

**Office of Chief Disciplinary Counsel (CDC)  
State Bar of Texas**

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<p>Brian P. Carr Complainant</p> <p style="text-align: center;">versus</p> <p>Rebecca Ann Rutherford Bar Card Number: 24007968 Subject of the Complaint</p>	<p>Ethics Violations In United States District Court Northern District Of Texas (TXND)</p> <p>Civil No. 3-23CV2875 - S</p>
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**Complaint Against Rebecca Ann Rutherford, 24007968**

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## **Introduction**

### **Complaint Against Rebecca Ann Rutherford**

This is a complaint against an attorney and U.S. District Magistrate, Rebecca Ann Rutherford, who is a member of the Texas Bar Association with bar card number 24007968. This complaint concerns her misconduct in a case which was assigned to her in the United States District Court, Northern District Of Texas (TXND), 3:23-cv-02875-S which is a suit against 9 government agencies alleging criminal violations of [18 USC § 1001](#) by four agencies as well as violations of individual constitutional rights through the deprivation of due process.

Magistrate Rutherford made numerous demonstrably false and misleading statements in her Findings, Conclusions, and Recommendation (FCR) [ECF67](#) and FCR [ECF91](#). This complaint will focus on the two most egregious false statements and demonstrates violations of all the elements of ethics violation of [Texas Disciplinary Rules of Professional Conduct](#), [TDRPC 4.01](#) truthfulness.

Further all members of the Texas Bar Association are subject to the Texas Disciplinary Rules of Professional Conduct with the possible exception of Texas state judges who are subject to The State Commission on Judicial Conduct (SCJC).

## Entire Record Available on The Internet

There is a web page at:

[https://governmentoflaw.info/3\\_23-cv-02875-S/TimeLine.html](https://governmentoflaw.info/3_23-cv-02875-S/TimeLine.html)

which has descriptions of each document filed in 3:23-cv-02875-S along with a link to the actual document. It also has descriptions and links to the original four general complaints submitted to the Texas Bar Association as well as this document itself ([CDCRtV](#)). The previous complaint against Magistrate Rutherford filed with TxCDC is available as [RutherfordComplaint](#) which contains broad contextual information and discusses apparent collusion between the Department of Justice (DoJ) and the referenced court (TXND). If additional contextual information is required to understand the specific ethics violations described in this complaint, the previous complaint should have that information.

### **Previous Submission Classified as Inquiry, No Ethics Violations Identified**

Even though the previous complaint contained clear and specific affirmed statements concerning false statements in the FCR's of Magistrate Rutherford, the previous complaint was rejected in the TxCDC response ([CDCR1Rt](#)) of 25 Feb 2026<sup>1</sup> where it was claimed that the reviewer was unable to identify any violations of the [TDRPC](#) and so the previous complaint was treated as an inquiry permitting submission of this amended complaint within 20 days. This was an error on the part of TxCDC which will be discussed next.

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1 This response was sent via U.S. mail with a watermark Confidential cover sheet. However, the actual response was a form letter identical to the TxCDC response ([CDCR1Sc](#)) of 27 Jan 2026 for Judge Scholer with only the name and position altered. While the TxCDC is required to keep all of its communications for preliminary matters confidential in accordance with the [Texas Rules of Disciplinary Procedure \(TRDP\)](#), this does not apply to the existence of complaints and the names of the parties (the only actual information in the form letter). Further, it appears that this confidential requirement is not binding on the recipients who can release the information at their discretion as necessary to support their claims.

## Standard For Office Review and Investigation Not Applied

In the response for the previous complaint ([CDCR1Sc](#)), TxCDC stated:

When a grievance is received, this office conducts an initial review to determine whether the alleged conduct would be a violation of the ethics rules. If the conduct does not allege a violation, the grievance is classified as an Inquiry and dismissed with a right to appeal the dismissal. If the conduct alleges a violation, the grievance is classified as a Complaint and investigated. **We have determined that the conduct described in your grievance involves actions taken by an individual/attorney in their capacity as a judge.**<sup>2</sup> Therefore, your grievance has been classified as an Inquiry and dismissed pursuant to rule [2.10](#) of the [Texas Rules of Disciplinary Procedure \(TRDP\)](#). Allegations of judicial misconduct by federal judges need to be directed to the clerk's office of the United States court of appeals for the regional circuit in which the judge serves. If your complaint is against a Texas federal judge, please contact the Fifth Circuit Court of Appeals.<sup>3</sup>

It appears that the TxCDC office has added a secret and illegal restriction on complaints against federal judges (bolded sentence above) as no part of the TDRP mentions restrictions on complaints against federal judges.

**State Commission on Judicial Conduct (SCJC) Given Broad Jurisdiction**  
[Texas Constitution Article V, Section 1-a](#) requires the legislature to create the State Commission on Judicial Conduct (SCJC) which it did in [Texas Government Code, Chapter 33](#). The legislature also created TxCDC in [Texas Government Code, Chapter 81 \(Attorneys\) State Bar](#). By carefully considering the precise wording of the different statutes one can infer that TxCDC does not have jurisdiction to discipline sitting **Texas** judges who happen to be attorneys (members of the State Bar) as that power seems to be exclusively reserved for the

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<sup>2</sup> Bold added by Complainant.

<sup>3</sup> Versions of the complaints against judges Rutherford ([5CCrCR](#) and [5CCrSR](#)) and Scholer ([5CCrCS](#) and [5CCrSS](#)) have also been sent to the Clerk of 5th Circuit Court referencing Misconduct Complaints and accepted by that court.

SCJC (legislative intent).

### **No Jurisdiction Over Federal Judges**

However, for obvious reasons none of the above articles or chapters address federal judges so that neither the SCJC or TxCDC have any intrinsic jurisdiction to discipline federal judges. However, if a Texas attorney is a member of the Texas Bar Association and becomes a federal judge and chooses to continue their membership while they are federal judges,<sup>4</sup> TxCDC has a clear and specific mandate to consider all complaints of violations of the [Texas Disciplinary Rules of Professional Conduct](#), without any consideration of their status as a sitting federal judge. Of course, TxCDC is restricted in its ability to sanction sitting federal judges and can, at most, suspend their membership in the bar association which does not directly impact their status as a federal judge.

### **Judicial Immunity Does Not Apply to Prospective Relief**

While it is clear that Texas law does not provide any sort of immunity for federal judges who choose to remain members of the State Bar Association, it could be argued that they have some sort of judicial immunity, but this argument is not based on current law as judicial immunity only applies to equitable relief for retrospective actions (i.e. dissatisfied litigants seeking monetary damages for what they view as a bad decision).

In [Pulliam v. Allen, 466 U.S. 522 \(1984\)](#) the U.S. Supreme Court (SCOTUS) stated:

There never has been a rule of absolute judicial immunity from prospective relief, and there is no evidence that the absence of that immunity has had a chilling effect on judicial independence. Limitations on obtaining equitable

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<sup>4</sup> Logically speaking, it is the same if they choose to join Texas Bar Association after they are already a federal judge though this is likely a less common occurrence.

relief serve to curtail or prevent harassment of judges through suits against them by disgruntled litigants...

monetary damages indisputably are prohibited by judicial immunity...[but it is clear that it was] Congress' intent that an attorney's fee award be available even when damages would be barred or limited by "immunity doctrines and special defenses, available only to public officials." [H.R.Rep. No. 94-1558, p. 9 \(1976\)](#).

Of course a misconduct complaint against a federal judge for violating the truthfulness requirements of the voluntary state bar association can only provide prospective relief (which is a well supported exception to judicial immunity) as any suspension only discourages judges from lying in their future decisions and orders. This is good as public trust in the judiciary depends on the integrity of the judges who preside in the courts. There is no chilling effect from honest judges who are truthful in their professional decisions and orders.

### **TxCDC May Have Violated [TDRPC 4.01](#)**

#### **TxCDC Falsely Claimed No Violations Alleged**

Even a cursory review of the previous complaint, [RutherfordComplaint](#), reveals a clear and specific complaint of a violation of [TDRPC 4.01](#) truthful requirements as well as referencing that specific rule. Further, there are affirmed statements supporting every element of the violation (lying) with intent being the most challenging. The well supported clear and specific violation should be sufficient to warrant classifying the submission as a Complaint and proceeding with the adjudication process with a potential hearing before a District Grievance Committee.

Of course the reviewer, apparently Daniela Grosz, Texas Bar Number 24044331 in

this case, could plausibly claim that it was a mistake and she did not notice the complaint of false statements or violations of [TDRPC 4.01](#) or was unaware that the Texas Constitution and Statutes have no specific jurisdiction or claims of immunity for federal judges. In that case, this submission ([CDCRtV](#)) should be viewed as a request for reconsideration (rather than an Amended Complaint) and both this request ([CDCRtV](#)) and the original complaint ([RutherfordComplaint](#)) should be forwarded to the Respondent (Magistrate Rutherford) for further adjudication.

However, if the reviewer persists in the claim that there are no affirmed statements supporting the violations of the truthfulness requirements of [TDRPC 4.01](#) then there will likely be an additional complaint against the reviewer for violations of [TDRPC 4.01](#) as well as, potentially, [Texas Penal Code Chapter 37 \(Perjury and Other Falsification\)](#).

## **Federal Judges Are Not Exempt From Bar Association Ethical Standards**

### **Bar Association Membership Optional for Federal Judges**

#### *Choosing Bar Association Membership Entails Acceptance of Ethical Standards*

The judges in this matter, Rutherford and Scholer, are sitting judges but they are not subject to The SCJC as they are federal judges and the Commission only has jurisdiction over state judges. As federal judges they are not specifically required to be members of the Texas Bar Association but almost all federal judges choose to maintain membership in the state bar. One of the reasons that state bar membership is expected of federal judges is that it provides a certain level of credibility as to training, knowledge, and ethics.

However, in order for this bar membership to remain meaningful there must be a

mechanism to insure that all bar members meet the standards of the association.

All attorneys who are members of the Texas Bar Association should be held to the same standard of truthfulness and, if they do not abide by the ethical standards, there should be some reasonable mechanism to resolve complaints even if the repercussions of violations is only suspension of their membership (which does not directly impact the employment or career for federal judges, but is likely to have sufficient repercussions to suitably discourage such ethical violations).

### **Magistrate Rutherford Violated [TDRPC 4.01](#) Truthfulness**

#### **Two Counts Mixed Up Obscuring Two Clear Causes of Action**

In 3:23-cv-02875-S the matter was dismissed based on the numerous false and misleading statements in FCR [ECF61](#) by Magistrate Rutherford and the dismissal was confirmed based on reconsideration in FCR [ECF61](#). Of course misleading statements are not attorney ethical violations as [TDRPC 4.01](#) only requires truthfulness. As such only two trivially obvious false statements will be discussed in detail.

#### **FCR [ECF61](#) Distorts DoS Claims With False Details**

In FCR [ECF61](#) the court falsified and attempted to mislead concerning the actual DoS claim by claiming that USCIS had denied the relevant visa.

Specifically in FCR [ECF61](#) in a footnote the court states:

Rueangrong and Buakhao allege that United States Citizenship and Immigration Services (USCIS) violated their due process rights by initially denying their visa applications before approving them.

However, a review of the Complaint [ECF29](#) and the DoS Counts 3 and 4, on pages

12 to 21 and paragraphs 59 to 123 reveals that it is the Department of State (DoS) Bureau of Consular Affairs (BCA) who processes visa applications. Just reviewing the section headers in [ECF29](#) demonstrates that non immigration visas are the purview of DoS. The claim that USCIS denied visas and then approved them is simply false.

While Magistrate Rutherford might claim that this was a simple mistake and not a federal crime under [18 USC § 1001](#) or ethical violation of [TDRPC 4.01](#) (each of which requires intent), this is belied by the fact that when she was given the opportunity to correct this error (in the Motion to Rescind and Recuse, [ECF73](#), as well as Motion to Amend, [ECF76](#)) instead of correcting the error it was just omitted and another false statement added in [ECF91](#).

### **Contested False ‘Fact’ Countered With Additional False Statement**

#### **FCR [ECF91](#) Falsely Conflates Non Immigrant Visas with Immigration**

In FCR [ECF91](#) in Background, the court made the obviously false claim:

He also sought an order from the Court mandating that various federal agencies, including the U.S. Department of Justice, initiate criminal investigations into the circumstances surrounding Mrs. Carr's and her sister's various attempts to obtain immigration benefits.

My wife's sister had not ever applied for immigration benefits. She only applied for non immigration visas so that she could visit the United States as required to start receiving her surviving spouse social security benefits.<sup>5</sup> DoS BCA administers non immigrant visas while USCIS manages immigration benefits. The

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<sup>5</sup> The complaint [ECF29](#) in Counts 3 and 4 and Reliefs 8 to 14 describe the problems in getting non immigration visas and corrections sought from DoS, DoS OIG, and even DoJ insuring that the visa application process will comply with due process and all lawful statutes. As my wife and her sister had already received their non immigrant visas the changes were to insure that any renewals or guests we invite to visit us have future visa application processed in a lawful manner.

‘duty to perform’ for the two defendants are clearly not interchangeable as they are governed by different statutes.

## **False Statements Highly Material**

### **Critical Elements of Properly Stated Claims Falsified**

### **Challenges to DoCNR Never Addressed By the Court**

In the Motion to Amend, [ECF76](#) and the proposed 2<sup>nd</sup> amended complaint [ECF76-1](#) there is a referenced brief challenging the Doctrine of Consular Non Reviewability DoCNR [ECF75-6](#) which clearly argues that the DoS BCA did not meet its duty to perform when it improperly denied a non immigrant visa to the wife of U.S. citizen<sup>6</sup>:

- without considering the evidence presented as required in INA 214(b) which is [8 USC § 1184](#),
- without permitting the citizen spouse to attend the interview,
- without permitting the citizen or applicant representation,
- without permitting the citizen or applicant access to the other evidence which DoS BCA used to make a determination,
- providing the tribunal as little as two minutes on average to interview and process each application (which guarantees that the decision won’t be based on evidence but instead superficial criteria such as quality of dress and speech which is not part of INA 214(b))<sup>7</sup>
- based on criteria outside the underlying statute, INA 214(b), and
- falsifying the decision records (video and written) with contradictory justifications

This was a completely legitimate ‘duty to perform’ for this cause of action against DoS, but the court did not address the actual cause of action and instead lied and

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6 This challenge to DoCNR was suggested in [Kleindienst v. Mandel, 408 U.S. 753 \(1972\)](#) concerning non immigrant visas and was considered more recently in [Department of State v. Munoz \(S. Ct. 2024\)](#) with respect to immigrant visas.

7 This failure of DoS was mentioned tangentially in [Department of State v. Munoz \(S. Ct. 2024\)](#) citing DoS OIG investigations and reports.

misled in its facts to conceal the cause of action. The details of this cause of action are listed in the complaint [ECF29](#) in Counts 3 and 4 and Reliefs 8 to 14.

This is an important challenge to the controversial Doctrine of Consular Non Reviewability (DoCNR, a creation of the circuit courts over a hundred years ago with no foundation in the constitution or statutes) but how can the circuit court decide a question which was properly presented to the court but which the court concealed through false statements.

### **Critical Aspects of the DoS Count Concealed By False Statements**

*Does the Recent 'Fee For Service' Model Support Court Ordered Redo*

There are ancillary questions for the court from the above question. If an agency follows the 'fee for service' model and the court determines the agency did not perform the service in a manner required by statute, can a court order the agency to correctly provide the service without additional payment?

If the plaintiffs have already successfully gotten a 'redo' at their expense (as in this case), can the court order a 'credit for future services' in the event that the plaintiffs need the service or another service in the future? None of these questions seem to have been addressed in current case law and suggest a novel legal theory which should be decided by the appellate court. However, the trial court has not answered the question but instead lied and misled to conceal violations by federal agencies.

### **TDRPC Rule 4.01 Truthfulness Violated**

Such lies as described from FCR [ECF61](#) and [ECF91](#) are not permitted for Texas attorneys as stated in [Texas Disciplinary Rules of Professional Conduct, TDRPC](#)

[4.01](#) which states:

Rule 4.01. Truthfulness in Statements to Others

In the course of representing a client a lawyer shall not knowingly:

(a) make a false statement of material fact or law to a third person;

The false statements made in those FCR's are sanctionable in accordance with [TDRPC 4.01](#) as well as being federal crimes under [18 USC § 1001](#).

### **Conclusion**

The CDC office is asked to consider the violations of Magistrate Rutherford and impose sanctions appropriate for the violations of the [TDRPC](#) and the damages which resulted. Suspension could be considered for a period similar to the period where my wife was denied citizenship, her sister was denied social security benefits, and her sons were denied the opportunity to seek better employment opportunities through immediate family member immigration.

Of course the sanctions should be primarily focused on deterrence rather than punishment and it is likely that any substantive suspension will have far reaching results with federal judges in Texas giving some thought and consideration before falsifying decisions, findings of facts, and orders.

The CDC Office is also asked to provide such other and further relief as it deems appropriate.

Respectfully submitted,

### **Verification of Complaint**

I, Brian Carr, the undersigned Complainant, hereby affirm under penalty of perjury in both the United States and Thailand that:

1. I have reviewed the above Complaint and believe all of the statements to be true to the best of my knowledge.
2. I have reviewed the associated documents and exhibits and believe them to be true and accurate copies with the exception of the documents identified as being redacted. The redacted documents have only been altered in accordance with normal redaction procedures to remove sensitive personal information or other sensitive information as identified in the redaction.

I hereby reaffirm that the above is true to the best of my knowledge under penalty of perjury in both the United States and Thailand.

*/s Brian P. Carr*

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Brian P. Carr  
 1201 Brady Dr  
 Irving, TX 75061

Date: 9. Mar. 2026  
 Location: Irving, Texas

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