



Jun 27 2025

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

IN THE MATTER OF	*	CAUSE NO. 69894
KENNETH MICHAEL PLAISANCE	*	
STATE BAR CARD NO. 24045166	*	

**RESPONDENT'S OBJECTION AND RESPONSE IN OPPOSITION TO PETITIONER'S
THIRD AMENDED PETITION AND RESPONSE TO PETITIONER'S RESPONSE TO
RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

MAY IN PLEASE THE COURT:

NOW COMES Kenneth Michael Plaisance, Respondent in the above -
entitled cause, who files this Objection and Response in Opposition to
Petitioner's Third Amended Petition, and Memorandum in Response to
Petitioner's answer to Respondent's motion for summary judgment,
respectfully show the Court the following:

I. OBJECTION TO PETITIONER’S THIRD PETITION BECAUSE IT IS NOT IN COMPLIANCE WITH THE APRIL 7, 2024, DEAD LINE RULING.

Respondent objects to the filing and consideration of Petitioner's Third Amended Petition because it disregards the April 7, 2025, the Texas Board of Discipline Appeal's order providing the cut off dates. Cut off dates for

additional pleading such as Petitioner's third Amended Petition was not allowed. On April 7, 2025, the presiding chair person signed an order stating that the parties can file briefing, responses and replies. The order did not state that the parties can continue to file amended petitions Ad-indefinitum. Again, Respondent argues that his due process rights and reputation were violated by publicizing Petitioner's Original Petition for Reciprocal Discipline on the internet and social media stating false information before a hearing was done. This placed Respondent in contempt to third parties in his community, distorting the truth, publicly portraying him in a misleading or highly offensive manner (Defaming him in a false light) to clients, future clients, and his peers. Respondent strongly asserts that he was defamed and his due process rights were violated. This pretrial publicity infringed upon Respondent's right to a fair trial, and raises constitutional concerns of violations of due process clause under the 14th Amendment. To publicize through the media and internet that Respondent was not currently authorized to practice law in Texas was false and reckless. Just this publication prior to trial is conclusively a violation of Respondent's due process rights. Moreover filing a first, second and now third amended petition for reciprocal discipline is overkill, character assassination, and cast dispersions on Respondent's reputation.

Respondent prays that all of the Petitions for Reciprocal Discipline be dismissed and for the Board of Discipline Appeal rule in favor of Respondent.

Furthermore, Respondent objects to the allegation in the third amended petition which states that Respondent violated Rule of Professional Conduct 8.4(d) and list 8 prongs of how Respondent allegedly violated Rule of Professional Conduct 8.4(d) and then in the third amended petition add 5 more allegations of violation of 8.4(d) Rule of Professional Conduct. This third amended petition unfairly requires Respondent to re-engage in discovery revise legal strategy which constitutes unfair surprise. It also prejudices Respondent, who has relied on the prior pleadings in preparing a defense.

More over and more importantly, the allegations in the first prong of alleged violation of La. Rule 8.4(d) is based on a violation of the Sixth Amendment Rights which is untenable. The Sixth Amendment guarantees the right to counsel in *criminal* prosecutions only.

Sixth Amendment rights of the U.S. Constitution, the 6th Amendment provides:

“In all **criminal** prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury... to be informed of the nature and cause of accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.”

Moreover, the United States Supreme Court has held that the Sixth Amendment does not apply in civil proceedings. See *Turner v. Rogers*, 564 U.S. 431, 441 (2011) (“The Sixth Amendment does not govern civil cases”). Because the underlying matter was civil in nature, any claim premised on a violation of the Sixth Amendment is legally inapplicable and cannot serve as a basis for professional discipline. Respondent moves this court to dismiss the third amended petition in its entirety and thus dismiss of all Petitioner’s claims for reciprocal discipline.

In the alternative and due to fundamental fairness, Respondent request that he be allowed to respond to Petitioner’s Third Amended Petition for Reciprocal Discipline through a memo in response to Petitioner answer to Respondent’s Motion for Summary Judgment.

II. RESPONDENT ANSWER TO PETITIONER’S THIRD AMENDED PETITION AND MEMORANDUM IN OPPOSITION TO PETITIONER’S ANSWER TO RESPONDENT’S MOTION FOR SUMMARY JUDGMENT.

Respondent moved this tribunal for a summary judgment asserting that there are no genuine issues of material fact thus, he is entitled to judgment in his favor as a matter of law. On June 7, 2025, Petitioner, in its answers to Respondent’s Motion for Summary Judgment, failed to provide a separate statement of undisputed material facts, resulting in those facts being deem admitted, thus granting a judgment disallowing the document(s) attached to the third Petition to

entered into the record, granting an order striking all allegations of the petitions, and granting dismissal of all of Petitioner's Amended Petitions for Reciprocal Discipline in favor of Respondent.

LEGAL ARGUMENT

A. Under Summary Judgment Rules 56(e) if a party fails to properly address another party's assertions of fact, the court may consider the fact undisputed and may grant summary judgment as a matter of law. *Celotex Corp v. Catrett*, 477 U. S. 317(1986), the U. S. Supreme Court emphasized that a non-movant cannot rest on mere allegations, but must point to specific facts showing a genuine issue for trial. If no such response to each uncontested facts is made, the court may treat the movant's fact as admitted. Moreover, the local rules require a separate statement of material fact and corresponding response. The failure to respond results in those fact being admitted by default.

Texas follows a similar approach under Rule 166a of the Texas Rules of Civil Procedure. The Texas Court held that a non-movant must expressly present issues that would defeat the movant's right to summary judgment. Failure to file a response of objections to summary judgment evidence allows the court to consider the movant summary judgment evidence and fact as unchallenged and therefore

admitted. Here, the non-movant failed to provide a separate statement of material fact, thus Petitioner's failure --deemed the movant's statement of undisputed facts admitted. As a result of this failure, Respondent is entitled to Summary Judgment in his favor as a matter of law.

Nevertheless, Respondent will address the alleged violations recommended under the Louisiana Attorney Disciplinary Board

With respect to the assertion that he violated Rule 1.4 of the La. Rule of Professional conduct;

1.4 (failure to communicate the existence of an unwaivable conflict of interest)

Respondent did not violated 1.4, the failure to communicate the existence of an un-waivable conflict of interest in his representation.

There is no Duty to Communicate an "Unwaivable Conflict" Under Louisiana or Comparative Ethics Standards

Respondent respectfully submits that no ethical violation occurred under Louisiana Rule 1.4 for failing to communicate the existence of an "unwaivable conflict of interest." As detailed below, such a term is not codified under Louisiana Rules of Professional Conduct, and comparative legal systems—including both common and civil law jurisdictions. Both jurisdictions

offer no coherent basis for imposing that duty in the present case.

I. Lack of Definition of the term under Louisiana Rules.

The Louisiana Rules of Professional Conduct does not define or incorporate the definition of an “unwaivable conflict of interest.” Rule 1.7 addresses concurrent conflicts and permits continued representation where:

- a. The lawyer reasonably believes they can provide **competent** and **diligent** representation; and
- b. The client gives informed consent, confirmed in writing.

Respondent satisfied these criteria. Further, under Rule 1.3, he acted with diligence and promptness at all times. These rules operate conjunctively to authorize representation—even in the presence of a conflict—so long as diligence and competence are not compromised.

To suggest that an “unwaivable conflict” nevertheless existed, but needed no supporting authority or adjudicatory basis, would negate the very standards that govern legal ethics in Louisiana’s codified system. Even in common law jurisdictions with robust disclosure requirements, the duty to inform a client of an “unwaivable” conflict presupposes that such a conflict actually exists.

II. Logical Consistency: If Representation Is Diligent and Competent, Then and Conflict Is Waivable.

If the attorney:

- Complies with Rule 1.3 by acting with diligence and promptness; and
- Holds a reasonable belief under Rule 1.7(b)(1) that competent and loyal representation is possible; then it follows that any conflict is waivable under the Rules.

To simultaneously claim that the attorney must disclose a conflict that is both undefined and, by virtue of Rules 1.3 and 1.7, inherently waivable, is illogical and legally unsupported.

Respondent clear and convincingly proved that Respondent's representation was diligent, competent, and within the framework of both Rules 1.3 and 1.7(b). The allegation under Rule 1.4 thus lacks both legal foundation and factual merit.

Nevertheless, Respondent by clear and convincing evidence and undisputed evidence and without question that he was diligent and competent in the representation under both Rule 1.3 and Rule 1.7.

With respect to Respondent was found to have knowingly and intentionally violated Louisiana Rule 1.7 (a)

Compliance with La. Rule 1.7(b) by Clear and Convincing Evidence

Respondent has demonstrated, by clear and convincing and undisputed

evidence, compliance with Louisiana Rule of Professional Conduct 1.7(b)(1). This rule permits representation despite a concurrent conflict of interest if the lawyer reasonably believes they can provide competent and diligent representation to each affected client.

a) Competence and Diligence Affirmed:

At no point in the foreign disciplinary proceedings or in the Petitions for Reciprocal Discipline was there any finding or allegation that Respondent failed to act competently or diligently. On the contrary, the successful resolution of claims on behalf of Lawan evidenced by the receipt of settlement proceeds—confirms Respondent’s effective representation.

b) Disclosure and Declination of Representation:

Respondent informed Mr. Taylor that he could not represent him due to the presumption of being 100% at fault arising from a rear-end collision. This disclosure reflects an awareness of potential conflict and a proactive step to avoid dual representation where it would be inappropriate.

c. No Unwaivable Conflict at Inception:

At the outset of the representation, there was no actual or unwaivable conflict. The claim against Progressive Insurance was the only viable legal avenue for the minor, and Respondent’s role was limited to pursuing that claim on the

minor's behalf, with a signed contingency agreement from the minor's guardians.

d. Insurance Carrier's Duty to Defend:

Since Mr. Taylor was 100% at fault, his insurer—Progressive—was contractually obligated to provide him with legal representation. Respondent's decision not to represent Mr. Taylor, and instead pursue a claim against the policy, was both ethically sound and procedurally appropriate.

e. Rule 1.3 Reinforces Compliance:

Respondent's conduct also aligns with Rule 1.3, which mandates diligence in representation. The record reflects that Respondent acted promptly and effectively in advancing the minor's interests, further supporting the reasonableness of his belief under Rule 1.7(b)(1).

Here, Respondent by clear and convincing evidence and undisputed evidence complied with 1.7 (b)(1), because it is encumbered on the lawyer to reasonable believe that he or she will be able to provide competent and **diligent** representation. No where in the proceeding nor in the Petitions for Reciprocal Discipline does the boards state that Respondent was incompetent and not diligent in his representation. If he wasn't competent and diligent, Lawan nor Larry would have gotten settlement proceeds from the case. **Respondent did all the work and laid out the case for litigation in federal court.**

With respect to Rule 3.3 (seeking to collect attorney's fees in pursuant of a conflicted representation)

Respondent by clear and convincing evidence that he attempt to show the court that the lead attorney was not diligent in trying the case before a jury; Respondent by clear and convincing evidence showed that he attempted to pursue the collect of attorneys' fees when each party was represented by at least three law firms and two addition attorneys, thus at the time there were no conflicted representation.

Respondent by clear and convincing evidence proved that there were no Violation of Rule 3.3 in Seeking Attorney's Fees

I. Legal Standard – Rule 3.3(a), Louisiana Rules of Professional Conduct

A lawyer shall not knowingly:

- a. Make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made;
- b. Fail to disclose controlling legal authority known to be directly adverse to the client's position and not disclosed by opposing counsel;
- c. Offer evidence the lawyer knows to be false.

II. Factual Context

- o Respondent initially advised Mr. Taylor early on that he could not representing him due to fact he was 100% at fault for the accident.

- During the federal litigation phase, each party was represented by multiple attorneys and law firms, including Attorney Ferdinand Valteau for Mr. Taylor.
- Respondent sought attorney's fees under La. R.S. 22:1892 and 1973 for Progressive's alleged bad faith, asserting that the lead attorney failed to diligently pursue these remedies as Respondent advised.
- Respondent disclosed the concurrent representation to prospective co-counsel and documented this communication.

III. Respondent did not Knowing performed an falsehood or Misrepresentation

- No False Statement of Fact or Law: The request for attorney's fees was based on statutory grounds and supported by the factual record of Progressive's alleged bad faith. There is no evidence that Respondent knowingly misrepresented the existence or nature of a conflict to the tribunal.
- No Concealment of Conflict: Respondent disclosed the dual representation to co-counsel and did not conceal the involvement of Attorney Valteau. The record reflects that Respondent took steps to mitigate any potential conflict by withdrawing from representing Mr. Taylor and focusing on Lawan's interests.
- Timing of Fee Request: The request for attorney's fees occurred during federal litigation, when multiple attorneys were involved, and Respondent was no longer actively representing both parties. This timing undermines the claim that the fee request was made in furtherance of a conflicted representation.

Respondent had a duty to report this to court.

IV. Duty to Report and Diligence

A. Under Rule 1.3 and Rule 8.3 Respondent had a duty to act diligently and report professional misconduct . His motion to reopen the original complaint and seek attorneys fees was framed as an effort to correct the lead attorney's failure to pursue statutory remedies, not as a self serving act.

This conduct aligns with the ethical obligation to advocate for the client's best interest and to inform the court of material facts affecting the outcome.

Respondent objects to the allegation in original petition and in the third amended petition which states that Respondent violated Rule of Professional Conduct 8.4(d) and list 8 prongs of how Respondent allegedly violated Rule of Professional Conduct 8.4(d) and then add 5 more allegations of violation of Rule of Professional Conduct.

With respect to violations of Rule of Professional Conduct 8.4(d) conduct prejudicial to the administration of justice)

--allegations that Respondent disregarded of a conflict -free representation of at least two clients, thus jeopardizing their constitutional 6th Amendment.

Respondent provided and adhered to the rules regarding a conflict-free representation of Mr. Taylor and Lawan Rousell's jeopardizing their constitutional Sixth Amendment rights.

With respect to conflict-free representation, again, Respondent by clear and convincing evidence that he adhered to Louisiana Rules of Professional Conduct Rule 1.7(b). Here, Respondent by clear and convincing and undisputed evidence proved that he was **diligent and competent**. Respondent was the driving force in the investigation, in communicating to the biological parents, and obtaining legal assistance from all the attorneys in the litigation. This was done in the best interest of the client.

The allegations that Respondent violated Louisiana Rule of Professional Conduct 8.4(d) by engaging in conduct prejudicial to the administration of justice—specifically by failing to provide conflict-free representation are unfounded and unsupported by the record.

1. Sixth Amendment Inapplicability

The allegations that Respondent violated the clients' Sixth Amendment rights are legally untenable. The Sixth Amendment guarantees the right to counsel in *criminal* prosecutions.

Sixth Amendment rights of the U.S. Constitution, the 6th Amendment provides:

“In all **criminal** prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury... to be informed of the nature and cause of accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.”

Moreover, the United States Supreme Court has held that the Sixth Amendment does not apply in civil proceedings. See *Turner v. Rogers*, 564 U.S. 431, 441 (2011) (“The Sixth Amendment does not govern civil cases”). Because the underlying matter was civil in nature, any claim premised on a violation of the Sixth Amendment is legally inapplicable and cannot serve as a basis for professional discipline.

2. Lack of Violation Under Texas Disciplinary Rules

Under Texas law, attorney discipline must be predicated on a specific violation of the Texas Disciplinary Rules of Professional Conduct. The allegations based solely on constitutional provisions that do not apply to the proceeding at issue are insufficient to support disciplinary action.

3. Compliance with Conflict-of-Interest Rule

Respondent adhered to the requirements of Louisiana Rule of Professional Conduct 1.7(b), which governs conflicts of interest involving current clients. By clear and convincing evidence, Respondent demonstrated that he provided diligent and competent representation. He led the investigation, facilitated communication with biological parents, and coordinated with all attorneys involved in the litigation. These actions were taken in the best interest of the clients and reflect a

commitment to ethical representation, not a deviation from it.

With respect to the next claim or allegation under alleged misconduct under Rule 8.4(d)

– It doing so, Respondent also jeopardized their recovery of damages for their injuries;

Again, these allegation are unfounded and legally cognizable and cannot form the bases of professional discipline under Texas law, because the United States Supreme Court has explicitly held that the Sixth Amendment does not apply in civil proceedings. See: *Turner v. Rogers*, 564 U. S. 431, 441 (2011) (“The Sixth Amendment does not govern civil cases”) The Texas Disciplinary Rules of Professional Conduct govern the standard for attorney conduct and form the basis for disciplinary action. Petitioner must allege and prove a specific violation of thoses rules. A claim based on an inapplicable constitutional amendment is insufficient to sustain disciplinary action. According to Texas law, attorney discipline must be grounded in violation of specific provisions of the Disciplinary Rules. Respondent request that this Court dismissed or grant him judgment in his favor dismissing all of the petitions for reciprocal discipline.

With respect to the next claim or allegation under alleged misconduct under Rule 8.4(d)

– Respondent cause additional, work by and placing additional burden upon legal counsel in at least two firms who were required to attempt to prevent the violation of the Rules by Respondent:

Again, this claim based on an inapplicable constitutional amendment is insufficient to sustain disciplinary action. Attorney discipline must be grounded in violation of specific provisions of the Disciplinary Rules. Moreover, just as the lead attorney reported Respondent for alleged misconduct, Respondent had a duty to report misconduct as well.

The allegation that Respondent violated Rule 8.4(d) by causing additional work and burden upon legal counsel in two firms is insufficient to sustain disciplinary action for the following reasons:

A. Lack of Specific Rule Violation

The Louisiana Commission's claim rests on generalized assertions of burden rather than a concrete violation of a specific disciplinary rule. Again, attorney discipline must be grounded in a violation of a specific provisions of the Texas Disciplinary Rules of Professional Conduct.

B. Reciprocal Duty to Report Misconduct

The burden allegedly placed on opposing counsel arose from their efforts to prevent or report perceived misconduct. Respondent reported to the U. S. District Court that lead attorney failed to alleged bad faith **as pursuant to La. R. S. 22:1892 and 1973** to obtain two times the damages penalties and attorneys fees.

Under Rule 8.3(a), Respondent had a corresponding duty to report misconduct by those same attorneys if he knew or perceived a violation. The Rule provides: “A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer’s competency, or fitness... shall inform the appropriate professional authority.” Thus, Respondent’s actions—if motivated by a good-faith belief in opposing counsel’s misconduct—may have been not only justified but required under Rule 8.3. Failure to report such misconduct could itself have constituted a disciplinary violation. Moreover, the mere fact that other attorneys expended effort in response to Respondent’s conduct does not, in itself, establish a violation of Rule 8.4(d). Rule 8.4 (d) does not prohibits conduct incidentally causes inconvenience to others. Respondent thought it was appropriate to inform the court (at that time and not wait two years later) that lead attorney conduct by failed to obtain attorneys’ fee and penalties under La. R. S. 22:1892 and 1973 may have constituted misconduct. Thus, Respondent’s actions was motivated by a good faith belief in lead counsel’s misconduct may have been not only justified but required under Rule 8.3. Failure to report such misconduct could itself have constituted a disciplinary violation.

With respect to the next claim or allegation under alleged misconduct under Rule 8.4(d)

– Respondent further increase unnecessarily the workload of both the U. S. District Court and and the U. S. 5th Circuit Court of Appeal;

Again, this claim based on an inapplicable constitutional amendment is insufficient to sustain disciplinary action. Moreover attorney discipline must be grounded in violation specific provision of the Disciplinary Rules. Moreover, just as the attorney reported Respondent for alleged misconduct, Respondent according to Rule 8.3 could have been discipline for not reporting this to the court both U. S. District Court and 5th Circuit Court of Appeals.

Respondent did not unnecessarily increased the workload of the U.S. District Court and the U.S. Court of Appeals for the Fifth Circuit. Respondent states that:

1. No Specific Rule Violation Identified

The allegation fails to identify a specific provision of the Texas Disciplinary Rules of Professional Conduct that was violated. Disciplinary action must be grounded in a clear violation of a disciplinary rule –not on generalized claims of burden or inefficiency. Without such a nexus, the claim, the claim is legally

insufficient. Respondent clearly and convincingly proved that the Louisiana Board did not clearly and convincingly prove that there was a specific rule of Louisiana Board.

2. Reciprocal Duty to Report Misconduct

The record indicates that Respondent acted, at least in part, in response to perceived misconduct by lead counsel. Under Rule 8.3(a), a lawyer who knows of another lawyer's violation of the Rules that raises a substantial question as to their competency or fitness must report such conduct to the appropriate authority. Respondent's engagement with the courts (at that time and not two years later) was to make the court aware of lead counsel's failure to amend the complaint to assert bad faith under La. R.S. 22:1892 and 1973 which grants two time the damages, penalties and attorneys' fees. This engagement with the court may have been a necessary step in fulfilling this ethical obligation. Ironically, failure to report such misconduct could itself have subjected Respondent to discipline.

3. Administrative Burden Alone Is Not Misconduct

Rule 8.4(d) prohibits conduct that is "prejudicial to the administration of justice." However, the mere fact that a court expended additional effort does not equate to prejudice. Courts routinely manage complex, contentious, or

procedurally intensive matters.

With respect to the next claim or allegation under alleged misconduct under Rule 8.4(d)

– Respondent contributed to the erosion of trust in the integrity of the bar and the judicial system;

Respondent did not contribute to the erosion of trust in the integrity of the bar and the judicial system in the following:

Respondent state that there are No Specific Rule iolation Identified.

The allegation lacks a clear nexus to a specific provision of the Texas Disciplinary Rules of Professional Conduct in that the disciplinary sanctions must be grounded in a violation of a particular rule. Allegations based on generalized constitutional concerns or perceived institutional impact are legally insufficient. Respondent's conduct was Consistent with his ethical duties far from undermining the integrity of the legal system. Respondent acted in accordance with Rule 8.3(a), which mandates that a lawyer who knows of another lawyer's misconduct or precieved misconduct must report it to the appropriate authority. Respondent's decision to report concerns to the U.S. District Court and the Fifth Circuit Court of Appeals reflects a commitment to transparency and accountability—not

misconduct.

With respect to alleged conflict and Judicial influence undermine the claim. The integrity of the disciplinary process itself was called into question by the involvement of a lead attorney who failed to amend the complaint to add bad faith assertion as pursuant to La R. S. 22:1892 and 1973 which grants two times the damages, penalties and attorneys fees. Respondent had a duty to report this to courts. If the lead counsel would have asserted bad faith under La. R. S. 22:1892 and 1973 he would have gotten more for the client and gotten attorneys fees and penalties.

Moreover, the alleged Conflicts and Judicial Influence undermine the claim as well. The integrity of the disciplinary process itself is called into question by the involvement of a lead attorney who both reported Respondent and had a influence over the disciplinary proceedings by being chairperson in several other disciplinary proceedings, and appears was the chairperson in Respondent's disciplinary proceedings. When Respondent reported this to the Louisiana Supreme Court apparently he was told to step down. Respondent was in disbelief that he would get a fair hearing even if it was a mistake in stating the lead attorney was the chair person in Respondent disciplinary hearing. This by itself not only eroded

the trust in the integrity of the bar and the judicial system but was a violation of Respondent due process right as well. Moreover, Respondent's refusal to settle prematurely in the first mediation conducted, and his recommendation to retain experienced Federal Court trial by jury counsel were based on thorough legal research and a good-faith belief that the client's injuries warranted a significantly higher award. Respondent's actions were consistent with the duty of zealous representation and the best interest of the client particularly given the severity of the injuries and the social and developmental impact on the minor. (Facial Scar that could not be properly grafted and the children in the neighborhood called Lawan a monster because of the scar)

With respect to the next claim or allegation under alleged misconduct under Rule 8.4(d)

– Respondent significantly delayed the payment in the form settlement funds to three plaintiffs and their families for approximately eight or nine months due to Respondent's persistent litigation;

Respondent acted in accordance with Rule 8.3(a), which mandates that a lawyer who knows of another lawyer's misconduct or perceived misconduct must report it to the appropriate authority. Respondent's decision to report concerns to the U.S. District Court and the Fifth Circuit Court of Appeals reflects a

commitment to transparency and accountability—not misconduct. Respondent had a duty to report to the courts (at that specific time not two later) to call into question the lead attorneys failure to amend the complaint to assert bad faith cause of actions as pursuant to La. R.S. §§ 22:1789 and 1973 which Respondent had identified early in the cases. La. R.S. §§ 22:1789 and 1973 grants two time the damages, penalties and attorneys fees. Respondent s asserts that there was no violation of a specific disciplinary rule. The allegation fails to identify a specific provision of the Texas Disciplinary Rules of Professional Conduct that was violated not on generalization dissatisfaction with litigation strategy or timing. Without such a showing, the claim is legally insufficient.

The delay in disbursement was not the result of neglect or obstruction, but rather to inform the court of a possible misconduct. Respondent while at the 1st medication declined an earlier \$325,000 offer—despite being entitled to a \$100,000 fee—because he believed, based on legal research and case law, that the injuries warranted a significantly higher award and warranted attorneys fees and penalties. This decision reflects zealous advocacy and prioritization of the clients’ best interests, not conduct prejudicial to the administration of justice. Lead counsel was hired to try the case before a jury. Had these bad faith claims

been pursued, the plaintiffs may have recovered significantly more, including penalties and attorney's fees. Finally the matter was handled under a contingency fee agreement. Respondent's reporting to the U.S. District Court and Fifth Circuit was consistent with this ethical obligation.

With respect to the next claim or allegation under alleged misconduct under Rule 8.4(d)

– Respondent caused added expenses—including costs and attorney fees—on behalf of all parties, especially due to Respondent's motion to intervene in the federal court settlement and his subsequent frivolous appeal to the U. S. Fifth Circuit

Respondent acted in accordance with Rule 8.3(a), which mandates that a lawyer who knows of another lawyer's misconduct or perceived misconduct must report it to the appropriate authority. Respondent's decision to report concerns to the U.S. District Court and the Fifth Circuit Court of Appeals reflects a commitment to transparency and accountability—not misconduct. Respondent had a duty to report to the courts (at that specific time not two later) to call into question the lead attorneys failure to amend the complaint to assert bad faith cause of actions as pursuant to La. R. S. 22:1892 and 1973 which grants two time the damages, penalties and attorneys fees. Respondent s asserts that there was no violation of a specific disciplinary rule. The allegation fails to identify a specific

provision of the Texas Disciplinary Rules of Professional Conduct that was violated not on generalization dissatisfaction with litigation strategy or timing. Without such a showing, the claim is legally insufficient.

The delay in disbursement was not the result of neglect or obstruction, but rather a to inform the court of a possible misconduct. This decision reflects zealous advocacy and prioritization of the clients' best interests, not conduct prejudicial to the administration of justice. Lead counsel was hired to try the case before a jury. Had these bad faith claims been pursued, the plaintiffs may have recovered significantly more, including two times the damages, penalties and attorney's fees. Finally the matter was handled under a contingency fee agreement. Respondent's reporting to the U.S. District Court and Fifth Circuit was consistent with this ethical obligation.

With respect to the next claim or allegation under alleged misconduct under Rule 8.4(d)

– Because of the increase the increase attorneys' fees, Respondent reduced the parties recoveries

Respondent acted in accordance with Rule 8.3(a), which mandates that a lawyer who knows of another lawyer's misconduct or perceived misconduct must report it to the appropriate authority. Respondent's decision to report concerns to

the U.S. District Court and the Fifth Circuit Court of Appeals reflects a commitment to transparency and accountability—not misconduct. Respondent had a duty to report to the courts (at that specific time not two later) to call into question the lead attorneys failure to amend the complaint to assert bad faith cause of actions as pursuant to La. R. S. 22:1892 and 1973 which grants two time the damages, penalties and attorneys fees. Moreover, the lead attorney failed to assert bad faith claims under La. R.S. §§ 22:1789 and 1973, which Respondent had identified early in the case. Respondent s asserts that there was no violation of a specific disciplinary rule. The allegation fails to identify a specific provision of the Texas Disciplinary Rules of Professional Conduct that was violated not on generalization dissatisfaction with litigation strategy or timing. Without such a showing, the claim is legally insufficient.

The delay in disbursement was not the result of neglect or obstruction, but rather a to inform the court of a possible misconduct. Respondent declined an earlier \$325,000 offer—despite being entitled to a \$100,000 fee—because he believed, based on legal research and case law, that the injuries warranted a significantly higher award and warranted attorneys fees and penalties. This decision reflects zealous advocacy and prioritization of the clients’ best interests, not conduct

prejudicial to the administration of justice. Lead counsel was hired to try the case before a jury. Had these bad faith claims been pursued, the plaintiffs may have recovered significantly more, including penalties and attorney's fees. Finally the matter was handled under a contingency fee agreement. Respondent's reporting to the U.S. District Court and Fifth Circuit was consistent with this ethical obligation.

With respect to the next claim or allegation under alleged misconduct under Rule 8.4(d)

- Even if respondent believed he was represented at the May 11, 2022, disciplinary hearing he has learned he was not ; yet he still has not provided any mitigating evidence or an explanation for his absence at the September 23, 2022 hearing.

The allegation lacks a clear nexus to a specific provision of the Texas Disciplinary Rules of Professional Conduct in that the disciplinary sanctions must be grounded in a violation of a particular rule. The allegations violate the 5th Amendment and 6th Amendment of the United States Constitution and the Texas Constitution as well.

Respondent's conduct was consistent with his ethical duties far from undermining the integrity of the legal system. The integrity of the disciplinary process itself is called into question by the involvement of a lead attorney who

both reported Respondent and had an influence over the disciplinary proceedings by being chairperson in several other disciplinary proceedings; and appeared to be the chairperson in Respondent's disciplinary proceedings. When Respondent reported this to the Louisiana Supreme Court, apparently, the lead counsel was told to step down.(mistake) Regardless of whether it was a mistake or not, Respondent did not disbelieve that he would get a fair hearing due to the influence of lead counsel over the Board. The Louisiana Board unfairly failed to grant a motion to continue

Moreover, the Louisiana Board lack of Evidentiary Support for Fraud Allegation. The allegation that the medical note was submitted fraudulently—either by Respondent or Mr. Fontana's paralegal—remains unsubstantiated. No formal findings or corroborating evidence have been presented to establish fraudulent intent or conduct. In the absence of such proof, attributing misconduct under Rule 8.4(d) is speculative and undermines the presumption of innocence. Respondent states that his silence was not misconduct. Respondent provided information that he was under the care of a physician. With respect to Respondent failure to provide additional information regarding his absence or the alleged fraudulent filing, silence alone does not

constitute misconduct. There is no affirmative duty under Rule 8.4(d) to respond to unproven allegations unless compelled by procedural rules or lawful orders. Again, Respondent 5th and 6th Constitutional right would have been violated. The Board's decision to publish Respondent's medical status online—without context or consent—may have placed him in a false light, suggesting criminality or mental unfitness to practice law. This action risks violating Respondent's privacy rights and may itself be prejudicial to the administration of justice by eroding public confidence in fair disciplinary processes. By implying that Respondent committed fraud and publicizing this implication, the Board may have engaged in defamatory conduct. If the publication suggested criminal wrongdoing without due process or factual basis, it could constitute reputational harm actionable under defamation principles. Respondent was under the care of a physician at the time in question. This fact is relevant to both the authenticity of the medical note and the Respondent's capacity to participate in proceedings. The Board's failure to consider this context may reflect a lack of procedural fairness and compassion, further undermining the integrity of the disciplinary process.

With respect to the next claim or allegation under alleged misconduct under Rule 8.4(d)

- Despite the September 23, 2022, hearing, the committee is unable to reach a conclusion as to whether respondent's absence at the May 11, 2022 hearing was due to his own attempted fraud or because he was the victim of Mr. Fontana's paralegal.

The allegation lacks a clear nexus to a specific provision of the Texas Disciplinary Rules of Professional Conduct in that the disciplinary sanctions must be grounded in a violation of a particular rule. The allegations violate the 5th Amendment and 6th Amendment of the United States Constitution and the Texas Constitution as well.

Respondent's conduct was consistent with his ethical duties far from undermining the integrity of the legal system. The integrity of the disciplinary process itself is called into question by the involvement of a lead attorney who both reported Respondent and had an influence over the disciplinary proceedings by being chairperson in several other disciplinary proceedings; and appeared to be the chairperson in Respondent's disciplinary proceeds. When Respondent report this to the Louisiana Supreme Court, apparently, the lead counsel was told to step down or the document stating he was the chairperson was a mistake. Regardless

of whether it was a mistake or not, Respondent did not believe that he would get a fair hearing due to the influence of lead counsel over the Board. The Louisiana Board unfairly failed to grant a motion to continue.

Moreover, the Louisiana Board lack of evidentiary support for fraud Allegations. The allegation that the medical note was submitted fraudulently—either by Respondent or Mr. Fontana’s paralegal—remains unsubstantiated. No formal findings or corroborating evidence have been presented to establish fraudulent intent or conduct. In the absence of such proof, attributing misconduct under Rule 8.4(d) is speculative and undermines the presumption of innocence. Respondent states that his silence was not misconduct. Respondent provided information that he was under the care of a physician. With respect to Respondent failure to provide additional information regarding his absence or the alleged fraudulent filing, silence alone does not constitute misconduct. There is no affirmative duty under Rule 8.4(d) to respond to unproven allegations unless compelled by procedural rules or lawful orders. Again, Respondent 5th and 6th Constitutional right would have been violated. The Board’s decision to publish Respondent’s medical status online—without context or consent—may have placed him in a false light, suggesting criminality or mental

unfitness to practice law. This action risks violating Respondent's privacy rights and may itself be prejudicial to the administration of justice by eroding public confidence in fair disciplinary processes. By implying that Respondent committed fraud and publicizing this implication, the Board may have engaged in defamatory conduct. If the publication suggested criminal wrongdoing without due process or factual basis, it could constitute reputational harm actionable under defamation principles. Respondent was under the care of a physician at the time in question. This fact is relevant to both the authenticity of the medical note and the Respondent's capacity to participate in proceedings. The Board's failure to consider this context may reflect a lack of procedural fairness and compassion, further undermining the integrity of the disciplinary process.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Respondent prays that after all proceedings be had, the Texas Board of Disciplinary Appeals:

1. Sustain this objection to Petitioner's Third Amended Petition:
2. Strike or deny Petitioner's Third Amended Petition from the record;
3. Alternatively, grant a continuance if the Court permits the amendment,

so Respondent may have adequate time to respond; and

4. Grant summary judgment in Respondent's favor ruling that Respondent was due diligent in his approach to representation; that he could not have violated his client 6th Amendment Rights under the U. S. Constitution because 6th Amendment only apply to criminal matters; that since Mr. Valteau and Respondent represented the father and son regarding the State Court petition, and that in the federal court proceeding each party was represented , thus, there was no conflict of interest and no unwaivable conflict of interest. Respondent prays that TBODA dismiss all charges that Petitioner and the Texas Disciplinary Counsel has presented against Respondent.

Certificate of Service

I HEREBY CERTIFY that a copy of the above and foregoing pleading has been mail postage prepaid, emailed, faxed or hand delivered to opposing counsel of record on the 22nd of June, 2025


Kenneth M. Plaisance

Respectfully submitted by



Respondent
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