

On The Record . . .

Official Newsletter of BERTOLINO LLP

August 2021



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Our Firm

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Chief Operating Officer

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Associate Attorney

Joseph Gillespie-Hill
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Contested Hearings and the Texas State Office of Administrative Hearing (SOAH)

Most formal complaints filed against licensed professionals are resolved prior to a contested hearing.

Contested hearings, or formal hearings, are held at the Texas State Office of Administrative Hearings (SOAH), which is an independent forum where Texas agencies, licensing boards, other governmental entities, and private citizens can resolve certain legal disputes. There is no jury. Instead, cases are heard before an Administrative Law Judge (ALJ), which is a neutral third-party judge appointed to oversee the hearing.

Not all cases require a contested hearing or trial. Complaints can be resolved early on by demonstrating to the board, in your initial responses or other correspondence, that you did nothing wrong. If an investigation continues past the initial stages, most boards have procedures in place that provide for an informal settlement conference (ISC). This gives the board and licensee the opportunity to come to a “settlement agreement” or Agreed Board Order about what penalties or sanctions are acceptable to both parties. Settlement is not proper in all board cases, but when it is a viable option, it helps to avoid the risk of facing harsher sanctions or larger penalties after a contested, formal hearing.

Adjudication before SOAH

Cases that do not, or cannot settle, require adjudication before SOAH. Contested hearings are conducted similarly to how a

civil or criminal courtroom trial operates. The licensee and the board will have the opportunity to present opening and closing statements, produce evidence and question experts and/or fact witnesses.

You have the right to have an attorney during all stages of the licensing board's complaint investigation process and all legal proceedings, including at SOAH. Your attorney should help you prepare for the contested hearing.

Post-hearing Deliberations and ALJ Recommendation

After the conclusion of the contested hearing, the ALJ will deliberate and consider all the evidence and will write a recommendation for how the case should be resolved, which may include a recommendation to the licensing board to take certain disciplinary action against the licensee.

The ALJ's recommendation is called a "Proposal for Decision" and while licensing boards give much deference to the ALJ's case recommendation, generally it is the board that will ultimately decide the case and any sanctions against you. However, each licensing board and regulatory agency in Texas has their own set of internal rules and procedures to which they must adhere.

-Tony R. Bertolino, Managing Partner



This month, we would like to recognize Associate Attorney, Kerry Bloodsaw for two years of service with Bertolino Law Firm. In addition to being a top notch litigator, Kerry is also recently a first-time mom. As we extend Kerry a warm welcome back from maternity leave, here are a few fun facts about our Associate Attorney.

My nickname at work: Eeek unknown



I am skilled at: Speaking to clients in a way that makes them feel heard and understood

On the weekends and in my free time I am often: Being outdoors - running, hanging by the pool (or any body of water) and enjoying life with our new baby

Number one on my bucket list: Drive the west coast from Seattle to San Diego

The best sweet or salty snack: Watermelon and Oreos

Best movie ever: Back to the Future Part II

My favorite candy: Holiday Reeses cups

My favorite sports teams: Not sure I could even name five sports teams

If I had a theme song that played every time I walk into the office it would be: "I'll be There for You" by the Rembrandts (Friends theme song)

People say I look like: My mother

The best part of my job: Helping clients get their lives back

[Learn more about Kerry here](#)



THE VETERANS DAY 5K



THE VETERANS DAY 5K



NEW! Finisher Medals for the Veteran's Day 5K

Runners know it's all about the bling! The new finisher medals are in and they are fantastic. Get a look at this year's finisher medals in the video below featuring Derrick White, owner of Total Health Evolution (T.H.E.), founder of the Veteran's Day 5K Fun Run and co-organizer of this year's event with Bertolino LLP.



Gather your friends, family, co-workers and running buddies, and join us at the Veteran's Day 5K Fun Run to benefit Toys for Tots.

REGISTER TODAY TO GUARENTEE YOUR MEDAL!



Hallmark Achievement



Texas Behavioral Health Executive Council v. KC

Facts: Our client K.C., faced a complaint filed by her former employer alleging that she violated the Texas Administrative Code by creating a dual relationship with a former client. The Executive Council pursued the matter through the investigative phase and argued that our client should not have entered into a business relationship with her former client.

Outcome: Through vigorous negotiations with staff counsel, Bertolino LLP was able to secure a non-disciplinary reprimand for our client. The reprimand required completion of a few continuing educational courses. Once the courses were completed the matter was closed and will not be public record.

Client Survey: Your Opinion Matters

Bertolino LLP strives to be a 100% client-centered law firm. Running a client-centered law firm means putting our clients at the center of our thinking. This goes beyond the legal deliverables the Firm will provide: Being client-centered means truly putting ourselves in our client's shoes and looking at the experience of

How comfortable are you with technology?

Very comfortable

Select

A little bit

Select

hiring an attorney and going through a legal matter from our client's point of view.

Not at all

Select

Each month, we will pose a quick, client-focused survey in this section of our newsletter. We asked our clients to please assist us by taking this survey, as your feedback is essential in our on-going efforts to deliver an amazing client experience.

-Sheri L. Middlemas,
Chief Operating Officer

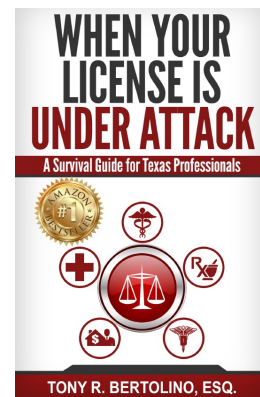
Thank you!

Side Bar ...

Did you know that our Managing Partner is a best-selling author?

Several years ago, Mr. Bertolino set out on a mission to help professionals keep their licenses when those licenses are under attack by a Texas state agency, board or commission.

Tony's best-selling book *When Your License is Under Attack: A Survival Guide for Texas Professionals* aims to educate, inspire and lift up those professionals, so that they can continue to do the good work they are passionate about doing.



This month, we are giving away 5 signed copies of Tony's book!

To enter the drawing, simply [click here to email](#) with the subject heading "Tony's Book" by 12:00noon on August 31st. The drawing will be held on August 31, 2021 and the five winners will be notified via email. Good luck!

Contact Us

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