

# **MEETING OF THE COMMITTEE ON DISCIPLINARY RULES AND REFERENDA**

April 18, 2019  
Texas Law Center, Room 101  
Austin, Texas  
And by Teleconference

## **MINUTES**

### **CALL TO ORDER; ROLL CALL**

The meeting was called to order at 10:31 a.m.

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

State Bar of Texas Officers and Staff Present: Joe Longley, President; Seana Willing, Chief Disciplinary Counsel; Royce LeMoine, Deputy Counsel for Administration and Regional Counsel (Office of the Chief Disciplinary Counsel); KaLyn Laney, Deputy Executive Director; Ray Cantu, Deputy Executive Director; Brad Johnson, Disciplinary Rules and Referenda Attorney; Cory Squires, Staff Liaison.

### **A. COMMENTS FROM THE CHAIR**

Mr. Kinard recognized Ms. Willing, Mr. LeMoine, and Mr. Longley, who were each in attendance. Mr. Kinard explained the process for the public hearings.

### **B. PUBLIC HEARING ON PROPOSED RULE 1.01, TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT (TDRPC)**

Mr. Kinard called to order the public hearing on proposed Rule 1.01 (Competent and Diligent Representation), TDRPC. No speakers signed up to comment on proposed Rule 1.01. Mr. Kinard gave a reminder that public comments could still be submitted in writing through the CDRR website.

### **C. PUBLIC HEARING ON PROPOSED RULE 6.05, TDRPC**

Mr. Kinard thanked those who have been helpful in encouraging public participation in the rule proposal process and emphasized the importance in receiving public comments. Mr. Kinard called to order the public hearing on proposed Rule 6.05 (Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services), TDRPC. Two speakers commented in favor of proposed Rule 6.05. The Committee responded to the comments and thanked the speakers. Mr. Kinard gave a reminder that public comments could still be submitted through the CDRR website.

### **D. COMMUNICATION TO THE COMMITTEE FROM THE PUBLIC**

One speaker communicated to the Committee regarding the proposed advertising rules. The

Committee responded with questions and comments. The Committee thanked the speaker for his comments on the proposed advertising rules.

#### **E. 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 March 6, 2019, meeting. The Motion was seconded by Ms. Bresnen. The Committee voted in favor of the Motion.

#### **F. DISCUSSION AND ACTION: PROPOSED ADVERTISING RULES**

Vincent Johnson briefed the Committee on the advertising subcommittee's draft revisions to the proposed advertising rules. The Committee discussed the proposed rules. Mr. Kinard addressed the Committee on its options on the proposed advertising rules. Brad Johnson addressed the Committee regarding statutory timelines and obligations relating to the proposed rules. The Committee discussed how to proceed on the proposed rules. Mr. Ducloux made a Motion that the Committee not refer the initiated proposal on the advertising rules to the State Bar of Texas Board of Directors, and instead reinstate the rule proposal process for a revised proposal on the advertising rules. The Motion was seconded by Ms. Bresnen. The Committee voted in favor of the Motion.

The advertising subcommittee will work on draft publication language for the new proposal based on the Committee's prior work and the public comments received. The Committee will consider the subcommittee's draft for the proposal at its next meeting.

The Committee further discussed the draft advertising rules and draft comments.

Vincent Johnson left the meeting.

Judge Garcia left the meeting.

#### **G. DISCUSSION OF PROPOSED RULE 1.01, TDRPC**

Mr. Kinard addressed the Committee on proposed changes to Rule 1.01 (Competent and Diligent Representation), TDRPC. Brad Johnson briefed the Committee on the statutory timelines pertaining to the proposal. The Committee discussed the proposed rule. The Committee will continue to evaluate the proposed rule.

#### **H. DISCUSSION OF PROPOSED RULE 6.05, TDRPC**

Mr. Kinard addressed the Committee on proposed Rule 6.05 (Conflict of Interest Exceptions for Nonprofit and Limited Pro Bono Legal Services), TDRPC. The Committee discussed the proposed rule and public comments received on the rule. The Committee will conduct another public hearing on the proposed rule at its June 6, 2019, quarterly meeting.

## **I. PROPOSED RULE TIMELINES**

Brad Johnson addressed the Committee regarding scheduled action by the State Bar of Texas Board of Directors on proposed rules previously recommended by the Committee. Mr. Cantu addressed the Committee regarding recent action by the Board of Directors Executive Committee. Brad Johnson addressed the Committee on timelines for rule proposals and Mr. Kinard responded with comments.

## **J. AGENDA ITEMS FOR NEXT MEETINGS**

At its next meeting, the Committee will discuss the reinitiated proposal on the advertising rules, as well as proposed Rule 1.01 and proposed Rule 6.05.

## **ADJOURNMENT**

Mr. Ducloux made a Motion to Adjourn. Ms. Bresnen seconded the Motion. The Committee voted in favor of the Motion and the meeting adjourned at 11:47 a.m.