



F I L E D

Jul 09 2024

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

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

**IN THE MATTER OF  
MANFRED MAX STERNBERG  
STATE BAR CARD NO. 24125421**

§  
§  
§

**CAUSE NO. 69413**

**PETITIONER'S BRIEF IN SUPPORT**

**TO THE BOARD OF DISCIPLINARY APPEALS:**

COMES NOW Petitioner, the Chief Disciplinary Counsel of the State Bar of Texas (“CDC”), and files this Brief. In support thereof, the Petitioner would show the Board the following:

**I. INTRODUCTION**

Petitioner filed its Petition for Reciprocal Discipline with the Board of Disciplinary Appeals (“BODA”) on May 10, 2024. BODA issued an Order to Show Cause on May 20, 2024, requiring Respondent to show cause within 30 days of the Order why identical discipline should not be imposed. Respondent was served with the Original Petition and Order to Show Cause by email to Respondent’s Counsel, Allisson Miller, on May 21, 2024. Original Proof of Service has been on file since June 18, 2024.

Respondent filed his “Response to Petitioner’s Petition for Reciprocal Discipline and Order to Show Cause.” This matter is currently set for a hearing to occur on July 26, 2024.

**II. BACKGROUND**

This is a Reciprocal Disciplinary matter arising out of discipline imposed against Respondent in Louisiana. On October 4, 2023, Respondent and the Office of Disciplinary Counsel of Louisiana entered a Joint Stipulation of Facts. *Respondent’s EX 6*. The Joint Stipulation of facts

asserts the following:

- a. ODC received a complaint from Ruth Franklin regarding her claim for property damage following Hurricane Ida (ODC File No. 0040124).
- b. Ms. Franklin retained the firm of Egenberg Trial Lawyers in New Orleans to handle her property damage claim.
- c. Ms. Franklin's complaint arose from her confusion regarding the settlement of her property damage claim.
- d. ODC's investigation into the specific issues raised by Ms. Franklin did not establish clear and convincing evidence of a rule violation by the respondent on those issues.
- e. While investigating Ms. Franklin's complaint, ODC learned of communications between Ms. Franklin and the respondent that implicated the Louisiana Rules of Professional Conduct.
- f. The respondent was employed as an Associate Attorney at Egenberg Trial Lawyers.
- g. The respondent graduated from Paul M. Hebert Law Center at LSU in May 2021.
- h. The respondent is licensed to practice law in Texas.
- i. The respondent was admitted to practice in Texas on October 8, 2021.
- j. The respondent is not licensed to practice law in Louisiana.
- k. Egenberg Trial Lawyers hired the respondent on August 16, 2021.
- l. When hired, the respondent was training in the New Orleans office of Egenberg Trial Lawyers.
- m. The plan was for the respondent to eventually move to the firm's office in Houston, Texas.
- n. Following Hurricane Ida on August 29, 2021, Egenberg Trial Lawyers received a large influx of first-party property damage claims resulting from Hurricane Ida.
- o. The owner of Egenberg Trial Lawyers, Bradley Egenberg, advised the respondent that his help was required to assist in handling the claims associated with Hurricane Ida.
- p. Even though Mr. Egenberg knew that the respondent was only licensed to practice law in Texas, he advised the respondent that his assistance on this hurricane claims was permissible under the Louisiana Rules of Professional Conduct if the representation was *temporary*.
- q. The respondent conducted his own research and believed that Mr. Egenberg's interpretation of Rule 5.5 permitted him to assist in handling Hurricane Ida claims from the New Orleans office of the representation was temporary.
- r. After completing his own independent research, the respondent once again spoke with Mr. Egenberg, who again confirmed that the respondent's assistance in these first-party hurricane claims would not violate the Rules of Professional Conduct
- s. The respondent did not volunteer to assist with these Hurricane Ida claims.

- t. The respondent agreed to assist with these Hurricane Ida claims based on the request and subsequent representations made by his employer, Bradley Egenberg.
- u. Mr. Egenberg is a Louisiana-licensed lawyer and was the respondent's supervisor.
- v. The respondent did not consider any other Associate Attorney at Egenberg Trial Lawyers to be his supervisor.
- w. Mr. Egenberg never advised the respondent that any other Associate Attorney at the firm was to serve as his supervisor.
- x. Mr. Egenberg told the respondent it was permissible for him to meet with clients, explain the terms of the firm's contract to clients, and provide legal assistance to the firm's clients for damages sustained by Hurricane Ida.
- y. Mr. Egenberg was aware that the respondent was meeting with clients and explaining substantive issues of law with the clients, including discussion related to the terms of the retainer agreement and the client's rights under Louisiana Law.
- z. The respondent also communicated directly with insurance adjusters about these property damage claims.
- aa. Between October 2021 and September 2022, the respondent assisted Louisiana-licensed lawyers in approximately 161 claims involving Louisiana residents who sustained damage from Hurricane Ida.
- bb. The respondent did not sign any pleadings or make any court appearances concerning the case he was assisting.
- cc. After learning that his interpretation of Rule 5.5 was mistaken, the respondent immediately ceased handling any cases involving Louisiana claims.
- dd. The respondent has resigned from his position with Egenberg Trial Lawyers.
- ee. The Court has jurisdiction over the respondent in this matter pursuant to Supreme Court Rule XIX, § 6(A) and Rule 8.5 of the Louisiana Rules of Professional Conduct, which together extend this Court's disciplinary authority to lawyers who provide or offer to provide legal services in Louisiana.
- ff. The respondent was negligent in relying on his employer's representation that his actions were permissible under the Louisiana Rules of Professional Conduct.
- gg. The respondent knowingly assisted Louisiana-licensed lawyers in providing legal services to Louisiana residents following Hurricane Ida.
- hh. The respondent acknowledges his misconduct and is remorseful.
- ii. The respondent acknowledges that his conduct violated Rule 5.5 of the Louisiana Rules of Professional Conduct.
- jj. The respondent's violation of Rules [sic] 5.5 violated duties owed to the clients and the profession.
- kk. The respondent's actions did not cause actual harm to any client but had the potential to cause significant harm.

- ll. There are no aggravating factors.
- mm. The mitigating factors applicable to the respondent are as follows:
  - 1. No prior discipline;
  - 2. Cooperation with ODC;
  - 3. Good character;
  - 4. Remorse; and
  - 5. Inexperience in the practice of law.

*Id.*

On January 17, 2024, the Louisiana Supreme Court entered a Final Order Per Curium enjoining Respondent from seeking full admission to the Louisiana Bar or seeking admission to practice in Louisiana on any temporary or limited basis for a period of one year. *Respondent's 8-9.*

### **III. ARGUMENT AND AUTHORITY**

- A. Respondent failed to prove by clear and convincing evidence that he is entitled to any defense to the Petition for Reciprocal Discipline.

In the case of Reciprocal Discipline, “a final adjudication in another jurisdiction that an attorney licensed to practice law in Texas has committed Professional Misconduct is conclusive.” Tex. Rules Disciplinary P. R. 9.01. When Petitioner filed its Petition for Reciprocal Discipline on May 10, 2024, it included certified copies of Respondent’s Final Order Per Curium dated January 17, 2024, enjoining Respondent from seeking full admission to the Louisiana Bar or seeking admission to practice in Louisiana on any temporary or limited basis for a period of one year. *See Petitioner’s Petition EX. 1.* Respondent’s Response to Petition for Reciprocal Discipline and Order to Show Cause acknowledges that Respondent’s underlying discipline in Louisiana is final.

Rule 9.04 of the Texas Rules of Disciplinary Procedure enumerates five defenses available to contest a Reciprocal Disciplinary Matter. Tex. Rules Disciplinary P. R. 9.04(A) – (E). In order for Respondent to avail himself of these defenses, Respondent is required to prove by clear and convincing evidence that he has met the requirements of the defense. *Id.* Respondent failed to meet his burden.

- i. Respondent failed to prove that the discipline requested will result in grave injustice.*

Respondent took on employment as an associate at the Egenberg Trial Lawyers firm after he graduated law school and immediately before he received his licensure to practice law in Texas. *Respondent's Response at 1 & 3.* Respondent states that the scope of employment was for *temporary* help to the firm to handle claims for clients with damages from Hurricane Ida. *Response to Petition at 4-5.* Respondent further states that he was only meant to handle Louisiana cases on a *temporary* basis, and he would ultimately work in Houston once the cases in Louisiana were not the priority for the firm. *Respondent's Response at 5.*

Despite the fact that both Respondent and the supervising attorney at the firm knew that Respondent did not have, nor did he intend to seek, licensure in Louisiana, they believed that Respondent was permitted to practice without a license on a “temporary basis,” pursuant to Louisiana Rule of Professional Conduct 5.5(c)(1). *Id.* Rule 5.5(c)(1) of the Louisiana Rules of Professional Conduct states that, “A lawyer admitted in another United States jurisdiction and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that: (1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter.” Louisiana R. Prof'l Conduct 5.05(c). Respondent ultimately undertook approximately 161 cases while not licensed in Louisiana. *Respondent's Response EX 6.*

In his response, Respondent briefly argues that a one-year prohibition from seeking admission to the Louisiana State Bar, or any *pro hac vice* requests, is not “discipline identical, to the extent practicable, with that directed by the judgment of the other jurisdiction.” *Id. at 11.* Respondent asserts the defense that “a grave injustice would result from imposing the proposed discipline.” *Id. at 12. See also* Tex. R. Disciplinary P 9.04(C).

To support his argument, Respondent first offers a quote from a dissenting opinion in the *Lane* matter, wherein the dissenting justice acknowledged that “grave injustice,” as a term, does not have a definition as of yet. *Id. See also* Judgment of Partially Probated Suspension, Cause No. 67623, *In the Matter of Nejla Cassandra Keyfli Lane*, at p. 16 (Boatright, Member, dissenting) (citing *Caldwell v. Barnes*, 975 S.W.2d 535, 539 (Tex. 1998)). What Respondent doesn’t mention is that this means that no one has met the required burden of proving the existence of a “grave injustice” in a reciprocal matter, despite the fact that many have attempted to argue the defense. This confirms that “grave injustice” is a very difficult defense to prove.

Respondent states that the original complaint filed by his client was ultimately dismissed with a finding of no wrongdoing on Respondent’s part of working the legal matter on behalf of his client. Respondent had the ability to practice intelligently and deliberately, and therefore should have been more cognizant that he was running afoul of Louisiana’s disciplinary rules. Specifically, that 161 cases could likely be seen as more than *temporary* practice without a license. *Respondent’s Response at 13*. Respondent stipulates to practicing without a license in violation of Louisiana Rule but argues that both his lack of experience and his misplaced trust in his supervising attorney are the reasons for his transgressions. *Id. at 14*. However, lack of experience and potential blame by a third party do not alter the finding of a final judgment of misconduct in Louisiana.

Respondent spends a significant amount of his brief speculating as to why he was sanctioned “so harshly.” Respondent discusses another firm from Texas, McClenny Mosely, which ran afoul of the Louisiana Courts during the Hurricane Ida crisis. *Respondent’s Response at 6-7, 13-14. See also Respondent’s Response EXs 3-4*. Respondent blames the McLenny Mosely firm for angering the Louisiana Courts and speculates that this led to the Courts’ harsher treatment of Respondent in his matter. *Id.* This argument accomplishes nothing other than to liken Respondent’s

actions to another bad actor. This is a consistent theme throughout Respondent's response of trying to pass the blame of his indiscretions onto others. Respondent goes so far as to state, "[s]omeone should certainly pay the price, but that person should not be Sternberg... *Respondent's Response at 14.*

Respondent argues that one such outcome demonstrating "grave injustice" is that, due to this sanction, he will now be forced to take bar exams in multiple jurisdictions instead of being able to apply for full or *pro hac vice* admission. *Respondent's Response at 13.* Petitioner argues that having admitted to and having committed the unauthorized practice of law in a foreign jurisdiction, Respondent will rightfully be required to take further steps before being able to practice in another jurisdiction.

Finally, Respondent claims that the Louisiana Disciplinary Board saw the inequity of harshness when they reduced the previously agreed-to five-year suspension to a one-year suspension. *Respondent's Response at 13, See also Respondent's Response EXs 8-9.* Respondent glosses over the fact that he originally agreed to the five-year suspension, clearly not believing it was too harsh a punishment at the time. *See Respondent's Response Exhibits 8 – 9.*

Despite Respondent's many assertions, he has failed to meet his burden by clear and convincing evidence that imposition of a one-year active suspension, discipline which is as identical as is practicable to the discipline imposed in Louisiana, would result in a grave injustice. Therefore, Petitioner asks that identical discipline of a one-year active suspension is imposed.

- ii. *Respondent failed to prove that this matter warrants substantially different discipline.*

Respondent argues that he should be able to practice in Texas while serving out his prohibition from practice in Louisiana. *Respondent's Response at 15.* Respondent states that he has already been punished "quite substantially." *Id.* Respondent argues that being able to practice

in Texas will allow him to continue learning to practice law and should he be disallowed to continue practice, he will be unable to “develop his professional skills but also to apply for admission in other jurisdictions, including Louisiana...” *Id. at 15 - 16*. Respondent enumerates his harms, including the public nature of his discipline tarnishing his reputation, and reiterates that his biggest mistake was trusting his supervising attorneys. *Id.* Respondent also argues that imposing the requested discipline will result in other unsuspecting young attorneys may be subject to the same unfortunate fate. *Id. at 16*.

However, the sanction imposed against Respondent in Louisiana for his admitted unauthorized practice of law reflects the seriousness of his violation of ethical rules of both Louisiana and this State. While no one is asking to make an example of Respondent, Petitioner instead asks this Board to impose discipline which is as identical as is practical. The fact of the matter is that the effect of the Louisiana discipline is for Respondent not to be able to practice in Louisiana for a period of a year. That is exactly what Petitioner asked to be imposed in Texas with a one-year active suspension.

To Respondent’s point that his legal education will be stunted, Respondent will not be prohibited from taking an internship or a paralegal position, either of which would allow for his further practical legal education. Respondent has failed to prove that substantial discipline is warranted. Accordingly, Petitioner asks that identical discipline of a one-year active suspension is imposed.

*iii. The Kennard matter is precedent and directly applicable in this matter.*

As has been previously argued, Petitioner has met their burden to bring a Reciprocal Disciplinary matter against Respondent. Tex. Rules Disciplinary P. R. 9.01. Petitioner does not require the precedent of the *Kennard* matter to further meet their burden. However, inasmuch as



Respondent argues differences between *Kennard* and Respondent's matter, none of the alleged differences shift Respondent's burden to prove by clear and convincing evidence any of the available defenses. The majority of the "differences" cited by Respondent, i.e. Respondent *Kennard* failed to file an answer, Respondent was found to have knowingly disobeyed an obligation, etc., are merely aggravating factors that also did not change the burden of Petitioner. The fact of the matter is that Respondent has failed to meet his burden of proving any of his defenses, similar to Respondent in the *Kennard* matter.

#### IV. CONCLUSION

For the above reasons, Petitioner asks that identical discipline of a one-year active suspension be imposed.

Respectfully submitted,

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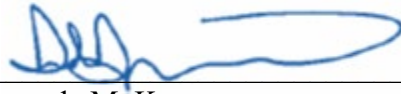
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ATTORNEYS FOR PETITIONER

**CERTIFICATE OF SERVICE**

I certify that I am serving a copy of this document on Manfred Max Sternberg, by and through his attorney of record, Allison Standish Miller, 1221 McKinney Street, Ste. 4500, Houston, TX 77010, via electronic communication at *amiller@beckredde.com* on this 9<sup>th</sup> day of July, 2024.



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Amanda M. Kates