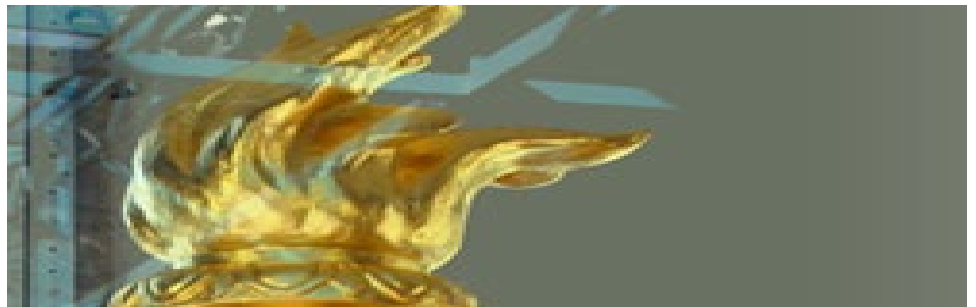


# BOARD NOTES

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## Fall 2022



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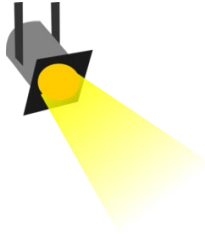
Chair, Board of Professional Responsibility

As my term as Chairman of the Board of Professional Responsibility nears its end, I want to say what a honor it has been to serve. My Dad, Jerry Flippin, was one of the first lawyers to serve on the Board. He was very proud of that service and when he died in 2019 was proud that I had the opportunity to serve on the Board.

I want to thank the Supreme Court for appointing me to the Board. A special thanks to Justice Roger Page and Justice Holly Kirby for being our liaisons during my term as Chairman.

It has been a true blessing to serve. A "high water" mark in my life. I have worked alongside some of the finest lawyers and lay people in the State. Our Chief Disciplinary Counsel Sandy Garrett and her entire staff are second to none. All of them take their jobs seriously. We all know how important the work of the Board is and how many people are affected by the decisions we make. We do not make those decisions lightly.

To the lawyers across the State, I have so much respect for you. An overwhelming number of you do the right things every day. Keep it up. You have never been needed more than now.



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## TLAP Update 2022: The TLAP Foundation and TLAP's Services

Buddy Stockwell, Executive Director  
Tennessee Lawyer Assistance Program

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The Tennessee Lawyers Assistance Program (TLAP) is very grateful to announce that in 2021 the new TLAP Foundation became fully operational. It is a stand-alone 501(c)(3) non-profit corporation authorized by the Tennessee Supreme Court, and it is fully independent of TLAP.

The Foundation's support services include temporary financial assistance to TLAP clients requiring treatment, augmentation of TLAP services for clients, special events for client support and public awareness, and enhancement of TLAP's access to national resources such as the American Bar Association's Commission on Lawyer Assistance Programs and other wellness programs.

For the first time in Tennessee, we now have a Foundation that provides financial assistance to lawyers, judges, and bar applicants who need help to complete diagnostics, treatment and/or monitoring as recommended by TLAP in order to objectively restore their fitness to practice.

TLAP has always offered a myriad of support services, all of which are absolutely confidential by state statute.<sup>1</sup> Also, TLAP has never, and will never, charge a penny for its professional services including crisis support, professional addiction interventions, clinical intake, facilitation of appropriate diagnostics and treatment as indicated, and professional monitoring services that often make a tremendous difference in recovery success and objectively establishing fitness to practice. TLAP also conducts scores of educational CLE's each year, and produces the annual conference "Camp TLAP" that includes presentations by nationally acclaimed speakers.

Also, at no cost and when the person has been compliant and successful in TLAP's free monitoring program, TLAP provides expert testimony and advocacy to support fitness to practice in formal regulatory licensure cases involving bar admissions or discipline.

TLAP's highly specialized clinical services continue to evolve to meet the demanding needs of legal professionals. Lawyers Assistance Programs across the nation have come a long way in the last two decades, as have many other programs that support licensed professionals who hold the public's trust such as doctors, nurses, and airline pilots, etc.

To be licensed in these types of professions, one must demonstrate and maintain good character and fitness to practice. These days, supporting fitness to practice is more complex. No longer just a program for alcohol and drug problems, TLAP now offers totally comprehensive mental health support and employs a professional clinical staff equipped to provide support for any mental health issue.

In fact, over 50% of TLAP's cases last year had nothing whatsoever to do with drug or alcohol issues. This reflects the findings of the 2016 ABA study "*The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*" that revealed our profession is

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<sup>1</sup> See: T.C.A. 23-4-105

suffering from Depression at rates that are higher than alcohol or drug issues. TLAP has actually designed and added a new category of monitoring agreements specifically tailored to support fitness to practice in mental health cases having nothing to do with alcohol or drugs.

As to substance use disorders, spectacular progress has also been made in the development of clinical guidelines and clinical best practices for monitoring programs like TLAP. Today's programming and monitoring at TLAP can render no-relapse addiction recovery success rates averaging 85% and even higher.

This level of reliability is exceptional in the field of addiction. To provide a frame of reference, according to estimates by the National Institute on Drug Abuse (NIDA), typical substance use treatment for the general public renders no-relapse success rates in the range of 40% to 60%.<sup>2</sup> Basically, the likelihood of relapse and a return to substance use is a "flip of a coin."

Licensing authorities (and the profession and the public) require much better recovery assurances than a mere 50/50 chance as to whether or not a lawyer or judge will remain safe to practice long term or instead relapse and return to substance use and impairment (and potentially harm the public).

For example, as to recovery expectations, the standard for reinstatement after being placed on disability inactive status is to prove by "clear and convincing evidence that the attorney's disability has been removed and the attorney is fit to resume the practice of law."<sup>3</sup> TLAP's clinical support and monitoring is specialized and tailored to support objective outcomes that reliably demonstrate fitness to practice at these required levels.

Shifting gears, it is paramount to also acknowledge that TLAP's cases are predominantly self-referrals. These cases do not involve any regulatory component whatsoever. On average, 80% of TLAP's cases remain wholly unknown to regulatory authorities. Instead, these totally private cases involve legal professionals who have discretely and proactively reached out for TLAP's specialized help, all before unethical conduct occurs and discipline is involved. In total privacy, TLAP saves lives and careers by confidentially supporting successful recovery outcomes and fitness to practice.

To be clear, TLAP does not ever under any circumstances report cases to bar admissions or discipline. In all confidential cases, clients decide to follow TLAP's clinical recommendations, or not. It's up to them. TLAP never releases any information to anyone without a written waiver by the client wherein the client instructs TLAP to the share information.

As to the 20% of TLAP's cases formally referred to TLAP by bar admissions or discipline, these cases always involve some type of troubling "conduct" on the part of the respondent. Their behavior has somehow become known to regulatory authorities and it is causing them concern about fitness to practice. DUI or drug-related arrests, allegations of impairment in court, or other such issues can trigger a bar admissions or disciplinary complaint that causes an official referral to TLAP, all pursuant to Tennessee Supreme Court Rules.

Of course, not all of these formal referrals want help from TLAP. The demeanor of TLAP clients in these referral cases can range from full cooperation and appreciation for TLAP's support, to full-blown hostility toward TLAP. Regardless, the mindset of any given referral does not impact

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<sup>2</sup> <https://nida.nih.gov/publications/drugs-brains-behavior-science-addiction/treatment-recovery>

<sup>3</sup> See: Supreme Court Rule 9. Section 27.7(b)

TLAP's pure desire to help. TLAP always does everything it can to encourage every referral to take full advantage of TLAP's support.

Against the backdrop of all of the above, and now circling back to the new TLAP Foundation, this new entity is extremely important to all TLAP participants. The entire spectrum of clients at TLAP all encounter one common challenge: "how will I manage the cost of diagnostics, treatment if indicated, and drug screening during TLAP monitoring, etc.?"

While TLAP's support, facilitation of specialized recommendations and programming, monitoring services, and expert advocacy, etc., are always absolutely free, at the same time TLAP has never been, nor has it ever claimed to be, a hospital, inpatient treatment center for licensed professionals, or drug-screening laboratory, etc.

Some or all of these third-party medical costs can be expensive, depending on the circumstances in any given case. This can present a significant and sometimes insurmountable financial barrier to someone getting the real help that they need as a licensed professional and being monitored by TLAP to objectively demonstrate that they are fit to practice.

The new TLAP Foundation is now here and available to provide financial help in those cases where the person wants to take advantage of TLAP's help and is willing to do so, but simply can't afford to do it. No one wants to see someone's path to recovery and their ability to return to the practice of law blocked due to a lack of personal finances to address a health issue.

The TLAP Foundation needs your financial support in order ensure that funds are available and always on hand to support our peers in need. There are two very easy ways for you to help:

1. Donate directly to the Foundation by visiting TLAP's website: <https://tlap.org/donate/> All funds go directly to the Foundation (not to TLAP). All cash donations to the Foundation are tax-deductible; or,
2. Also, at no cost whatsoever to you, please use the "Amazon Smile" option. Go to <https://smile.amazon.com> and select the TLAP Foundation as your charity. Automatically, and without any increase in the price of your purchase, the Amazon Smile Foundation will donate 0.5% of the purchase price to the TLAP Foundation. So please "smile" and help save lives and careers in the legal profession.

In the meantime, if you or someone you know needs TLAP's help, please call us at (615) 741-3238, write us at [tlap@tncourts.gov](mailto:tlap@tncourts.gov), or visit us on the internet at [www.tlap.org](http://www.tlap.org). All communications are confidential by law and you do not have to give your name.

# Ethical Issues in Handling Residential Real Estate Closings

Steven J. Christopher<sup>4</sup>

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Residential real estate closing practice brings with it numerous potential ethical pitfalls. Attorneys practicing in this area can best avoid making ethical errors by being cognizant of these issues and creating protocols to obviate them. This article will provide an overview of some of the ethical issues most likely to be encountered in the handling of residential real estate closings and practice suggestions to address them.

## The Relationship Between the Closing Attorney and the Real Estate Agent

Residential real estate closing attorneys may obtain much of their business through referrals from a seller or buyer's real estate agent. If a real estate agent refers their client to a closing attorney who handles the closing timely and effectively and where the buyer and/or seller reports having a positive experience with the closing, the real estate agent will likely choose to refer future clients. Through these continued referrals, the real estate agent and closing attorney become acclimated to each other's processes, which makes ongoing referrals mutually beneficial.

Establishing and maintaining such a business relationship with a real estate agent is not ethically improper. However, the more business that is generated through referral from a particular real estate agent, the more crucial the relationship becomes for the lawyer financially. This creates a personal interest for the attorney in staying in the real estate agent's good graces to ensure repeat business of the agent's customers and generation of continued fees. As the real estate agent is not the closing attorney's client, this personal interest creates the danger of a concurrent conflict of interest pursuant to RPC 1.7. Such a relationship also potentially implicates RPC 5.4(c), which prohibits a lawyer from permitting a person who recommends the lawyer's services to direct or regulate the lawyer's professional judgment in rendering such legal services.

An attorney's client in a residential real estate closing is the seller or buyer in a split closing, or both the seller and buyer if the attorney is handling both sides of the transaction. In addition to representing the buyer and/or seller, the attorney may also represent the interests of the lender providing financing to the buyer in the transaction. The closing attorney owes their principal duty to their clients and not the real estate agent.<sup>5</sup>

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<sup>4</sup> Deputy Chief Disciplinary Counsel of the Investigations Section of the Board of Professional Responsibility of the Supreme Court of Tennessee.

<sup>5</sup> TENN. SUP. CT. R. 8, Rule 1.3, Comment [1]. The Tennessee Rules of Professional Conduct, codified at Rule 8 of the Tennessee Supreme Court Rules, will be cited as RPC \_\_.

In most cases, the interests of the real estate agent will be in accordance with the interests of the client(s). By the time that the closing attorney is brought into the picture, the terms of the real estate transaction will typically have been fully negotiated. Consequently, everyone involved wants the closing to proceed and their interests are thereby aligned. However, should an issue arise where there may be a need to postpone the closing, such as where a client has issues or concerns about the documentation or where the closing attorney discovers an issue that needs to be addressed, the real estate agent will understandably want the closing to proceed promptly to receive their commission, and may express frustration with the closing attorney for any delay. In this circumstance, the real estate closing attorney must prioritize their loyalty and ethical duties to their client(s) over the concerns of the real estate agent.

A concurrent conflict of interest exists if the representation of one client will be directly adverse to another client, or if there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person, or by a personal interest of the lawyer.<sup>6</sup> A concurrent conflict may be waived only where the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client, the representation is not prohibited by law, the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal, and each affected client gives informed consent, confirmed in writing.<sup>7</sup> In the circumstance where the attorney's relationship with the real estate agent, either in a particular closing or on an ongoing basis creates a true personal conflict, such a conflict would likely not be waivable, as waiver is only permissible if the real estate closing lawyer would be able to continue to provide diligent representation to the client. If the personal conflict created through the relationship with the real estate agent materially interfered with the closing attorney's exercise of judgment, it is not feasible that the closing attorney would be able to continue to maintain their undivided loyalty to the client(s).

An ongoing tension between a closing attorney's loyalty to their client(s) and a desire to maintain a positive relationship with a real estate agent will not normally rise to a level to constitute a concurrent conflict or implicate RPC 5.4(c). As indicated above, a concurrent conflict only exists where there is a *significant risk* that the attorney's representation of the client(s) will be *materially limited* by the attorney's personal interest (emphasis added). However, closing attorneys who receive frequent referrals from the same real estate agent should remain fully conscious of the ongoing potential conflict that this relationship creates and to be mindful of RPC 5.4(c).

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<sup>6</sup> RPC 1.7(a)(1)-(2).

<sup>7</sup> RPC 1.7(b)(1)-(4).

If a circumstance arose that created a true concurrent conflict or which implicated RPC 5.4(c), in lieu of terminating the attorney's relationship with the real estate agent, it would not be improper for the closing attorney to address the matter privately with the real estate agent to ameliorate the issue and potentially maintain the business relationship. If the issue involved only a single closing, it would also be permissible under Tennessee's ethical rules to seek to withdraw from the representation. Even if the closing was in process, the attorney would be permitted to do so if the withdrawal would not have a material adverse impact on the client.<sup>8</sup> Under such a circumstance, it would be proper for the closing attorney to assist the client(s) in securing successor counsel, to waive any fee for the closing, and facilitate the transfer of paperwork and working with successor counsel to facilitate transfer of responsibilities.<sup>9</sup>

A related ethical issue that arises through the generation of business through referral from real estate agents is the danger that the seller and/or buyer will not be conscious of the fact that an attorney-client relationship has been created with the closing attorney. This is particularly the case where the clients are not frequent purchasers of legal services. If it is not self-evident from the name of the closing attorney's firm or otherwise that the closing attorney is an attorney, the clients may additionally not be conscious of the fact that they are being referred to a law firm. These issues are very likely not going to be present where the closing attorney represents the lender, as the agents of the financial institution will be very acclimated to the closing process and fully conscious that an attorney-client relationship is being established.

The danger of these misperceptions by the seller and/or buyer arises out of the dynamics of the formation of the attorney-client relationship through referral from a real estate agent as opposed to the way an attorney-client relationship is normally formed. A client normally initiates the process of hiring a lawyer, the client and lawyer meet, and a fee agreement is executed. The client is an active participant in the process, and it is self-evident that they are hiring a lawyer. In contrast, when an attorney is retained to handle a closing through referral from the real estate agent, the buyer and seller are in a largely passive role. The real estate agent advises the client of the name of the attorney who will handle the closing and otherwise initiates the process, and the closing may be scheduled through communication between the real estate agent and the closing attorney. There will frequently be numerous communications between the real estate agent and the closing attorney after the closing attorney agrees to the representation, as well as communications between the closing attorney and the client(s) where the real estate agent is also a party. The relationship between the closing attorney and the client is also relatively very brief,

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<sup>8</sup> RPC 1.16(b)(1).

<sup>9</sup> RPC 1.16(d). A lawyer who is discharged by a client, or withdraws from representation of a client, shall, to the extent reasonably practicable, take steps to protect the client's interests.

typically consisting of limited communications before closing, the closing itself, and the transmittal of funds. The client may never meet the closing attorney and instead work with a legal assistant at closing for execution of the documentation.

Closing attorneys need to be aware that this methodology creates the danger that the buyer and/or seller will not be fully conscious that the closing attorney is an attorney, that an attorney-client relationship has been formed, and that the closing attorney's duty of loyalty is owed to the client. The most effective way to ensure these understandings is through good written and verbal communication. A comprehensive form letter can be sent to the client under the attorney's signature at the commencement of the representation clarifying the closing attorney's role, the attendant privileges of the attorney-client relationship, and outlining the process that will be followed. Such communication will not only undergird the fact that an attorney-client relationship has been formed but will ensure the attorney's compliance with their duty to reasonably consult with the client about how the client's objectives are to be accomplished, and to keep the client reasonably informed about the status of the matter.<sup>10</sup>

A closing attorney's relationship with the real estate agent, particularly a real estate agent without significant experience, may also trigger an attorney's obligations pursuant to RPC 4.3, which govern an attorney's interface with an unrepresented party. Due to the way the real estate agent refers clients to the closing attorney and engages in ongoing communication throughout the closing process, the real estate agent may form the erroneous perception that the real estate closing attorney represents their interests independently. In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested.<sup>11</sup> When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.<sup>12</sup> Attorneys are further prohibited from giving legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are, or have a reasonable possibility of being, in conflict with the interests of the client.<sup>13</sup>

In the context of a typical residential real estate closing, the interests of the real estate agent and the closing attorney's clients will normally not be adverse.

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<sup>10</sup> RPC 1.4(a)(2) and RPC 1.4(a)(3).

<sup>11</sup> RPC 4.3

<sup>12</sup> Id.

<sup>13</sup> Id.



Consequently, the closing attorney's only prohibition is to seek to correct the misperception that an attorney-client relationship exists with the real estate agent if the closing attorney perceives the real estate agent to be forming this understanding. The closing attorney may answer legal questions raised by the real estate agent, provided that the questions do not create a concurrent conflict of interest. Only where the closing attorney perceives the relationship between the real estate agent and a particular client to be adverse is the closing attorney required to refrain from the provision of legal advice other than referral to private counsel.

### **Confidentiality and Attorney-Client Privilege**

Real estate agents, agents of financial institutions providing mortgage products to the closing attorney's clients, and the clients themselves will typically not be conscious of the implications of confidentiality and attorney-client privilege during the closing process. It is incumbent on the attorney to be aware of the information and communications that are confidential to ensure the protection of such information. Attorneys need to similarly ensure that privilege is not inadvertently waived regarding client communications. Problems that implicate confidentiality and privilege issues are not implicated in a typical closing, but in the anomalous circumstance where civil litigation arises out of a real estate transaction, an attorney's failure to be cognizant of confidentiality and privilege issues could have a deleterious impact on their client(s).

Real estate closing attorneys, like other members of the bar, are required to take reasonable steps to prevent the inadvertent or unauthorized disclosure, or unauthorized access to, confidential information.<sup>14</sup> Confidential information includes any information obtained in connection with the representation, from any source.<sup>15</sup> The scope of RPC 1.6 also includes disclosures by a lawyer that do not in themselves reveal protected information but could reasonably lead to the discovery of such information by a third person.<sup>16</sup>

The information protected by RPC 1.6 is much broader than attorney-client privilege, which generally applies only to communications between the attorney and client for the purpose of providing legal advice or advocacy.<sup>17</sup> Confidential

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<sup>14</sup> RPC 1.6(d). See also RPC 1.6, Comment [18].

<sup>15</sup> RPC 1.6(a); RPC 1.6, Comment [3] (“The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source”).

<sup>16</sup> RPC 1.6, Comment [4].

<sup>17</sup> TENN. CODE ANN. § 23-3-105. See also State v. Buford, 216 S.W.3d 323 (Tenn. 2007); Boyd v. Comdata Network, Inc., 88 S.W.3d 203, 213 (Tenn. Ct. App. 2002).

information within the scope of RPC 1.6 may not be disclosed absent a client's informed consent, where the disclosure is impliedly authorized to carry out the representation, or if one of the permissive grounds for disclosure exist pursuant to RPC 1.6(b) or if one of the mandatory grounds for disclosure exist pursuant to RPC 1.6(c).<sup>18</sup>

Any communications between the attorney and the real estate agent are confidential, as they involve the subject matter of the representation of the client, but are not privileged, as the real estate agent is not the client of the real estate closing attorney. Any communications between the attorney and the client(s) are confidential regardless of whether the real estate agent is a party to the communication. Any communication with the client(s) are likewise privileged, but if the real estate agent is present, the privilege may be impacted.<sup>19</sup> The privilege is generally not waived if the third-party is an agent of the client.<sup>20</sup> Closing attorneys should be aware of whether privilege attaches to communications with clients where the real estate agent is present and make commensurate review of applicable legal authority on this subject to ensure that their clients are aware of whether privilege attaches to specified communications.

There will typically be a need for the closing attorney to communicate with the real estate agent and other third parties following the commencement of the representation. Any information shared by the closing attorney with third parties in this context is confidential, as it concerns the subject matter of the representation. However, sharing such information would constitute disclosure impliedly authorized to carry out the representation, and thereby permitted by RPC 1.6(a)(2) to the extent that the dissemination of the information was reasonably necessary to effectuate the purpose of the disclosure. However, it is recommended that a client's prospective confidentiality waiver be obtained at the commencement of the representation permitting reasonably necessary disclosures to such third parties to avoid any misunderstanding with the client and to provide additional protection for the attorney regarding their compliance with their ethical responsibilities.<sup>21</sup>

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<sup>18</sup> RPC 1.6.

<sup>19</sup> Pagliara v. Pagliara, No. M2019-01397-COA-R9-CV, 2020 WL 3498490 (Ct. App. June 29, 2020). Smith Cty. Educ. Ass'n, 676 S.W.2d 328, 333 (Tenn. 1984); Culbertson v. Culbertson, 393 S.W.3d at 678, 684 (Tenn. Ct. App. 2012).

<sup>20</sup> Smith Cty. Educ. Ass'n, 676 S.W.2d at 333.

<sup>21</sup> See RPC 1.0(e) and RPC 1.0, Comment [6] and [7], which provides a definition and guidance for obtaining informed consent for waiver and other purposes.

## **Fee Agreements**

A closing attorney discloses the amount of their fee and includes the fee in the settlement statement included in the closing documentation. However, it is highly recommended that the closing attorney also disclose the amount of their fee prior to this time, preferably when the representation commences. RPC 1.5(b) requires that an attorney communicate the basis and rate of their fee before or within a reasonable amount of time after the commencement of the representation. When an attorney is entering into an attorney-client relationship with a client with whom they have not previously provided legal services, which will typically be the case for a residential closing, the fee must be established “promptly” following the commencement of the representation.<sup>22</sup> If the exact amount of the fee is not known at the commencement of the representation, the closing attorney should provide an explanation of how the fee will be calculated.

Closing attorneys will normally not be required to reduce their fee arrangement to writing, but this is strongly recommended. A fee agreement must only be reduced to writing if the attorney accepts a nonrefundable fee,<sup>23</sup> if the case is taken on a contingency fee basis,<sup>24</sup> or if fees are shared between attorneys who do not practice in the same firm.<sup>25</sup> Even when not required, reducing the fee arrangement to writing will help prevent a client’s misunderstanding of the basis and rate of the fee. In the context of real estate closings, the execution of a fee agreement or letter of engagement will also help undergird the client’s understanding that an attorney-client relationship has been formed.

## **Handling the Provision of Title Insurance in Connection with a Real Estate Closing**

Real estate closing attorneys in Tennessee often handle the provision of title insurance in connection with their overall closing work. The handling of the legal work in connection with a closing, such as the preparation of the closing documents, including a warranty deed and settlement statement, falls within the definition of the practice of law in Tennessee.<sup>26</sup> In contrast, reviewing the status of title to real

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<sup>22</sup> RPC 1.5, Comment [2].

<sup>23</sup> RPC 1.5(f).

<sup>24</sup> RPC 1.5(c).

<sup>25</sup> RPC 1.5(e).

<sup>26</sup> Faerber v. Troutman & Troutman, P.C., et al., No. E2016-01378-COA-R3-CV, 2017 WL 2691264 (Tenn. Ct. App. June 6, 2017)(finding Tennessee Consumer Protection Act violation inapplicable to legal work in connection with a real estate transaction due to the inapplicability of the Tennessee Consumer Protection Act to fall within the definition of the practice of law);

property for the purpose of issuance of a title insurance policy, standing alone, does not fall within the definition of the practice of law in Tennessee.<sup>27</sup> However, title insurance work falls within the definition of “law related services,” pursuant to RPC 5.7.<sup>28</sup> “Law related services” are services that might reasonably be performed in conjunction with and in substance are related to the provision of legal services, and that are not prohibited as unauthorized practice of law when provided by a nonlawyer.<sup>29</sup>

Attorneys who provide law related services in conjunction with legal services will be subject to all of the Tennessee Rules of Professional Conduct with respect to their provision of law related services unless the services are provided in a manner expressly distinct from their overall provision of closing services, and unless the lawyer confirms that the protections of the attorney-client relationship do not exist.<sup>30</sup> This rule is designed to mitigate the danger that the person for whom the law related services are performed will mistakenly assume that the services fall within the protections of the attorney-client relationship, including confidentiality, attorney-client privilege, and protections against conflicts of interest.<sup>31</sup>

An individual who receives title insurance services at a law office designated as such will very likely form such impression unless the attorney provides clarification otherwise. On this basis, closing attorneys will be bound by all the Tennessee Rules of Professional Conduct for their title insurance work if the provision

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Flanary v. Carl Gregory Dodge of Johnson City, LLC, No. E2007–01433–COA–R3–CV, 2008 WL 2434196 at \*4 (Tenn. Ct. App. June 17, 2008) (quoting Fifteenth Judicial Dist. Unified Bar Ass'n v. Glasgow, No. M1996–00020–COA–R3–CV, 1999 WL 1128847 at \*4 (Tenn. Ct. App. Dec. 10, 1999)). See also Spiegel v. Thomas, Mann & Smith, P.C., No. C/A 895, 1989 WL 128294 at \*1 (Tenn. Ct. App. Oct. 30, 1989) (determining the drafting of deeds of trust to be one of many aspects of the practice of law), rev'd on other grounds by Spiegel, 811 S.W.2d 528 (Tenn. 1991).

<sup>27</sup> Ticor Title Ins. Co. v. Smith, 794 S.W.2d 734, 737 (Tenn. Ct. App. 1990), citing Bar Ass'n. of Tenn., Inc. v. Union Planters Title Guar. Co., 46 Tenn. App. 100, 326 S.W.2d 767 (1959); State v. Retail Credit Men's Ass'n., 163 Tenn. 450, 43 S.W.2d 918 (1931).

<sup>28</sup> The provision of title insurance is identified as an example of law related services in a non-exhaustive list contained in Comment [9] to RPC 5.7.

<sup>29</sup> RPC 5.7(b).

<sup>30</sup> RPC 5.7(a)(1)-(2); RPC 5.7, Comment [3].

<sup>31</sup> RPC 5.7, Comment [1].

of title insurance services is not carefully delineated from the overall closing work. This would require, at a minimum, adequate communication between the lawyer and client confirming the distinction between their title insurance work and other closing work, and the attorney's demarcation in their case management, advertising, and external communications between their title insurance work and overall closing work.<sup>32</sup>

Logistically, it is very likely the easiest course of action for attorneys handling title insurance work incident to a real estate closing to simply accept the applicability of all the Tennessee Rules of Professional Conduct for their title insurance work. Given the significant interrelationship between the provision of title insurance and the other work involved in the closing, it may not be feasible for attorneys to maintain the delineation contemplated by RPC 5.7 while proceeding in a cost-effective manner. Explaining to clients, particularly sellers and buyers who are not frequent purchasers of legal services, that the protections of the attorney-client relationship exist regarding the provision of the overall closing services but not the title insurance component would present difficulties. This presents a danger that clients who do not grasp this distinction may inadvertently make disclosures in communications relating to the title insurance work believing that such communications are subject to the attorney-client relationship. If attorneys accept the applicability of all the Tennessee Rules of Professional Conduct for their title insurance work, they simply need to remain fully conscious of this fact and ensure that their office protocols and procedures are reflective of this.

### **The Role of Support Staff**

Legal assistants employed by a law firm are often significantly involved in the handling of real estate closings. This use of legal assistants is not improper. However, attorneys need to take proper care to ensure that their legal assistants refrain from engaging in the unauthorized practice of law.<sup>33</sup>

The unauthorized practice of law can create criminal exposure for the legal assistant and disciplinary action against the attorney(s) with supervisory authority. It is a Class A misdemeanor in Tennessee for an individual to engage in the "practice

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<sup>32</sup> RPC 5.7, Comment [8].

<sup>33</sup> See RPC 5.3, Comment [2] ("Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and paraprofessionals. Such assistants, whether employees or independent contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer must give such assistants appropriate instruction and supervision concerning the ethical aspects of their employment, particularly regarding the obligation not to disclose information relating to representation of the client and should be responsible for their work product.")

of law” or “law business” without an active law license.<sup>34</sup> The practice of law is defined as follows:

The appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court, commissioner, referee or anybody, board, committee or commission constituted by law or having authority to settle controversies, or the soliciting of clients directly or indirectly to provide such services.<sup>35</sup>

“Law business” is defined as:

The advising or counseling for valuable consideration of any person as to any secular law, the drawing or the procuring of or assisting in the drawing for valuable consideration of any paper, document or instrument affecting or relating to secular rights, the doing of any act for valuable consideration in a representative capacity, obtaining or tending to secure for any person any property or property rights whatsoever, or the soliciting of clients directly or indirectly to provide such services.<sup>36</sup>

The work involved in the handling of real estate closings does not fall within the definition of the “practice of law,” as it would not normally involve the appearance as an advocate before a tribunal but does fall within the definition of “law business.”<sup>37</sup>

Attorneys with managerial and supervisory authority over a nonlawyer are required to create and maintain protocols to ensure that the nonlawyer acts in a manner compatible with the lawyer’s ethical obligations.<sup>38</sup> Consequently, when a legal assistant engages in the unauthorized practice of law in connection with a real estate closing, the attorney with managerial or supervisor authority over the legal assistant has breached their obligations defined at RPC 5.3(a) to the extent that the legal assistant’s conduct arose out of a failure to provide proper training and

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<sup>34</sup> TENN. CODE ANN. § 23-3-103(b).

<sup>35</sup> TENN. CODE ANN. § 23-3-101(3).

<sup>36</sup> TENN. CODE ANN. § 23-3-101(1).

<sup>37</sup> See *id.* The definition of law business includes both the provision of legal advice, and the drafting of documents “affecting or relating to secular rights” and engaging in acts to sure “property or property rights.”

<sup>38</sup> RPC 5.3(a).

instruction, or a failure to implement appropriate office protocols.<sup>39</sup> Attorneys will be further responsible for the conduct of the legal assistant for engaging in the unauthorized practice of law where the lawyer orders the conduct, ratifies the conduct, or fails to take proper remedial action when the consequences could be avoided or mitigated.<sup>40</sup>

The principal circumstance where a legal assistant may inadvertently engage in the unauthorized practice of law is in the provision of legal advice to clients. A legal assistant generally may communicate with clients verbally and otherwise, such as communications for purposes of scheduling and gathering information and documentation. However, a legal assistant is prohibited from providing substantive legal advice, as this would fall within the definition of “law business.” A legal assistant may answer questions if the questions do not require the specialized knowledge of an attorney.

The logistics of a residential real estate closing create the danger that legal assistants will be in a position where they will intentionally or inadvertently provide substantive legal advice. This is most likely true of interactions with the buyer and/or seller, rather than agents of the lender. The legal assistant may be the primary source of communication between the law office and the client(s). The legal assistant will likely be the individual who meets with the buyer and/or seller to facilitate the execution of the closing documents. The buyer/seller will thereby establish a rapport with the legal assistant and will thereby be comfortable addressing questions to the legal assistant. The client(s) will likely have questions about the closing process and desire an answer promptly and the legal assistant will be in the best position to quickly respond. The legal assistant will understandably want to be helpful to the client(s) and be responsive to their questions.

To help obviate the danger that the legal assistant will provide substantive legal advice, the supervising attorney should provide training and instruction to the legal assistant about the appropriate scope of their duties and provide specific examples of the types of questions that should be referred to the attorney for response. Proper personnel action and additional instruction should be taken for legal assistants who are found to have breached their obligations. If such violations recur, the supervising attorney may need to consider terminating the firm’s employment relationship with the legal assistant.

It may not be self-evident to the client(s) that the legal assistant is not a lawyer, so this should be clarified by the legal assistant in their email signature and the firm’s website and letterhead if such communications contain information for nonlawyers. The legal assistant should provide additional confirmation of their role if they meet in person with the client(s).

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<sup>39</sup> RPC 5.3, Comment [1].

<sup>40</sup> RPC 5.3(c).

It is not per se improper for a legal assistant to be the only individual of the law firm at closing. However, it is recommended that the supervising lawyer at least be present when the closing meeting commences and be available in the office to answer questions as needed. It is also not improper for the legal assistant to provide a brief straightforward explanation of each document executed by the client(s) at the closing, provided that such explanation is reviewed by the supervising attorney prior to use in the firm's closings.

**Further Inquiry**

If you have questions about the content of this article, you may contact the author at [schristopher@tbpr.org](mailto:schristopher@tbpr.org) or (615) 361-7500, extension 203. Questions about the article may also be directed to the Board's Ethics Counsel, Laura Chastain, at [lchastain@tbpr.org](mailto:lchastain@tbpr.org), or (615) 361-7500, extension 212.





## The Board of Professional Responsibility's 2022 Ethics Workshop

The Board of Professional Responsibility is excited to present their 2022 Ethics Workshop as a hybrid event, offering both in person and virtual attendance options.

In person attendance will be at the Nashville School of Law and is limited to 250 attendees. Each attendee has the opportunity to earn 6.5 hours of dual CLE credit.

The workshop will be held on Friday, November 4 and tickets are \$100.00. Registration closes Friday, October 28. Reserve your ticket on [Eventbrite](#).

8:00 – 8:30	Registration	
8:30 – 9:30	<p style="text-align: center;"><i>Ethics and the New Practice of Law: Is the Future Really Now?</i></p> <p>The presentation will cover how our traditional ethics rules measure up when it comes to addressing developments like nationwide mass tort advertising, nonlawyer-owned alternative business structures that practice law, paying referral fees to nonlawyers, and innovative uses of litigation funding.</p>	Hon. Alberto R. Gonzales Professor Tim Chinaris
9:30 – 10:30	<p style="text-align: center;"><i>View from the Bench</i></p> <p>The lecture will give an interesting focus on what a judge reviews when a Board of Professional Responsibility ruling is appealed.</p>	Justice Holly Kirby and Senior Judge Don Ash
10:30 – 10:45	Break	
10:45 – 12:15	<p style="text-align: center;"><i>Easiest Catch: Don't Be Another Fish in the Dark Net</i></p> <p>The session will examine recent high-profile cybercrime events, including website breaches, and discuss threats to organizations involving the Dark Web, the Internet of Things, and phishing.</p>	Mark Lanterman
12:15 – 1:15	Lunch (on your own)	
1:15 – 2:00	<p style="text-align: center;"><i>Tennessee Lawyers Assistance Program</i></p> <p>The presentation will go over best practices in providing confidential, comprehensive mental health assistance to lawyers, judges, and law students.</p>	Buddy Stockwell

2:00 – 3:15	<p style="text-align: center;"><i>Neuroscience, Well-Being and Ethics</i></p> <p>This CLE explores how advances in neuroscience can help us thrive and achieve peak performance. Learn about sleep strategies and the impact of short sleeping on cognitive function and ethical decision-making. Learn how to leverage oxytocin, the moral molecule, to manage and design a culture of trust in your organization. Learn how laughter, alone or in groups, and poetry lower your heart rate and restore cognitive function.</p>	Robin Wolpert
3:15 – 3:30	Break	
3:30 – 4:30	<p style="text-align: center;"><i>Core Competency: Understanding the Basics of Basics of Substance Use Disorders, Treatment and Recovery</i></p> <p>The session will provide the audience with basic knowledge of addiction, treatment and recovery including the essential components of successful recovery compliance strategies utilized in criminal and civil courts.</p>	Judge Duane Slone



## Board of Professional Responsibility New Disciplinary Counsel

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**Michael C. Brett** joined the Board of Professional Responsibility in the Investigations Division in October 2022. Before joining the Board, he was a Senior Associate at Waller Lansden Dortch & Davis in Nashville where he litigated contracts, complex commercial cases and alternative dispute resolutions.

Mr. Brett served as a summer Law Clerk in the Civil Division of the U.S. Department of Justice before becoming a litigation associate at Shearman & Sterling in New York, where he focused on white-collar investigation and complex commercial cases.

Mr. Brett received his Juris Doctorate from Duke University of Law.

# **Board of Professional Responsibility**

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## **41<sup>st</sup> Annual Discipline Report Fiscal Year July 1, 2021 – June 30, 2022**

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### **Board of Professional Responsibility Organization and Composition**

The Tennessee Supreme Court regulates and supervises the practice of law in Tennessee pursuant to Tennessee Supreme Court Rule 9. The Court appoints twelve members to the Board of Professional Responsibility (the Board) to effectuate Tenn. Sup. Ct. R. 9 and the Court's disciplinary enforcement.

The Board consists of nine (9) attorneys and three (3) public (non-attorney) members who serve three-year terms and geographically represent the entire state. In 2021-2022, Board members volunteered 529 hours and received no compensation for their service. Members of the Board include:

Floyd Flippin (Chair)  
Jennifer S. Hagerman (Vice-Chair)  
Sheriff Floyd Bonner (Lay Member)  
Richard Briggs (Lay Member)  
Jimmy Dunn  
Stacey B. Edmonson  
Ruth Thompson Ellis  
Charles K. Grant  
Barbara Medley  
Juanita Patton (Lay Member)  
Jody Pickens  
Bridget Willhite

The Court appoints a Chief Disciplinary Counsel who reports to the Board. The Board also employs attorneys as Disciplinary Counsel and support staff to assist with attorney registration; consumer assistance; investigation and litigation. A staff directory is attached as Exhibit A.

### **District Committee Members**

The Tennessee Supreme Court appoints attorneys to serve as district committee members from each disciplinary district in the state. In 2021-2022, 182 attorneys assisted the Court and the Board as district committee members reviewing Disciplinary Counsel's recommendations on investigative files and sitting on hearing panels conducting formal disciplinary charges. Of the 182 members, 138 reported volunteering 3,017 hours in 2021-2022 for which they received no compensation for their services. A roster of current district committee members is attached as Exhibit B.

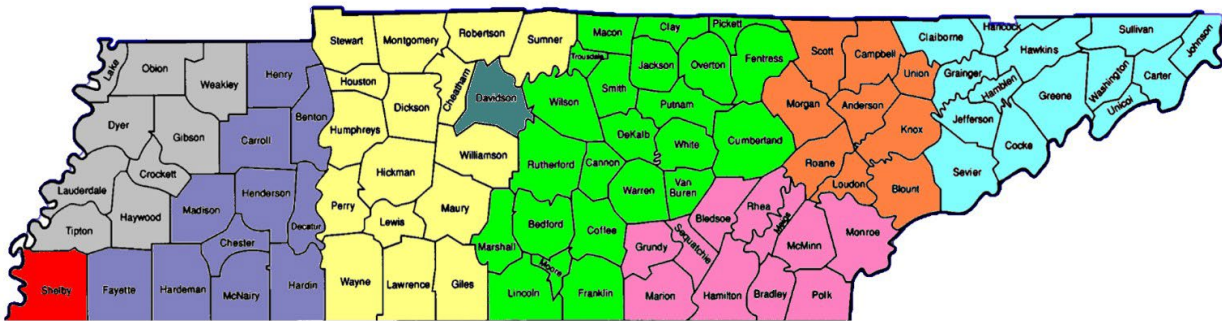
# 41st Annual Discipline Report

## Fiscal Year July 1, 2021 – June 30, 2022

### Tennessee Attorney Information

The Board of Professional Responsibility provides an easy-to-use online registration system that allows lawyers to fulfill their annual registration requirements. Public registration information is displayed on the Board’s website to allow the judiciary, lawyers and the public to access licensing, registration and contact information about lawyers.

### Active Attorneys by Disciplinary District: 23,600\*



- Disciplinary District 1: 1,076 Active TN attorneys
  - Disciplinary District 2: 2,656 Active TN attorneys
  - Disciplinary District 3: 1,590 Active TN attorneys
  - Disciplinary District 4: 1,385 Active TN attorneys
  - Disciplinary District 5: 5,980 Active TN attorneys
  - Disciplinary District 6: 2,493 Active TN attorneys
  - Disciplinary District 7: 494 Active TN attorneys
  - Disciplinary District 8: 275 Active TN attorneys
  - Disciplinary District 9: 3,488 Active TN attorneys
- \*4,163 Out of State Active TN attorneys

### Active Attorney Statistics:

- |                 |            |     |
|-----------------|------------|-----|
| Years Licensed: | <5 yrs:    | 16% |
|                 | 6-15 yrs:  | 30% |
|                 | 16-25 yrs: | 22% |
|                 | 26-35 yrs: | 15% |
|                 | 36-45 yrs: | 11% |
|                 | 46+ yrs:   | 6%  |
- |      |            |     |
|------|------------|-----|
| Age: | 21-29 yrs: | 5%  |
|      | 30-39 yrs: | 22% |
|      | 40-49 yrs: | 24% |
|      | 50-59 yrs: | 21% |
|      | 60-69 yrs: | 17% |
|      | 70+ yrs:   | 11% |
- |         |             |     |
|---------|-------------|-----|
| Gender: | Male:       | 62% |
|         | Female:     | 37% |
|         | Unreported: | 1%  |
- |                         |     |
|-------------------------|-----|
| In-state Attorneys:     | 82% |
| Out-of-state Attorneys: | 18% |

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**Inactive Attorneys**

Pursuant to Tennessee Supreme Court Rule 9, Section 10.3, inactive attorneys include attorneys serving as justice, judge or magistrate of a court of the United States of America or who serve in any federal office in which the attorney is prohibited by federal law from engaging in the practice of law; retired attorneys; attorneys on temporary duty with the armed forces; faculty members of Tennessee law schools who do not practice law; and attorneys not engaged in the practice of law in Tennessee. In 2021-2022, 5,800 attorneys on inactive status were registered with the Board of Professional Responsibility.

▪ **Non-disciplinary/Administrative Suspensions:**

Pursuant to Supreme Court Rules, the Supreme Court suspends attorneys who fail to pay their annual fee (Tenn. Sup. Ct. R. 9 § 10.6); fail to complete annual continuing legal education requirements (Tenn. Sup. Ct. R. 21 § 7); fail to comply with Interest on Lawyers Trust Account requirements (Tenn. Sup. Ct. R. 43 § 15); fail to pay the Tennessee professional privilege tax (Tenn. Sup. Ct. R. 9 § 26); or default on student loans (Tenn. Sup. Ct. R. 9 § 37). No attorney suspended pursuant to these Rules may resume practice until reinstated by Order of the Supreme Court. Attorneys were administratively suspended during fiscal year 2021-2022 as follows:

Non-payment of Annual Fee:	236
Continuing Legal Education non-compliance:	149
Interest on Lawyer's Trust Accounts non-compliance:	109
Professional Privilege Tax non-compliance:	32
Default on a Student Loan:	<u>0</u>
Total:	526

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## 41st Annual Discipline Report Fiscal Year July 1, 2021 – June 30, 2022

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### Assistance, Investigation and Prosecution

- **Consumer Assistance Program (CAP)**

Non-frivolous complaints against attorneys submitted by clients, lawyers, judges and the public are referred to the Board's Consumer Assistance Program (CAP) for assistance or opened and assigned to Disciplinary Counsel for investigation. CAP answers questions, provides information, informally mediates disputes, and refers matters to Disciplinary Counsel for investigation.

#### Caseload

Number of Cases Opened	2,111
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#### Timeliness of Resolution

0 to 15 days	72.4%
16 to 30 days	16.8%
31 to 60 days	8.5%
61 or more days	2.3%

#### Actions Taken

Mediate	35.5 %
Advise	42.8%
Referrals	14.8%
Provide Information	6.9%

- **Trust Account Overdraft Notifications**

Pursuant to Tennessee Supreme Court Rule 9, Section 35.1(b), financial institutions report to the Board whenever any properly payable instrument is presented against an attorney trust account containing insufficient funds. After receiving notification of an overdraft, Board Staff request financial information and explanation from the attorney.

<u>Total Notifications:</u>	76
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#### Actions Taken

Referred to Investigations:	37
Resolved without Investigation:	39

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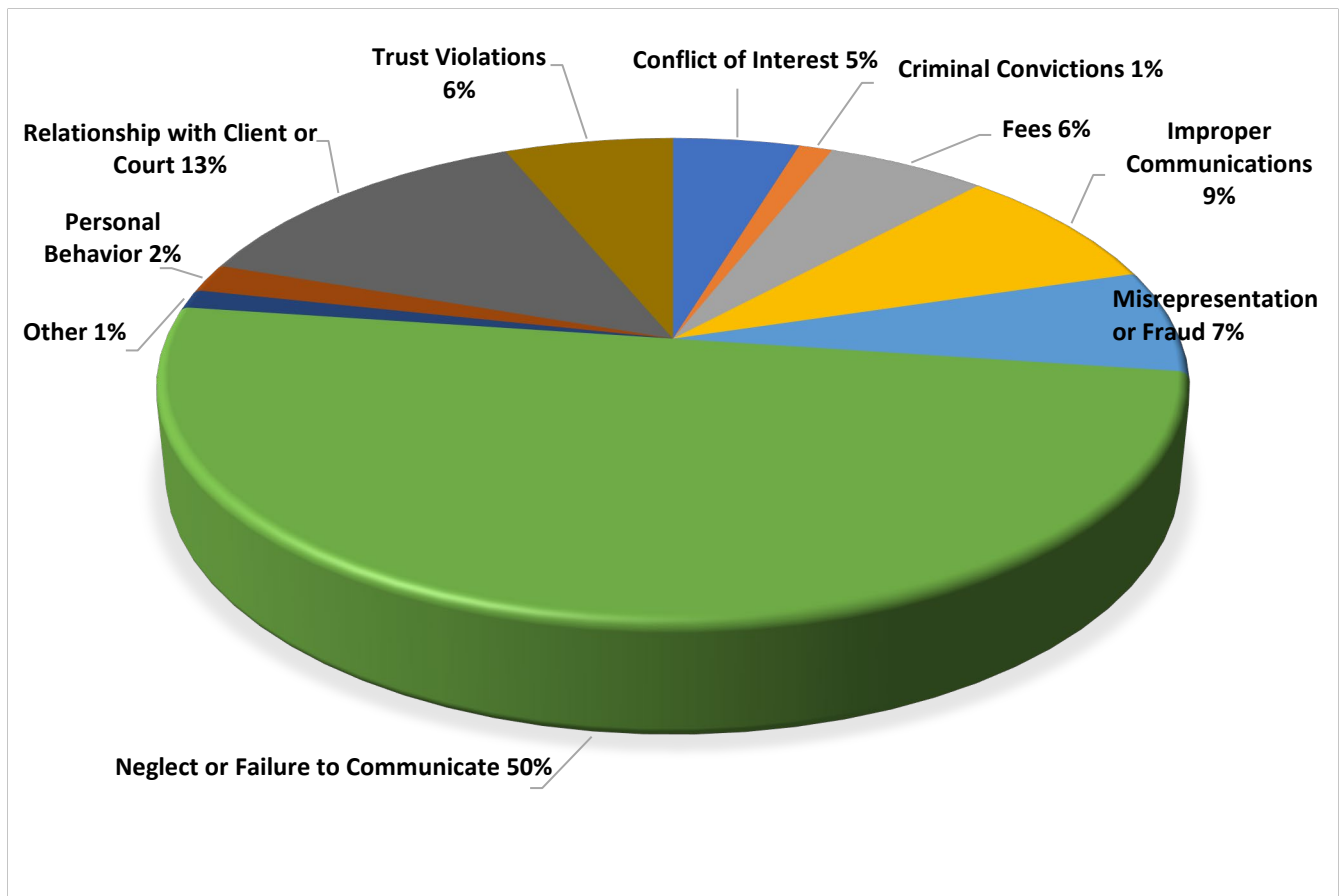
## 41st Annual Discipline Report Fiscal Year July 1, 2021 – June 30, 2022

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### ▪ Investigation

Disciplinary Counsel investigate complaints alleging unethical conduct. After investigation, Disciplinary Counsel recommend dismissal of the complaint if there is insufficient proof of a violation of the Rules of Professional Conduct. If the investigated complaint reflects a violation of the Rules of Professional Conduct, Disciplinary Counsel recommend diversion, private informal admonition, private reprimand, public censure, or the filing of formal disciplinary charges. A district committee member reviews and approves or disapproves Disciplinary Counsel's recommendation for dismissal, diversion, and private informal admonition. The Board of Professional Responsibility reviews and approves or disapproves Disciplinary Counsel's recommendation for private reprimand, public censure, and the filing of formal disciplinary charges.

#### A. Nature of Complaints



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**41st Annual Discipline Report**  
**Fiscal Year July 1, 2021 – June 30, 2022**

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**B. Investigative Complaint Caseload**

Complaints Received:	1,101
Complaints Pending at beginning of Fiscal Year:	<u>482</u>
 Total Complaints:	 1,583

**C. Investigative Complaint Disposition:**

Administrative Dismissals:	459
Investigative Dismissals:	436
Diversions:	51
Private Informal Admonitions:	20
Private Reprimands:	19
Informal Public Censures:	22
Transfer to Disability Inactive:	11
Transferred to Litigation	84
Placed on Retired Status:	21
Other: <sup>1</sup>	<u>34</u>
 Total:	 1,157

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<sup>1</sup> Abated by death; complaint withdrawn; duplicate file.



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### ▪ **Formal Disciplinary Proceedings:**

After the Board of Professional Responsibility authorizes Disciplinary Counsel to file formal disciplinary charges (i.e., a petition for discipline) against an attorney, the matter is assigned to three district committee members who constitute a hearing panel. The Hearing Panel sets the disciplinary proceeding for a hearing which is open to the public unless a protective order has been entered. The Tennessee Rules of Evidence and Rules of Civil Procedure apply unless Tennessee Supreme Court Rule 9 provides otherwise.

The Board of Professional Responsibility must prove an attorney's ethical misconduct by a preponderance of the evidence. Hearing Panels may recommend dismissal, public censure, suspension or disbarment.

#### **A. Caseload**

Formal cases filed during Fiscal Year:	71
Formal cases pending at beginning of Fiscal Year:	88
Total formal proceedings:	159
Public hearings conducted in Fiscal Year:	41

#### **B. Formal Disciplinary Proceedings Disposition:**

Dismissals:	1
Public Censures:	6
Suspensions:	15
Disbarments:	8
Transfer to Disability Inactive:	9
Temporary Suspensions:	9
Reinstatements:	11
Other <sup>2</sup> :	<u>2</u>
Total:	61

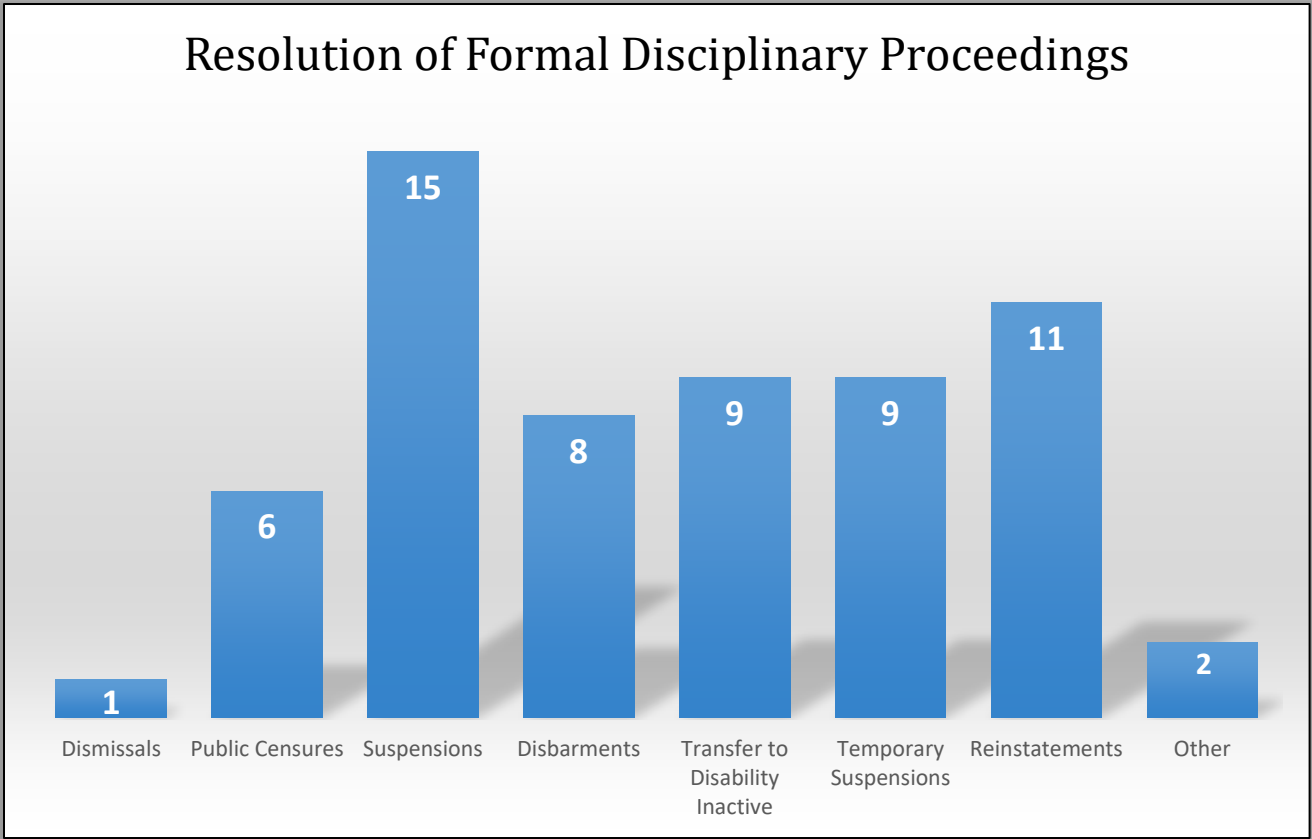
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<sup>2</sup> Abated by death; voluntary non-suited; denied; withdrawn; nonserious crime.

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## 41st Annual Discipline Report Fiscal Year July 1, 2021 – June 30, 2022

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### ▪ Education and Information

The Board issues Formal Ethics Opinions and staff respond to informal ethics questions by phone and internet. Disciplinary Counsel present continuing legal education seminars and workshops, publish *Board Notes*, a bi-annual newsletter, and update the Board’s website with rule changes, disciplinary decisions and news for attorneys, judges and the public.

#### A. Ethics Opinions

##### i. Informal Opinions

Ethics Counsel and Disciplinary Counsel responded to a total of 2,198 phone and internet inquiries from attorneys seeking ethical guidance.<sup>3</sup>

##### ii. Formal Opinions

The Board did not issue any formal ethics opinions this fiscal year.

#### B. Continuing Legal Education (CLE) Presentations:

Between July 1, 2021 and June 30, 2022, Disciplinary Counsel presented forty (40) CLE seminars, attended by approximately 2,913 attorneys.

#### C. Board Notes:

In 2021-2022, the Board emailed both Fall and Spring issues of *Board Notes*, the Board’s semi-annual newsletter to all attorneys and judges and published it on the Board’s website.

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<sup>3</sup> Tennessee attorneys may submit ethics inquiries to the Board by calling 615-361-7500, ext. 212, or via the Board’s website at [www.tbpr.org](http://www.tbpr.org).

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**41st Annual Discipline Report**  
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**D. Workshops**

- a. The Board of Professional Responsibility hosted its annual Ethics Workshop on November 12, 2021 with over 900 attorneys attending virtually. This year's Ethics Workshop is scheduled for November 4, 2022.
- b. The Board of Professional Responsibility has offered two trust account workshops in 2021/2022. The next trust account workshop is scheduled for September 14, 2022.

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**41st Annual Discipline Report  
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**Board of Professional Responsibility  
Staff Directory**

<b>Name</b>	<b>Title</b>	<b>Extension</b>
Doug Bergeron	Disciplinary Counsel	247
Melissa Boyd	Executive Assistant	204
Julie Brown	Administrative Payables Clerk	215
Shilina Brown	Disciplinary Counsel	232
Andrew B. Campbell	Disciplinary Counsel	246
Laura Chastain	Ethics Counsel	212
Steve Christopher	Deputy Chief Disciplinary Counsel - Investigations	203
Jesús Del Campo	Legal Assistant - Litigation	249
Dana Dunn	Assistant Director	209
Eric Fuller	Disciplinary Counsel	243
Sandy Garrett	Chief Disciplinary Counsel	211
Reynold Gaulden, Jr.	Registration Assistant II	244
Elizabeth Gray	Administrative Assistant-Registration/ Scanning	202
Kelly Heflin	Legal Assistant - Investigations	242
McKenzie Hollars	CAP Legal Assistant	228
Katherine Jennings	Executive Secretary	206
Molly Liens	CAP Legal Assistant	252
Carol Marsh	Receptionist	200
Mary McKnight	Registration Manager	213
Jim W. Milam	Disciplinary Counsel	245
Diane M. Nisbet	Disciplinary Counsel	231
Tony Pros	Network Administrator	205
Liz Radford	Legal Assistant – Investigations and Litigation	238
Beverly Rooks	Lead Legal Assistant – Investigations	233
Beverly Sharpe	Director of Consumer Assistance Program	226
Pennye Sisk	Lead Legal Assistant - Litigation	248
Eileen Burkhalter Smith	Disciplinary Counsel	210
Candis Story	Case Manager	229
Giselle Sutherland	Paralegal	224
Suzie Thurber	Administrative Receivables Clerk	241
Cheri Weaver	CAP Paralegal	208
Lani White	Registration Assistant II	227
Russ Willis	Deputy Chief Disciplinary Counsel - Litigation	236

# 41st Annual Discipline Report

## Fiscal Year July 1, 2021 – June 30, 2022

### District Committee Member Roster

District	First Name	Last Name	District	First Name	Last Name	District	First Name	Last Name
1	Dan E.	Armstrong	4	Philip Duane	Burnett	6	Clint	Kelly
1	Jeremy D.	Ball	4	Michael	Corley	6	Eric	Larsen
1	Melissia	Ball	4	Christina	Duncan	6	Tracy (Mr.)	Moore
1	Guy W.	Blackwell	4	Michael R.	Gaiamo	6	James Y.	Ross, Sr.
1	Jeffrey A.	Cobble	4	Joy	Gothard	6	Raymond	Runyon
1	McKenna L. (Ms.)	Cox	4	Trisha L.	Henegar	6	Michael L.	Russell
1	Erwin (Lynn)	Dougherty	4	Robert W.	Newman	6	M. Stuart	Saylor
1	Andrew E.	Farmer	4	Lynn (Ms.)	Omohundro	6	Liz	Sitgreaves
1	Jeffery S.	Greene	4	Daniel	Rader, IV	6	Rodger D.	Waynick
1	Scott D.	Hall	4	Thomas S.	Santel	6	Beverly	White
1	William B.	Harper	4	Donna S.	Simpson	6	Jake	Wolaver
1	Richard E.	Ladd, Jr.	4	Megan K.	Trott	7	Andy	Anderson
1	William B.	Marsh	4	Randall	York	7	Shaun	Brown
1	Cecil	Mills	5	Adam	Barber	7	Lisa	Houston
1	Polly A.	Peterson	5	Keene W.	Bartley	7	Robert A.	Jowers
1	William O.	Shults	5	Robert E.	Boston	7	Lisa	Miller
1	Mark A.	Skelton	5	Kenneth	Bryant	7	William J.	Milam
1	Jeffrey L.	Stem	5	Jad A.	Duncan	7	(William) Josh	Morrow
2	Wm. Dale	Amburn	5	Johnny	Ellis	7	Vincent	Seiler
2	Robyn J.	Askew	5	Christopher B.	Fowler	7	Michelle	Shirley
2	Maha (Ms.)	Ayesh	5	Matthew	Harris	7	Terica	Smith
2	Heidi	Barcus	5	William J.	Haynes	7	Joe	VanDyke
2	Amanda M.	Busby	5	Candi R.	Henry	8	Bill	Bowen
2	John W.	Butler	5	Adam	Hill	8	Dean	Dedmon
2	R. Scott	Carpenter	5	Lucas	Jerkins	8	Jeff	Lay
2	Loretta G.	Cravens	5	Raymond	Leathers	8	Amber	Shaw
2	Shannon (Ms.)	Egle	5	Russell B.	Morgan	8	David A.	Stowers
2	Steve	Erdely	5	Anthony (Tony)	Orlandi	8	Joseph E.	Tubbs
2	Matthew A.	Grossman	5	Steven D.	Parman	8	John (Jack)	Warner, III
2	Lisa J.	Hall	5	Barbara	Perutelli	8	Vanedda	Webb
2	Josh	Hedrick	5	Brant	Phillips	8	Allison S.	Whitledge
2	Howard B.	Jackson	5	Lee (Mr.)	Pope	9	Imad (Mr.)	Abdullah
2	Michael S	Kelley	5	Raymond G.	Prince	9	Jeremy G.	Alpert
2	Michael J.	King	5	Daniel H.	Puryear	9	S. Keenan	Carter
2	Mary Elizabeth	Maddox	5	Peter C.	Robison	9	Margaret	Chesney
2	Stephen A.	Marcum	5	Abby R.	Rubinfeld	9	Frank	Childress
2	Chris	McCarty	5	Christopher C.	Sabis	9	Brian	Coleman
2	Carl P.	McDonald	5	(Denise) Billye	Sanders	9	David M.	Cook
2	Ben	Mullins	5	Michael J.	Sandler, Sr.	9	Anne B.	Davis
2	Marshall H.	Peterson	5	Jennifer Lynne	Sheppard	9	Laura	Deakins
2	Wayne A.	Ritchie, II	5	Lesla	Skoney	9	Nicole	Grida
2	Kevin	Teeters	5	Jeffrey	Spark	9	Greg	Grisham
2	Victoria B.	Tillman	5	M. Clark	Spoden	9	Rebecca	Hinds
2	Hanson R.	Tipton	5	Taylor C. (Mr.)	Sutherland	9	Lauren	Holloway
2	Brian	Wanamaker	5	David J.	Tarpley	9	Earl W.	Houston, II
2	Shelly	Wilson	5	James Patrick	Warfield	9	Robbin (Ms.)	Hutton
3	Peter	Alliman	5	Luther	Wright, Jr.	9	Adam	Johnson
3	Ariel	Anthony	6	Evan P.	Baddour	9	Tressa V.	Johnson
3	John H. (Cam)	Cameron, Jr.	6	Richard	Boehms	9	Julia	Kavanagh
3	John M.	Carson III	6	Jessica N.	Borne	9	E. Patrick (Pat)	Lancaster
3	Larry	Cash	6	Nathan	Brown	9	Melisa	Moore
3	Sam D.	Elliott	6	Jim	Catalano	9	Zachary	Moore
3	Rachel	Fisher-Queen	6	Thomas B.	Dean	9	Charles "Chip"	Morrow
3	John F.	Kimball	6	Hilary	Duke	9	Ashley (Ms.)	Patterson
3	Jeffrey	Maddux	6	Nichole	Dusché	9	Steve	Ragland
3	Lance W.	Pope	6	Mary Katharine	Evins	9	Marc	Reisman
3	H. Chris	Trew	6	Rebekah	Fisher	9	Holly J.	Renken
3	Carmen (Ms.)	Ware	6	Jennifer F.	Franks	9	Zayid	Saleem
3	Ronald D.	Wells	6	Robert H.	Hassell, II	9	Emmett L.	Whitwell
3	Elizabeth L	Williams	6	Cameron R.	Hoffmeyer	9	Leslie (Ms.)	Yohey (Isaacman)
4	William "Howie"	Acuff	6	Patricia	Holder			

# Disciplinary and Licensure Actions

(April, 2022 – September, 2022)

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## **PERMANENT DISBARMENTS**

### ***MICHAEL GLEN HATMAKER, BPR #005391 CAMPBELL COUNTY***

Effective April 7, 2022, the Supreme Court of Tennessee permanently disbarred Michael Glen Hatmaker from the practice of law.

The Board of Professional Responsibility filed a Petition for Discipline against Mr. Hatmaker containing two (2) complaints of misconduct. In the first complaint, Mr. Hatmaker was retained to represent his client in a criminal matter and received a \$7,500.00 fee. After being suspended from the practice of law, Mr. Hatmaker failed to refund the unearned balance of the retainer to his client and failed to comply with the terms and conditions of the Order of Enforcement entered by the Supreme Court. In the second complaint, Mr. Hatmaker set aside a default judgment without the knowledge or authorization of his client and took no action thereafter to prosecute his client's action or reasonably communicate with his client about the status of her case. In addition, Mr. Hatmaker failed to respond to the Board about either disciplinary complaint.

Mr. Hatmaker executed a Conditional Guilty Plea acknowledging his misconduct violated RPC 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.16 (termination of representation), 3.2 (expediting litigation), 8.1(b) (disciplinary matters) and 8.4(d) and (g) (prejudice to the administration of justice).

Pursuant to Tennessee Supreme Court Rule 9, Mr. Hatmaker is not eligible for reinstatement to the practice of law in this state.

Mr. Hatmaker must comply with the requirements of Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and responsibilities of disbarred attorneys.

**JASON R. McLELLAN, BPR #024596**  
**SULLIVAN COUNTY**

Effective July 6, 2022, the Tennessee Supreme Court permanently disbarred Jason R. McLellan from the practice of law. Mr. McLellan consented to permanent disbarment because he could not successfully defend the charges alleged in the Petition for Discipline, Supplemental Petition for Discipline, and complaints filed against him in File Nos. 69211-1-DN and 67826c-1-DN.

In the pending disciplinary matters, Mr. McLellan misappropriated estate funds in the representation of a client and attempted to conceal the misappropriation, made misrepresentations to a court, engaged in conduct involving dishonesty, fraud, deceit and misrepresentation, failed to abide by a client's decision regarding the dismissal of a pending lawsuit, failed to reasonably consult with a client about the means by which the client's objectives were to be accomplished, and failed to obtain the client's informed consent before taking action. He also failed to keep client information confidential, failed to withdraw after a conflict of interest developed, allowed a third person to direct his professional judgment, failed to comply with his ethical requirements upon discharge from representation, and failed to comply with the requirements of a suspended attorney. Finally, he failed to comply with court orders, and failed to respond to disciplinary complaints.

Mr. McLellan's conduct violated Rules of Professional Conduct 1.2 (scope of representation), 1.3 (diligence), 1.4(a) (communication), 1.5 (fees), 1.6 (confidentiality of information), 1.7(a) (conflict of interest), 1.15 (safekeeping property and funds), 1.16 (declining or terminating employment), 3.2 (expediting litigation), 3.3(a) (candor toward the tribunal), 3.4(c) (fairness to opposing party and counsel), 5.4 (professional independence of a lawyer), 5.5(a) and (b)(2) (unauthorized practice of law), 8.1(a) and (b) (bar admission and disciplinary matters), 8.4(a) (misconduct), 8.4(b) (committing a criminal act), 8.4(c) (engaging in conduct involving dishonesty, fraud, or deceit), 8.4(d) (conduct prejudicial to the administration of justice), and 8.4(g) (knowing failure to comply with a final court order).

Mr. McLellan must comply with the requirements of Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and responsibilities of disbarred attorneys and is not eligible for reinstatement to the practice of law in this state.



***PHILIP JOSEPH PEREZ, BPR #021920  
DAVIDSON COUNTY***

Effective June 20, 2022, the Supreme Court of Tennessee permanently disbarred Philip Joseph Perez from the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 12.1, and ordered Mr. Perez to pay \$2,258.33 in costs incurred to the Board of Professional Responsibility.

The Hearing Panel determined Mr. Perez received retainer fees but failed to provide services; failed to file complaints; misled clients to believe their complaints had been filed; failed to appear for scheduled hearings and motions; failed to return unearned retainer fees; failed to notify clients of his suspension from the practice of law, and that the actions of Mr. Perez were done knowingly and warranted permanent disbarment.

The Hearing Panel found Mr. Perez's actions and omissions violated Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.6 (confidentiality of information), 1.15 (safekeeping of property and funds), 1.16 (declining or terminating representation), 3.2 (expediting litigation), 3.4 (fairness to opposing party and counsel), 8.1 (bar admission and disciplinary matters), and 8.4 (misconduct).

***JOHN TERENCE TENNYSON, BPR #032777  
WILSON COUNTY***

Effective June 2, 2022, the Supreme Court of Tennessee permanently disbarred John Terence Tennyson from the practice of law and ordered him to pay restitution to his client in the amount of \$10,000.00 and pay all costs incurred to the Board of Professional Responsibility.

After a hearing upon the disciplinary petition, a Hearing Panel determined Mr. Tennyson knowingly and wrongfully retained funds belonging to his client in the amount of \$10,000.00 for his own financial benefit, knowingly refused to refund that amount to his client despite a written fee agreement requiring that the funds be immediately refunded, and knowingly deceived his client as to the process whereby she could receive payment of the misappropriated funds, thereby causing harm to his client.

Mr. Tennyson's actions and omissions violated Rules of Professional Conduct 1.5 (fees), 1.15 (safekeeping property and funds), 1.16 (declining or terminating representation), and 8.4 (misconduct).

***KYLE DOUGLAS VAUGHAN, BPR #032416  
SULLIVAN COUNTY***

Effective April 21, 2022, the Supreme Court of Tennessee permanently disbarred Kyle Douglas Vaughan from the practice of law and ordered him to pay restitution to his former law partners in the amount of \$223,452.20 and pay all costs incurred to the Board of Professional Responsibility.

Mr. Vaughan was convicted in the Criminal Court of Washington County, Tennessee, in the matter of State of Tennessee v. Kyle D. Vaughan, Case No. 46339, of theft of property from his law firm partners, a Class B Felony, in violation of Tennessee Code Annotated, Sections 39-14-103. After a hearing upon the disciplinary petition, a Hearing Panel determined Mr. Vaughan's conduct violated Rules of Professional Conduct 8.4(a), (b), (c), and (d) (misconduct) and warranted disbarment.

Mr. Vaughan was ordered to comply in all aspects with Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and responsibilities of disbarred attorneys.

**SUSPENSIONS**

***GLEND A ANN ADAMS BPR #019948  
SHELBY COUNTY***

On June 14, 2022, the Tennessee Supreme Court suspended Glenda Ann Adams from the practice of law until further orders of the Court pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Ms. Adams pled guilty and was convicted in state court of bribery of a public servant and official misconduct. Ms. Adams also pled guilty and was convicted in federal court of conspiracy to violate the travel act.

Pursuant to the Order of the Supreme Court, the matter has been referred to the Board to institute formal proceedings to determine the extent of the final discipline to be imposed upon Ms. Adams as a result of her conduct constituting a serious crime as defined by Tennessee Supreme Court Rule 9, Section 2.

Ms. Adams must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys.

***CHARLES MARTIN DUKE, BPR #023607  
DAVIDSON COUNTY***

On May 9, 2022, Charles Martin Duke, an attorney licensed to practice law in Tennessee, was suspended from the practice of law for three years with one-year active suspension. Mr. Duke is required to engage a practice monitor and must pay the Board of Professional Responsibility the costs incurred in the proceeding and the court costs.

On February 1, 2018, a Petition for Discipline was filed against Mr. Duke. Mr. Duke was retained by his client to prosecute a personal injury action. Mr. Duke failed to file an action within the statute of limitations and falsified a tolling agreement in an effort to mislead his client. Mr. Duke entered a Conditional Guilty Plea acknowledging his conduct violated Rules of Professional Conduct 1.1 (competence), 1.3 (diligence), 1.4(a) (communication), 3.1 (meritorious claims and contentions), 3.3(a)(1) (candor toward the tribunal), 3.4(b) (fairness to opposing counsel and others), 4.1(a) (truthfulness in statements to others), and 8.4(a), (b), (c), and (d) (misconduct).

Mr. Duke must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 20, regarding the obligations and responsibilities of suspended attorneys and may not return to the active practice of law until an order of reinstatement has been entered by the Supreme Court.

***DAVID DWAYNE HARRIS, BPR #032607  
DAVIDSON COUNTY***

Effective April 13, 2022, the Supreme Court of Tennessee suspended David Dwayne Harris from the practice of law for two (2) years, less seventy-five (75) days that Mr. Harris had already been suspended.

On May 1, 2020, Mr. Harris was suspended from the practice of law for two (2) years with sixty (60) days active suspension and the remainder to be probated contingent upon Mr. Harris meeting certain conditions, including a restitution requirement within the first year of his suspension. Mr. Harris failed to pay restitution as ordered, and on June 28, 2021, the Board of Professional Responsibility filed a Petition to Revoke Probation. A Hearing Panel revoked Mr. Harris's probation and imposed a two (2) year suspension as originally ordered with credit of seventy-five (75) days previously served.

Mr. Harris must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

***TYREE BRYSON HARRIS, IV, BPR #002367  
DAVIDSON COUNTY***

On April 29, 2022, the Supreme Court of Tennessee entered an order suspending Tyree Bryson Harris, IV, from the practice of law in Tennessee for a period of one (1) year.

The Supreme Court found that Mr. Harris had violated the Tennessee Rules of Professional Conduct by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule of Professional Conduct 8.4(c). The Court cited evidence that Mr. Harris had testified under oath in a juvenile court proceeding for modification of his child support obligation and ruled that he had given answers designed to conceal relevant information fairly called for in the questions. Mr. Harris effectively deceived the juvenile court regarding his current level of income, which inured to the detriment of his minor child and her mother.

Pursuant to Tennessee Supreme Court Rule 9, Section 28.1, the suspension is effective upon entry of the order by the Court. Mr. Harris must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

***CHARLES SAMUEL KELLY, JR., BPR #017094  
SHELBY COUNTY***

On July 22, 2022, the Tennessee Supreme Court suspended Charles Samuel Kelly, Jr., from the practice of law until further orders of the Court pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Mr. Kelly was tried and convicted in the Criminal Circuit Court for Dyer County, Tennessee, Twenty-Ninth Judicial District, for felony theft, criminal conspiracy to commit theft, extortion, and criminal conspiracy to commit extortion.

Pursuant to the Order of Enforcement entered by the Supreme Court, the matter has been referred to the Board to institute formal proceedings to determine the extent of the final discipline to be imposed upon Mr. Kelly as a result of his felony criminal convictions.

Mr. Kelly must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys.

***AARON ANTHONY NEGLIA, BPR #033816  
SHELBY COUNTY***

On June 9, 2022, the Tennessee Supreme Court suspended Aaron Anthony Neglia from the practice of law until further orders of the Court pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Mr. Neglia pled guilty and was convicted in state court of bribery of a public servant and in federal court to conspiracy to violate the travel act.

Pursuant to the Order of the Supreme Court, the matter has been referred to the Board to institute formal proceedings to determine the extent of the final discipline to be imposed upon Mr. Neglia as a result of his conduct constituting a serious crime as defined by Tennessee Supreme Court Rule 9, Section 2.

Mr. Neglia must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys.

***CANDES VONNIEST PREWITT, BPR #031269  
DAVIDSON COUNTY***

On June 6, 2022, the Supreme Court of Tennessee entered an order suspending Candes Vonniest Prewitt from the practice of law in Tennessee for a period of thirty (30) days, with conditions for reinstatement.

The Supreme Court found Ms. Prewitt failed to make proper expert disclosures under the discovery rules; withdrew from the representation without filing a response to opposing counsel's motion for summary judgment or advising her client of the filing of the motion; failed to advise her client of the conflict of interest created by their personal relationship and obtain a written waiver of the conflict from her client; put her personal interest ahead of her client's interest by asserting a lien against any future recovery after withdrawing from representation; failed to timely advise her client of the filing of her motion to withdraw and failed to cooperate with her client's new attorney.

The Supreme Court found Ms. Pruitt’s conduct violated Tennessee Rules of Professional Conduct 1.1 (competence), 1.3 (diligence), 1.4 (communication), 1.7 (a)(2) (conflict of interest), 1.16 declining or terminating representation) and 8.4 (a) (misconduct).

Pursuant to Tennessee Supreme Court Rule 9, Section 28.1, the suspension is effective upon entry of the order by the Court. Ms. Prewitt must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

***CONNIE LYNN REGULI, BPR #016867  
WILLIAMSON COUNTY***

On April 22, 2022, the Tennessee Supreme Court suspended Connie Lynn Reguli from the practice of law until further orders of the Court pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Ms. Reguli was found guilty in the Circuit Criminal Court for Williamson County in State of Tennessee v. Connie Reguli, Docket No. W-CR190482, of Facilitation of Felony – Custodial Interference; Accessory After the Fact – Aiding; and Accessory After the Fact – Harboring.

Pursuant to the Order of the Supreme Court, the matter has been referred to the Board to institute formal proceedings to determine the extent of the final discipline to be imposed upon Ms. Reguli as a result of her conviction of a serious crime.

Ms. Reguli must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys.

***C. LEANN SMITH, BPR #018899  
DAVIDSON COUNTY***

Effective August 17, 2022, the Supreme Court of Tennessee suspended C. LeAnn Smith from the practice of law for two (2) years and six (6) months of active suspension pursuant to Tennessee Supreme Court Rule 9, Section 12.2. As a condition of seeking any reinstatement, Ms. Smith shall enter into a TLAP Monitoring Agreement and shall authorize Permitted Disclosures from TLAP to the Board of Professional Responsibility.

A Petition for Discipline containing one (1) complaint was filed by the Board alleging Ms. Smith testified falsely under oath as a party to a lawsuit. The disciplinary complaint was tried before a Hearing Panel, which found Ms. Smith's conduct violated Tennessee Rules of Professional Conduct 8.4(c) and (d) (misconduct).

Ms. Smith must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4 regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

***THOMAS A. TANSIL, JR., BPR#017582  
TENNESSEE LAWYER***

On September 15, 2021, the Tennessee Supreme Court suspended Thomas A. Tansil, Jr. from the practice of law until further orders of the Court pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Mr. Tansil entered a plea of Nolo Contendere to three (3) felonies involving theft of property, tampering with government records and computer offenses.

Pursuant to the Order of the Supreme Court, the matter has been referred to the Board to institute formal proceedings to determine the extent of the final discipline to be imposed upon Mr. Tansil as a result of his plea of Nolo Contendere to conduct constituting a serious crime as defined by Tenn. Sup. Ct. R. 9, § 2.

Mr. Tansil must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys.

***JODY RODENBORN TROUTMAN, BPR #018868  
CAMPBELL COUNTY***

Effective February 3, 2022, the Supreme Court of Tennessee suspended Jody Rodenborn Troutman from the practice of law for four (4) years with one (1) year active suspension pursuant to Tennessee Supreme Court Rule 9, Section 12.2, and the remainder served on probation conditioned upon compliance with any monitoring agreement recommended by the Tennessee Lawyers Assistance Program and incurring no new complaints of misconduct that relate to conduct occurring during the period of suspension and probation and which result in the recommendation by the Board that discipline be imposed.

Ms. Troutman executed a conditional guilty plea acknowledging her criminal misdemeanor convictions for theft of property and driving under the influence 1<sup>st</sup> and 2<sup>nd</sup> and her appearance in open court while under the influence violated Tennessee Rules of Professional Conduct 1.3 (diligence) and 8.4(b) and (d) (misconduct).

Ms. Troutman must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4 regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

## **TEMPORARY SUSPENSIONS**

### ***MARK STEVEN GRAHAM, BPR #011505 KNOX COUNTY***

On May 20, 2022, the Supreme Court of Tennessee temporarily suspended Mark Steven Graham from the practice of law upon finding that Mr. Graham was in substantial noncompliance with his Tennessee Lawyers Assistance Program monitoring agreement. Mr. Graham was previously reinstated to the practice of law conditioned upon his continued substantial compliance with his TLAP monitoring agreement. Section 12.3(a) of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases where an attorney fails to substantially comply with his monitoring agreement.

Mr. Graham is immediately precluded from accepting any new cases, and he must cease representing existing clients. Mr. Graham must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending his law license. Mr. Graham is required to deliver to all clients any papers or property to which they are entitled.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Graham may for good cause request dissolution or modification of the suspension by petition to the Supreme Court.



***STEPHANIE BRANAM JOHNSON, BPR #030782***  
***WHITE COUNTY***

On June 13, 2022, the Supreme Court of Tennessee temporarily suspended Stephanie Branam Johnson from the practice of law upon finding that Ms. Johnson failed to respond to the Board concerning complaints of misconduct. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases where the attorney fails to respond to the Board concerning complaints of misconduct.

Ms. Johnson is immediately precluded from accepting any new cases, and she must cease representing existing clients by July 13, 2022. After July 13, 2022, Ms. Johnson shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence where the practice of law is conducted.

Ms. Johnson must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending her law license. Ms. Johnson is required to deliver to all clients any papers or property to which they are entitled.

Ms. Johnson must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Ms. Johnson may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

***ERIC JOHN MONTIERTH, BPR #031679***  
***CAMPBELL COUNTY***

On September 23, 2022, the Supreme Court of Tennessee temporarily suspended Eric John Montierth from the practice of law upon finding that Mr. Montierth failed to respond to the Board of Professional Responsibility concerning three (3) complaints of professional misconduct. Section 12.3 of Supreme Court Rule 9 provides for the immediate suspension of an attorney's license to practice law in cases of an attorney's misappropriation of funds, failure to respond to a complaint of misconduct, failure to substantially comply with a Tennessee Lawyer Assistance Program monitoring agreement or otherwise posing a threat of substantial harm to the public.

Mr. Montierth is immediately precluded from accepting any new cases, and he must cease representing existing clients by October 23, 2022. After October 23, 2022, Mr. Montierth shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence wherein the practice of law is conducted. Mr. Montierth must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending his law license, and is required to deliver to all clients any papers or property to which they are entitled.

Mr. Montierth must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Montierth may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

***JENNIFER M. PORTH, BPR #026537  
WILSON COUNTY***

On August 11, 2022, the Supreme Court of Tennessee temporarily suspended Jennifer M. Porth from the practice of law upon finding Ms. Porth misappropriated client funds, failed to respond to the Board regarding a complaint of misconduct and posed a threat of substantial harm to the public. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases of an attorney misappropriating client funds, posing a threat of substantial harm to the public, or failing to respond to the Board regarding a complaint of misconduct.

Ms. Porth is immediately precluded from accepting any new cases and shall cease representing existing clients by September 10, 2022. After September 10, 2022, Ms. Porth shall not use any indicia of lawyer, legal assistant, or law clerk, nor maintain a presence where the practice of law is conducted.

Ms. Porth must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel of the Supreme Court's Order suspending her law license. Ms. Porth is required to deliver to all clients any papers or property to which they are entitled.

Ms. Porth must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Ms. Porth may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

***ELLIOTT JAMES SCHUCHARDT, #027016  
KNOX COUNTY***

On September 21, 2022, the Supreme Court of Tennessee temporarily suspended Elliott James Schuchardt from the practice of law upon finding that Mr. Schuchardt poses a threat of substantial harm to the public. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases where an attorney poses a threat of substantial harm to the public.

Mr. Schuchardt is immediately precluded from accepting any new cases, and he must cease representing existing clients by October 21, 2022. After October 21, 2022, Mr. Schuchardt shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence where the practice of law is conducted.

Mr. Schuchardt must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending his law license. Mr. Schuchardt is required to deliver to all clients any papers or property to which they are entitled.

Mr. Schuchardt must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Schuchardt may for good cause request dissolution or modification of the suspension by petition to the Supreme Court.

***DANIEL FORREST WILKINS, BPR #025753  
KNOX COUNTY LAWYER***

On September 15, 2022, the Supreme Court of Tennessee temporarily suspended Daniel Forrest Wilkins from the practice of law upon finding that Mr. Wilkins failed to respond to the Board regarding a complaint of misconduct. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases of an attorney's failure to respond to the Board regarding a complaint of misconduct.

Mr. Wilkins is immediately precluded from accepting any new cases, and he must cease representing existing clients by October 15, 2022. After October 15, 2022, Mr. Wilkins shall not use any indicia of a lawyer, legal assistant, or law clerk nor maintain a presence where the practice of law is conducted.

Mr. Wilkins must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending his license to practice law. Mr. Wilkins is required to deliver to all clients any papers or property to which they are entitled.

Mr. Wilkins must comply with the requirements of Tennessee Supreme Court Rule 9, §§ 28 and 12.3(d) regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Wilkins may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

**PUBLIC CENSURES**

***STANLEY DOUGLAS DARNELL, BPR #009765  
MONTGOMERY COUNTY***

On June 17, 2022, Stanley Douglas Darnell, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

During his representation of a client, Mr. Darnell failed to provide sufficient oversight of his legal assistant, who prepared a forged final decree and letter without Mr. Darnell's knowledge. Further, Mr. Darnell did not have protocols in place sufficient to reveal that the client's divorce petition had not been filed. In addition, Mr. Darnell received a flat fee for the representation and failed to place the unearned funds in his trust account at the beginning of the representation.

By these acts, Mr. Darnell has violated Rules of Professional Conduct 1.3 (diligence), 1.15 (safekeeping property and funds), and 5.3 (responsibilities regarding nonlawyer assistance) and is hereby Publicly Censured for this violation.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

***TRAVIS RANDALL DUFFER, BPR #034087  
ROBERTSON COUNTY***

On June 16, 2022, Travis Randall Duffer, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Duffer left the employment of a law firm in December 2020 and took some clients with him. For three clients, Mr. Duffer thereafter failed to respond to requests for information from them, and he failed to complete the matters for which he was hired. The three clients at issue hired new counsel to complete their matters. For one client, Mr. Duffer's former law firm transferred \$900 of client funds to Mr. Duffer for the completion of the client's case. Mr. Duffer did not complete the representation. In response to an inquiry in the disciplinary investigation, Mr. Duffer falsely stated that the representations in the three client matters had been "completed."

By these acts, Travis Randall Duffer has violated Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), 1.16 (termination of representation), 8.1 (disciplinary matters) and 8.4(d) (prejudice to the administration of justice) and is hereby Publicly Censured for these violations with the condition that he refund to his former client \$900 within 90 days.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

***GERALD TODD EIDSON, BPR #017342***  
***HAWKINS COUNTY***

On May 13, 2022, Gerald Todd Eidson, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Eidson was appointed to represent a client in a dependency and neglect matter in juvenile court on June 7, 2021, and the adjudicatory hearing was set for June 29, 2021. Mr. Eidson failed to speak with the client until the day before the hearing, despite the client leaving multiple messages to speak with him. Mr. Eidson failed to seek a continuance until he was in court on June 29, and he withdrew his request for a continuance upon the objection by other parties. The client suffered potential harm.

By these acts, Mr. Eidson has violated Rules of Professional Conduct 1.3 (diligence) and 1.1 (competence) and is hereby Publicly Censured for this violation.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

***HARVEY RANDOLPH FALLIN, BPR #015127***  
***JOHNSON COUNTY***

On July 13, 2022, Harvey Randolph Fallin, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Fallin represented a man charged with first degree murder, and he also represented the man's wife who was charged with conspiracy to commit the same murder. Mr. Fallin did not have a written fee agreement with his two clients, and he did not otherwise discuss with them the potential conflict of interest in representing both of them. There was a significant risk that Mr. Fallin's representation of the wife would be materially limited by his representation of the man charged with the murder.

Mr. Fallin's daughter worked in his law office, and she agreed to act as the legal representative under a power of attorney for the two clients in exchange for payment. In her position as the power of attorney, Mr. Fallin's daughter made at least one payment to Mr. Fallin

for legal expenses. At no time did Mr. Fallin discuss with his clients the business relationship they entered with his daughter as power of attorney. Mr. Fallin was aware of his daughter's conduct as addressed in Rule of Professional Conduct 5.3 (responsibilities regarding nonlawyer assistance).

By the aforementioned acts, Harvey Randolph Fallin has violated Rules of Professional Conduct 1.7(c)(2) (conflict of interest), 1.8(a) (conflict of interest, business relationship), and 8.4(d) (prejudice to the administration of justice) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

***BRETTE BALDINI HEALY, BPR #030177  
TENNESSEE LAWYER***

On July 14, 2022, Brette Baldini Healy, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Ms. Healy was employed as an in-house attorney in Georgia for a seven-year period while her Tennessee law license was administratively suspended. During this time, Ms. Healy was not licensed in any other jurisdiction.

By these acts, Ms. Healy has violated Rule of Professional 5.5 (unauthorized practice of law) and is hereby Publicly Censured for this violation.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

***MARCUS ALLEN LIPHAM, BPR #036403  
MADISON COUNTY***

On July 25, 2022, Marcus Allen Lipham, an attorney licensed to practice law in Tennessee, received a Public Censure from Supreme Court of Tennessee conditioned upon payment of fees to the Board of Professional Responsibility.

Mr. Lipham agreed to represent a client in pursuing claims against his homeowner's association board. Mr. Lipham's fee agreement did not adequately specify the scope of

representation. Mr. Lipham also failed to deposit his client's unearned fee into his trust account. After undertaking the representation, Mr. Lipham failed to timely investigate the merits of his client's claims or respond promptly to his client's requests for information. Mr. Lipham further delayed in notifying his client that he was declining to file suit. Mr. Lipham entered a Conditional Guilty Plea admitting his conduct violated Tennessee Rules of Professional Conduct 1.1 (competence), 1.3 (diligence), 1.4 (communication), 1.5(b) (fees), and 1.15 (safekeeping property and funds).

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

***KEITH ALLEN POPE, #014146***  
***KNOX COUNTY***

On July 5, 2022, Keith Allen Pope, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Pope engaged in criminal conduct, pled guilty to a violation of an Order of Protection and violated his bond conditions, which reflects adversely upon his fitness as a lawyer in other respects.

By these acts, Mr. Pope has violated Rules of Professional Conduct 3.4(c) (disobeying an obligation under the rules of a tribunal), and 8.4(b) (misconduct), and is hereby Publicly Censured for these violations. This Public Censure is conditioned on Mr. Pope complying with a Tennessee Lawyer Assistance Program monitoring agreement, with mandatory reporting to Disciplinary Counsel every six (6) months.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.



***KARL EMMANUEL PULLEY, BPR #012761  
DAVIDSON COUNTY***

On August 4, 2022, Karl Emmanuel Pulley, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Pulley was engaged to represent a client on criminal charges and received a fee in the amount of \$7,500. Thereafter, Mr. Pulley's license was suspended in an unrelated manner, and he had to withdraw from the representation. Mr. Pulley told the client he would resume the representation after he was reinstated, but he did not do so. Mr. Pulley's fee was not fully earned during the representation.

By these acts, Mr. Pulley has violated Rules of Professional Conduct 1.4 (communication), 1.5 (fees), 1.16 (termination of representation) and Section 28 of Tennessee Supreme Court Rule 9 and is hereby Publicly Censured for these violations, with the condition that he make a partial refund to the client of \$3,750 within 90 days.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

***ANDRE CHASE RABIDEAU, #036907  
RUTHERFORD COUNTY***

On April 11, 2022, Andre Chase Rabideau, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Rabideau agreed to represent a client in pursuing civil claims arising out of a fire that occurred at the client's leased dwelling. Mr. Rabideau failed to take any action to pursue his client's claims and did not maintain good communication with his client after undertaking the representation. When Mr. Rabideau's client inquired about the status of the representation, Mr. Rabideau falsely implied that a lawsuit had been filed. Mr. Rabideau also failed to return the client's file materials.

By these acts, Mr. Rabideau has violated Rules of Professional Conduct 1.3 (diligent representation), 1.4(a) (communication), and 1.16(d) (declining or terminating representation) and is hereby Publicly Censured for these violations. As a condition of the Public Censure, Mr.

Rabideau shall refund \$750.00 in attorney's fees to his former client within ninety (90) days of issuance of the Public Censure.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

***JIMMY LEO RICHARDSON, BPR #032500***  
***RUTHERFORD COUNTY***

On July 13, 2022, Jimmy Leo Richardson, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Richardson was hired to represent a client on a car accident matter. He sent a letter of representation to the potential defendant's insurance company and responded to a request for information from the insurance company. Mr. Richardson thereafter took no action on the client's case. Mr. Richardson failed to respond to four subsequent letters from the insurance company, and he failed to inform the client of these letters. Mr. Richardson failed to respond to multiple communications from his client.

By the aforementioned acts, Jimmy Leo Richardson has violated Rules of Professional Conduct 1.16 (termination of representation), 1.4 (communication), and 1.3 (diligence) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

***BRETT B. STEIN, BPR #004800***  
***SHELBY COUNTY***

On May 16, 2022, Brett B. Stein, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Stein was hired to file a petition for habeas corpus relief in federal court in Mississippi, in a court in which he is not admitted to practice law. Mr. Stein failed to adequately supervise a junior attorney's preparation of the habeas corpus petition and an accompanying motion for pro

hac vice admission. Mr. Stein failed to discover that the motion for pro hac vice was denied the day after it was filed for failure to comply with court requirements, and Mr. Stein failed to inform the client of the status of the matter. The client suffered potential harm.

By these acts, Mr. Stein, has violated Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), and 5.1 (responsibilities of supervisory lawyers) and is hereby Publicly Censured for this violation.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

***JOHN SCOTT WESSON, #020555***  
***HAMILTON COUNTY***

On April 19, 2022, John Scott Wesson, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Wesson failed to appear at a deposition, failed to file a response to opposing counsel's motion for summary judgment, and failed to appear at several court hearings. Mr. Wesson failed to maintain good communication with his client during the representation. Moreover, Mr. Wesson was named as a party in a show cause proceeding, and the court found him in civil contempt.

By these acts, Mr. Wesson has violated Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), and 8.4(g) (misconduct), and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

**REINSTATEMENTS**

***JOHN STEPHEN ANDERSON, BPR #012367***  
***HAWKINS COUNTY***

On May 13, 2022, the Supreme Court of Tennessee reinstated John Stephen Anderson to the practice of law, effective immediately. Mr. Anderson was suspended by the Supreme Court of Tennessee for six (6) years on December 22, 2015. On October 22, 2021, Mr.

Anderson filed a Petition for Reinstatement to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 30.4.

A Hearing Panel found that Mr. Anderson complied with the terms and conditions of his suspension and further found that he demonstrated the moral qualifications, competency and learning in the law required for the practice of law and that his resumption of the practice of law will not be detrimental to the integrity or standing of the bar or administration of justice, or subversive to the public interest. As conditions of his reinstatement, Mr. Anderson must engage a practice monitor for two (2) years, enroll in the Tennessee Lawyers Assistance Program to undergo an evaluation and comply with the terms of any recommended monitoring agreement and complete three (3) additional hours of CLE on ethics and professionalism during 2022.

***JOHN LOUIS DOLAN, JR., BPR #009158  
SHELBY COUNTY***

By Order of the Tennessee Supreme Court entered May 2, 2022, John Louis Dolan, Jr., was reinstated to the active practice of law conditioned upon engagement of a Practice Monitor.

On March 24, 2022, Mr. Dolan was suspended by the Supreme Court of Tennessee for one (1) year with thirty (30) days active suspension. Mr. Dolan filed a Petition for Reinstatement to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 30.4(c) on April 26, 2022. The Board found the Petition was satisfactory and submitted an Order of Reinstatement to the Court.

***JOHN MARTIN DRAKE, BPR #030532  
DAVIDSON COUNTY***

By Order of the Tennessee Supreme Court entered September 23, 2022, John Martin Drake was reinstated to the active practice of law.

On April 28, 2017, John Martin Drake was suspended by the Supreme Court of Tennessee for two (2) years. Mr. Drake filed a Petition for Reinstatement to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 30.4(d), on March 15, 2022. After a final hearing on the merits, a Hearing Panel found Mr. Drake had demonstrated by clear and convincing evidence

that he had the moral qualifications, competency, and learning in law required for admission to practice law in this state, and his resumption of the practice of law within the state would not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive to the public interest.

The Hearing Panel conditioned Mr. Drake's reinstatement to the active practice of law upon serving a two (2) year period of probation during which he completes five (5) additional CLE hours per year applicable to the area of law in which he intends to practice and engage a mentor in the area of law who shall provide a written report to the Board every six (6) months.

***STEPHANIE DERRICK GRAY, BPR #025929  
DAVIDSON COUNTY***

By Order of the Tennessee Supreme Court entered July 13, 2022, Stephanie Derrick Gray was reinstated to the active practice of law.

On June 2, 2014, Ms. Gray was placed on disability inactive status by the Supreme Court of Tennessee. Ms. Gray filed a Petition for Reinstatement to Active Status to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 12.7(b). The Board found the Petition was satisfactory and submitted an Order of Reinstatement to the Court.

***DARRYL WAYNE HUMPHREY, BPR #016471  
SHELBY COUNTY***

On April 8, 2022, the Supreme Court of Tennessee reinstated Darryl Wayne Humphrey to the practice of law, effective immediately. Mr. Humphrey was suspended by the Supreme Court of Tennessee for six (6) months on September 25, 2017. Mr. Humphrey, on June 2, 2021, filed a Petition for Reinstatement to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 30.4.

A Hearing Panel found that Mr. Humphrey complied with the terms and conditions of his suspension and further found that he had demonstrated the moral qualifications, competency, and learning in the law required for the practice of law and that his resumption of the practice of law will not be detrimental to the integrity or standing of the bar or administration of justice, or subversive to the public interest. As conditions of his reinstatement, Mr. Humphrey must engage

a practice monitor for one year and complete a practice and professionalism enhancement program in the first forty-five (45) days of his reinstatement.

### **TENNESSEE LAWYERS' FUND PAYMENT**

***JASON R. McLELLAN, BPR #024596  
SULLIVAN COUNTY***

On September 22, 2022, the Tennessee Lawyers' Fund for Client Protection (Lawyers' Fund) paid a claim filed against Jason R. McLellan, in the amount of \$28,885.96.

Lawyers' Fund is paid for by Tennessee lawyers and judges to reimburse losses caused by the rare instances of dishonest conduct by attorneys. Lawyers' Fund operates under the authority of the Tennessee Supreme Court, and a Board appointed by the Court, consisting of six lawyers and three non-attorney members, who serve without compensation. The Board considers and pays claims pursuant to Tennessee Supreme Court Rule 25.

Mr. McLellan is required to reimburse Lawyers' Fund for the amount paid to any claimant pursuant to Tennessee Supreme Court Rule 25 Section 16 and/or the Order of Enforcement entered by the Supreme Court of Tennessee.