

IN THE SUPREME COURT OF TEXAS

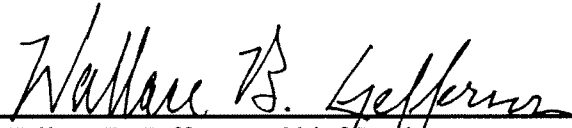
Misc. Docket No. 07- **9197**


**ORDER APPROVING AMENDMENTS TO THE
RULES GOVERNING THE
UNAUTHORIZED PRACTICE OF LAW COMMITTEE**

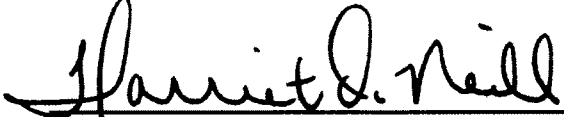
ORDERED THAT:

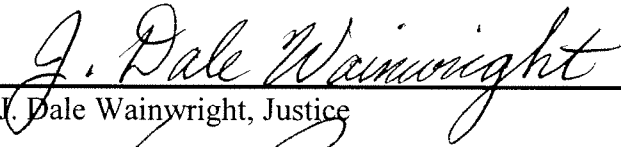
The Rules Governing the Unauthorized Practice of Law Committee are amended as attached. The order of the Court originally promulgating these rules, dated September 17, 1980, and the order in Misc. Docket No. 96-9263, dated December 6, 1996, are hereby withdrawn; this order is substituted in their place. These changes are effective immediately.

In Chambers, this 27th day of November, 2007.

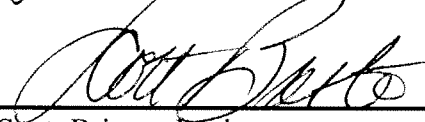

Wallace B. Jefferson, Chief Justice


Nathan L. Hecht, Justice


Harriet O'Neill, Justice




J. Dale Wainwright, Justice

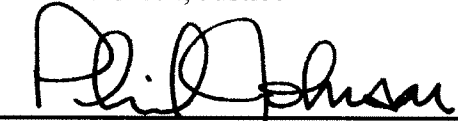


Scott Brister, Justice


David M. Medina, Justice



Paul W. Green, Justice



Phil Johnson, Justice



Don R. Willett, Justice

RULES GOVERNING THE UNAUTHORIZED PRACTICE OF LAW COMMITTEE

Section 1. Appointment of Committee

A. The Unauthorized Practice of Law Committee (hereinafter the “Committee”) shall consist of nine (9) members appointed by the Supreme Court, three (3) of which members shall be nonlawyers. Members of the Committee shall serve for a term of three (3) years. All members of the Committee shall be eligible for reappointment.

B. A chair and vice chair of the Committee shall be designated each year by the Supreme Court. The vice chair may act for the chair in his absence or incapacity.

C. The chair of the Committee may designate up to three former chairs as ex-officio, non-voting members of the Committee.

Section 2. Duties of Committee

The Committee shall keep the Court and the State Bar informed with respect to the unauthorized practice of law by laypersons and lay agencies and the participation of attorneys therein, and concerning methods for the prevention thereof. The Committee shall seek the elimination of the unauthorized practice by action and methods as may be appropriate for that purpose, including the filing of suits in the name of the Committee.

Section 3. Rules and Procedures

The Committee, in carrying out its duties, shall establish from time to time rules and procedures governing the activities of the Committee, which rules and procedures shall be approved by vote of two-thirds of the members of the Committee. Such rules and procedures shall include provision for the following:

- a. investigation as deemed appropriate by the Committee or its delegates of complaints involving the possible unauthorized practice of law;
- b. at a reasonable time prior to a decision by the Committee to commence litigation and/or other enforcement activity, notice to the subject of the complaint of the nature of the complaint and an opportunity for the subject of the complaint to respond to the

complaint, unless providing such notice and/or such opportunity to respond in a particular case is determined by a majority of the Committee's quorum to prejudice unduly the Committee's enforcement activity and the public's interests;

- c. determination by the Committee of the advisability of litigation and/or other enforcement activity in the name of the Committee necessary or appropriate for the elimination or prevention of the unauthorized practice of law;
- d. recusal of individual Committee members and delegees in circumstances in which it would be improper or appear to be improper for the individual(s) to participate in a case before the Committee;
- e. convening of regular meetings of the Committee, and the calling of special meetings and/or special mail ballotings;
- f. establishment of a quorum as being a majority of the Committee, or in the case of a special mail balloting as being the casting of voted ballots by a majority of the Committee.

Section 4. Delegation of Powers

The Committee, acting through its Chairperson, may appoint subcommittees of one or more members of the State Bar of Texas and/or of other persons to carry out the Committee's duties of investigation. The Committee may also appoint counsel to act on its behalf in litigation and/or other enforcement activity. The Committee may not delegate its duty of making the final decision concerning against whom litigation and/or other enforcement activity shall be brought.

Section 5. Subpoena Power

The Committee or any member of the Committee authorized to act on behalf of the Committee shall have the power to subpoena witnesses and tangible evidence before the Committee or its subcommittees or delegees. If any witness, after such subpoena has been served, fails or refuses to appear before the Committee or its delegees, or to produce tangible evidence described in the subpoena, or refuses to be sworn or to testify, such witness may be compelled by a judge of any district court to appear, to testify and to produce such evidence.

Section 6. Bonds

The Committee shall not be required to post any bond upon the granting of a temporary restraining order, temporary injunction, or permanent injunction pursuant to any litigation filed by the Committee.

Section 7. Advisory Opinions

The Committee shall not issue advisory opinions concerning the unauthorized practice of law.

Section 8. Oath of Office

Each member of the Committee, including ex officio members, and each person acting as a delegee of the Committee shall take the following oath before the present chairperson of the Committee or the chairperson of the Committee for the immediately prior year, or any other person authorized by law to administer oaths:

I, _____, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of a member (or delegee) of the Unauthorized Practice of Law Committee for the Bar of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward to secure my appointment or the confirmation thereof. So help me God.

Section 9. Replacement of Members

In the event of death, disability, resignation or misconduct (including failure to participate in the Committee's activities) of a member of the Committee, the Supreme Court of Texas shall have the power to replace such member and to appoint a new member of the Committee to fulfill the term of office of the member so replaced.

Section 10. Immunity

The Committee, any member thereof, including ex officio members, and any delegee thereof shall be immune from any suit for any conduct in the course of their official duties. Complainants and witnesses shall enjoy the same immunity in proceedings before the Committee as is accorded to complainants and witnesses in judicial proceedings.

Section 11. Expenses

The necessary and actual expenses of the Committee and its subcommittees or delegees shall be provided for and paid out of the budget of the State Bar of Texas.

**RULES GOVERNING THE
UNAUTHORIZED PRACTICE OF LAW COMMITTEE
(Red-lined)¹**

Section 1. Appointment of Committee

A. The Unauthorized Practice of Law Committee (hereinafter the “Committee”) shall consist of nine (9) members appointed by the Supreme Court, three (3) of which members shall be nonlawyers. Members of the Committee shall serve for a term of three (3) years, ~~except that the Supreme Court in making the first appointments to the Committee shall appoint three (3) members to serve an initial term of one (1) year, three (3) members to serve an initial term of two (2) years, and three (3) members to serve an initial term of three (3) years.~~ All members of the Committee shall be eligible for reappointment.

B. A chair and vice chair of the Committee shall be designated each year by the Supreme Court. The vice chair may act for the chair in his absence or incapacity.

C. The chair of the Committee may designate up to three former chairs as ex-officio, non-voting members of the Committee.

Section 2. Duties of Committee

The Committee shall keep the Court and the State Bar informed with respect to the unauthorized practice of law by laypersons and lay agencies and the participation of attorneys therein, and concerning methods for the prevention thereof. The Committee shall seek the elimination of the unauthorized practice by action and methods as may be appropriate for that purpose, including the filing of suits in the name of the Committee.

Section 3. Rules and Procedures

The Committee, in carrying out its duties, shall establish from time to time rules and procedures governing the activities of the Committee, which rules and procedures shall be approved by vote of

¹ For the convenience of readers, and to put today’s order the in the appropriate historical context, this version of the rules compares the text of the rules adopted today with the current Committee rules, as promulgated by the Supreme Court on November 17, 1980, and as amended by orders in Misc. Docket No. 96-9263 (December 6, 1996) and Misc. Docket No. 99-9082 (April 15, 1999).

two-thirds of the members of the Committee. Such rules and procedures shall include provision for the following:

- a. investigation as deemed appropriate by the Committee or its delegates of complaints involving the possible unauthorized practice of law;
- b. at a reasonable time prior to a decision by the Committee to commence litigation and/or other enforcement activity, notice to the subject of the complaint of the nature of the complaint and an opportunity for the subject of the complaint to respond to the complaint, unless providing such notice and/or such opportunity to respond in a particular case is determined by a majority of the Committee's quorum to prejudice unduly the Committee's enforcement activity and the public's interests;
- c. determination by the Committee of the advisability of litigation and/or other enforcement activity in the name of the Committee necessary or appropriate for the elimination or prevention of the unauthorized practice of law;
- d. recusal of individual Committee members and delegates in circumstances in which it would be improper or appear to be improper for the individual(s) to participate in a case before the Committee;
- e. convening of regular meetings of the Committee, and the calling of special meetings and/or special mail ballotings;
- f. establishment of a quorum as being a majority of the Committee, or in the case of a special mail balloting as being the casting of voted ballots by a majority of the Committee.

Section 4. Delegation of Powers

The Committee, acting through its Chairperson, may appoint subcommittees of one or more members of the State Bar of Texas and/or of other persons to carry out the Committee's duties of investigation. The Committee may also appoint counsel to act on its behalf in litigation and/or other enforcement activity. The Committee may not delegate its duty of making the final decision concerning against whom litigation and/or other enforcement activity shall be brought.

Section 5. Subpoena Power

The Committee or any member of the Committee authorized to act on behalf of the Committee shall have the power to subpoena witnesses and tangible evidence before the Committee or its subcommittees or delegees. If any witness, after such subpoena has been served, fails or refuses to appear before the Committee or its delegees, or to produce tangible evidence described in the subpoena, or refuses to be sworn or to testify, such witness may be compelled by a judge of any district court to appear, to testify and to produce such evidence.

Section 6. Bonds

The Committee shall not be required to post any bond upon the granting of a temporary restraining order, temporary injunction, or permanent injunction pursuant to any litigation filed by the Committee.

Section 7. Advisory Opinions

The Committee shall not issue advisory opinions concerning the unauthorized practice of law.

Section 8. Oath of Office

Each member of the Committee, including ex officio members, and each person acting as a delegee of the Committee shall take the following oath before the present chairperson of the Committee or the chairperson of the Committee for the immediately prior year, or any other person authorized by law to administer oaths:

I, _____, do solemnly swear (or affirm) that I will faithfully execute the duties of the office of a member (or delegee) of the Unauthorized Practice of Law Committee for the Bar of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward to secure my appointment or the confirmation thereof. So help me God.

Section 9. Replacement of Members

In the event of death, disability, resignation or misconduct (including failure to participate in the Committee's activities) of a member of the Committee, the Supreme Court of Texas shall have the power to replace such member and to appoint a new member of the Committee to fulfill the term of office of the member so replaced.

Section 10. Immunity

The Committee, any member thereof, including ex officio members, and any delegee thereof shall be immune from any suit for any conduct in the course of their official duties. Complainants and witnesses shall enjoy the same immunity in proceedings before the Committee as is accorded to complainants and witnesses in judicial proceedings.

Section 11. Expenses

The necessary and actual expenses of the Committee and its subcommittees or delegees shall be provided for and paid out of the budget of the State Bar of Texas.