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**G**eneral questions regarding attorney discipline should be directed to the Chief Disciplinary Counsel's Office, toll-free (877) 953-5535 or (512) 453-5535. The Board of Disciplinary Appeals may be reached at (512) 475-1578. Information and copies of actual orders are available at [www.txboda.org](http://www.txboda.org). The State Commission on Judicial Conduct may be contacted toll-free, (877) 228-5750 or (512) 463-5533. Please note that persons disciplined by the Commission on Judicial Conduct are not necessarily licensed attorneys.

**REINSTATEMENT**

**Alan McLemore** [#13752500], 59, of Kirbyville, has filed a petition for reinstatement in the 172nd District Court of Jefferson County for reinstatement as a member of the State Bar of Texas.

**BODA ACTIONS**

On Nov. 10, 2010, the Board of Disciplinary Appeals dismissed for want of prosecution the appeal of **Jason C. Galvez** [#07599750], 45, of New Iberia, La., from a judgment of partially probated suspension signed by an evidentiary panel of the State Bar District 8-2 Grievance Committee in Case No. A0060811781 on Feb. 8, 2010. The Board found that Galvez did not file the reporter's record or a brief. The Board issued an order to show cause to Galvez on Aug. 9, 2010, giving him 30 days to respond and show cause as to why the appeal should not be dismissed for want of prosecution. Galvez did not respond. BODA Cause No. 46203.

On Dec. 10, 2010, the Board of Disciplinary Appeals dismissed for want of prosecution the appeal of **Demetrius J. Davis** [#24029274], 48, of McAllen, from a judgment of partially probated suspension signed by an evidentiary panel of the State Bar District 10-1 Grievance Committee in Case No. S0120821285 and A0090811933 on May 3, 2010. The Board found that Davis did not file the reporter's record or a brief. The Board issued an order to show cause to Davis on Nov. 10, 2010, giving him 30 days to respond and show cause as to why the appeal should not be dismissed for want of prosecution. Davis did not respond. BODA Cause No. 46773.

On Jan. 3, the Board of Disciplinary Appeals signed an order granting a joint motion to reverse the disbarment signed

by an evidentiary panel of the State Bar District 4C-6 Grievance Committee in Case No. H0100725498 and remand the matter for rendition and entry of an agreed judgment of a partially probated suspension of **Shawn R. Roberts** [#00794540], 41, of Manvel. BODA Cause No. 45059.

**JUDICIAL ACTION**

On Dec. 16, 2010, the State Commission on Judicial Conduct issued a public admonition to **John Phillip Fitzgerald**, a Liberty County Court judge. The Commission found that Fitzgerald had improperly dismissed criminal cases pending in his court, including a DWI charge against his personal friend, and improperly acted as a trustee of a trust and as the fiduciary/personal representative of that same friend after becoming the Liberty County judge. The Commission found that Fitzgerald's failure to voluntarily remove himself as trustee of the Vickery Trust, even after legal action was taken against him, constituted a willful and/or persistent violation of Canon 4E(1) of the Texas Code of Judicial Conduct.

**DISBARMENTS**

On Dec. 21, 2010, **Cornelius A. Long, Jr.** [#00793182], 62, of Houston, was disbarred. The 295th District Court of Harris County found that Long was hired for representation in two criminal cases while administratively suspended for failure to pay his bar dues and occupational taxes. Later in the representation, Long was administratively suspended for non-compliance with his MCLE requirements. Furthermore, on Dec. 8, 2006, Long received a partially probated suspension, with the active portion to begin on Jan. 1, 2007. However, Long continued to represent his client through the guilty pleas on Feb. 8, 2007.



Long violated Rules 8.04(a)(7) and (a)(11). He was ordered to pay \$1,530 in attorney's fees and costs.

Long has filed a notice of appeal.

On Jan. 24, **Terry W. Rombough** [#17223100], 68, of Arlington, was disbarred. An evidentiary panel of the District 7 Grievance Committee found that, in representing the complainant, Rombough neglected the legal matter entrusted to him. Rombough failed to keep the complainant reasonably informed about the status of his immigration matter. Upon termination of representation, Rombough failed to surrender papers and property to which the complainant was entitled.

Rombough violated Rules 1.01(b)(1), 1.03(a), and 1.15(d). He was ordered to pay \$4,379.90 in attorney's fees.

Rombough had until Feb. 23 to file an appeal.

On Aug. 31, 2010, **Edgar E. Smith** [#90001598], 39, of San Antonio, was disbarred. An evidentiary panel of the District 10 Grievance Committee found that Smith neglected his client's case; engaged in conduct involving a serious crime and in conduct involving dishonesty, fraud, deceit, or misrepresentation; failed to abide by his client's decision whether to accept an offer of settlement, to respond to his client's requests for information, to keep settlement money separate from his own property, and to properly disburse settlement money; and to file a response to two grievances.

Smith violated Rules 1.01(b)(1); 1.02(a)(2); 1.03(a); 1.14(a) and (b); 1.15(d); and 8.04(a)(2), (a)(3), and (a)(8). He was ordered to pay \$2,505 in attorney's fees and costs and \$3,174.61 in restitution.

## SUSPENSIONS

On Dec. 16, 2010, **Raymond E. Bess** [#02262600], 63, of Houston, agreed to an interim suspension effective Jan. 14. The 133rd District Court of Harris County ordered the suspension pending the final disposition of pending criminal disciplinary proceedings. Bess

may not accept any new client matters, hold himself out as an attorney at law, perform any legal service for others, accept any fee directly or indirectly for legal services, or appear as counsel in a proceeding in any Texas court or before any Texas administrative body while the interim suspension is in effect.

On Nov. 22, 2010, **Morris Joseph Kirschberg** [#11533300], 64, of San Antonio, received a three-year, partially probated suspension effective Dec. 5, 2010, with the first six months actively served and the remainder probated. An evidentiary panel of the District 10-4 Grievance Committee found that in a contingent fee personal injury matter, Kirschberg failed to provide the client with a written statement describing the outcome of the matter, the remittance to the client, and the method of its determination. Kirschberg also failed to notify the client's health care provider of Kirschberg's receipt of the settlement funds, to promptly deliver the settlement proceeds owed to the medical provider, and to notify the client that the provider's medical bill was not being paid from the settlement and would be the client's responsibility. Kirschberg has appealed this judgment.

Kirschberg violated Rules 1.03(b), 1.04(d), and 1.14(b). He was ordered to pay \$3,920 in attorney's fees and expenses.

On Dec. 22, 2010, **Armando Trevino** [#20211100], 63, of Laredo, received a one-year, fully probated suspension effective June 29, 2012. An evidentiary panel of the District 12 Grievance Committee found that Trevino failed to promptly deliver funds that a third party was entitled to receive.

Trevino violated Rule 1.14(b). He was ordered to pay \$4,868.84 in attorney's fees and expenses.

On Jan. 17, **Gilbert M. Hargrave** [#08999500], 55, of Athens, agreed to a two-year, partially probated suspension effective Feb. 1, with the first nine months actively suspended and the remainder actively served. Hargrave

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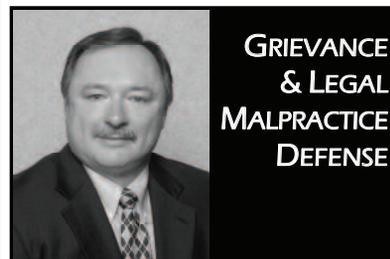
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## DISCIPLINARY ACTIONS

failed to withdraw from representing the complainant when Hargrave's mental condition materially impaired Hargrave's fitness to represent the complainant. Upon termination of representation, Hargrave failed to refund advance payments of fee that had not been earned.

Hargrave violated Rules 1.15(a)(2) and (d). He was ordered to pay \$2,000 in attorney's fees and costs and \$2,500 in restitution.

On Jan. 13, **Shawn R. Roberts** [#00794540], 41, of Manvel, accepted a three-year, partially probated suspension effective Jan. 1, with the first year actively served and the remainder probated. An evidentiary panel of the District 4 Grievance Committee found that Roberts neglected his client's legal matter, frequently failed to carry out completely the obligations owed to his client, and failed to keep his client reasonably informed about the status of the legal matter and to withdraw from representing his client when Roberts' physical, mental, and/or psychological condition materially impaired his fitness to represent the client. Roberts habitually violated an established rule of the courts' procedures, failed to timely furnish a response to the Chief Disciplinary Counsel's office, and engaged in the practice of law when his right to practice had been administratively suspended.

This judgment of suspension replaces a judgment of disbarment previously reported in the November 2009 and December 2009 *Texas Bar Journals*.

Roberts violated Rules 1.01(b)(1) and (b)(2), 1.03(a), 1.15(a)(2), 3.04(c)(1), and 8.04(a)(8) and (a)(11). He was ordered to pay \$9,486.41 in attorney's fees and costs.

On Jan. 19, **Donald G. MacPhail** [#00788757], 43, of Abilene, received a five-year, partially probated suspension effective Jan. 21, with the first three years actively served and the remainder probated. An evidentiary panel of the District 14 Grievance Committee found that MacPhail failed to keep the com-

plainants reasonably informed about the status of their personal injury matter. MacPhail failed to hold funds belonging in whole or in part to the complainants that was in MacPhail's possession in connection with the representation separate from MacPhail's own property. MacPhail failed to promptly deliver to the complainants funds that the complainants were entitled to receive. MacPhail failed to keep funds in which both he and the complainants claimed interests separate until there was an accounting and severance of their interests.

MacPhail violated Rules 1.03(a) and 1.14(a), (b), and (c). He was ordered to pay \$4,360.82 in attorney's fees and \$1,093.20 in restitution.

MacPhail had until Feb. 18 to file an appeal.

On Dec. 28, 2010, **Raymond J. Rodgers** [#24054170], 41, of Fort Worth, received a two-year, partially probated suspension effective Jan. 1, with the first year actively served and the remainder probated. An evidentiary panel of the District 1 Grievance Committee found that in the course of representing the complainant, Rodgers neglected his legal matters. Rodgers failed to keep the complainant informed regarding the status of his matters and to promptly comply with his reasonable requests for information. Upon termination of the representation, Rodgers failed to refund any advance payment of fee to the complainant that had not been earned. Rodgers failed to respond to the complainant's grievance.

Rodgers violated Rules 1.03(a), 1.15(d), and 8.04(a)(8). He was ordered to pay \$1,000 in attorney's fees and \$2,500 in restitution.

Rodgers had until Jan. 27 to file an appeal.

On Dec. 2, 2010, **Moses Cage III** [#24055247], 31, of Irving, received a one-year, fully probated suspension effective Dec. 21, 2010. An evidentiary panel of the District 6 Grievance Committee found that in representing the com-



plainant, Cage neglected the legal matter entrusted to him. Cage failed to keep the complainant reasonably informed about the status of his divorce action. Cage failed to promptly comply with reasonable requests for information from the complainant about his divorce action. Upon termination of representation, Cage failed to refund advance payments of fee that had not been earned.

Cage violated Rules 1.01(b)(1), 1.03(a), and 1.15(d). He was ordered to pay \$4,691.25 in attorney's fees and \$1,700 in restitution.

Cage did not file an appeal.

On Dec. 21, 2010, **Danny Lee Simmons** [#24048801], 51, of Lubbock, accepted a two-year, fully probated suspension effective Dec. 10, 2010. The District 16 Grievance Committee found that Simmons neglected his client's legal matter, failed to keep his client reasonably informed about the status of his case, and, upon termination of the representation, failed to refund the unearned portion of the legal fees.

Simmons violated Rules 1.01(b)(1), 1.03(a), and 1.15(d). He was ordered to pay \$300 in attorney's fees and expenses and \$250 in restitution.

On Nov. 29, 2010, **David L. Murff** [#24039081], 41, of Houston, received a three-year, active suspension effective Dec. 20. An evidentiary panel of the District 4 Grievance Committee found that Murff was hired by the client regarding a real estate matter. In representing the client, Murff neglected the legal matter entrusted to him. Murff failed to keep the client reasonably informed about the status of the legal matter and to promptly comply with reasonable requests for information from the client. Upon termination of representation, Murff failed to surrender papers and property to which the client was entitled and to refund advance payments of fee that had not been earned. Murff failed to timely furnish to the

Chief Disciplinary Counsel's office a response to the grievance or other information as required by the Texas Rules of Disciplinary Procedure.

Murff violated Rules 1.01(b)(1), 1.03(a), 1.15(d), and 8.04(a)(8). He was ordered to pay \$1,507 in attorney's fees and costs and \$2,850 in restitution.

On Nov. 22, 2010, **Brenda Vickers** [#18542030], 53, of Bedford, received a three and a half-year, fully probated suspension effective Nov. 22, 2010. The 96th Judicial District Court found that on Sept. 17, 2007, the complainant employed Vickers to defend the complainant's daughter in a criminal prosecution. The complainant paid a \$15,000 fee to be billed against Vickers' designated hourly rate. Vickers failed to safe-

guard the funds that she received by depositing them in a separate trust or escrow account, however. In addition, she failed to keep the funds separate until there was an accounting and severance of the complainant's interest in the funds. Finally, Vickers failed to return any portion of the unused funds upon termination of the representation.

Vickers violated Rules 1.14(a) and (c) and 1.15(d). She was ordered to pay \$1,500 in attorney's fees and \$5,252 in restitution.

Vickers did not file an appeal.

On Nov. 12, 2010, **Steven Wayne Brooks** [#00793397], 43, of Dallas, received a two-year, fully probated suspension effective Nov. 15, 2010. An evidentiary panel of the District 6

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Grievance Committee found that Brooks neglected the legal matter entrusted to him by the complainant. Brooks failed to keep the complainant reasonably informed about the status of the case and to promptly comply with reasonable requests for information from the complainant. Upon termination of representation, Brooks failed to take steps to the extent reasonably practicable to protect the complainant's interest.

Brooks violated Rules 1.01(b)(1), 1.03(a), and 1.15(d). He was ordered to pay \$1,253 in attorney's fees and costs.

On Dec. 20, 2010, **Stephen Mark Naslund** [#14812600], 54, of Amarillo, received a one-year, partially probated suspension effective Jan. 3, with the first six months actively served and the remainder probated. An evidentiary panel of the District 13 Grievance Committee found that Naslund neglected his client's legal matter and frequently failed to carry out completely the obligations Naslund owed to his client. Naslund failed to keep his client reasonably informed about the status of his legal matter, to promptly comply with reasonable requests for information from his client, and to explain the matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation. In addition, Naslund failed to respond to the grievance.

Naslund violated Rules 1.01(b)(1) and (b)(2), 1.03(a) and (b), and 8.04(a)(8). He was ordered to pay \$1,469.64 in attorney's fees and costs and \$215 in restitution.

Naslund had until Jan. 19 to file an appeal. Naslund has appealed the judgment.

On Jan. 11, **Jimmy Delgado** [#00793608], 49, of San Antonio, accepted a five-year, partially probated suspension effective Feb. 20, with the first two years actively served and the remainder probated. An evidentiary panel of the District 10 Grievance Committee found that Delgado neglected a

client matter and failed to keep the clients reasonably informed, to respond to reasonable requests for information, to hold client settlement funds in trust, and to deliver settlement funds to his clients and third parties.

Delgado violated Rules 1.01(b)(1), 1.03(a), and 1.14(a) and (b). He was ordered to pay \$4,939.94 in attorney's fees and expenses.

On Jan. 18, **Thomas V. Malorzo** [#12887500], 64, of Dallas, received a two-year, partially probated suspension effective Feb. 1, with the first three years actively served and the remainder probated. An evidentiary panel of the District 6 Grievance Committee found that while acting as a settlement agent in a closing transaction, Malorzo failed to safeguard funds belonging to a third party. In addition, Malorzo failed to promptly deliver to the third party the funds that it was entitled to receive. Malorzo also engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Malorzo violated Rules 1.14(a) and (b) and 8.04(a)(3). He was ordered to pay \$5,061.72 in attorney's fees and costs and \$2,126.24 in restitution.

Malorzo had until Feb. 17 to file an appeal.

## REPRIMANDS

On Jan. 24, **John Allen Yanchunis** [#22121300], 55, of Tampa, Fla., accepted a public reprimand. An evidentiary panel of the District 9 Grievance Committee found that Yanchunis was suspended from the practice of law on Dec. 30, 2005, for non-compliance with MCLE requirements. On Nov. 9, 2009, while suspended, Yanchunis filed suit on behalf of a client in the 353rd District Court in Travis County. The case was removed to federal court by the defendants on Dec. 18, 2009. On Dec. 22, 2009, Yanchunis signed a letter to the State Bar, prepared by his legal assistant, requesting a non-practicing exemption from MCLE requirements and stating

that he had not practiced law in Texas since prior to 2004.

After receiving an MCLE non-practicing exemption, Yanchunis was sent a dues notice but failed to timely tender payment and, therefore, was suspended for non-payment of bar dues on Feb. 2, 2010. On Feb. 16, 2010, while administratively suspended, Yanchunis filed a second lawsuit on behalf of a separate client in Travis County. Yanchunis thereafter cured his suspension with the State Bar and non-sued the case. Yanchunis was reinstated to active status on Feb. 19, 2010.

Yanchunis violated Rule 8.04(a)(11). He was ordered to pay \$2,192.04 in attorney's fees and expenses.

On Jan. 27, **James Charles Neeld** [#24043842], 39, of Leawood, Kan., accepted a public reprimand. An evidentiary panel of the District 9 Grievance Committee found that Neeld, a former partner at a Missouri law firm, submitted four falsified invoices for expense reimbursement on a client account. When questioned by the firm about the expenses, Neeld stated that he had incurred the expenses while traveling for business. Neeld later admitted to incurring the expenses for his personal benefit.

Neeld violated Rules 8.04(a)(1), (a)(2), and (a)(3). Neeld was ordered to pay \$417.30 in attorney's fees and expenses.

On Jan. 10, **Fred C. McDaniel** [#13527600], 65, of Grapevine, received a public reprimand. An evidentiary panel of the District 7 Grievance Committee found that, in representing the complainant, McDaniel failed to keep the complainant reasonably informed about the status of her child custody and visitation modification matter. Upon termination of representation, McDaniel failed to take steps to the extent reasonably practicable to protect the complainant's interests.

McDaniel violated Rules 1.03(a) and 1.15(d). He was ordered to pay \$1,575 in attorney's fees. ☆