TADC ETHICS AND PROFESSIONALISM NEWSLETTER

Fall 2007 Edition

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INTRODUCTION

This semi-annual newsletter seeks to bring you information about topics of interest regarding ethics and professionalism. The Ethics Opinion Update summarizes the opinions released by the Professional Ethics Committee for the State Bar of Texas since our May 2007 newsletter.

The Case Law Update summarizes cases of interest. There are numerous cases involving legal ethics and malpractice, making it unfeasible to report about all the potentially relevant cases.

The Legislative Update section summarizes activity in the legislative session earlier this year that are relevant to the legal profession.

Finally, the section entitled "Are You Authorized to Practice Law" and the Fall 2007 Newsletter Supplement follows up on the May 2007 newsletter in providing information about the standards for the out-of-jurisdiction practice of law in all 50 states, plus the District of Columbia. Since most lawyers now practice across state lines and states have differing standards for what constitutes the authorized practice of law by out-of-state attorneys, it is important to comply with the rules of the relevant state(s). As noted in the May 2007 newsletter, the consequences for unauthorized practice of law can be severe, including sanctions and forfeiture of legal fees.

[1] The editors would like to thank Suneese Eagleton, Jenny Lloyd, Courtney Stewart, and Carlos White of DLA Piper US LLP for their contributions to researching and writing this newsletter.

I.

ETHICS OPINION UPDATE

A. CONTRACT ATTORNEYS – ARE THEY "FIRM" OR "NON-FIRM" ATTORNEYS & WHAT CAN I BILL FOR THEIR TIME?

Opinion No. 577, March 2007

QUESTION PRESENTED: May a law firm hire a lawyer who is not an associate, partner, or shareholder of the law firm to provide legal services for a client of the firm and then bill the client a higher fee for the work done by that lawyer than the amount paid to the lawyer by the firm?

SUMMARY OF OPINION: The Committee has set new guidelines for law firms to follow when billing clients for legal services performed by a lawyer who is not an associate, partner, or shareholder of the law firm. Opinion No. 577 explains that the proper billing treatment depends on whether the lawyer is considered to be "in" the law firm for purposes of the Texas Disciplinary Rules of Professional Conduct. The categories recognized by the Committee are: (1) "other firm lawyers," such as of counsel attorneys, senior attorneys, contract lawyers, and or other part-time lawyers, who are considered to be "in" the law firm for purposes of billing disclosures; and (2) "non-firm lawyers," such as outside patent counsel, local counsel, or lawyers hired on a temporary basis, who are not considered to be "in" the law firm.

Two provisions of the Rules present potential obstacles to this practice. Rule 7.01(d) prohibits a lawyer from holding "himself or herself out as being a partner, shareholder, or associate with one or more other lawyers unless they are in fact partners, shareholders, or associates." Rule 1.04(f) allows a division of fees between "lawyers who are not in the same firm" only if: (1) the division is in proportion to the legal services performed by each lawyer or made between lawyers who assume joint responsibility for the representation; (2) the client consents in writing to the terms of the fee division arrangement; and (3) the total fee is not unconscionable.

If a lawyer is "in" the law firm billing the lawyer's work, a division of fees does not exist, and the law firm is not subject to the requirements of Rule 1.04(f). Recognizing that, in today's legal environment, law firms are not comprised solely of

partners or shareholders and their associates, the Committee opined that certain "other firm lawyers," including of counsel attorneys, senior attorneys, contract lawyers, or other part-time lawyers, can reasonably be considered to be "in" the law firm for purposes of Rule 1.04(f). The Committee identified several objective factors for determining whether a lawyer qualifies as an "other firm lawyer" or a "non-firm lawyer," including but not limited to the receipt of firm communications, inclusion in firm events, work location, length and history of association with the firm, whether the firm and the lawyer identify or hold the lawyer out as being in the firm to clients and to the public, and the lawyer's access to firm resources, including computer data and applications, client files, and confidential information.

When an other firm lawyer is "in" the firm, a law firm may bill the work performed by the lawyer in a manner similar to its partners, shareholders, and associates. The firm may simply bill these services at a marked-up hourly rate and identify the other firm lawyers on the bills with a description of the work, the hours expended, and the hourly rate without distinguishing the lawyer from other lawyers in the firm and without disclosing the actual amount paid to the lawyer by the firm.

A different rule applies when the lawyer is a "non-firm lawyer." A "non-firm lawyer" practices separately from the firm even if he or she is working on a particular matter with the firm for the client. Examples of non-firm lawyers include outside patent counsel, local counsel, and counsel hired temporarily for their specific expertise or on a specific project. The Committee concluded that a law firm may neither markup nor markdown a non-firm lawyer's fees unless all the requirements of Rule 1.04(f)—proportionality of fees to services performed or joint responsibility for the representation, written client consent to the terms of the fee division, and a total fee that is not unconscionable—are satisfied. In addition, under Rule 7.01(d), the law firm may not include the non-firm lawyer's name, work, and time in its bill unless the bill identifies the non-firm lawyer as a lawyer who is not in the firm.

Thus, a law firm has three choices when billing for the services of a "non-firm lawyer." First, the law firm may bill the non-firm lawyer's services without markup or markdown as an itemized expense. Second, the law firm may bill for the non-firm lawyer's services on an hourly billing basis, again without markup or markdown. When billing a non-firm lawyer's time on this basis, however, Rule 7.01(d) requires that the law firm indicate clearly that the non-firm lawyer is not in the firm. Finally, if the law firm wishes to markup or markdown the fees for the non-firm lawyer's services, it may do so only if it complies with the onerous requirements of Rules 1.04(f) and 7.01(d).

The Committee noted its conclusions differed "substantially" from the conclusions in American Bar Association Formal Ethics Opinion No. 00-420, which concluded that a law firm may markup the fees of a contract lawyer billed as legal service, so long as the total charge is reasonable.

B. IS IT FEE-SPLITTING?

Opinion No. 576, December 2006

QUESTION PRESENTED: May a lawyer who represents a client in a contingent fee personal injury case enter into an agreement with a lending company owned by non-lawyers under the terms of which the lending company would agree to reimburse the lawyer for litigation expenses in the case as incurred and the lawyer would agree to repay, in the event of a recovery in the lawsuit, the amounts advanced plus a funding fee equal to a fixed percentage of any amount recovered in the case but subject to an agreed maximum?

SUMMARY OF OPINION: In Opinion No. 576, the Committee focused on whether the proposed arrangement constituted a fee-sharing agreement with a non-lawyer. Rule 5.04(a) of the Texas Disciplinary Rules of Professional Conduct prohibits lawyers from sharing legal fees with non-lawyers. The Committee noted the primary reasons for this bar, as set forth in Comment 1 to Rule 5.04(a), are to prevent solicitation by lay persons of clients for lawyers and to avoid encouraging or supporting non-lawyers in the practice of law.

Prior Opinion Nos. 558 (May 2005) and 467 (November 1990) demonstrate forbidden fee-sharing agreements. In Opinion No. 558, a lawyer agreed, as a term of a loan agreement with a finance company that was loaning the lawyer money for litigation expenses in a contingent fee case, to pay to the finance company a percentage of his contingency fee. In Opinion No. 467, a law firm's office lease with a non-lawyer landlord provided for rent that could be a percentage of the law firm's gross receipts.

The Committee referenced prior Opinion No. 481 (January 1994) as an example of an acceptable finance arrangement. In Opinion No. 481, the Committee reviewed an arrangement where a client

borrowed monies equal to the legal fee from a for-profit finance company. The finance company paid the lawyer directly 90% of the funds borrowed by the client and retained the remaining 10% and additionally charged the lawyer a fee for participating in the program. The Committee found "the retention by the finance corporation of a reasonable portion of the amount borrowed by the client is properly viewed as [a] finance arrangement rather than a fee-splitting arrangement."

The Committee determined that the proposed arrangement at issue was comparable to the fee-splitting arrangement rejected in Opinion No. 558 rather than the finance arrangement approved in Opinion No. 481 because the funding fee was tied directly to the amount of the recovery in the underlying action just like the payment to the finance company.

C. I CAN RECORD THE PHONE CALL?!?

Opinion No. 575, November 2006

QUESTION PRESENTED: May a lawyer electronically record a telephone conversation between the lawyer and a client or third party without first informing the other party to the call that the conversation is being recorded?

SUMMARY OF OPINION: In prior Opinion Nos. 392 (February 1978) and 514 (February 1996), the Committee held that a lawyer's undisclosed recording of telephone conversations was not permitted under the applicable disciplinary rules. Opinion No. 392 held that the undisclosed recording of telephone conversations "offends the sense of honor and fair play of most people" and would therefore violate former disciplinary rules applicable to Texas lawyers. Opinion No. 514 concluded that such calls would violate Rule 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct, which prohibits conduct involving "dishonesty, fraud, deceit, or misrepresentation."

In Opinion No. 575, the Committee observed that in recent years a number of ethics committees, most notably the American Bar Association Standing Committee on Ethics and Professional Responsibility, have concluded that a lawyer may record his telephone calls without disclosure to the other party so long as the recording is not in violation of applicable law and is not contrary to a representation made by the lawyer that the conversation is not being recorded.

Reexamining the issue in light of the current trend, the Committee acknowledged that no provision of the Texas Disciplinary Rules of Professional Conduct specifically prohibits a lawyer's unannounced recording of telephone conversations. Noting that the practice is not prohibited by Texas or federal law and is routine in the business world, the Committee decided that the practice of recording calls could not be deemed to involve "dishonesty, fraud, deceit, or misrepresentation" within the meaning of Rule 8.04(a)(3). The Committee observed that a lawyer can make legitimate use of such recordings in aiding memory, keeping an accurate record, gathering information from potential witnesses, and protecting the lawyer from false accusations.

The Committee concluded that a Texas lawyer may make an undisclosed recording of the lawyer's telephone conversations provided: (1) recordings involving a client are made to further a legitimate purpose of the lawyer or the client; (2) confidential client information contained in any recording is appropriately protected by the lawyer in accordance with Rule 1.05; (3) the undisclosed recording does not constitute a "serious criminal violation" under the laws of any applicable jurisdiction; and (4) the recording is not contrary to a representation made by the lawyer to any person.

D. CONFLICTS?

Opinion No. 574, September 2006

QUESTION PRESENTED: Is it permissible under the Texas Disciplinary Rules of Professional Conduct for a former employee of a Texas regulatory agency to represent a client before the agency in a matter that originated during the lawyer's employment but in which the lawyer did not participate personally and substantially?

SUMMARY OF OPINION: In Opinion No. 574, the Committee addressed a situation where a lawyer appeared before a regulatory agency on behalf of a client less than one year after the lawyer terminated employment with that agency. Although the lawyer had no involvement in that client's matter while employed by the agency, the agency took the position that under Rule 1.10 of the Texas Disciplinary Rules of Professional Conduct and under § 572.054(b) of the Texas Government Code, the lawyer was not permitted to represent the client in the pending matter.

Issues concerning a lawyer's successive government and private employment are governed by

Rule 1.10(a), which prohibits a lawyer from representing a "private client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency consents after consultation." Moreover, Rule 1.10(f) defines the term "matter" broadly to include any "action or transaction covered by the conflict of interest rules of the appropriate government agency."

The Committee found that although the term "matter" could be accorded a wide scope as a result of a particular agency's conflict of interest rules, Rule 1.10(a) would still not prohibit a former agency lawyer from representing a private client in connection with a matter, however defined, unless the "personal and substantial participation" standard was met with respect to a lawyer's relationship to such matter.

II.

CASE LAW UPDATE

A. TIL DEATH DO US PART…UNLESS IT IS A LEGAL MALPRACTICE SUIT.

O'Donnell v. Smith, No. 04-04-00108-CV, 2007 WL 2114654 (Tex. App.—San Antonio, July 25, 2007).

Thomas O'Donnell ("O'Donnell"), executor of the estate of Corwin D. Denney's ("Denney"), brought a legal malpractice action against the law firm of Cox, Smith & Smith and certain of its attorneys (collectively, "Cox") in connection with legal advice Cox provided Denney during his lifetime concerning Denney's role as executor to his wife's estate.

In a prior decision regarding this action the Texas Court of Appeals affirmed summary judgment against O'Donnell on the basis that O'Donnell lacked privity of contract with Cox because no cause of action had accrued to Denney during his lifetime, and consequently, the Court of Appeals did not address the issue of whether a legal malpractice claim could survive Denney's death.

However, the Texas Supreme Court vacated the summary judgment and remanded the case for reconsideration in light of its recent holding in *Belt v. Oppenheimer, Blend, Harrison & Tate, Inc.*, 192 S.W.3d 780 (Tex. 2006). In *Belt* the Supreme Court held that an estate's personal representative is *not* barred from maintaining a legal malpractice claim on behalf of the estate against the decedent's estate planners, and providing the personal representative seeks recovery for *pure* economic loss, he or she may maintain an action for alleged negligence that occurred during the deceased client's lifetime. The Supreme Court further concluded that (i) since the estate "stands in the shoes" of a decedent, it is in privity with the decedent's estate planning attorney and, therefore, the estate's personal representative has the capacity to maintain the malpractice claim on the behalf of the estate and (ii) although an estate may suffer significant damages *after* a client's death, this does not preclude survival of an estate planning malpractice claim.

Applying *Belt* to the instant case, the Court of Appeals extended *Belt* to not only include estate planning malpractice but also to legal malpractice claims. The Court of Appeals held, among other things, that legal malpractice claims alleging pure economic loss survive in favor of a deceased client's estate, because such claims are necessarily limited to recovery for property damage. Based on this holding coupled with the facts that an injury can occur during the client's lifetime which permits survivability of a legal malpractice claim and discovery of the requisite facts underlying the claim can occur after the client's death, the Court of Appeals, found that fact issues existed with respect to privity and whether a malpractice cause of action accrued during and survived after Denney's death. The Court of Appeals remanded the cause to the trial court for further proceedings.

B. CHARITY BEGINS WITH THE FAMILY - RIGHT?

Baker Botts, L.L.P. v. Cailloux, 224 S.W.3d 723 (Tex. App.—San Antonio 2007, pet. filed).

This action stems from Kathleen Cailloux ("Mrs. Cailloux") and her husband Floyd Cailloux engaging Baker Botts, L.L.P. to devise an estate plan for their multimillion dollar estate. Floyd died before the estate plan was finalized and consequently, Baker Botts had to revise the estate plan. Under the revised plan, Mrs. Cailloux voluntarily disclaimed her right to Floyd's share of the marital estate, which resulted in $65.5 million immediately vesting in various charitable organizations (including the Old Foundation) that Floyd had designated in his will. Throughout the estate planning process, Baker Botts jointly represented Mrs. Cailloux, the Old Foundation, and Wells Fargo Bank, N.A., the independent executor of Floyd's share of the marital estate ("Wells Fargo"). Subsequently, Mrs. Cailloux became incapacitated by Alzheimer's disease, and

Ken Cailloux ("Cailloux") took over her affairs. Cailloux, as next friend of Mrs. Cailloux, sued Baker Botts, Wells Fargo, for among other things, breach of fiduciary duty and legal malpractice in connection with Mrs. Cailloux's execution of the disclaimer.

The jury found that Baker Botts and Wells Fargo breached their fiduciary duties to Mrs. Cailloux and that she had zero lost income and economic loss damages. The trial court entered judgment on the jury's verdict and ordered the creation of an "equitable trust" funded by Baker Botts and Wells Fargo. Baker Botts and Wells Fargo appealed the decision and Cailloux cross-appealed the zero finding for lost income.

Cailloux alleged that Mrs. Cailloux would not have disclaimed her right to Floyd's estate if Baker Botts and Wells Fargo had not breached their fiduciary duties to Mrs. Cailloux, by among other things, failing to (i) explain the implications of Baker Botts' joint representation, (ii) inform Mrs. Cailloux that the director of the Old Foundation was *scheming* with Baker Botts to deprive her of the $65.5 million marital trust under the guise of tax savings, and (iii) explain the contents of Floyd Cailloux's will and her rights under the will. The Court of Appeals concluded that Cailloux failed to establish a casual connection between the acts of Baker Botts and Wells Fargo and any harm suffered by Mrs. Cailloux. The Court stated that Cailloux did not provide sufficient evidence indicating that Mrs. Cailloux would have followed a different course of action and refused to sign the disclaimer *but for* Baker Botts' and Wells Fargo's alleged wrongdoing and any attempt to infer what Mrs. Cailloux would have done if she was properly advise would be improper. Furthermore, the Court of Appeals concluded that even if Cailloux proved causation, the trial court abused its discretion by imposing an "equitable trust" upon Baker Botts and Wells Fargo because neither Baker Botts nor Wells Fargo held legal title to the trust principal.

After evaluating the case, the Texas Court of Appeals reversed the trial court's judgment with respect to the $65.5 million "equitable trust", rendered a take nothing judgment in favor of Baker Botts and Wells Fargo, and affirmed the trial court's judgment concerning Mrs. Cailloux lost income damages.

C. THE "*DIS* ENGAGEMENT" LETTER

Haden v. David J. Sacks, P.C., 222 S.W.3d 580 (Tex. App.—Houston [1st Dist.] 2007, pet filed).

David J. Sacks, P.C. ("Sacks") represented Charles Haden and his company (collectively, "Haden') in connection with a commercial dispute that resulted in an adverse judgment against Haden. Sacks and Haden commenced their relationship by executing an engagement letter.

However, after numerous failed attempts to collect over $30,0000 in legal fees for services rendered to Haden, Sacks filed this lawsuit asserting claims for (i) "suit on sworn account" by claiming that Haden accepted the services and became bound to pay Sacks on an open account, (ii) breach of contract, and (iii) quantum meruit. Haden contested the total amount of fees owed to Sacks alleging, among other things, that Sacks performed work outside the scope of the engagement and that Haden only agreed to pay Sacks a flat, maximum fee of up to $10,000 for Sacks services, and Haden consequently counterclaimed alleged fraud, DTPA violations, unconscionable course of action, breach of contract, and breach of fiduciary duty against Sacks. The trial court granted summary judgment in favor of Sacks on its breach-of-contract claim and on the counterclaims and, in post-judgment collection and enforcement proceedings, awarded Sacks' attorney fees. Haden appealed.

In asserting its right to summary judgment as a matter of law on its claim for beach of contract, Sacks relied on the fact that Sacks and Haden agreed to open account billing, at the rates and expenses outlined in the executed engagement letter and the payment of the $5,000 retainer fee referenced in the engagement letter. However, the Texas Court of Appeals did not support Sacks' interpretation. The Court of Appeals concluded that the engagement letter imposed the following terms on the parties: (i) Sacks would provide professional assistance with Haden's appellate brief, (ii) Haden acknowledged Sacks' rates and responsibility for disbursed expenses, and (iii) $5,000 retainer fee, however, the engagement letter did not require Sacks to do work representing a value in fees of any amount except the $5,000 retainer fee or for Haden to pay any amount except the retainer fee. The Court of Appeals further concluded that with respect to the potential fees owed to Sacks, the engagement letter only acknowledged differing rates for differing levels of staff input and stated that acknowledging a hourly rate is not necessarily acknowledging open account billing. Therefore, there were fact questions as to whether there was a "meeting of the minds" between Sacks and Haden regarding the legal fees representing approximately $35,000 and Haden's obligation to pay such amounts.

The Court of Appeals analyzed whether Haden's assertion that the parties agreed to a flat $10,000 fee was barred by the parole evidence rule. Relying on the "collateral, consistent terms" exception to the parole evidence rule (which allows admission of collateral, contemporaneous agreements that are consistent with the underlying agreement to be construed), the Court of Appeals concluded that since the engagement letter provided no guidance on whether the parties agreed to open account billing or a flat fee, the engagement letter could be consistent with either type of fee arrangement, and as such is an issue for the trier of fact.

Sacks also contended that Haden could not assert the flat, maximum fee billing theory because Haden paid Sacks an additional $5,000 after receiving all invoices, which evidenced a balance due of $35,304.71, and thus ratified the parties' agreement that Sacks' fees would be paid on an as-accrued, hourly basis. The Court of Appeals rejected this contention by concluding that fact issues existed as to whether parties agreed to collect fees as accrued or on a flat or maximum fee basis.

With respect to the trial court's grant of a no-evidence summary judgment for Sacks on Haden's counterclaims pertaining to breach of fiduciary duty, fraud, and DTPA violations, the Court of Appeals noted that the issue was whether Haden incurred the requisite damages to prevail in their counterclaims against Sacks. Haden asserted that it sustained the necessary element of damages for each of its counterclaims because of its (i) previously asserted defenses to the Sacks' suit for breach of the fee-agreement contract and (ii) attorney's fees and expenses it had to spend to defend this lawsuit or would have to pay if Sacks prevailed. The Court of Appeals concluded that since the settled prohibition against recovery of attorney's fees as actual damages barred the trial court from accepting the only evidence that Haden offered to defeat Sacks' no-evidence motion for summary judgment for lack of evidence of damages, the trial court properly rendered no-evidence summary judgment in favor of the Sacks on Haden's counterclaims.

III.

LEGISLATIVE UPDATE

A. RESTRICTION OF PUBLICATION OF ATTORNEY PERSONAL INFORMATION

In 2007, the 80th Texas Legislature declined to pass any substantive changes to the lawyer discipline system. However, Governor Rick Perry signed into law legislation that allows attorneys to designate as confidential the following information in their State Bar records: home address, home telephone number, social security number, e-mail address and date of birth. This amendment to §552.1176 of the Texas Gov't Code took effect on September 1, 2007.

Although the State Bar notices provided that attorneys were to make the designation of confidential information prior to September 1, 2007, the State Bar is still accepting personal information restriction designations. Attorneys can make an online designation of personal information or obtain a copy of the form for the designation on the State Bar's website (www.Texasbar.com).

B. GOC RECOMMENDATIONS

Although there were no legislative changes to the lawyer discipline system in 2007, in June of 2007, the Texas Supreme Court received the report of the Grievance Oversight Committee ("GOC") that studied the structure and effectiveness of the Texas disciplinary system. In a 25-page report, the GOC studied several areas of the Texas disciplinary system, including areas that were affected by legislative changes in 2003:

- *Diversity*: The GOC reported on the perception, perhaps undeserved, that the disciplinary system does not adequately represent the diversity of the State Bar in gender, practice area, or ethnicity. Among other things, the GOC recommended that better statistics be kept to measure diversity in the grievance system.
- *Education*: The GOC analyzed how the public and lawyers are educated regarding the Texas grievance system and ethics issues in general. The GOC analyzed and made recommendations regarding the education efforts of the Client Attorney Assistance Program, the Office of Chief Disciplinary Counsel, local grievance committees, the Commission for Lawyer Discipline, the Attorney Ethics Hotline, local bar associations, and the Law Practice Management series of continuing legal education.
- *Lawyer Advertising*: The GOC studied the current system of grievances regarding lawyer advertising, including the perception that violations of the advertising rules are

prevalent, lack of uniformity in prosecution of advertising violations, and insufficient resources dedicated to enforcement. The GOC recommended, in part, the formation of special Grievance Committee on lawyer advertising.

- *BODA*: The GOC examined the work of the Board of Disciplinary Appeals ("BODA"). The GOC recommended the restoration of a respondent attorney's right to appeal a classification decision, and recommended that the BODA publish written abstracts of classification decisions. The GOC also recommended a re-write of the Texas Rules of Disciplinary Procedure (while acknowledging that other groups are studying this issue).
- *The Impaired Lawyer*: The GOC encouraged more awareness of programs to assist impaired lawyers, both financially and with counseling; and recommended additional efforts to better understand how the disciplinary system identifies and treats lawyers with substance abuse problems.
- *ABA Review:* The GOC recommended that a thorough review of the Texas disciplinary system by conducted by the ABA Standing Committee on Professional Discipline.

In response to an invitation by the Texas Supreme Court, several parties submitted comments on the GOC recommendations. The Commission for Lawyer Discipline ("Commission") and Chief Disciplinary Counsel ("CDC") commented on the GOC report. The CDC explained the effect of the 2003 legislative changes to the disciplinary process, including eliminating the respondent's right to appeal a classification decision, shifting the "just cause" (similar to probable cause) decision from local grievance committees to the CDC, and providing for the confidentiality of evidentiary hearings on grievances. The CDC described its diversity efforts, and expressed its concern about the collection of information on the race and ethnicity of parties involved in the grievance system without influencing the process itself. The CDC also reported on the efforts of its Ombudsman to assist complainants with filing of grievances, and its efforts to address violations of attorney advertising violations. Since the Texas grievance system is unique among the fifty states, the Commission saw no need for an ABA review of the Texas grievance system.

The Board of Disciplinary Appeals ("BODA") also submitted comments. BODA explained the difficulty in issuing written opinions on its classification decisions: the scant facts alleged by the complainant, the need for confidentiality, and the fact that the classification decision are made to determine whether further investigation is warranted rather than to determine misconduct or sanctions. BODA also applauded the GOC recommendation that the BODA opinions be published in the Southwestern Reporter series, to improve access to their opinions, with the recommendation that their opinions should be persuasive, not precedential, in district court disciplinary cases.

In sum, although no sweeping changes for the Texas grievance system are immediately forthcoming, the GOC and the various groups dedicated to lawyer discipline continue to evaluate and advocate for a more efficient and fairer grievance system for Texas lawyers and the public.

IV.

ARE YOU AUTHORIZED TO PRACTICE LAW? ARE YOU SURE? - Part 2

SURVEY OF MULTIJURISDICTIONAL PRACTICE REQUIREMENTS

In the Spring 2007 Ethics & Professionalism Newsletter, several cases were summarized that identified some of the issues associated with multijurisdictional practice. As indicated in the Spring Newsletter, this newsletter would address additional issues relating to multijurisdictional practice in the various states. Accompanying this Fall 2007 TADC Ethics & Professionalism Newsletter is a supplement that provides survey of the key points for multijurisdictional practice in the 50 states and District of Columbia.

The editors thank the following DLA Piper colleagues from across the country for their research and writing contributions to the survey: Sonya Braunschweig, Eli Burriss, Greg Dimmick, Suneese Eagleton, Jason Farrington, Kate Frenzinger, Ty Harper, Zack Hoard, Christina Hwang, Tina Karkera, Joe Scrofano, Daina Selvig, Brendan Starkey, and Kenneth Weiner. The editors provide this survey for information purposes only and do not certify the completeness of these requirements. For additional resources on multijurisdictional practice *see* www.abanet.org/cpr/mjp/home.html and www.crossingthebar.com.