

# DISCIPLINARY ACTIONS

General questions regarding attorney discipline should be directed to the Chief Disciplinary Counsel's Office, toll-free (877)953-5535 or (512)453-5535. The Board of Disciplinary Appeals may be reached at (512)475-1578. Information and copies of actual orders are available at [www.txboda.org](http://www.txboda.org). The State Commission on Judicial Conduct may be contacted toll-free, (877)228-5750 or (512)463-5533. Please note that persons disciplined by the Commission on Judicial Conduct are not necessarily licensed attorneys.

## REINSTATEMENT

**Luis Fulgencio Suarez** [#19455800], 59, of Alvin, has petitioned the 149th District Court of Brazoria County for reinstatement as a member of the State Bar of Texas.

## JUDICIAL ACTIONS

On May 25, 2006, the State Commission on Judicial Conduct issued a

public admonition to **James L. Supkis** [#19516800], 47, former municipal court judge for the City of Nassau Bay, Harris County. The commission found that by failing to complete his judicial education requirements for fiscal year 2003, Supkis failed to maintain professional competence in the law, in violation of Canon 3B(2) of the Texas Code of Judicial Conduct.

On May 25, 2006, the State Commission on Judicial Conduct issued a public admonition to **B.R. Duncan**, former municipal court judge for the City of Garrison, Nacogdoches County. The commission found that by failing to complete his judicial education requirements for fiscal year 2004, Duncan failed to maintain professional competence in the law, in violation of Canon 3B(2) of the Texas Code of Judicial Conduct.

On June 15, 2006, the State Commission on Judicial Conduct issued a public admonition to **Eric Andell** [#01165000], 60, former appellate judge, Houston, Harris County. The commission found that while serving as a visiting judge in the State of Texas, Andell failed to comply with the law and failed to act at all times in a manner that promotes public confidence in the integrity of the judiciary by engaging in conduct that constituted a violation of the federal conflict of interest statutes. As a public official charged with upholding the honor and integrity of the judiciary, Andell knew or should have known that his actions would cast public discredit upon the integrity of the judiciary.

Andell's actions constituted a willful violation of Canon 2A of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.

## BODA ACTIONS

On July 10, 2006, the Board of Disciplinary Appeals dismissed for want of prosecution the appeal of **Elizabeth A. Darnall** [#18577100], 57, of Dallas, of a default judgment of partially probated suspension issued by the evidentiary panel for the District 6-A Grievance Committee in Case Nos. D0070321493, D1110322637, and D0100322439. The board found that Darnall did not file a reporter's record or a brief. The board issued an order to show cause to Darnall on March 2, 2006, giving her 30 days to respond and show cause as to why this appeal should not be dismissed for want of prosecution. Darnall did not respond. Darnall remains on a probated suspension until Oct. 14, 2007. BODA cause number 36377.

On July 10, 2006, the Board of Disciplinary Appeals dismissed for want of prosecution the appeal of **Amy D. Smith** [#00791680], 39, of Normangee, of a default judgment of disbarment issued by the evidentiary panel for the District 3-B Grievance Committee in Case No. H0040417543. The board found that Smith did not file a reporter's record or a brief. The board issued an order to show cause to Smith on March 2, 2006, giving her 30 days to respond and show cause as to why this appeal should not be dismissed for want of prosecution. Smith did not respond. BODA cause number 36336.

On July 10, 2006, the Board of Disciplinary Appeals dismissed for want of jurisdiction the appeal of **Ronald Evans Harden** [#00792079], 56, of Key Largo, Fla., of a default judgment of partially probated suspension issued by the evidentiary panel for the District 1-A Grievance Committee in Case No. D0070424225.

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The board found that Harden filed his notice of appeal on April 18, 2006. The default judgment of partially probated suspension was signed on June 30, 2005. Harden received notice of the default judgment of partially probated suspension on Sept. 6, 2005. Harden filed a motion for new trial on Feb. 17, 2006. The board issued an order to show cause to Harden on May 30, 2006, giving him 30 days to respond and show cause as to why this appeal should not be dismissed for want of jurisdiction. Harden did not respond. Harden remains on a probated suspension until July 31, 2007. BODA cause number 37062.

On July 11, 2006, the Board of Disciplinary Appeals entered an agreed judgment of suspension against **John J. Arbour** [#00786993], 41, of Houston. On Nov. 29, 2005, Arbour was suspended from the practice of law in Louisiana for two years by the Supreme Court of Louisiana in Case No. 05-B-1189, styled, *In Re: John Joseph Arbour, Supreme Court of Louisiana Attorney Disciplinary Proceedings*. In accordance with Part IX of the Texas Rules of Disciplinary Procedure, Arbour is suspended from the practice of law in Texas for a period of two years, effective as of Nov. 29, 2005 and ending on Nov. 28, 2007. BODA cause number 37920.

On Aug. 4, 2006, the Board of Disciplinary Appeals entered an agreed judgment of suspension against **Denise Ann Maniscalco** [#00785463], 39, of Annandale, Va. On Oct. 19, 2004, Maniscalco was suspended from the practice of law in Virginia for 34 months and 13 days by the Virginia State Bar Disciplinary Board in Case No. VSB Docket No. 02-051-1868, styled, *In the Matter of Denise Ann Maniscalco, Before the Virginia State Bar Disciplinary Board*. In accordance with Part IX of the Texas Rules of Disciplinary Procedure, Maniscalco is suspended from the practice of law in Texas for a period of 34 months

and 13 days, effective as of Oct. 19, 2004, and ending on Sept. 1, 2007. BODA cause number 36997.

On Aug. 3, 2006, the Board of Disciplinary Appeals signed a final judgment disbarring **Robert N. Carnahan** [#03826000], 77, of Corpus Christi. On May 12, 2003, the board signed an interlocutory order suspending Carnahan from the practice of law pending the appeal of his criminal conviction for indecency with a child (three counts), aggravated sexual assault of a child (five counts), and sexual assault of a child (five counts), intentional crimes as defined in the Texas Rules of Disciplinary Procedure, in Cause No. 01 CR3833 H, styled *The State of Texas v. Robert Narvell Carnahan*, in the 347th District Court of Nueces County. Carnahan was sentenced to 15 years confinement in jail for the indecency with a child and sexual assault of a child convictions and 40 years confinement for the aggravated sexual assault of a child convictions. He was also assessed a fine of \$5,000 and ordered to pay court costs in the amount of \$463. The interlocutory order provided that in the event Carnahan's conviction became final, he would be disbarred. On March 6, 2006, the Thirteenth Court of Appeals issued a mandate affirming the judgment in the criminal case. BODA cause number 28766.

On Aug. 7, 2006, the Board of Disciplinary Appeals affirmed the one-year, fully probated suspension from the practice of law of **Harold V. Dutton, Jr.** [#06293050], 61, of Houston, by the evidentiary panel for the District 4-E Grievance Committee in Case No. H0020410200 on Nov. 9, 2005. Dutton's probated suspension will end on Nov. 30, 2006. BODA cause number 35370.

On Aug. 18, 2006, the Board of Disciplinary Appeals signed an opinion and order in the appeal of **Bonnie F. Sims** [#18415700], 62, of Dallas, of a default

judgment of disbarment issued by the evidentiary panel for the District 6-A Grievance Committee in Case No. D0070321415 on Oct. 6, 2004. The board found that the return of service was insufficient to support a default judgment because the return receipt did not bear Ms. Sims' signature. The disbarment is reversed and the matter is remanded for a new trial. BODA cause number 34229.

The full text of BODA's opinion and order in this matter can be found at BODA's website, [www.txboda.org](http://www.txboda.org).

On Aug. 16, 2006, the Board of Disciplinary Appeals reversed and remanded the appeal of **Everett J. McClain** [#00786850], 50, of Houston, of a judgment of active suspension issued by the evidentiary panel

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for the District 4-C Grievance Committee in Case No. H0110418894 on Nov. 30, 2005. The board found that the parties had settled the matter and remanded the matter to an evidentiary panel for rendition of the agreed judgment. BODA cause number 36831.

## DISBARMENT

On June 26, 2006, **Arthur Jackson** [#10454000], 64, of Houston was disbarred. The evidentiary panel of the District 4-A Grievance Committee found that Jackson was retained to expunge his client's criminal record; however, he failed to file the expungement as promised. After receiving payment for his services and filing fees, Jackson failed to keep these funds separate from his per-

sonal assets. Jackson failed to maintain an IOLTA bank account or any other type of bank account in which to keep his client's funds. Jackson failed to keep his client reasonably informed about the status of the legal matter or promptly comply with requests for information. Jackson failed to explain matters to the extent reasonably necessary to permit his client to make informed decisions regarding the representation.

Jackson violated Rules 1.01(b)(1) and (b)(2), 1.03(a) and (b), and 1.15(a)(2) and (d). Jackson has appealed the decision.

## RESIGNATION

On June 22, 2006, the Supreme Court of Texas accepted the resignation, in lieu of discipline, of **James Gordon Leonard** [#00784465], 58, of Dallas. The 40th District Court of Ellis County found that on April 10, 2006, Leonard entered a plea of guilty to two charges of indecency with a child and to one charge of aggravated sexual assault of a child. On April 10, 2006, Leonard was sentenced to 10 years of deferred adjudication.

As a result of such plea to intentional and serious crimes as defined in Rules 1.06(T) and (Z) of the Texas Rules of Disciplinary Procedure, Leonard would be subject to compulsory discipline under Part VIII of the Rules.

## PUBLIC REPRIMANDS

On May 26, 2006, **James S. Crowley** [#05170200], 56, of Houston accepted a public reprimand. The 240th District Court of Fort Bend County found that Crowley, in representing a client on appeal, failed to timely file an appellate brief as required by the court. Ultimately, Crowley filed a brief on behalf of his client; however, he had to request leave to file the brief out of time. Crowley failed to keep his client informed of the status of his appeal.

Crowley violated Rules 1.01(b)(1) and (b)(2) and 1.03(a). He was ordered to pay \$604.50 in attorney's fees.

On June 16, **John T. Dierksen** [#05850500], 60, of New Braunfels, accepted a public reprimand. The District 15-C Grievance Committee found that in 2001, a member of Dierksen's law firm prepared estate planning documents for a husband and wife, including reciprocal wills. The husband had been represented by Dierksen's law firm for other legal matters as well. On April 12, 2002, Dierksen drafted a new will for the wife naming the wife's mother as the sole beneficiary of her estate. Dierksen failed to obtain the prior consent of the former client husband before representing the wife and drafting a new will.

Dierksen violated Rules 1.09(a) and (b). He was ordered to pay \$500 in attorney's fees.

On June 12, 2006, **Robert Charles Brown** [#03164200], 57, of Dallas, accepted a public reprimand. The 14th District Court of Dallas County found that on April 30, 2002, the complainant hired Brown to represent him both in a dispute with an insurance company for denial of a disability claim and in negotiations with his former employer for possible reinstatement. The complainant paid a \$10,000 retainer for the representation. Brown subsequently failed to keep the complainant informed about the status of his case or respond to his reasonable requests for information. Brown failed to do any significant legal work on the complainant's case.

Brown violated Rules 1.01(b)(1) and 1.03(a).

On June 2, 2006, **Thomas P. Alexander** [#01000000], 75, of Houston, accepted a public reprimand. The evidentiary panel of the District 4-B Grievance Committee found that on March 3, 2004, the complainant retained Alexander to represent her in a divorce matter. During the representation, Alexander failed to adequately communicate with the complainant as the trial date

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approached. He failed to answer discovery, failed to appear at a pre-trial hearing, and failed to appear at the trial of the matter providing the complainant only one day's notice of his inability to appear for her trial. The complainant paid a sanction of \$1,000 as a result of Alexander's failure to answer discovery.

Alexander violated Rules 1.01(b)(1) and (b)(2) and 1.03(a) and (b). He was ordered to pay \$1,000 in restitution and \$1,740 in attorney's fees.

## SUSPENSIONS

On July 14, 2006, **Clarice Attaway Pat Allen** [#01025680], 70, of Texarkana, received a two-year, fully probated suspension effective June 1, 2006. The evidentiary panel of the District 1-B Grievance Committee found that on Dec. 4, 2003, the complainant hired Allen to represent her in the appeal of her civil matter. Allen subsequently failed to do any meaningful work in the complainant's matter or respond to the complainant's telephone calls inquiring about the status of her appeal. On July 20, 2004, the appeal was dismissed for want of prosecution due to Allen's failure to timely file an appellate brief. The complainant ultimately contacted Allen and requested a refund of any unearned fee. Allen failed to refund any portion of the fee.

Allen violated Rules 1.01(b)(1) and (b)(2), 1.03(a), and 1.15(d). She was ordered to pay \$5,000 in restitution and \$1,650 in attorney's fees.

On June 15, 2006, **Frederick L. McGuire** [#24001190], 57, of Houston, accepted a one-year, fully probated suspension effective June 15, 2006. The 295th District Court of Harris County found that on Dec. 16, 2002, the complainant retained McGuire to represent her in an auto accident, which occurred when the driver of the car in which she was riding crashed into a parked 18-wheel truck. McGuire represented both

the driver of the car and the passenger. This constituted a conflict of interest.

McGuire violated Rule 1.06(b)(1). He was ordered to pay \$1,468 in attorney's fees.

On June 5, 2006, **Claudia Arrieta** [#24000308], 35, of San Antonio, accepted a one-year, fully probated suspension effective May 15, 2006. The evidentiary panel of the District 10-A Grievance Committee found Arrieta was hired on a divorce case but failed to file the divorce petition or otherwise pursue the divorce, failed to keep her client reasonably informed, failed to respond to communications from the client, engaged in the practice of law and accepted the divorce case and attorney's fees when her law license was administratively suspended, and failed to timely file a response to the grievance.

Arrieta violated Rules 1.01(b)(1), 1.03(a), 1.04(a), 1.15(a)(1), and 8.04(a)(8) and (a)(11). She was ordered to pay \$400 in restitution and \$600 in attorney's fees and costs.

On May 29, 2006, **Armando Trevino** [#20211100], 58, of Laredo, received a 30-month, partially probated suspension effective July 1, 2006, with the first six months actively served and the remainder probated. The District 12-A Grievance Committee found Trevino failed to return a client's file upon request. Trevino failed to respond to the grievance or file a good faith assertion of privilege or other legal ground for his failure to respond.

Trevino violated Rules 1.15(d) and 8.04(a)(8). He was ordered to pay \$2,400 in attorney's fees and \$265 in costs. Trevino has appealed the decision.

On June 12, 2006, **Phillip E. Layer** [#12065600], 55, of Dallas, received a four-year, fully probated suspension. The evidentiary panel of the District 6-A Grievance Committee found that in

March 2005, Layer filed a lawsuit in state district court. The complainant represented the defendants in that suit. During the course of the litigation, Layer filed frivolous motions, including one with an incomplete exhibit attached. Layer also directed a non-attorney employee to obtain affidavits from the complainant's clients without the complainant's knowledge or consent.

Layer violated Rules 3.01, 3.03(a)(2), 3.04(a), 4.02(a), 5.03(b)(1), and 8.04(a)(3). He was ordered to pay \$2,609.75 in attorney's fees and \$667.77 in costs. Layer has appealed the decision.

On July 6, 2006, **Deborah G. Frink** [#07479100], 55, of Houston, received a two-year, fully probated suspension

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effective July 1, 2006. The 270th District Court of Harris County found that upon Frink's termination of legal representation of the complainant, Frink failed to reasonably protect the complainant's interest by surrendering papers and property which belonged to the complainant. After her representation of the complainant was terminated, Frink refused to return the complainant's file because the complainant owed her substantial fees. The court rejected Frink's defense based upon a common law attorney's lien.

Frink violated Rule 1.15(d). She was ordered to pay \$4,155 in attorney's fees and \$891.30 in costs.

On May 3, 2006, **Perry Don Cortese** [#00790508], 43, of Kerrville, received a 33-month, partially probated suspension effective Aug. 1, 2006. The District 15-C Grievance Committee found that Cortese neglected a real estate matter by failing to timely record closing documents adversely affecting the lender's interest in the property and delaying the issuance of a title policy. Cortese failed to communicate with his client and failed to timely respond to the grievance.

Cortese violated Rules 1.01(a), (b)(1), and b(2); 1.03(a) and (b); and 8.04(a)(8). He was ordered to pay \$1,500 in attorney's fees and costs.

On June 23, 2006, **Robert Areche, Jr.** [#01299125], 51, of San Antonio, agreed to a three-year, partially probated suspension effective May 1, 2006, with the first 12 months actively served and the remainder probated. The evidentiary panel of the District 10A-3 Grievance Committee found that after being hired in a probate matter, Areche neglected the representation, failed to reasonably communicate with his client, and failed to return unearned fees.

Areche violated Rules 1.01(b)(1), 1.03(a), and 1.15(d). He was ordered to

pay \$461 in restitution and \$800 in attorney's fees and costs.

On July 17, 2006, **Robert M. Bandy** [#01670000], 67, of Tyler, received an 18-month, fully probated suspension effective Aug. 1, 2006. The District 2-A Grievance Committee found that in one matter, Bandy was hired to handle a tax matter involving the Internal Revenue Service. Bandy failed to submit an offer of compromise to the IRS as requested by the complainant. Bandy failed to communicate with the complainant. The complainant finally contacted the IRS directly and was able to settle the matter.

In a second matter, Bandy was hired to handle a family law matter involving child custody issues. Bandy did little or

no legal work and failed to keep the complainant reasonably informed regarding his matter.

Bandy violated Rules 1.01(b)(1) and (b)(2), 1.03(a), and 1.15(d). He was ordered to pay \$9,000 in restitution and \$2,931 in attorney's fees and costs.

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