

**BEFORE THE DISTRICT 1 GRIEVANCE COMMITTEE
EVIDENTIARY PANEL 1-2
STATE BAR OF TEXAS**



FILED
Jan. 14, 2022

**COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner**

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V.

CASE NO. 202000126 [Davis]

**ROY LEE REEVES,
Respondent**

**PETITIONER'S RESPONSE TO RESPONDENT'S MOTION FOR REHEARING,
MOTION TO MODIFY JUDGMENT, AND NOTICE OF APPEAL**

TO THE HONORABLE BOARD OF DISCIPLINARY APPEALS:

The Commission for Lawyer Discipline (Petitioner) files this response to Respondent's *Motion for Rehearing, Motion to Modify Judgement, and Notice of Appeal* which was filed by Respondent with the Board of Disciplinary Appeals (BODA), and asks that Respondent's requested relief be denied. Petitioner respectfully shows the following:

I. INTRODUCTION

Respondent has failed to state a cognizable legal claim for the requested relief and has failed to show a reasonable ground for a new trial or modification of the judgment.

II. BACKGROUND

On November 17, 2021, the panel conducted an evidentiary hearing in the above-styled and numbered cause. The Respondent, although duly served with notice of hearing, did not appear at the hearing. The panel, after hearing the evidence presented, found that Respondent committed professional misconduct and sanctioned Respondent. The Evidentiary Panel issued a Judgment of Partially Probated Suspension ("Judgment"), suspending Respondent from the practice of law for a period of three years, beginning January 1, 2022, and ending December 31,

2024, and actively suspending the Respondent for six months, beginning January 1, 2022 and ending June 30, 2022. The judgment was signed by the Panel Chair on November 19, 2021.

II. ARGUMENT & AUTHORITIES

Rule 2.21 of the Texas Rules of Disciplinary Procedure states that “[a]ny motion for new hearing or motion to modify the judgment must comport with the provisions of the applicable Texas Rules of Civil Procedure pertaining to motions for new trial or to motions to modify judgments.” Rule 329b(a) of the Texas Rules of Civil Procedure provides that “a motion for new trial, if filed, shall be filed prior to or within thirty days after the judgment or other order complained of is signed.”

Rule 2.23 of the Texas Rules of Disciplinary Procedure states: “An appeal, if taken, is perfected when a written notice of appeal is filed with the Board of Disciplinary Appeals.” The Rule further states that “[t]he notice of appeal must be filed within thirty days after the date of judgment, except that the notice of appeal must be filed within ninety days after the date of judgment if any party timely files a motion for new trial or a motion to modify the judgment.”

The judgment was signed on November 19, 2021. Respondent did not file a Motion for Rehearing nor Motion Modify the Judgment with the Evidentiary Panel, and no such motion has been heard, granted, or denied by the Panel.

Respondent filed with BODA a *Motion for Rehearing, Motion to Modify Judgement, and Notice of Appeal*, file-stamped on December 28, 2021. The motion’s Certificate of Service states that Respondent provided a copy of the filing to “all counsel of record” on December 17, 2021. However, Petitioner did not receive a copy from Respondent, but obtained a copy from BODA. Respondent’s Certificate of Service does not specify the method of service nor verify if the

motion was mailed. Petitioner would object to any untimely filing of the motion, including any in violation of Rule 5 of the Texas Rules of Civil Procedure.

In Respondent's motion, he argues that a new hearing should be granted because of his inability to attend the evidentiary hearing on November 17, 2021. In his motion, Respondent admits that he received notice to appear at evidentiary hearing and that he failed to appear at the hearing. Respondent also admits that he was aware, prior to the hearing, that he would not be in attendance. However, Respondent did not file a motion for continuance.

Respondent states that he attempted to contact Petitioner via email on November 16, 2021, the day before hearing, to explain that due to a family emergency, he would be travelling to an area without reliable cell phone service or internet service, and to ask if the hearing could be rescheduled. (A copy of this email was included in Respondent's motion as Exhibit A.) In his motion, Respondent states that he did not submit any motion because he was "never provided with any guidance, instructions, or information" as to filing procedure. However, Respondent fails to mention that on November 16, 2021, counsel for Petitioner replied to Respondent's email and advised that Respondent could submit a motion for continuance to the office of counsel for Petitioner to be filed and forwarded to the Panel for their consideration. See **CFLD Response Exhibit 1** attached hereto and incorporated by reference.

Respondent claims that he had "no means or opportunity to file a written motion." However, he could have submitted or attached a motion for continuance in the very email that he admittedly sent to Petitioner the day before the hearing. Respondent failed to do so.

It is incumbent upon Respondent to familiarize himself with the Texas Rules of Disciplinary Procedure. Respondent's claim that he was both unfamiliar with filing procedure

and unable to submit a formal written request for continuance is implausible and unsupported by the evidence and does not establish a legal claim for a new trial or modified judgment.

In his motion, Respondent objects to telephonic and video hearing. However, the case proceeded in accordance with the Scheduling Order issued by the Panel Chair on October 19, 2021, which instructed the parties to make arrangements to proceed with hearing via Zoom and alternatively via telephone conference. **See CFLD Response Exhibit 2** attached hereto and incorporated by reference.

Respondent states that he attempted to attend the Zoom hearing by phone, but was unable to establish a phone connection. In his motion, he provided a copy of a screen-shot to indicate his attempts to dial in. Though these time stamps would also show that dial attempts were initiated after the scheduled hearing start time of 10:00am and not that effort was made to secure a connection in the minutes leading up to the hearing.

When Respondent failed to appear at evidentiary hearing, counsel for Petitioner introduced as Exhibit 4 a copy of the email exchange between Respondent and Petitioner, attached hereto as **CFLD Response Exhibit 1** and incorporated by reference. The exhibit was admitted into evidence, and the Panel was thus made aware of Respondent's email regarding family emergency and lack of internet and cell service. Respondent had not filed a motion for continuance and did not appear at hearing to request a continuance. The Panel proceeded with the hearing.

Having taken all evidence into consideration, the Panel entered a finding of professional misconduct and determined that Respondent failed to respond to the grievance, in violation of Rule 8.04(a)(8). Respondent's prior disciplinary history was introduced and admitted into evidence, and sanctions were imposed by the Panel.

This matter was duly presented to the Panel at evidentiary hearing and was heard by the Panel before the Panel entered its finding of professional misconduct and imposed a sanction. To re-open a matter that was duly heard would impose undue delay and injury to Petitioner and would also require the witness to testify again in this disciplinary matter.

Respondent has not demonstrated that the Panel's findings were legally or factually insufficient or that the Panel's findings were against the overwhelming weight of the evidence. Neither has Respondent made formal written request that the Panel provide written Findings of Fact and Conclusions of Law. Respondent has also failed to support his claim that a violation of Rule 8.04(a)(8) is a private matter for which a private reprimand should be imposed.

CONCLUSION

Respondent fails to state a cognizable legal claim for the requested relief. Respondent has failed to state a reasonable ground for new hearing or modified judgment.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner asks that Respondent's motion for rehearing and motion to modify the judgment be denied.

Respectfully submitted,

Seana Willing
Chief Disciplinary Counsel

Laurie Guerra
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
5400 LBJ Freeway, Suite 1280
Dallas, Texas 75240
(972) 383-2900 Telephone
(972) 383-2935 Facsimile



Laurie Guerra
Bar Card No. 24050696
ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of *Petitioner's Response to Respondent's Motion for Rehearing, Motion to Modify Judgment, and Notice of Appeal* has been sent to Respondent, on this the 14th day of January, 2022, as follows:

VIA EMAIL: Roy@ReevesPC.com



Laurie Guerra

From: [Laurie Guerra](#)
To: Roy@ReevesPC.com; [Cassidy Revelo](#)
Subject: RE: REVISED ZOOM INVITE: 11/17/2021 SBOT Evidentiary Hearing @ 10 a.m. (Case No. 202000126; CFLD v. Reeves)
Date: Tuesday, November 16, 2021 2:13:00 PM

Mr. Reeves,

I cannot agree to a continuance at this late date. If you feel the need to ask the Panel for more time, you may file a motion for continuance, and submit it to my office for filing and to be forwarded to the Panel for their consideration.

Sincerely,

Laurie Guerra
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
14651 Dallas Parkway, Suite 925
Dallas, TX 75254
972-383-2900- Office
972-383-2935-Fax
laurie.guerra@texasbar.com

Important: This message and any attached documents are intended for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law, and is intended for the lawful use of the individual or entity named above only. If the reader of this message is not the intended recipient, you are notified that any dissemination, distribution, or copying of this message and any attached documents is strictly prohibited. If you have received this message in error, please immediately notify us by return e-mail and destroy the original message. Thank you for your cooperation.

From: Roy@ReevesPC.com <Roy@ReevesPC.com>
Sent: Tuesday, November 16, 2021 8:41 AM
To: Cassidy Revelo <Cassidy.Revelo@TEXASBAR.COM>
Cc: Laurie Guerra <Laurie.Guerra@TEXASBAR.COM>
Subject: Re: REVISED ZOOM INVITE: 11/17/2021 SBOT Evidentiary Hearing @ 10 a.m. (Case No. 202000126; CFLD v. Reeves)

I have a family emergency and have to go to Arkansas. Can we reschedule this? I will not have reliable internet or cell signal.

Roy L. Reeves, Esq.
Reeves Law Firm, PC
1400 Gables Court
Plano, Texas 75075
972-596-4000



Roy@ReevesPC.com

On Nov 10, 2021, at 3:11 PM, Cassidy Revelo <Cassidy.Revelo@TEXASBAR.COM> wrote:

Mr. Reeves:

Please disregard my last Zoom invite and use this one instead. Thank you.

Cassidy Revelo
SBOT Legal Assistant



Please read the attached guidelines before joining the hearing.

Greetings, Mr. Reeves:

The State Bar of Texas is inviting you to a Zoom hearing.

Hearing Date/Time: Wednesday, November 17, 2021, at 10:00 a.m. (Central Time –
U.S./Canada)

[Join Meeting](#)

Hearing URL: [https://texasbar.zoom.us/j/86151166496?
pwd=VndGMGkvZGlicFZ0R0d0aHdQTHlWQT09](https://texasbar.zoom.us/j/86151166496?pwd=VndGMGkvZGlicFZ0R0d0aHdQTHlWQT09)

Hearing ID: 861 5116 6496

Password: 492455

Telephone Audio or Audio-Only

Dial: US: +1 346 248 7799 or +1 253 215 8782 or +1 669 900 6833 or +1 312
626 6799 or +1 646 558 8656 or +1 301 715 8592 or 877 853 5247 (Toll
Free) or 888 788 0099 (Toll Free)

Hearing ID: 861 5116 6496

Phone one-tap: US: [+13462487799](tel:+13462487799) or [+12532158782](tel:+12532158782)

Password: 492455

[International numbers](#)

About the Videoconference:

You may join the video conference from your computer even if you do not have a webcam. To be heard in the conference, you must either have a microphone and choose computer audio, or you must call the designated audio conference bridge.

Quick Tips:

- Mute your microphone/webcam at any time using the buttons in the lower left.
- Choose "Gallery View" from the upper right for a grid view of all the participants.
- Toggle between "full screen" mode and "window" mode in the upper right.
- If your webcam faces a window or bright light, you may be difficult to see.
- To make one participant's video window the largest, click the "..." in the upper right of their window and choose "pin video".

<Zoom Protocol Guidelines - EVIDENTIARY.pdf>

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**COMMISSION FOR LAWYER
DISCIPLINE,
Petitioner**

V.

**ROY LEE REEVES,
Respondent**

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CASE NO. 202000126 [Davis]

ORDER SETTING SCHEDULE AND HEARING

The above styled and numbered cause is hereby ORDERED set for hearing on the merits on **November 17, 2021**, commencing at 10:00 a.m. and continuing thereafter until concluded before an Evidentiary Panel of the State Bar of Texas Grievance Committee. In consideration of the health and safety of the participants, the hearing will be conducted by video and tele-conference connection.

The Court will hear evidence and argument and determine whether or not Respondent committed Professional Misconduct as alleged in the pleadings. In the event of a finding of Professional Misconduct, the Court may then immediately consider additional evidence and argument regarding the appropriate sanction

To facilitate said hearing, **IT IS NOW FURTHER ORDERED:**

DISCOVERY

1. All discovery shall be concluded on or before 30 days prior to the hearing date. As such, the discovery deadline is **October 18, 2021**.
2. No supplementation shall be allowed after that date without leave of the Chair and only upon good cause shown.

EXHIBITS

3. The parties will exchange proposed exhibits on or before the 21st day prior to the hearing. As such, the deadline to exchange proposed exhibits is **October 27, 2021**.
4. Each proposed exhibit will be marked as Petitioner's or Respondent's and appropriately numbered.
5. Any exhibit related solely to a determination of sanctions shall also be marked "Sanctions."
6. Any document, demonstrative materials or other exhibit of any type which is not timely exchanged as provided in this ORDER shall not be admitted nor considered for any purpose by the Court without leave of the Court and only then upon good cause shown.
7. Sanctions-labeled exhibits shall be held by the clerk and distributed to the Court and court reporter only in the event of a finding of misconduct. All other exhibits shall be distributed to the Court and court reporter prior to the hearing. Such distribution does not waive objections as to the admissibility of any exhibit.

WITNESSES

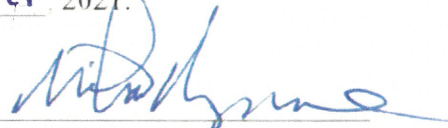
8. The parties will exchange a list of all anticipated witnesses on or before the 21st day prior to the hearing. The deadline for such exchange is **October 27, 2021**.
9. The parties are hereby ADMONISHED that this is to be a list of designated witnesses actually anticipated to be called to provide necessary testimony.
10. For each witness designated, the parties will provide an email address and a telephone number where the witness can be reached for purposes of the hearing and in order for the clerk to provide an email invitation to the teleconference prior to the hearing.
11. The parties will determine whether each witness they designate has the technology available to appear by video conference and shall so state in their designation of the

witness. Witnesses who do not have access to video capability may participate by telephone in the proceeding only after the sponsoring party has requested and been granted leave of the Court to do so. The failure of a witness to be available for testimony due to technology fault or limitation at the time of the hearing shall not alone be grounds for continuance or delay of the proceedings.

12. Any witness not timely and completely designated as provided in this ORDER shall not be allowed to testify for any purpose without prior leave of the Court and only then upon good cause shown.
13. The parties are informed that THE RULE of witness exclusion is hereby invoked. **IT IS NOW ORDERED** that witnesses, except only for Respondent and Respondent's counsel of record, shall not participate from the same location and shall not be allowed to hear or view the testimony of any other witnesses. Counsel of record shall ensure that any witnesses designated by them are counseled regarding the effect of The Rule.

Attached to this order for the assistance of the participants are instructions and protocols related to the conduct of the hearing by video and tele conference connection.

So ORDERED this 19th day of October, 2021.



Michael C. Wynne
Evidentiary Panel Chair

IMPORTANT INFORMATION FOR EVIDENTIARY HEARINGS TAKING PLACE VIA ZOOM

The parties must consult all applicable rules including the Texas Rules of Civil Procedure, Texas Rules of Evidence and Texas Rules of Disciplinary Procedure. Proceedings before a trial court are described in Part III, Rules 3.01 to 3.15 of the Texas Rules of Disciplinary Procedure.

DECORUM

A virtual evidentiary hearing is a formal proceeding in the disciplinary process; appropriate conduct, attire, and camera background are required. The Court has power over the proceeding and participants as if they were all present in one physical location.

Remote participants must use a private and quiet room that will be free of interruptions. Appearing for the hearing via Zoom while outdoors, in a vehicle, or occupying a public place is not permitted. Remote participants must place their mobile devices on a solid surface with the camera at eye level. Do not hand-hold mobile devices and do not lay phones or tablets flat on a desk or tabletop.

TECHNOLOGY

The parties shall ensure that all necessary equipment and software are in proper working order prior to the time of the scheduled hearing and that their bandwidth is adequate for video conferencing. Remote participants should use a good LAN, WiFi, or substantial LTE Mobile connection to ensure a quality connection. (Note: Mobile data use may incur cellular carrier charges which are the responsibility of the remote participant.) The parties are responsible for their own technology and should take time before the hearing to become familiar with Zoom's

controls and test their device's microphone and speaker controls. The Office of Chief Disciplinary Counsel will NOT provide technical support, or assistance on the date of the virtual evidentiary hearing. Directions for testing your device and networking prior to the proceeding can be found here: <https://support.zoom.us/hc/en-us/articles/201362313-How-Do-I-Test-My-Video->. If you are having technical issues with your equipment you should review Zoom training and support materials here: <https://support.zoom.us/hc/en-us>.

TECHNICAL PROBLEMS INTERRUPTING HEARING

If the Court conducting a virtual evidentiary proceeding determines at any time that the audio or video connection is so poor as to interfere with the fair administration of justice, the hearing shall be postponed until such time a better connection can be obtained. However, it shall be the responsibility of a party or counsel for a party to promptly inform the Host/Clerk if there has been a disruption at their end of the communication that substantially interferes with the ability to see or hear what is occurring during the hearing. An objection to the quality of audio or video should be made at the time the connection is substantially impaired but must be made to the Evidentiary Panel on the record before the hearing has concluded.

HEARING

Refer to the email notice of hearing for the applicable information regarding connection options for the hearing. Join the hearing no later than ten minutes before the scheduled start time. Please configure your name to display appropriately. You will initially be placed in a virtual Waiting Room and will be unable to communicate with anyone. When the Evidentiary Panel is prepared to start the hearing, you will be removed from the Waiting Room and brought into the virtual hearing. Once it has been determined by the Evidentiary Panel that all necessary

individuals are present and able to see and hear what is transpiring at the proceeding, the hearing shall progress as though the parties were physically present.

CONFIDENTIAL COMMUNICATIONS

If a party and their counsel need to confer confidentially, the party's counsel must request from the Court a specific number of minutes in order to confer. The Court will instruct the Host/Clerk to begin a breakout room session for a period at the discretion of the Court. The requesting party and their counsel will be moved into a separate room that is both private and unrecorded. At the end of the time, the Host/Clerk will begin the closing of the breakout room session and the parties will be afforded 60 seconds to conclude their confidential conversation.

SUBPOENAS

A subpoena issued for the appearance of a witness at a virtual evidentiary hearing shall inform the witness that he or she has the option of testifying from his or her home or other location of his or her choice, provided the witness has: (i) a computer, smartphone, tablet, or other device with video conference capabilities (camera, microphone and monitor), (ii) free Zoom video conference software or such other video conference software permitted by the panel, (iii) an e-mail address and (iv) internet service with sufficient broadband for a video conference. The subpoena also shall instruct the witness that if he or she intends to testify from his or her home, the witness must immediately contact the person requesting his or her appearance to provide an email address and telephone number where the witness can be reached during the scheduled virtual evidentiary hearing. It is the responsibility of the person requesting the subpoena to confirm

the witnesses' ability to participate in the hearing. If the witness is not able to participate from his or her home or other selected location, it is the responsibility of the person issuing the subpoena to make arrangements for the witness to appear at a location having sufficient video conference or audio conference capabilities.

WITNESSES

Preparing a witness for appearing at the virtual evidentiary hearing is the responsibility of the party calling the witness. Further, each witness is required to have in their possession a government issued photo ID to establish his or her identity at the evidentiary hearing. Before a witness is administered his or her oath and allowed to testify, the government issued photo ID shall be shown to the participants and the information recorded by the Court Reporter who is transcribing the proceeding.

OTHER GUIDANCE

- When speaking, look directly at the webcam.
- Position the camera at eye level or slightly above eye level.
- Be mindful of what is behind you, choose a solid neutral wall if possible or use a virtual background.
- Check the lighting. Light from a window behind you might blind the camera, making the image look dark. Light above you in the center of a room might also cast shadows. Ideally, position a lamp, or sit facing a window, where light is directly on your face. Also be aware that your monitor casts light that can make you look blue.
- Participants should speak one at a time and pause prior to speaking in case there is any audio/video lag.

You are encouraged to mute yourself when not speaking in order to avoid any potential background noise.