

Committee on Disciplinary Rules and Referenda

Second Supplement for June 18, 2020, Meeting

Additional Public Comments Received

From: [REDACTED]
To: [CDRR](#)
Subject: CDRR Comment: Opposition to amending reciprocal discipline Rules 8.03, 1.06 and 9.01, as proposed
Date: Wednesday, June 17, 2020 4:26:09 PM

* State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments	
Contact	
First Name	Rich
Last Name	Robins
Email	[REDACTED]
Member	Yes
Barcard	00789589

Feedback	
Subject	Opposition to amending reciprocal discipline Rules 8.03, 1.06 and 9.01, as proposed
Comments	
<p>6/17/2020: Reciprocal discipline: Opposition to amending reciprocal discipline Rules 8.03, 1.06 and 9.01, as proposed. The pending reform proposals involving reciprocal discipline with entities other than attorney regulatory agencies could make it far more difficult for clients who have found an attorney whom they trust, to use that attorney even in forums where that lawyer lacks experience. If such rule changes are indeed enacted, then what sane attorney would want to run the risks of venturing out (even at the client's request) to help such trusting clientele in a comparatively unfamiliar jurisdiction or forum such as a federal courtroom or federal agency? It's hard enough persuading legal counsel to represent a client in an unfamiliar (especially a rural) state jurisdiction here in Texas, due to the risk of being "home-towned" with unwritten rules, erratic judicial conduct and / or an unforeseeably ignoring of existing applicable rules & attorney protections. The Texas Bar labor union (whose constitutionality remains the subject of ongoing federal litigation) does not even protect its compulsory member lawyers from the in-state jurisdiction scenario's hazards, so can you imagine how bad it could be regarding the federal courts and agencies? Are these proposed rule changes not intended to make it easier for law firms to poach clients away from attorneys whom such clients nevertheless trust even for atypical legal forums? Anyhow, judging from how the Texas Bar has behaved over the past few years, it is supposedly still permissible for that Bar to prosecute lawyers for allegedly violating merely unwritten rules, even if such unwritten rules do clientele and society a disservice. There are a few, albeit mild, checks and balances that enable a prosecuted lawyer to combat such predatory prosecutions inflicted by the Texas Bar, but they are insufficient (as TexasBarSunset.com helps further explain). Exacerbating matters, such checks & balances do not seem to exist substantially (if at all) in federal courtrooms or in federal agencies. That is why the existing rules offer reciprocal discipline apparently merely with attorney discipline authorities in other states. Even that is unduly hazardous for well-meaning attorneys, by the way... Unwritten rules that apply in less familiar forums such as federal courts and agencies expand exponentially the risks that lawyers have to endure if they take a chance and represent a trusting client there at the client's request. If the Texas Bar could nevertheless reciprocally rubber-stamp findings & discipline emanating from such (arguably inadequately supervised) forums, client requests for a trusted attorney's ongoing involvement regardless of the forum will be denied more often by the trusted lawyers. This result would deflate potential economic growth that such clients would otherwise try to generate. Entrepreneurs and businesses need to feel comfortable before investing their capital, energy and reputations in new ventures, after all. An inability to use trusted legal counsel in the event that certain problems emerge would certainly be a factor in clients' decision-making process. Can a country like the USA, already with nearly \$30 trillion in national debt (USDebtClock.org) even excluding Social Security, Medicare and Medicaid entitlement promises (which are much larger still), afford to deflate prospects for economic growth like that? Anyway, it is worth considering how some (politically appointed yet unelected) federal judges are known to be irritable, advancement-seeking, agenda-driven and even favor-pursuing. Nobody is perfect and attorneys are all human. Besides, stress can bring out some of the worst in all of us. Meanwhile some federal agency venues are</p>	

known to be politically biased and even motivated to act accordingly. They are at times subjugated to the whims of federal bureaucrats who seek longstanding perks & benefits (such as increasingly large federal pensions) which have helped further drench the rest of us in ever-growing federal debt. Attorneys who run the risk of dealing with such potentially hostile forums at their trusting clients' request need to be able to limit their potential losses to such forums, without having them overflow into the attorneys' primary legal environments here in Texas, do they not? The proposed reciprocal discipline-focused rule changes would nevertheless apparently eliminate the self-preserving (and client-protecting) ability to shield one's traditional legal niche(s) from unforeseen fallout endured elsewhere in the federal realm. Egregious instances of attorney misconduct in such alternative locales and forums could nevertheless be prosecuted by the Texas Bar, with its (unfortunately insufficient) checks & balances being available, right? Why change that then? To make it easier for Texas Bar employees to land sinecure jobs and obtain other benefits from law firms seeking help with poaching away clients from their enduringly trusted attorneys? The Texas economy does not have to facilitate such self-serving parasitism or client poaching-related tactics in order to continue trying to successfully cope with increasingly demanding economic and even pandemic challenges. To say the least, it is unfair (if not corruption-encouraging) that certain privileged attorneys get to make such reform proposals without having to go through the traditional reform-requesting channels that ordinary (compulsory) members of the Texas Bar must still endure. Particularly rigorous scrutiny of possible conflicts of interest are warranted. We do not need more Kathy Holder type conflicts of interest involved with overseeing attorneys' disciplinary status here in Texas. I would be more than willing to follow-up with additional feedback upon request. Respectfully submitted, Rich Robins
Houston, Texas Editor: TexasBarSunset.com

From: [REDACTED]
To: [CDRR](#)
Subject: CDRR Comment: Opposition to amending reciprocal discipline Rules 8.03, 1.06 and 9.01, as proposed.
Date: Thursday, June 18, 2020 12:40:26 AM

* State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments	
Contact	
First Name	Rich
Last Name	Robins
Email	[REDACTED]
Member	Yes
Barcard	00789589

Feedback	
Subject	Opposition to amending reciprocal discipline Rules 8.03, 1.06 and 9.01, as proposed.
Comments	
<p> Opposition to amending reciprocal discipline Rules 8.03, 1.06 and 9.01, as proposed. This submission is in opposition to amending reciprocal discipline-related rules 8.03, 1.06 and 9.01, as proposed. First of all, the pending reform proposals involving reciprocal discipline with entities other than attorney regulatory agencies could make it far more difficult for clients who have found an attorney whom they trust, to use that attorney even in forums where that lawyer lacks experience. If such rule changes are indeed enacted, then what sane attorney would want to run the risks of venturing out (even at the client's request) to help such trusting clientele in a comparatively unfamiliar jurisdiction or forum such as a federal courtroom or federal agency? It's hard enough persuading legal counsel to represent a client in an unfamiliar (especially a rural) state jurisdiction here in Texas, due to the risk of being "home-towned" with unwritten rules, erratic judicial conduct and / or an unforeseeable ignoring of existing applicable rules & attorney protections. The Texas Bar labor union (whose constitutionality remains the subject of ongoing federal litigation) does not even protect its compulsory member lawyers from the in-state jurisdiction scenario's hazards when the Bar nevertheless prosecutes member attorneys. Can you imagine how bad it could be regarding hazards of the federal courts and agencies, then? Are these proposed rule changes not actually intended to sneakily make it easier for certain law firms to poach clients away from attorneys whom such clients nevertheless trust even for atypical legal forums? Anyhow, judging from how the Texas Bar has behaved over the past few years, it is supposedly still permissible for that Bar to prosecute lawyers for allegedly violating merely unwritten rules, even if such unwritten rules do clientele and society a disservice. There are a few, albeit mild, checks and balances that enable a prosecuted lawyer to combat such predatory prosecutions inflicted by the Texas Bar, but they are insufficient (as TexasBarSunset.com helps further explain). Exacerbating matters, such checks & balances do not seem to exist substantially (if at all) in federal courtrooms or in federal agencies. That is why the existing rules offer reciprocal discipline apparently merely with attorney discipline authorities in other states. Even that is unduly hazardous for well-meaning attorneys, by the way. Why worsen matters by extending reciprocity to federal courts and agencies, then? Unwritten rules that apply in less familiar forums such as federal courts and agencies expand exponentially the risks that lawyers have to endure if they take a chance and represent a trusting client there at the client's request. If the Texas Bar is nevertheless allowed to reciprocally rubber-stamp findings & discipline emanating from such (arguably inadequately policed) federal forums, client requests for a trusted attorney's ongoing involvement regardless of the forum will consequently be denied more often by the trusted lawyers. This result would deflate potential economic growth that such clients would otherwise try to generate. Entrepreneurs and businesses need to feel comfortable before investing their capital, energy and reputations in new ventures, after all. An inability to use trusted legal counsel in the event that certain problems emerge would certainly be a factor in clients' decision-making process. Can a country like the USA, already with nearly \$30 trillion in national debt (USDebtClock.org) even excluding Social Security, Medicare and Medicaid entitlement promises (which are much larger still), afford to deflate prospects for economic growth like that? Anyway, it is worth considering how some </p>	

(politically appointed yet unelected) federal judges are known to be irritable, advancement-seeking, agenda-driven and even favor-pursuing. Nobody is perfect and attorneys are all human. Besides, stress can bring out some of the worst in all of us. Meanwhile some federal agency venues are known to be politically biased and even motivated to act accordingly. They are at times subjugated to the whims of federal bureaucrats who seek longstanding perks & benefits (such as increasingly large federal pensions) which have helped further drench the rest of us in ever-growing federal debt. Attorneys who run the risk of dealing with such potentially hostile forums at their trusting clients' request need to be able to limit their potential losses to such forums, without having them overflow into such attorneys' primary legal environments here in Texas, do they not? The proposed reciprocal discipline-focused rule changes would nevertheless apparently eliminate the self-preserving (and client-protecting) ability to shield one's traditional in-state legal niche(s) from unforeseen fallout endured elsewhere in the federal realm. Egregious instances of attorney misconduct in such alternative federal locales and forums could nevertheless be prosecuted by the Texas Bar, with its (unfortunately insufficient) checks & balances being available, right? Why change that, then? To make it easier for Texas Bar employees to land sinecure jobs and obtain other benefits from law firms seeking help with poaching away clients from their enduringly trusted attorneys? The Texas economy does not have to tolerate such self-serving parasitism or client poaching-related tactics in order to continue trying to successfully cope with increasingly demanding economic and even pandemic challenges. To say the least, it is unfair (if not corruption-encouraging) that certain privileged attorneys still get to make such rules-related reform proposals without even having to go through the traditional reform-requesting channels that ordinary (compulsory) members of the Texas Bar must still endure. Particularly rigorous scrutiny of possible conflicts of interest is warranted. We do not need more Kathy Holder-type conflicts of interest involved with overseeing attorneys' licensing status here in Texas. I would be more than willing to follow-up with additional feedback upon request. Respectfully submitted, Rich Robins Houston, Texas Editor: TexasBarSunset.com