguyen about certain terms of the settlement agreement, but that she did not respond. *RR 81.* Kraesig admitted, however, that he does not have copies of any of the text messages he claims were sent to Nguyen and not responded to. *RR 99-100.* Kraesig also admitted that he did in fact briefly communicate with Nguyen by text messages and occasional phone calls. *RR 81.*

In particular, Kraesig testified that he had asked Nguyen how he would receive the portion of funds payable under the settlement by way of a qualified domestic relations order (QDRO) that split a portion of his wife's accrued retirement plan interest. *RR 82.* Kraesig testified that he asked Nguyen whether there was anything in particular he should not do or say when he went to the marital residence to retrieve various items and his pet cat. *RR 82-83.* Kraesig testified that he was not aware that

the final divorce decree pursuant to the settlement had been entered by the court until several months after it was signed. *RR 85-86*. Kraesig also claimed that Nguyen had promised to send him his file, but did not. *RR 91*.

Nguyen testified that she did discuss Kraesig's question about the QRDO with him. *RR 216-217, 245-246*. And although she presented no documentary evidence that she had sent the signed divorce decree or file to Kraesig, she testified that she recalled requesting her staff to assemble Kraesig's file materials and believes they were sent to him. *Id*; *RR 224*. She also stated that, like other family lawyers she knows, she informs clients that they may obtain copies of their decrees online from the District Clerk's office and that, if they require a certified copy, she will obtain one for a fee. *RR 223-224*. Nguyen pointed out that Kraesig had only presented to the Panel with five emails he sent to her, and that four of the five reflected that Nguyen had responded to him. *RR 111-114*.

G. The Jason Nasra Complaint.

With respect to Jason Nasra ("Nasra"), the CFLD alleged that Nasra hired Nguyen in December 2021 to represent him in a child custody modification proceeding. *CR 128*. The CFLD alleged that, during

her representation, Nguyen missed deadlines and failed to respond to opposing counsel's attempts to confer to schedule a mediation. *Id.* The CFLD alleged that Nguyen failed to keep Nasra informed of the status of the matter, failed to respond to his inquiries, and failed to explain the matter to Nasra to the extent necessary for him to make informed decisions. *Id.* The CFLD also claimed that Nguyen had failed to properly account for Nasra's retainer, failed to return his file, and failed to timely respond to his grievance complaint. *RR 128-129.*

Nasra failed to appear to testify at the evidentiary hearing, and the CFLD abandoned all allegations based on his complaint, except the allegation that Nguyen failed to timely respond to it. *RR 261-262.*

H. The Testimony Of The SBOT Investigator.

The CFLD called a State Bar of Texas investigator, Orlando Mayers ("Mayers"), to testify regarding Nguyen's prior disciplinary history. Mayers testified that Nguyen failed to file timely responses to the Lau, Martin, and Nasra grievance complaints, and certain others unrelated to this proceeding. *RR 187-188, 197.* Mayers stated that he has known and worked with Nguyen over the years in connection with certain grievance complaints against her, some of which he recommended be dismissed. *RR*

194-196. Mayers also testified that he has referred a client to Nguyen on at least one occasion. *Id.*

Nguyen testified that she had been dealing with a number of complaints that had recently been filed around the same time period, but she had not failed to respond to all of the complaints alleged by Mayers. *RR 249.* She conceded that she may have failed to timely respond to certain complaints but that, after William Nichols as counsel for the State Bar of Texas identified the complaints to which a response was required, she filed answers to those complaints. *Id.*

I. The Panel's Decision.

After the conclusion of the evidentiary hearing, the Panel announced the following decision. *RR 276-277.*

Lau. With respect to the allegations based on Lau's complaint, the Panel found that Nguyen violated Rules 1.03(a) and 8.04(a)(8) by failing to keep Lau reasonably informed, failing to comply with requests for information, and failing to timely respond to Lau's complaint. *CR 219; RR 276-277.*

Martin. With respect to the allegations based on Martin's complaint, the Panel found that the CFLD did not establish that Nguyen

had failed to hold trust funds separate from her own, did not establish that Nguyen failed to promptly deliver funds that a third person was entitled to receive, did not establish that Nguyen took a position that unreasonably increased costs or delay, and did not establish that Nguyen knowingly disobeyed a court order. *CR 277*. But the Panel found that Nguyen violated Rule 8.04(a)(8) by failing to timely respond to Martin's complaint. *CR 219, 277*.

Parrish. With respect to the allegations based on Parrish's complaint, the Panel found that the CFLD did not establish that Nguyen accepted or continued employment in a matter which she knew was beyond her competence. *CR 276*. Yet the Panel concluded that Nguyen violated Rules 1.01(b)(1), 1.01(b)(2), and 1.03(a) by neglecting a matter entrusted to her, frequently failing to carry out completely her obligations to Parrish, and failing to keep Parrish reasonably informed and promptly respond to his inquiries. *CR 219, 276*.

Kraesig. With respect to the allegations based on Kraesig's complaint, the Panel found that the CFLD did not establish that Nguyen failed to explain a matter to the extent necessary to allow Kraesig to make informed decisions. *CR 277*. The Panel nevertheless concluded

that Nguyen violated Rule 1.03(a) by failing to keep Kraesig reasonably informed about the status of his case and failing to promptly comply with requests for information. *CR 219, 277.*

Nasra. With respect to the allegations based on Nasra’s complaint, the Panel found only that Nguyen violated Rule 8.04(a)(8) by failing to timely respond to Nasra’s complaint. *CR 219, 278.*

Sanctions. The Panel determined that the sanctions for Nguyen were disbarment and the payment of attorney’s fees and costs in the amount of \$4,487.50. *CR 235, 237.* The Panel stated that it had concluded “[t]he sanction of disbarment was found with respect to each individual violation set forth in [its] Findings of Fact...and was not the result of aggregating or combining any of the [individual] violations....”¹ *CR 234.*

J. Post-Hearing Filings.

On May 30, 2024, Nguyen timely filed a Request for Findings of Fact and Conclusions of Law. *CR 240.* On June 3, 2024, Nguyen timely filed her Motion for New Trial.² *CR 243-245.* On June 12, 2024, the Panel

¹ This includes Findings of Fact numbers 4, 5, 6, 8, 9, 10, 12 and 17.

² The motion is titled “Motion for New Evidentiary Hearing on the Merits or, Alternatively, Motion for New Sanctions Hearing.”

signed Findings of Fact and Conclusions of Law, signed Amended Findings of Fact and Conclusions of Law, and denied Nguyen’s Motion for New Trial. *CR 265*. On August 2, 2024, Nguyen timely filed her Notice of Appeal. *CR 285*.

Argument and Authorities

A. The Remote Hearing Conducted By The Panel Was Unauthorized And Constituted Structural Error Requiring Reversal.

The Panel conducted the May 8, 2024 evidentiary hearing telephonically and by remote video link such that neither the Panel nor any of the parties or nor any of the witnesses were present in the same room (*i.e.* a virtual trial). *CR 152, 275*. Although the Panel Chairman had notified Nguyen that the hearing would be “conducted by a video and tele-conference connection,” the Chairman did not request Nguyen’s consent to a remote evidentiary hearing. *CR 154-156*. Nor did Nguyen give her consent to a remote hearing.

Neither the Texas Rules of Disciplinary Procedure nor the Internal Procedural Rules of the Board of Disciplinary Appeals (the “Board Rules”) permit remote proceedings for evidentiary hearings. Indeed, in the circumstance where remote hearings are permitted by the Rules, the

Rules expressly say so. For example, Rule 2.12, which governs investigatory hearings, states that “the hearing...may be conducted by teleconference.” Tex. R Disc. Proc. 2.12(F). But Rule 2.17, which governs evidentiary hearings, contains no similar provision and does not permit the hearing to be conducted by video, telephonically, or otherwise remotely. Tex. R. Disc. Proc. 2.17.

As a basic rule of construction followed by the Supreme Court of Texas, which promulgated the Texas Rules of Disciplinary Procedure, the express authority for remote participation in investigatory hearings but **not** in evidentiary hearings means that evidentiary hearings may not be conducted remotely. *See, e.g., City of Houston v. Bates*, 406 S.W.3d 539, 549 (Tex. 2013) (presuming that the omission of a provision contained within similar statutes was intentional and indicated that the provision was not applicable); *Quick v. City of Austin*, 7 S.W.3d 109, 123 (Tex. 1998) (same).

It makes sense that investigatory hearings may be conducted remotely, but evidentiary hearings may not. At an investigatory hearing, a lawyer’s livelihood is not at stake because the lawyer may not be sanctioned absent the lawyer’s agreement to the sanction:

An investigatory hearing may result in a Sanction ***negotiated with the Respondent*** or in the Chief Disciplinary Counsel's dismissing the Complaint of finding Just Cause. The terms of a ***negotiated*** Sanction must be in a written judgment with findings of fact and conclusions of law. The judgment must be entered into the record by the chair of the Investigatory Panel and signed by the Chief Disciplinary Counsel ***and the Respondent***.

Tex. R. Disc. Proc. 2.12(G) (emphasis added).

If the lawyer chooses not to accept a sanction recommended at an investigatory hearing, then she may elect to proceed to a trial in district court or to an evidentiary hearing before an Evidentiary Panel of a grievance committee, where she has structural due process rights such as the right to appear in-person before the trier of fact and the right to confront her accuser(s) and other witnesses in-person. Tex. R. Disc. Proc. 2.15.

Even the Texas Rules of Civil Procedure prohibit remote hearings in which oral testimony is presented, absent agreement of the parties or good cause:

A court must ***not*** require:

(A) ***a party or lawyer to appear electronically for a court proceeding in which oral testimony is heard, absent good cause or the agreement of the parties; or***

(B) a lawyer, party, or juror to appear electronically for a jury trial, absent the agreement of the parties.

Tex. R. Civ. P. 21d(b)(2) (emphasis added).

In enacting the Rules of Civil Procedure, the Supreme Court of Texas recognized that there are inherent disadvantages to remote evidentiary hearings relative to traditional in-person evidentiary hearings, and that parties should not be deprived of the benefit of a traditional in-person evidentiary hearing absent agreement or good cause. Tex. R. Civ. P. 21d(b)(2). The disadvantages and probable unfairness of evidentiary proceedings being conducted remotely are widely recognized in the behavioral sciences as well. Experts in these fields have concluded, among other things, the following with respect to the use of remote evidentiary proceedings:

[S]tandard videoconferencing platforms make normal eye contact difficult, if not impossible. If someone appears to be looking at you, he almost certainly isn't, because he must be looking at the camera instead. And if the person appears to be looking at you, everyone else looking at their respective screens has the same impression, so that it is impossible for any one participant to appear to be looking uniquely at any other. This lack of mutual, reciprocal gaze has been found to make people evaluate others encountered on video as less likeable (and less intelligent) than those

encountered face-to-face, which may, in turn, lessen their inclination to empathize with the other. Relatedly, it may negatively influence evaluations of credibility and assessments of remorse, both of which are often affected by the presence or absence of direct eye contact.

Susan A. Bandes & Neal Feigenson, *Essay: Empathy and Remote Legal Proceedings*, 51 Sw. L. Rev. 20, 31 (2021).

Here, no finding of good cause for conducting a remote evidentiary hearing was made by the Panel. *CR 275-279*. Nor is there any evidence of good cause apparent in the record. And again, Nguyen did not consent to a remote hearing. Moreover, any emergency orders that may have permitted the Panel to conduct remote evidentiary hearings due to COVID had expired and were not in effect on May 8, 2024, the date of the evidentiary hearing here. *See* Fifty-Ninth Emergency Order Regarding the COVID-19 State of Disaster (Misc. Dkt. No. 22-9120); Final General Emergency Order Regarding the COVID-19 State of Disaster (Misc. Dkt. No. 23-9005) (stating that all COVID-related emergency orders expire March 1, 2023). Thus, conducting the evidentiary hearing remotely was unlawful and erroneous.

The Supreme Court of the United States has described attorney disciplinary proceedings as quasi-criminal in nature. *In re Ruffalo*, 390 U.S. 544, 551-52 (1968). It is settled that Texas attorneys facing disciplinary proceedings have procedural due process protections. *Gaia Envtl., Inc. v. Galbraith*, 451 S.W.3d 398, 409 (Tex. App.—Houston [14th Dist.] 2014, pet. denied) (referring to the quasi-criminal context of disbarment proceedings). In the context of constitutional due process rights, certain errors are deemed so structural or fundamental that they trigger automatic reversal and may be raised for the first time on appeal. *See e.g. Narasimha v. State*, No. 05-15-01410-CR, 2016 Tex. App. LEXIS 11771, at *7 (Tex. App.—Dallas Oct. 31, 2016, pet. ref'd). Such errors include those that affect the “entire trial process” and result in fundamental unfairness, unless affirmatively waived by the complaining party. *Id.* Likewise, structural error “defies harm analysis because the error affects the framework of the trial.” *Hernandez v. State*, 683 S.W.3d 586, 592 (Tex. App.—Dallas 2024, no pet.); *see Suggs v. Fitch*, 64 S.W.3d 658 (Tex. App.—Texarkana 2001, no pet.) (suggesting that errors depriving a party of “absolute or systemic” rights may be raised for first time on appeal).

It cannot reasonably be disputed that the imposition of a remote evidentiary hearing here affected the “entire” hearing process and systemically affected Nguyen’s right to a hearing conducted in accordance with the controlling rules. Because the Panel’s decision to conduct the hearing remotely was not authorized, it was unlawful and erroneous and fundamentally unfair. Although the ultimate effect of conducting the hearing in a systemically unlawful and erroneous manner cannot be known, it is for that very reason that Nguyen is not required to show that the error was harmful. *Hernandez v. State*, 683 S.W.3d at 592 (errors affecting the “framework” of the trial defy harm analysis).³ As a result, such errors trigger automatic reversal. *Narasimha*, 2016 Tex. App. LEXIS 11771, at *7.

For these reasons, the Panel’s judgment should be reversed and this case should be remanded for further proceedings. *Id.*

³ Although this proceeding is quasi-criminal in nature per the Supreme Court of the United States (*In re Ruffalo*, 390 U.S. at 551-52), there does appear to be a split of authority as to whether, under Texas law, the doctrine of structural error applies to civil cases. See *In re S.A.G.*, 403 S.W.3d 907, 918 (Tex. App.—Texarkana 2013, pet. denied) (J. Carter, concurring) (including a comprehensive discussion of the issue and ***concluding that the Supreme Court of Texas does recognize the doctrine of structural error in civil cases***).

B. The Panel Abused Its Discretion By Arbitrarily Limiting The Hearing Of Five Unrelated Complainants And Complaints To One Day.

On the date of the evidentiary hearing, and after it had already commenced, the Panel Chairman announced for the first time that the hearing would be limited to one day and repeated the admonition throughout the hearing. *RR 50* (“We are going to get this done today”), *51* (“we are going to get this done today”), *121* (“it will be completed today one way or another”). Prior thereto, at the outset of the hearing, the Panel Chairman compared the proceeding to a hearing on temporary orders in a divorce case and attempted to have Nguyen agree in advance that the entire proceeding would be completed within four hours. *RR 21-23*. Thereafter, the Chairman repeatedly asserted that Nguyen needed to proceed more quickly or that she was wasting time. *RR 51, 53, 71, 75, 103, 112, 119, 121*. And at the end of the hearing, the Chairman commented that he believed that the hearing should have been completed within two hours. *RR 179*.

The Chairman did have the inherent power to control the disposition of the hearing “with economy of time and effort for itself, for counsel, and for litigants.” *Kinney v. Batten*, No. 01-21-00394-CV, 2023

Tex. App. LEXIS 1389, at *18 (Tex. App.—Houston [1st Dist.] Mar. 2, 2023, no pet. h.). However, that inherent power is not unfettered. It must be exercised reasonably, and a party must be given a fair opportunity to present her case. *Id.* (citing *Sims v. Brackett*, 885 S.W.2d 450, 455 (Tex. App.—Corpus Christi 1994, writ denied)). By analogy to the role of a trial judge, a panel chairman abuses his discretion when he acts in an arbitrary manner. *In re Academy, Ltd.*, 625 S.W.3d 19, 25 (Tex. 2021).

The Chairman’s insistence that an evidentiary hearing that involved five unrelated grievance complaints filed by five unrelated complainants regarding five unrelated matters and that could potentially result in disbarment and the loss of Nguyen’s livelihood be completed in a single day (much less a few hours) was arbitrary and unreasonable. No explanation was given as to why the hearing could not have proceeded beyond one day. Nor was any explanation given as to why, if the hearing could not have proceeded on the following day due to the Panel’s schedule, it could not have proceeded on some other date in the future—which in civil litigation is not uncommon in trials to the court. Given the anticipated testimony of up to five complainants and other witnesses on

five different grievance complaints regarding five different matters, arbitrarily limiting the hearing to one day necessarily meant that Nguyen could anticipate no more than one hour being allowed for direct and cross examination of each witness. This drove the hearing in a manner that, given its seriousness, was unreasonable and calculated to lead to an unfair trial. *In re Academy, Ltd.*, 625 S.W.3d at 25. That is, once the Chairman ordered that only one day would be permitted, it necessarily impacted how each witness would be examined, including what impeachment evidence could be offered. *Id.* And while the exclusion of any particular questioning may not have dramatically impacted the result, taken together it was an unreasonable exercise of discretion that likely resulted in an unfair trial. *Id.*

For these reasons, too, the Panel's judgment should be reversed and this case should be remanded for further proceedings.

C. The Panel Abused Its Discretion In Permitting Joinder Of Five Unrelated Complainants And Complaints For Trial.

Nguyen recognizes that the Panel has discretion in matters involving joinder of parties or claims, and that its rulings thereon are reviewed for abuse of that discretion. *Longoria v. Exxon Mobil Corp.*, No. 04-15-00536-CV, 2016 Tex. App. LEXIS 7917, at *3 (Tex. App.—San

Antonio July 27, 2016, pet. denied) (citing *Royal Petroleum Corp. v. Dennis*, 160 Tex. 392, 332 S.W.2d 313, 317 (Tex. 1960)). Nevertheless, in this instance, it was undisputed that none of the five complainants had any relationship with each other, and that none of five grievance complaints were related in terms of the evidence relevant to the prosecution or defense of the alleged rule violations for each grievance. That is, this was not a situation where multiple complainants were represented by Nguyen in connection with the same event or occurrence, or even series of events or occurrences. The joinder of the five unrelated complainants and complaints for purposes of an evidentiary hearing, therefore, was improper and a clear abuse of discretion. Tex. R. Civ. P. 40(a) (permitting joinder of claims “arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action”). Furthermore, even if any two or more of the claimants’ allegations against Nguyen met the requirements for joinder in a single action, and they do not, they should not have been tried together. Tex. R. Civ. P. 40(b) (permitting a court to order separate trials to prevent prejudice arising from the joinder of claims).

It can hardly be disputed that presenting the complaints of five separate and unrelated complainants regarding five separate and unrelated matters to the same trier of fact at the same time would be likely to have some prejudicial impact—even if only because of the tendency to think that it is more likely that Nguyen engaged in professional misconduct conduct because five different complainants in five different matters complained. That is exactly why the rules of joinder, while permissive, are not unlimited and require some evidentiary relationship between claims proposed to be joined or consolidated. Tex. R. Civ. P. 40. The likelihood of prejudice and damage to a party’s credibility when evidence of claims asserted by party “A” are admitted during the trial of claims asserted by party “B” is obvious and inherent in the common law doctrine of *res inter alios acta*, now codified under Texas Rules of Evidence 401 through 404. *See Oakwood Mobile Homes, Inc. v. Cabler*, 73 S.W.3d 363, 375 (Tex. App.—El Paso 2002, pet. denied). An obvious example would be a defendant who is alleged by three unrelated parties to have negligently caused three unrelated accidents. Trying all three claims together would undoubtedly carry a higher risk for the defendant than trying them individually because the

trier of fact deciding whether the defendant negligently injured party “A” would hear evidence that parties “B” and “C” are alleging that the defendant negligently injured them on other occasions. The potential damage to Nguyen’s credibility and defense resulting from the joinder and combined evidentiary hearing was understood by the Panel, which nevertheless permitted the hearing of all five unrelated complainants and complaints together. *RR 234* (in response to Nguyen’s statement that she had challenged the joint trial of all five complaints because of potential damage to her credibility, the Chairman stated “I get that”).

Even where the allegations are of the same “type” or arise from the same general circumstances, they do not satisfy the requirements for joinder unless mostly the same evidence will be used to prove the alleged violations in each complaint. *Id.*; see also *In re Hochheim Prairie Farm Mut. Ins. Ass’n*, 296 S.W.3d 907, 912 (Tex. App.—Corpus Christi 2009, orig. proceeding). In *Hochheim*, the court summarized the rule’s application as follows in the case of three claimants asserting that an insurer had wrongfully denied coverage under their respective insurance policies:

Although the three claims [regarding the three insurance policies] will concern similar issues of law and some similar facts, the three claims stem from three distinct factual scenarios. Accordingly, we agree with relator that the judicial economy and convenience that may be gained by trying these three claims together is outweighed by the dangers of prejudice and confusion on the part of the jury. *See Duenez*, 237 S.W.3d at 693. ***Although the property damage in each of the three claims was caused by the same weather event***, and although each of the claims was ***handled by the same adjuster***, other issues for each claim must be resolved on their own merits. Specifically, ***the underlying factual situations for each of the three claims is unique and should therefore be handled separately***, including whether each claim was covered under the insurance policies at issue; the amount of damage sustained in each claim; and whether Hochheim complied with its policy and concomitant legal obligations in the investigation and handling of each claim.

Id. (citing *F.F.P. Operating Partners, L.P. v. Duenez*, 237 S.W.3d 680, 693 (Tex. 2007) (emphasis added)).

Similarly, because each of the five complainants here had unique factual situations and relationships with Nguyen, and because their respective claims arose from completely separate events and circumstances, it was a clear abuse of discretion to permit them to be joined for purposes of a single evidentiary hearing. *Id.*; Tex. R. Civ. P. 40.

Prior to the hearing, Nguyen raised the issue of improper joinder (or “consolidation”)⁴ of the five unrelated complainants’ allegations for trial and asserted that it was not authorized.⁵ *RR R-EX 1, at pp. 1-2*. In response, counsel for the CFLD stated that the “consolidation” of the complaints was permitted by Texas Rule of Disciplinary Procedure 2.17(A)(4). *Id.*; *see also RR 256-259*. But that section of Rule 2.17 only addresses the contents of the CFLD’s petition. Tex. Disc. R. Proc. 2.17(A)(4). It does not negate the requirements for joinder (and subsequent trial) of claims under Texas Rule of Civil Procedure 40. For example, Texas Rule of Civil Procedure 48 permits a plaintiff to assert “as many separate claims or defenses as he has regardless of consistency.” Tex. R. Civ. P. 48. But Rule 48 does not negate the requirements for joinder of claims under Rule 40. *Texas Land Drilling Co. v. First State Bank & Trust Co. of Port Lavaca*, 445 S.W.2d 571, 575

⁴ Although the term “consolidation” generally refers to an order combining one or more already-pending separate suits, in this context it is clear that the parties were using it to refer to improper joinder of parties and claims.

⁵ At the outset of the hearing, Nguyen again asserted that the five complainants’ allegations “are separate and apart. They are different complaints and they are different types of 2 cases -- when I say different, I mean different kinds of clients with different time frames.” *RR 26-27*. Along with her written assertion that the joinder did not appear to be permitted by the controlling rules, this reasonably and plainly informed the Panel of the asserted error. *See e.g. Hyundai Motor Co. v. Vasquez*, 189 S.W.3d 743, 749-50 (Tex. 2006).

(Tex. Civ. App.—Corpus Christi 1969, writ ref'd n.r.e.) (addressing the requirements for joinder under Rule 40 notwithstanding the application of Rule 48). Equivalently, although Texas Rule of Disciplinary Procedure 2.17 generally permits the joinder of multiple claims or complaints, it should not be construed to negate the application of the joinder requirements under Rule 40. *See* BODA Proc. R. 1.03 (except as otherwise stated, the Texas Rules of Civil Procedure apply to these proceedings).

Because the joinder or “consolidation” of five unrelated grievance complaints filed by five unrelated complainants regarding five unrelated matters was improper under Rule 40, the Panel had no discretion to permit it. And for the very reason that the Rule 40 requirements exist, the joinder of five unrelated complainants and complaints for purposes of an evidentiary hearing was prejudicial to Nguyen and “was reasonably calculated to cause and probably did cause the rendition of an improper judgment.” *Lorusso v. Members Mut. Ins. Co.*, 603 S.W.2d 818, 820-21 (Tex. 1980) (addressing harmful error analysis generally).

These are yet additional reasons that the Panel’s judgment should be reversed and this case should be remanded for further proceedings. Tex. R. Civ. P. 40; *Hochheim*, 296 S.W.3d at 912.

D. The Cumulative Errors By The Panel Resulted In An Unfair Hearing.

To the extent that the Panel's conducting an unlawful remote evidentiary hearing independently did not constitute reversible error; and to the extent that the Panel's arbitrarily imposing an unreasonably short time limit on the evidentiary hearing independently did not constitute reversible error; and to the extent that the Panel's improperly joining five unrelated complainants and complaints for a single trial independently did not constitute reversible error, the cumulative effect of these errors entitles Nguyen to reversal.

When several errors exist but are not each considered independently reversible, all errors considered together may still present cumulative error requiring reversal. *Lakeside Village Homeowners Association, Inc. v. Belanger*, 545 S.W.3d 15, 46-47 (Tex. App.—El Paso 2017, pet. denied) (citing *Fibreboard Corp. v. Pool*, 813 S.W.2d 658, 695-96 (Tex. App.—Texarkana, writ denied); *Klein v. Sporting Goods, Inc.*, 772 S.W.2d 173, 179 (Tex. App.—Houston [14th Dist.] 1989, writ denied). To determine whether a cumulation of errors denied Nguyen her right to due process and a fair proceeding, or otherwise constituted reversible error, all errors in the case should be considered in conjunction with the

record as a whole to determine whether the errors—collectively—were calculated to cause and probably did cause the rendition of an improper judgment. *Id.* (citing *Pool*, 813 S.W.2d at 695-96).

The cumulative error doctrine is particularly applicable here because of the inherent interrelation of the Panel's imposition of an arbitrary and short time limit on the evidentiary hearing after erroneously permitting the improper joinder and trial of five unrelated complainants and complaints. For example, even if the arbitrary imposition of a one-day time limit for the hearing of a single complaint would not constitute reversible error, when compounded by the joinder of four additional and unrelated complainants and complaints requiring different and additional evidence to prosecute and defend, the resulting error and likelihood of harm becomes substantial and probable. *Lakeside*, 545 S.W.3d at 46-47.

The cumulative effect of the Panel's multiple errors were calculated to cause and probably did cause an unfair evidentiary hearing and the rendition improper judgment. Thus, the Panel's judgment should be reversed and this case should be remanded for further proceedings. *Lakeside*, 545 S.W.3d at 46-47.

E. The Panel Abused Its Discretion By Imposing Excessive Sanctions.

The Panel abused its discretion by imposing the sanction of disbarment based on the findings made and in light of Nguyen's relatively minor disciplinary history. The only Disciplinary Rules the Panel found that Nguyen violated are Rule 1.01(b)(1) & (2) (competent representation), Rule 1.03(a) (communication), and Rule 8.04(a)(8) (failure to timely file a response to a grievance complaint).⁶ CR 219, 235. The complaints against Nguyen did not include any allegations with respect to which disbarment is typically associated. There was no finding that Nguyen stole or mishandled client funds. There was no finding that Nguyen falsified evidence or committed perjury. There was no finding that Nguyen committed barratry or was convicted of a crime. Without minimizing the seriousness of the findings made by the Panel, the character of the violations must be taken into account in determining the appropriateness of disbarment.

Indeed, a review of the case law reveals that the "death penalty" sanction of disbarment has generally been reserved for those truly

⁶ Including those Rules' respective subparts.

egregious cases of ethical misconduct. *See e.g. Searcy v. State Bar*, 604 S.W.2d 256, 257 (Tex. Civ. App.—San Antonio 1980, writ ref'd n.r.e.) (felony conviction involving moral turpitude which resulted in two-year sentence at federal prison); *Steere v. State*, 445 S.W.2d 253, 254-55 (Tex. Civ. App.—Houston [1st Dist.] 1969, writ diss'd) (attorney forged names on legal instrument, communicated with someone represented by another attorney, made false representations of fact in soliciting employment, used client's confidences in a divorce suit to personal advantage, filed three instruments in which he did not do any work and in which he split fees with another lawyer); *Hicks v. State*, 422 S.W.2d 539, 539-42 (Tex. Civ. App.—Houston [14th Dist.] 1967, writ ref'd n.r.e.) (attorney took clients' money without filing suit, falsely told them he had filed suit, gave improper advice to client in divorce suit, filed suit but never issued citation resulting in limitations bar on claim, failed to return client's money); *Ashby v. State*, 283 S.W.2d 270, 271 (Tex. Civ. App.—Dallas 1955, no writ) (attorney knowingly made a false affidavit and possessed stolen property).

And there are numerous reported cases in which the misconduct found against the attorney was much more egregious than was found

against Nguyen, but in which substantially less onerous sanctions were ordered. *See, e.g., Musselwhite v. State Bar of Texas*, 786 S.W.2d 437, 439 (Tex. App.—Houston [14th Dist.] 1990, writ denied) (attorney, on probation for prior ethical misconduct, knowingly violated terms of probation by soliciting victims of the Piper Alpha tragedy in Scotland and accepted new employment in an Agent Orange case when prohibited from doing so – three years’ suspension); *Hebison v. State*, 615 S.W.2d 866, 867 (Tex. Civ. App.—Houston [1st Dist.] 1981, no writ) (attorney lied to two separate clients, told them suit was filed when it was not, which resulted in a limitations bar on the claims, refused to return either the clients’ money or their files until the grievance was filed – three months’ suspension); *Howell v. State*, 559 S.W.2d 432, 433-34 (Tex. Civ. App.—Tyler 1977, writ ref’d n.r.e.) (attorney filed suit when attorney knew there was another case pending, which he did not tell the judge at contempt hearing, and he refused to answer a question when ordered to answer by the judge – reprimand); and *Archer v. State*, 548 S.W.2d 71, 73 (Tex. Civ. App.—El Paso 1977, writ ref’d n.r.e.) (attorney deposited client funds in his own account for his own use and attempted to get client to sign a false affidavit – two years’ suspension).

Still other such cases include *State v. Baker*, 539 S.W.2d 367, 369 (Tex. Civ. App.—Austin 1976, writ ref'd n.r.e.), appeal after remand, 559 S.W. 145 (Tex. Civ. App.—Austin 1976, writ ref'd n.r.e) (attorney purchased property on behalf of client at sheriff's sale and used that property for himself and committed two other ethical violations – three reprimands); *Galindo v. State*, 535 S.W.2d 923, 925 (Tex. Civ. App.—Corpus Christi 1976, no writ) (attorney misapplied and commingled client's funds and lied under oath to the grievance committee – one year's suspension); *State v. Ingram*, 511 S.W.2d 252, 252-53 (Tex. 1974) (attorney misappropriated client's funds and lied under oath to the grievance committee – three years' suspension); and *State v. Pevehouse*, 483 S.W.2d 565, 565-66 (Tex. Civ. App.—Eastland 1972, writ ref'd n.r.e.) (attorney embezzled \$2,500 of client's funds – one year's suspension).

Furthermore, although the Panel recited that “[t]he sanction of disbarment set forth in the Judgment of Disbarment was found with respect to each individual violation set forth in [the] Findings of Fact...and was not the result of aggregating or combining any of the violations,” it frankly strains credulity, for example, that the Panel determined that disbarment was the appropriate sanction for a finding

that Nguyen failed to adequately communicate with Lau, who Nguyen is still representing and who wants Nguyen to continue to represent her.⁷ *RR 65-68*. It likewise strains credulity that the Panel determined that disbarment was the appropriate sanction for a finding that Nguyen failed to timely file a response to Nasra's grievance complaint, which was the only misconduct found with respect to Nasra. *CR 219, 278*. And if the Panel did determine that disbarment was the appropriate sanction for each of those findings as the judgment states, then it calls into question the fairness of all of the Panel's determinations with respect to the sanctions imposed on Nguyen.

The Panel's recitation of other aggravating factors in its findings is entirely conclusory, amounting to nothing more than the list of potential aggravating factors that the Texas Rules of Disciplinary Procedure say may be considered. *CR 278* (reciting e.g. "dishonest or selfish motive...submission of false evidence; false statements or other deceptive practices during the disciplinary process"). Indeed, the Panel did not even state whether it found that Nguyen made any false statements or

⁷ *CR 278*.

that she engaged in other deceptive practices, much less what the generically recited statements or practices were. *Id.*

Prior to the Panel’s judgment, Nguyen’s only disciplinary history consisted of two private reprimands. Facially, the disbarment of Nguyen for the misconduct found by the Panel was inappropriate given the evidence presented. Even the CFLD’s counsel recognized that disbarment was a big “jump” from a private reprimand—the only discipline previously enforced against Nguyen—and that a suspension or partially probated suspension “would be appropriate or I think will be acceptable.” *RR 268*.

A lawyer who is disbarred loses her livelihood, reputation, and professional identity. It was error and an abuse of discretion to impose disbarment on Nguyen based on the findings made by the Panel, especially where the Panel made no finding that a lesser sanction such as suspension or probated suspension would not have been adequate to address the complaints being considered.

For these reasons, the judgment should be reversed and this case should be remanded for further proceedings or, alternatively, the Board

should reverse and render the judgment that should have been rendered by the Panel.

Conclusion

Nguyen respectfully requests the Board to reverse the judgment of the Panel and to remand this case for a new hearing or hearings or, alternatively, to render the judgment that should have been rendered by the Panel. Nguyen requests any other, further, or alternative relief, legal or equitable, to which she may be justly entitled.

Respectfully submitted,

SHEPHERD PREWETT PLLC

By: /s/ Billy Shepherd

Billy Shepherd

Texas Bar No. 18219700

bshepherd@spcounsel.com

Stephen R. Bailey

Texas Bar No. 01536660

sbailey@spcounsel.com

770 South Post Oak Lane, Suite 420

Houston, Texas 77056

Telephone No. (713) 955-4440

Facsimile No. (713) 766-6542

ATTORNEYS FOR APPELLANT

VY THUAN NGUYEN

Certificate of Compliance

1. This brief complies with the type-volume limitation of Tex. R. App. P. 9.4(i)(2)(B) because it contains 8,025 words, excluding the parts of the brief exempted by Tex. R. App. P. 9.4(i)(1).

2. This brief complies with the typeface requirements of Tex. R. App. P. 9.4(e) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Century Schoolbook font.

Dated: October 4, 2024.

/s/ Billy Shepherd

Billy Shepherd

Certificate of Service

I hereby certify that, on October 4, 2024, a true and correct copy of the foregoing instrument was served on all counsel of record via electronic service in accordance with the Internal Procedural Rules of the Board of Disciplinary Appeals and the Texas Rules of Appellate Procedure.

/s/ Billy Shepherd

Billy Shepherd

Appendix

Appendix Tab 1: Cited Reporter's Record Excerpts

Appendix Tab 2: Clerk's Record Items and TRCP 21d, 40 and 48



FILED

Oct 04 2024

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

Appendix Tab 1:
Cited Reporter's Record Excerpts

1 MR. NICHOLS: I mean this is -- I said six
2 witnesses, but I actually have an investigator who is
3 going to testify in regards to some of the exhibits at
4 the end.

5 PANEL CHAIR ROTHENBURG: So is that seven
6 exhibits?

7 MR. NICHOLS: Seven witnesses. A few of
8 them are brief and a few of them might take longer, and,
9 you know, I estimate three hours is probably a safer
10 bet, but we will have to give or take a little bit of
11 time.

12 PANEL CHAIR ROTHENBURG: Okay. Ms.
13 Nguyen, you got one witness for your case-in-chief and
14 cross-examinations of the commissioner witnesses,
15 keeping in mind that the commission has the burden of
16 proof and you do not and there is no affirmative
17 defenses that you've alleged. What is your time
18 request?

19 MS. NGUYEN: I think it would be the same
20 as well, Mr. Rothenburg. A minimum three, but if there
21 are seven, and cross and direct, I -- in light of all
22 the exhibits that we have as well for commission's
23 exhibits, four hours is what I -- I would say three or
24 four hours.

25 PANEL CHAIR ROTHENBURG: Okay. Given the

1 fact that I requested that the exhibits be exchanged,
2 and the discussion about admissibility be done before
3 this hearing, and now used an hour on it, I am not going
4 to be inclined to allow this hearing to go on for seven
5 hours and I'm not going to allow -- we are going to do
6 this in a reasonable, efficient matter within the bounds
7 of due process.

8 So let's get this moving and see if we can
9 wrap this up within the time requested that both sides
10 made. As we go we will adjust things as necessary.

11 MS. NGUYEN: I'm sorry, Mr. Rothenburg.
12 So four hours -- just four hours with both our
13 cases-in-chief?

14 PANEL CHAIR ROTHENBURG: You're saying
15 four hours total or four hours for you alone?

16 MS. NGUYEN: No, four hours total. I'm
17 sorry, I guess --

18 PANEL CHAIR ROTHENBURG: I understood that
19 you were asking for four hours for your case in addition
20 to his three hours.

21 MS. NGUYEN: Okay. I'm sorry, I should
22 have asked that better. So I would say my
23 case-in-chief, of course, I have one witness, but I
24 imagine because he has seven witnesses -- so within the
25 time allotted, Mr. Rothenburg, you gave us four hours,

1 would that be split into two so we have equal time?

2 PANEL CHAIR ROTHENBURG: Well, they have
3 the burden of proof so why don't we see how your cross
4 goes. I am not going to be unreasonable about the time.
5 I don't want this to drag on for days, there is no need
6 to give a brief review of the exhibits and the matters
7 that are in issue.

8 So if four hours seems reasonable for the
9 entirety of the matter, let's try to keep things going
10 efficiently and get through this, as I said with
11 concerns of due process properly considered.

12 With that, I think we are ready for
13 opening statements --

14 MR. NICHOLS: Real quick, to be clear, the
15 one witness that Ms. Nguyen has -- well, she has herself
16 and one witness is the same as one of my witnesses,
17 which she will have an opportunity to cross-examine that
18 witness.

19 I don't know if she is going to recall her
20 or we could solicit -- maybe we can cover that after the
21 cross-examination or at some point to expedite the time
22 a little bit if we don't need to bring -- it's Ms. Lau,
23 if we don't need to bring in Ms. Lau back then we might
24 be able to cut down some time.

25 PANEL CHAIR ROTHENBURG: Ms. Nguyen, would

1 it be appropriate to your case to go ahead and elicit
2 the testimony that you would normally do during your
3 case-in-chief during your cross-examination if
4 Mr. Nichols calls that witness during his case?

5 MS. NGUYEN: I think I can elicit the
6 testimony from her, yes, sir.

7 PANEL CHAIR ROTHENBURG: Okay. Let's go
8 ahead and proceed so we can get this resolved in, like I
9 said, in an efficient and reasonable manner as possible.

10 I believe at this time it's appropriate to
11 begin with opening statements unless there are any other
12 matters that Mr. Nichols or Ms. Nguyen you have for this
13 panel? Hearing none, Mr. Nichols, the commission has
14 the burden of proof. Does the commission have an
15 opening statement at this time?

16 MR. NICHOLS: Very briefly. As you guys
17 already know -- the panel already knows that today you
18 will hear testimony from multiple witnesses regarding
19 Ms. Nguyen and her -- and a variety of issues related to
20 her representation. We will hear testimony from one
21 witness who was opposing counsel in one of the matters.
22 And the other witnesses, besides my investigators, were
23 clients or one of them is a relative of a client -- one
24 of the complainants.

25 I just want to ask you all -- I know you

1 guys are going to, but I want you all to pay attention
2 to the major differences in these cases, but also the
3 subtle similarities and the differences are important
4 because I anticipate you will find that there are no
5 bounds for what the respondent is willing to do and what
6 rule violation she is willing to commit on a regular
7 basis.

8 And I also want you to look at the
9 similarities because it does show that she's got an MO
10 for how she handles her clients and her cases. I know
11 you're going to pay attention, but I just wanted to
12 point that out. I am confident that upon hearing
13 testimony and seeing the evidence you are going to find
14 the alleged violations of the Texas Disciplinary Rules
15 of Professional Misconduct.

16 PANEL CHAIR ROTHENBURG: Does that
17 conclude your opening statement?

18 MR. NICHOLS: Yes, sir.

19 PANEL CHAIR ROTHENBURG: One and a half
20 minutes. Ms. Nguyen, do you wish to make an opening
21 statement or would you like to defer it of the start on
22 your case-in-chief?

23 MS. NGUYEN: No, sir, if I can be given a
24 brief opportunity to give an opening statement.

25 PANEL CHAIR ROTHENBURG: Please proceed.

1 MS. NGUYEN: Thank you, Mr. Rothenburg.
2 Good morning, to the evidentiary panel. Thank you for
3 the opportunity to allow me to give an opening
4 statement. If I could, I will keep it as brief as
5 Mr. Nichols did.

6 Hi, my name is Vy Nguyen. I have been an
7 attorney for 17 years. I practice family law,
8 immigration, criminal defense, mainly I'm a litigator.
9 So what you will hear, of course, I did make, you know,
10 a question as to the Texas Rules of Disciplinary
11 Procedures, 2.17, as to the consolidation of all these
12 cases.

13 This is my very first evidentiary hearing
14 in 17 years of practicing so I'm going to try my best to
15 be clear and not overly emotional, but of course I
16 represent myself and I'm going to try my best to answer
17 all questions and of course be able to do my best to
18 defend the allegations against me.

19 In the 17 years of practicing, these
20 complaints that you see here before you, there are four
21 cases out of the five and I understand that the
22 commission wanted to make the position to consolidate
23 them because of miscommunication or whatever the
24 violations they are trying to allege.

25 They are separate and apart. They are

1 different complaints and they are different types of
2 cases -- when I say different, I mean different kinds of
3 clients with different time frames. Some are
4 modifications, some are terminations, some are an
5 uncontested divorce.

6 The contract that I provided to these
7 clients clearly line up what my hourly rate is, what my
8 work is, and of course the court files that I have
9 attached as exhibits -- I understand that there might be
10 some objections to that, but this speaks for itself. As
11 a family lawyer, you get retained, you work, you file,
12 you go to mediation, it is very easy to -- even the
13 court docket notes will indicate how things are
14 happening in the courtroom.

15 So to be accused of saying that I have
16 been paid monies and did nothing, I am confident that at
17 least in this opportunity before you with due process
18 will allow me to present my evidence, to have my -- one
19 of the complainants who is a current client of mine,
20 Trang Lau, who said that she did not want this to take
21 place because I'm still her lawyer, and even though I
22 could have chosen to not be her lawyer, I understood
23 that she didn't understand the implication of this and
24 she will testify that today and I thank her for that.

25 As for the other complainants that will be

1 Q. Are you familiar with the respondent, Vy
2 Nguyen?

3 A. She was opposing counsel in a case in 2022 and
4 she represented the wife or the husband in a divorce
5 action and we reached an agreement on the day of final
6 trial.

7 Q. So what is the status of that divorce case?

8 A. The divorce case is entered -- the decree is
9 entered -- both Ms. Nguyen and I read or filed into the
10 record in April 2022, she did not appear -- in fact, we
11 drafted the order and she did not appear. So I had to
12 file a motion to sign. She did not appear to that, but
13 it was entered as a decree.

14 Q. Okay. And as a result of the conclusion of
15 that matter, when that was read into the record on
16 April, were you awarded any attorney's fees?

17 A. Yes, specifically I was awarded attorney's fees
18 to be paid out of her trust account.

19 Q. How much was that supposed to be?

20 A. \$3,500 as it appears on page 35 of the divorce
21 decree.

22 Q. Okay. Why -- just briefly, why were the fees
23 to be paid out of her trust account?

24 A. Well, the agreement was -- it was a big
25 component of reaching settlement in that matter because

1 she represented to both me and my client that she had
2 \$3,500 from her client in her trust account and that
3 those would be disbursed to cover my client's fees in
4 bringing the action to final trial.

5 So we relied upon her assertion and her
6 statement on the record that she was going to pay me the
7 \$3,500.

8 Q. What steps did you take to secure -- I guess
9 after the panel -- all the documents that we are looking
10 at, Exhibit 1 through 5 which have been amended.

11 Exhibit Number 1, which is the judge's
12 rendition. After that date in April, what steps did you
13 take to secure the fees from Ms. Nguyen?

14 A. I filed an enforcement, I e-mailed her, I
15 called her office, I contacted her. I believe we filed
16 a couple different actions to secure payments.

17 Q. And did she respond to any of those attempts?

18 A. No. She did not respond to e-mail. I called
19 her office, she was never available. In fact, in one of
20 the enforcement hearings in front of the judge, she
21 didn't appear. The judge called her from her -- from
22 the court's bench, and she answered and she said she had
23 already sent the check. I followed that up with an
24 e-mail saying provide me proof of where you sent this
25 check to and there was no response.

1 Q. And you already testified that those fees were
2 included in the final decree of divorce and I believe it
3 was signed in September?

4 A. Yes, sir.

5 Q. What steps did you take after that to secure
6 the attorney's fees after the final decree?

7 A. Yes, sir. So I basically -- I filed these
8 actions to enforce the order and I got the feeling that
9 I was clogging up the court's docket. So basically I
10 decided my only other recourse was to file a grievance
11 because even if I were to secure a judgment against Ms.
12 Nguyen on an enforcement, I would not be able to garnish
13 her trust account because we put, you know, attorneys --
14 it's very likely that attorneys keep multiple client's
15 funds in one bank account. So I did not have any other
16 legal remedy other than filing a grievance.

17 Q. Did Ms. Nguyen ever tell you that she didn't
18 have the funds in her trust account?

19 A. No.

20 Q. Did she ever tell you -- what was the wife's
21 name?

22 A. Ms. Blake.

23 Q. Okay. Did she ever tell you that Ms. Blake
24 didn't pay her that money so she didn't have it or
25 anything like that?

1 have now consumed 19 minutes out of the hour that you
2 requested for your case and we're still on the first
3 witness, so it is your case, spend your time how you
4 want to, but --

5 MS. NGUYEN: I'm sorry, Mr. Rothenburg,
6 how much time --

7 PANEL CHAIR ROTHENBURG: Don't interrupt
8 me, please. We are going to get this done today and we
9 are going to do it officially and so far I am concerned
10 that we have not. Now, ask your next question.

11 MS. NGUYEN: Mr. Rothenburg, for the
12 record, how much time do I have for all five cases
13 today?

14 PANEL CHAIR ROTHENBURG: The commission
15 asked for three hours and I clarified very specifically
16 with you how much you wanted in addition to that time
17 and you said a total of four. Three for the
18 commission's case, one for yours.

19 MS. NGUYEN: But this is not my
20 case-in-chief. I guess I need clarification as to my
21 cross. If he is doing seven witnesses and I have cross
22 --

23 PANEL CHAIR ROTHENBURG: I was very clear
24 that the time for cross-examination would come out of
25 the party -- the case of the party who was doing the

1 cross-examination. Mr. Nichols has consumed 6 minutes,
2 you have now consumed 20.

3 MS. NGUYEN: Are you saying I only have 40
4 more minutes for any cross-examination for the remaining
5 six witnesses?

6 PANEL CHAIR ROTHENBURG: I'm saying to be
7 as efficient as you can be because we are going to get
8 this done today.

9 MS. NGUYEN: So then the commission will
10 have three hours for their case and I only have one hour
11 instead of two?

12 PANEL CHAIR ROTHENBURG: That is what you
13 stated you needed.

14 MS. NGUYEN: No, sir. I think I need to
15 clarify -- I had asked earlier and it was recorded that
16 I asked if it was four hours so we would both have the
17 same amount of time.

18 PANEL CHAIR ROTHENBURG: The record will
19 reflect the discussion. Please ask your next question.

20 Q. (By Ms. Nguyen) Mr. Martin, if you had a person
21 who filed a grievance against you in the same manner
22 that you did me how would you feel?

23 MR. NICHOLS: I object to relevance.

24 PANEL CHAIR ROTHENBURG: Sustained.

25 MS. NGUYEN: Mr. Rothenburg, for the

1 record, why would that objection be sustained?

2 PANEL CHAIR ROTHENBURG: Relevance.

3 MS. NGUYEN: How is it not relevant, sir?

4 PANEL CHAIR ROTHENBURG: How he feels is
5 not relevant to the commission's allegations against
6 you.

7 MS. NGUYEN: I would like to say for the
8 record that I already feel like there's already a
9 prejudice with you as my panel chair already.

10 Already it started off with this, and if I
11 have -- I already objected to the consolidation of these
12 complaints. I'm going to intend to appeal and report
13 this to the ombudsman and everyone else because I do not
14 feel like this is right. This is not right. This is
15 not due process.

16 PANEL CHAIR ROTHENBURG: Please ask your
17 next question or can we excuse the witness.

18 MS. NGUYEN: If I can ask a question
19 without the commission objecting and allowing me to get
20 him to explain on the record as to his intent of filing
21 his grievance knowing that I was not the one who was
22 responsible. It was Ms. Blake that is responsible.

23 PANEL CHAIR ROTHENBURG: Ms. Nguyen, the
24 objection was sustained. You have two choices -- three
25 choices really, you can ask your next questions, you can

1 say no further questions or you can continue to argue
2 and burn your time, which you are now up to 22 minutes.

3 Q. (By Ms. Nguyen) Mr. Martin, how would you feel
4 if someone filed a grievance against you for the same
5 reasons you did me?

6 MR. NICHOLS: I will object to relevance
7 again.

8 PANEL CHAIR ROTHENBURG: Sustained again.

9 MS. NGUYEN: It's not relevant,
10 Mr. Rothenburg, even though it's a grievance that he
11 filed?

12 PANEL CHAIR ROTHENBURG: It's not relevant
13 how he would feel. That has nothing to do with the
14 commission's case or defense to that case.

15 MS. NGUYEN: Thank you, sir.

16 Q. (By Ms. Nguyen) The grievance that you filed
17 against me is for the \$3,500 that my client owed you,
18 correct?

19 A. No.

20 Q. In your motion for sanctions, you mention her
21 and not me, correct?

22 A. Yes.

23 Q. Are you doing any other recourses against her
24 for any monies that she owes you?

25 A. Actually, as I was preparing for this case I

1 MR. NICHOLS: Yes, sir. I ask that he is
2 excused.

3 PANEL CHAIR ROTHENBURG: Witness is
4 excused. Thank you very much.

5 MR. NICHOLS: Now, we call Ms. Lau.

6 TRANG LAU,
7 having been first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. NICHOLS:

10 Q. Good morning, Ms. Lau. Can you please spell
11 your first and last name for the court reporter?

12 A. T-R-A-N-G, L-A-U.

13 Q. Thank you, Ms. Lau. Tell the panel just
14 briefly about yourself. Where do you live?

15 A. I live in Houston, Texas.

16 Q. How many children do you have?

17 A. I have one.

18 Q. Are you married?

19 A. I am divorced.

20 Q. How are you familiar with the respondent, Vy
21 Nguyen?

22 A. What do you mean?

23 Q. How do you know Ms. Nguyen?

24 A. One of my friends recommended her for my child
25 support modification case. Now she's my attorney for my

1 parental termination case.

2 Q. Okay. When did you initially hire Ms. Nguyen?

3 A. Back in September 2021.

4 Q. All right. Before we go any further are these
5 matters that your hired Ms. Nguyen for, are they still
6 pending?

7 A. The child support modification case I think was
8 dismissed because we -- we got to an agreement.
9 Actually, the father wants to sign off his rights. He
10 does not want to pay child support so it is another case
11 now.

12 Q. Okay. So there's still one more case pending?

13 A. Yes.

14 Q. Presently, are you happy with Ms. Nguyen's
15 representation?

16 A. Yeah, recently she's back on track. She works
17 hard. She's helping with my case.

18 Q. Okay. Did you discuss today's hearing with
19 Ms. Nguyen prior to appearing?

20 A. I think she called me Monday or Tuesday to give
21 me an update about my case and that we have a hearing on
22 Wednesday.

23 Q. What did she tell you about the hearing?

24 A. She's just like -- because we are working
25 together. She's helping me now. So she just wanted me

1 to tell you guys that we are working together now.

2 Q. All right. I want to ask you some questions
3 about some of the communication that you had with
4 Ms. Nguyen back whenever she first began representing
5 you.

6 A. Yes.

7 Q. You said September 2021, right?

8 A. September 2021 to, like, June -- July 2022 or
9 August 2022.

10 Q. Okay. During that time, September to, you
11 know, October 2022 -- September 2021, you know, during
12 the first year how was communication with Ms. Nguyen?

13 A. It was horrible.

14 Q. Can you elaborate a little bit?

15 A. Yeah. It's like I tried to call her, text her,
16 even e-mail her to get updated -- to get my mediation
17 scheduled. I never heard back from her and she's
18 always, like, I'll call you back, I'll call you back
19 later, but she never called me back. I even sent her a
20 certified mail to the point where I wanted to terminate
21 her as my attorney and she did not even respond to it.

22 Q. And you provided me with a lot of e-mails.

23 A. Yeah.

24 Q. Even a phone log, correct?

25 A. Yes.

1 Q. You provided me with some certified mail
2 receipts. Do you recall that?

3 A. Yeah.

4 Q. And all of those have already been entered into
5 evidence already so we don't have to draw on them too
6 much there for the panel to look at, but when you would
7 tell Ms. Nguyen something like -- that you were going to
8 fire her, would she respond to something like that?

9 A. No. She was just, like, I'll call you tomorrow
10 and then she, like, she asked me for the proposal for
11 the child support, like, what did I want. How much did
12 I want for child support. Then I sent her what are they
13 asking for.

14 Q. Okay. I want to ask you about the specific --
15 one of the specific e-mails. This is Exhibit 13. It is
16 from May 18, 2022.

17 A. Yeah.

18 Q. In Exhibit 13 what are you expressing to
19 Ms. Nguyen in this exhibit? Do you recall?

20 A. I request a refund because she -- there is no
21 progress on the case. No update at all. That is why I
22 was really upset about her work ethic so I requested a
23 refund, and then she call me back on my case because,
24 you know, as long as she started working on my case I
25 was okay with that. She called me tomorrow, on that day

1 she asked me for the proposal, like what he -- what I'm
2 asking for.

3 Q. Okay. Let's look at the phone calls. The
4 phone records that you provided from that day. On May
5 18th it indicates that you did have a phone call with
6 her that evening.

7 MR. RIDDLE: I'm sorry. Can you tell us
8 what exhibit this is.

9 MR. NICHOLS: I'm sorry, Mr. Riddle.
10 Exhibit 15.

11 Q. (By Mr. Nichols) Do you recall having that
12 phone call with her that day asking for the proposal?

13 A. Yes. Since September 2022(sic) to, like,
14 mid-2022 when I asked -- when I said that I wanted a
15 refund then she starts, like, what do you want for your
16 child support even though I said to her at the beginning
17 when we first met.

18 Q. So after that do you remember -- I don't expect
19 you to sit here and count, but do you remember how many
20 phone calls you had on these phone call logs?

21 A. My what?

22 Q. Do you remember how many phone calls are on
23 these logs?

24 A. How many phone calls, what?

25 Q. Well, let me ask you this way. If I told you

1 that you gave us phone logs with 30 phone calls would
2 you believe me that it was 30?

3 MS. NGUYEN: Objection, calls for
4 speculation.

5 MR. NICHOLS: You provided these documents
6 and they are already entered into evidence. Let me
7 finish my question.

8 PANEL CHAIR ROTHENBURG: Okay. Yeah.

9 Q. (By Mr. Nichols) Let me ask you this question,
10 Ms. Lau.

11 A. Yes.

12 Q. On times you called the phone, and we see
13 two-munites here on 6/17/22 or one-minute phone calls?

14 A. Yeah. It was one or two-minutes and probably
15 went straight to voicemail. It was ringing, went to
16 voicemail and I left a voicemail.

17 Q. Okay. When you left her a voicemail -- when
18 you got to voicemail, were you able to leave her
19 voicemails?

20 A. Sometimes I was able to leave voicemails,
21 sometimes not because her voicemail box was full.

22 Q. I want to ask you a question to clarify
23 something on Exhibit 14 which is the text messages.

24 It seemed like very early on in September
25 of 2021 you sent her a text message and then there's no

1 text messages until March. So what -- six, seven months
2 later. Do you recall why there weren't any text
3 messages during that time?

4 A. Yes, I think at that point they were waiting to
5 get the mediation scheduled. I was assuming that she
6 was working to get it scheduled so -- so that's why
7 later on -- I didn't hear anything so I was asking for
8 an update.

9 Q. Okay. And here on May 18th we can see after
10 you sent the e-mail to her asking for your money back,
11 she asked you to call her again, correct?

12 A. Yeah.

13 MS. NGUYEN: Objection, trying to --
14 characterizing the evidence.

15 PANEL CHAIR ROTHENBURG: It's already been
16 answered.

17 Q. (By Mr. Nichols) You already characterized the
18 communication for basically, you know, around that first
19 year of representation was horrible. What did you do as
20 a result of that? That communication and your
21 dissatisfaction with her representation?

22 A. What did I do?

23 Q. Yes, ma'am.

24 A. I e-mailed. I called. I requested a refund.
25 I sent her certified mail. So that's why I feel like I

1 needed to report it to the State Bar of Texas so that's
2 what I did.

3 Q. Would you agree with me that it wasn't until
4 you reported it to the State Bar of Texas that Ms.
5 Nguyen's representation improved?

6 A. Correct.

7 MR. NICHOLS: I pass the witness.

8 PANEL CHAIR ROTHENBURG: Okay. Ms.
9 Nguyen, any cross?

10 MS. NGUYEN: Yes, sir.

11 CROSS-EXAMINATION

12 BY MS. NGUYEN:

13 Q. Ms. Lau, I am currently your attorney right
14 now, correct?

15 A. Yes.

16 Q. Why did you still choose to have us help you
17 with your termination case in light of your testimony
18 today? Why did you consider still working with our
19 office?

20 A. Yes. Like I said as long you're working on my
21 case I'm okay with that because it's a hassle to switch
22 attorney and I feel like your -- at that point in time
23 after I complained to the State Bar of Texas your office
24 and yourself improved with the communication. It was so
25 much better because, you know, my case -- in the

1 beginning it was a child support modification case and
2 then it turned into a termination case.

3 You were following my case from the
4 beginning so I feel like you really work right now,
5 you're helping with my case so that's why I want to keep
6 everything the same. I do not want to submit any
7 change.

8 Q. Ms. Lau, do you understand that you filed a
9 grievance against me and if your complaint suspends my
10 license I could no longer work for you. Did you
11 understand that could occur?

12 A. No, ma'am.

13 Q. So to explain to the panel, and that's totally
14 okay, I guess you didn't -- what did you think could
15 happen to me as a punishment when you filed this
16 grievance?

17 A. What did I think, I thought they would give
18 you, like, a chat and tell you you need to work better
19 and have better communication.

20 Q. Understood. Are you -- I don't want to assume.
21 Are you from the U.S.?

22 A. I'm not.

23 Q. How long have you lived here in the U.S.?

24 A. Since 2008.

25 Q. Is this your -- Am I your first lawyer that you

1 ever had?

2 A. No, ma'am.

3 Q. Have you ever filed a grievance on a lawyer
4 before?

5 A. No, ma'am.

6 Q. How did you know to file a grievance?

7 A. One of my friends had the same issues. He had
8 problems with communication and he filed a grievance
9 against a lawyer -- because I told him about my case and
10 he said, yeah, if your lawyer has, like, no
11 communication, not responding to your messages, your
12 mail, your certified mail, you can file a grievance.

13 Q. So to clarify then, what you're testifying as
14 you seek out this grievance complaint, are you trying --
15 are you wanting me to get in trouble and lose my
16 license?

17 A. No, ma'am.

18 Q. It is your wish today for me to still be your
19 lawyer because you want that?

20 A. Yes, ma'am.

21 Q. I have not bribed you or coerced you or
22 manipulated you to say any of these things you said
23 today in my favor, correct?

24 A. No, ma'am.

25 Q. So as you are sitting here and answering

1 questions by Mr. Nichols, you're answering in a true
2 manner that he's asking you, correct?

3 A. Yes, ma'am.

4 Q. But you're not testifying here to have me fired
5 as your lawyer or get in trouble by the bar; is that
6 correct?

7 A. That's correct.

8 Q. Now, I know this -- this was back in 2021,
9 between 2021 and 2022. That's essentially about two to
10 three years ago, correct?

11 A. Yes, ma'am.

12 Q. Now, we are in 2024 and I had the pleasure of
13 working for you now for three years for you and your
14 daughter.

15 A. Yes, ma'am.

16 Q. So if it was -- would you be able to express
17 your wishes to the panel today as you speak today. Do
18 you want to continue this grievance against me?

19 A. No, ma'am. I would not because right now we
20 are working really well together and I think we have one
21 more final court date and hopefully it will be over.

22 Q. Yes, ma'am.

23 MS. NGUYEN: Mr. Panel Chair, may I ask if
24 I could offer Exhibit 6? I know Mr. Nichols had
25 objected to that, but I would like to see if I could

1 offer 6 and 7 which is her court files.

2 MR. NICHOLS: I am going to object again
3 because this is not how you lay a foundation. Then I
4 will object to relevance and I will object to hearsay.
5 These are not certified copies. These court documents,
6 and, again, they are also not relevant to the
7 allegations that we made which is communication
8 allegations against Ms. Nguyen.

9 PANEL CHAIR ROTHENBURG: I'm going to
10 overrule the objection. Respondent's Exhibits 6 and 7
11 are admitted.

12 (Respondent's Exhibits 6 and 7 admitted
13 into the record.)

14 MS. NGUYEN: Thank you.

15 Q. (By Ms. Nguyen) Ms. Lau, if you would give me a
16 moment I am going to show you your two files.

17 Ms. Lau. I never made any comments to you
18 or acted in any weird or unprofessional way as a result
19 of this grievance, correct?

20 A. Yes, ma'am.

21 Q. I am going to show you what has been pre-marked
22 as Exhibit 6. Ms. Lau, can you see my screen?

23 A. No, ma'am, I don't see.

24 Q. Ma'am, can you see this case?

25 A. Yeah.

1 Q. Okay. Is this your termination suit that we
2 filed in 2023 for you?

3 A. Yes, ma'am.

4 Q. Is it your understanding that we have also
5 served the father in this suit at your request?

6 A. Yeah, recently.

7 Q. Yes, ma'am, and we're set for trial in July for
8 you and your family, correct?

9 A. I'm sorry?

10 Q. Your trial is set this upcoming summer at most.

11 A. Yes.

12 Q. I guess my last question to you, Ms. Lau, now,
13 I guess. Understanding your position, is it still your
14 wish to allow me the privilege to still work for you on
15 this case?

16 A. Yes, I still want you to be my attorney for my
17 termination case.

18 Q. Okay. Also you had testified that I helped you
19 with your modification case back in 2021, correct?

20 A. Yes, ma'am.

21 Q. These are all your files, correct? These
22 documents belong -- these are all assessable by court,
23 but they are also your documents that we filed for you.

24 A. Can I see the document that you are talking
25 about?

1 Q. Yes.

2 PANEL CHAIR ROTHENBURG: Ms. Nguyen, we
3 are burning daylight.

4 MS. NGUYEN: I know. I understand. I was
5 just trying to get to her --

6 Q. (By Ms. Nguyen) I guess for purposes of the
7 record, Ms. Lau, I am having a little trouble bringing
8 that up, but your case for the modification, I was
9 retained to work on the case as well, correct?

10 A. Yes, ma'am.

11 Q. 2019 -- Case Number 2019-12481; is that
12 correct?

13 A. I can't see it.

14 Q. Can you see it now?

15 A. I still can't see it.

16 Q. Okay. For purposes of the record then, I was
17 retained to handle your modification back in 2022,
18 correct?

19 A. Back in 2021.

20 Q. 2021. Okay.

21 MS. NGUYEN: Sir, I have no further
22 questions.

23 PANEL CHAIR ROTHENBURG: Mr. Nichols, any
24 redirect?

25 MR. NICHOLS: Yes, a few questions.

1 REDIRECT EXAMINATION

2 BY MR. NICHOLS:

3 Q. Ms. Lau, I want to show you what has been
4 marked as Exhibit 8 which is a contract that you
5 provided us in regards to, I believe in your divorce
6 matter.

7 A. For the child support modification.

8 Q. All right. And you paid her -- how much money
9 did you pay Ms. Nguyen for the child support
10 modification?

11 A. \$1,500.

12 Q. And subsequently when you hired her for your
13 termination, how much money did you pay her for your
14 termination?

15 A. My child support modification got dismissed so
16 she, like -- actually she worked on my termination and
17 she did not ask for extra money for my termination case.

18 Q. All right. And you all discussed this a minute
19 ago, but where are you from originally?

20 A. Where I am from originally?

21 Q. Yes.

22 A. I am originally from Vietnam.

23 Q. All right.

24 MR. NICHOLS: I don't have any more
25 questions for Ms. Lau right now.

1 PANEL CHAIR ROTHENBURG: Any recross, Ms.
2 Nguyen?

3 MS. NGUYEN: Just a few questions.

4 RECROSS-EXAMINATION

5 BY MS. NGUYEN:

6 Q. Ms. Lau, on the filing fee, there was a filing
7 fee that had to be paid for your termination suit; is
8 that correct?

9 A. Yes, and I paid that fee.

10 Q. Yes, ma'am, and you paid it not us, correct?

11 A. I paid, yes.

12 Q. And also for the service of serving the father.
13 You also paid for that; is that correct? Did that come
14 out of your -- you know, the server who gives the
15 paperwork to Dad?

16 A. I have not received a bill for that, yes.

17 Q. That's a third party that handles that. Is
18 that your understanding?

19 A. To be honest I don't know if a third party
20 handles that because, you know, you're my attorney, so I
21 just let you how to do everything and I just e-mail you
22 if I forget -- for the fee.

23 Q. Yes, ma'am, but the father lives in Florida,
24 correct?

25 A. Yes, now he lives in Florida.

1 Q. He received some sort of paperwork, correct?

2 A. Yes, he texted me that he received the
3 paperwork.

4 Q. You testified a little bit ago that we applied
5 some credit towards the termination suit since the
6 modification was dismissed; is that right?

7 A. Yes.

8 Q. And now you have paid your own, but you have
9 paid separate fees to the amicus attorney in the case,
10 correct?

11 A. Yes.

12 Q. It is not your -- it is not your feeling that I
13 am trying to pay for things or do anything as an
14 incentive for you not to want to pursue this?

15 A. No, ma'am. I paid for the termination fee, and
16 the amicus attorney fee and the summons fee -- I have
17 not received that either.

18 Q. Okay.

19 MS. NGUYEN: Sir, I have no further
20 questions.

21 PANEL CHAIR ROTHENBURG: Mr. Nichols, any
22 re-redirect?

23 MR. NICHOLS: No, sir.

24 PANEL CHAIR ROTHENBURG: May the witness
25 be excused?

1 MR. NICHOLS: Yes, sir.

2 PANEL CHAIR ROTHENBURG: Ms. Lau, you are
3 excused. Thank you for your time.

4 We've been going at this for about two
5 hours. Let's go ahead and take a five-minute break.

6 (Off the record.)

7 PANEL CHAIR ROTHENBURG: Mr. Nichols, you
8 are at 20 minutes. Ms. Nguyen, you are at 37.
9 Ms. Nguyen, I will say something for the record, it is
10 pretty apparent to me that we're going to go up and over
11 the amount of time we discussed at the start of this
12 proceeding.

13 The panel will be inclined to grant
14 additional time as long as that time is used
15 productively and appropriately. Asking the same
16 question two or three times is not the best course of
17 action to convince me to grant additional time, and
18 keeping the questions to the matters that are in the
19 petition will also help to make sure that we stay
20 focused.

21 MS. NGUYEN: Yes, sir.

22 PANEL CHAIR ROTHENBURG: Very good. With
23 that, Mr. Nichols, call your next witness.

24 MR. NICHOLS: Yes, sir. I call Kyle
25 Kraeissg.

1 PANEL CHAIR ROTHENBURG: Mr. Kraeisg, can
2 you hear me?

3 THE WITNESS: Yes, sir.

4 PANEL CHAIR ROTHENBURG: Okay. Are you
5 intending to provide sworn testimony here in this
6 grievance -- in this disciplinary proceeding?

7 THE WITNESS: Yes, sir.

8 KYLE KRAEISG,
9 having been first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. NICHOLS:

12 Q. Good morning. Can you please state your name
13 and spell it for the court reporter?

14 A. Sure. My name is Kyle Kraeisg, k-Y-L-E,
15 K-R-A-E-I-S-G.

16 Q. Thank you. Where do you live, Mr. Kraeisg?

17 A. Currently I live in Denver, Colorado.

18 Q. Where did you live before that?

19 A. Before that I lived in the Webster area in
20 Houston, Texas.

21 Q. Okay. Thank you.

22 How are you employed?

23 A. Currently I am -- well, previously employed. I
24 was employed with Wells Fargo at the time. Currently
25 with U.S. Bank.

1 Q. Okay. What type of work do you do with those
2 type of organizations?

3 A. Sure. I am a relationship bank. I process
4 accounts and handling information, advising on, you
5 know, I do my best to help people with their life goals.

6 Q. Thank you for telling us that. Are you married
7 right now?

8 A. No.

9 Q. Were you previously married?

10 A. I was.

11 Q. And how are you familiar with the respondent Vy
12 Nguyen?

13 A. When I was first going through the divorce --
14 the early talking stages with my ex-wife. I told her
15 that I would seek counsel regarding possible mediation
16 at that time. I wasn't sure what to -- really, what to
17 expect at all. And then through Wells Fargo I just,
18 sort of, looked up different counsel in the area. I,
19 kind of, shot a few e-mails to a few people and she was
20 one of the first ones who responded.

21 Q. When you say through Wells Fargo -- I forget
22 what they're called. Is it like a referral that your
23 company offers you for legal help?

24 A. Yeah. I believe the system is called ARAG(ph)
25 I don't remember exactly what the acronym was for that,

1 it is just the lettering that I remember. But they
2 prepare a list with different lawyers, different council
3 to choose from and that is what I was referencing.

4 Q. All right. And you, kinda, touched on this a
5 little bit while you're looking for an attorney, but
6 what exactly did you hire Ms. Nguyen to do?

7 A. So when -- when speaking with her, my wife at
8 the time had acquired counsel, and so things were moving
9 a lot quicker than I expected. So I had hired
10 Ms. Nguyen to assist with the divorce filing, possible
11 mediation and essentially everything through the end of
12 that divorce.

13 Q. When did you hire Ms. Nguyen? Do you recall?

14 A. I don't recall an exact date. It was probably
15 early fall of '21.

16 Q. Okay. We should make it clear that you stated
17 that you hired Ms. Nguyen to represent you in your
18 divorce and mediation. Did she represent you in
19 mediation?

20 A. So she was not there at the mediation. There
21 was someone from her office. I don't remember her name
22 either, but -- I mean, during the mediation there was
23 not really much that she quite provided. That whole
24 mediation process was -- had very little input from my
25 side of things.

1 Q. You did ultimately get divorced, correct?

2 A. Yeah. I was made aware of that much later,
3 but, yes.

4 Q. Okay. And we'll get into that in a bit.

5 MR. RIDDLE: Would it be appropriate to
6 ask questions now or should we wait till the end? I
7 just need a clarification.

8 PANEL CHAIR ROTHENBURG: If it's a
9 clarification of an answer, I would interject to go
10 ahead and answer it.

11 MR. RIDDLE: Okay. When you said you
12 didn't have much input in the mediation. Are you saying
13 that your attorney did not -- on your side. Are you
14 saying that your attorney did not do much during the
15 mediation?

16 THE WITNESS: I mean -- I guess it's a
17 little bit longer of a story. The mediation was
18 supposed to take place over four hours. About two hours
19 into that I provided a little bit of information that
20 the median was requesting from me that I didn't quite
21 have ready, but it only took me a couple minutes to
22 find.

23 She did not -- they were discussing
24 things -- this was all over a Zoom call. They were
25 discussing things. They had a few more questions in the

1 third hour, and then in the last hour was the first time
2 that we were even presented with a -- any sort of forms
3 to look over as to what the mediation would even look
4 like -- what the agreement -- the final agreement would
5 look like.

6 And we had a little bit of input, but I
7 think there really wasn't much that we had to -- I mean,
8 I looked it over, I had lots of questions, but I kept
9 getting today we don't have time for this, we don't have
10 time for X, Y and Z.

11 And so the input that I got in terms of
12 counsel was that -- well, you should not sign and I
13 would ask why and I had never really got an answer to
14 that. The only determination that I received was that
15 if you do decide that it would go to discovery and -- I
16 mean, that's not something I can afford, so.

17 Q. (By Mr. Nichols) Okay. I would like to
18 continue my questions, Mr. Kraeig.

19 So when you had the mediation when did
20 the -- and there was a mediated settlement agreement and
21 I will tell you that exhibit, which is Exhibit 6, has
22 been already entered into the evidence so I may refer to
23 it in a minute.

24 When did the issues arise with Ms. Nguyen?

25 A. Well, in general, the issues started well

1 before the mediation. It would be very difficult to try
2 to contact her. I had a few different methods to try to
3 contact her. I e-mailed, called her office and I also
4 had her mobile number.

5 I would try e-mailing, which I got maybe
6 one short response every ten times I sent an e-mail
7 which was not often. I did try calling her office and
8 every time I called they had an answering service that
9 said I could not get through directly to her office,
10 they would take a message and she would call me back,
11 that never happened.

12 I would text her occasionally. There
13 was -- there were texts between us, but those have
14 subsequently been deleted and not from my end. Then I
15 had numerous calls with her as well.

16 Q. Let me ask you some specific questions. In
17 regards to the mediation settlement agreement, which is,
18 again, Exhibit 6.

19 Was there an issue that you had specific
20 questions about that in -- that you discussed in
21 mediation and was -- I'm sorry. Let me go back to my
22 question.

23 What was the issue that you had with the
24 settlement agreement?

25 A. So the -- whoever it was who was there with me

1 and I'm sorry I don't remember her name, but she said a
2 lot of things about it looked weird. I agreed because
3 being in a financial job sector there were a lot of
4 things that did not quite make sense to me. So I don't
5 know if she had tried to contact Ms. Nguyen about them,
6 but I never got an answer to those.

7 I was told that -- we would try to fight
8 for \$10,000 to be remitted to me. I was told that six
9 of that will be QDRO. I had no idea what QDRO even
10 meant. I asked them and I never got an answer to it. I
11 didn't get an answer to that until much, much later.

12 Q. Okay. I want to direct your attention to what
13 has been marked as Exhibit 15. So this is an e-mail
14 that has been admitted into evidence.

15 PANEL CHAIR ROTHENBURG: You indicated it
16 was Exhibit 15. The tab that is open is --

17 MR. NICHOLS: 17. That's where I was
18 getting at. I mixed up the dates.

19 Q. (By Mr. Nichols) Exhibit 17. We are going to
20 scroll down because it starts at the bottom and goes
21 back all the way up as the way e-mails do sometimes, but
22 on March 15th Ms. Nguyen sent you the final decree of
23 divorce. Do you recall?

24 A. I'm sorry. You, kind of, cut out there.

25 Q. That's okay. On March 15th, Ms. Nguyen sent

1 you the final decree of divorce. Do you remember
2 receiving that?

3 A. So what I received as an attachment to that was
4 just a request for my signature. I didn't see the
5 decree itself. I mean, most of the attachments -- there
6 were just the mediation, the same mediation document
7 that I had seen, but not the final decree itself.

8 Q. Okay. The mediation document, that is Exhibit
9 6. Is that the same one you're talking about?

10 A. Yes.

11 Q. Okay. So between March 13th and March 30th of
12 2022, do you recall having any communication with
13 Ms. Nguyen?

14 A. Not really. After the mediation there was
15 almost nothing that had -- I had not gotten much from
16 her office outside of the occasional message saying
17 please see attached or we need the signature documents.
18 I had multiple requests, you know, for expanding on
19 things that were just not answered.

20 Q. So for example, on March 30th, what are you
21 asking her about there?

22 A. So it was at that time when I had worked into
23 my schedule to try to rent a truck to get my things. I
24 had asked her if there was anything I needed to know
25 before going over there, anything that I needed to not

1 do, you know, to stay away from just -- general advice
2 on how do I not have the cops called on me when I got
3 there. I never -- I never really got any other response
4 to that.

5 And then that -- I knew that about \$4,000
6 that she was writing -- that my ex was writing a check
7 to me and there was supposed to be \$6,000 elsewhere
8 coming from her retirement at that time, but I had no
9 idea how to expect to receive those.

10 Q. And forgive me, I should know because my
11 birthday is in March. Okay. So two days later on April
12 1st had you gotten a response from her?

13 A. No, I had not.

14 Q. And you asked for her advice again as to those
15 situations?

16 A. Yes, sir.

17 Q. Did she respond to that?

18 A. I don't remember ever getting any sort of
19 response regarding my questions.

20 Q. Here on May 9th, on top of Exhibit 17. What
21 was Ms. Nguyen asking you to do in this e-mail?

22 A. So she is asking me to send over the signature.
23 Presumably for the final decree, but that was, kind of,
24 hard for me to otherwise know because I had asked
25 several questions just for clarification for

1 understanding of what was going on and I never got that.

2 Q. And had you actually seen the final decree at
3 that point?

4 A. No.

5 Q. And you responded to her on May 9th, and you
6 again -- you necessarily didn't ask any questions, but
7 you made a statement, you know, that you're, kind of,
8 lost, correct?

9 A. Right.

10 Q. I'm going to show you what has been provided --
11 I'm sorry, admitted as Exhibit Number 7, which is the
12 final decree of divorce. According to this exhibit, it
13 was filed on May 19th. The judge signed it on May 25th.
14 Did you sign this document?

15 A. I did not.

16 Q. Did Ms. Nguyen sign this document?

17 A. I think that may be her signature, but I can't
18 tell.

19 Q. Did she tell you that she had signed the final
20 decree and submitted it to the court?

21 A. No.

22 Q. Did she tell you that the final decree was
23 executed by the court?

24 A. No.

25 Q. When was the first time that you found out that

1 your divorce was finalized?

2 A. It wasn't until months later when I had sought
3 separate counsel in regard to the matter because I did
4 not believe Ms. Nguyen was representing me at all
5 anymore. That counsel had told me that they looked into
6 things or -- sorry. I contacted them and about a week
7 later they said, oh, it looks like everything is
8 finalized. It looks like you're divorced. So I had
9 asked when that had happened and he said it was mid-May.

10 Q. Do you remember when you found that out --
11 around what time? Just the month and year is fine.

12 A. It wasn't until, I believe October of 2021 --
13 I'm sorry, I got my years mixed up. 2022.

14 Q. You discussed just briefly -- what has been
15 marked and admitted as Exhibit 18 is an e-mail. David
16 Williams. Do you know who David Williams was?

17 A. I wasn't aware of whoever that was. The only
18 time I have ever been -- no, I have no idea.

19 Q. Mr. Williams sent Ms. Nguyen a motion and she
20 responded or she forwarded it to you the same day and
21 said she was not retained. Do you believe that
22 Ms. Nguyen was representing you at that point in August
23 of 2022?

24 A. Since I believed that our agreement was for
25 the, you know, the entirety of the divorce and matters

1 divorce rather?

2 A. Right. So like I said I didn't receive the
3 decree, but after that e-mail is when I sought the other
4 counsel. It was maybe two weeks after that e-mail that
5 I had learned from counsel that I had been divorced and
6 I believe the e-mail after that is when that occurred --
7 after learning about it.

8 Q. Do you feel that Ms. Nguyen gave you the
9 information you needed to make informed decisions
10 regarding your matter?

11 A. No.

12 Q. Do you feel that she gave you status updates
13 when you requested them?

14 A. No.

15 Q. Do you feel that she kept you reasonably
16 informed about the status of the matter?

17 A. I would -- it was like pulling teeth trying to
18 get any information out of her office.

19 Q. So do you think she kept you informed about the
20 status of the matter?

21 A. No.

22 MR. NICHOLS: I pass the witness.

23 PANEL CHAIR ROTHENBURG: Ms. Nguyen, any
24 cross-examination?

25 MS. NGUYEN: Yes, sir.

1 response itself was short and not answering the
2 questions necessary that I had.

3 Q. Mr. Kraeig, as you sit here today, do you have
4 any of those text messages that you indicate how you
5 tried to get a hold of me and could not get a hold of
6 me, yes or no?

7 A. How would I have them?

8 Q. Sir, I'm asking did you provide any proof of
9 what you're saying that you cannot get a hold of me
10 today, yes or no?

11 A. So when I try to get the text messages --

12 MS. NGUYEN: Nonresponsive.

13 PANEL CHAIR ROTHENBURG: Please let the
14 witness answer the question.

15 THE WITNESS: Thank you.

16 A. When I tried to retrieve those messages -- this
17 was something that I shared with Mr. Nichols as well
18 later on. I told him I would try to get a copy of those
19 messages and I found them later to be deleted.

20 Q. So basically you do not have any messages with
21 you today to corroborate that; is that correct?

22 A. If they have been deleted how would I have
23 that?

24 Q. Sir, all I'm asking is a yes or no. You do not
25 have those messages today, correct?

1 A. I do not have messages in my possession
2 currently.

3 Q. All right. Go back to the timeline of our
4 representation, July, we began your case, correct?

5 A. I would assume so.

6 Q. In August we would file your answer in your
7 case, correct?

8 A. I think so.

9 Q. In October we would arrange for you to move out
10 of the marital home and take your personal items,
11 correct?

12 A. I had questions about that.

13 Q. Understood, sir, but it was in October.

14 A. I don't remember.

15 Q. Would you like for me to bring that up to
16 refresh your recollection? Because that is one thing
17 you said in your testimony. Would you like for me to
18 bring up the screen for you?

19 MR. NICHOLS: Object to relevance. I
20 don't know what kind of question that was. I'm going to
21 object to relevance.

22 PANEL CHAIR ROTHENBURG: Ms. Nguyen, I ask
23 you to keep in mind the pleadings in this proceeding and
24 formulating your questions. That objection will be
25 sustained.

1 That wasn't really the part I was interested in.

2 I was just trying to figure out, you know,
3 why or what the -- I guess, like, was it just a time
4 map, kind of, thing because I know that the two
5 automatically delete very old messages, but I was just
6 trying to look into what might have been there and it
7 looks like that was the case.

8 PANEL CHAIR ROTHENBURG: Any further
9 questions for the panel? Mr. Nichols, may the witness
10 be excused?

11 MR. NICHOLS: Yes, please.

12 PANEL CHAIR ROTHENBURG: Mr. Kraesig,
13 thank you for your participation. You are excused.

14 THE WITNESS: Thank you, sir.

15 PANEL CHAIR ROTHENBURG: We are now at
16 12:36. I'm imagining that -- go ahead.

17 MR. NICHOLS: Well, I'll let you go ahead.

18 PANEL CHAIR ROTHENBURG: I'm just to
19 trying to schedule an approximate how much more time we
20 have. Whether we should take a lunch break, how long
21 that should be and establish parameters for getting this
22 hearing completed today because it will be completed
23 today one way or another.

24 MR. NICHOLS: I have a witness who is one
25 of my complaints who is on right now presently -- well,

1 something that I tried to communicate with your office
2 was that the e-mail you were using at the time was an
3 old e-mail. Which is why you see a lot of -- two of my
4 e-mails. You would send them to my old e-mail and then
5 I would have to forward it to my new one so I can
6 respond from there.

7 Q. So basically, Mr. Kraeig, you have multiple
8 e-mails, correct?

9 A. Not in clarification. Not in response to my
10 question. Not answering my questions. I had e-mails
11 from you, but not to answer my questions.

12 Q. Mr. Kraeig, do you have any e-mails today that
13 you presented to the panel asking questions and I didn't
14 answer?

15 A. I did have --

16 Q. Mr. Kraeig, do you have any as we speak right
17 now during direct examination? Did you provide any of
18 that evidence?

19 A. (No response.)

20 Q. Mr. Kraeig, you don't have any evidence
21 proving a string of e-mails where you're trying to get a
22 hold of me and I didn't answer, correct?

23 A. As much as the communication.

24 MS. NGUYEN: Objection, nonresponsive.

25 MR. NICHOLS: Mr. Rothenburg, hold on.

1 I'm going to object to facts outside the evidence.

2 PANEL CHAIR ROTHENBURG: Objection is
3 overruled. I am going to caution respondent to wrap
4 this up pretty quickly because we have beaten this dead
5 horse and I'm sorry, but this is an absolute waste of
6 time.

7 MS. NGUYEN: Mr. Rothenburg, that is why I
8 just need him to answer this one last question and I'm
9 done.

10 PANEL CHAIR ROTHENBURG: Please answer the
11 question, Mr. Kraesig.

12 A. So most of the communication that I had with
13 you was by text which you had deleted. The e-mails that
14 I provided were all that I could.

15 Q. Mr. Kraesig, I'm just going to ask one last
16 time, please. Have you presented any evidence of a
17 string of e-mails or correspondence where I did not
18 answer, yes or no?

19 A. Yeah. So actually the questions that I had in
20 regards to the \$4,000 and the \$6,000.

21 Q. Is there any other string of e-mails where
22 you're saying months of no communication?

23 A. It was provided via text which, again, you
24 deleted.

25 Q. Sir, I'm asking do you have any evidence before

1 the panel today showing a string of correspondence where
2 I did not answer multiple e-mails, yes or no?

3 A. How am I supposed to provide evidence of you
4 not answering?

5 Q. Sir, I'm asking you -- you testified that you
6 sent me e-mails and I didn't answer. Do you have any of
7 that evidence that you presented to the panel today?

8 MR. NICHOLS: Objection, asked and
9 answered.

10 PANEL CHAIR ROTHENBURG: Sustained.

11 Q. (By Ms. Nguyen) You don't have any -- you
12 didn't provide any evidence today showing a pattern of
13 me not responding; isn't that true, Mr. Kraeig?

14 A. How would I show that?

15 Q. Mr. Kraeig, you showed an e-mail where I asked
16 you for your signature and you responded back and you
17 said you would not sign, correct?

18 A. I -- that was one of the few times you
19 communicated with me.

20 Q. There was another e-mail where I sent you
21 another e-mail from another lawyer stating about a
22 clarification. I sent that to you and you responded,
23 correct?

24 A. I responded by saying that I was seeking other
25 counsel, I believe.

1 Q. So you basically sent the panel a handful -- a
2 few e-mails between you and I, correct?

3 A. What I had sent, again, was just my attempt to
4 encapsulate all the e-mails that I did have because,
5 again, how would I provide evidence of you not
6 responding?

7 Q. Mr. Kraeissg, the number of e-mails you
8 presented to the panel is less than five e-mails,
9 correct?

10 A. I'm not aware of the total amount.

11 Q. Okay. It's not more than five. Would that be
12 fair to say?

13 A. I am not aware of the total number.

14 Q. And you have no text messages presented to the
15 panel, correct?

16 A. Because you deleted them.

17 Q. You have no phone logs between me and you where
18 you were trying to call our office, correct?

19 A. That I was trying to obtain and, again, I could
20 not.

21 Q. You don't have them as we speak right now,
22 correct?

23 A. I requested them, but they have not been
24 provided to me.

25 Q. You paid us as \$1,800 to file your divorce.

1 decree from us, correct?

2 A. The final divorce decree, no, I never got that
3 from you.

4 Q. And you're also testifying that you didn't even
5 get your own mediated settlement agreement after
6 mediation?

7 A. That's not what I said. I said I might have
8 gotten it, but I don't remember when.

9 Q. Understood. You might have, but you docusigned
10 the document and you got your own document.

11 MR. NICHOLS: Objection, asked and
12 answered.

13 PANEL CHAIR ROTHENBURG: Ms. Nguyen,
14 please wrap this up.

15 MS. NGUYEN: Mr. Rothenburg, I'm trying to
16 get this gentleman -- he is evading my answers. He
17 keeps saying I don't recall. I just wanted to --

18 PANEL CHAIR ROTHENBURG: Ms. Nguyen, he
19 answered that question about 28 questions ago. You are
20 now over an hour and 15 minutes of your time.

21 MS. NGUYEN: I pass the witness.

22 MR. NICHOLS: No further questions.

23 PANEL CHAIR ROTHENBURG: One minute.
24 Excuse me, one hour and ten minutes.

25 Okay. Any further redirect?

1 MR. NICHOLS: No, sir.

2 MR. RIDDLE: I have a question.

3 PANEL CHAIR ROTHENBURG: Go ahead.

4 MR. RIDDLE: Mr. Kraesig, you said that
5 she deleted your texts. I just want to ask you a
6 question related to that.

7 How were the text messages? Were they
8 normal phone text messages or were you using some sort
9 of system?

10 THE WITNESS: No. So, I believe it was
11 iMessages which -- I mean, that typically uses iPhones.
12 They are their own kind of system. Although, it does
13 typically send as a text, but you do have the option to
14 delete them if need be.

15 MR. RIDDLE: You believe that if you can
16 delete texts sent from the recipient that the recipient
17 no longer has them?

18 THE WITNESS: So, yeah, when you delete
19 them off of that -- so it is -- as I understood it,
20 because I had to look into this a little bit. It is
21 stored separately as opposed to on the phone itself.

22 So if someone does delete that that
23 deletes it from both the person who is sending it and
24 the person who is receiving it from there. Now, how you
25 will go about doing that, I'm not particularly aware of.

1 That wasn't really the part I was interested in.

2 I was just trying to figure out, you know,
3 why or what the -- I guess, like, was it just a time
4 map, kind of, thing because I know that the two
5 automatically delete very old messages, but I was just
6 trying to look into what might have been there and it
7 looks like that was the case.

8 PANEL CHAIR ROTHENBURG: Any further
9 questions for the panel? Mr. Nichols, may the witness
10 be excused?

11 MR. NICHOLS: Yes, please.

12 PANEL CHAIR ROTHENBURG: Mr. Kraesig,
13 thank you for your participation. You are excused.

14 THE WITNESS: Thank you, sir.

15 PANEL CHAIR ROTHENBURG: We are now at
16 12:36. I'm imagining that -- go ahead.

17 MR. NICHOLS: Well, I'll let you go ahead.

18 PANEL CHAIR ROTHENBURG: I'm just to
19 trying to schedule an approximate how much more time we
20 have. Whether we should take a lunch break, how long
21 that should be and establish parameters for getting this
22 hearing completed today because it will be completed
23 today one way or another.

24 MR. NICHOLS: I have a witness who is one
25 of my complaints who is on right now presently -- well,

1 he is on lunch break from the trial in which -- in the
2 matter which he had hired Ms. Nguyen.

3 His name is Jason Nasra and he is
4 available right now until 1:30. I think that if we -- I
5 can definitely get done in time, but I would like to
6 call him and I try to get him -- his questions done.

7 I don't know. My times are being thrown
8 off with some of the complainant's other
9 responsibilities include one of them picking up their
10 grandchild at 2:00 so I'm just trying to figure out the
11 best way to go by about doing this.

12 PANEL CHAIR ROTHENBURG: All right. The
13 last witness, Mr. Kraeig, took an hour and a half --
14 about an hour 40. Given what you've seen about
15 cross-examination can we -- in your estimation complete
16 this next witness including cross-examination by 1:30
17 because we're basically at 12:38 right now.

18 MR. NICHOLS: I think the panel, you know,
19 it is up to the panel if they believe we could do it or
20 not. I mean, we can try -- we can have him maybe take a
21 break at 1:30, he might be done with -- he said they
22 might excuse him pretty quick so maybe we can call him
23 back after 1:00? We can do lunch then and call him
24 after lunch.

25 PANEL CHAIR ROTHENBURG: I don't want to

1 A. No, sir.

2 Q. Where was your last employment?

3 A. I worked at a convenience store, but I am
4 retired and on disability now.

5 Q. What kind of medical condition do you have?

6 A. I have rheumatoid arthritis. I have an
7 aneurysm in my brain and I have a Chiari malformation of
8 my brain.

9 Q. Okay. Are you married?

10 A. Yes, I am.

11 Q. How long have you been married?

12 A. Thirty-seven years -- I'm sorry 35 years.

13 Q. What is your husband's name?

14 A. Billy, B-I-L-L-Y, Joe Parrish.

15 Q. And where was Mr. Parrish born?

16 A. Germany.

17 Q. When did Mr. Parrish move to the United States?

18 A. When he was 18 months old.

19 Q. What year -- how old is Mr. Parrish now?

20 A. Sixty-three.

21 Q. As we are sitting here today what is
22 Mr. Parrish's immigration status?

23 A. He has a green card.

24 Q. Okay. Was there a time that you and
25 Mr. Parrish came upon in which his immigration status

1 affected his ability to work?

2 A. Yes, sir.

3 Q. What was he doing for work at that time?

4 A. He was a truck driver.

5 Q. And what happened then?

6 A. He could no longer drive the truck because his
7 CDL license had expired.

8 Q. Okay. When he tried to get a new CDL license
9 what happened?

10 MS. NGUYEN: Mr. Rothenburg, I would like
11 to make an objection on -- I mean, if Billy Parrish is
12 available -- he is actually the client and I think any
13 statements she makes on his behalf or anything like that
14 would be hearsay, so, would he be available to pop on
15 Zoom?

16 PANEL CHAIR ROTHENBURG: You're entitled
17 to make objections to specific questions. You're not
18 allowed to object to an entire line of testimony.
19 Proceed, Mr. Nichols.

20 MR. NICHOLS: Thank you.

21 THE COURT REPORTER: Mr. Nichols, this is
22 the court reporter. I hate to interrupt you, but I did
23 not get an answer to your last question. I can repeat
24 it if you like.

25 MR. NICHOLS: Yes, I'm going to get back

1 to that. Thank you.

2 Q. (By Mr. Nichols) Let me back up. You have been
3 married to your husband for 35 years. Do you have
4 knowledge of his -- his life, his history, his
5 immigration status?

6 A. Yes, sir.

7 Q. Do you know personal knowledge of his
8 immigration status and the immigration process that you
9 all went through over the last two years?

10 A. Yes. Billy didn't do anything. I hired the
11 attorney myself and she interacted with me completely.

12 Q. Okay. So I had asked you why Mr. Parrish was
13 not about to get his CDL.

14 A. Yes, sir. He had to have either a confirmation
15 of citizenship or a green card.

16 Q. And at that time, did you believe that
17 Mr. Parrish was a United States citizen?

18 A. We didn't know he wasn't. Both parents have
19 died and no one told him anything. When we found out we
20 needed to do his stuff -- driver's license, that is when
21 we were informed that Billy had to become a citizen or
22 obtain a green card.

23 Q. Okay. So what did you all do?

24 A. We contacted a couple of lawyers, and then I
25 spoke to Ms. Nguyen and she informed that the best route

1 to go was to apply for citizenship. So we went with her
2 recommendation.

3 Q. And when you discussed that with Ms. Nguyen
4 what did she tell you that process would look like?

5 A. No more than a couple of months to get
6 everything done. She stated -- because I brought
7 everything from Billy's parents -- a box of things that
8 had everything in it from Billy growing up.

9 That's when I started researching myself
10 to find out, you know, what was Billy's status, what
11 happened, why didn't they follow through with getting
12 him his citizenship, because he was adopted and then
13 brought here.

14 So I brought her all the paperwork that I
15 had and her words were this is gonna be a piece of cake
16 because you've done most of the work for me,
17 Ms. Parrish. I said thank you, I'll leave it in your
18 capable hands.

19 Q. When was that when you hired Ms. Nguyen?

20 A. Can I look it up? I'm so sorry.

21 Q. That's all right. Do you have -- you don't
22 have to give me an exact date, but maybe a year or
23 month?

24 A. I think it was in August and it was maybe four
25 or five years ago. I am so sorry. We recently moved in

1 with my son and everything we have is still packed away.
2 I don't want to say a date and then it be wrong.

3 Q. That's fine. We'll look through some of the
4 communications in a minute and maybe we'll figure that
5 out. Who -- when you all hired Ms. Nguyen, who paid Ms.
6 Nguyen?

7 A. At the time, it was my husband's boss. He
8 wrote the check. He went with me to her office and paid
9 with a check on his company name.

10 Q. How much did you all pay her?

11 A. \$1,750.

12 Q. Did you have to pay him that money back?

13 A. Yes, sir, we did. We paid him back. We just
14 didn't have that big of an amount at that time so he
15 agreed in order to keep Billy as a truck driver he would
16 pay this money for us.

17 Q. I want to talk to you a bit about the
18 communications you had with Ms. Nguyen. The e-mails and
19 text messages that you provided have already been
20 entered into evidence so we're not going to have to get
21 too detailed on asking questions.

22 I'm going to share what has been marked as
23 Exhibit 20 which is some of the text messages. I'm
24 going to go to the second page. Who is that first text
25 message from on the second page?

1 doing mechanic work and finally, he just could not hold
2 on any longer.

3 Q. How long did he let Billy work in the mechanic
4 shop?

5 A. Actually, a little over a year.

6 Q. Over a year?

7 A. Yes.

8 Q. And what did Billy do after that?

9 A. Billy went home. He did not even have an ID to
10 find a job. You cannot get a job if you don't have any
11 form of ID.

12 Q. And what about you? When did you have to stop
13 working?

14 A. I had to stop working in 2011 because of my
15 disability.

16 Q. Okay. So you were not working at this time?

17 A. No. We were living off of my disability and my
18 sons were helping us.

19 Q. Okay. When you hired a new attorney how long
20 did it take for the new attorney to obtain the green
21 card?

22 A. I believe six weeks.

23 Q. When you hired Ms. Nguyen, you already
24 testified that she said it would be fairly easy, you
25 know, a piece of cake?

1 A. Exactly her words, a piece of cake.

2 Q. And over the years did she express anything --
3 besides the communication, but if you can recall, did
4 she express anything different to you about the level of
5 difficulty about how hard it was for her to complete
6 that process?

7 A. At one point she sent me saying that she was
8 having it difficult because Billy was an old case. That
9 his adoptive parents didn't finish the paperwork and she
10 said that it was going to take longer and we were two
11 years in on this I think.

12 She sent me a number to call someone at
13 the Department of Public Safety in Austin. I spoke to a
14 woman named Aria. She didn't even know what she could
15 do to help me. She kept telling us over and over, she
16 was looking for the final puzzle piece.

17 Q. Okay. And did she ever tell you why she didn't
18 just attempt to get a green card?

19 A. No, sir. Well, she did explain to me the first
20 day that -- what Billy would really need would be proof
21 of citizenship. It wasn't until the other lawyer that I
22 hired told me, he's in his 60s, Ms. Parrish. He doesn't
23 need a citizenship. He can get by with just a green
24 card. So I called the USCIS and they said, yeah, he can
25 get his driver's license renewed with a simple green

1 had before.

2 Q. What other kind of hardships did you and Billy
3 face because he was unable to work during that time?

4 A. We lived in the house -- we lived in -- we had
5 been there for ten years. We lost our house. We had to
6 have our son help support us. He lost his truck. We
7 kept my car because it was a better, you know, choice
8 and now we recently moved in with our son -- our
9 youngest son.

10 Q. And did -- were your medical issues
11 exacerbated? Did anything happen to you during that
12 time that was an additional hardship?

13 A. During that time I found out that I did -- a
14 little over a year or so after we had been doing this.
15 Now, once again I can't say that is the reason, but I
16 found that I had an aneurysm which I never have had
17 before. My rheumatoid arthritis is really bad now, but
18 like I said I'm not going to say all this has caused it.

19 Q. Did you ever tell Ms. Nguyen about your medical
20 issues?

21 A. Yes, sir. I sent a message saying that I had
22 just gotten out of the hospital and she said we'll be
23 back in the office on Monday because I couldn't get a
24 hold of her from November to December -- the end of
25 December. She said they have been -- I think you have

1 the e-mail saying we will be back in the office on
2 Monday, but for two and a half months I could not get
3 any response from her.

4 I didn't even know if -- I thought maybe
5 she was just throwing us away. She finally did send me
6 the message saying, oh, we have been on Christmas
7 vacation or holiday and we will be back in the office on
8 Monday. I believe I sent that one to you.

9 Q. When you fired Ms. Nguyen, did she send you any
10 sort of file or documents that she may have filed?

11 A. No.

12 Q. Did she return to you the documents that you
13 had collected and given to her?

14 A. No, sir.

15 Q. Did she provide you with any type of refund?

16 A. No, sir.

17 Q. When you asked her for refunds on several
18 occasions did she ever promise you that she would send
19 you a refund or tell you that she sent you a refund?

20 A. She did say -- when I asked her for a full
21 refund to hire another attorney, she just sent what's
22 your address. I think you have that one too.

23 Q. Yes, ma'am.

24 A. And then later on when she found out that I had
25 filed, she sent me a letter message saying well, I might

1 be able to give you back half, but I didn't pay her half
2 to start so I said no.

3 MR. NICHOLS: I pass the witness.

4 PANEL CHAIR ROTHENBURG: One moment
5 please.

6 MR. NICHOLS: I don't anticipate that this
7 will take that long, but Ms. Parrish does need to pick
8 up her grandson at 2:00.

9 PANEL CHAIR ROTHENBURG: Okay.

10 MR. NICHOLS: Do we have a hard stop time,
11 Ms. Parrish? Is it 2:00 that you have to be out the
12 door?

13 THE WITNESS: No, I can leave by 2:30.

14 MR. NICHOLS: Okay. Perfect.

15 PANEL CHAIR ROTHENBURG: It is 1:10 now so
16 if we are efficient, I can't imagine that it would take
17 anywhere near that long. You pass the witness, Mr.
18 Nichols?

19 MR. NICHOLS: Yes, sir.

20 PANEL CHAIR ROTHENBURG: Ms. Nguyen, do
21 you have any cross-examination?

22 MS. NGUYEN: Yes, sir.

23 PANEL CHAIR ROTHENBURG: Proceed.

24 MS. NGUYEN: Thank you.

25

CROSS-EXAMINATION

BY MS. NGUYEN:

Q. Hi, Ms. Parrish. Is Mr. Billy Parrish there with you as well?

A. No. Billy finally found a job and we were told that we would be doing this at 9:00 a.m. and he can't afford to lose this job he has so he had to go.

Q. So you stated -- basically all the things that you stated under oath here is basically on your personal knowledge, correct?

A. To the best of my knowledge as possible.

Q. You are the one that hired the most recent attorney to get the green card?

A. I did.

Q. Do you recall what -- who did the I130 to sponsor his green card?

A. We filed the paperwork and we went to have an interview in Houston at the USCIS office.

Q. Understood. The I-485 is the green card form. In order to get the green card form you have to have an accompanied form. Do you have knowledge of the I-130 that was filed with that green card application?

A. I believe everything she filed, she did give us a receipt for -- a receipt number, yes, ma'am.

Q. So your husband -- it is your testimony that he

1 has a green card?

2 A. Yes, he has the card, but what they're doing
3 now is sending him -- let me see, I have the card. I'm
4 sorry, do you need to see it?

5 Q. If you could that would be helpful.

6 MS. NGUYEN: If that's okay with
7 Mr. Rothenburg?

8 PANEL CHAIR ROTHENBURG: Are you asking
9 her to produce a document during trial?

10 MS. NGUYEN: Just because, Mr. Rothenburg,
11 I know that she's testifying to a green card and a green
12 card has a very unique look, even from a distance it has
13 a certain color and I would like to ask whether it is in
14 fact a green card because there are certain hoops that
15 you have to go through.

16 A. Well, we went to the DMV and they gave him a
17 CDL license with it, and they said this is the paperwork
18 that you need for this. So we -- you'll have to give me
19 a few minutes. Like I said, we moved in with my son. I
20 have to find it.

21 Q. Understood. So going back then to when you
22 hired me, that was February 5, 2020, correct?

23 A. As far as I know, yes, ma'am. I don't have my
24 paperwork in front of me, but I sent him -- Mr. Nichols
25 the dates and stuff, okay?

1 Q. Understood. Actually, the e-mail that you sent
2 to me and that was put on the screen references that you
3 hired me February 5th of 2022. You wrote that e-mail,
4 correct?

5 A. Yes.

6 Q. And that was in the Conroe office.

7 A. Yes, ma'am.

8 Q. And that would have been a few weeks before
9 COVID and there would be a standstill where we do
10 everything electronically between me and you, correct?

11 A. Yes. You told me that you could do it from
12 your computer in your office, yes, ma'am.

13 Q. Even then, do you recall when COVID happened
14 that USCIS even had a backlog where they weren't
15 answering the phone, customer service and all that
16 during the COVID time. Do you recall that?

17 A. I just know that is what you told me, yes.

18 Q. You called USCIS yourself as well, correct,
19 during that time?

20 A. Yes and was told -- I did call and I was on an
21 automated system and once I couldn't put the receipt
22 number that I asked you for I couldn't go any further.

23 Q. We are going to go back to the very beginning
24 when you hired me. You hired me February 5, 2020, and
25 you walked into my office with old -- almost 45-year-old

1 documents for Billy, correct?

2 A. Yes, some of them weren't that far. Some of
3 them where when -- I showed you that he went to high
4 school here in Conroe. I showed you where he got his
5 driver's license in Conroe, Texas. His Social Security
6 card, those aren't 40-year-old documents, but some of
7 them were, yes, ma'am.

8 Q. Ms. Parrish, you actually presented to me the
9 adoptive decree that was done in Germany for your
10 husband, correct?

11 A. 1962, yes, ma'am.

12 Q. And after reviewing all those documents with me
13 at the Conroe office, you and I both came to an
14 understanding that the biggest piece of the puzzle that
15 was missing was whether his dad -- his adoptive dad ever
16 submitted his paperwork to be a naturalized citizen. Do
17 you remember that?

18 A. Yes, ma'am.

19 Q. So going back to that time frame in 2020,
20 trying to figure out whether there was a naturalization
21 certificate. You do recall that?

22 A. We talked about that, yes.

23 Q. And Billy didn't recall whether he'd ever been
24 a naturalized citizen either, correct?

25 A. Well, no, he didn't know. He found out that he

1 because when I took all of my -- I walked into your
2 office with every paperwork I had from the day this man
3 was born, and you were the one who assured me that it
4 was going to be a piece of cake.

5 Q. Ms. Parrish, you already testified earlier that
6 when you walked into my office you recognized that your
7 husband did not have a naturalization certificate in
8 that file, correct?

9 A. Of course. That's why I hired you.

10 Q. In addition to that, you also did not have a
11 green card in that file as well, correct?

12 A. No, ma'am. He never had a green card before.

13 Q. But that's not what you asked me to do. You
14 asked me to try to figure out a pathway --

15 MR. NICHOLS: Objection, asked and
16 answered.

17 PANEL CHAIR ROTHENBURG: Sustained. Don't
18 answer the question. Ask your next question.

19 Q. (By Ms. Nguyen) So basically the task that you
20 gave me was to make your husband a U.S. citizen. That
21 is your understanding, correct?

22 A. If that's what naturalized citizenship means,
23 the blue card then, yes, ma'am, that is what I hired you
24 for.

25 Q. And now you figured out at this point right now

1 that your husband could only have a green card at this
2 time, correct?

3 A. No, ma'am. He could have the naturalization
4 papers, the blue card, if we go through a whole lot of
5 more process. The easiest route for us with our new
6 lawyer was a green card.

7 You never mentioned a green card to us.
8 Not one time did you say, Ms. Parrish, Mr. Parrish,
9 let's go the green card way. That was the first thing
10 the new lawyer explained to us that we should do. You
11 never brought it up.

12 Q. Ms. Parrish, you have e-mails you submitted to
13 the panel were I told you that the N400 was not -- it
14 cannot be done, correct?

15 A. After the fact, yes, ma'am.

16 Q. And neither -- no messages after that you asked
17 me to do a green card application; isn't that correct?

18 A. Ma'am, I didn't know about the green card. I
19 would have assumed as I am sitting here right now, as an
20 attorney with immigration, that you know about a green
21 card. We didn't know anything when I walked into your
22 office. We didn't know what to do. We didn't know
23 where to turn. You are an attorney. You were to advise
24 us and you were to file the paperwork. You said you
25 would.

1 MS. NGUYEN: Testimony from the panel or
2 do you mean --

3 PANEL CHAIR ROTHENBURG: You don't need to
4 testify at all if you don't want to. I'm asking if
5 you're intending to so I can calculate for time purposes
6 how long our lunch can be.

7 MS. NGUYEN: If I testify, sir, I would
8 say no longer than 20 -- 30 minutes, 15 minuets.

9 PANEL CHAIR ROTHENBURG: Let's just keep
10 it tight, you know, there are ways to do it efficiently.

11 MR. NICHOLS: One more question.

12 MR. RIDDLE: I want to add that keeping it
13 tight doesn't mean asking the same question over and
14 over again. We are hearing the answers the first time
15 to the questions that are asked.

16 PANEL CHAIR ROTHENBURG: And to be clear,
17 Ms. Nguyen, if you are hearing frustration it is because
18 a process that -- I think could have been two hours is
19 turning to about six hours and so we just need to be
20 respectful of the process.

21 MS. NGUYEN: Yes, sir.

22 PANEL CHAIR ROTHENBURG: So, members of
23 the panel, how long would you like for lunch?

24 MR. STANDISH: Thirty minutes will be fine
25 with me.

1 Q. In the response to the e-mail that -- that
2 e-mail address, is that e-mail then forwarded to the
3 legal secretary in charge of the case?

4 A. Correct.

5 Q. And if they send an e-mail, that e-mail
6 address -- how are you made aware of it?

7 A. I am also CC'd on the e-mail.

8 Q. Okay. And what is this case -- this
9 acknowledgment, what is it regarding?

10 A. The case that you just mentioned pertains to
11 the Trang Lau case.

12 Q. I want to show you what is marked as Exhibit
13 39. Do you recognize this e-mail?

14 A. Yes.

15 Q. What is this e-mail?

16 A. It is a late response e-mail.

17 Q. And why did you send this e-mail?

18 A. As a courtesy to remind respondent that her
19 response is past due.

20 Q. And at the time you sent it, when was her
21 response due?

22 A. As it is indicated in the e-mail.

23 Q. For the record, can you tell us with that date
24 is?

25 A. November 30, 2022.

1 Q. And when he sent this response or this notice
2 of late response, what date was that that you sent the
3 notice?

4 A. December 30, 2022.

5 Q. And Ms. Nguyen responded to this e-mail?

6 A. Correct.

7 Q. Did she ever file a response to the grievance
8 that Ms. Trang Lau filed?

9 A. No.

10 Q. Did she ever assert a privilege or legal ground
11 for her failure to file a response?

12 A. No.

13 Q. Did she ever ask you for a request for the
14 grievance -- sorry. Did she ever request an extension
15 to file her response in this matter?

16 A. No.

17 Q. We are going to move to Exhibit Number 40. Can
18 you identify this one?

19 A. Yes, that is also an acknowledgment of receipt
20 that the respondent was served with a notification of
21 grievance.

22 Q. Okay. Can you tell me what the name of the
23 complainant and the case name in this grievance or these
24 cases?

25 A. Yes, the last name is Nasra, N-A-S-R-A, first

1 A. I don't recall that, perhaps during the
2 pandemic we used our cell phones. I'm assuming we did
3 that.

4 Q. Yes, sir. Would it even be fair to say that
5 you definitely have been courteous enough to even send
6 referrals to my office as well?

7 A. No, not referrals, never.

8 Q. Never -- did you give a gentleman my number
9 about a month ago to help him -- his mom with the HOA
10 matter?

11 A. That wasn't a referral. He simply asked me if
12 I knew a civil attorney. My recommendation was call and
13 see if she practices that kind of law because I don't
14 know if you did or not. So essentially I said reach out
15 to her, see if she practices that kind of law you're
16 looking for.

17 Q. Thank you, sir. Would it even be -- do you
18 recall one time where you had me look up a divorce case
19 for you?

20 A. Correct.

21 Q. So at least would it be fair to say that even
22 despite your experiences with me on cases that have been
23 filed against me that you would think I am, at least, a
24 decent person?

25 MR. NICHOLS: I will object to relevance.

1 PANEL CHAIR ROTHENBURG: Sustained.

2 Q. (By Ms. Nguyen) The last time that you and I
3 texted each other was -- if I look at the messages,
4 would it be fair to say that was around August of last
5 year?

6 A. It was last year. I don't know when, but it
7 was last year.

8 Q. And then you sent me a message related to your
9 divorce case filed in Harris County?

10 MR. NICHOLS: I'm going to object to
11 relevance.

12 PANEL CHAIR ROTHENBURG: Sustained.

13 Q. (By Ms. Nguyen) So your duties as being an
14 investigator of my particular cases, it would be fair to
15 say that you separate that from whenever you're
16 messaging me about professional matters that are not
17 bar-related, correct?

18 MS. NGUYEN: No further questions.

19 PANEL CHAIR ROTHENBURG: One moment. Any
20 redirect, Mr. Nichols?

21 MR. NICHOLS: Yes.

22 REDIRECT EXAMINATION

23 BY MR. NICHOLS:

24 Q. Mr. Mayers, regardless of your rapport with
25 Ms. Nguyen or rather her rapport with you, she had

1 failed to respond to the three grievances that we
2 discussed today, correct?

3 A. Correct.

4 Q. She also mentioned that there have been cases
5 that you recommended for dismissal, correct?

6 A. Correct.

7 Q. If Ms. Nguyen failed to respond to one of the
8 two case -- a grievance rather, would you recommend that
9 case for dismissal?

10 A. No.

11 Q. Why not?

12 A. Because rule 814.08 obligates and subsequently
13 compels the failure of the respondent to respond. So
14 it's a violation of the rules.

15 Q. Okay. And she said that anytime you would send
16 her -- what you said earlier was a courtesy e-mail that
17 she needed to respond to that grievance. Do you
18 remember her asking you that?

19 A. Yes.

20 Q. However, in Trang Lau, you sent her a courtesy
21 e-mail 30 days after her response was due, right?

22 A. Correct.

23 Q. Did she respond to that e-mail or respond to
24 that grievance?

25 A. No.

1 Q. Are you familiar with the rest of the cases
2 that are filed against -- are you familiar with the
3 dockets of cases that are filed against Ms. Nguyen?

4 A. Most of them, correct.

5 Q. Would you agree with me that Ms. Nguyen has
6 stopped responding to grievances that are filed by
7 complainants?

8 A. Yes.

9 Q. How many grievances would you estimate that Ms.
10 Nguyen had failed to respond to over the last few years?

11 MS. NGUYEN: Objection, calls for
12 speculation and prejudice.

13 MR. NICHOLS: Mr. Mayers already said that
14 he's unfamiliar with the docket.

15 PANEL CHAIR ROTHENBURG: Overruled.

16 A. There's at least ten to 15 grievances in which
17 I received no response.

18 Q. Thank you.

19 MR. NICHOLS: I have no further Questions.

20 PANEL CHAIR ROTHENBURG: One moment. Any
21 recross, Ms. Nguyen?

22 MS. NGUYEN: Yes, sir.

23 RECROSS-EXAMINATION

24 BY MS. NGUYEN:

25 Q. Mr. Mayers, do you recall having a conversation

1 PANEL CHAIR ROTHENBURG: Well, you may
2 testify as to information that is within your personal
3 knowledge. Please proceed.

4 VY THAUN NGUYEN,
5 having been first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 MS. NGUYEN: To start off with the very
8 first complaint by the attorney Cody Martin, the \$3,500
9 was -- the agreement was that the monies would be paid
10 from the iota based on the monies that we received from
11 Fresh Start Funding from Ms. Blake.

12 However, Ms. Blake shortly thereafter
13 would stop making her payments to Fresh Start Funding
14 and then they would draw back that money, thus there was
15 no money left in the trust account for her to be able to
16 allow me to pay from the trust account.

17 I was not personally served with the
18 enforcement of the decree, and the motion for sanctions
19 was against Ms. Kimberly Blake. Of course, after that
20 point, she was very uncooperative with -- also had no
21 ability to make payments. She definitely breached her
22 payment plan and still to this day has not made any
23 payments towards that amount.

24 Thus, the money that we received an
25 advance has been taken back. I have basically not been

1 paid for the case. She is not intending to reimburse
2 our firm for that, but for the ability to say -- to be
3 able to defend myself that the \$3,500 was supposed to
4 come from her funds. As a result of her doing a charge
5 back, there was no funds to send to Mr. Martin as a
6 result of what she did. May I move on to the next case,
7 Mr. Rothenburg?

8 PANEL CHAIR ROTHENBURG: Please.

9 MR. RIDDLE: I have a question regarding
10 this case. You said the decree is against Ms. Blake.
11 Can you pull it out or I can pull it up if you want.

12 MS. NGUYEN: Yes, sir, that will be great.

13 MR. RIDDLE: I mean, I looked at it when
14 we were talking about it earlier. Does it state where
15 it should be paid from specially in the decree?

16 MS. NGUYEN: Yes, sir. It actually says
17 to pay the money out of the iota.

18 MR. RIDDLE: That's on page 35 if I
19 recall.

20 MS. NGUYEN: Yes, sir. It says right
21 there out of the trust account for her.

22 MR. RIDDLE: Can you read under service of
23 writ, the beginning of the third paragraph there?

24 MS. NGUYEN: Yes, sir. Is it the judgment
25 of attorney's fees.

1 MR. RIDDLE: I'm sorry. The second
2 paragraph under that.

3 MS. NGUYEN: Yes, sir. The judgment for
4 which execution issues awarded against Vy Nguyen
5 attorney for respondent and Vy Nguyen is ordered to pay
6 those fees expenses that cause interest by cash,
7 cashiers check or money order from Ms. Nguyen's trust
8 account for Kimberly Blake.

9 MR. RIDDLE: Okay. Is it true that you
10 agreed with Mr. Blake that you were going to pay the
11 money that day?

12 MS. NGUYEN: Well, no, it wasn't that day
13 actually. I'm trying to remember how we went about
14 doing that. I was in Fort Worth and I'm with PNC Bank
15 so my trust account is not with a mobile app where you
16 could just shoot off money or wire.

17 MR. RIDDLE: Well, I'm not asking about
18 that. In his testimony, he testified that you agreed to
19 pay the money that day. I'm asking you if that
20 testimony was true or incorrect.

21 MS. NGUYEN: No, sir. I don't think that
22 would have been correct. It wouldn't have been
23 reasonable to do it that day.

24 MR. NICHOLS: I have a question regarding
25 Mr. Martin. If we want to do it like that,

1 you proceed for your direct testimony, if you can let us
2 know when you change cases, which case you're referring
3 to just so we can keep things straight.

4 MS. NGUYEN: Yes, sir. Thank you so much.

5 Going into Trang Lau. I have submitted
6 exhibits that would indicate the work that I have done
7 for her and both her family law, modification case and
8 her current termination case.

9 You know, I do look at a lot of these
10 cases that were filed against me and all the things that
11 were going on as, seems like the time from '21 or '22.
12 I know that was the aftermath of COVID.

13 I know at that time a lot of cases that we
14 were handling in hindsight, you know, spreading myself
15 too thin at that time in 2020 and I want to take
16 accountability to say that to the panel. I feel like
17 being in Harris, in Travis in Tarrant and all these
18 different -- I know that sounds was really crazy that I
19 was doing all that, but she was a referral from one of
20 my clients and that's why I took that case.

21 As to Trang Lau, I am very proud to still
22 represent her even though I know most times, you know,
23 there could be a situation where they don't want my
24 office to work on their case and I like the panel to at
25 least take to consideration that my client didn't know

1 entered -- he uses the word entered in his e-mail to me.
2 Enter means that it could be entered without his
3 signature. We told him that.

4 I would like for the panel to recognize as
5 well that there is not a series of messages, text
6 messages, phone logs of any sorts to state that I failed
7 to communicate with him. In the end he was able to be
8 divorced. In the end it shows the spreadsheet that
9 shows all the monies that were divided.

10 MR. NICHOLS: Object to relevance.

11 PANEL CHAIR ROTHENBURG: Overruled.
12 Proceed.

13 MS. NGUYEN: The spreadsheet that is
14 within the exhibit would indicate those were his
15 numbers, that is what he provided to us. We
16 communicated with him as to the law -- the family code
17 as to what the judge could do in terms of dividing. All
18 communication was made. Okay. I think the next one is
19 Ms. Parrish.

20 MR. RIDDLE: Did you ever give him an
21 answer to the question he did show us? For example, the
22 other \$6,000?

23 MS. NGUYEN: Yes, sir, we did.

24 MR. RIDDLE: And in what form did you
25 answer his question?

1 MS. NGUYEN: Verbal. On the QDRO itself,
2 he is talking about the qualified domestic relations
3 order, that is what's in the divorce decree and --

4 MR. RIDDLE: So he would e-mail you
5 questions and you would respond over the phone or what?

6 MS. NGUYEN: Yes, sir. There is plenty of
7 times when my clients call me and I'll just pick up the
8 phone if I can and tell them what's going on.

9 He knew about the QDRO. He understood
10 that he needed -- actually, if you look at the core
11 database as we speak right, now he filed a QDRO. He
12 knows the process of doing that so when he asked me
13 about the \$6,000 he understood the only way to get the
14 \$6,000 is by filing a qualified domestic order.

15 MR. NICHOLS: I object to facts outside
16 the evidence.

17 PANEL CHAIR ROTHENBURG: Overruled,
18 proceed.

19 MR. RIDDLE: And you're saying that you
20 did provide him with a copy of the divorce decree?

21 MS. NGUYEN: Absolutely.

22 MR. RIDDLE: How did you provide a copy of
23 that?

24 MS. NGUYEN: How it potentially works with
25 family law is that the petitioner's drafts it and then

1 approach the judge, I didn't need to be there because
2 they were the petitioner. They did it. So when the
3 judge signs it, the clerk does not provide us a copy of
4 that.

5 MR. RIDDLE: You don't get a notice that
6 this document was signed from the court?

7 MS. NGUYEN: That would be really
8 convenient if they did, but, no, sir, they don't. When
9 it's done, what we do is after -- when we hear there is
10 an entry you know, us lawyers, we'll go look at the
11 database, we'll see some docket notes that says -- I
12 provided the docket notes from the panel as well where
13 it says -- the judge writes decree granted or judgment
14 granted, decree supports with the MSA. That is what we
15 see and from there --

16 MS. WHITE: Can you remind me what county
17 this case is in?

18 MS. NGUYEN: Harris County.

19 MS. WHITE: Is family law different than
20 regular civil law where you could -- for free download a
21 copy of the order from the clerk's website?

22 MS. NGUYEN: You can. You can actually
23 pull down the image, but it is not the certified image.

24 MS. WHITE: Did you provide him a copy
25 of -- a noncertified copy of the decree?

1 MS. NGUYEN: No, ma'am, we don't do that.
2 Well, my role is -- I don't do that, no, ma'am.

3 MS. WHITE: Okay.

4 MS. NGUYEN: This is the only time that
5 out of all the cases that I had -- I mean, this is the
6 only obligation that this person didn't get his full
7 decree when he had his full decree and his full
8 mediation agreement.

9 MS. WHITE: He also provided -- the state
10 provided some e-mails where he requested -- where
11 Mr. Kraesig requested several times a copy of his file.
12 Did you ever provide him with a copy of his file?

13 MS. NGUYEN: So what we do is pull all the
14 documents and we send it to him. So I know that he was
15 saying we didn't give it to him, when he requested his
16 file he did get his file from us. So at the time when
17 the divorce was done, no, we didn't pull the decree
18 because we knew it was in the system, but when he wanted
19 his file, we gave him everything.

20 MR. RIDDLE: How did you give it to him?
21 In what matter, did you mail, e-mail it?

22 MS. NGUYEN: Typically, at that time --
23 I'm trying to remember in '21, I would say it could have
24 been either way. I guess I don't want to misquote on
25 how we gave him his file, but it was sent to him. I

1 don't think it was Dropbox though because I don't see a
2 Dropbox link that was set up.

3 MR. RIDDLE: So why did he repeatedly
4 e-mail you to give him his file? Did you give it to him
5 after that? How long did it take?

6 MS. NGUYEN: I don't think -- his file
7 wasn't even voluminous so that would indicate to me that
8 we definitely would've given him his file. We had
9 everything. We have the divorce decree, the petition,
10 the answer, the Rule 11 agreement.

11 MR. RIDDLE: I'm not asking about the
12 context of the file. When he sent you an e-mail saying,
13 hey, can I get a copy of my file and, you know, what we
14 saw on the record were hostile responses from you, but
15 nothing in the record showing that you actually gave him
16 his file. So why don't we have that on the record, an
17 e-mail or something showing that you give him the file?

18 MS. NGUYEN: That's a good question, sir.
19 I know when the e-mail came in asking for his file, my
20 assistant -- my assistances usually get that file
21 together and send it off to them.

22 MS. WHITE: One of the e-mails which was
23 produced as part as Exhibit 19 for -- when Mr. Kraesig
24 e-mailed you and asked for guidance on what he should do
25 to retrieved his property from the marital home.

1 It looks like he e-mailed you a couple of
2 times with no response to those e-mails. Do you recall
3 whether you ever responded to that and helped him with
4 that?

5 MS. NGUYEN: Yes, ma'am. They -- I know
6 that I called him that day. I just told him to only
7 take the stuff that you are allowed to take because
8 there was a lot of tension between him and her and their
9 cats and all kinds of different things, yes, ma'am.

10 The lawyer was already telling me that he
11 was acting erratic so I just ensured him -- I verbally
12 told him to go and just get the particular things that
13 you only need to take.

14 MR. NICHOLS: I'm going to object to facts
15 outside the evidence.

16 PANEL CHAIR ROTHENBURG: Overruled.

17 MS. WHITE: I think that's all the
18 questions I have.

19 PANEL CHAIR ROTHENBURG: Ms. Nguyen, have
20 you included the initial part of your direct testimony
21 on your own behalf?

22 MS. NGUYEN: I'm sorry, sir, I was going
23 to talk about Ms. Parrish. I think that is the last
24 one.

25 MS. WHITE: We interrupted her after

1 Mr. Kraesig.

2 PANEL CHAIR ROTHENBURG: I just want to
3 make sure the record is clear. Please proceed.

4 MS. NGUYEN: Thank you. Ms. Parrish, that
5 case came into my office on February of 2022 and it was
6 a very interesting case. I practice immigration law so
7 of course when Ms. Parrish came into my office, it was
8 this, you know, question as to why DPS suspended her
9 husband's driver's license and also that they had heard
10 through DPS that there was questions about his legal
11 status.

12 So based on my conversation with her I
13 quoted her \$1,750 for her to allow me to help them and
14 figure out why. I was calling DPS, calling USCIS,
15 Department of Homeland Security to try to understand why
16 Mr. Parrish would not have legal status given that he
17 has a social security number, he went to high school
18 here and all these different things.

19 As we go back to the timeline, my
20 understanding is that when you have adoption cases in a
21 foreign country -- that was the first thing I asked her,
22 to bring that adoption decree so we can start with that
23 as point A.

24 The document was provided. I looked at
25 that file and it was determined that he was adopted in

1 Germany by his then adoptive father who was a U.S.
2 serviceman. So of course, this was over 50 years ago
3 so, you know, of course, our laws have changed a bit,
4 but at least from my research -- my goal was to research
5 the case and figure out why.

6 The question was why the system would not
7 show that he is a U.S. citizen when he was adopted by a
8 U.S. serviceman. So the adoption decree was provided to
9 me, I reviewed that, it shows that -- from his passport,
10 when he was a little kid, he was able to come into the
11 United States on a passport with his adoptive father.

12 So the adoption still would have to be
13 recognized here in the United States by what we would
14 call -- we call that the I-130 for the adoptive child.
15 So when we were looking through his voluminous file --
16 old archive documents, that would not show where his
17 adoptive father would petition with the U.S. government
18 to allow him to make his son a U.S. citizen by virtue of
19 him adopting him. So that was a big piece.

20 So the real stall of it was determining
21 whether -- which pathway were we taking, are we trying
22 to see if we can do a replacement of the naturalization
23 certificate, but then that would lead us down a rabbit
24 hole.

25 This was a discussion I had with

1 Ms. Parrish and Mr. Parrish as well, because he didn't
2 know if his adoptive father had ever filed documents
3 with the United States government to allow him to become
4 a U.S. citizen, because under the law just because
5 you're adopted by a U.S. citizen doesn't make you
6 automatically a U.S. citizen. That was the biggest
7 question of all.

8 Going back to the timeline, so as I am
9 retained for her -- if you see in the e-mail I wrote to
10 her as well, I stated to her that we need to do a FOIA
11 request. The U.S. government allows parties who don't
12 have a copy of the file or have questions about their
13 file -- they are able to complete a Freedom of
14 Information Act through you USCIS.

15 It was, of course, a very weird time
16 because COVID would happen. The United States
17 government, the USCIS started -- it was a real mess to
18 get anyone on the phone to process our FOIA request
19 because Mr and Ms. Parrish only had very limited
20 information.

21 So that gave me a huge task -- a daunting
22 task of having to try to figure of what is going on, so
23 when we talked about the I-824, it was based on them
24 believing that an approved petition was filed by his
25 adoptive father which is called the I-130. We call that

1 petition for alien relative that allows you to adopt --
2 to petition for your adopted child. You would have
3 received a form that allows you to check that off.

4 From there -- as I stated to her, my
5 understanding is that she was going to do the I-824, I
6 was going to do a FOIA request and we were going to try
7 to figure out those two things first to figure out if he
8 had ever been petitioned by his father.

9 Then, of course, moving through the years,
10 we were going to do the N400, but then the N400 proved
11 to be not a good pathway because there was no proof that
12 he ever had a green card. So because he didn't have a
13 green card, it didn't allow him a pathway to
14 citizenship.

15 Again, we are back to square one. In her
16 messages and I know there's only so many messages, and,
17 of course, so many forms that were submitted in the
18 case, you know, what isn't in the file is my
19 communication with Mr. Parrish.

20 I know she believed that he doesn't know
21 how to spell or speak, but Mr. Parrish was actually very
22 helpful and he tried his best to remember as much as he
23 could about what happened when he was a kid as she
24 testified he thought all along he was a U.S. citizen up
25 until the most recent time when his driver's license got

1 suspended because of the, I guess, the updates in the
2 system where the new system could determine whether a
3 person is in fact a U.S. citizen and if they're not,
4 their license is suspended.

5 There was a person at DPS who was very
6 helpful behind the scenes because they could tell that
7 his license was suspended because of legal status and of
8 course, the two systems would interface with each other.
9 USCIS and the DPS system.

10 They were obviously connected, but nobody
11 could really clearly tell him why all of a sudden he
12 lost status. So with years of working with them and
13 trying to piece that together, even to this day, I mean,
14 he couldn't become a U.S. citizen because the missing
15 piece was -- that the green card application needed to
16 be submitted, but it can't be submitted if someone
17 doesn't do a sponsorship of him.

18 So I believe I did my very best. I spoke
19 with Mr. Parrish, it was mainly -- Mr. Parrish
20 understood the problem and the uphill battle of just
21 trying to piece all this together.

22 It was mainly, Ms. Tammy, his wife, as you
23 could tell was really more the person that was, you
24 know, trying her best in any way that she could, but
25 Mr. Parrish, who did not testify today was really the

1 one that -- that was much more understanding about the
2 process.

3 PANEL CHAIR ROTHENBURG: I have a question
4 for you about that. Were you physically present when
5 Mr. Parrish was entering information into text messages
6 or e-mails?

7 MS. NGUYEN: No, sir. Whenever he would
8 call me -- he has a very distinctive voice. He would
9 call me from wherever he was and he would ask me to call
10 Tammy to, you know, calm her down and he was very vocal.
11 He would call me not just text me, he would call me to.

12 PANEL CHAIR ROTHENBURG: That is not the
13 question I asked. Were you physically present when
14 Mr. Parrish physically texted, you know, pushed buttons
15 on an electronic device to create an e-mail or a text
16 message? Were you physically present when he did that?

17 MS. NGUYEN: No, sir. For that big chunk
18 of time, it was COVID so we definitely didn't see each
19 other. We just talked on the phone.

20 PANEL CHAIR ROTHENBURG: So in all honesty
21 based upon personal knowledge, you have no idea who was
22 sending text messages or e-mails from Mr. Parrish's
23 phone; isn't that true?

24 MS. NGUYEN: No, sir, because mainly
25 whenever he would, he would call me. He would call me

1 more than he would text me. Whatever he did text, he
2 would say call my wife she wants to talk to you.

3 PANEL CHAIR ROTHENBURG: It's physically
4 impossible for Ms. Parrish to have been texting or
5 e-mailing with you even when you were talking to
6 Mr. Parrish.

7 MS. NGUYEN: Yes, sir, because there was a
8 time when she was in the hospital. So when she was in
9 the hospital, resting, she would be at home and he would
10 be at work so, yes, sir.

11 PANEL CHAIR ROTHENBURG: Okay. Proceed.

12 MS. NGUYEN: Thank you. Mr. Rothenburg,
13 for the sake of time, I think that's all I had. I pass.

14 PANEL CHAIR ROTHENBURG: Okay. Before I
15 allow cross-examination I have a couple questions.

16 During the proceedings today, you
17 cross-examined some of the witnesses and your stated
18 purpose was to elicit testimony that establishes that
19 the witnesses were not creditable on more than one
20 issue. Do you remember that?

21 MS. NGUYEN: Yes, sir.

22 PANEL CHAIR ROTHENBURG: And that's a
23 common strategy of lawyers to show that witnesses aren't
24 necessarily being accurate or telling the truth.

25 MS. NGUYEN: Understood. Yes, sir.

1 PANEL CHAIR ROTHENBURG: Do you agree with
2 that?

3 MS. NGUYEN: Yes, sir.

4 PANEL CHAIR ROTHENBURG: Okay. And
5 likewise, would you agree that your conduct during these
6 proceedings both leading up to today's hearing and in
7 today's hearing is fair game in terms of determining
8 whether we find you to be a credible witness or not,
9 would you agree with that?

10 MS. NGUYEN: Yes, sir. I understand, yes,
11 of course, and that is why I was asking questions about
12 the consolidation of all these complaints into one.

13 PANEL CHAIR ROTHENBURG: I get that, but
14 let me ask my questions.

15 MS. NGUYEN: Sure.

16 PANEL CHAIR ROTHENBURG: You filed a -- I
17 believe it was yesterday a motion for alternative
18 dispute resolution. Do you recall that?

19 MS. NGUYEN: Yes, sir.

20 PANEL CHAIR ROTHENBURG: And that motion
21 was based on Rule 2.17(k), correct?

22 MS. NGUYEN: Yes, sir.

23 PANEL CHAIR ROTHENBURG: And that's from
24 the Texas Rules of Disciplinary procedure.

25 MS. NGUYEN: Yes, sir.

1 was served. The petitioner's original evidentiary
2 petition states that it was served on you by personal
3 service on that date. That is not a statement by Scott
4 Rothenberg that you were served on that date, is it?

5 MS. NGUYEN: Sir, it is your statement,
6 respectively. It is your statement in your e-mail.

7 PANEL CHAIR ROTHENBURG: Okay. Any
8 further questions? Mr. Nichols, do you have any
9 cross-examination for the witness?

10 MR. NICHOLS: I do. I have a few
11 questions. It should not take very long.

12 Ms. Nguyen, in regards to Mr. Martin --
13 well, actually I think Mr. Riddle asked that question.
14 Do you have any proof that you sent Mr. Kraesig the
15 executed divorce decree?

16 MS. NGUYEN: From the court?

17 MR. NICHOLS: The executed divorce decree,
18 yes.

19 MS. NGUYEN: No, sir. I do not, but you
20 already stated very clearly to me that the only thing
21 that you allowed me to even address was communication,
22 not neglect --

23 MR. NICHOLS: Ms. Nguyen --

24 MS. NGUYEN: No, no, no. I have allowed
25 you to speak over me.

1 MR. NICHOLS: Objection, nonresponsive.

2 PANEL CHAIR ROTHENBURG: Sustained.

3 MS. NGUYEN: May I answer your question,
4 sir?

5 MR. NICHOLS: No, you answered it already.

6 MS. NGUYEN: Okay.

7 MR. NICHOLS: Ms. Nguyen, do you have any
8 evidence -- documented evidence that you informed
9 Ms. Kraesig that his divorce was finalized prior to
10 August 2, 2022?

11 MS. NGUYEN: Sir, it would be in the
12 motion of entry that was sent to him. He knew that his
13 order would be entered.

14 MR. NICHOLS: Did he know that his order
15 would be executed?

16 MS. NGUYEN: Executed by the judge?

17 MR. NICHOLS: Yes. That the divorce had
18 been finalized?

19 MS. NGUYEN: Well, let me ask you this
20 question.

21 MR. NICHOLS: Objection, nonresponsive.
22 I'll move on.

23 Do you have any receipt numbers from any
24 forms you submitted on -- this is a yes or no question,
25 on behalf of Billy Parrish?

1 MR. NICHOLS: Answer the question, yes or
2 no first and then I will ask you to elaborate.

3 MS. NGUYEN: What was your question again?

4 MR. NICHOLS: If you think you
5 participated satisfactorily in the disciplinary system
6 over the last two years?

7 MS. NGUYEN: I have done my best, yes,
8 sir.

9 MR. NICHOLS: Have you failed to respond
10 to a number of grievances?

11 MS. NGUYEN: There has been late responses
12 and responses that are still owed, yes.

13 MR. NICHOLS: Would you agree with
14 Mr. Mayer that it's between ten and 15 cases in which
15 you failed to respond to?

16 MS. NGUYEN: I don't know if that's the
17 accurate number, but, I mean, if that's the number
18 then -- if that's the hard number then I would say yes.

19 MR. NICHOLS: Let's say it was 15 plus.
20 Do you think there's more than 15 that you failed to
21 respond to?

22 MS. NGUYEN: No, because you gave me a
23 list of the ones I needed to answer to and I did.
24 Mr. Nichols, if I can -- if you can let me speak that
25 way I can --

1 sum it up that way, sir, that was a full response to the
2 question.

3 PANEL CHAIR ROTHENBURG: Does that
4 conclude your redirect examination?

5 MS. NGUYEN: Yes, sir.

6 PANEL CHAIR ROTHENBURG: Any recross,
7 Mr. Nichols?

8 MR. NICHOLS: No, sir.

9 PANEL CHAIR ROTHENBURG: Do the members of
10 the panel have any questions for the witness?

11 MR. RIDDLE: I just want to ask you
12 about -- you said something about consolidation of these
13 case. Did you make a formal objection for the
14 consolidation of these cases?

15 MS. NGUYEN: Sir, honestly, I was looking
16 through the rules to see where and -- as I wrote that
17 e-mail asking for guidance from the panel, where I'm
18 looking at it -- I think Mr. Nichols had pointed out, I
19 guess, what he believed to be 2.1784 and that was his
20 only authority.

21 That's why I asked the panel for that
22 because I don't -- I have never heard through all my
23 colleagues where there's been a time where they could
24 consolidate all these cases. I don't even know what
25 court jurisdiction can do that. I have never heard of

1 that.

2 So to consolidate all these cases, he
3 pointed to 2.1784, which is why I wanted more guidance
4 from the panel to understand how they have the authority
5 to even jumble of all these complaints into one instead
6 of doing it individually, like they do in IVHs.

7 Why would all five complaints be put into
8 one evidentiary hearing? I feel like that is a very
9 prejudiced standpoint to --

10 MR. RIDDLE: Do you disagree that 2.1784
11 specifically states that they can consolidate the
12 complaints?

13 MS. NGUYEN: Professor, I see nowhere to
14 consolidate. I would like -- I guess, it would be nice
15 to know what other cases could be applied, to say -- it
16 says the description of acts --

17 MR. RIDDLE: Do you think that is a
18 sincere response, I see nowhere to consolidate? I mean,
19 do you not think that the word group means the same
20 thing as to consolidate in this context?

21 MS. NGUYEN: I think where it says upon
22 one or more complaints, but complaints meaning different
23 complainants or are we talking about one -- let's say if
24 it's five complaints off of one particular incident. I
25 mean, that would make --

1 MR. RIDDLE: Do you think it's normal for
2 one complainant to file several complaints without there
3 being grievances against lawyers --

4 MS. NGUYEN: No, sir. The hypothetical
5 that I was thinking about was an instance where it's
6 involving one misconduct that impacts -- meaning the
7 same facts, same timeframe, nature of acts involves,
8 let's say a family. Where people are basically wanting
9 to basically join in on a grievance that involves that.

10 But to have five different cases with
11 different time frames, different courts, different laws,
12 different witnesses all into one? I have never heard of
13 that before.

14 It is no different when the commission
15 files a lawsuit against one attorney. In the Harris
16 County database, you will see one attorney -- let's say
17 he has five different complaints. It's five different
18 case numbers. There are five different cases. There
19 are different judges.

20 If that's the case and that's the reason
21 why evidentiary hearings are -- as people have said
22 before, why are you doing an evidentiary hearing, you're
23 going to walk into -- it's not going to be fair.

24 I didn't believe that. I want to believe
25 that it can be fair, but of course as I sit here today

1 and, you know, I'm talking with you about this, no, I do
2 not think that, sir.

3 One or more complaints -- I think that the
4 factual allegations would have to be the biggest source
5 of that. Even under the TRCP you can't consolidate
6 suits if there is prejudice that could occur and there
7 are certain rules and I'm sorry, I just don't agree with
8 that.

9 MR. RIDDLE: Okay. So you suggested that
10 you might appeal, but have you ever raise an objection
11 that could be ruled on either in writing or during this
12 hearing?

13 MS. NGUYEN: Sir, I wrote the e-mail. You
14 guys -- the panel did not respond. So I am saying on
15 the record now, yes, sir, I will appeal because I have
16 never heard of this. I just never heard of this.

17 MR. RIDDLE: So you're raising your
18 objections at the end of the hearing, okay.

19 MS. NGUYEN: No, sir, I raised it
20 yesterday when I got the e-mail, but I got no answer.

21 PANEL CHAIR ROTHENBURG: Okay. Any
22 further questions for the respondent regarding the
23 respondent's testimony?

24 MS. WHITE: I have one. Given the
25 testimony that you just gave, Ms. Nguyen, about the

1 experience that you had with this process over the past
2 few years, I just want to be -- I just want to be clear
3 about what you were saying in that testimony.

4 Are you implying in that testimony that
5 you think the bar has somehow influenced clients and
6 opposing counsel to file grievances against you?

7 MS. NGUYEN: Yes, ma'am, because they seem
8 to come in like every other day. I don't even know how
9 or this and that, it's -- and it would be one that maybe
10 is already dismissed and somehow it gets refiled again.

11 I can only tell you just what I know is
12 going on because of -- Mr. Nichols has referenced to me
13 that, you know, the higher-ups or whoever, you know, are
14 really worked up on the Meanwall grievance. That is the
15 one that really --

16 MR. NICHOLS: Objection.

17 MS. WHITE: But you're not alleging that
18 the bar or the commission is affirmatively reaching out
19 to your clients or your past clients and saying that you
20 should file a grievance?

21 MS. NGUYEN: No, ma'am. I'm sorry, I
22 never said that, but if it sounded like that, no, ma'am.
23 I am not saying that is what's going on. I am saying
24 that since that grievance and everything with that, it
25 has been every other day, complaints, IVHs stacking

1 every month. It is always something. That is what I
2 meant by saying that.

3 MS. WHITE: Thank you. That was my only
4 question.

5 PANEL CHAIR ROTHENBURG: Mr. Nichols, as I
6 understand it -- well, let's go back.

7 Ms. Nguyen, are you excusing yourself as a
8 witness?

9 MS. NGUYEN: Yes.

10 PANEL CHAIR ROTHENBURG: May the witness
11 be excused, Mr. Nichols?

12 MR. NICHOLS: Yes, sir.

13 PANEL CHAIR ROTHENBURG: Okay. And with
14 that having been done --

15 MS. WHITE: I'm sorry. I just want to
16 jump in. Are we still are going to have a witness?

17 PANEL CHAIR ROTHENBURG: I'm about to
18 address that. Ms. Nguyen, do you have any further
19 witnesses or do you close your respondent's case?

20 MS. NGUYEN: I close, sir.

21 PANEL CHAIR ROTHENBURG: Okay.

22 Mr. Nichols, as I understand it you have prosecutorial
23 discretion in terms of what allegations are raised about
24 grievances asserted by what complainants.

25 My question to you is in light of the hour

1 at 4:14 p.m. and in light of all the proceedings we've
2 had today, have you in any way considered whether or not
3 it is necessary for you to reopen your case?

4 MR. NICHOLS: I am not. The only items I
5 need to submit are the sanction's exhibits if you allow
6 me to do that.

7 PANEL CHAIR ROTHENBURG: As I understand
8 it we would not hear from Mr. Nasra and we will not
9 deliberate on the allegations on the commission's
10 petition regarding Mr. Nasra; is that correct?

11 MR. NICHOLS: I will ask that also you
12 still consider the failure to respond to the grievance
13 and the allegations regarding Mr. Nasra.

14 PANEL CHAIR ROTHENBURG: And we have
15 testimony regarding that, but other than that one
16 allegation, the Nasra complaints are out except for
17 failing to respond. Is that the petition of the
18 commission for lawyer discipline, Mr. Nichols?

19 MR. NICHOLS: Yes, sir.

20 PANEL CHAIR ROTHENBURG: Okay. So the
21 respondent has rested. In your rebuttal case,
22 Mr. Nichols, do you have any exhibits to offer or any
23 testimony or anything like that regarding those
24 exhibits?

25 MR. NICHOLS: I have three exhibits marked

1 victims if she is allowed to continue to manipulate our
2 legal system. Crying about the consequences should not
3 be able to get her out of this. She put herself in this
4 position.

5 With that said, I'm asking for the full
6 attorney fees in the amount of \$4,487.50, attorneys fees
7 and expenses. I'm asking for a full refund for Billy
8 and Tammy Parrish in the amount of \$1,750. I'm asking
9 for restitution for Cody Martin in the amount of \$3,500
10 and I am asking for disbarment.

11 She can not continue to practice law like
12 this. I am asking for disbarment. If that seems like a
13 jump from private reprimand, well, she's talked to you
14 about her other cases. You know that this is
15 continuing. We know it's going to keep going. We're
16 not filing grievances against her, those are her victims
17 filing grievances against her.

18 I ask that you disbar her and if that
19 seems to heavy, then a lengthy act of suspension or a
20 probated suspension with a lengthy act of time, a
21 three-year act of suspension I think would be
22 appropriate or I think will be acceptable.

23 However, she can't keep doing this. She
24 needs to be stopped. She needs to be taken out of our
25 system so she cannot manipulate it anymore. Thank you.

1 PANEL CHAIR ROTHENBURG: Ms. Nguyen,
2 closing argument?

3 MS. NGUYEN: Thank you. As I am sitting
4 here listening to Mr. Nichols say all these extreme
5 words, humanistically, of course, it is very, very sad,
6 and of course on a professional level, it makes me even
7 super more sad about it.

8 To call me manipulative, to call me a
9 bully, to say that I am even dangerous because one
10 lawyer says that I am dangerous.

11 I have been a lawyer almost 17 years. I
12 practice in many courts, immigration courts, federal
13 courts, state courts in different counties, Bell County,
14 Travis County and Harris.

15 And I am proud to be a Vietnamese attorney
16 and to say I am a threat to my own community. These are
17 words that I said during my -- when I was giving my
18 narrative earlier about how Mr. Nichols has treated me
19 and that to me is a reflection of the bar.

20 I sit on the UPLC community and I have
21 never -- I am proud to be on the UPLC because they asked
22 me to be on the community to help with the Vietnamese
23 community.

24 As lawyers, I know that we all could say
25 nobody is perfect. Nobody has 100 percent good reviews,

1 nobody has gone through their whole career without
2 having a grievance and for most of my career up until
3 just a couple years ago, as soon as that big one came
4 in, as soon as that malpractice got sued -- got
5 nonsuited and dismissed, this is where the whole war
6 between me and the bar has begun.

7 I sit here and think about the event that
8 you suspend me or disbar me over four -- I'm sorry, five
9 consolidated cases, which no one has cleared to me if
10 that is even proper, but I guess we will find out soon
11 enough. If I have to appeal, I will do that to ensure
12 that this does not happen to another young lawyer.

13 I have many young mentees who are coming
14 out of law school and I imagine to myself what that must
15 feel like. For instance, if they got an e-mail stating
16 that they missed their deadline and as a result of that
17 they are going to face sanctions already without given
18 due process. That's definitely scary.

19 I am a minority woman. I am not a victim,
20 but am I a minority within this group, yes, I am, but I
21 don't look at that as asking for extra favors. But when
22 I sit here and I hear Mr. Nichols calling me names,
23 Mr. Martin calling me names, it is totally offensive.

24 But in the end, I will keep fighting and
25 it is not going to let me discourage me, especially with

1 but please look at the overall picture and I hope and
2 pray that you would render justice. Thank you.

3 PANEL CHAIR ROTHENBURG: Thank you.
4 Mr. Nichols, do you have any rebuttal arguments?

5 MR. NICHOLS: I don't.

6 PANEL CHAIR ROTHENBURG: Very good. At
7 this point, I would now declare these proceedings to be
8 closed. The panel is going to deliberate privately and
9 we will -- depending on how long -- I mean, we will
10 announce a decision on the record when we are done.

11 I have a question for bar personnel on
12 that. I'm going to absolutely insist that Mr. Standish,
13 Ms. White, Mr. Riddle and I are the only four people who
14 are on this Zoom proceeding.

15 If there is a way that we can notify the
16 court reporter and the bar personnel when we are done
17 and of course Ms. Nguyen, when we are done with
18 deliberations I am happy to do that, but I'm going to
19 insist that only the four panel members and no one else
20 be present on the Zoom call during the deliberations.

21 (Deliberations held.)

22 PANEL CHAIR ROTHENBURG: Okay. In
23 grievance number 202205608 regarding Parish, 202206116
24 regarding Lau, 202207092 regarding Kraesig, 202301900
25 regarding Martin and 202302230 regarding Nasra, the

1 evidentiary panel has deliberated.

2 Let the record show that the deliberations
3 were fairly lengthy, but in the end, the verdict of the
4 panel is unanimous both as to whether there is
5 professional misconduct and the sanction resulting
6 therefrom.

7 The panel has unanimously determined that
8 the respondent committed professional misconduct and the
9 appropriate sanctions are as follows: Number one,
10 disbarment; number two, attorneys fees and costs of
11 \$4,487.50 and that is the summonses of the panel's
12 findings.

13 MR. NICHOLS: I have a question just for
14 procedural and of course we will draft of the judgment.
15 The rule violations other than the ones that were shown
16 from Mr. Nasra are all found?

17 PANEL CHAIR ROTHENBURG: No. I guess that
18 means we need to go through them. I did do that and as
19 to -- is there an order you want to do them in, Mr.
20 Nichols?

21 MR. NICHOLS: I have -- I printed them out
22 and we can just do Count 1, Parrish and go down. You
23 can just tell me and I'll follow as you go.

24 PANEL CHAIR ROTHENBURG: As to count
25 1.01(a) a lawyer generally should not accept or continue



FILED

Oct 04 2024

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

Appendix Tab 2:
Clerk's Record Items and TRCP 21d, 40 and 48

FILED

**BEFORE EVIDENTIARY PANEL 4-6 OF THE
STATE BAR DISTRICT NO. 4 GRIEVANCE COMMITTEE**

05/10/2024

COMMISSION FOR LAWYER DISCIPLINE, § 202205608 [PARRISH]
Petitioner, § 202206116 [LAU]
v. § 202207092 [KRAESIG]
§ 202301900 [MARTIN]
§ 202302230 [NASRA]
VY THUAN NGUYEN, §
Respondent. § HARRIS COUNTY, TEXAS



Houston Office

Chief Disciplinary Counsel

JUDGMENT OF DISBARMENT

Parties and Appearance

On May 8, 2024, came to be heard the above styled and numbered causes. Petitioner, the Commission for Lawyer Discipline, appeared by and through its attorney of record and announced ready. Respondent, Vy Thuan Nguyen, Texas Bar Number 24060334, appeared in person and announced ready.

Jurisdiction and Venue

Evidentiary Panel 4-6, having been duly appointed to hear these complaints by the chair of the Grievance Committee for State Bar of Texas District No. 4, finds that it has jurisdiction over the parties and the subject matter of this action and that venue is proper.

Professional Misconduct

The Evidentiary Panel, having considered all of the pleadings, evidence, stipulations, and argument, finds that Respondent has committed Professional Misconduct as defined by Rule 1.06(CC) of the Texas Rules of Disciplinary Procedure.

Findings of Fact

The Evidentiary Panel, having considered the pleadings, evidence, and argument of counsel, makes the following findings of fact and conclusions of law:

1. Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas.
2. Respondent resides in and maintains her principal place of practice in Harris County, Texas.
3. The Office of the Chief Disciplinary Counsel of the State Bar of Texas has incurred reasonable attorneys' fees in the amount of \$4,312.50 and direct expenses in the amount of \$175.00 associated with this Disciplinary Proceeding.

COUNT ONE: 202205608 – Billy Joe Parrish matter

4. In representing Billy Joe Parrish, Respondent neglected the legal matter entrusted to her.
5. In representing Billy Joe Parrish, Respondent frequently failed to carry out completely the obligations that Respondent owed to Billy Joe Parrish.
6. Respondent failed to keep Billy Joe Parrish reasonably informed about the status of his legal matter and failed to promptly comply with reasonable requests for information.
7. In representing Billy Joe Parrish, Respondent did not accept or continue employment in a legal matter which Respondent knew or should know was beyond Respondent's competence.

COUNT TWO: 202206116 – Trang Lau matter

8. Respondent failed to keep Trang Lau reasonably informed about the status of her legal matter and failed to promptly comply with reasonable requests for information.
9. Respondent failed to timely furnish to the Office of the Chief Disciplinary Counsel a response or other information as required by the Texas Rules of Disciplinary Procedure and did not, in good faith, timely assert a privilege or other legal ground for failure to do so.

COUNT THREE: 202207092 – Kyle Kraesig matter

10. Respondent failed to keep Kyle Kraesig reasonably informed about the status of his legal matter and failed to promptly comply with reasonable requests for information.
11. Respondent did not fail to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

COUNT FOUR: 202301900 – Cody Woods Martin matter

12. Respondent failed to timely furnish to the Office of the Chief Disciplinary Counsel a response or other information as required by the Texas Rules of Disciplinary Procedure and did not, in good faith, timely assert a privilege or other legal ground for failure to do so.
13. Respondent did not fail to hold funds belonging in whole or in part to third persons that were in Respondent's possession in connection with a representation separate from the lawyer's own property.
14. Respondent did not fail to promptly deliver to a third person funds that the third person was entitled to receive.
15. Respondent did not take a position that unreasonably increased the costs or other burdens of the case or that unreasonably delayed resolution of the matter.
16. Respondent did not knowingly disobey an obligation under a ruling by a tribunal.

COUNT FIVE: 202302230 – Jason Samir Nasra matter

17. Respondent failed to timely furnish to the Office of the Chief Disciplinary Counsel a response or other information as required by the Texas Rules of Disciplinary Procedure and did not, in good faith, timely assert a privilege or other legal ground for failure to do so.
18. With respect to the grievance filed by or on behalf of Jason Samir Nasra, the Evidentiary Panel did not adjudicate the pleaded allegations of alleged violations of Texas Disciplinary Rules of Professional Conduct 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.03(b), 1.14(b), and 1.15(d), because such allegations were discontinued as a matter of prosecutorial discretion and withdrawn from consideration by the Evidentiary Panel.

FINDINGS OF FACT APPLICABLE TO EACH OF FINDINGS OF FACTS 1-18

19. The sanction of disbarment set forth in this Judgment of Disbarment was found with respect to each individual violation set forth in Findings of Fact 4, 5, 6, 8, 9, 10, 12 and 17, and was not the result of aggregating or combining any of the violations set forth in Findings of Fact 4, 5, 6, 8, 9, 10, 12, and 17.
20. As the sole judges of the credibility of the witnesses and the weight to give their testimony, the Evidentiary Panel found certain aspects of Respondent's testimony to lack credibility and candor. Conversely, the Evidentiary Panel found the testimony of each of the non-party witnesses to be generally credible. Therefore, the Evidentiary Panel exercised its discretion to believe certain non-party witnesses and disbelieve Respondent, where appropriate to do so. These factual determinations formed a basis for the findings of fact and conclusions of law set forth in this Judgment of Disbarment.

FINDINGS OF FACT APPLICABLE TO DETERMINATION OF SANCTIONS

21. In imposing sanctions, the Evidentiary Panel considered the duties violated by Respondent, Respondent's level of culpability, the potential or actual injury caused by Respondent's misconduct, and the existence of aggravating or mitigating factors.
22. The Evidentiary Panel found the following aggravating factors: prior disciplinary record, including private reprimands; dishonest or selfish motive; a pattern of misconduct; multiple violations; submission of false evidence, false statements, or other deceptive practices during the disciplinary process; refusal to acknowledge wrongful nature of conduct; vulnerability of victims; and substantial experience in the practice of law.
23. The Evidentiary Panel found no mitigating factors.

Conclusions of Law

The Evidentiary Panel concludes that, based on foregoing findings of fact, the following Texas Disciplinary Rules of Professional Conduct have been violated: Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), and 8.04(a)(8).

Sanction

The Evidentiary Panel, having found Respondent has committed Professional Misconduct, heard and considered additional evidence regarding the appropriate sanction to be imposed against Respondent. After hearing all evidence and argument, the Evidentiary Panel finds that proper discipline of the Respondent for each act of Professional Misconduct is DISBARMENT.

Disbarment

It is therefore ORDERED, ADJUDGED, and DECREED that effective the date of this judgment, Respondent, Vy Thuan Nguyen, State Bar Number 24060334, is hereby DISBARRED from the practice of law in the State of Texas.

It is further ORDERED that Respondent is 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 Texas court or before any 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,” or “lawyer.”

Notification

It is further ORDERED that Respondent shall immediately notify each of her current clients in writing of this disbarment. In addition to such notification, Respondent is ORDERED to return any files, papers, unearned monies and other property belonging to clients and former clients in the Respondent’s possession to the respective clients or former clients or to another attorney at the client’s or former client’s request.

Respondent is further ORDERED to file with the State Bar of Texas, Office of the Chief Disciplinary Counsel, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701) within thirty (30) days of the signing of this judgment by the Panel Chair, an affidavit stating that all current clients have been notified of Respondent’s disbarment and that all files, papers, unearned monies and other property belonging to all clients and former clients have been returned as ordered herein. If it is Respondent’s assertion that at the time of disbarment she possessed no current clients and/or Respondent was not in possession of any files, papers, unearned monies or other property belonging to clients, Respondent shall submit an affidavit attesting that, at the time of disbarment, Respondent had no current clients and did not possess any files, papers, unearned monies, and/or other property belonging to clients.

It is further ORDERED that Respondent shall, on or before thirty (30) days from the signing of this judgment by the Panel Chair, 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. Respondent is further ORDERED to file with the State Bar of Texas, Office of the Chief Disciplinary Counsel, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), within thirty (30) days of the signing of this judgment by the Panel Chair, an affidavit stating that each and every justice of the peace, judge, magistrate, administrative judge or officer and chief justice has received written notice of the terms of this judgment.

Surrender of License

It is further ORDERED that Respondent shall, within thirty (30) days of the signing of this judgment by the Panel Chair, surrender her law license and permanent State Bar Card to the State Bar of Texas, Office of the Chief Disciplinary Counsel, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), to be forwarded to the Supreme Court of the State of Texas.

Attorneys' Fees and Expenses

It is further ORDERED that Respondent shall pay reasonable and necessary attorneys' fees in the amount of \$4,312.50 and direct expenses in the amount of \$175.00 to the State Bar of Texas. The payment shall be due and payable on or before July 1, 2024, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the State Bar of Texas, Office of the Chief Disciplinary Counsel, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

It is further ORDERED that all amounts ordered herein are due to the misconduct of Respondent and are assessed as a part of the sanction in accordance with Rule 1.06(FF) of the Texas Rules of Disciplinary Procedure. Any amount not paid shall accrue interest at the maximum

legal rate per annum until paid and the State Bar of Texas shall have all writs and other post-judgment remedies against Respondent in order to collect all unpaid amounts.

Publication

It is further ORDERED this disbarment shall be made a matter of record and appropriately published in accordance with the Texas Rules of Disciplinary Procedure.

Conditions Precedent to Reinstatement

It is further ORDERED payment of the foregoing attorney's fees and expenses amounts shall be a condition precedent to any consideration of reinstatement from disbarment as provided by Rules 2.19, 2.20 and 11.02(D) of the Texas Rules of Disciplinary Procedure.

Other Relief

All requested relief not expressly granted herein is expressly DENIED. This is a final judgment that disposes of all parties and all claims and causes of action, and is, therefore, appealable.

SIGNED this 10th day of May, 2024.

EVIDENTIARY PANEL 4-6
DISTRICT NO. 4
STATE BAR OF TEXAS


SCOTT ROTHENBERG
Panel 4-6 Presiding Member

BEFORE EVIDENTIARY PANEL 4-6 OF THE
STATE BAR DISTRICT NO. 4 GRIEVANCE COMMITTEE



COMMISSION FOR LAWYER DISCIPLINE,	§	202205608 [PARRISH]	Houston Office
Petitioner,	§	202206116 [LAU]	
	§	202207092 [KRAESIG]	Chief Disciplinary Counsel
v.	§	202301900 [MARTIN]	
	§	202302230 [NASRA]	
VY THUAN NGUYEN,	§		
Respondent.	§	HARRIS COUNTY, TEXAS	

PETITIONER'S ORIGINAL EVIDENTIARY PETITION

COMES NOW Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas, and would respectfully show unto the Evidentiary Panel as follows:

PARTIES

1. Petitioner is the Commission for Lawyer Discipline, a committee of the State Bar of Texas.
2. Respondent is Vy Thuan Nguyen, Texas Bar Card No. 24060334, a licensed attorney and a member of the State Bar of Texas. Respondent may be served at 5177 Richmond Avenue, Suite 1200, Houston, Texas 77056, vy.nguyen@vnlawoffices.com.

NATURE OF PROCEEDING

3. Petitioner brings this disciplinary proceeding pursuant to the State Bar Act, Texas Government Code Annotated §81.001, *et seq.* (West 2013); the Texas Disciplinary Rules of Professional Conduct; and the Texas Rules of Disciplinary Procedure. The complaints that form the bases of these causes of action were filed on or after June 1, 2018.

VENUE

4. Respondent's principal place of practice is Harris County, Texas; therefore, venue is appropriate in Harris County, Texas, pursuant to Rule 2.11C of the Texas Rules of Disciplinary Procedure.

PROFESSIONAL MISCONDUCT

5. The acts and/or omissions of Respondent, as hereinafter alleged, constitute professional misconduct as defined by Rule 1.06CC of the Texas Rules of Disciplinary Procedure.

CAUSES OF ACTION

COUNT ONE: 202205608 – Billy Joe Parrish matter

6. On February 5, 2020, Billy Parrish (Parrish) hired Vy Thaun Nguyen (Respondent) to obtain proof of his citizenship so that he may renew his commercial driver's license. Parrish paid Respondent \$1,725 for her services.

7. Over a three-year period, Respondent consistently failed to respond to Parrish's phone calls and emails requesting information and status updates on the matter. Further, Respondent failed to file any documents or make any headway in Parrish's matter.

8. Respondent accepted and continued employment in the matter which Respondent should have known was beyond her competence.

COUNT TWO: 202206116 – Trang Lau matter

9. On September 1, 2021, Trang Lau (Lau) hired Vy Thaun Nguyen (Respondent) to represent her in a child support modification matter. Lau paid Respondent a \$1,500 retainer for her matter.

10. For the next year, Respondent consistently failed to respond to Lau's phone calls and emails requesting information and status updates on the matter.

11. On or about October 31, 2022, Respondent received notice from the State Bar of Texas of the pending grievance against her. Said notice required that Respondent file a written response to the allegations of professional misconduct. Respondent's response was due on or

before November 30, 2022. Respondent, however, failed to timely file a response. Respondent did not assert a privilege or other legal ground for her failure to timely file a response.

COUNT THREE: 202207092 – Kyle Kraesig matter

12. On July 28, 2021, Kyle Kraesig (Kraesig) hired Vy Thaun Nguyen (Respondent) to represent him in a divorce. Kraesig paid Respondent a \$1,800 retainer for her services.

13. On January 27, 2022, the parties in the divorce entered into a mediated settlement agreement (MSA). On several occasions, Kraesig asked Respondent questions regarding the MSA. Respondent failed explain the matter to Kraesig to the extent necessary to permit him to make informed decisions regarding the matter.

14. The divorce was finalized on May 25, 2022. Respondent failed to inform Kraesig that the divorce was finalized or respond to his requests for information regarding the matter.

COUNT FOUR: 202301900 – Cody Woods Martin matter

15. On or about April 12, 2022, Vy Thuan Nguyen (Respondent) agreed, on the record, to remit \$3,500 from her IOLTA account to the opposing counsel in a divorce matter, Cody Martin (“Martin”) by 5:00 pm the same day. On or about September 12, 2022, the court signed an order awarding \$3,500 to MartinOostdyk, PLLC, Martin’s firm, for reasonable attorney’s fees, expenses, and costs. Respondent has failed to comply with the court order and has failed to appear at hearings regarding the judgment.

16. On or about April 12, 2023, Respondent received notice from the State Bar of Texas of the pending grievance against her. Said notice required that Respondent file a written response to the allegations of professional misconduct. Respondent’s response was due on or before May 12, 2023. Respondent, however, failed to timely file a response. Respondent did not assert a privilege or other legal ground for her failure to timely file a response.

COUNT FIVE: 202302230 – Jason Samir Nasra matter

17. On or about December 20, 2021, Jason Nasra (“Complainant”) hired Vy Thuan Nguyen (“Respondent”) to represent him in a Child Custody modification. Complainant paid Respondent a \$5,000 retainer for her services. On January 6, 2021, Respondent filed a Petition to Modify Parent-Child Relationship.

18. Throughout her representation, Respondent missed several deadlines and neglected the matter. This includes but is not limited to, failing to timely file Initial Disclosures, failing to respond to discovery requests, and failing to respond to opposing counsel’s attempts to confer and schedule a mediation. Respondent’s only filing beyond the initial petition was a certificate of written discovery for the Initial Disclosures, which Respondent filed almost six months late.

19. Throughout her representation, Respondent failed to keep Complainant informed of the status of the matter and respond to Complainant’s requests for updates. This includes but is not limited to, failing to inform Complainant of the need to make Initial Disclosures for over two months, failing to inform Complainant that discovery had been served despite him specifically asking about the status of discovery.

20. Throughout her representation, Respondent failed explain the matter to Complainant to the extent to allow him to make informed decisions regarding the representation. This includes but is not limited to, failing to inform Complainant of the need to make Initial Disclosures for over two months, failing to inform Complainant that discovery had been served despite him specifically asking about the status of discovery.

21. On or about September 19, 2022, new counsel filed an appearance on behalf of Complainant. Upon termination, Respondent failed to return Complainant’s file and any unearned fees. Respondent further failed to provide Complainant with an accounting of his retainer.

22. On or about April 27, 2023, Respondent received notice from the State Bar of Texas of the pending grievance against her. Said notice required that Respondent file a written response to the allegations of professional misconduct. Respondent's response was due on or before May 27, 2023. Respondent, however, failed to timely file a response. Respondent did not assert a privilege or other legal ground for her failure to timely file a response.

RULE VIOLATIONS

23. The acts and/or omissions of Respondent described above violates the following Texas Disciplinary Rule of Professional Conduct:

COUNT ONE: 202205608 – Billy Joe Parrish matter

- 1.01(a) A lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence.
- 1.01(b)(1) In representing a client, a lawyer shall not: neglect a legal matter entrusted to the lawyer.
- 1.01(b)(2) In representing a client, a lawyer shall not: frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.
- 1.03(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

COUNT TWO: 202206116 – Trang Lau matter

- 1.03(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- 8.04(a)(8) A lawyer shall not: fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

COUNT THREE: 202207092 – Kyle Kraesig matter

- 1.03(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- 1.03(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

COUNT FOUR: 202301900 – Cody Woods Martin matter

- 1.14(a) A lawyer shall hold funds and other property belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property. Such funds shall be kept in a separate account, designated as a "trust" or "escrow" account, maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other client property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.
- 1.14(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.
- 3.02 In the course of litigation, a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter.
- 3.04(d) A lawyer shall not: knowingly disobey, or advise the client to disobey, an obligation under the standing rules of or a ruling by a tribunal except for an open refusal based either on an assertion that no valid obligation exists or on the client's willingness to accept any sanctions arising from such disobedience.
- 8.04(a)(8) A lawyer shall not: fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

COUNT FIVE: 202302230 – Jason Samir Nasra matter

- 1.01(b)(1) In representing a client, a lawyer shall not: neglect a legal matter entrusted to the lawyer.
- 1.01(b)(2) In representing a client, a lawyer shall not: frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.
- 1.03(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- 1.03(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
- 1.14(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.
- 1.15(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law only if such retention will not prejudice the client in the subject matter of the representation.
- 8.04(a)(8) A lawyer shall not: fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

COMPLAINTS

24. The complaints that form the bases of these causes of action were brought to the attention of the Office of the Chief Disciplinary Counsel by Billy Joe Parrish's filing of a grievance on or about August 31, 2022, Trang Lau's filing of a grievance on or about September 20, 2022, Kyle Kraesig's filing of a grievance on or about October 27, 2022, Cody Woods Martin's filing of a grievance on or about March 21, 2023, and Jason Samir Nasra's filing of a grievance on or about April 3, 2023.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner, the Commission for Lawyer Discipline, respectfully prays that this Evidentiary Panel discipline Respondent, Vy Thuan Nguyen, by reprimand, suspension, or disbarment, as the facts shall warrant; order restitution to Billy Joe Parrish, Trang Lau, Kyle Kraesig, Cody Woods Martin, and Jason Samir Nasra, if applicable; and grant all other relief, general or specific, at law or in equity, including injunctive relief, to which Petitioner may show itself to be justly entitled, including, without limitation, expenses and attorneys' fees.

Respectfully submitted,

STATE BAR OF TEXAS

SEANA WILLING

Chief Disciplinary Counsel



E. WILLIAM NICHOLS II

State Bar No. 24077666

Assistant Disciplinary Counsel

4801 Woodway Drive, Suite 315-W

Houston, Texas 77056

Telephone: 713-758-8200

Facsimile: 713-758-8254

E-mail: wnichols@texasbar.com


**ATTORNEYS FOR PETITIONER,
COMMISSION FOR LAWYER
DISCIPLINE**

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to Rule 2.09A of the Texas Rules of Disciplinary Procedure, a true and correct copy of the foregoing instrument was forwarded on the 31st day of August, 2023, to the following:

Vy Thuan Nguyen
Nguyen Offices, PLLC
5177 Richmond Avenue, Suite 1200
Houston, Texas 77056
Pro se

PERSONAL SERVICE



E. WILLIAM NICHOLS II

**BEFORE EVIDENTIARY PANEL 4-6 OF THE
STATE BAR DISTRICT NO. 4 GRIEVANCE COMMITTEE**

FILED

06/12/2024

COMMISSION FOR LAWYER DISCIPLINE, §
Petitioner, §

v. §

VY THUAN NGUYEN, §
Respondent. §

202205608 [PARRISH]

202206116 [LAU]

202207092 [KRAESIG]

202301900 [MARTIN]

202302230 [NASRA]

HARRIS COUNTY, TEXAS



Houston Office
Chief Disciplinary Counsel

AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

On May 8, 2024, a duly-comprised quorum of the Evidentiary Panel 4-6 of the State Bar District No. 4 Grievance Committee, consisting of one public member and three attorney members (hereinafter “the Evidentiary Panel”), heard the above-captioned and numbered disciplinary matters against Respondent, Vy Thuan Nguyen (hereinafter “Respondent”). Petitioner, Commission for Lawyer Discipline, appeared by Zoom by and through its counsel of record, Mr. E. William Nichols, II. Respondent, Vy Thuan Nguyen, appeared by Zoom and represented herself. No audiovisual record of the proceedings was recorded over Zoom. A duly authorized court reporter made a record of all proceedings in the above-captioned and numbered disciplinary matters.

The Evidentiary Panel, by and through its duly appointed Presiding Member makes the following findings of fact and conclusions of law pursuant to Texas Rules of Civil Procedure 296 and 297. Any finding of fact that may be more properly characterized as a conclusion of law shall be considered a conclusion of law. Any conclusion of law that may be more properly characterized as a finding of fact shall be considered a finding of fact.

The Evidentiary Panel, having considered the pleadings, the testimony that was admitted into evidence during the evidentiary hearing, the exhibits that were admitted into evidence during the evidentiary hearing, and argument of counsel, makes the following findings of fact and conclusions of law:

Findings of Fact

1. Respondent was an attorney who, until she was disbarred, was licensed to practice law in Texas and was a member of the State Bar of Texas.
2. Respondent resides in and maintains her principal place of practice in Harris County, Texas.
3. The Office of the Chief Disciplinary Counsel of the State Bar of Texas established that \$4,312.50 is a reasonable and necessary amount of attorneys' fees for the legal services performed by their counsel and legal support staff. This evidence was un rebutted. The Office of the Chief Disciplinary Counsel of the State Bar of Texas incurred direct expenses in the amount of \$175.00 associated with this Disciplinary Proceeding. This evidence was un rebutted.

COUNT ONE: 202205608 – Billy Joe Parrish matter

4. In representing Billy Joe Parrish, Respondent neglected the legal matter entrusted to her.
5. In representing Billy Joe Parrish, Respondent frequently failed to carry out completely the obligations that Respondent owed to Billy Joe Parrish.
6. Respondent failed to keep Billy Joe Parrish reasonably informed about the status of his legal matter and failed to promptly comply with reasonable requests for information.
7. The Office of Chief Disciplinary Counsel failed to establish by a preponderance of the evidence that in representing Billy Joe Parrish, Respondent accepted or continued employment in a legal matter which Respondent knew or should know was beyond Respondent's competence.

COUNT TWO: 202206116 – Trang Lau matter

8. Respondent failed to keep Trang Lau reasonably informed about the status of her legal matter and failed to promptly comply with reasonable requests for information.

9. With respect to the grievance filed by or on behalf of Trang Lau, Respondent failed to timely furnish to the Office of the Chief Disciplinary Counsel a response or other information as required by the Texas Rules of Disciplinary Procedure and did not, in good faith, timely assert a privilege or other legal ground for failure to do so.

COUNT THREE: 202207092 – Kyle Kraesig matter

10. Respondent failed to keep Kyle Kraesig reasonably informed about the status of his legal matter and failed to promptly comply with reasonable requests for information.
11. The Office of Chief Disciplinary Counsel failed to establish by a preponderance of the evidence that Respondent failed to explain a matter to the extent reasonably necessary to permit Kyle Kraesig to make informed decisions regarding the representation.

COUNT FOUR: 202301900 – Cody Woods Martin matter

12. With respect to the grievance filed by or on behalf of Cody Woods Martin, Respondent failed to timely furnish to the Office of the Chief Disciplinary Counsel a response or other information as required by the Texas Rules of Disciplinary Procedure and did not, in good faith, timely assert a privilege or other legal ground for failure to do so.
13. With respect to Respondent's representation of Cody Woods Martin, the Office of Chief Disciplinary Counsel failed to establish by a preponderance of the evidence that Respondent failed to hold funds belonging in whole or in part to third persons that were in Respondent's possession in connection with a representation separate from the lawyer's own property.
14. With respect to Respondent's representation of Cody Woods Martin, the Office of Chief Disciplinary Counsel failed to establish by a preponderance of the evidence that Respondent failed to promptly deliver to a third person funds that the third person was entitled to receive.
15. With respect to Respondent's representation of Cody Woods Martin, the Office of Chief Disciplinary Counsel failed to establish by a preponderance of the evidence that Respondent took a position that unreasonably increased the costs or other burdens of the case or that unreasonably delayed resolution of the matter.
16. With respect to Respondent's representation of Cody Woods Martin, the Office of Chief Disciplinary Counsel failed to establish by a preponderance of the evidence that Respondent knowingly disobeyed an obligation under a ruling by a tribunal.

COUNT FIVE: 202302230 – Jason Samir Nasra matter

17. With respect to the grievance filed by or on behalf of Jason Samir Nasra, Respondent failed to timely furnish to the Office of the Chief Disciplinary Counsel a response or other information as required by the Texas Rules of Disciplinary Procedure and did not, in good faith, timely assert a privilege or other legal ground for failure to do so.
18. With respect to the grievance filed by or on behalf of Jason Samir Nasra, Respondent, the Evidentiary Panel did not adjudicate pleaded allegations of violations of Texas Disciplinary Rules of Professional Conduct 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.03(b), 1.14(b), and 1.15(d), because such allegations were discontinued as a matter of prosecutorial discretion and withdrawn from consideration by the Evidentiary Panel.

FINDINGS OF FACT APPLICABLE TO EACH OF FINDINGS OF FACTS 1-18

19. The sanction of disbarment set forth in the Judgment of Disbarment was found with respect to each individual violation set forth in Findings of Fact 4, 5, 6, 8, 9, 10, 12, and 17, and was not the result of aggregating or combining any of the violations set forth in Findings of Fact 4, 5, 6, 8, 9, 10, 12, and 17.
20. As the sole judges of the credibility of the witnesses and the weight to give their testimony, the Evidentiary Panel found numerous aspects of Respondent's testimony to lack credibility and candor. Conversely, the Evidentiary Panel found the testimony of each of the non-party witnesses to be generally credible. Therefore, the Evidentiary Panel exercised its discretion to believe the testimony of certain non-party witnesses and disbelieve the testimony of Respondent, where appropriate to do so. These credibility determinations formed a basis for the findings and conclusions set forth herein and in the panel's previously-signed Judgment of Disbarment.

FINDINGS OF FACT APPLICABLE TO DETERMINATION OF SANCTIONS

21. In imposing sanctions, the Evidentiary Panel considered the duties violated by Respondent, Respondent's level of culpability, the potential or actual injury caused by Respondent's misconduct, and the existence of aggravating or mitigating factors.
22. The Evidentiary Panel found the following aggravating factors: prior disciplinary record, including private reprimands; dishonest or selfish motive; a pattern of misconduct; multiple violations; submission of false evidence, false statements, or other deceptive practices during the disciplinary process; refusal to acknowledge wrongful nature of conduct; vulnerability of victims; and substantial experience in the practice of law.
23. After hearing all evidence and argument, the Evidentiary Panel found that proper discipline of the Respondent for each act of Professional Misconduct is DISBARMENT.

24. The Evidentiary Panel found no mitigating factors.

25. Respondent should pay reasonable and necessary attorneys' fees in the amount of \$4,312.50 and direct expenses in the amount of \$175.00 to the State Bar of Texas, with payment due and payable on or before July 1, 2024.

26. Payment of the foregoing attorney's fees and expenses amounts (contained in numbered paragraph 25) should be a condition precedent to any consideration of reinstatement from disbarment as provided by Rules 2.19, 2.20 and 11.02(D) of the Texas Rules of Disciplinary Procedure.

Conclusions of Law

The Evidentiary Panel concluded that, based on foregoing findings of fact, Respondent, Vy Thuan Nguyen violated the following Texas Disciplinary Rules of Professional Conduct: Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), and 8.04(a)(8). After hearing all evidence and argument, the Evidentiary Panel found that proper discipline of the Respondent for each act of Professional Misconduct set forth herein is DISBARMENT.

SIGNED this 12th day of June, 2024.

**EVIDENTIARY PANEL 4-6
DISTRICT NO. 4
STATE BAR OF TEXAS**

**SCOTT ROTHENBERG
Panel 4-6 Presiding Member**

From: [Maribelle Hernandez](#)
To: [Scott Rothenberg](#); [Anuj Arun Shah](#); [Geoffrey Edward Riddle](#); ["Linda White"](#); [Martha Claire Mealy](#); [John R. Standish](#)
Subject: Evidentiary Hearing set
Date: Wednesday, January 10, 2024 3:30:00 PM
Attachments: [Cover Letter to Panel with Notice of Evidentiary Hearing.pdf](#)
[image001.png](#)

Dear Panel,

Attached is your copy of the Notice of Evidentiary Hearing, and its transmittal letter to you, for the following matter:

Case Nos. 202205608 [B. Parrish], 202206116 [Lau], 202207092 [Kraesig], 202301900 [Martin] & 202302230 [Nasra]; CFLD v. *Vy Thuan Nguyen*;

The hearing has been scheduled for Wednesday, May 8, 2024, at 9:00 a.m., and will be conducted by a video and tele-conference connection. An e-mail invitation to the teleconference will be provided prior to the hearing.

Thank you for your attention to this matter.

Maribelle Hernandez

LEGAL ASSISTANT TO E. WILLIAM NICHOLS II



State Bar of Texas

Office of the Chief Disciplinary Counsel

CONFIDENTIAL

This e-mail, and any files or documents transmitted with it, are confidential and are intended solely for the use of the individual or entity to whom they are addressed. This communication may contain material protected by the attorney-client privilege. If you are not the intended recipient, or the person responsible for delivering the e-mail to the intended recipient, be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone at (713) 758-8200.

From: [Maribelle Hernandez](#)
To: [Vy Nguyen](#)
Cc: [Will Nichols](#); gary@riebschlagerlaw.com
Subject: Case Nos. 202205608 [B. Parrish], 202206116 [Lau], 202207092 [Kraesig], 202301900 [Martin] & 202302230 [Nasra]; CFLD v. Vy Thuan Nguyen
Date: Wednesday, January 10, 2024 3:33:00 PM
Attachments: [image001.png](#)
[Cover Letter to Panel with Notice of Evidentiary Hearing.pdf](#)

Ms. Nguyen,

Attached is a copy of a letter, dated January 10, 2024, from E. William Nichols II to Evidentiary Panel 4-6 with a Notice of Evidentiary Hearing.

Be advised that the evidentiary hearing in the above-subject matter is scheduled on Wednesday, May 8, 2024, at 9:00 a.m. Please refer to the attachments for additional information.

Please REPLY TO THIS EMAIL confirming your receipt.

Maribelle Hernandez

LEGAL ASSISTANT TO E. WILLIAM NICHOLS II



State Bar of Texas

Office of the Chief Disciplinary Counsel

CONFIDENTIAL

This e-mail, and any files or documents transmitted with it, are confidential and are intended solely for the use of the individual or entity to whom they are addressed. This communication may contain material protected by the attorney-client privilege. If you are not the intended recipient, or the person responsible for delivering the e-mail to the intended recipient, be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone at (713) 758-8200.

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

January 10, 2024

EVIDENTIARY PANEL 4-6

Scott Rothenberg, Panel chair
Anuj Arun Shah
Geoffrey Edward Riddle
Linda Johnson White
Martha Claire Mealy
John R. Standish

Re: Case Nos. 202205608 [B. Parrish], 202206116 [Lau], 202207092 [Kraesig], 202301900 [Martin] & 202302230 [Nasra]; *Commission for Lawyer Discipline v. Vy Thuan Nguyen*; Before Evidentiary Panel 4-6 of the State Bar District No. 4 Grievance Committee

Dear Panel:

Please be advised that the evidentiary hearing in the above-referenced matter is scheduled on Wednesday, May 8, 2024, at 9:00 a.m. The evidentiary hearing will be conducted by a video and tele-conference connection. A certified shorthand reporter will record the hearing.

Attached is a copy of the Notice of Evidentiary Hearing which has been filed today. By copy of this letter, I am notifying Respondent of the hearing and providing a copy of the notice.

Thank you for your attention to this matter. If you will not be able to attend the hearing, please contact Mary Labruzzi as soon as possible at 713-758-8200.

Sincerely,

E. William Nichols II
Assistant Disciplinary Counsel

EWN/mgh
Attachment

cc: Vy Thuan Nguyen, Respondent (w/attachment)
Gary Riebschlager (w/attachment)

Email vy.nguyen@vnlawoffices.com
Email gary@riebschlagerlaw.com

FILED

01/10/2024

**BEFORE EVIDENTIARY PANEL 4-6 OF THE
STATE BAR DISTRICT NO. 4 GRIEVANCE COMMITTEE**



Houston Office

Chief Disciplinary Counsel

COMMISSION FOR LAWYER DISCIPLINE,	§	202205608 [PARRISH]
Petitioner,	§	202206116 [LAU]
	§	202207092 [KRAESIG]
v.	§	202301900 [MARTIN]
	§	202302230 [NASRA]
VY THUAN NGUYEN,	§	
Respondent.	§	HARRIS COUNTY, TEXAS

NOTICE OF EVIDENTIARY HEARING

TO: Vy Thuan Nguyen, Respondent, *pro se*, 5177 Richmond Avenue, Suite 1200, Houston, Texas 77056, vy.nguyen@vnlawoffices.com.

YOU ARE NOTIFIED that the above-captioned case has been set for an evidentiary hearing before Evidentiary Panel 4-6 of the State Bar District No. 4 Grievance Committee on Wednesday, May 8, 2024, at 9:00 a.m. The evidentiary hearing will be conducted by a video and teleconference connection. An e-mail invitation to the teleconference will be provided prior to the hearing.

Respectfully submitted,

STATE BAR OF TEXAS

SEANA WILLING

Chief Disciplinary Counsel

E. WILLIAM NICHOLS II

State Bar No. 24077666

Assistant Disciplinary Counsel

4801 Woodway Drive, Suite 315-W

Houston, Texas 77056

Telephone: 713-758-8200

Facsimile: 713-758-8254

E-mail: wnichols@texasbar.com

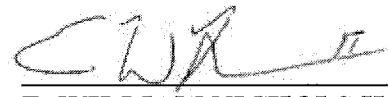
**ATTORNEYS FOR PETITIONER,
COMMISSION FOR LAWYER
DISCIPLINE**

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to Rule 2.09A of the Texas Rules of Disciplinary Procedure, a true and correct copy of the foregoing instrument was forwarded on the 10th day of January, 2024, to the following:

Vy Thuan Nguyen
Nguyen Offices, PLLC
5177 Richmond Avenue, Suite 1200
Houston, Texas 77056
Pro se

Email vy.nguyen@vnlawoffices.com



E. WILLIAM NICHOLS II

INDEX ITEM No.

26

From: vy.nguyen.vnlawoffices.com
To: [Will Nichols](#); [Scott Rothenberg](#); [Maribelle Hernandez](#)
Subject: Respondent's Motion for Continuance for FIRST Trial Setting - Panel 4-6 Evidentiary Hearings set on May 8, 2024
Date: Monday, May 6, 2024 10:44:08 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[Motion for Continuance for First Trial Setting - Nguyen .pdf](#)
[Order for Continuance for First Trial Setting - Nguyen .pdf](#)

Hello Chair Rothenberg:

I would like to respectfully request a continuance for the FIRST trial setting scheduled for this Wednesday, May 8, 2024.

Attached please find Respondent's Motion for Continuance and Proposed Order. I had an opportunity to confer with Mr. Nichols this morning.

Thank you for your time and consideration.

Respectfully,

Vy

Regards,

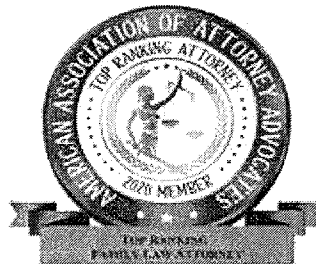
Vy T. Nguyen
Attorney and Mediator

Nguyen Offices, PLLC

Office#: 281.220.6687
Mobile#: 713.820.1495
Fax#: 713.583.7403
Email: vy.nguyen@vnlawoffices.com
Website: www.vnlawoffices.com

Houston Office: 5177 Richmond Avenue Suite 316, Houston, Texas 77056
Austin Office: 111 Congress Avenue Suite 500, Austin, Texas 78701
Appointment Only)

(By



INDEX ITEM No.

27

From: [Will Nichols](#)
To: [Scott Rothenberg](#); vy.nguyen.vnlawoffices.com; [Maribelle Hernandez](#)
Subject: RE: Respondent's Motion for Continuance for FIRST Trial Setting - Panel 4-6 Evidentiary Hearings set on May 8, 2024
Date: Monday, May 6, 2024 10:55:34 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Just so this doesn't get lost in an email chain.

Mr. Rothenberg,

For the record I am opposed to Ms. Nguyen's motion for continuance. Please let us know if you need anything or have any questions. Thank you.

E. William Nichols II
Assistant Disciplinary Counsel
State Bar of Texas
4801 Woodway Drive, Suite 315-W
Houston, TX 77056
P. (713) 758-8200
F. (713) 758-8254

This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. This communication may contain material protected by the attorney-client privilege. If you are not the intended recipient or the person responsible for delivering the e-mail to the intended recipient, be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone at (713) 758-8200.

From: Scott Rothenberg <scott@rothenberglaw.com>
Sent: Monday, May 6, 2024 10:53 AM
To: vy.nguyen.vnlawoffices.com <vy.nguyen@vnlawoffices.com>; Will Nichols <Will.Nichols@TEXASBAR.COM>; Maribelle Hernandez <Maribelle.Hernandez@Texasbar.com>
Subject: RE: Respondent's Motion for Continuance for FIRST Trial Setting - Panel 4-6 Evidentiary Hearings set on May 8, 2024

Mr. Nichols:

Could you please provide me with your client's response to this motion for continuance on an expedited basis? It need not be a formal responsive filing. An email will suffice.

Ms. Nguyen:

1. Please provide the case number, style, identification of the court in question, and contact information for the clerk of that court, pertaining to the federal court immigration trial.
2. On what specific date did you first receive notice of the conflicting immigration trial in federal court.
3. If the matter can be settled after a continuance, why can't it be settled today or tomorrow so that we do not need to continue this matter?

Thank you both.

Scott Rothenberg
Panel Chair, District 4-6 Grievance Committee

From: vy.nguyen vnlawoffices.com <vy.nguyen@vnlawoffices.com>
Sent: Monday, May 6, 2024 10:43 AM
To: Will Nichols <Will.Nichols@TEXASBAR.COM>; Scott Rothenberg <scott@rothenberglaw.com>;
Maribelle Hernandez <Maribelle.Hernandez@Texasbar.com>
Subject: Respondent's Motion for Continuance for FIRST Trial Setting - Panel 4-6 Evidentiary Hearings set on May 8, 2024

Hello Chair Rothenberg:

I would like to respectfully request a continuance for the FIRST trial setting scheduled for this Wednesday, May 8, 2024.

Attached please find Respondent's Motion for Continuance and Proposed Order. I had an opportunity to confer with Mr. Nichols this morning.

Thank you for your time and consideration.

Respectfully,

Vy

Regards,

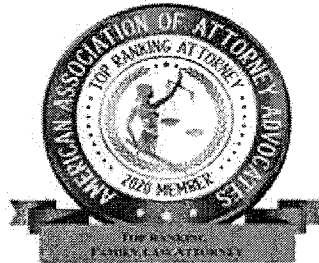
Vy T. Nguyen
Attorney and Mediator

Nguyen Offices, PLLC

Office#: 281.220.6687
Mobile#: 713.820.1495
Fax#: 713.583.7403
Email: vy.nguyen@vnlawoffices.com
Website: www.vnlawoffices.com

Houston Office: 5177 Richmond Avenue Suite 316, Houston, Texas 77056
Austin Office: 111 Congress Avenue Suite 500, Austin, Texas 78701
(Appointment Only)

(By



From: Will Nichols <Will.Nichols@TEXASBAR.COM>

Date: Tuesday, April 9, 2024 at 10:40 AM

To: Scott Rothenberg <scott@rothenberglaw.com>

Cc: griddle@stcl.edu <griddle@stcl.edu>, Anuj A. Shah <anuj@shah-law.com>, lwhite@allenkillgore.com <lwhite@allenkillgore.com>, mcmealy@gmail.com <mcmealy@gmail.com>, jrstandishjr@gmail.com <jrstandishjr@gmail.com>, vy.nguyen@vnlawoffices.com <vy.nguyen@vnlawoffices.com>

Subject: RE: Panel 4-6 Evidentiary Hearings set on May 8, 2024

Mr. Rothenberg,

I anticipate that these hearings will be going forward and will likely last 4 hours. I have copied respondent on this email so she knows my intentions.

EVIDENTIARY HEARING REPORT

PANEL: 4-6 **COMMITTEE:** 4 **HEARING DATE:** 5/8/2024
202205608 [B. Parrish]
202206116 [T. Lau] Commission for Lawyer Discipline
202207092 [K. Kraesig] v.
202301900 [C. Martin] Vy Thuan Nguyen
CASE NOS: 202302230 [J. Nasra] **STYLE:** State Bar District No. 4 Grievance Committee
LOCATION: Video Conference
COURT
REPORTER: Cindi Bench Reporting, 281-565-8222, cindi@benchreporting.com

PANEL MEMBERS (INDICATE ATTY OR PUBLIC). Please note presiding member with an asterisk (*).

1.	Mr. Scott Rothenberg*	(Atty)	PRESENT
2.	Mr. Anuj Arun Shah	(Atty)	ABSENT
3.	Mr. Geoffrey Edward Riddle	(Atty)	PRESENT
4.	Ms. Linda Johnson White	(Atty)	PRESENT
5.	Ms. Martha Claire Mealy	(Public)	ABSENT
6.	Mr. John R. Standish	(Public)	PRESENT

I. TYPE OF HEARING: (Check One)

X Evidentiary and Sanction
Continued Evidentiary and Sanction
Sanction Only
Default

II. HEARING RESULT: (Check One)

Hearing Continued
Dismissed
Default Granted
Default Denied
X Professional Misconduct Found (If selected, please continue)

PROFESSIONAL MISCONDUCT FOUND

The Panel finds the following Disciplinary Rules were violated: B. PARRISH- Rules 1.01(b)(1),

1.01(b)(2), & 1.03(a); LAU- Rules 1.03(a) & 8.04(a)(8); KRAESIG- Rule 1.03(a);

MARTIN- Rule 8.04(a)(8); & NASRA- Rule 8.04(a)(8)

III. SANCTIONS: (Check One)

Private Reprimand
Public Reprimand
X Disbarment
Suspension: (If selected, please choose one of the following: Fully Active, Fully Probated or Partially Probated)
Fully Active Suspension:

COUNT FOUR: 202301900 – Cody Woods Martin matter

12. Respondent failed to timely furnish to the Office of the Chief Disciplinary Counsel a response or other information as required by the Texas Rules of Disciplinary Procedure and did not, in good faith, timely assert a privilege or other legal ground for failure to do so.
13. Respondent did not fail to hold funds belonging in whole or in part to third persons that were in Respondent's possession in connection with a representation separate from the lawyer's own property.
14. Respondent did not fail to promptly deliver to a third person funds that the third person was entitled to receive.
15. Respondent did not take a position that unreasonably increased the costs or other burdens of the case or that unreasonably delayed resolution of the matter.
16. Respondent did not knowingly disobey an obligation under a ruling by a tribunal.

COUNT FIVE: 202302230 – Jason Samir Nasra matter

17. Respondent failed to timely furnish to the Office of the Chief Disciplinary Counsel a response or other information as required by the Texas Rules of Disciplinary Procedure and did not, in good faith, timely assert a privilege or other legal ground for failure to do so.
18. With respect to the grievance filed by or on behalf of Jason Samir Nasra, the Evidentiary Panel did not adjudicate the pleaded allegations of alleged violations of Texas Disciplinary Rules of Professional Conduct 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.03(b), 1.14(b), and 1.15(d), because such allegations were discontinued as a matter of prosecutorial discretion and withdrawn from consideration by the Evidentiary Panel.

FINDINGS OF FACT APPLICABLE TO EACH OF FINDINGS OF FACTS 1-18

19. The sanction of disbarment set forth in this Judgment of Disbarment was found with respect to each individual violation set forth in Findings of Fact 4, 5, 6, 8, 9, 10, 12 and 17, and was not the result of aggregating or combining any of the violations set forth in Findings of Fact 4, 5, 6, 8, 9, 10, 12, and 17.
20. As the sole judges of the credibility of the witnesses and the weight to give their testimony, the Evidentiary Panel found certain aspects of Respondent's testimony to lack credibility and candor. Conversely, the Evidentiary Panel found the testimony of each of the non-party witnesses to be generally credible. Therefore, the Evidentiary Panel exercised its discretion to believe certain non-party witnesses and disbelieve Respondent, where appropriate to do so. These factual determinations formed a basis for the findings of fact and conclusions of law set forth in this Judgment of Disbarment.

FINDINGS OF FACT APPLICABLE TO DETERMINATION OF SANCTIONS

21. In imposing sanctions, the Evidentiary Panel considered the duties violated by Respondent, Respondent's level of culpability, the potential or actual injury caused by Respondent's misconduct, and the existence of aggravating or mitigating factors.
22. The Evidentiary Panel found the following aggravating factors: prior disciplinary record, including private reprimands; dishonest or selfish motive; a pattern of misconduct; multiple violations; submission of false evidence, false statements, or other deceptive practices during the disciplinary process; refusal to acknowledge wrongful nature of conduct; vulnerability of victims; and substantial experience in the practice of law.
23. The Evidentiary Panel found no mitigating factors.

Conclusions of Law

The Evidentiary Panel concludes that, based on foregoing findings of fact, the following Texas Disciplinary Rules of Professional Conduct have been violated: Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), and 8.04(a)(8).

Sanction

The Evidentiary Panel, having found Respondent has committed Professional Misconduct, heard and considered additional evidence regarding the appropriate sanction to be imposed against Respondent. After hearing all evidence and argument, the Evidentiary Panel finds that proper discipline of the Respondent for each act of Professional Misconduct is DISBARMENT.

Disbarment

It is therefore ORDERED, ADJUDGED, and DECREED that effective the date of this judgment, Respondent, Vy Thuan Nguyen, State Bar Number 24060334, is hereby DISBARRED from the practice of law in the State of Texas.

It is further ORDERED that Respondent is 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 Texas court or before any 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,” or “lawyer.”

Notification

It is further ORDERED that Respondent shall immediately notify each of her current clients in writing of this disbarment. In addition to such notification, Respondent is ORDERED to return any files, papers, unearned monies and other property belonging to clients and former clients in the Respondent’s possession to the respective clients or former clients or to another attorney at the client’s or former client’s request.

Respondent is further ORDERED to file with the State Bar of Texas, Office of the Chief Disciplinary Counsel, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701) within thirty (30) days of the signing of this judgment by the Panel Chair, an affidavit stating that all current clients have been notified of Respondent’s disbarment and that all files, papers, unearned monies and other property belonging to all clients and former clients have been returned as ordered herein. If it is Respondent’s assertion that at the time of disbarment she possessed no current clients and/or Respondent was not in possession of any files, papers, unearned monies or other property belonging to clients, Respondent shall submit an affidavit attesting that, at the time of disbarment, Respondent had no current clients and did not possess any files, papers, unearned monies, and/or other property belonging to clients.

It is further ORDERED that Respondent shall, on or before thirty (30) days from the signing of this judgment by the Panel Chair, 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. Respondent is further ORDERED to file with the State Bar of Texas, Office of the Chief Disciplinary Counsel, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), within thirty (30) days of the signing of this judgment by the Panel Chair, an affidavit stating that each and every justice of the peace, judge, magistrate, administrative judge or officer and chief justice has received written notice of the terms of this judgment.

Surrender of License

It is further ORDERED that Respondent shall, within thirty (30) days of the signing of this judgment by the Panel Chair, surrender her law license and permanent State Bar Card to the State Bar of Texas, Office of the Chief Disciplinary Counsel, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701), to be forwarded to the Supreme Court of the State of Texas.

Attorneys' Fees and Expenses

It is further ORDERED that Respondent shall pay reasonable and necessary attorneys' fees in the amount of \$4,312.50 and direct expenses in the amount of \$175.00 to the State Bar of Texas. The payment shall be due and payable on or before July 1, 2024, and shall be made by certified or cashier's check or money order. Respondent shall forward the funds, made payable to the State Bar of Texas, Office of the Chief Disciplinary Counsel, P.O. Box 12487, Austin, TX 78711-2487 (1414 Colorado St., Austin, TX 78701).

It is further ORDERED that all amounts ordered herein are due to the misconduct of Respondent and are assessed as a part of the sanction in accordance with Rule 1.06(FF) of the Texas Rules of Disciplinary Procedure. Any amount not paid shall accrue interest at the maximum

a continuance, and the number of grievances and alleged rule violations against a pro se Respondent warranted a delay so that new counsel could be retained.

5. The evidentiary panel erred in overruling Respondent's objections to evidence and procedural irregularities.
6. The evidentiary hearing violated Rule 21d of the TEXAS RULES OF CIVIL PROCEDURE by failing to provide any in-person opportunity for Respondent to present her case. No court or evidentiary panel, can require "a party or lawyer to appear electronically for a [] proceeding in which oral testimony is heard, absent good cause or the agreement of the parties." Quoting TRCP 21d(b)(1). In this case, no option was given for an in-person hearing, there was no opportunity to object and/or present "good cause," and there was no "agreement of the parties."
7. Respondent was denied a fair hearing and due process.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Respondent requests a new evidentiary hearing and the opportunity to relitigate the evidentiary case. Alternatively, Respondent requests a new hearing on sanctions and an opportunity to relitigate the appropriate sanction.

Respectfully submitted,

HASLEY SCARANO, L.L.P.

/s/ Jennifer A. Hasley

JENNIFER A. HASLEY

State Bar No. 00792818

P.O. Box 25371

Houston, Texas 77265

T: 713.667.6900

jennifer@hasleyscarano.com

**ATTORNEYS FOR RESPONDENT,
VY T. NGUYEN**

From: Jennifer A. Hasley
To: scott@rothenberglaw.com
Cc: Will Nichols; Maribelle Hernandez
Subject: Case Nos. 202205608 [B. Parrish], et al; CFLD v. Vy Thuan Nguyen | R's Proposed Order Granting MNT
Date: Monday, June 10, 2024 8:17:20 AM
Attachments: [image002.png](#)
P_24-0610_R_Proposed_Order_on_Motion_for_New_Trial.Nguyen.pdf

FILED

06/10/2024



Houston Office
Chief Disciplinary Counsel

Enclosed for filing and service in the above referenced evidentiary proceeding is Respondent's proposed order related to the pending motion for new hearing.

It is requested that the evidentiary file clerk return a file-marked copy.

Thank you,
Jennifer

Jennifer A. Hasley
Hasley Scarano, L.L.P.

P.O. Box 25371 | Houston, Texas 77265 | T: 713.667.6900

jennifer@hasleyscarano.com

www.hasleyscarano.com



Proud Member of
Texas Bar College

Super Lawyers®

TEXAS 2024

Professional
Liability

The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. If you have received this communication in error, please notify us immediately by e-mail and delete the original message.

BEFORE THE EVIDENTIARY PANEL 4-6 OF THE
STATE BAR DISTRICT 4 GRIEVANCE COMMITTEE

COMMISSION FOR LAWYER DISCIPLINE,	:	202205608 [PARRISH]
	:	202206116 [LAU]
Petitioner,	:	202207092 [KRAESIG]
	:	202301900 [MARTIN]
	:	202302230 [NASRA]
	:	
vs.	:	
	:	
VY T. NGUYEN,	:	
	:	
Respondent.	:	HARRIS COUNTY, TEXAS

ORDER ON RESPONDENT'S MOTION FOR NEW EVIDENTIARY HEARING
--

On this day, *Respondent's Motion for New Evidentiary Hearing on the Merits or, alternatively, Motion for New Sanctions Hearing* came to be heard by submission per the *sua sponte* Order issued on June 3, 2024. Upon consideration of the motion and the grounds stated in support thereof, the absence of any response on file (timely or otherwise), the pleadings, and applicable law, the Evidentiary Panel hereby **GRANTS** the motion for new hearing in the interests of justice and fairness.

IT IS THEREFORE ORDERED that the *Judgment of Disbarment* entered by the Evidentiary Panel on May 10, 2024, is hereby set aside, and the disciplinary matters captioned above shall be set for a new hearing as soon as practicable and with proper notice to all parties.

IT IS FURTHER ORDERED that the *Motion for New Sanctions Hearing* is mooted by the granting of a new hearing on the merits.

SIGNED this _____ day of June, 2024.

EVIDENTIARY PANEL 4-6
DISTRICT NO. 4
STATE BAR OF TEXAS

SCOTT ROTHENBERG, Presiding

From: [Maribelle Hernandez](#)
To: [Scott Rothenberg](#); jennifer@hasleyscarano.com
Cc: [Will Nichols](#)
Subject: RE: Case Nos. 202205608 [B. Parrish], et al; CFLD v. Vy Thuan Nguyen
Date: Wednesday, June 12, 2024 2:15:00 PM
Attachments: [SIGNED Findings of Fact and Conclusions of Law.pdf](#)
[SIGNED Order Denying MNT.pdf](#)
[image001.png](#)

The filed-stamped AMENDED Findings of Fact will be forwarded shortly.

Maribelle Hernandez

LEGAL ASSISTANT TO E. WILLIAM NICHOLS II



State Bar of Texas

Office of the Chief Disciplinary Counsel

CONFIDENTIAL

This e-mail, and any files or documents transmitted with it, are confidential and are intended solely for the use of the individual or entity to whom they are addressed. This communication may contain material protected by the attorney-client privilege. If you are not the intended recipient, or the person responsible for delivering the e-mail to the intended recipient, be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone at (713) 758-8200.

From: Scott Rothenberg <scott@rothenberglaw.com>
Sent: Wednesday, June 12, 2024 12:12 PM
To: jennifer@hasleyscarano.com
Cc: Will Nichols <Will.Nichols@TEXASBAR.COM>; Maribelle Hernandez <Maribelle.Hernandez@Texasbar.com>; Scott Rothenberg <scott@rothenberglaw.com>
Subject: RE: Case Nos. 202205608 [B. Parrish], et al; CFLD v. Vy Thuan Nguyen

All -

Enclosed for filing and service in the above referenced evidentiary proceeding is the attached signed Order and signed Findings of Fact and Conclusions of Law.

It is requested that the evidentiary file clerk return a file-marked copy of both documents.

The Evidentiary Panel, having considered the pleadings, the testimony that was admitted into evidence during the evidentiary hearing, the exhibits that were admitted into evidence during the evidentiary hearing, and argument of counsel, makes the following findings of fact and conclusions of law:

Findings of Fact

1. Respondent was an attorney who, until she was disbarred, was licensed to practice law in Texas and was a member of the State Bar of Texas.
2. Respondent resides in and maintains her principal place of practice in Harris County, Texas.
3. The Office of the Chief Disciplinary Counsel of the State Bar of Texas established that \$4,312.50 is a reasonable and necessary amount of attorneys' fees for the legal services performed by their counsel and legal support staff. This evidence was un rebutted. The Office of the Chief Disciplinary Counsel of the State Bar of Texas incurred direct expenses in the amount of \$175.00 associated with this Disciplinary Proceeding. This evidence was un rebutted.

COUNT ONE: 202205608 – Billy Joe Parrish matter

4. In representing Billy Joe Parrish, Respondent neglected the legal matter entrusted to her.
5. In representing Billy Joe Parrish, Respondent frequently failed to carry out completely the obligations that Respondent owed to Billy Joe Parrish.
6. Respondent failed to keep Billy Joe Parrish reasonably informed about the status of his legal matter and failed to promptly comply with reasonable requests for information.
7. The Office of Chief Disciplinary Counsel failed to establish by a preponderance of the evidence that in representing Billy Joe Parrish, Respondent accepted or continued employment in a legal matter which Respondent knew or should know was beyond Respondent's competence.

COUNT TWO: 202206116 – Trang Lau matter

8. Respondent failed to keep Trang Lau reasonably informed about the status of her legal matter and failed to promptly comply with reasonable requests for information.

**BEFORE EVIDENTIARY PANEL 4-6 OF THE
STATE BAR DISTRICT NO. 4 GRIEVANCE COMMITTEE**

FILED

06/12/2024

COMMISSION FOR LAWYER DISCIPLINE, Petitioner, v. VY THUAN NGUYEN, Respondent.	§ § § § § § § § §	202205608 [PARRISH] 202206116 [LAU] 202207092 [KRAESIG] 202301900 [MARTIN] 202302230 [NASRA] HARRIS COUNTY, TEXAS
---	---	--



Houston Office
Chief Disciplinary Counsel

AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

On May 8, 2024, a duly-comprised quorum of the Evidentiary Panel 4-6 of the State Bar District No. 4 Grievance Committee, consisting of one public member and three attorney members (hereinafter “the Evidentiary Panel”), heard the above-captioned and numbered disciplinary matters against Respondent, Vy Thuan Nguyen (hereinafter “Respondent”). Petitioner, Commission for Lawyer Discipline, appeared by Zoom by and through its counsel of record, Mr. E. William Nichols, II. Respondent, Vy Thuan Nguyen, appeared by Zoom and represented herself. No audiovisual record of the proceedings was recorded over Zoom. A duly authorized court reporter made a record of all proceedings in the above-captioned and numbered disciplinary matters.

The Evidentiary Panel, by and through its duly appointed Presiding Member makes the following findings of fact and conclusions of law pursuant to Texas Rules of Civil Procedure 296 and 297. Any finding of fact that may be more properly characterized as a conclusion of law shall be considered a conclusion of law. Any conclusion of law that may be more properly characterized as a finding of fact shall be considered a finding of fact.

24. The Evidentiary Panel found no mitigating factors.
25. Respondent should pay reasonable and necessary attorneys' fees in the amount of \$4,312.50 and direct expenses in the amount of \$175.00 to the State Bar of Texas, with payment due and payable on or before July 1, 2024.
26. Payment of the foregoing attorney's fees and expenses amounts (contained in numbered paragraph 25) should be a condition precedent to any consideration of reinstatement from disbarment as provided by Rules 2.19, 2.20 and 11.02(D) of the Texas Rules of Disciplinary Procedure.

Conclusions of Law

The Evidentiary Panel concluded that, based on foregoing findings of fact, Respondent, Vy Thuan Nguyen violated the following Texas Disciplinary Rules of Professional Conduct: Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), and 8.04(a)(8). After hearing all evidence and argument, the Evidentiary Panel found that proper discipline of the Respondent for each act of Professional Misconduct set forth herein is DISBARMENT.

SIGNED this 12th day of June, 2024.

**EVIDENTIARY PANEL 4-6
DISTRICT NO. 4
STATE BAR OF TEXAS**

SCOTT ROTHENBERG
Panel 4-6 Presiding Member

From: [Will Nichols](#)
To: [Maribelle Hernandez](#)
Subject: FW: Notice of Appeal by Respondent-Appellant Vy T. Nguyen (SBOT Nos. 202205608 et al.).pdf
Date: Thursday, August 1, 2024 7:10:26 PM
Attachments: [Notice of Appeal by Respondent-Appellant Vy T. Nguyen \(SBOT Nos. 202205608 et al.\).pdf](#)

From: Stephen R. Bailey <sbailey@spcounsel.com>
Sent: Thursday, August 1, 2024 5:54 PM
To: filing@txboda.org; TXBODA Appeal <appeal@txboda.org>
Cc: Will Nichols <Will.Nichols@TEXASBAR.COM>; GWS_GROUP <GWS_GROUP@spcounsel.com>
Subject: Notice of Appeal by Respondent-Appellant Vy T. Nguyen (SBOT Nos. 202205608 et al.).pdf

You don't often get email from sbailey@spcounsel.com. [Learn why this is important](#)

Attn: Hon. Board of Disciplinary Appeals:

Attached for filing, please see Respondent/Appellant Vy T. Nguyen's Notice of Appeal in connection with SBOT file Nos. 2022 (Parrish), 20220616 (Lau), 202207092 (Kraesig), 202301900 (Martin) and 202302230 (Nasra).

I would kindly ask that you please reply to confirm your receipt of this email and attachment. Thank you for your courtesies.

Respectfully Submitted,

SHEPHERD PREWETT PLLC

Stephen R. Bailey
Shepherd Prewett PLLC
770 South Post Oak Lane, Suite 420
Houston, Texas 77056
Tel: 713-955-4440
Fax: 713-766-6542
sbailey@spcounsel.com

ATTORNEYS FOR RESPONDENT/APPELLANT VY T. NGUYEN

Tex. R. Civ. P. 21d

The State and Federal rules are current through August 22, 2024. Local District rules are updated periodically throughout the year.

TX - Texas Local, State & Federal Court Rules > TEXAS RULES OF CIVIL PROCEDURE > PART II. RULES OF PRACTICE IN DISTRICT AND COUNTY COURTS > SECTION 1. General Rules

Rule 21d. Appearances at Court Proceedings.

(a) Definitions.

- (1) "Court proceeding" means an appearance before the court, such as a hearing or trial.
- (2) "Participant" means any party, attorney, witness, court reporter, or juror who participates in a court proceeding.

(b) Participant Method of Appearance.

- (1) Unless the notice of court proceeding states otherwise, a person who participates in a court proceeding does so by physical presence in the courtroom. Upon appropriate notice by a party or the court, a court may allow or require a participant to appear at a court proceeding by videoconference, teleconference, or other available electronic means, except as otherwise provided in (2).
- (2) A court must not require:
 - (A) a party or lawyer to appear electronically for a court proceeding in which oral testimony is heard, absent good cause or the agreement of the parties; or
 - (B) a lawyer, party, or juror to appear electronically for a jury trial, absent the agreement of the parties.

(c) Judge Method of Appearance; Location. A judge may appear at a court proceeding by videoconference, teleconference, or other available electronic means. However, even if appearing electronically, a judge must conduct the court proceeding from a location required by law.

(d) Objection. A party may object to any method of appearance, stating good cause for the objection. The objection must be made within a reasonable time after the party receives notice of the appearance. The court may, but is not required to, conduct a hearing on the objection. Before proceeding by the objected-to method of appearance, the court must rule on the objection and timely communicate the ruling to the parties in a written order or on the record.

(e) Factors. In determining good cause under this rule, the court should consider factors such as:

- (1) case type;
- (2) court proceeding type;
- (3) the number of parties and witnesses;
- (4) the complexity of the legal and factual issues;
- (5) the type of evidence to be submitted, if any;
- (6) technological restrictions such as lack of access to or proficiency in necessary technology;
- (7) travel restrictions such as lack of transportation, distance, or inability to take off work;
- (8) whether a method of appearance is best suited to provide necessary language access services for a person with limited English proficiency or accommodations for a person with a disability; and

Tex. R. Civ. P. 21d

(9) any previous abuse of a method of appearance.

(f) **Open Courts.** If a court conducts a court proceeding in which all participants appear electronically, the court must:

(1) provide reasonable notice to the public of how to observe the court proceeding; and

(2) provide the public the opportunity to observe the court proceeding, unless the court has determined that it must close the court proceeding to protect an overriding interest, considered all less-restrictive alternatives to closure, and made findings on the record adequate to support closure.

History

Added by Texas Supreme Court, Misc. Docket No. 23-9004, effective February 1, 2023; Amended by Texas Supreme Court, Misc. Docket No. 23-9050, effective August 1, 2023.

Annotations

Notes

Editor's Notes

Misc. Docket No. 23-9050 changes, effective August 1, 2023 amended only the "Comment to 2023" change by adding "or further permit".

Commentary

General Comments

Comment to 2023 change: New Rule 21d clarifies procedures for appearances at court proceedings. Paragraph (a) defines "court proceeding" and "participant." Paragraph (b) governs a participant's method of appearance. Certain statutes expressly prohibit or further permit electronic appearances, in which case the governing statute applies. Paragraph (c) provides that the judge may appear by electronic means, but it requires the judge to appear electronically from a location required by law. See, e.g., TEX. CONST. art. V, § 7(d); TEX. GOV'T CODE §§ 24.030(a), 26.002(c). Nothing in paragraph (c) permits the judge to conduct a proceeding away from a location required by law. Paragraph (d) addresses objections to any method of appearance, and paragraph (e) addresses good-cause factors. Paragraph (f) recognizes the public's right to reasonable notice of and access to a fully electronic proceeding unless there is an overriding interest. A court should rarely close a court proceeding from public observation, and in such an exceptional case, the court must use the least restrictive measure to protect the overriding interest.

Notes to Decisions

Civil Procedure: Parties

Civil Procedure: Dismissals: Involuntary Dismissals

Constitutional Law: Bill of Rights: Fundamental Rights: Procedural Due Process: Scope of Protection

Family Law: Parental Duties & Rights: Termination of Rights: Involuntary Termination: Procedure

Tex. R. Civ. P. 40

The State and Federal rules are current through August 22, 2024. Local District rules are updated periodically throughout the year.

TX - Texas Local, State & Federal Court Rules > TEXAS RULES OF CIVIL PROCEDURE > PART II. RULES OF PRACTICE IN DISTRICT AND COUNTY COURTS > SECTION 3. Parties to Suits

Rule 40. Permissive Joinder of Parties.

(a) Permissive Joinder. All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

(b) Separate Trials. The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delay or prejudice.

Annotations

Notes

SOURCE: Federal Rule 20, unchanged.

Notes to Decisions

Civil Procedure: Removal: Basis: General Overview

Civil Procedure: Removal: Postremoval Remands: General Overview

Civil Procedure: Removal: Proceedings: Fraudulent Joinder

Civil Procedure: Pleading & Practice: Pleadings: Cross-Claims: General Overview

Civil Procedure: Parties: Intervention: General Overview

Civil Procedure: Parties: Intervention: Permissive Interventions

Civil Procedure: Parties: Joinder: Misjoinder

Civil Procedure: Parties: Joinder: Necessary Parties

Civil Procedure: Parties: Joinder: Permissive Joinder

Tex. R. Civ. P. 48

The State and Federal rules are current through August 22, 2024. Local District rules are updated periodically throughout the year.

TX - Texas Local, State & Federal Court Rules > TEXAS RULES OF CIVIL PROCEDURE > PART II. RULES OF PRACTICE IN DISTRICT AND COUNTY COURTS > SECTION 4. Pleading > A. GENERAL

Rule 48. Alternative Claims for Relief.

A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency and whether based upon legal or equitable grounds or both.

Annotations

Notes

SOURCE: Federal Rule 8(e), in part, unchanged.

Notes to Decisions

Civil Procedure: Pleading & Practice: Pleadings: Complaints: General Overview

Civil Procedure: Pleading & Practice: Pleadings: Rule Application & Interpretation

Civil Procedure: Joinder of Claims & Remedies: General Overview

Civil Procedure: Sanctions: Baseless Filings: General Overview

Constitutional Law: Bill of Rights: Fundamental Rights: Procedural Due Process: Scope of Protection

Governments: Courts: Rule Application & Interpretation

Torts: Intentional Torts: Intentional Infliction of Emotional Distress: Remedies

Civil Procedure: Pleading & Practice: Pleadings: Complaints: General Overview

Company pleaded its claims for breach of contract and quantum meruit in the alternative, and although the company could not recover for quantum meruit upon a finding that there was a valid contract, the company was able to plead and proceed on both theories. *Silver Oak Custom Homes v. Tredway, No. 01-12-01035-CV, 2013 Tex. App. LEXIS 8499 (Tex. App. Houston 1st Dist. July 11, 2013).*