

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 06-9060

ORDER RECONSTITUTING THE GRIEVANCE OVERSIGHT COMMITTEE

The purpose of the Grievance Oversight Committee is “to assist the Supreme Court in its constitutional and statutory responsibility for the lawyer discipline system.” *See* Order of the Supreme Court of Texas, *Grievance Oversight Committee*, Misc. Docket No. 97-9066 (April 2, 1997). Originally created by statute, in recent years the Committee has been continued by Court Order to study, review, and advise the Court regarding the structure, function, and effectiveness of the disciplinary system.

Recent statutory changes and concerns expressed by other participants in the grievance process have provided the Court with an opportunity to reevaluate and reassess the scope of the Committee’s duties. The Court gratefully acknowledges the contributions of those who have participated in this process, especially Jack Balagia, Jr. for his recommendations regarding the interaction between the Committee and the Commission for Lawyer Discipline.

The Court has concluded that the duties of the Grievance Oversight Committee should be continued as provided in this Order. Balancing the Court’s administrative responsibility for oversight of the lawyer discipline system with its judicial responsibility to remain neutral in finally deciding many grievance disputes, the Court needs the assistance and recommendations of a body that is both independent of the State Bar of Texas and a non-participant in the grievance process. While we recognize this independent oversight, like other checks and balances, will result in some duplication of effort, we believe the goodwill and cooperation of those involved in the process can reduce unnecessary duplication while still providing proper guidance and direction necessary to maintain a self-regulated bar.

COMPOSITION OF THE COMMITTEE

The Committee is composed of nine members appointed by the Court. At least three members must be members of the State Bar of Texas. At least three members must be public members who have, other than consumers, no interest, direct or indirect, in the legal profession. At least three members must have previously served on the District Grievance committees, the Commission for Lawyer Discipline, or the Board of Disciplinary Appeals. No member may concurrently serve as a member of the Board of Directors of the State Bar, the Commission for Lawyer Discipline, the Board of Disciplinary Appeals, a District Grievance Committee, or an employee of the State Bar of Texas.

Members serve staggered three year terms with three members' terms expiring each year. Members must serve no more than two consecutive terms, except for the current members, who may complete their current term and serve one more term.

The following members are reappointed to the Committee, for terms expiring on March 31 of the year designated in parentheses:

Ms. Virginia Bowers (2008)
Mr. Randall Chapman (2009)
Ms. Josephine V. Dye (2007)
Professor Susan Saab Fortney (2008)
Ms. Karen Nicholson (2009)
Ms. Velva Price (2009)
Ms. Judy Sebesta (2008)
Mr. Raymond Thomas (2007)
Mr. Gaines West (2007)

Mr. Gaines West chairs the Committee. The Court's liaison, subject to reassignment from time to time, is currently Justice Scott Brister.

RESPONSIBILITY & AUTHORITY

The Committee is charged with the following responsibilities:

- Review any public reports, including budgetary and statistical reports, or recommendations submitted to the Supreme Court of Texas, the State Bar of Texas, its Board of Directors, or

any of its committees by the Commission for Lawyer Discipline, the Office of the Chief Disciplinary Counsel, the Board of Disciplinary Appeals, or the State Bar Discipline & Client-Attorney Assistance Program Subcommittee, or their agents and representatives. A copy of this information must be provided to the Committee at the same time the information is disseminated to any of these entities.

- Meet at least annually with representatives of the Commission for Lawyer Discipline, the Office of the Chief Disciplinary Counsel, the Board of Disciplinary Appeals, the State Bar Discipline & Client-Attorney Assistance Program Subcommittee and representatives of the public and the bar to discuss the work of each entity and any concerns about or recommendations for improvements to the disciplinary system and the rules governing the system. To fulfill this charge, the Committee may solicit evaluative feedback from actual participants in the grievance process.
- Respond to letters from members of the bar or the public that are addressed to justices of the Court concerning complaints about the handling of their grievance cases, always mindful that the purpose of such review is not to change or influence the outcome of any particular case, but to answer questions or concerns from the individual and to aid the Committee in evaluating the system.
- Periodically review the Rules of Disciplinary Procedure and determine whether any changes or improvements in the rules should be recommended to the Court, and to comment to the Court on changes to those rules proposed by other disciplinary bodies.
- Consider whether lawyers and the public need more education about the disciplinary system and, if so, make recommendations about how the State Bar and the Court may address that need.
- Handle any specific requests related to the disciplinary system that the Court refers to the Committee.
- Submit an annual report to the Court with recommendations for any changes or improvements in the attorney disciplinary system. Eleven copies of the annual report must be filed with the Clerk of the Court no later than June 1 of each year. A copy of the report must also be delivered to the State Bar of Texas, its Board of Directors, the Commission for Lawyer Discipline, the Office of the Chief Disciplinary Counsel, the Board of Disciplinary Appeals, and the State Bar Discipline & Client-Attorney Assistance Program Subcommittee

at the same time the report is filed with the Court.

The Committee is further authorized to do the following, to the extent necessary to further the purpose and the goals of this order:

- Request non-case-specific information from the Commission for Lawyer Discipline, the Office of the Chief Disciplinary Counsel, the Board of Disciplinary Appeals, and the State Bar Discipline & Client-Attorney Assistance Program Subcommittee to determine such issues as whether the entities are conducting regular meetings; whether complainants are given an opportunity to present, and have resolved, their complaints within a reasonable time; whether respondents are given a fair opportunity to present their defense; whether complainants and respondents are given prompt information about the action taken on complaints; whether the bar and the public are being timely advised about decisions made in the disciplinary system; and whether staff and volunteers are receiving proper training.
- Designate a member to attend and observe meetings of the District Grievance committees, the Commission for Lawyer Discipline, the Chief Disciplinary Counsel, the Board of Disciplinary Appeals or the State Bar Board of Directors, or any subcommittees of these entities, except portions of meetings in which a complaint or case-specific information is being discussed. Attendance by Committee members to these meetings does not waive any attorney-client or attorney work-product privileges.
- Request and conduct a confidential review of closed case files for purposes of responding to specific complaints or types of complaints on behalf of the Court. This review does not waive any attorney-client or attorney work-product privileges.

The Court believes these duties and authority will compliment—not distract from—the duties other entities have in improving the grievance process in Texas. Further, to assist the Commission in carrying out its duties, the Commission must provide the following non-privileged information that the Committee has recently requested:

- ▶ Quarterly caseload reports showing breakdowns of disciplinary actions by office and rule violation, as well as the case's disposition or procedural history, *e.g.*, whether the case was dismissed by a summary disposition panel or an evidentiary panel, whether the respondent elected to go to district court, or whether some type of dispute resolution procedure was employed;
- ▶ A listing of all staff positions of the Commission or in the Chief Disciplinary Council's

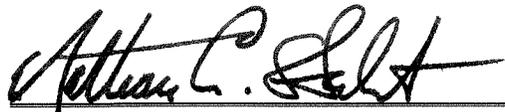
- office by office and gender and ethnicity;
- ▶ Meeting agendas and portions of minutes that discuss policy issues and panel training;
 - ▶ Copies of all amendments to standard form letters and brochures sent to the public;
 - ▶ Copies of all complaints and responses about the mishandling of cases;
 - ▶ Information that would allow the Committee to track grievance outcomes by ethnicity or gender by and in 27 different U.S. District Court divisions in Texas.
 - ▶ Any other information requested by the Grievance Oversight Committee that may be needed to reasonably carry out its purpose.

The Court trusts that the Committee's work will continue to bolster public confidence in the system and ensure that the grievance process remains both fair and efficient, without transforming the Committee into an unwelcome auditor of the other disciplinary bodies.

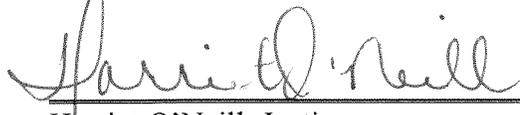
SO ORDERED, in Chambers, this 26th day of June, 2006.



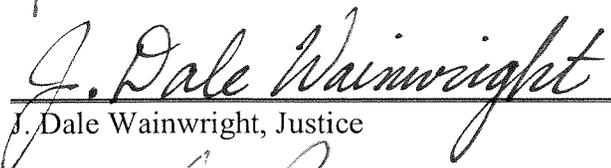
Wallace B. Jefferson, Chief Justice



Nathan L. Hecht, Justice



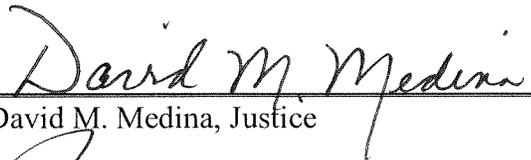
Harriet O'Neill, Justice



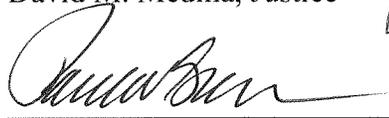
J. Dale Wainwright, Justice



Scott Brister, Justice



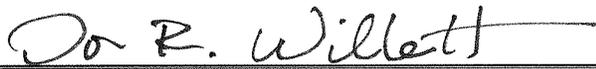
David M. Medina, Justice



Paul W. Green, Justice



Phil Johnson, Justice



Don R. Willett, Justice