

# MEETING OF THE COMMITTEE ON DISCIPLINARY RULES AND REFERENDA

October 9, 2019  
Texas Law Center, Room 102  
Austin, Texas  
And by Teleconference

## MINUTES

Members Present: Chairman M. Lewis Kinard; Timothy Belton; Claude Ducloux; Hon. Dennise Garcia; Rick Hagen; Dean Vincent Johnson; W. Carl Jordan.

Members Not Present: Amy Bresnen; Karen Nicholson.

State Bar of Texas Staff Present: Seana Willing, Chief Disciplinary Counsel; Ray Cantu, Deputy Executive Director; Brad Johnson, Disciplinary Rules and Referenda Attorney; Cory Squires, Staff Liaison.

### **A. CALL TO ORDER; ROLL CALL**

Mr. Kinard called the meeting to order at 10:03 a.m. Cory Squires called the roll and a quorum was present.

### **B. COMMENTS FROM THE CHAIR**

Mr. Kinard thanked the public for providing feedback in the rule proposal process and thanked the Committee members for their work.

### **C. APPROVAL OF THE MINUTES OF THE LAST MEETING**

Mr. Kinard addressed the Committee on this agenda item. Mr. Ducloux made a motion that the Committee approve the minutes from the September 3, 2019, meeting. Judge Garcia seconded the motion. The Committee voted in favor of the motion.

### **D. PROPOSED RULE 3.02. ASSIGNMENT OF JUDGE, TEXAS RULES OF DISCIPLINARY PROCEDURE (TRDP)**

Mr. Kinard addressed the Committee on this agenda item. Ms. Willing addressed the Committee regarding previously submitted feedback from the Office of the Chief Disciplinary Counsel, including the option of transferring assignment duties to the presiding judges of the administrative judicial regions. Mr. Ducloux also addressed the Committee on that option. Brad Johnson addressed the Committee regarding statutory timelines related to the rule proposal process. No formal action was taken on this agenda item. The Committee will consider the item again at its next meeting.

### **E. PROPOSED COMMENTS TO PROPOSED RULE 6.05. CONFLICT OF INTEREST EXCEPTIONS FOR NONPROFIT AND LIMITED PRO BONO LEGAL SERVICES, TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT (TDRPC)**

Mr. Kinard addressed the Committee on this agenda item. Brad Johnson responded with comments. Mr. Ducloux made a motion to approve the proposed comments to proposed Rule 6.05, TDRPC. Dean Johnson seconded the motion. The Committee voted in favor of the motion.

**F. PROPOSED COMMENTS TO PROPOSED LAWYER ADVERTISING RULES (PART VII. INFORMATION ABOUT LEGAL SERVICES, TDRPC)**

Mr. Kinard addressed the Committee on this agenda item. Brad Johnson responded with comments. The Committee discussed the timeline for submission of the proposed advertising rules, including the proposed comments, to the State Bar Board of Directors. Mr. Ducloux made a motion to approve submission of the proposal, including the proposed comments, to the Board prior to the Board's January 2020 meeting, with a target date of January 9, 2020, for delivery to the State Bar Executive Committee. Dean Johnson seconded the motion. The Committee voted in favor of the motion.

**G. SUPREME COURT OF TEXAS REQUEST FOR A RECOMMENDATION ON A COMMENT TO RULE 3.06. MAINTAINING INTEGRITY OF JURY SYSTEM, TDRPC (ADDRESSING LAWYER ACCESS TO JUROR SOCIAL MEDIA)**

Mr. Kinard and Mr. Belton addressed the Committee on this agenda item. The Committee further discussed the subject. No formal action was taken on this agenda item. The Committee will consider the item again at its next meeting.

**H. SUPREME COURT OF TEXAS REQUEST TO STUDY AND MAKE RECOMMENDATIONS ON A COMMENT TO PART XIII. CESSATION OF PRACTICE, TRDP**

Mr. Kinard addressed the Committee on this agenda item. Judge Garcia and Mr. Ducloux will serve on a subcommittee regarding the subject. No formal action was taken on this agenda item. The Committee will consider the item again at its next meeting.

**I. SUBMISSION OF RULE PROPOSAL PACKETS TO STATE BAR BOARD OF DIRECTORS**

Mr. Kinard addressed the Committee on proposed rule submission packets related to proposed Rules 1.01 and 6.05, TDRPC. Brad Johnson responded with comments. The packets will soon be transmitted for consideration by the Board.

**J. COMMITTEE ANNUAL REPORT**

Mr. Kinard addressed the Committee on this agenda item. A draft version of the annual report was recently distributed to Committee members for review. Mr. Kinard requested that Committee members provide any feedback or updates for the report. The Committee will plan to finalize the report by its December 2019 meeting. The Committee will consider the item again at its next meeting.

**K. RULE 3.06. MAINTAINING INTEGRITY OF JURY SYSTEM, TDRPC (POST-TRIAL COMMUNICATIONS WITH JURORS)**

Mr. Kinard and Mr. Hagen addressed the Committee on this agenda item. The Committee further discussed the subject. Mr. Hagen discussed possible changes to the Rule comment and indicated he would seek feedback from prosecutors on the issue. Mr. Hagen and Ms. Nicholson will serve on a subcommittee regarding the subject. The Committee will consider the item again at its next meeting.

**L. ADJOURNMENT**

Mr. Ducloux made a motion to adjourn. Judge Garcia seconded the motion. The Committee voted in favor of the motion and the meeting adjourned at 10:51 a.m.