

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

May 1, 2024
By Teleconference

MINUTES

CALL TO ORDER OF THE MEETING AND ROLL CALL

Chair Kinard called the meeting to order at 10:02 a.m. CDT. Mr. Squires called the roll, and a quorum was present.

Members Present: Chair M. Lewis Kinard; Timothy D. Belton; Amy Bresnen; Scott Brumley; Robert Denby (left at 10:30 a.m. and returned at 10:44 a.m.); Judge Phyllis Gonzalez; Jennifer Hasley; April Lucas (arrived at 10:04 a.m.); and Karen Nicholson.

State Bar of Texas Staff Present: Ray Cantu, Deputy Executive Director (arrived at 10:18 a.m.); Cory Squires, Staff Liaison; and Andrea Low, Disciplinary Rules and Referenda Attorney.

COMMENTS FROM THE CHAIR

Chair Kinard welcomed everyone to the meeting and thanked all who called in for their participation. He explained the Committee's purpose and mandate, directed the public to the Committee's website to find information about the Committee, and encouraged the public to participate in the process.

The Chair stated that he presented the Committee's Annual Report for 2023 at the meeting of the Board of Directors of the State Bar of Texas on April 19, 2024.

APPROVAL OF THE MINUTES OF THE LAST MEETING

Judge Gonzalez moved to approve the Minutes of the April 3, 2024, meeting. Mr. Brumley seconded the motion. The motion carried unanimously.

**RULES 1.04 FEES. AND 1.14. SAFEKEEPING PROPERTY
TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT**

Ms. Bresnen, on behalf of the subcommittee, recommended that the Committee not vote to initiate any rule proposals at this time. She stated that the subcommittee preferred to take additional time to consider these rules.

The Committee took no action on these matters.

**AMERICAN BAR ASSOCIATION MODEL RULE OF PROFESSIONAL CONDUCT
(ABA MRPC) 1.16. DECLINING OR TERMINATING REPRESENTATION**

Mr. Denby provided background on the changes to ABA MRPC 1.16, as adopted in August 2023. He recommended that the Committee consider the same issues and opined that the Committee may not want to adopt a similar rule, which may be ineffective against money laundering.

Committee members discussed whether existing disciplinary rules regarding fraud, misconduct, and candor toward the tribunal are sufficient. The Committee asked that the Chief Disciplinary Counsel present findings on grievances regarding lawyers who have not properly identified their clients at the next meeting.

The Committee took no action on this matter.

**ABA MRPC 5.5. UNAUTHORIZED PRACTICE OF LAW;
MULTIJURISDICTIONAL PRACTICE OF LAW**

The Committee agreed to consider this matter after the Supreme Court of Texas holds a hearing on May 6, 2024, to consider the rule proposals approved by the Bar membership.

**RULE 9.01. SEVERABILITY
TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT**

Ms. Bresnen requested that the Committee pass on this matter but consider it in its future discussions of artificial intelligence.

**INTERIM REPORT TO THE STATE BAR OF TEXAS BOARD OF DIRECTORS
FROM TASKFORCE FOR RESPONSIBLE AI IN THE LAW (TRAIL)**

Chair Kinard suggested that the Committee consider amendments to rules and interpretive comments based on the TRAIL report and examples from ethics committees and courts in California, Florida, North Carolina, and New Jersey. The Committee discussed current consideration of AI by the Texas legislature and judiciary. The Committee agreed to consider this further at the next meeting.

The Committee took no action on this matter.

**RULES VOTE 2024
(REFERENDUM ORDERED BY SUPREME COURT OF TEXAS)**

Ray Cantu, Deputy Executive Director of the State Bar of Texas, reported on the referendum. Mr. Cantu stated that the State Bar sent approximately 113,000 ballots to members, which resulted in a turnout of 18-19%.

Chair Kinard stated that he, Mr. Denby, and Ms. Bresnen will appear before the supreme court at a hearing on the rule proposals on May 6, 2024, at 3:00 p.m. Chair Kinard stated that the

Committee could submit recommendations for interpretative comments and renumbering to the supreme court.

AGENDA ITEMS FOR FUTURE MEETINGS

The Committee had no agenda items to add.

Ms. Lucas and Ms. Hasley agreed to follow up with the Chief Disciplinary Counsel regarding ABA MRPC 1.16 before adding this item to the agenda in the future.

ADJOURNMENT

Mr. Brumley moved to adjourn the meeting. Ms. Bresnen seconded the motion. The motion carried unanimously. The meeting was adjourned at 11:01 a.m. CDT.