HANSZEN LAPORTE
ATTORNEYS AT LAW

Jeffrey L. Dorrell
jdorrell@hanszenlaporte.com
Equity Partner
Board Certified, Civil Trial Law

U.S. Supreme Court
U.S. Court of Appeals for the Second Circuit
U.S. Court of Appeals for the Fourth Circuit
U.S. Court of Appeals for the Fifth Circuit
College of the State Bar of Texas

November 15, 2016

Mr. Timothy J. Baldwin
Administrative Attorney
State Bar of Texas
4801 Woodway Drive, Suite 315-W
Houston, Texas 77056

RE: Case No. 201605982; ***James McGibney — Jeffrey Lee "Jeff" Dorrell***.
Sent by e-mail to george.uthe@texasbar.com.

Dear Mr. Baldwin:

This responds to your letter dated **November 7, 2016**, in the referenced matter. This response is filed within 30 days of receipt of your letter on **November 9, 2016**.

Background

For the *fourth* time, a client of Beaumont attorney John S. Morgan has filed a grievance against me with the State Bar of Texas.[1] There is a dreary sameness to these retaliatory actions. No Morgan client has ever employed me as his attorney. Instead, in each instance, my client was *sued* by the Morgan client who later filed the grievance. In each instance, Morgan's client had lost his case to my client, sometimes spectacularly.[2] Morgan's losing clients then use the State Bar's grievance process to retaliate against me for having successfully defended Morgan's ill-grounded suits. The instant case is no different.

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[1] Morgan clients' other grievances against me were H0021234581; H0031234790; and 201500527, and all involved longtime Morgan client and crony Philip R. Klein.

[2] *See, e.g.*, ***PRK Enterprises, Inc. v. Google, Inc***., filed by John Morgan on behalf of Philip Klein. Klein lost when the Texas Supreme Court granted my clients' petition for writ of mandamus *sub nom.* ***In re Does 1-2***, 337 S.W.3d 862 (Tex. 2011). Klein then filed three grievances against me. *See also* ***Rauhauser v. McGibney***, 2014 Tex. App. LEXIS 13290 (Tex. App.—Fort Worth 2014, no pet.), filed by John Morgan on behalf of the complainant in the instant grievance, James McGibney. After the court of appeals ordered McGibney's baseless defamation suit dismissed, the 67th District Court of Tarrant County ordered McGibney to (i) "publish written apologies on his websites for 365 days;" (ii) pay my client attorney's fees of $300,000.00; (iii) pay sanctions of $150,000.00; and (iv) turn over the various Internet domain names McGibney had purchased the names of both my client and me.

The complainant in the instant matter, James McGibney, hired Morgan in 2014 to file Cause No. 67-270669-14; ***McGibney v. Retzlaff***; in the 67th District Court of Tarrant County. Before Morgan filed that suit, I had never heard of either Thomas Retzlaff or the client I ultimately defended, Neal Rauhauser. McGibney lost.[3] Shortly after Morgan filed suit in Texas, McGibney filed two other suits in California based on the same nucleus of operative facts:

(i) Cause No. 5:14-CV-01059; ***McGibney v. Retzlaff***; in the U.S. District Court for the Northern District of California; and

(ii) Cause No. 114CH005460; ***McGibney v. Retzlaff***; in the Superior Court of Santa Clara, California.

McGibney lost both California suits, too, in which Retzlaff defended himself *pro se*, appealed, and even successfully argued in the California state court of appeals.[4] Although McGibney also sued Rauhauser in his California federal suit, Rauhauser was never served. I did not appear in or defend either California suit.

McGibney's personal attacks because I was Rauhauser's attorney began almost at inception of the case. One of the more unsavory episodes involved using Twitter account "@CattyIdiot" to allege that I was a "monster" and a "violent pedophile" with "an insatiable appetite for young hairless boys." McGibney also announced his intent to damage my law practice by "locating and communicating with each one of [my] clients" to tell them of "all the rumors and hearsay" he had gleaned. Of course, the substance of the alleged "rumors and hearsay" was never revealed. McGibney—an unapologetic fan of vengeance who is not particularly scrupulous about *how* the vengeance is exacted[5]—simply made it up, admitting—

> **I mean the fact that #Dorrell may or may not be a pedo isn't really important … what is important is that we tell all his clients that he is.**

Exhibit 1 [emphasis added].

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[3] ***Rauhauser***, 2014 Tex. App. LEXIS at 13290.

[4] *See* ***McGibney v. Retzlaff***, No. 14-CV-01059-BLF, 2015 WL 3807671 at *6 (N.D.Cal. 2015); ***ViaView, Inc., v. Retzlaff***, 1 Cal.App. 5th 198 (2016).

[5] *See, e,g*. McGibney's website www.cheaterville.com, the original *raison d'etre* of which was the posting of explicit photographs of unfaithful paramours in order to punish the unfaithful for their infidelity. Today, the only thing that appears there is a rambling screed denouncing Neal Rauhauser, Thomas Retzlaff, and me. However, McGibney's *modus operandi* is still very much in evidence on another of his websites, www.bullyville.com.

> **You guys wanted to play and Jeffrey Dorrell has endorsed your behavior by representing you…. So I guess it's time for me to accurately report all the rumors and hearsay I am told each and every day by my millions of followers with regard to that great First Amendment attorney Jeffrey Dorrell … who just also happens to be rumored to be a violent pedophile with an insatiable appetite for young hairless boys…. [T]hat monster Dorrell needs to be stopped, and if that involves identifying, locating and communicating with each one of his clients and partners and their families (since they likely all have children), then that is what I (we) will do.**

Id. [emphasis added].

Ordering one of the largest monetary sanctions ever awarded under the Texas "anti-SLAPP"[6] law known as the Citizens Participation Act,[7] Hon. Donald J. Cosby of the 67th District Court found that McGibney brought his suit "willfully and maliciously to injure Rauhauser by deterring Rauhauser from exercising his constitutional rights … to truthfully criticize [McGibney]." **Exhibit 2**, p. 1. Judge Cosby found McGibney's protestations of innocence unpersuasive, and ruled that McGibney "willfully and maliciously harass[ed] both Rauhauser and [me]." *Id*. Judge Cosby ordered McGibney to pay my client $450,000.00, publish written apologies to Rauhauser on all of his websites "for 365 days," *id*., p. 8, and to turn over domain names McGibney had created using several variants of the names of both Neal Rauhauser and me.[8] *Id*., p. 7. McGibney has never complied with *any* aspect of Judge Cosby's April 14, 2016, final judgment and order.

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[6] George W. Pring and Penelope Canan created the term "Strategic Lawsuits Against Public Participation"—SLAPP—to describe civil actions brought for the purpose of stifling expression of unpopular opinions. *See Strategic Lawsuits Against Public Participation ("Slapps"): An Introduction for Bench, Bar and Bystanders* (Introduction to SLAPPs), 12 Bridgeport L. Rev. 937, 938 (1992). Pring and Canan's study found that SLAPPs were filed by parties on one side of a public dispute in order to punish or prevent opposing points of view and to transform the public dispute "into a private, legal adjudication, shifting both forum and issues to the disadvantage of the other side." *Id*. at 941. They found that this tactic works well for SLAPP filers because "[t]he costs immediately imposed on the defendants or targets can be substantial." *Id*. at 942. Most filers of SLAPPs lose their suits but win at achieving their purpose—although the "vast majority" of such suits are dismissed, they succeed in chilling public discussion. *Id*. at 941-44. *See* ***Bilbrey v. Williams***, No. 02-13-00332-CV, 2015 WL 1120921 at *7 (Tex. App.—Fort Worth 2015, no pet.) (memo. op.). This is *precisely* what McGibney was doing when he filed three lawsuits against Retzlaff in different jurisdictions at the same time based on most of the same facts.

[7] TEX. CIV. PRAC. & REM. CODE § 27.001, *et seq*.

[8] This, too, is a standard guerilla tactic in the McGibney playbook. McGibney has purchased Internet domains in the names of Retzlaff and his children, Rauhauser, and most of the defendants he has sued in other cases, as well as several of their attorneys.

The Need to Guard Against Abuse of the Grievance Procedure

The Rules of Professional Conduct are designed chiefly for the protection of a lawyer's own clients or the public. McGibney's grievance is an excellent example of why the rules specifically question the standing of opposing *parties* to invoke them as procedural weapons in an ongoing lawsuit:

> **[T]hese rules can be abused when they are invoked by opposing parties as procedural weapons. The fact that a rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule.**

TEX. DISCIPLINARY R. PROF. CONDUCT, Preamble: Scope, par. 15 (fourth sentence), *reprinted in* TEX. GOV'T CODE, tit. 2, subtit. G app. (STATE BAR RULES art. X, § 9). [Emphasis added.] This, of course, is precisely what McGibney has done, just as Klein did before him. If it is merely a coincidence that *four* grievances have been filed against me by opposing parties represented by attorney John S. Morgan—and that Morgan was not counseling abuse of the grievance process in order to retaliate against me—then that coincidence is remarkable.

Whatever Morgan's role, if any, while the Committee considers the instant grievance, the Committee should accept as part of its deliberations both the foregoing admonition of the preamble and McGibney's history of revenge-tactics employed against his litigation opponents—of which the instant grievance is merely the latest example. McGibney's revenge-mongering is not merely my generalized complaint in the instant proceeding. As noted above, this is the evidence-based judicial finding of a district court *specifically as to me*. **Exhibit 2**.

Nevertheless, McGibney's reprehensible conduct would not excuse a violation of disciplinary rules by me. Therefore, I respond specifically as to the alleged violations to show that they are both (i) meritless; and (ii) based on factual distortions by a complainant with a motive to retaliate against me.

The Complaint's Allegations

Your **November 7, 2016**, letter does not identify any specific disciplinary rule that I allegedly violated. McGibney's complaint form appears to make two principal allegations. In pertinent part, these are:

> **2(d) Attorney Jeffrey L. Dorrell instructed vexatious litigant Thomas Retzlaff to act on his behalf and on behalf of Hanszen Laporte to seize Internet domains that I own. Mr. Dorrell was subsequently caught committing perjury via a notarized affidavit that he submitted within Case #09-16-00299-CV.**
>
> **3 What attorney Attorney Jeffrey Dorrell did not realize when he submitted that Affidavit was that Attorney John Morgan had issued a properly served subpoena upon GoDaddy in an effort to find out how Thomas Retzlaff was able to fraudulently seize domains that I own. Within the subpoena results … there is an email from Attorney Jeffrey Dorrell (email forward) instructing Thomas Retzlaff to proceed on his (and Hanszen Laporte's behalf). (sic) Attorney Jeffrey Dorrell not only committed perjury, he proved beyond a shadow of a doubt the "very close and personal relationship" that exists between himself and convicted felon Thomas Retzlaff.**

I interpret these as claiming that my **October 3, 2016**,[9] affidavit filed in Beaumont's Ninth Court of Appeals, **Exhibit 3**, violated my duty of candor to the tribunal as set forth in TEX. DISCIPLINARY R. PROF. CONDUCT 3.03. I respond to each allegation below in turn.

If the Bar believes McGibney has alleged other violations, I ask for an opportunity to respond to those after I have been informed of what they are. I respond here to the only alleged rule violations I can discern.

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[9] McGibney alleges I committed perjury when I submitted a "notarized affidavit" on "September 16th, 2016, within Case #09-16-00299-CV." The cited case number corresponds to a case styled ***Walker v. Hartman*** in the Ninth Court of Appeals, an appeal in which I represent former district judge Layne Walker and Morgan represents Hartman. I filed no affidavit in ***Walker v. Hartman*** on September 16, 2016. My only affidavit filed in that case, **Exhibit 3**, was dated, sworn, and filed on October 3, 2016. McGibney appears to have mistaken the leading four digits of the case number, "**09-16**-00299-CV," for a date.

McGibney Allegation 1

2(d) Attorney Jeffrey L. Dorrell instructed vexatious litigant Thomas Retzlaff to act on his behalf and on behalf of Hanszen Laporte to seize Internet domains that I own. Mr. Dorrell was subsequently caught committing perjury via a notarized affidavit that he submitted within Case #09-16-00299-CV.

The Instruction to "*Seize*" Internet Domains

I did not instruct Thomas Retzlaff to "seize Internet domains that [McGibney] own[s]." McGibney omits to disclose to the Bar that, as pointed out above, the final judgment in Cause No. 67-270669-14; ***McGibney v. Retzlaff***; in the 67th District Court of Tarrant County; orders McGibney to "disclose and transfer" to Neal Rauhauser—my client—the following Internet domains:

nealrauhauser.com
nealrauhauser.exposed
rauhauserunmasked.com
nealrauhauser.org
nealrauhauser.net
nealrauhauser.info

Exhibit 2, p. 7. As noted above, McGibney neither complied with this court order nor superseded this judgment.[10] He simply ignored it.

McGibney's refusal to turn over Internet domains he created to harass my client and me—which the 67th District Court *judicially determined* he did—places McGibney in contempt.[11] Even if I had instructed Retzlaff to request release of the Rauhauser domains in accordance with the court order, this would not have violated any law or disciplinary rule. It would also have been very different from a *seizure*—a term McGibney employs to misleadingly imply that I was engaged in activity tantamount to a theft. Stripped of McGibney's dishonest implications, the facts show that I violated no disciplinary rule. The facts are undisputed. Not even the *foundation* of a disciplinary rule violation survives close inspection.

[10] Although McGibney paid $500.00 into the registry of the court after the judgment was entered, the court has never approved this as the amount of a supersedeas bond. No writ of supersedeas has ever been issued.

[11] Even apart from the court order already issued, McGibney's bad faith use of the personal names of his enemies to create Internet domain names is likely a violation of several sections of the federal Anti-Cybersquatting Piracy Act. *See, e.g.*, 15 U.S.C. § 1125(d)(1)(A).

Dorrell Was "*Caught* Committing Perjury"

McGibney's use of the word "caught" misleadingly implies that there has been some finding that I committed perjury, or that I have admitted to this. Neither is the case. Every statement I have made under oath, as an officer of any court, or elsewhere was completely and absolutely true, and I stand by it. I have never breached my duty of candor to any tribunal.

My allegedly perjurious affidavit was filed in Cause No. 09-16-00299-CV; ***Walker v. Hartman***; in the Ninth Court of Appeals. **Exhibit 3**. A brief background of that case may help the Bar to better understand the context of McGibney's accusations. In that case, I represent former 252nd District Court judge Layne Walker in the most recent of *six* state and federal lawsuits filed against him by Morgan[12] or Klein. (As noted above, Klein is also a serial filer of Bar grievances against me.) Morgan represents Stephen Hartman, who is suing Judge Walker for defamation.[13] As I had done in ***McGibney v. Retlaff***, I filed an "anti-SLAPP" motion to dismiss Hartman's claims, which the trial court denied. I appealed.[14] Morgan filed a motion to recuse the *entire* Beaumont Court of Appeals. **Exhibit 4**. Morgan's remarkable motion included his bizarre claim that I "work closely with a convicted felon and Aryan Brotherhood[15] member, Thomas

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[12] Morgan's personal vendetta against Judge Walker arises from Walker's judicial decisions in Morgan's bitter child-custody dispute, over which Walker presided. *See* Cause No. F-201,904; ***In the Interest of DM, JM, and AM, Minor Children***; in the 252nd District Court of Jefferson County, Texas. The trial was notable for Morgan's scurrilous accusations against his ex-wife, which included even inducing his daughter to falsely allege sexual abuse by her own mother. ***In re A.K.M.***, 2014 Tex. App. LEXIS 2230 at *18-19 (Tex. App.—Beaumont 2014, pet. denied). As a result, Walker ordered Morgan to pay "a civil penalty of $500 for making a false report of child abuse." *Id*., at *28. As the court of appeals noted:

> **[Judge Walker] also commented that … [Morgan] made a false report of abuse and "spent an extended period of time brainwashing [his daughter] and spending days rewarding her for her conduct…. [U]nder [TEX. FAM. CODE §] 153.013 I find that [Morgan] definitely made a false report of abuse. He encouraged it. He assisted it."**

Id. After this blistering, Morgan bizarrely claimed he had "passed out on the stand" and "did not intentionally lie." *Id*., at *14.

[13] *See* Cause No. A-198,246; ***Hartman v. Walker***; in the 58th District Court of Jefferson County, Texas.

[14] An interlocutory appeal of a denial of an "anti-SLAPP" motion to dismiss is expressly authorized by TEX. CIV. PRAC. & REM. CODE § 51.014(a)(12).

[15] Founded at California's San Quentin State Prison in 1964 by Irish bikers as a form of protection when prisons began to desegregate, the Aryan Brotherhood is the nation's oldest white supremacist organization. Like most prison gangs, Aryan Brotherhood members mark themselves with distinctive tattoos, including "Aryan Brotherhood," "666," and Nazi

Retzlaff" to make "threats of bodily and financial harm" to McGibney, Klein, and Morgan. *Id*., p. 7-8. Morgan's "evidence" for this claim was limited to the conclusory opinions of McGibney and Klein themselves. *Id*. According to Morgan, I also "work closely with Aryan Brotherhood members and convicted criminals Neal Rauhauser and Jojo Camp."[16] *Id*., n.1.

In response to Morgan's allegations in ***Walker v. Hartman***, the affidavit I signed and filed in the Beaumont Court of Appeals included the following paragraph of testimony:

> 6. I have no business or other "relationship" with Thomas Retzlaff. I am not a "business associate" of Thomas Retzlaff. Thomas Retzlaff is not my "agent" for any purpose. I have never published content on any blog jointly with Thomas Retzlaff. Neither I nor any firm with which I have ever been associated has ever paid to, or received from, Thomas Retzlaff any compensation. I have never worked with Thomas Retzlaff to accomplish any joint objective. I have never requested or directed Thomas Retzlaff to do or publish anything. If John Morgan had not sued Thomas Retzlaff in ***McGibney v. Retzlaff***—a suit in which I defended my client Neal Rauhauser—I would never have heard of Retzlaff. Any statement to the contrary is categorically false, has no evidentiary support, and could never have had evidentiary support.

Exhibit 3, ¶ 6. The foregoing testimony was—and continues to be—true in every detail. Yet, McGibney quotes the foregoing paragraph from my affidavit and alleges that an e-mail from me "within the [GoDaddy.com] subpoena results" shows me "instructing Thomas Retzlaff to proceed on [my] (and Hanszen Laporte's behalf)." (sic). McGibney then declares that "the evidence couldn't be any clearer" that I committed perjury—apparently because there *is*, according to McGibney, a "very close and personal relationship" between Retzlaff and me. There are several problems with McGibney's dishonestly embellished story.

First, there is one—and *only* one—e-mail from me to Retzlaff "within the [GoDaddy.com] subpoena results." That e-mail dated June 22, 2016—which

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symbolism such as "SS" and swastikas. *Wikipedia Online Encyclopedia*, retrieved November 13, 2016.

[16] Why the Aryan Brotherhood is allegedly in the habit of sharing its membership rosters with John Morgan is unclear, but I am not the first person Morgan has accused of using the Aryan Brotherhood against him. While Judge Walker was presiding over Morgan's child custody trial, *see supra* n. 11, Morgan created a public spectacle by claiming Walker was going to have Morgan arrested and, while Morgan was in custody, "shanked" by *Walker's* Aryan Brotherhood friends. Morgan even fled the jurisdiction for months, allegedly in fear for his life.

McGibney claims "instruct[s]" Thomas Retzlaff to "proceed on my behalf"—does no such thing. The text of my e-mail to Retzlaff contains only three *letters*: "**fyi**." **Exhibit 10**. The letters "**fyi**" are hardly the explicit "instruction to proceed" that McGibney dishonestly claims they are for the purpose of accusing me of "perjury." They cannot fairly be construed as such.

Second, I have never claimed I *did not know* Retzlaff or that I have never communicated with him. Because McGibney sued Retzlaff along with Rauhauser, my client's interests were importantly aligned with Retzlaff's against McGibney. One of the first things I did as Rauhauser's attorney in ***McGibney v. Retzlaff*** was file Retzlaff's May 15, 2014, affidavit that he had never met or worked with Rauhauser. **Exhibit 11**. The Retzlaff affidavit has been a matter of public record for two and one-half years. Accordingly, I have never claimed to have no communication with Retzlaff. Being situationally *aligned* with a co-defendant against a common adversary—and communicating with him to the extent that it serves a client's interests to do so—is a far cry from having a "very close and personal relationship" (or a "death threat" conspiracy) with that co-defendant. McGibney seems unable to grasp the distinction.

Third, why McGibney is obsessed with his belief that I am conspiring with Retzlaff to destroy him is unclear, but the only court to have received evidence of such a conspiracy and ruled on it—the 67th District Court—has decisively rejected it. On February 4, 2016, McGibney argued at length that:

(i) Retzlaff was trying to "collect on" the attorney's fees and sanctions awarded to *Rauhauser* on December 30, 2015;
(ii) Retzlaff had come to court to observe proceedings;
(iii) Retzlaff had left a voice mail for McGibney's employer saying, "*I* won *my* judgment," and threatening to garnish McGibney's wages;
(iv) Retzlaff had "met privately with [me] for 45 minutes" before a hearing; and
(v) Retzlaff and was "contributing to the pleadings in this case."

Exhibit 12, 25:22-26:23. Using far more e-mails than the single "**fyi**" e-mail proffered here, McGibney argued "something has happened" that "gives [Retzlaff] a sense of entitlement to collect these [$450,000.00 in] damages." *Id*. Among other things, McGibney argued against awarding Rauhauser his attorney's fees because *Retzlaff* had done Rauhauser's legal work, not me. Judge Cosby commented, "The Court has known that there's no relationship [with Retzlaff] … [a]nd believes that." *Id*. 27:19-22. Judge Cosby awarded *all* of the **$300,383.84** in attorney's fees requested for my legal work on Rauhauser's behalf.

Fourth, a person commits perjury only if he "makes a false statement under oath." TEX. PEN. CODE § 37.02. Importantly, a "statement" is any "representation of *fact*." TEX. PEN. CODE § 37.01(3) [emphasis added]. McGibney appears to allege my perjury because, he claims, there *is* a "very close and personal relationship" between Retzlaff and me. It is true that the GoDaddy.com documents show Retzlaff representing several times that he is my "close and personal friend." Such a description is highly subjective, and not how I would characterize my relationship with Retzlaff:

- To this day, I have met Arizona resident Retzlaff only twice in 32 months—both times in a courtroom in Forth Worth, Texas, in a Morgan-filed case in which Retzlaff was the lead defendant.

- Neither Hanszen Laporte, LLP, nor I have ever represented Retzlaff in any legal matter or proceeding or rendered any legal services to him.

- Neither Hanszen Laporte, LLP, nor I have ever had any agreement or contract with Retzlaff.

- Neither Hanszen Laporte, LLP, nor I have ever employed Retzlaff or sought or acquired any services from him.

- Retzlaff has never employed either Hanszen Laporte, LLP, or me, and has never sought or acquired any services from either of us.

- I have never met any family member of Retzlaff's.

- I have never been to Retzlaff's home.

- Retzlaff has never been to my law office or home.

- I have never met Retzlaff socially.

This is not the stuff of which "close and personal friendships" are typically made. But even if I *were* Retzlaff's "close and personal friend," this would not make any statement in my affidavit, **Exhibit 3,** ¶ 6, false. Given the highly subjective nature of friendship, it is doubtful that a difference of opinion between two people about whether they are "close and personal friends" can even qualify as a "representation of fact" upon which perjury can be assigned.

Even if it is, a perjury finding cannot rest "solely upon the testimony of one witness other than the defendant." *See* TEX. PEN. CODE § 38.18(a). The policy for this legal principle is sound—to prevent a multiplicity of perjury allegations based on nothing more than a difference of opinion or recollection between *two* people. This principle should not be discarded by the Bar simply because the instant grievance is not a criminal proceeding. If lawyers are henceforth to be subjected to disciplinary proceedings based on naked allegations by a disgruntled litigant angry about a past loss—merely because one defendant characterized the nature of a "friendship" differently from his co-defendant—then the Bar's workload is sure to be greatly increased in the future.

Nor have I breached my duty of candor to any tribunal in violation of TEX. DISCIPLINARY R. PROF. CONDUCT 3.03. No court has ever so found—despite Morgan's urgent entreaties. For example, on October 4, 2016, Morgan filed briefing in the Ninth Court of Appeals, quoting precisely the *same* paragraph of my October 3, 2016, affidavit that McGibney quotes in the instant grievance. **Exhibit 13**, ¶ 7. As McGibney argues here, Morgan argued my affidavit was "aggravated perjury, because it contains blatantly false statements to this Court under oath." *Id*. Just as McGibney argues here, Morgan presented the "GoDaddy documents" to the court, pointed to Retzlaff statements in them that do not agree with mine, and confidently declared this to be indisputable proof of my perjury. *Id*., ¶¶ 9-10. Morgan demanded the court "refer [me] to [the] Chief Disciplinary Counsel of the State Bar of Texas for discipline." *Id*., ¶¶ 5, 16. On October 6, 2016, the court denied Morgan's requested relief. **Exhibit 14**. Unwilling to accept the court's decision, Morgan simply engaged McGibney to do what the Ninth Court of Appeals had refused to do 11 days earlier.

It would seem that a finding of my violation of Rule 3.03 would necessarily have to be based on one of the following:

(i) a finding of lack of candor by the tribunal that I allegedly deceived;
(ii) my admission to a lack of candor with some tribunal;
(iii) some objectively verifiable false statement to a tribunal;
(iv) inconsistent statements *by me* to a tribunal that cannot both be true.

None of these things is present in the instant grievance. One is *negated* by the Ninth Court of Appeals' October 6, 2016, order. None is shown in any of McGibney's attachments. No violation of Disciplinary Rule 3.03 has occurred. McGibney has failed to show even the *foundation* of a violation of this rule.

McGibney's grievance should be summarily dismissed.

McGibney Allegation 2

> **3 What attorney Attorney Jeffrey Dorrell did not realize when he submitted that Affidavit was that Attorney John Morgan had issued a properly served subpoena upon GoDaddy in an effort to find out how Thomas Retzlaff was able to fraudulently seize domains that I own. Within the subpoena results … there is an email from Attorney Jeffrey Dorrell (email forward) instructing Thomas Retzlaff to proceed on his (and Hanszen Laporte's behalf). (sic) Attorney Jeffrey Dorrell not only committed perjury, he proved beyond a shadow of a doubt the "very close and personal relationship" that exists between himself and convicted felon Thomas Retzlaff.**

McGibney alleges I "did not realize" before submitting my October 3, 2016, affidavit in ***Walker v. Hartman*** that Morgan had subpoenaed GoDaddy.com records that—according to McGibney—are inconsistent with my affidavit testimony. This is demonstrably false. Morgan issued three identical notices of intention to take depositions on written questions of Godaddy.com in three different suits—all on July 12, 2016, more than two full months before I submitted my affidavit in ***Walker v. Hartman***. **Exhibits 5-7**. I filed my clients' motions for protection from Morgan's GoDaddy subpoenas on August 1, 2016. **Exhibits 8-9**. Therefore, I obviously knew Morgan was seeking GoDaddy.com documents *months* before I signed and filed my affidavit.

The various reasons McGibney's allegation of perjury is unworthy of credence are set forth above, and are not repeated here.

One final cluster of allegations requires comment. McGibney submits as "supplemental documentation" of his grievance a hostile October 17, 2016, e-mail from Retzlaff to Morgan in Cause No. 2014-CI-17145; ***E.M. v. Klein***, in the 73rd District Court of Bexar County, Texas. I represent the plaintiffs in that case; Morgan represents the Klein defendants; attorney Louis Wenzel represents defendant James Landess. All counsel are copied. Although Retzlaff was not a party in ***E.M. v. Klein***, Morgan appears to have changed this on September 14, 2016, by filing a personal legal action against Retzlaff *within* the ***Klein*** case. In that unusual filing, Morgan—*in his pro se capacity*—demanded that Retzlaff be jailed and sanctioned nearly $1,000,000.00 for exercising his right to petition a court for protection from one of Morgan's GoDaddy subpoenas.[17] Retzlaff filed

[17] In the same legal action, Morgan also sought sanctions against both the law firm of Hanszen Laporte, LLP, and me—solely because Retzlaff allegedly works "with and for" us.

an anti-SLAPP[18] motion to dismiss Morgan's legal action. The trial court denied Retzlaff's motion to dismiss. On October 16, 2016, Retzlaff appealed the denial to the Fourth Court of Appeals, staying the ***Klein*** case pursuant to TEX. CIV. PRAC. & REM. CODE § 51.014(b). Refusing to acknowledge the statutory stay, Morgan engaged in vigorous trial court litigation activity for a few days—including setting hearings on eight different motions for October 24, 2016. After the Fourth Court of Appeals issued an emergency stay on October 17, 2016, in response to Retzlaff's motion—and a trial judge vacated the order setting Morgan's hearings—Retzlaff wrote the taunting October 17, 2016, e-mail to Morgan.

McGibney alleges that that Retzlaff sent his October 17, 2016, e-mail to my "opposing counsel" in ***E.M. v. Klein*** and "copied" me. This is misleading. Retzlaff sent the October 17, 2016, e-mail to Morgan and copied both Louis Wenzel and me—in other words, all counsel in the case were copied.

McGibney alleges that Retzlaff "ruthlessly stalk[s] and harass[es]" … "anyone who is opposing counsel" to me. I am not aware of any evidence supporting this claim. To the best of my knowledge, no opposing counsel of mine in any case has ever been "ruthlessly stalked and harassed" by Retzlaff.

I am aware of several taunting, obnoxious e-mails allegedly sent to John Morgan and others over the pseudonym "James Smith." McGibney appears to be referring to these. I am not "James Smith." In Morgan's motion to recuse the Ninth Court of Appeals in ***Walker v. Klein***, Morgan alleged that "James Smith" was Retzlaff.

> **Mr. Dorrell through Mr. Retzlaff, uses the email address james.smith871003@gmail.com under the pseudonym "James Smith." …Dorrell/Retzlaff have sent emails to Philip Klein making approximately 34 death threats to him and his family members. Dorrell/Retzlaff via email have also made threats of bodily harm to attorneys Rick Espey, Paul Gianni and Evan Stone, in addition to Morgan and Mr. McGibney.**

Exhibit 4, p. 9-10 and n.2; *see also* p. 5. I have no evidence proving definitively who "James Smith" is, but whoever he is, the allegation that I have anything to do with him is categorically false. Morgan dishonestly uses the term "Dorrell/Retzlaff e-mails" in his motion to recuse (and in filings in many other courts), but not even *Klein*—the alleged recipient of the 34 "James Smith" death threats—has ever claimed that *I* am the pseudonymous "James Smith." Morgan's

[18] *See* supra, notes 6 and 7.

claim that "James Smith" is *Retzlaff* is at odds with Klein's and Morgan's previous statements, including:

(i) Klein's claim on his own blog in July 2016 that James Smith is a different Morgan-Klein enemy, Walker defense attorney Mark Sparks. **Exhibit 15**.

(ii) Klein's admission on his own blog on October 18, 2016, that the "James Smith" death threats originate from an e-mail that is "*run through an IP killer and there is no way to track the e-mail*." **Exhibit 16**, p. 4.

(iii) Morgan's claim that "James Smith" is Hunter Thomas Taylor of Orange, Texas, whom Morgan sued,[19] telling reporter Jessica Roy that "Taylor was the anonymous 'James Smith' who called in to *Andersen [Cooper] Live* two weeks ago." **Exhibit 17**, p. 4.

What Klein and Morgan have chosen to claim about the identity of "James Smith" on any given day appears to depend on what best serves their immediate needs.

McGibney simply jumps on the Morgan bandwagon, as Klein did before him. Morgan—having failed to convince the Ninth Court of Appeals of the existence of a death-threat conspiracy being run from the law offices of Hanszen Laporte—now simply engages McGibney as his surrogate to relitigate the issue. Distilled to its essence, McGibney's flawed categorical syllogism[20] is:

Premise No. 1: James Smith is Retzlaff.
Premise No. 2: Retzlaff is a "close and personal friend" of Dorrell.
Conclusion: Dorrell can be held responsible—and disciplined by the Bar—for anything done over the name of James Smith.

Obviously, if either premise fails, the conclusion is invalid. But in this case, even if both premises are taken as *true*, McGibney's conclusion is invalid as a *non sequitur*.

McGibney asserts that I have an unspecified "ethical duty to inform Retzlaff to stop harassing opposing counsel" (which seems to presuppose that if I

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[19] *See* ***Godaddy.com, LLC v. Toups***, 429 S.W.3d 752 (Tex. App.—Beaumont 2014, pet. denied).

[20] A "categorical syllogism" is an argument consisting of exactly three categorical propositions—two premises and a conclusion.

did so, the alleged Retzlaff harassment would immediately stop). McGibney also complains that "once death threats are made," I should have some duty to "report Retzlaff to the proper authorities." I am not aware of the source of McGibney's asserted ethical duties or how McGibney would claim to know that I have "never done either" of the things he claims I have a duty to do.

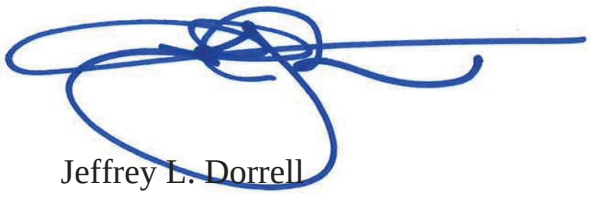
McGibney articulates no reasoning or authority supporting the existence of an ethical duty by me to "report to the proper authorities" that Retzlaff or some pseudonymous third person has allegedly made a "death threat" to some *other* third person. My understanding is that both Morgan and Klein—the alleged recipient of 34 death threats from Retzlaff over a period of years—have repeatedly reported these to "the proper authorities" at both the state and federal levels. Thus far, Morgan and Klein have apparently been unsuccessful in getting any of these "proper authorities" to indict or prosecute Retzlaff—possibly because their evidence consists chiefly of naked allegations and unsupported conclusions. Why McGibney imagines I would have more success passes my understanding.

To state once more clearly for the record in this proceeding—and as I have previously testified by affidavit—I do not know any person who uses the pseudonym "James Smith." **Exhibit 3,** ¶ 7. I have never solicited, procured, or encouraged Retzlaff or any other person to send any "death threat" or similar communication to any opposing counsel of mine or any opposing party in any case whatsoever.

Conclusion

McGibney's baseless grievance against me should be summarily dismissed.

Yours very truly,



Jeffrey L. Dorrell

Enclosures: Exhibits 1-18.

CC: James McGibney
By e-mail to james@bullyville.com.