

**JUDICIAL BRANCH CERTIFICATION COMMISSION  
MINUTES OF THE MEETING**

Third Court of Appeals  
Price Daniel Sr. Building  
209 W. 14th Street, Room 101  
Austin, Texas 78701  
Friday, November 4, 2016  
(10:00 a.m. Until Adjournment)

The meeting of the Judicial Branch Certification Commission (JBCC or Commission) was called to order by Judge Lee Hamilton, Chair, at 10:23 a.m., Friday, November 4, 2016. Members present were Judge Lee Hamilton, Chair; Judge Migdalia Lopez; Judge Polly Spencer; Velma Arellano; Mark Blenden; and Judge Sid Harle. Members Don Ford; Ann Murray Moore; and Judge Ben Woodward were not in attendance.

Staff members present were Jeff Rinard, Certification Division Director; Scott Gibson, JBCC General Counsel; Michele Henricks, Compliance Manager; Lesley Ondrechen, Licensing Manager; Tyees Holcombe, Judicial Regulatory Assistant; Jilian Stengle, Investigator; Chris Nelson, Licensing Specialist; Socorro Herrera, Administrative Assistant; and Veena Mohan, Assistant Attorney General.

Molly Pela, Chair of the Complaint Review Committee of the Court Reporters Certification Advisory Board, attended the meeting. Pat Dyer, Chair of the Complaint Review Committee of the Process Server Certification Advisory Board, attended by telephone conference call. Jamie MacLean, Chair of the Complaint Review Committee of the Guardianship Certification Advisory Board also attended by telephone conference call at approximately 10:35 a.m.

Agenda Item III, Opening Remarks.

At Judge Hamilton's request, Ms. Pela and Mr. Dyer gave a brief biography related to their service on the advisory boards.

Jeff Rinard, Certification Division Director gave a status update on the JBCC and the Certification Division, including the licensed court interpreter exams scheduled for later in the month.

Agenda Item IV, Approval of Prior Meeting Minutes.

The August 5, 2016 minutes were approved.

Agenda Item V, Approval of JBCC Disciplinary Action, by Default, and Issuance of Final Order by JBCC from Complaints Considered on August 5, 2016.

Process Server Certification:

A. In the Matter of Pablo Ortega, Cause No. 46-PS-2016

This item was issued as a default order. Mr. Ortega did not respond to the letter notifying him of the recommended sanction and did not appear at this meeting. After discussion, a motion was made and seconded to find that Mr. Ortega had violated the rules as stated and to adopt the recommended disciplinary action: to issue a letter of reprimand with the following terms and conditions:

- Re-take the seven-hour precertification civil process service course, as approved by the Commission, within six months of the date of the final order.

After discussion, the motion carried.

Agenda Item VI, Advisory Board Complaint Review Committee and Staff  
Recommendations to Dismiss Complaints.

Court Reporters Certification Complaint Review Committee – September 23,  
2016

A. In the Matter of Sheila Walker, Cause No. 52-CSR-2016

Ms. Mohan reported the Complaint Review Committee found no evidence that the court reporter was unresponsive to the complainant. The Committee found no violations and recommended dismissal of this complaint. There being no discussion, and upon proper motion and second, the complaint was dismissed.

B. In the Matter of Shari Steen, Cause No. 78-CSR-2016

Respondent Shari Steen attended the meeting in person. Ms. Mohan summarized the facts of the case. She advised that the Committee focused on the allegations regarding a transcript not being provided, as all other allegations are outside the Commission's jurisdiction. Ms. Mohan noted for the record that Complaint Review Committee member Robin Cooksey had recused herself from deliberations.

A motion was made and seconded to dismiss the complaint. After further discussion, the motion carried.

Staff Recommendations - Court Reporters Certification

C. In the Matter of Brenna Short, Cause No. 83-CSR-2016

Ms. Mohan summarized the complaint. She reminded the Commission that Ms. Short's certification had been revoked for three years; based on the revocation, staff recommends no disciplinary action be taken.

Upon proper motion and second, and there being no discussion, the complaint was dismissed.

Process Server Complaint Review Committee – September 22, 2016

**D. In the Matter of Joe Rodriguez, Cause No. 60-PS-2016**

Ms. Mohan summarized the complaint, noting that Mr. Rodriguez' certification had expired on May 31, 2016. There being no discussion, and upon proper motion and second, the complaint was dismissed.

**E. In the Matter of Deanna Dresco, Cause No. 62-PS-2016**

Ms. Mohan summarized the facts of the case, noting that the process server acknowledged she had misstated some details in describing the individual she served. The Committee found no violations and recommended dismissal of the complaint. There being no discussion, and upon proper motion and second, the complaint was dismissed.

**F. In the Matter of Catherine Perez, Cause No. 70-PS-2016**

Ms. Mohan summarized the complaint. The complainant alleged the process server did not file returns of service, but there is no provision in the Code of Ethics that states whether it is the specific duty of a process server to do so. After discussion, and upon proper motion and second, the complaint was dismissed.

**G. In the Matter of Eric Salazar, Cause no 71-PS-2016**

Ms. Mohan summarized the complaint, and Mr. Dyer addressed the Commission regarding the Complaint Review Committee's recommendation. A motion was made and seconded to dismiss the complaint with comment:

- A Process Server should keep accurate and correct records of each delivery of service.

The motion was amended and seconded to include a further comment:

- A Process Server must complete all returns on all service he or she completes pursuant to Rule 107 of the Texas Rules of Civil Procedure.

There was no further discussion, and the motion carried.

**Guardians Complaint Review Committee – October 19, 2016**

**H. In the Matter of Arturo Guzman, Cause No. 07-CG-2016**

Ms. Mohan summarized the complaint, noting that many of the allegations involved issues of credibility. A motion was made and seconded to dismiss the complaint. Mr. MacLean commented regarding the Committee's consideration of the complaint, and stated they had found no violations. There being no further discussion, the complaint was dismissed.

**Agenda Item VII, Advisory Board Complaint Review Committee  
Recommendations for Disciplinary Action**

**Court Reporters Complaint Review Committee – September 23, 2016**

**A. In the Matter of Susan Maienschein, Cause No. 66-CSR-2016**

Complainant and Respondent attended by telephone conference call. Chairman Hamilton reminded all present that review of the Committee's recommendation is not an evidentiary hearing.

Ms. Mohan summarized the complaint, which centers on Complainant's allegations that Respondent refused to allow access to physical exhibits. Ms. Mohan described several conversations between the two, and played one of the recorded conversations. Although she did provide exhibits in an electronic format, the Respondent does not deny that she never gave the Complainant the opportunity to review the physical exhibits. Ms. Pela addressed the Commission regarding the Committee's review of the complaint.

The Complainant and the Respondent answered questions from the Commission members. Following discussion, including comments from Ms. Pela, and upon proper motion and second, the Commission found violations as stated. There being no further discussion, a motion was made and seconded to issue a private reprimand with the following condition:

- Require the Respondent to complete 2.5 hours of continuing education in ethics within one year of the date of the Final Order. The 2.5 hours in ethics are in addition to the 2.5 hours that are included in the 10 hours of continuing education required for renewal of certification.

The Commission recessed at 11:14 a.m. and reconvened at 11:24 a.m.

To accommodate those who appeared in person, Agenda Items X.A, X.B and IX were taken up out of order.

#### Agenda Item X, Administrative Matters Relating to the JBCC

##### A. Guardianship Compliance Project Update

Mr. Rinard gave a report on the status of the project, noting that reviews are being conducted in nine counties and that a fourth auditor has been hired. He updated the Commission on various aspects of the project, including a report being prepared for the Legislature regarding an online reporting application for guardians of the person.

##### B. Legislative Updates and Recommendations

David Slayton, Administrative Director of the Office of Court Administration, addressed the Commission. He provided statistics as of August 31, 2016 regarding the status of guardianship cases, required filings that are missing from court files, and the value of assets under guardianship. He noted there are two sets of efforts to address these issues: The Judicial Council's Elders Committee recommendations and a cleanup bill for the Commission. Mr. Slayton enumerated eight recommendations, which were unanimously endorsed by the Judicial Council.

Following discussion, Mr. Slayton next gave an overview of the proposed cleanup to the Commission's authorizing statutes.

Mr. Slayton answered questions for the Commissioners regarding the proposals. Ms. Ondrechen clarified the types of guardians that are subject to the certification requirement.

Agenda Item IX, Request for Reconsideration on Denial of Process Server Application from Applicant Connie Kimich

Ms. Kimich and Evelyn Blumberg attended in person.

Ms. Mohan summarized a complaint filed with the Process Server Review Board, which led to the revocation of Ms. Kimich's certification in March 2014. Mr. Rinard addressed the Commission regarding the factors considered in denying Ms. Kimich's application to again become a certified process server.

Ms. Kimich made a statement and answered questions from the Commissioners. Ms. Blumberg addressed the Commission as a character witness for Ms. Kimich. Commissioner Blenden noted for the record that he would not vote in this matter. Mr. Gibson advised the Commission that their options were to uphold or reverse the denial of Ms. Kimich's application.

After discussion, and upon proper motion and second, the Commission reversed the denial and voted to approve Ms. Kimich's application for certification as a process server.

The meeting recessed at 12:14 p.m. and reconvened at 12:52 p.m.

Agenda Item VII, Advisory Board Complaint Review Committee Recommendations for Disciplinary Action

Process Servers Complaint Review Committee – September 22, 2016

B. In the Matter of Frankie Dial, Cause No. 55-PS-2016

Ms. Mohan summarized the complaint, which alleged the Complainant was never personally served. The Respondent acknowledged that he "supposes" the service could be characterized as a drop serve.

Following discussion, including comments from Mr. Dyer, and upon proper motion and second, the Commission found violations as stated. There being no further discussion, a motion was made and seconded to issue a letter of reprimand with the following condition:

- Require the Respondent to complete, within six months of the date of the Final Order, the seven-hour precertification civil process server education course approved by the Commission.

The motion carried.

C. In the Matter of Scott Haley, Cause No. 61-PS-2016

Ms. Mohan summarized the complaint, noting that the Respondent acknowledged his mistake, and has made changes to exercise greater due diligence when serving process.

There being no discussion, upon proper motion and second, the Commission found violations as stated. Upon proper motion and second, the Commission voted to issue a letter of reprimand with the following condition:

- Require the Respondent to complete, within six months of the date of the Final Order, the seven-hour precertification civil process server education course approved by the Commission.

D. In the Matter of Andrew Espinosa, Cause No. 72-PS-2016

Ms. Mohan summarized the complaint, and noted inconsistencies in the Respondent's written answer and statements during his interview with Investigator Stengle.

There was no discussion. Upon proper motion and second, the Commission found violations as stated. A motion was made and seconded to issue a letter of reprimand with the following condition:

- Require the Respondent to complete, within six months of the date of the Final Order, the seven-hour precertification civil process server education course approved by the Commission.

The motion carried.

Agenda Item VIII, Administrative Dismissal of Complaints.

Following a brief summary of each case by Ms. Mohan, and upon proper motion and second, the Commission ratified administrative dismissal of the following matters:

Court Reporter Certification

- A. In the Matter of Cause No. 63-CSR-2016
- B. In the Matter of Cause No. 67-CSR-2016
- C. In the Matter of Cause No. 77-CSR-2016

Guardianship Certification

- D. In the Matter of Cause No. 24-000-2016
- E. In the Matter of Cause No. 20-CG-2016

Agenda Item X, Administrative Matters Relating to the JBCC.

- C. Request to Refer Items to the Guardianship Certification Advisory Board

Mr. Rinard requested that the Commission refer three items for study by the Advisory Board:

1. establish limits on the number of wards per guardian
2. disclosure of Bill of Rights to wards
3. update Administrative Dismissal Policy to include allegations not within the Commission's jurisdiction for complaints filed against guardians

Mr. Rinard commented on each item. After discussion, the matters were referred to the Advisory Board for study.

**D. Licensing Database Replacement Update**

Mr. Rinard gave a status report, including vendor selection and the possibility of all four regulated professions having the capability to apply and renew online.

**E. JBCC and Advisory Board Members Terms Expiring February 2017**

Chairman Hamilton asked the Commissioners and Advisory Board members whose terms will expire in February 2017 to contact Mr. Rinard or Mr. Slayton regarding whether they wish to continue to serve.

**F. JBCC Meeting Dates**

1. The next meeting is scheduled for February 3, 2017.

Agenda Item XI, Public Comments

Public comment was received from Cindy Sympson, Texas Court Reporters Association Pro Bono Liaison. Ms. Sympson addressed the Commission and provided a document regarding her proposal that court reporters earn continuing education credit for doing pro bono depositions. Susan Perry Miller with the Texas Deposition Reporters Association commented in support of the proposal. The matter was referred to the Court Reporter Certification Advisory Board for further study.

Agenda Item XII, Report from Chair

The Chair did not make a report, but expressed his appreciation for the work done by the Commission and its staff.

Agenda Item XIII, Adjournment

The meeting was adjourned at 1:15 p.m.



Judge Lee Hamilton, Chair

2-3-17

Date