

# DISCIPLINARY ACTIONS

**G**eneral 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.

## DISBARMENTS

On May 1, 2006, **Jose Guadalupe Medrano** [#24002590], 36, of Plano, was disbarred. An evidentiary panel of the District 1-A Grievance Committee found that in one matter, Medrano was employed to represent the complainant in a divorce. Medrano took no legal action on behalf of the complainant. Medrano moved his practice, failing to inform the complainant

of his new address or telephone number.

In a second matter, Medrano provided to the complainant three settlement checks issued from Medrano's operating account in payment of medical services provided by the complainant to three clients of Medrano. In error, the three checks were made payable to the wrong entity. Despite assurance that he would reissue the checks to the proper entity, Medrano failed to pay the complainant.

In a third matter, Medrano was employed to represent the complainant in a personal injury matter. Following settlement, Medrano failed to render an accounting of the settlement funds and failed to deliver to the complainant and medical providers the funds they were entitled to receive. Medrano failed to respond to the complainant's requests for information and failed to keep the complainant reasonably informed. In all three matters, Medrano failed to respond to the grievance.

Medrano violated Rules 1.01(b)(1), 1.03(a), 1.14(a), (b), and (c), and 8.04(a)(3) and (a)(8). He was ordered to pay \$14,716 in restitution, \$3,050.50 in attorney's fees, and \$725.33 in costs.

On June 28, 2006, **Robert A. Forester** [#07256550], 50, of San Antonio, was disbarred. An evidentiary panel of the District 10-A Grievance Committee found that in a grandparent adoption matter, Forester failed to reasonably communicate with the client, misrepresented that the adoption papers were filed when they were not, and failed to refund unearned fees.

In a second matter, Forester was court appointed to a criminal case and failed to respond to his client's communications

and failed to keep the client reasonably informed of the status of the case. Forester neglected the case by failing to appear at court settings and failing to pursue a bond reduction as the client requested.

In a third matter, Forester misrepresented to his client that a demand letter had been served upon the opposing party, that a copy of the letter would be sent to the client, and that Forester would personally meet with the client to discuss the matter further. Forester failed to respond to his client's request for information regarding the case, failed to return unearned fees, and failed to timely furnish a response to this grievance.

In a fourth matter, Forester failed to enter a final divorce decree or request entry of the decree following the final hearing, misrepresented to his client that the divorce decree had been entered when it had not, and represented the client while administratively suspended from the practice of law.

In a fifth matter, Forester continued to practice law and appeared in court while administratively suspended and misrepresented to the trial court that he had been reinstated to practice law when he had not.

In a sixth matter, Forester failed to comply with the terms for payment of restitution under a prior disciplinary judgment.

Forester violated Rules 1.01(b)(1), 1.03(a) and (b), 1.15(d), 3.03(a)(1) and (a)(2), and 8.04(a)(1), (a)(3), (a)(7), (a)(8), and (a)(11). He was ordered to pay \$1,100 in restitution and \$2,535 in attorney's fees and costs. Forester has appealed the decision.

On April 21, 2006, **Robert H. Holmes II** [#00789097], 45, of Dallas, was disbarred. An evidentiary panel of the 6-A Grievance Committee found that in February 2004, the complainant employed Holmes to handle estate matters related to her brother's death. An insurance carrier tendered a check in the amount of \$61,000, dated March 5, 2004, to the complainant as beneficiary of a life insur-

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ance policy on her brother's life. Holmes deposited the check in his trust account, agreeing to turn the funds over to the complainant. On March 17, 2004, Holmes gave the complainant \$1,500 in cash and checks for \$7,000 and \$45,000 as her portion of the insurance proceeds. The check in the amount of \$7,000 was not drawn on a trust account. Both checks were returned by Holmes's bank due to insufficient funds. By letter dated Jan. 6, 2005, Holmes was directed to provide information to the grievance committee by Jan. 20, 2005. Holmes failed to provide the information and did not assert any grounds for such failure.

Holmes violated Rules 1.14(a) and (b), 8.01(b), and 8.04(a)(3). He was ordered to pay \$32,000 in restitution and \$3,360.50 in attorney's fees.

## SUSPENSIONS

On Aug. 3, 2006, **John Tyler Fleming** [#07128700], 53, of Cedar Park accepted a two-year fully probated suspension effective Aug. 1, 2006. The 368th District Court of Williamson County found that Fleming neglected a legal matter entrusted to him; failed to abide by a client's decisions whether to accept an offer of settlement of a matter; failed to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information; failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; upon termination, failed to take steps to the extent reasonably practicable to protect a client's interests; knowingly made a false statement of material fact or law to a tribunal; falsified evidence, counseled or assisted a witness to testify falsely, or paid, offered to pay, or acquiesced in the offer or payment of compensation to a witness or other entity contingent upon the content of the testimony of the witness or the outcome of the case; knowingly made a false statement of material fact or law to a third person; and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Fleming violated Rules 1.01(b)(1), 1.02(a)(2), 1.03(a) and (b), 1.15(d), 3.03(a)(1), 3.04(b), 4.01(a), and 8.04(a)(3). He was ordered to pay \$1,500 in attorney's fees and direct expenses and \$1,334 in restitution.

On Aug. 7, 2006, Fleming accepted a one-year fully probated suspension effective Aug. 1, 2006. The 368th District Court of Williamson County found that Fleming neglected a legal matter entrusted to him and failed to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Fleming violated Rules 1.01(b)(1) and 1.03(a). He was ordered to pay \$2,250 in attorney's fees and direct expenses.

On July 19, 2006, **James L. Guinan**, [#08597800], 42, of Dallas, accepted a two-year fully probated suspension. An evidentiary panel of the District 6-A Grievance Committee found that in September 2000, the complainant hired Guinan to file a motion to expunge her arrest record and to file a civil suit against the individual that caused her arrest. Guinan advised the complainant that he would return \$1,000 of the fee she had paid if she accepted a proposed settlement in the civil suit. Guinan issued the complainant a check for \$1,000, but the check was written on a closed account. Guinan failed to file the petition for expunction and failed to return the file after the complainant requested it. Guinan failed to respond to the grievance.

Guinan violated Rules 1.01(b)(1), 1.15(d), and 8.04(a)(2), (a)(3), and (a)(8). He was ordered to pay \$3,000 in restitution and \$2,000 in attorney's fees.

On Aug. 3, 2006, Guinan accepted a public reprimand. An evidentiary panel of the District 6-A Grievance Committee found the complainant employed Guinan to represent the complainant in a claim for damages against a painting contractor. Subsequently, Guinan's license to practice law was suspended for failure to repay a Texas Guaranteed student loan. During

this period of suspension, Guinan performed legal services. Guinan failed to promptly comply with the complainant's proper requests for information and failed to return the complainant's file when requested. Guinan failed to respond to the grievance.

Guinan violated Rules 1.03(a), 1.15(d), and 8.04(a)(8) and (a)(11). He was ordered to pay \$1,000 in attorney's fees.

On June 12, 2006, **Jack E. McKeathen, Jr.** [#13695600], 46, of Denton, received an 18-month partially probated suspension effective June 1, 2006, with the first six months actively served and the remainder probated. An evidentiary panel of the District 14-B Grievance Committee found that on April 27, 2004, the complainant hired McKeathen to represent

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her in a divorce action. McKeathen advised the complainant that as soon as she provided him partial payment of his fees, he would file the divorce petition. The complainant paid McKeathen \$378 on April 27, 2004. Since that date, the complainant has made numerous attempts to contact McKeathen, but has been unable to do so. The complainant contacted the district clerk's office and was advised that a divorce petition has not been filed. McKeathen failed to respond to the complaint. McKeathen was served with a copy of the complaint and a notice to respond. McKeathen failed to respond to the complaint and did not assert grounds for his failure to do so.

McKeathen violated Rules 1.01(b), 1.03(a), and 8.04(a)(8). He was ordered

to pay \$378 in restitution, \$2,355 in attorney's fees, and \$248.84 in costs.

On Aug. 15, 2006, **Jay S. Pearlman**, [#15689950], 51, of Houston, accepted a one-year fully probated suspension effective Aug. 1, 2006. An evidentiary panel of the District 4-D Grievance Committee found that Pearlman was retained in a personal injury matter. Pearlman filed suit on behalf of his client in a Harris County District Court. In a later period of representation, Pearlman failed to keep his client notified of the progress of the case. In September 2003, opposing counsel filed a motion to compel due to Pearlman's failure to answer discovery, which the court signed and granted. Pearlman failed to respond to the court's order. In December 2003, the court dismissed the case with prejudice and entered a sanction against Pearlman. Pearlman failed to notify his client of the December hearing. As a result of Pearlman's inaction, his client's case was dismissed and attorney's fees were awarded to the opposing party.

Pearlman violated Rules 1.01(b)(1) and (b)(2) and 1.03(a). He agreed to pay \$726 in attorney's fees.

On Aug. 16, 2006, **Ray Fisher** [#07057400], 53, of Austin, accepted a two-year fully probated suspension. An evidentiary panel of the District 9-A Grievance Committee found that in representing a client in a bankruptcy matter, Fisher neglected the legal matter entrusted to him; failed to keep the client reasonably informed about the status of the matter and comply with reasonable requests for information; failed to respond to a lawful demand for information from a disciplinary authority; and failed to timely furnish the Chief Disciplinary Counsel or the grievance committee a response or other information as required.

Fisher violated Rules 1.01(b)(1), 1.03(a), 8.01(b), and 8.04(a)(8). He was ordered to pay \$1,000 in attorney's fees and \$2,285 in restitution.

On Aug. 16, 2006, **John M. McDermott** [#13531700], 56, of Houston received a 60-month fully probated suspension effective Sept. 1, 2006. An evidentiary panel of the District 4-F Grievance Committee found that McDermott was retained to represent a client in an uncontested divorce matter. From June to December 2002, his client attempted to contact McDermott to make changes to the pleadings. McDermott failed to respond to his client. Because the divorce petition had not been filed, the client terminated McDermott's services. Although terminated, McDermott filed a petition on the client's behalf in January 2003 and failed to advise his client of his action. Eventually, the client consented to McDermott's representation. At the hearing on the divorce, McDermott submitted a decree without its prior review by the client and did not provide the client with a copy. Subsequently, the client learned that the decree provided primary managing conservatorship of the child to the wrong parent. The client requested the return of her file and McDermott refused. Upon investigation of the court's file, the notary on the waiver of citation and the signature page of the divorce decree had been altered without the permission of the client.

McDermott violated Rules 1.01(b)(1) and (b)(2), 1.02(a)(1), 1.03(a), 1.14(a), 1.15(a)(3) and (d), 3.03(a)(1) and (a)(5), 4.01(a), 8.01(a), and 8.04(a)(3). He agreed to pay \$2,500 in attorney's fees and \$150 in costs.

On July 31, 2006, **Andrew E. Toscano** [#00786832], 37, of San Antonio accepted a two-year fully probated suspension effective July 31, 2006. The 225th District Court of Bexar County found that Toscano failed to inform the appropriate disciplinary authority of the professional misconduct of another lawyer.

Toscano violated Rule 8.03(a). He was ordered to pay \$2,500 in attorney's fees and costs.

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On July 7, 2006, **David K. Vallance** [#00785134], 40, of Houston, received a four-year partially probated suspension effective Aug. 15, 2006, with the first two years actively served and the remainder probated. An evidentiary panel of the District 4-B Grievance Committee found that Vallance was retained to represent clients in a civil matter. Vallance was administratively suspended from the practice of law at that time. At a later date, the clients terminated Vallance's services and demanded the return of their file. Vallance failed to return the file. Vallance failed to respond to his clients' numerous requests for information, failed to keep his clients reasonably informed about the status of the matter, failed to carry out completely the obligations owed to a client, and failed to abide by a client's decision concerning the objections and general methods of representation.

Vallance violated Rules 1.01(b)(1) and (b)(2), 1.02 (a)(1), 1.03(a) and (b), 1.15(d), 8.01(b), and 8.04(a)(8) and (a)(11). He was ordered to pay \$11,000 in restitution and \$2,685.19 in attorney's fees and costs.

On July 26, 2006, **P.J. Murphey Harmon** [#09019500], 57, of Houston, received a five-year partially probated suspension effective Aug. 20, 2006, with the first two years actively served and the remainder probated. An evidentiary panel of the District 4-A Grievance Committee found that Harmon was retained to represent a company in a civil action. In March 2005, the judge in this matter issued an order stating, in part, that Harmon failed to file a status report, failed to attend a status conference, and failed to return a telephone call placed by the court. Shortly thereafter, Harmon's client terminated his representation due to Harmon's lack of communication and neglect. After the termination, the judge issued a separate order requiring Harmon to turn over all case materials to his former client's counsel. Harmon was also

ordered to provide an accounting to his former client. To date, Harmon has not complied with this order.

Harmon violated Rules 1.01(b)(1), 1.03(a), 1.15(d), 3.04(d), 8.01(b), and 8.04(a)(1). He was ordered to pay \$7,500 in restitution and \$1,905.67 in attorney's fees.

On July 3, 2006, **Leandro David Martinez** [#13142710], 47, of Weslaco, received a partially probated suspension. The District 12-B Grievance Committee found Martinez violated a disciplinary judgment by failing to pay \$1,550 in attorney's fees and costs. Martinez failed to timely respond to the grievance.

Martinez violated Rules 8.07(a)(7) and (a)(8). He was ordered to pay the outstanding balance of the prior judgment (\$1,550) plus \$3,050 in attorney's fees and costs.

On Aug. 3, 2006, **Ricardo H. Silvas** [#18351800], 54, of San Antonio, accepted a one-year fully probated suspension effective Aug. 1, 2006. The 28th District Court of Nueces County found that in one matter, during the course of representation, Silvas failed to communicate regarding the potential conflicts of interest, status of the case, and the referral of the case.

In a second matter, the court found that Silvas represented two parties with adverse interests, failed to fully disclose the conflict of interests, and failed to either withdraw or secure the required consent.

Silvas violated Rules 1.03(a) and (b), 1.06(b)(1), (b)(2), (d), and (f), and 1.15(d). He was ordered to pay \$8,760 in attorney's fees and costs.

### **PUBLIC REPRIMANDS**

On June 19, 2006, **Gilbert Medina, Jr.** [#13894975], 55, of Dallas, received a judgment of public reprimand. An evidentiary panel of the District 6-A Grievance Committee found that in November 2003, the complainant and his partners were sued. The complainant hired Medina

to represent them in the action. Medina filed answers in the matter. In January 2004, Medina was served with discovery and failed to respond. Medina was served with a motion for summary judgment and failed to respond. In May 2004, a hearing was held on the motion for summary judgment and Medina failed to appear. On June 7, 2004, the court signed an order granting motion for summary judgment and Medina failed to respond.

Medina violated Rule 1.01(b)(2). He was ordered to pay \$2,711.25 in attorney's fees.

On July 20, 2006, **Brian E. Storts** [#00785066], 39, of Houston, accepted a public reprimand. An evidentiary panel of the District 4-A Grievance Committee

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found that Storts was retained to represent a client in an immigration matter. In January 2003, a member of Storts' office staff contacted the client without Storts' permission or knowledge. This individual met with the client and agreed on Storts' behalf to represent her in an immigration case. Storts failed to properly supervise this member of his staff. Storts later agreed to represent the client; however, he had no prior knowledge of immigration laws or procedures and was incompetent to accept the representation. Storts filed a cancellation of removal application but failed to submit the proper documents to support the client's application.

Storts violated Rules 1.01(a)(1) and 5.03(b)(1). He agreed to pay \$375 in attorney's fees.

On Aug. 15, 2006, **W. Penn Conrad, Jr.** [#04709500], 62, of Houston, accepted a public reprimand. An evidentiary panel of the District 4-D Grievance Committee found Conrad was retained to litigate a personal injury matter. In October 2003, Conrad reached a settlement in the case; however, he failed to communicate the final terms of the matter to his client. Conrad's client made a request for an accounting in this matter, and Conrad failed to comply with the request.

Conrad violated Rules 1.03(a) and (b). He agreed to pay \$2,128.50 in restitution and \$533.37 in attorney's fees.

On Aug. 7, 2006, **Douglas A. Broch** [#03040300], 49, of Houston, accepted

a public reprimand. The 61st District Court of Harris County found that in July 2000, an attorney retained Broch as co-counsel in a wrongful death matter. The referring attorney and Broch entered into an employment agreement, which stated that the two would divide any recovered attorney's fees equally. The referring attorney was informed by one of his clients that the case had settled and that Broch did not properly disburse funds. The referring attorney made several attempts to contact Broch regarding the settlement and Broch failed to return any phone calls. Broch also failed to give the referring attorney a complete accounting of the settlement proceeds.

Broch violated Rule 1.14(b). He agreed to pay \$942 in attorney's fees.

On Aug. 3, 2006, **Bruce R. Coulombe** [#04877500], 59, of Houston, accepted a public reprimand. An evidentiary panel of the District 4-A Grievance Committee found that Coulombe was retained to represent his client in a property damage matter. During the course of his representation, Coulombe failed to keep his client reasonably informed about the status of the matter and failed to promptly comply with reasonable requests for information. Coulombe failed to provide a timely response to the grievance committee.

Coulombe violated Rules 1.03(a) and (b) and 8.04(a)(8). He agreed to pay \$700 in attorney's fees.

On June 23, 2006, **Donald J. Mach** [#12760300], 60, of San Antonio, accepted a public reprimand. The 408th District Court of Bexar County found Mach neglected a legal matter, failed to communicate with his client, and failed to respond to the grievance.

Mach violated Rules 1.01(b)(1), 1.03(a) and (b), and 8.04(a)(8). He was ordered to pay \$250 in attorney's fees.

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