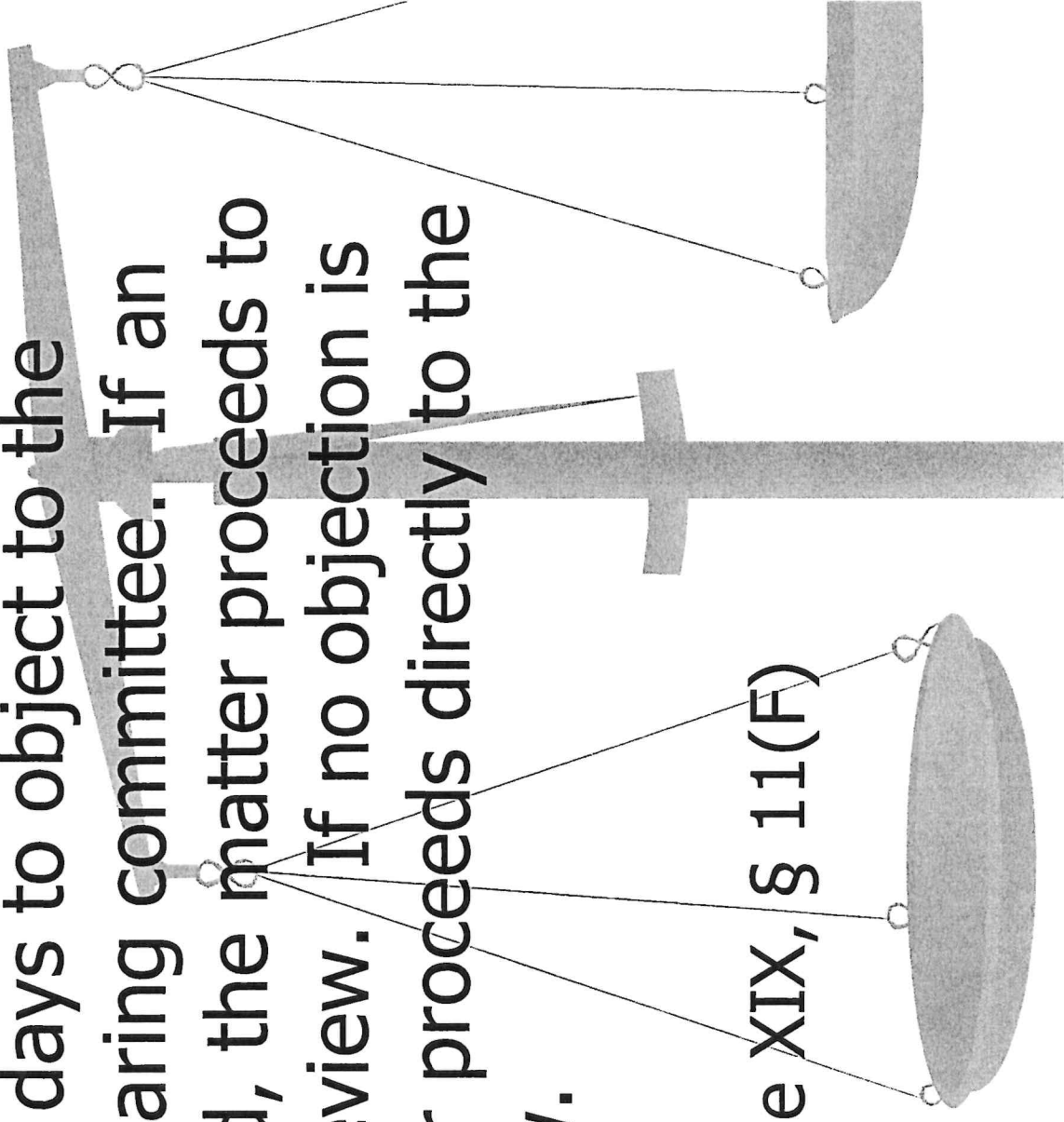


Preparation for Board Argument:

Formal Charges

- Parties have 20 days to object to the report of the hearing committee. If an objection is filed, the matter proceeds to the Board for review. If no objection is filed, the matter proceeds directly to the Court for review.

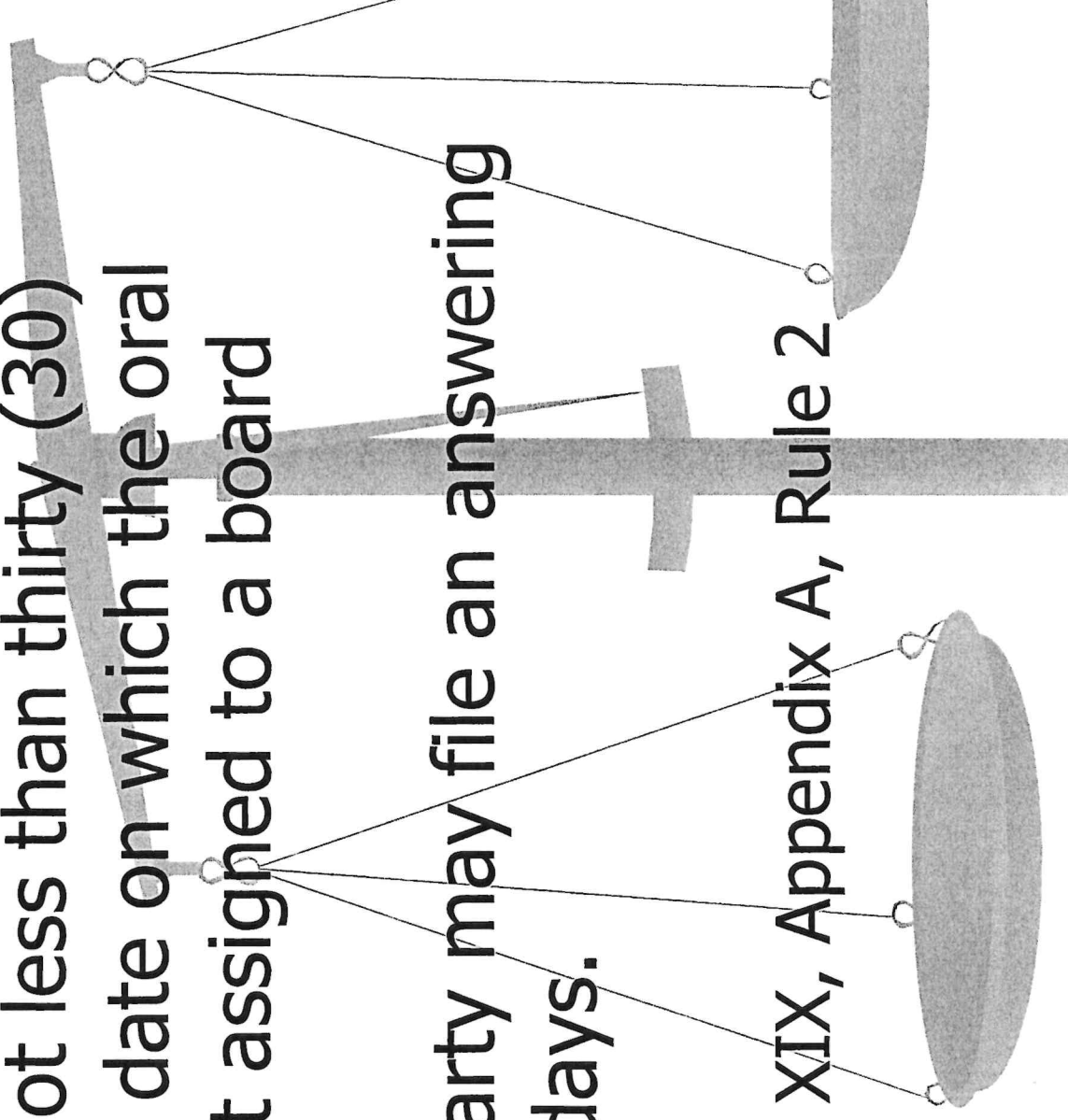
- La. Sup. Ct. Rule XIX, § 11(F)



Preparation for Board Argument:

Formal Charges

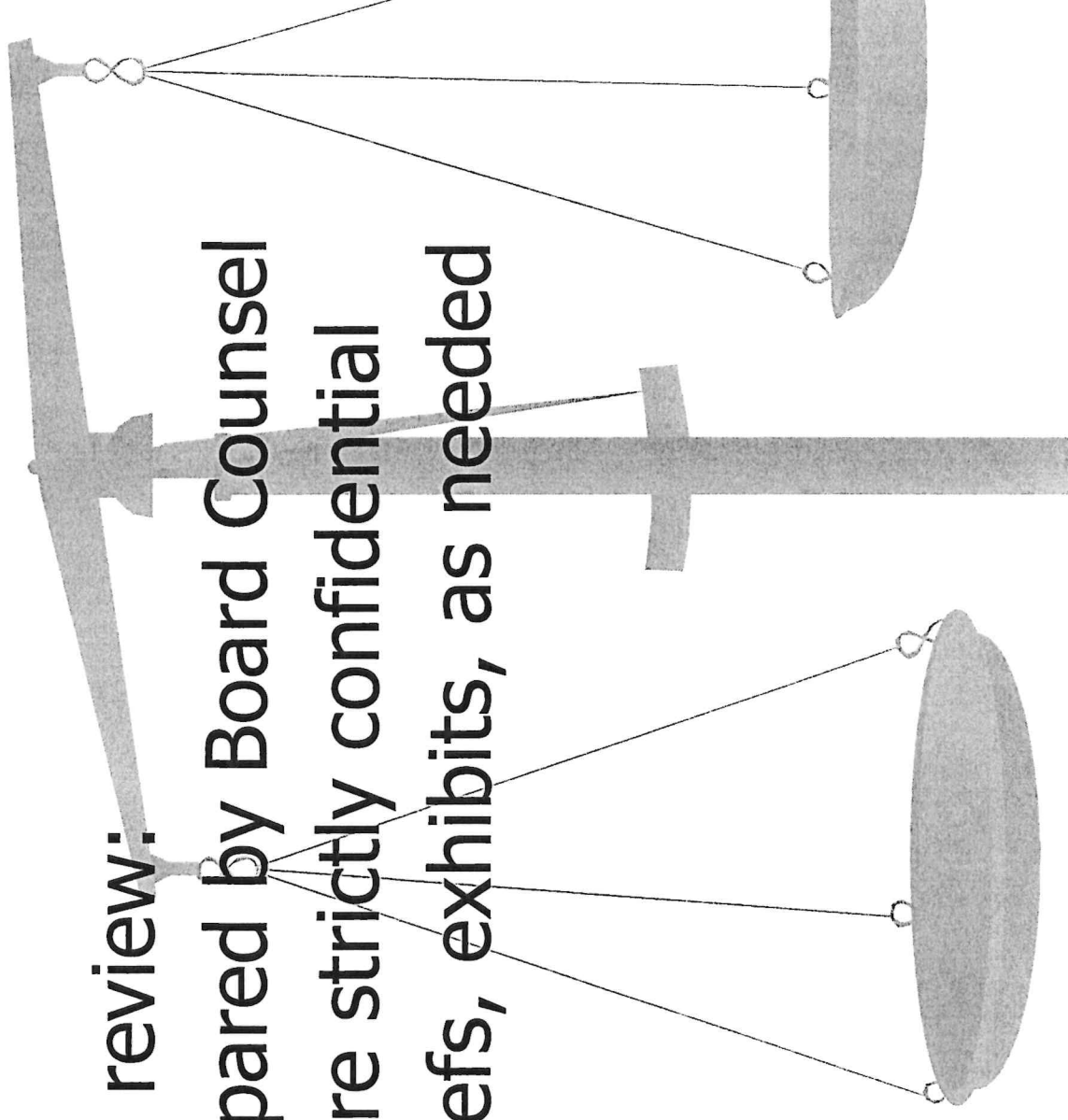
- Briefs are due not less than thirty (30) days before the date on which the oral argument is first assigned to a board panel.
- The opposing party may file an answering brief within 15 days.
- La.Sup.Ct. Rule XIX, Appendix A, Rule 2



■ Preparation for Board Argument

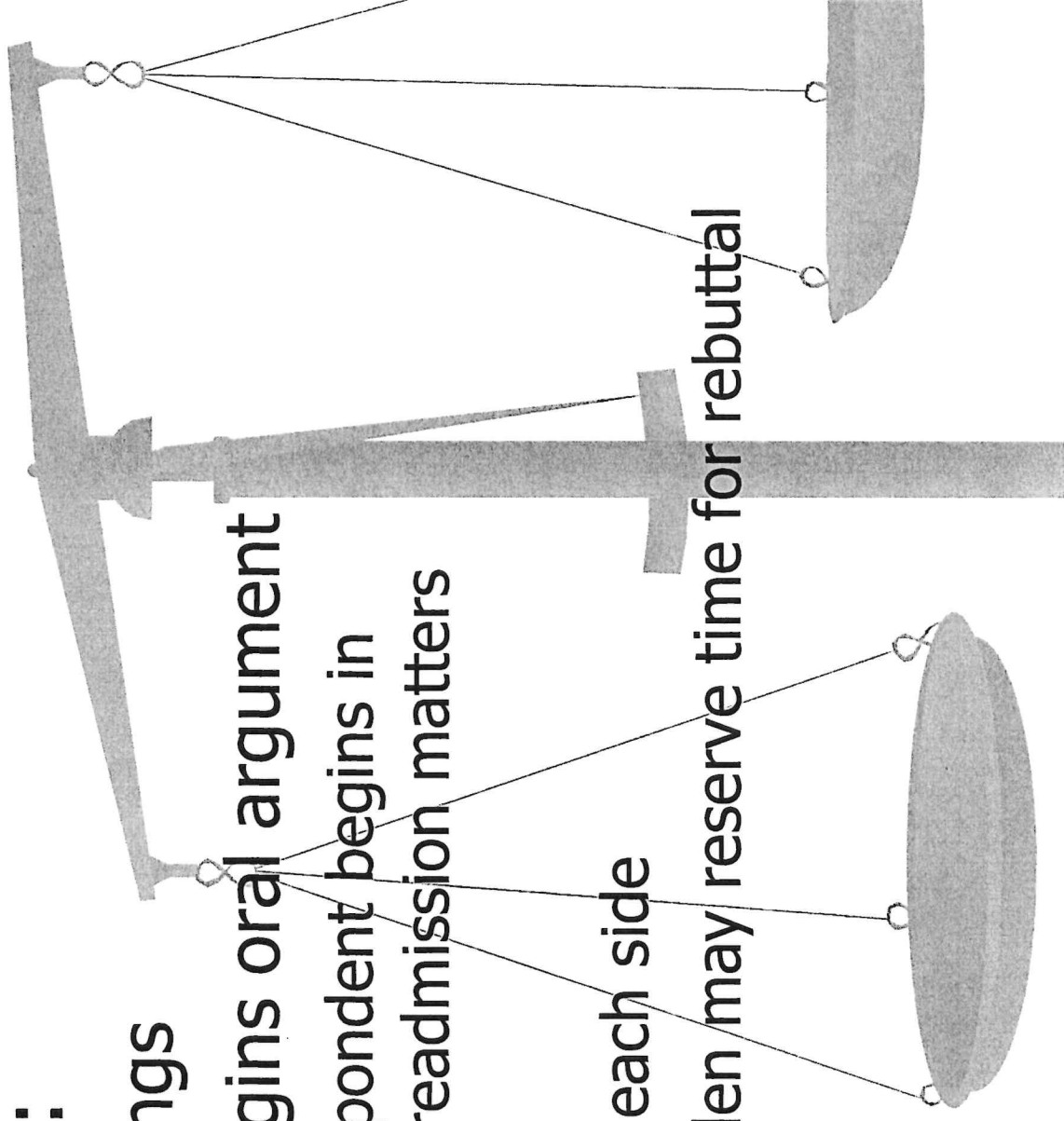
(AKA) "Board Panel" and "Oral Arguments"

- Go to Docket to review:
- Synopses prepared by Board Counsel
 - Synopses are strictly confidential
 - Pleadings, briefs, exhibits, as needed



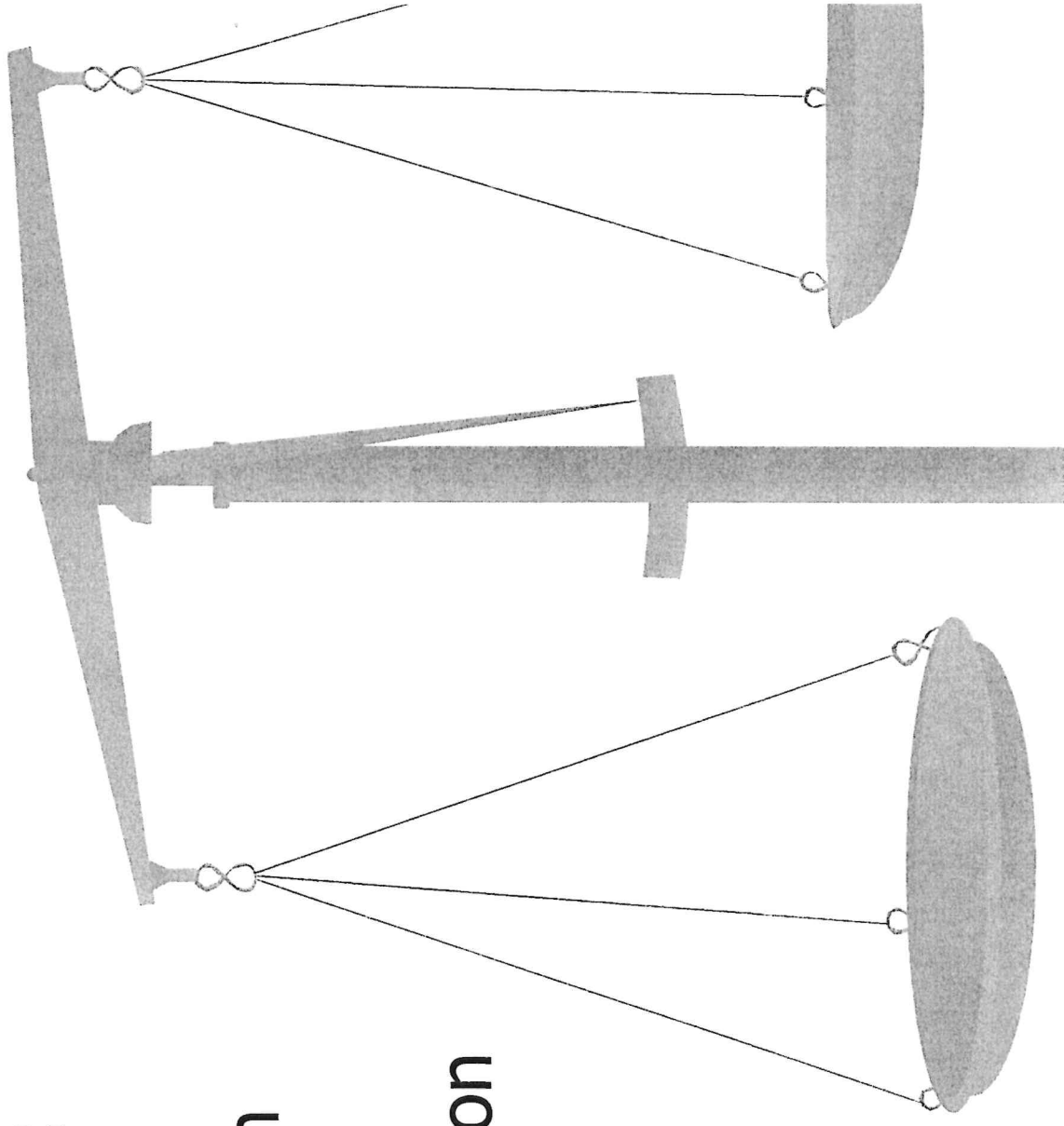
Board Argument

- Oral Arguments:
 - Public proceedings
 - ODC usually begins oral argument
 - Exception: Respondent begins in reinstatement/readmission matters
 - Time limits
 - 15 minutes for each side
 - Party with burden may reserve time for rebuttal



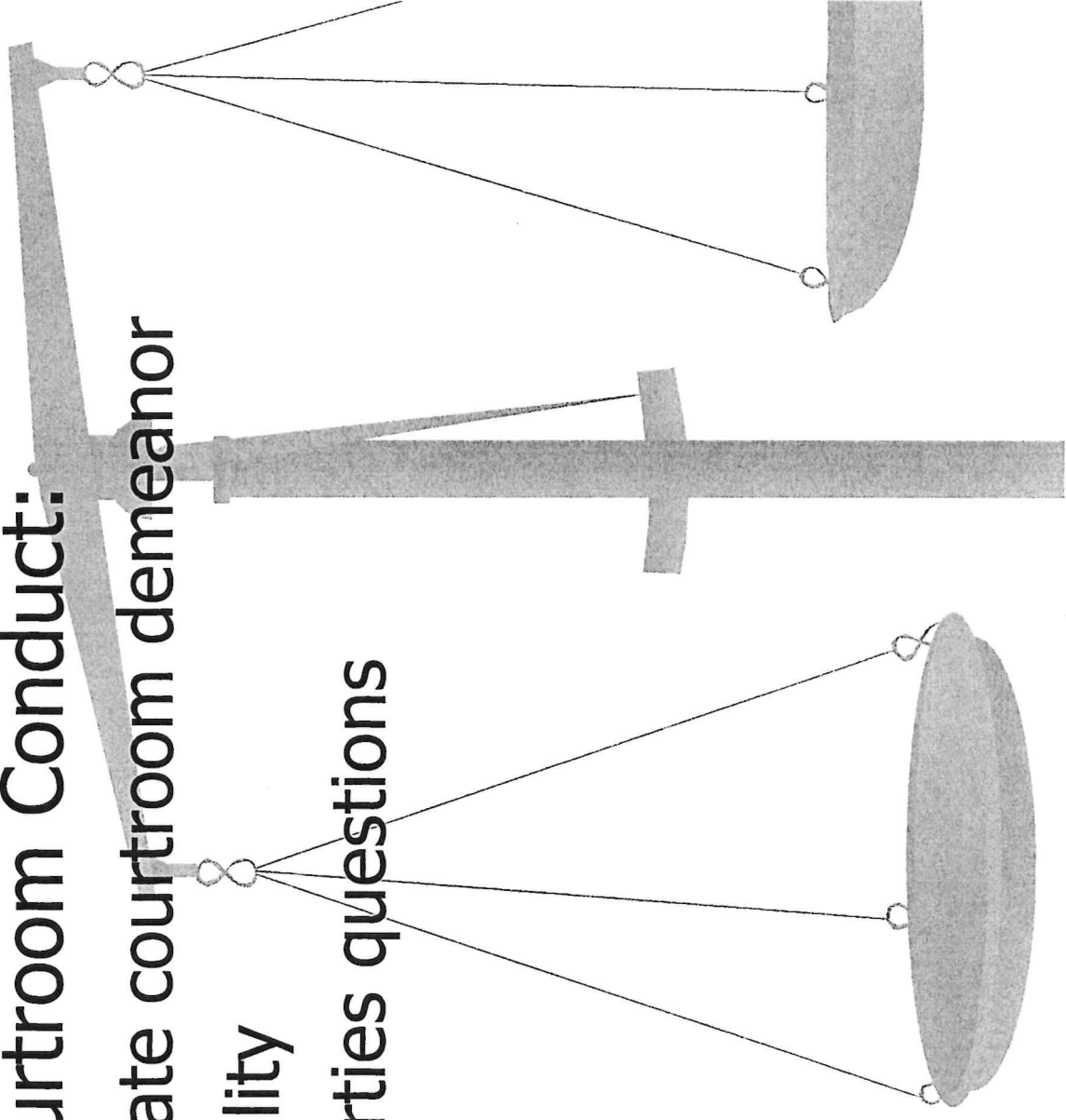
Board Argument

- What to expect:
 - Courtroom
 - Morning session
 - Lunch
 - Afternoon session
 - Deliberations



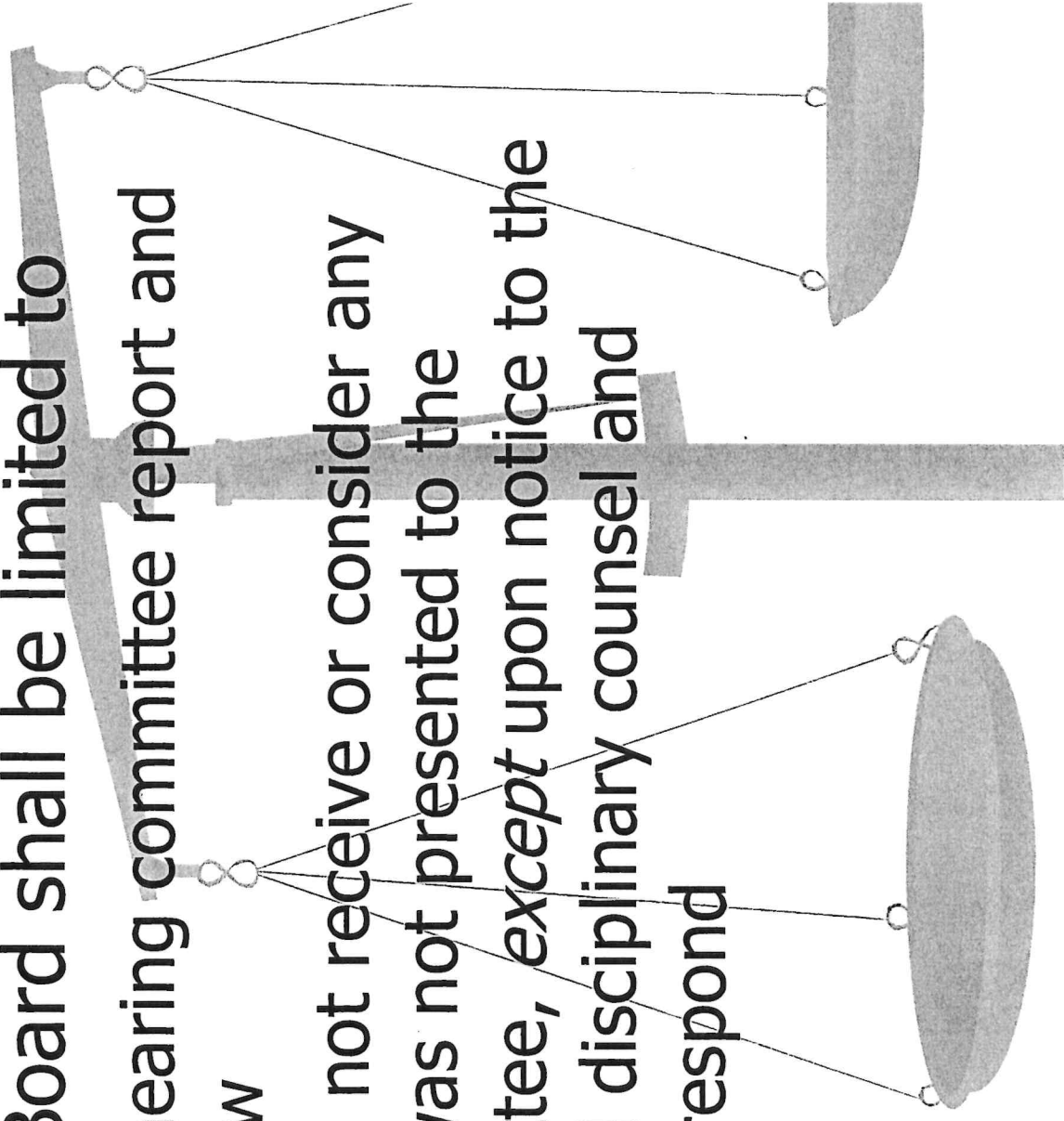
Board Argument

- Board Panel Courtroom Conduct:
 - Foster appropriate courtroom demeanor
 - Exhibit impartiality
 - May ask the parties questions



New Evidence

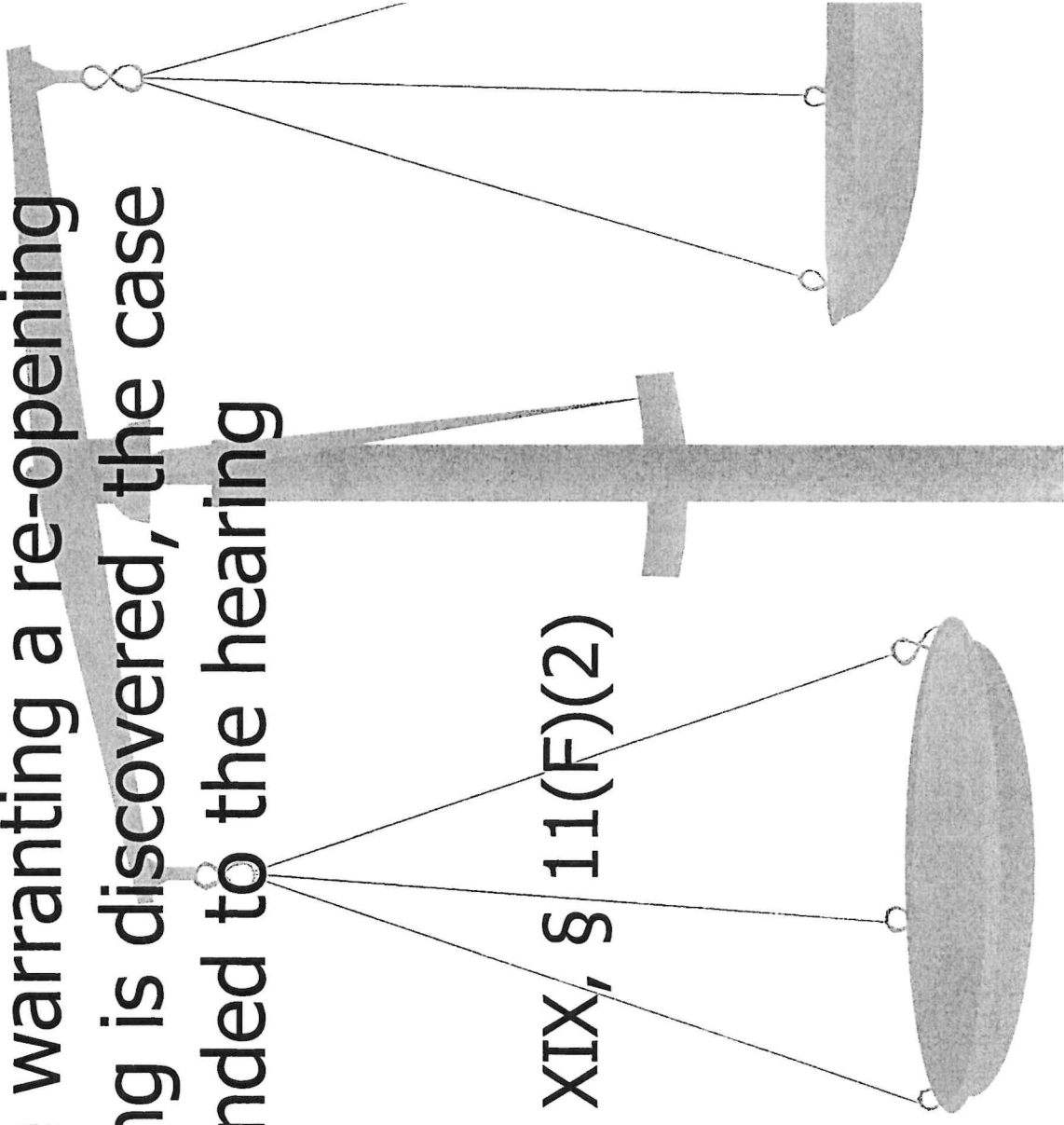
- Review by the Board shall be limited to
 - Review of the hearing committee report and the record below
 - The Board shall not receive or consider any evidence that was not presented to the hearing committee, *except* upon notice to the respondent and disciplinary counsel and opportunity to respond



New Evidence

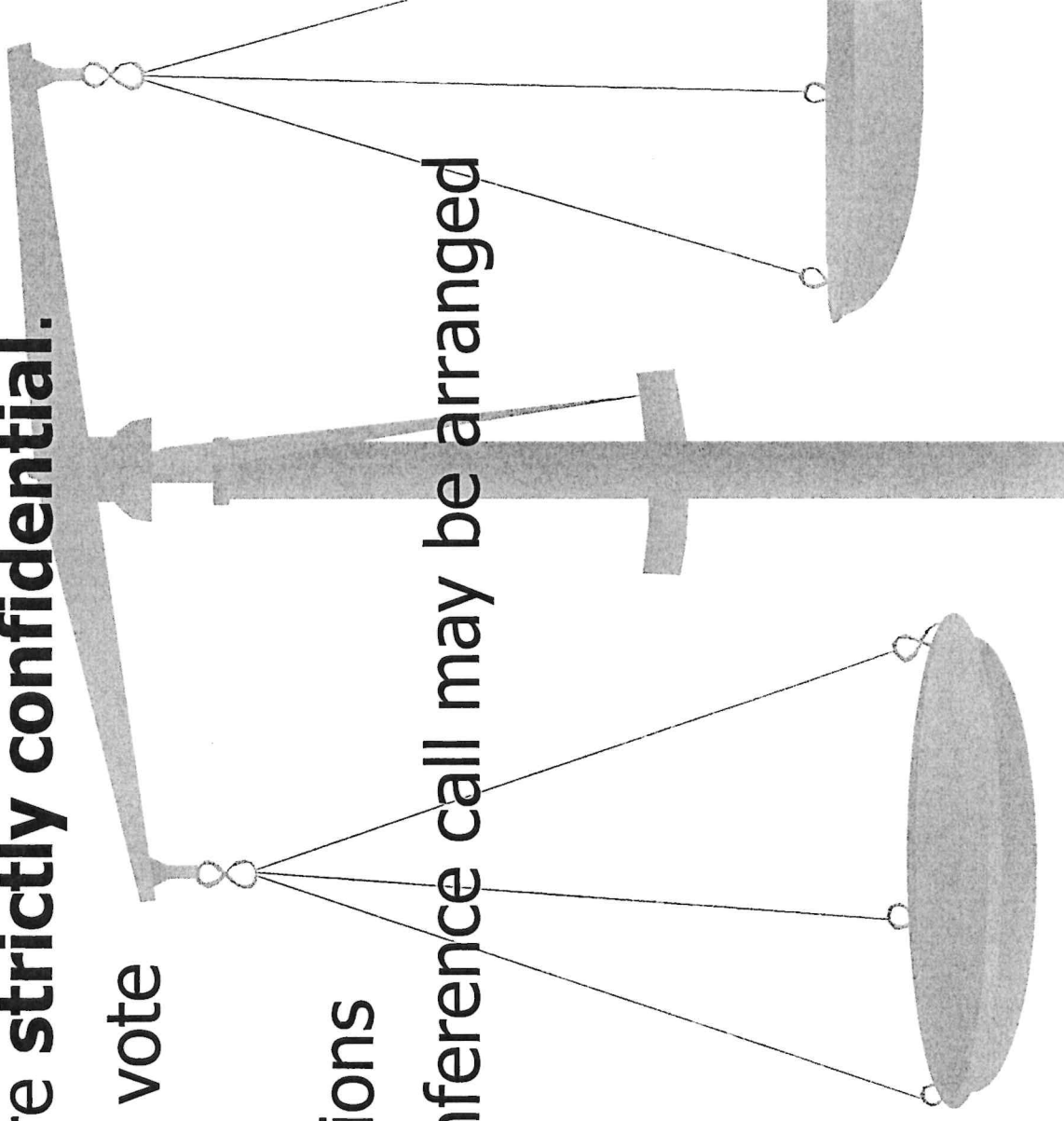
- If new evidence warranting a re-opening of the proceeding is discovered, the case should be remanded to the hearing committee

- La.Sup.Ct. Rule XIX, § 11(F)(2)

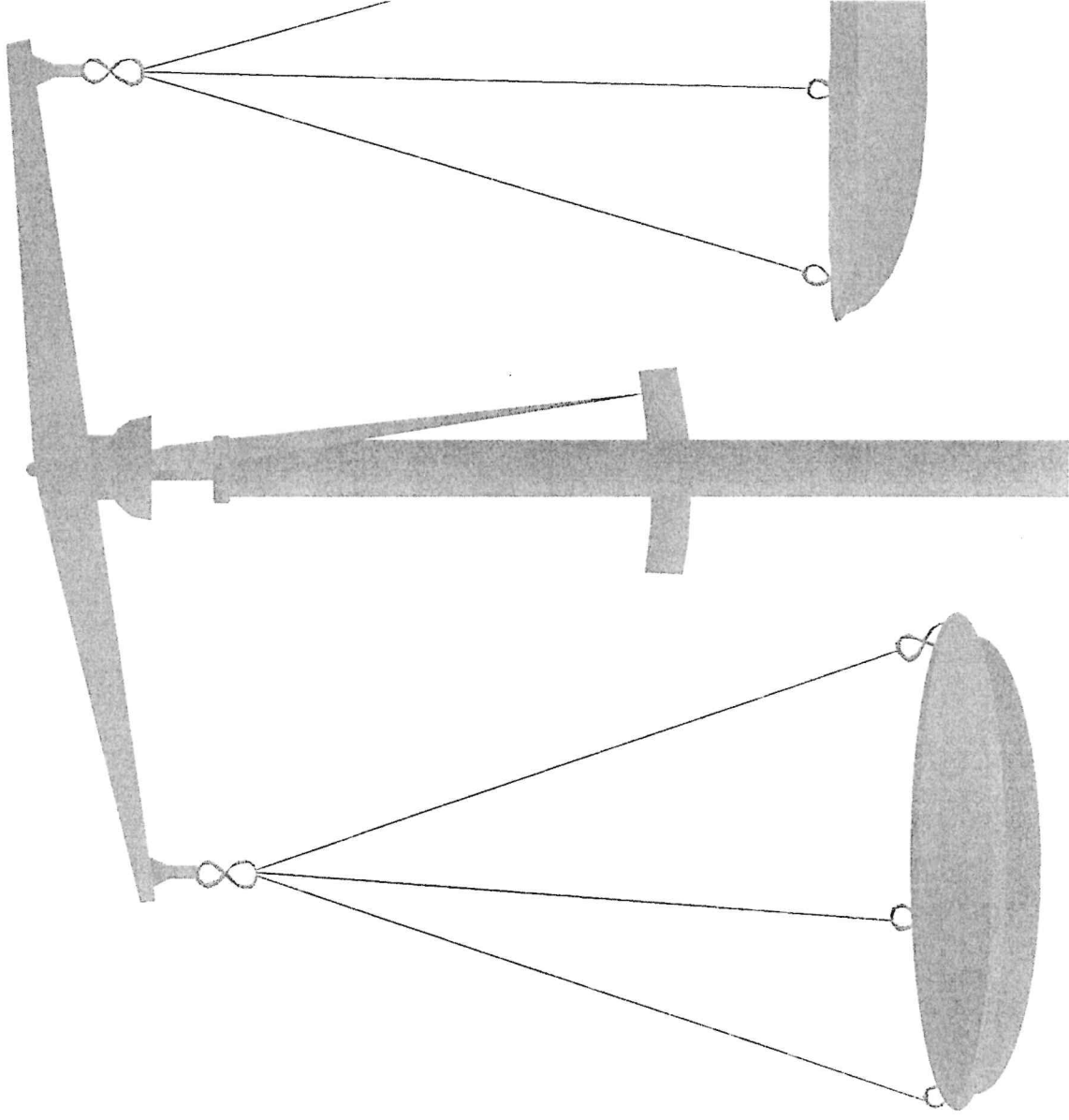


Deliberations

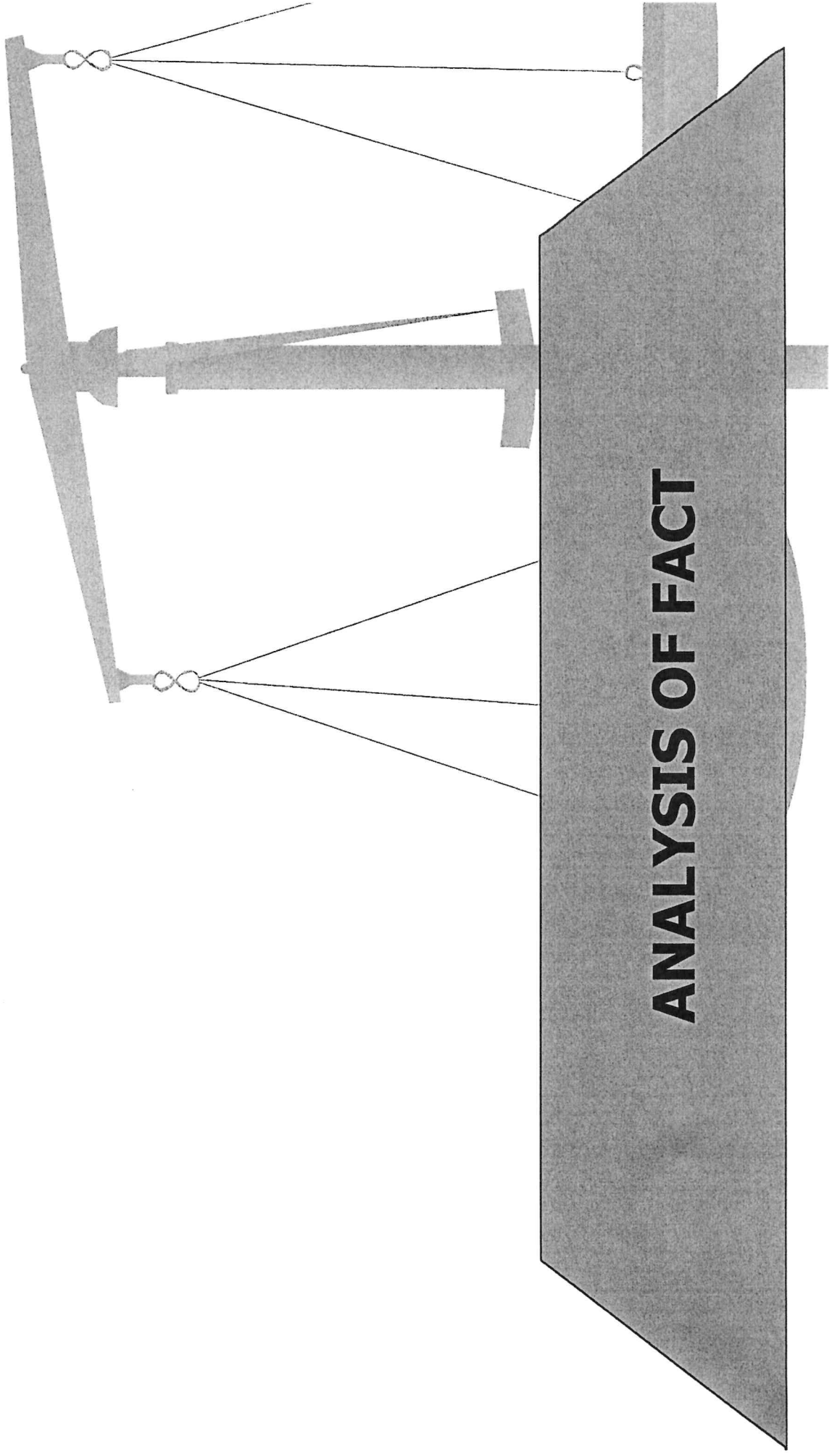
- Deliberations are **strictly confidential**.
- Panel members vote
- Author selected
- Dissenting opinions
- Subsequent conference call may be arranged if need arises



Legal Analysis



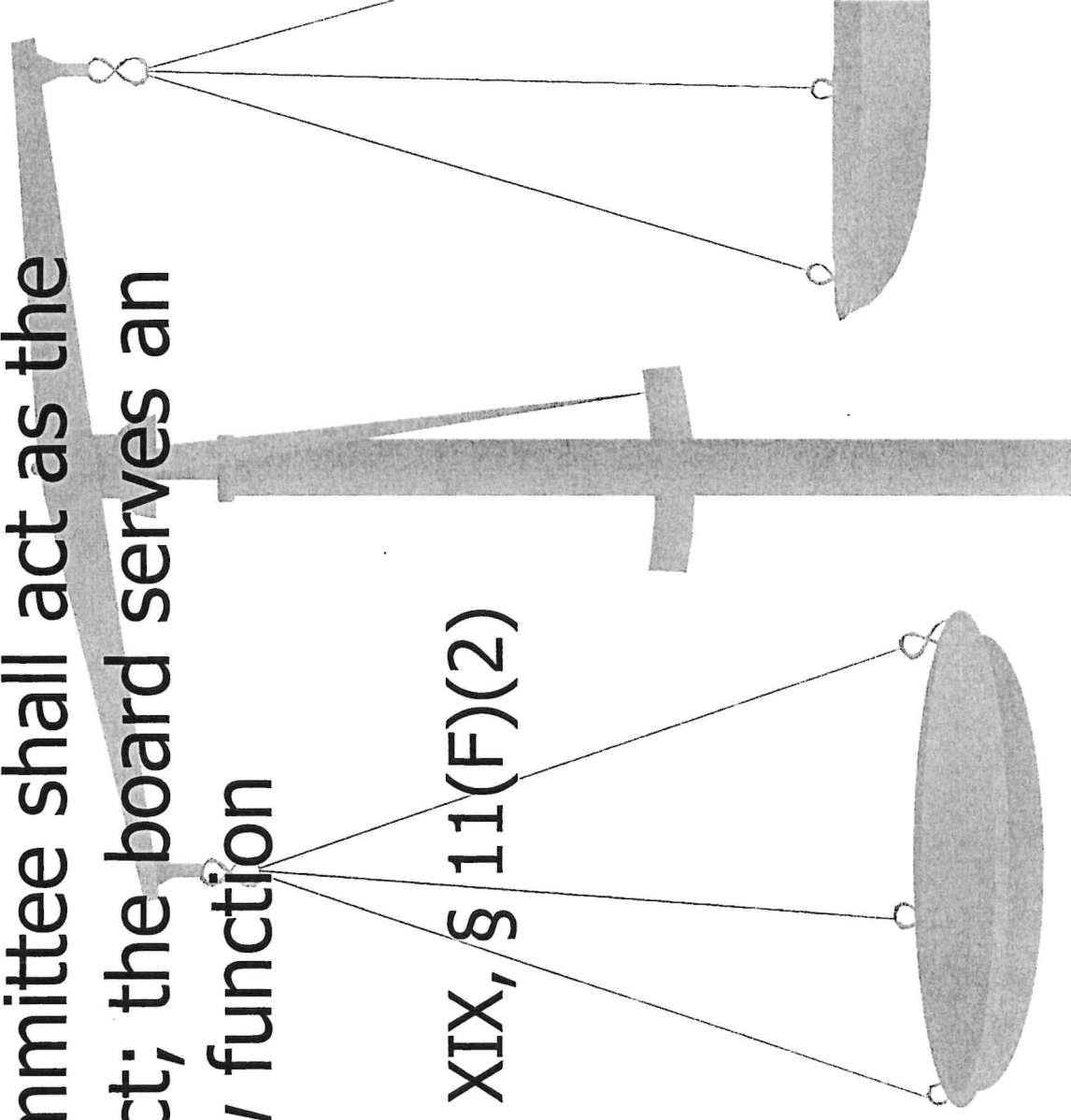
ANALYSIS OF FACT



ANALYSIS OF FACT

- The hearing committee shall act as the initial trier of fact; the board serves an appellate review function

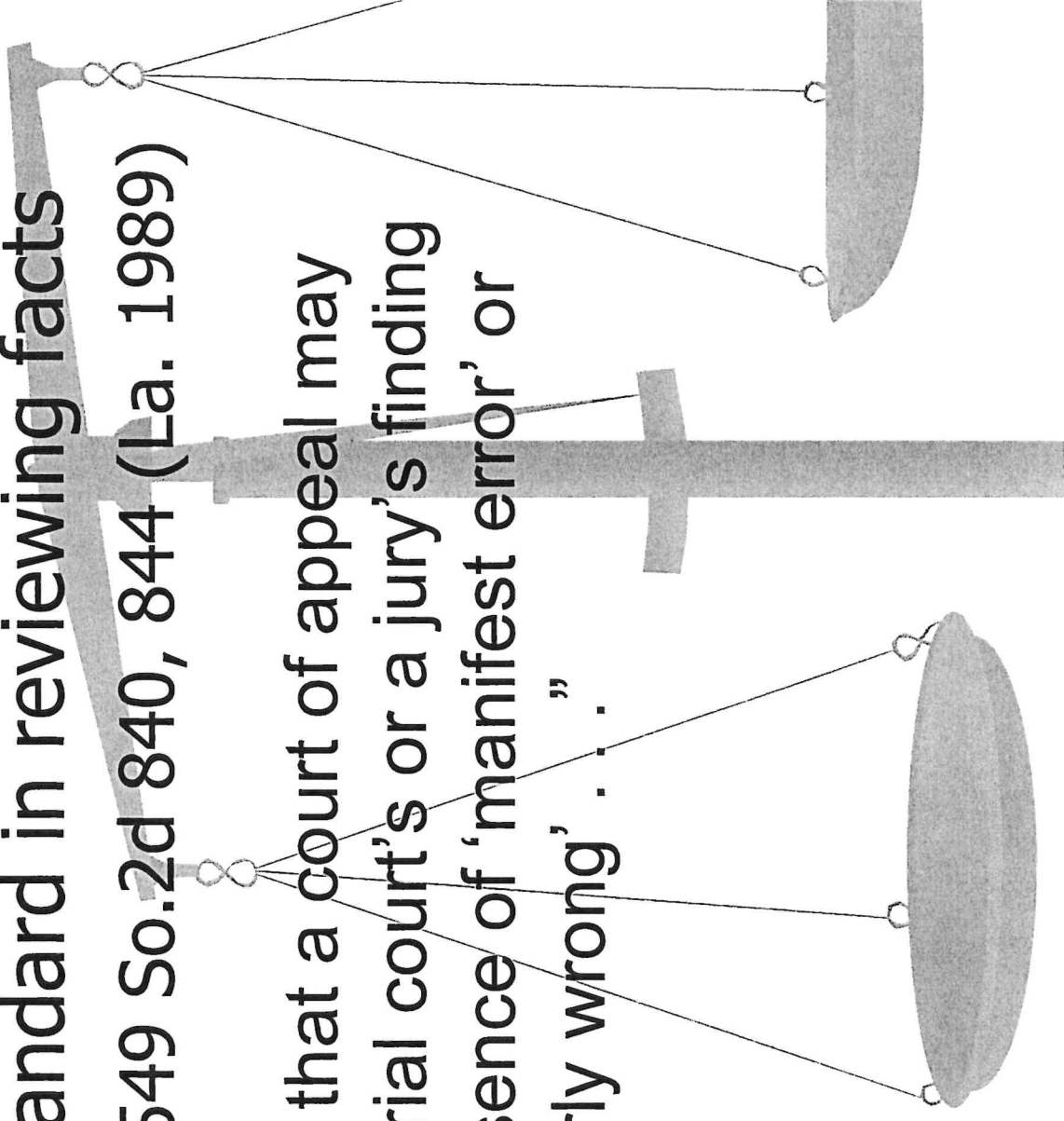
- La.Sup.Ct. Rule XIX, § 11(F)(2)



ANALYSIS OF FACT

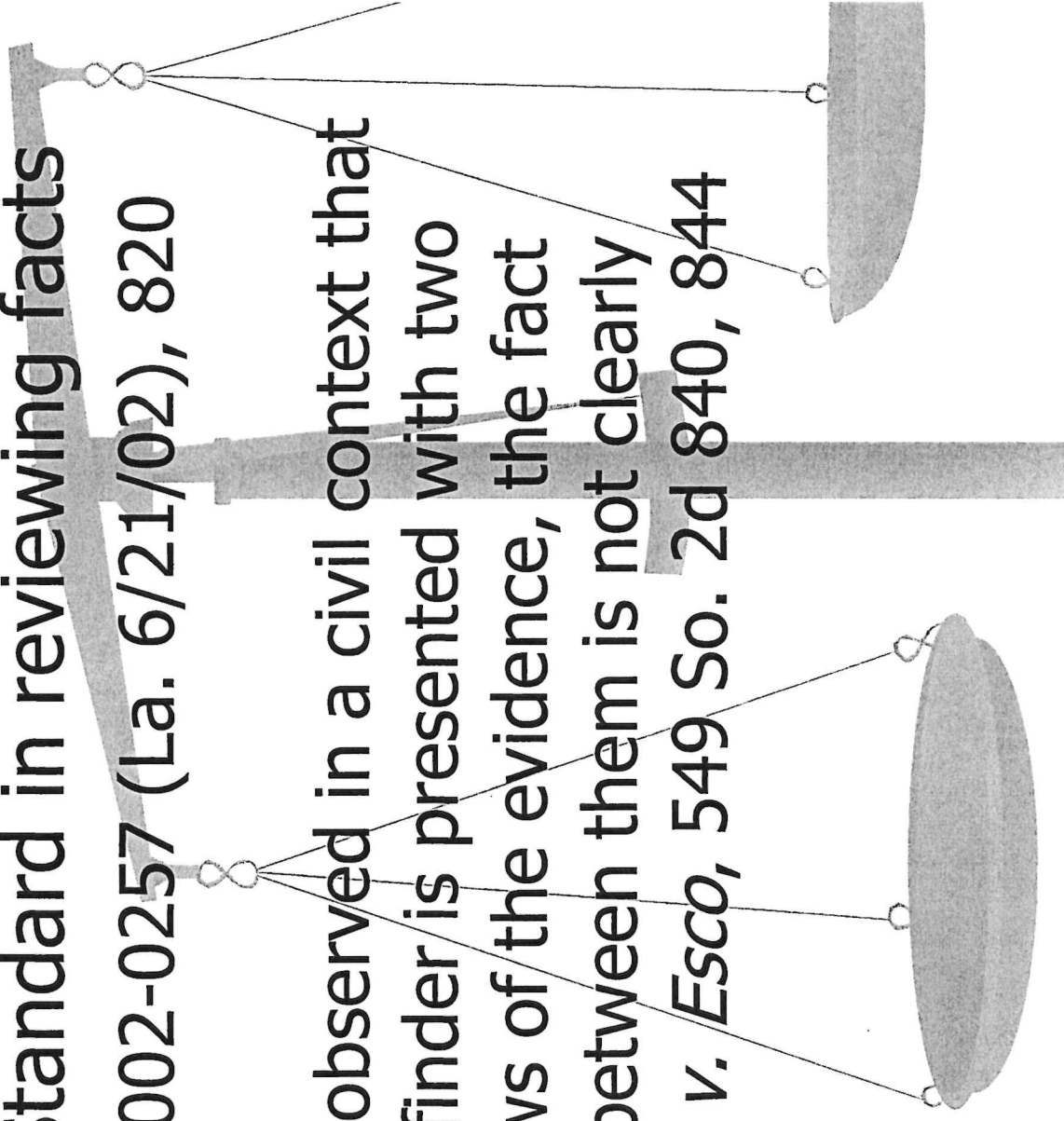
- Manifest Error Standard in reviewing facts
 - *Rosell V. ESCO*, 549 So.2d 840, 844 (La. 1989)

“It is well settled that a court of appeal may not set aside a trial court’s or a jury’s finding of fact in the absence of ‘manifest error’ or unless it is ‘clearly wrong’”



ANALYSIS OF FACT

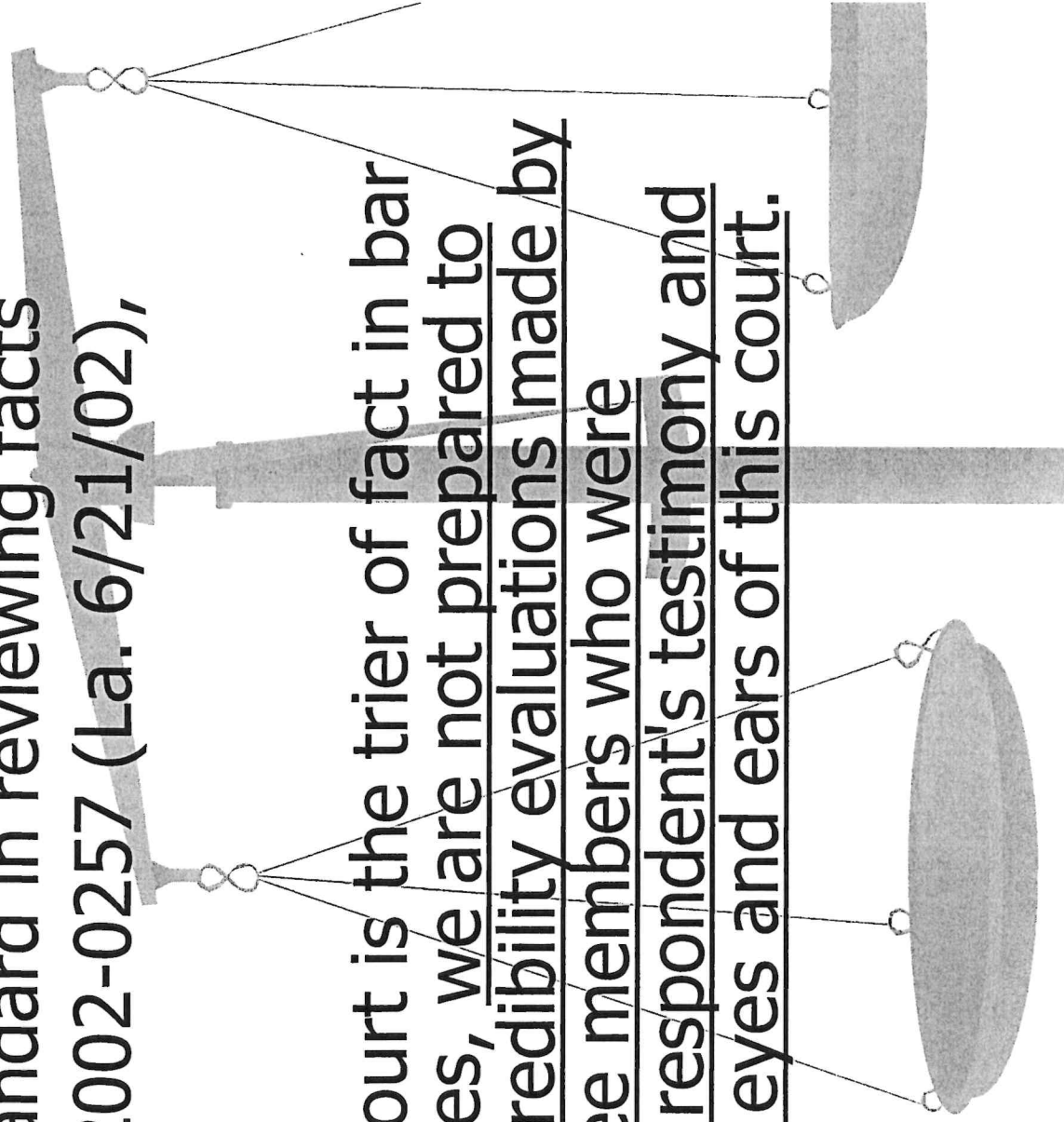
- Manifest Error Standard in reviewing facts
 - *In re: Bolton*, 2002-0257 (La. 6/21/02), 820 So.2d 548
 - " . . . we have observed in a civil context that where the fact finder is presented with two permissible views of the evidence, the fact finder's choice between them is not clearly wrong." *Rosell v. Escro*, 549 So. 2d 840, 844 (La. 1989).



ANALYSIS OF FACT

- Manifest Error Standard in reviewing facts
 - *In re: Bolton*, 2002-0257 (La. 6/21/02), 820 So.2d 548

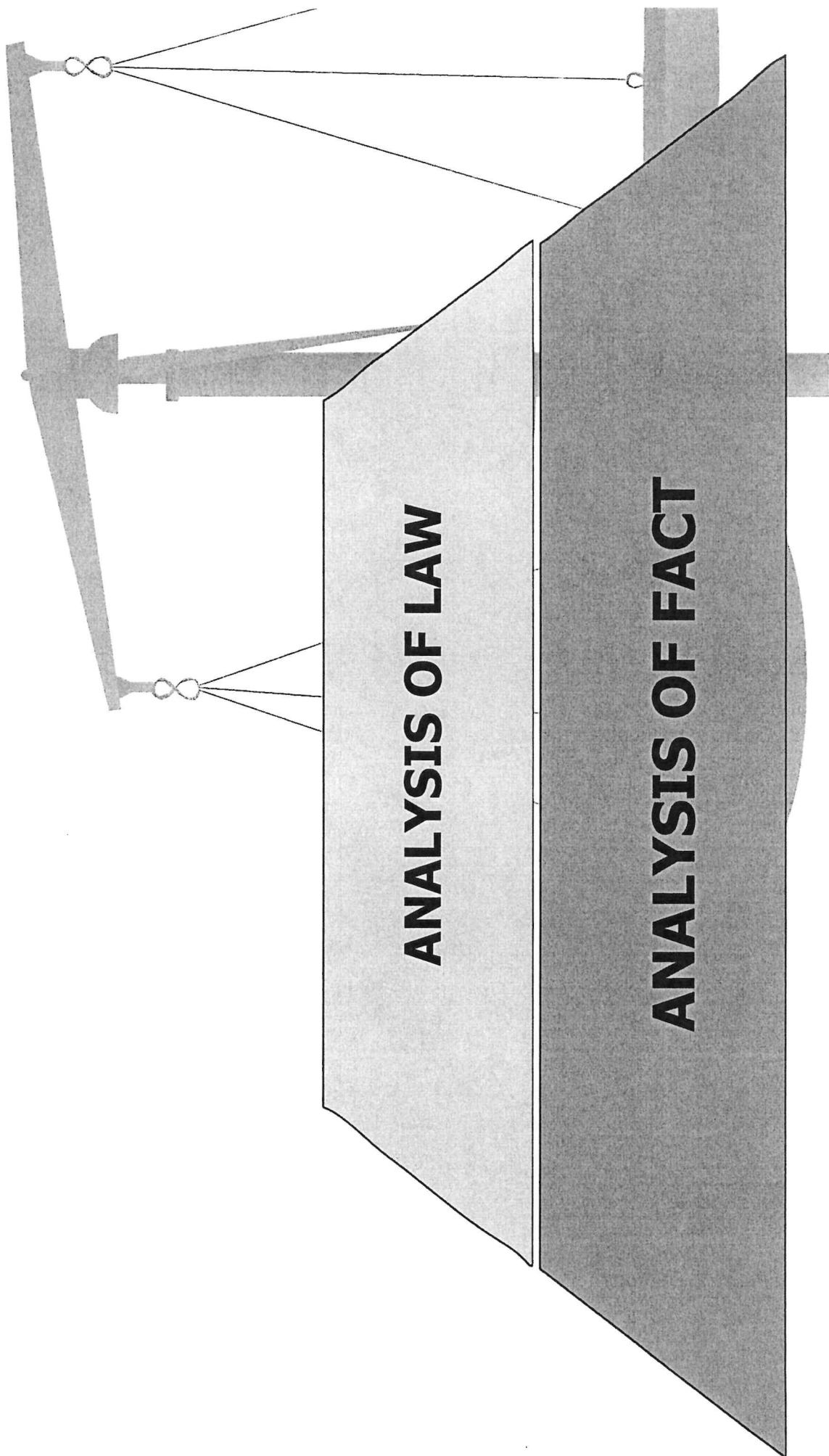
Although this court is the trier of fact in bar disciplinary cases, we are not prepared to disregard the credibility evaluations made by those committee members who were present during respondent's testimony and who act as the eyes and ears of this court.



ANALYSIS OF FACT

- Manifest Error Standard in reviewing facts
 - *In re Ungar*, 2009-0573 (La. 10/30/09), 25 So.3d 101

As this court recently observed in *In re: Holliday*, 09-0116 (La. 6/26/09), 15 So.3d 82, the board serves an appellate review function under Supreme Rule XIX, § 11(F) and should therefore “refrain from making findings based on a cold record.”

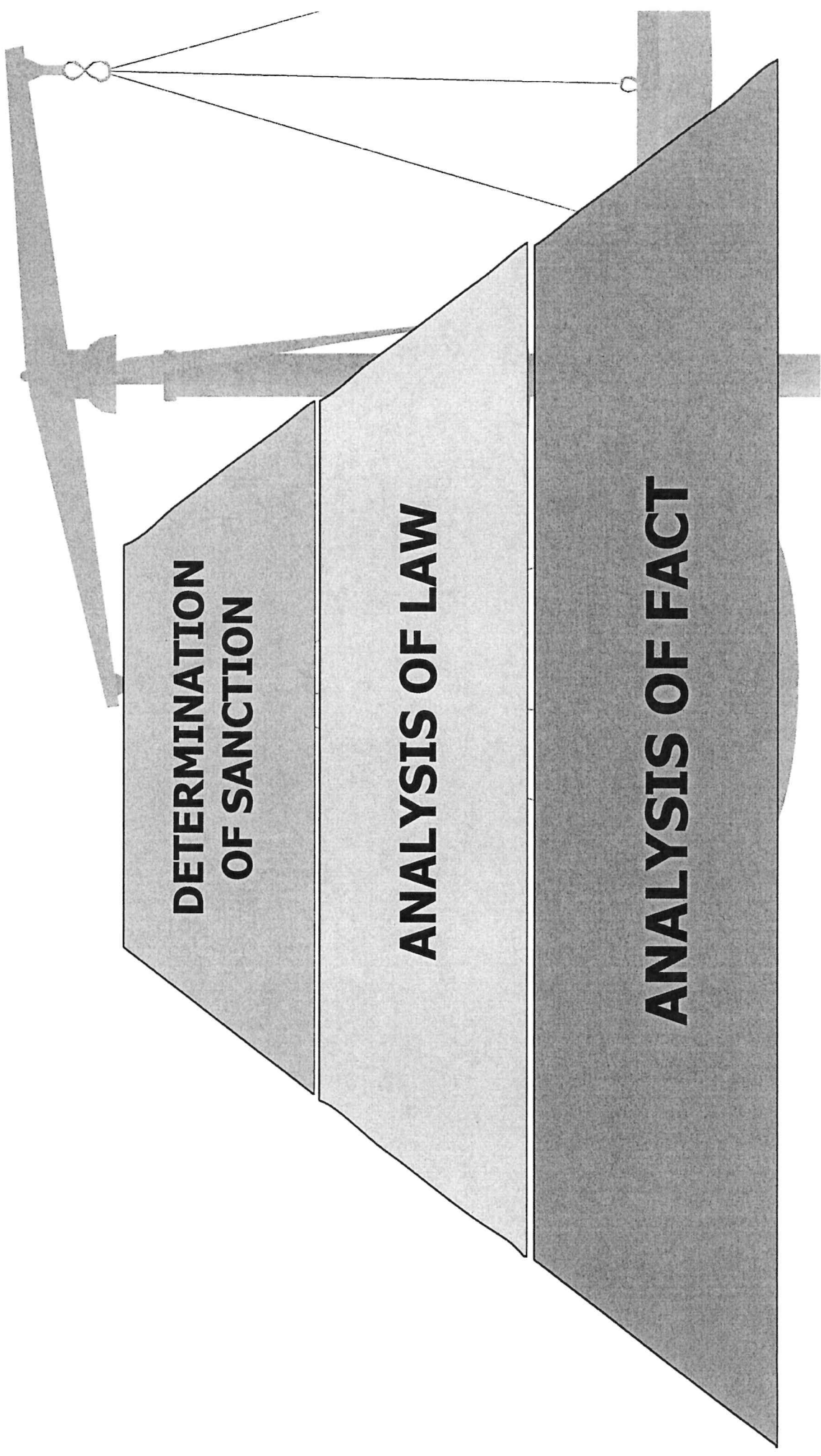


ANALYSIS OF LAW

■ De Novo Review of the hearing committee's application of the Rules of Professional Conduct

"Application of the Louisiana Rules of Professional Conduct to the facts as found by the hearing committee, as well as the recommendations for lawyer discipline to be imposed, however, are not subject to [the] same level of restricted review [as the committee's findings of fact]."

In re Hill, 90-DB-004



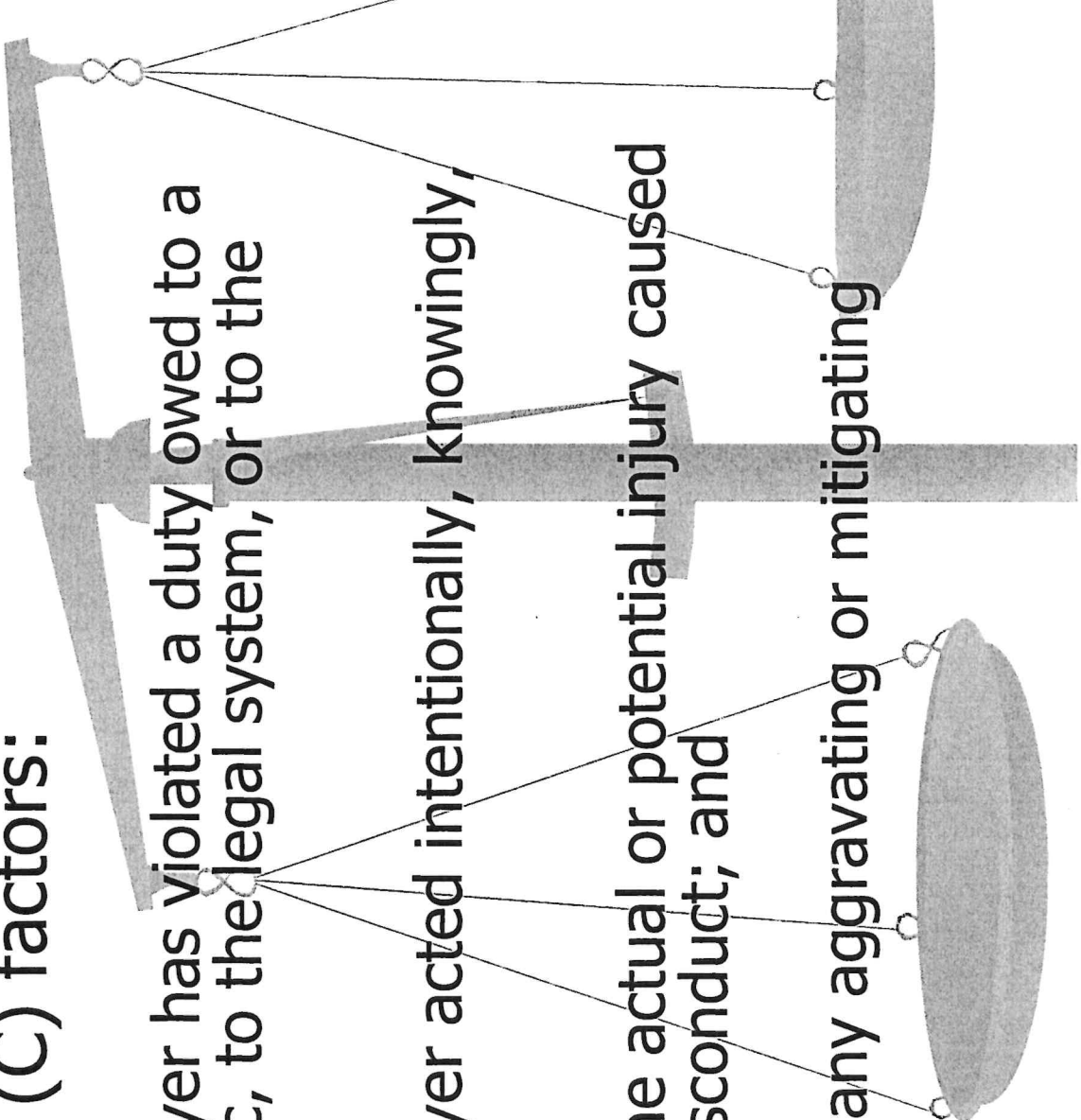
**DETERMINATION
OF SANCTION**

ANALYSIS OF LAW

ANALYSIS OF FACT

DETERMINATION OF SANCTION

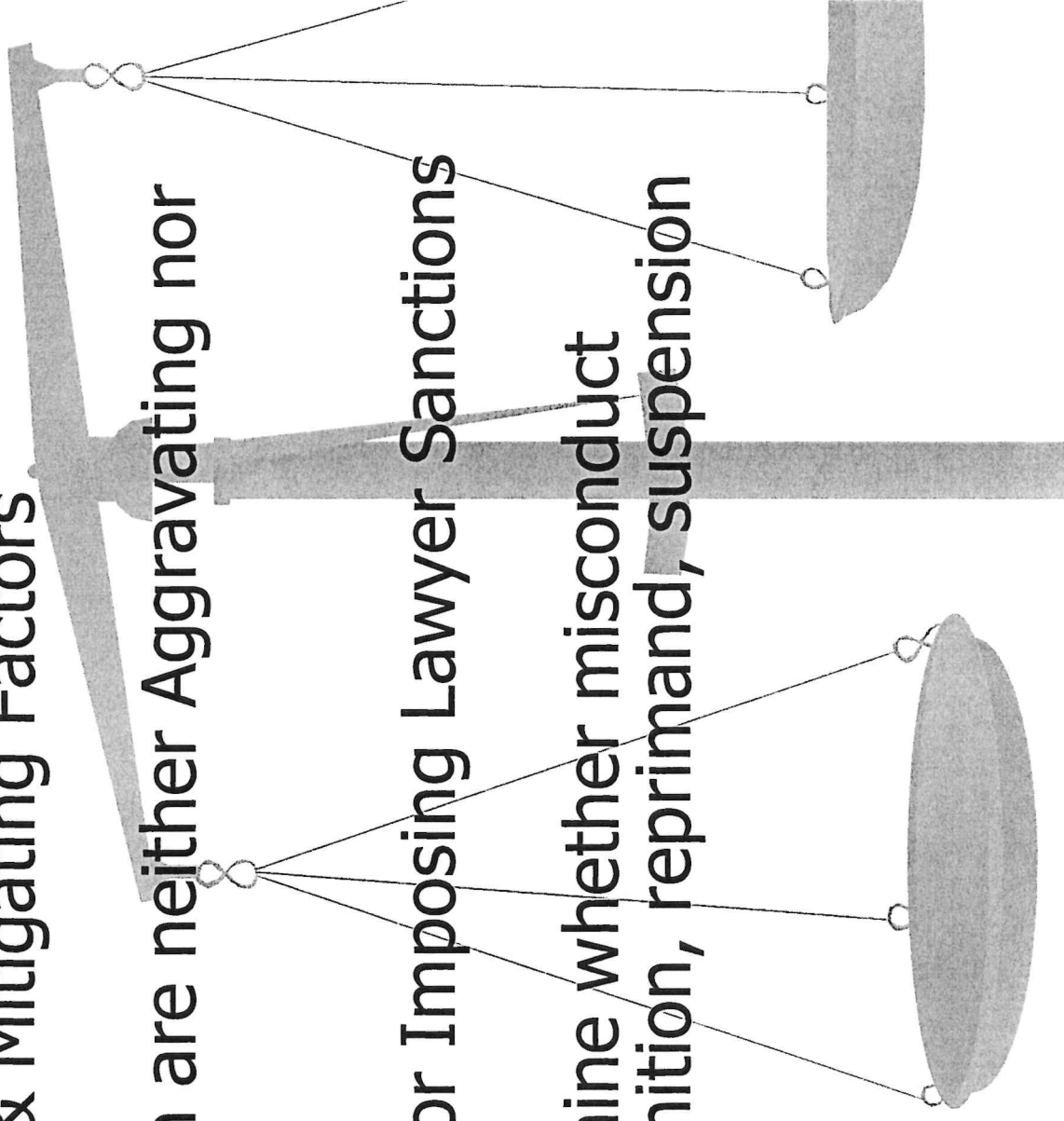
Rule XIX, Section 10 (C) factors:

- 
- (1) Whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
 - (2) Whether the lawyer acted intentionally, knowingly, or negligently;
 - (3) The amount of the actual or potential injury caused by the lawyer's misconduct; and
 - (4) The existence of any aggravating or mitigating factors.

DETERMINATION OF SANCTION

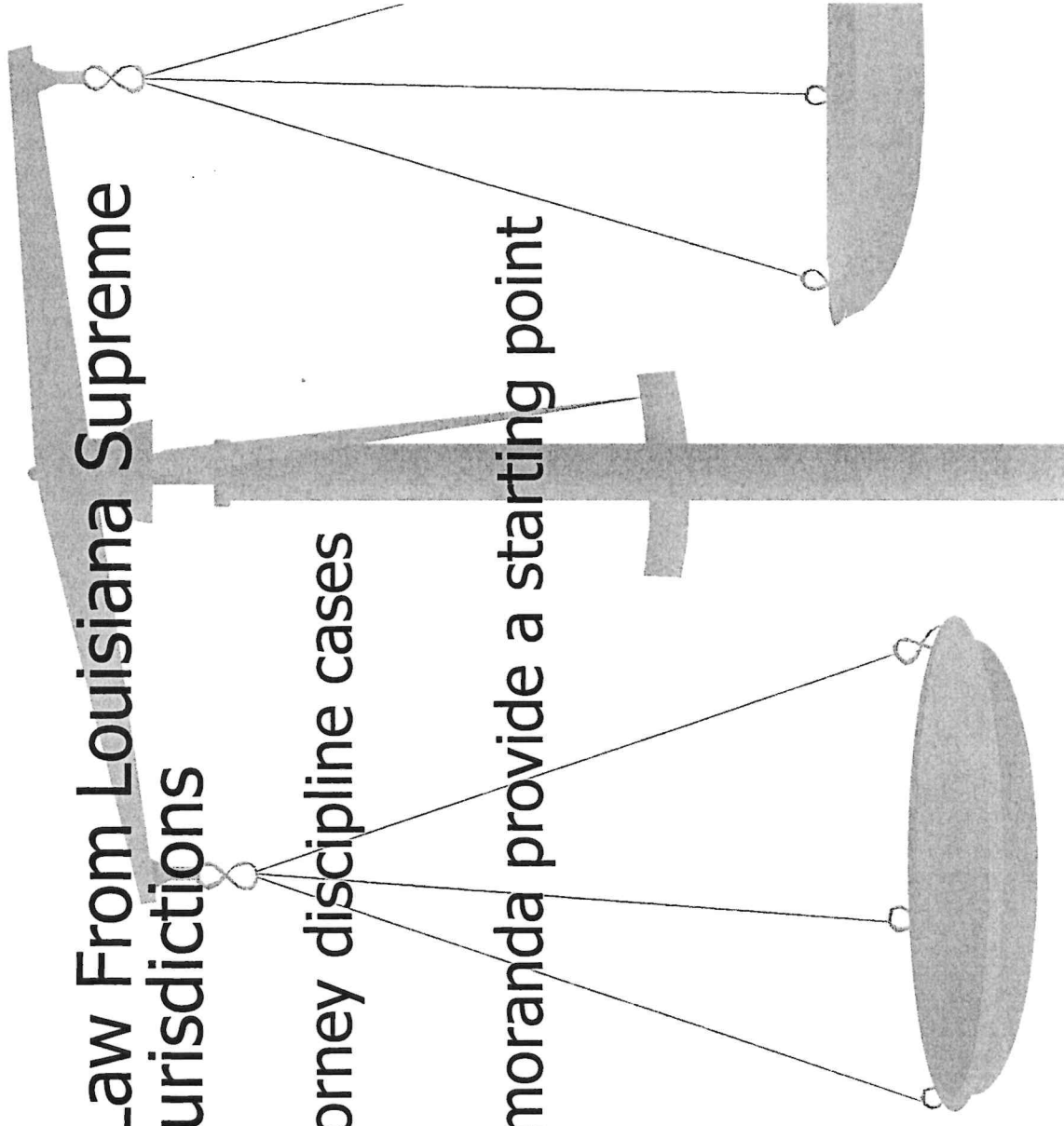
- ABA Aggravating & Mitigating Factors
- ABA Factors which are neither Aggravating nor Mitigating
- ABA Standards for Imposing Lawyer Sanctions

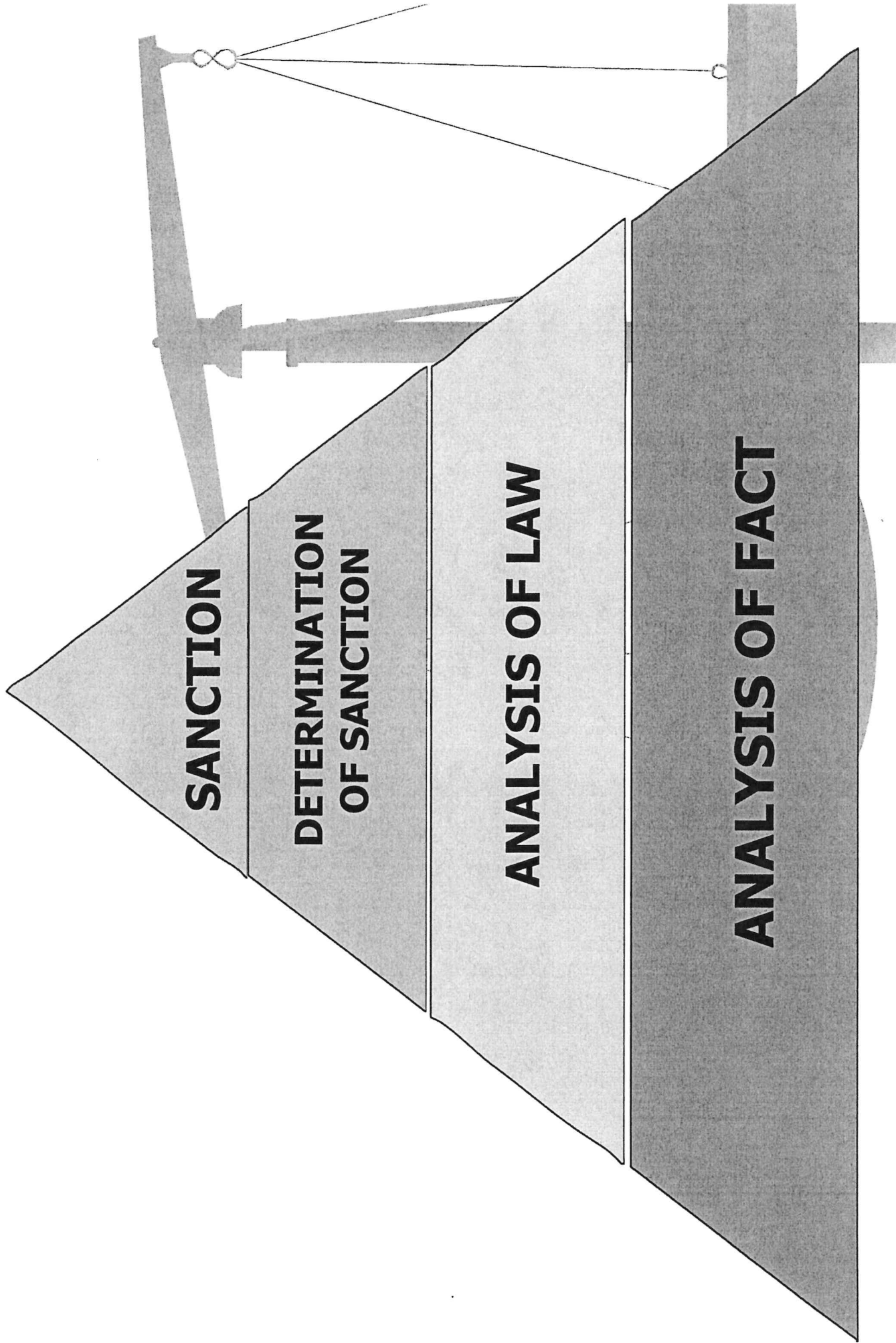
Guide to determine whether misconduct warrants admonition, reprimand, suspension or disbarment.



DETERMINATION OF SANCTION

- Disciplinary Case Law From Louisiana Supreme Court and Other Jurisdictions
 - Review similar attorney discipline cases
 - Sanction Table
 - Pre-Argument memoranda provide a starting point



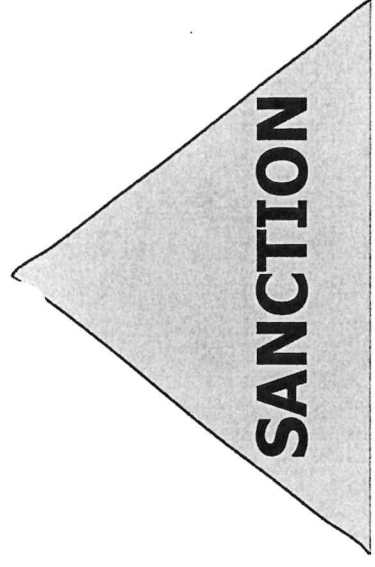


SANCTION

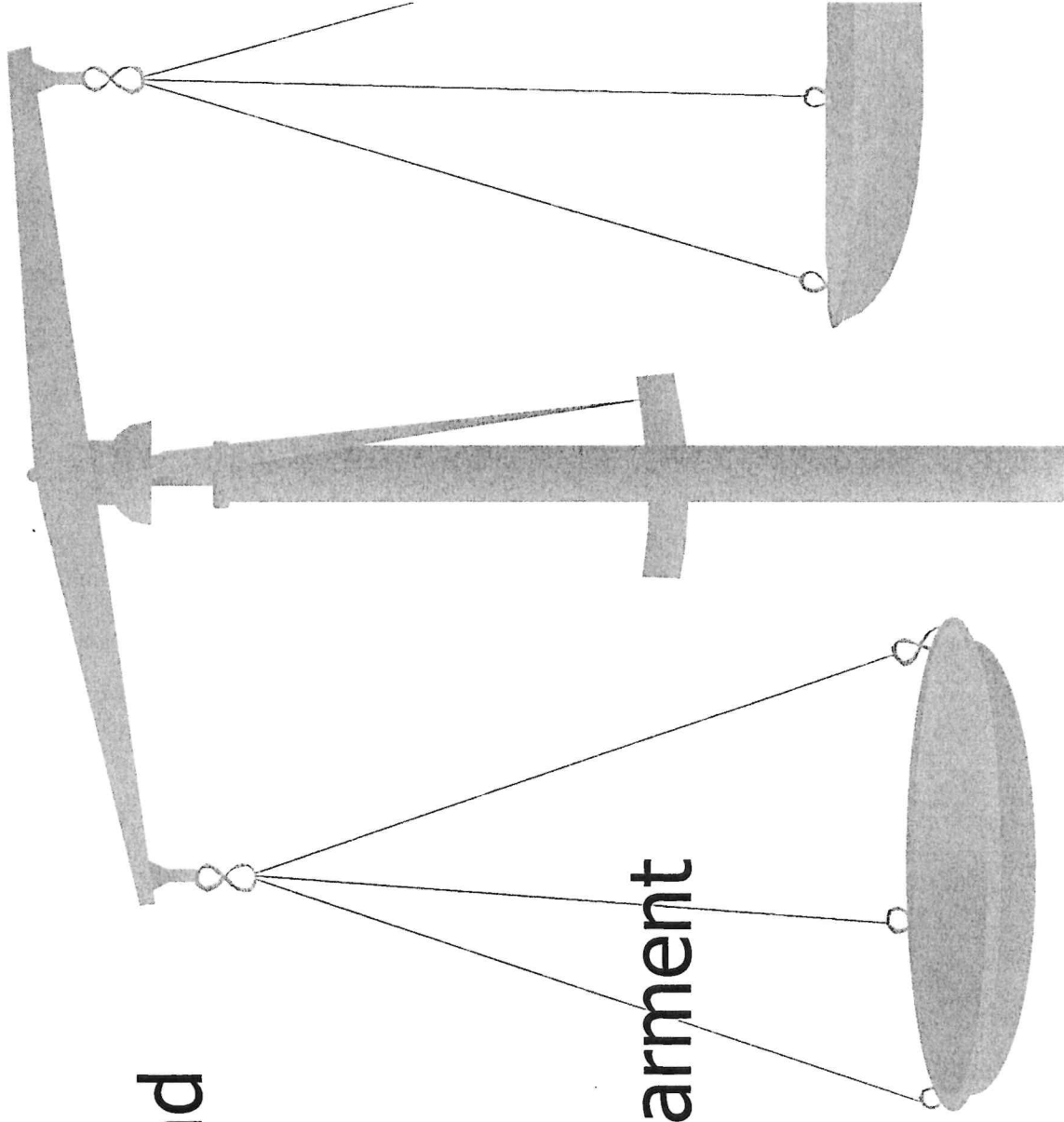
**DETERMINATION
OF SANCTION**

ANALYSIS OF LAW

ANALYSIS OF FACT

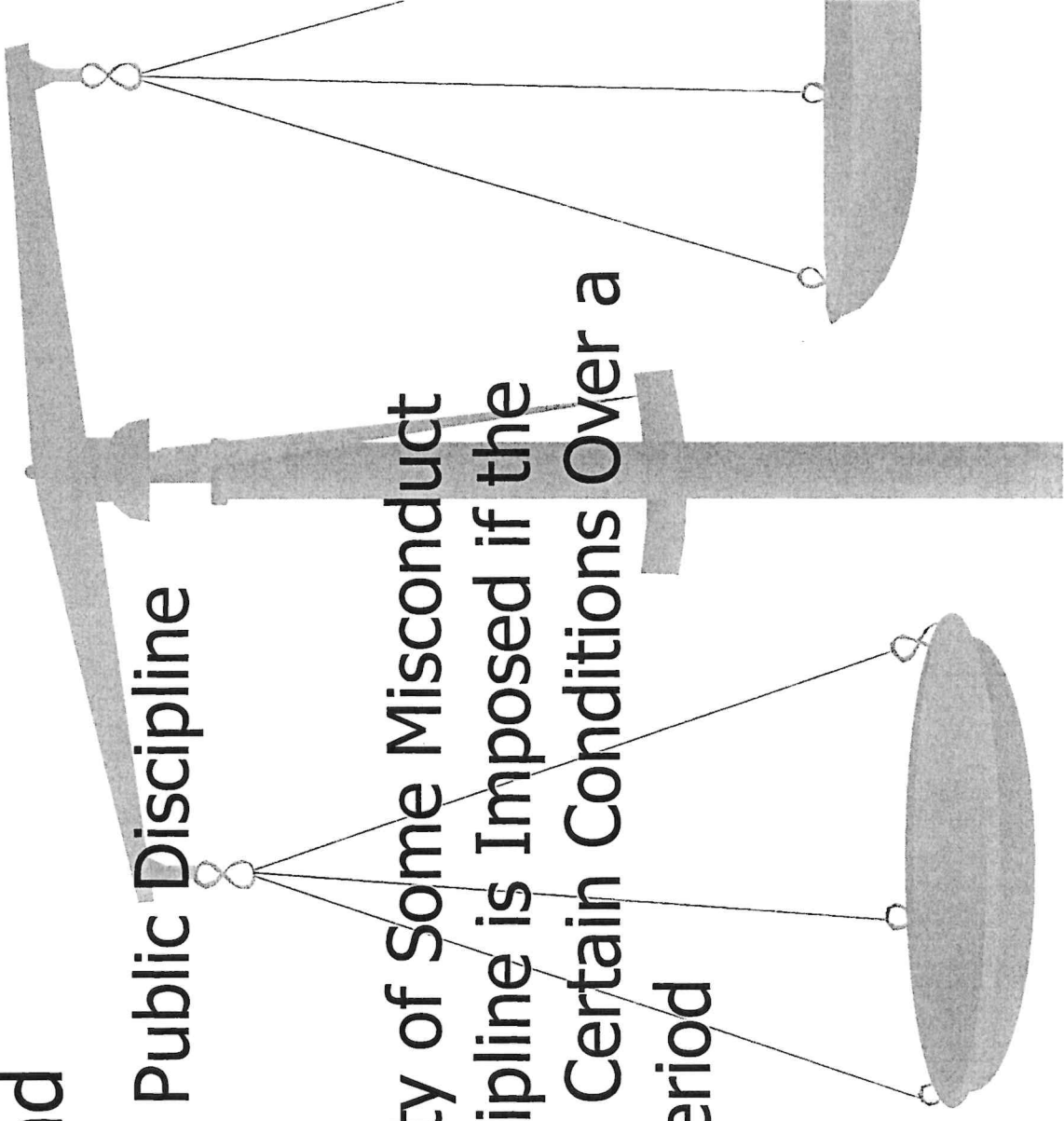


- Public Reprimand
- Probation
- Suspension
- Disbarment
- Permanent Disbarment



SANCTION

- Public Reprimand
 - Most Lenient of Public Discipline
- Probation
 - Attorney is Guilty of Some Misconduct
 - No Further Discipline is Imposed if the Attorney Meets Certain Conditions Over a Certain Time Period



SANCTION

■ Suspension

- Fixed period of time not in excess of 3 years
- Active suspension of more than one year (*e.g.*, 1 year and 1 day) requires formal reinstatement proceeding of court for reinstatement
- All or a portion may be deferred

The Court has expressed reluctance to impose probation or other conditions when the attorney must seek reinstatement. Such issues should be addressed at the time of reinstatement. *In re Holley*, 2003-1366 (La. 10/3/03), 856 So.2d 1197; *In re Hansen*, 2004-1988 (La. 11/19/04), 888 So.2d 172; and *In re Clark*, 2009-1631 (La. 12/1/09), 25 So.3d 728

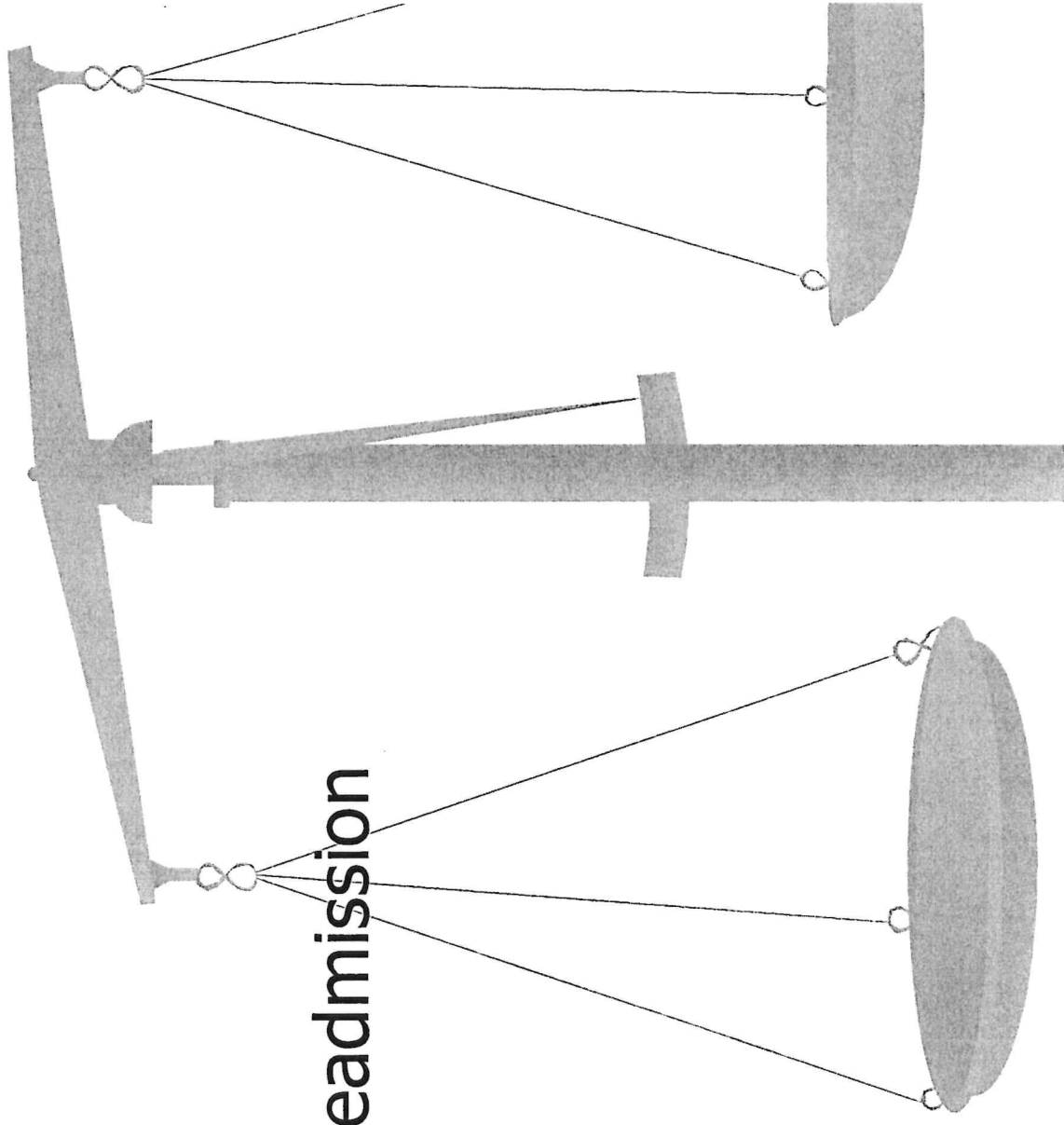
SANCTION

- Suspension
 - Fixed period of time not in excess of 3 years
 - All or a portion may be deferred

Deferral: Some or all of the period of suspension may be deferred. If the Board recommends deferral of all or part of a suspension which would result in an actual suspension of one year or less, it should also recommend either a period of probation, or a period within which the deferred suspension may become executory in the event of misconduct during the period. *In re Dobbins*, 2001-2022 (La 1/15/02), 805 So.2d 133; *In re Hansen*, 2004-1988 (La. 11/19/04), 888 So.2d 172.

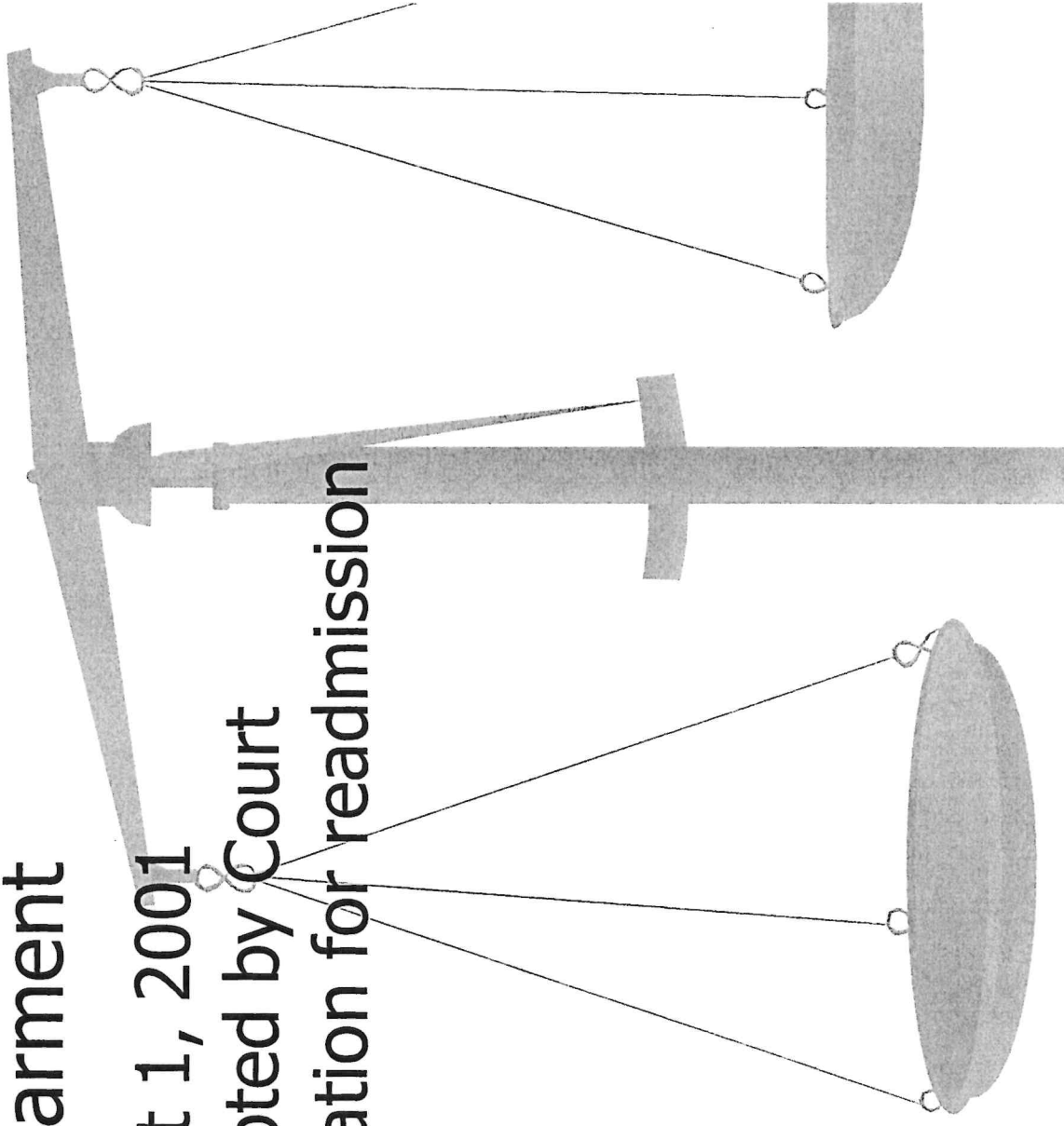
SANCTION

- Disbarment
 - 5 Years
 - May Reapply
 - No Automatic Readmission



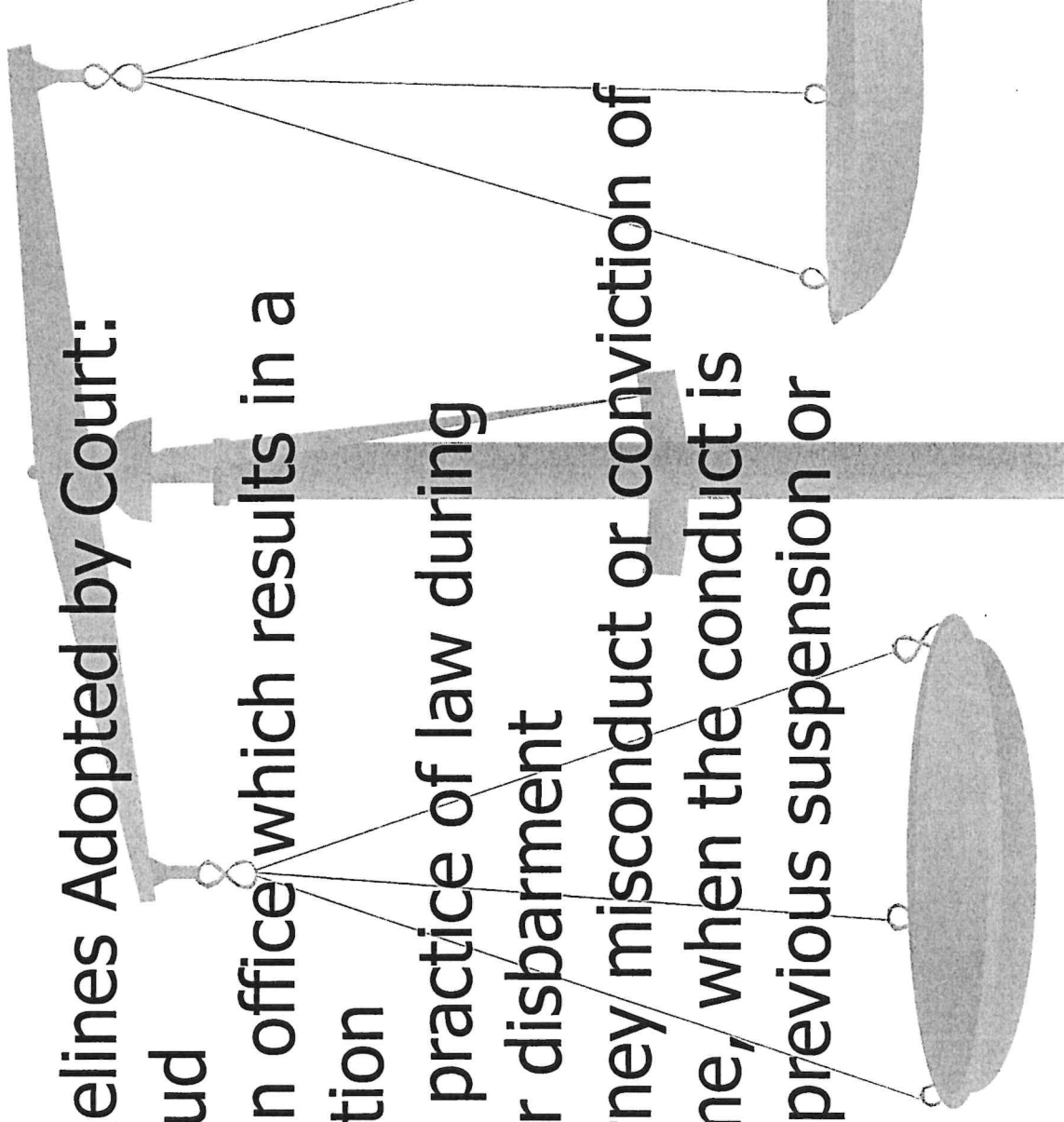
SANCTION

- Permanent Disbarment
 - Effective August 1, 2001
 - Guidelines Adopted by Court
 - Prevents application for readmission



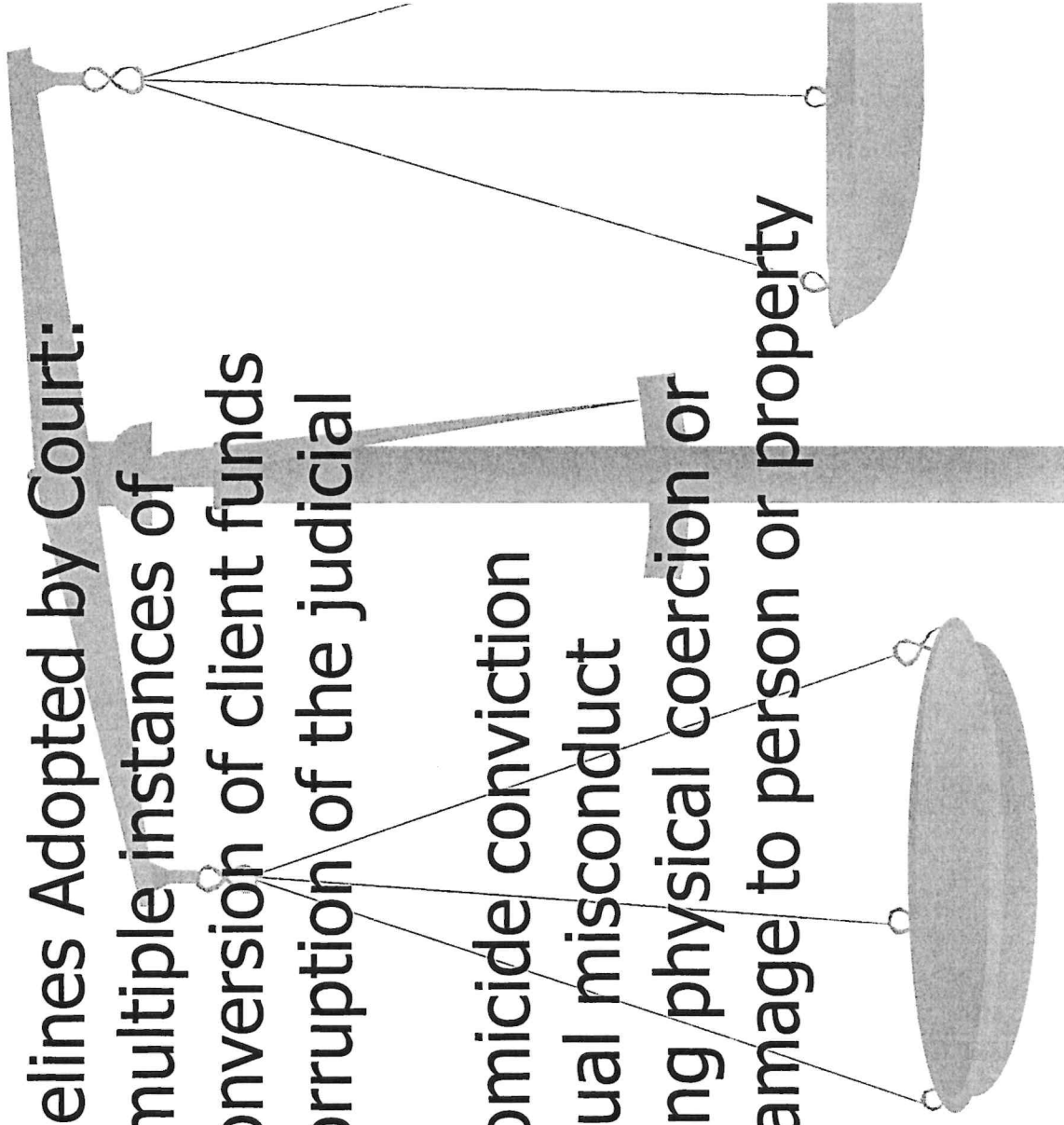
SANCTION

- Permanent Disbarment
- Suggested Guidelines Adopted by Court:
 - Insurance fraud
 - Malfeasance in office which results in a felony conviction
 - Unauthorized practice of law during suspension or disbarment
 - Serious attorney misconduct or conviction of a serious crime, when the conduct is preceded by previous suspension or disbarment

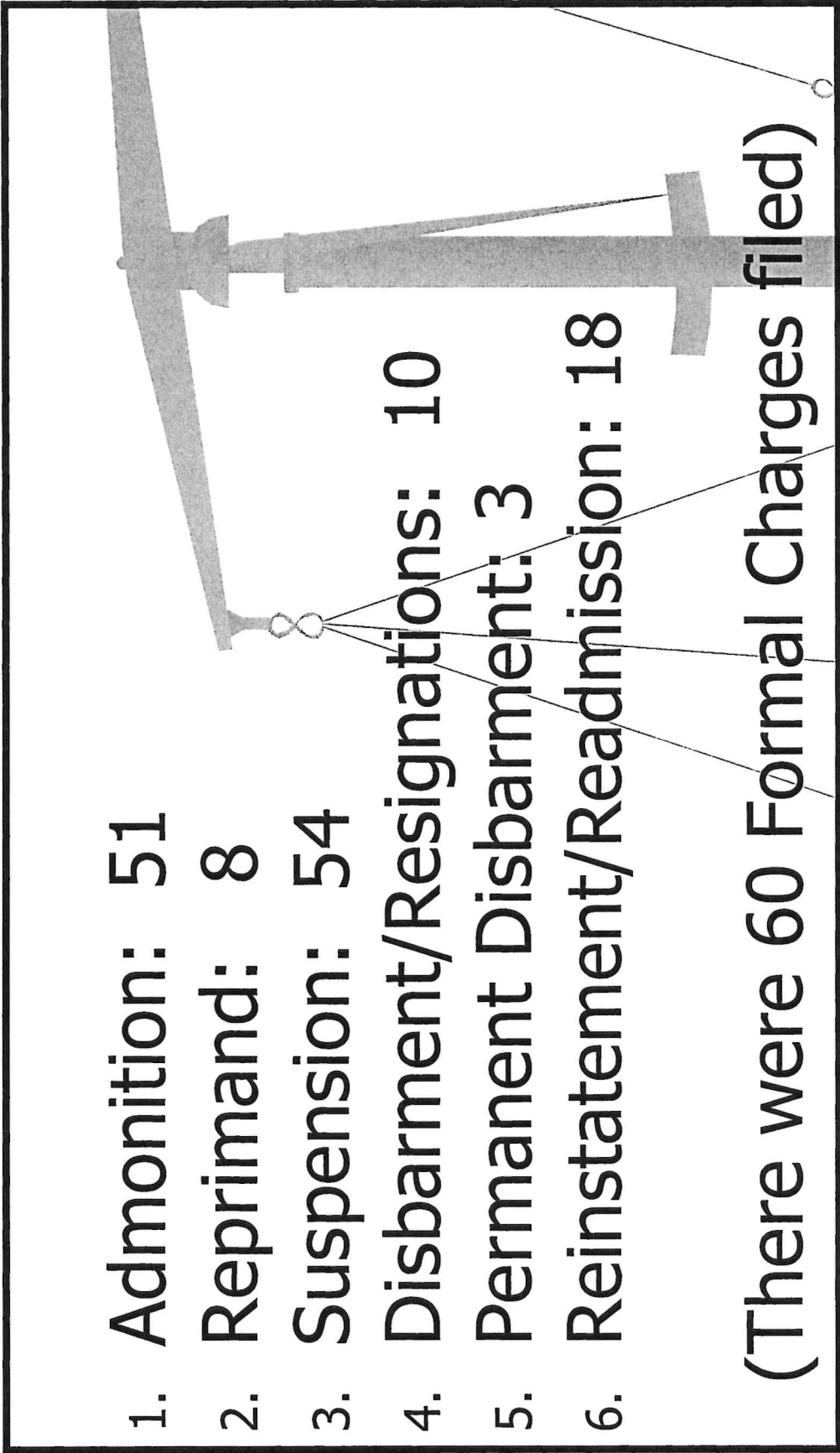


SANCTION

- Permanent Disbarment
- Suggested Guidelines Adopted by Court:
 - Repeated or multiple instances of intentional conversion of client funds
 - Intentional corruption of the judicial process
 - Intentional homicide conviction
 - Felonious sexual misconduct
 - Felony involving physical coercion or substantial damage to person or property



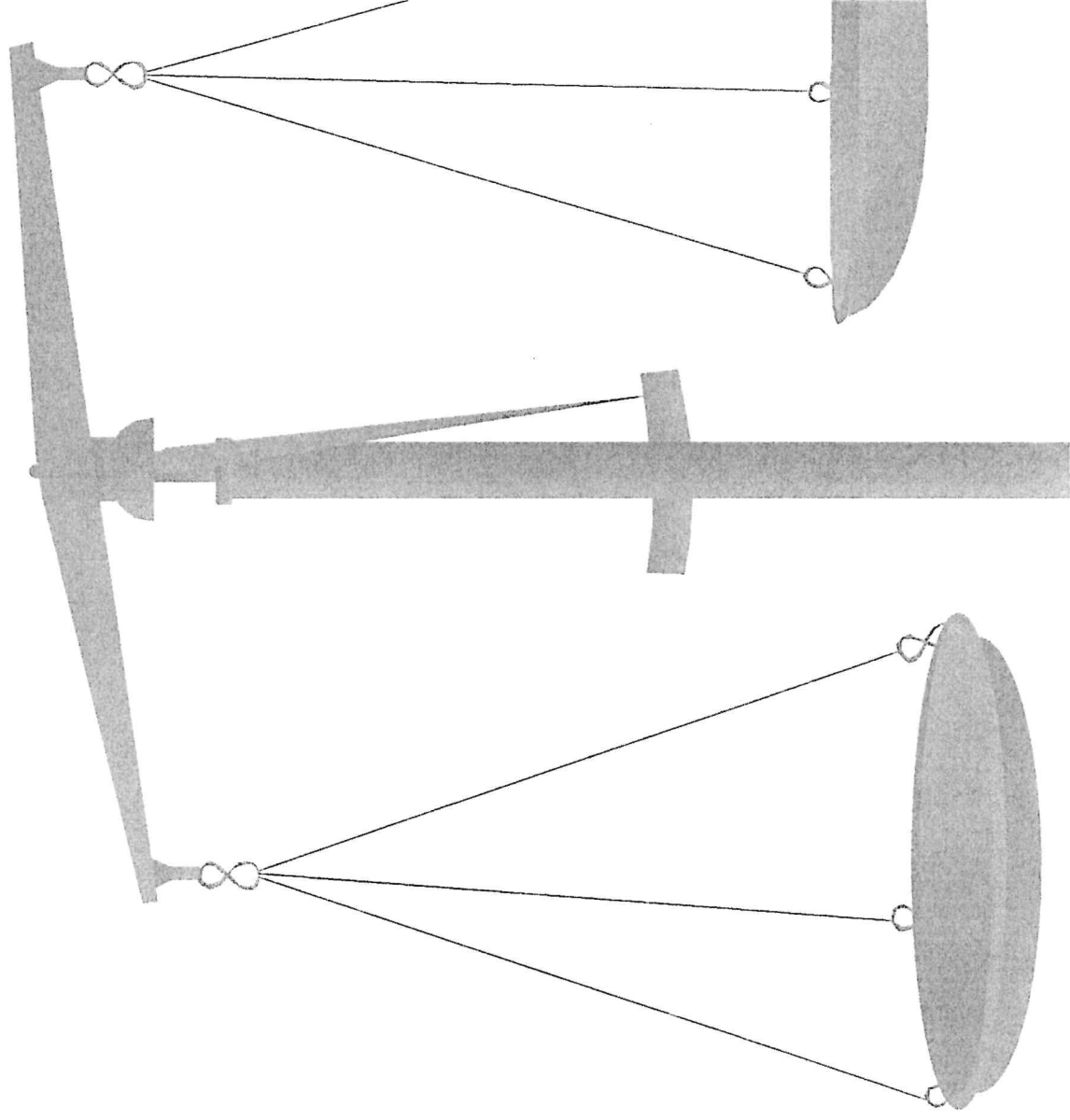
2023: Sanctions Imposed *

- 
1. Admonition: 51
 2. Reprimand: 8
 3. Suspension: 54
 4. Disbarment/Resignations: 10
 5. Permanent Disbarment: 3
 6. Reinstatement/Readmission: 18

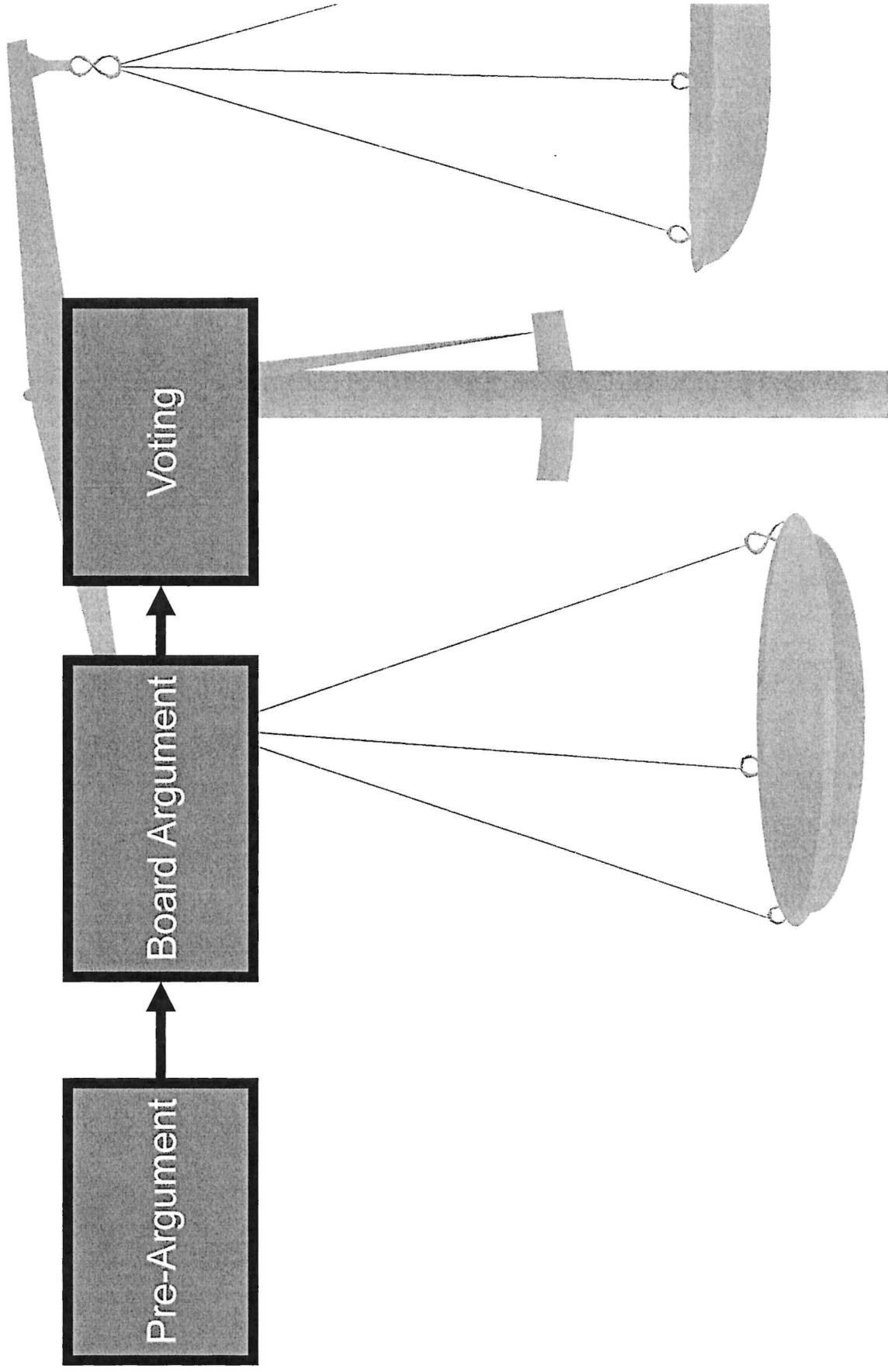
(There were 60 Formal Charges filed)

* As of January 11, 2024.

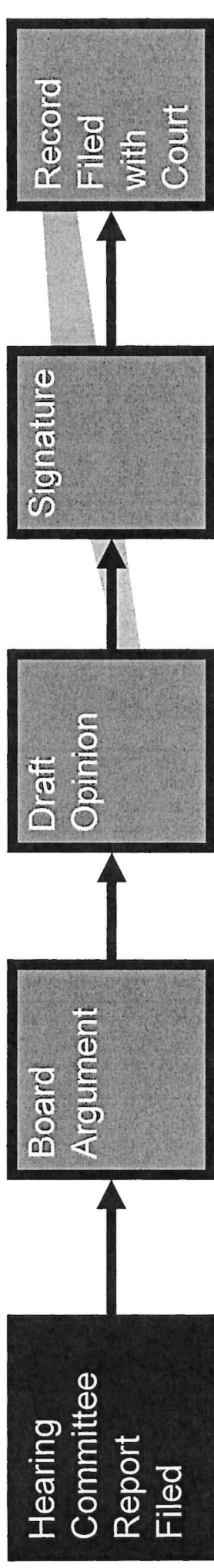
The Nuts & Bolts



Appellate Process



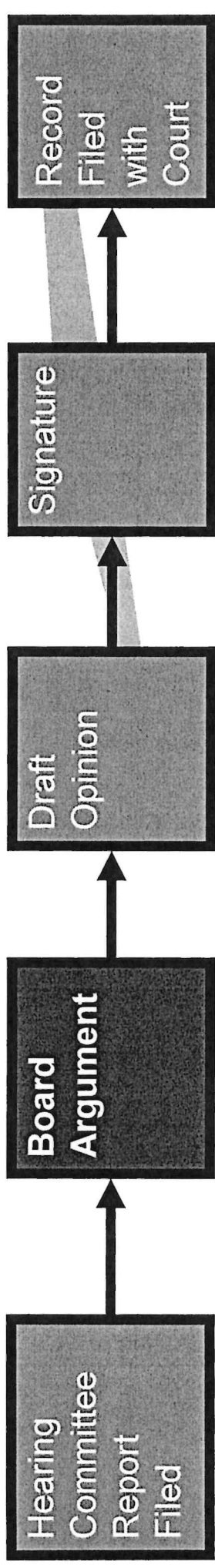
Formal Charges:



Hearing Committee Report Filed

Formal Charges in which the parties file no objection to the HC Report are lodged directly w/LASC

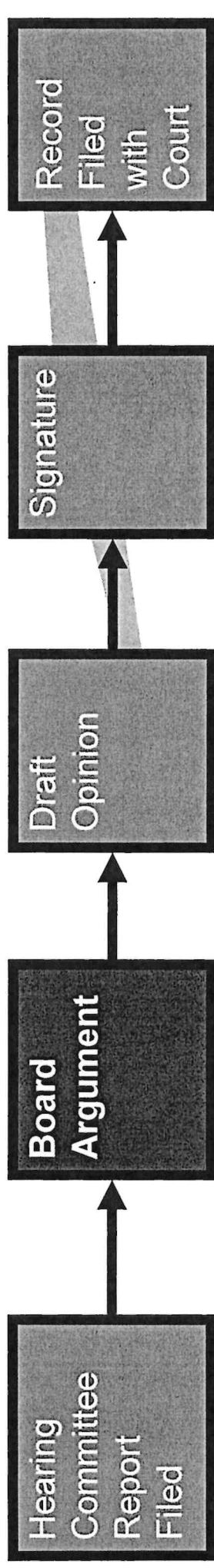
Formal Charges:



Case assigned to Panel

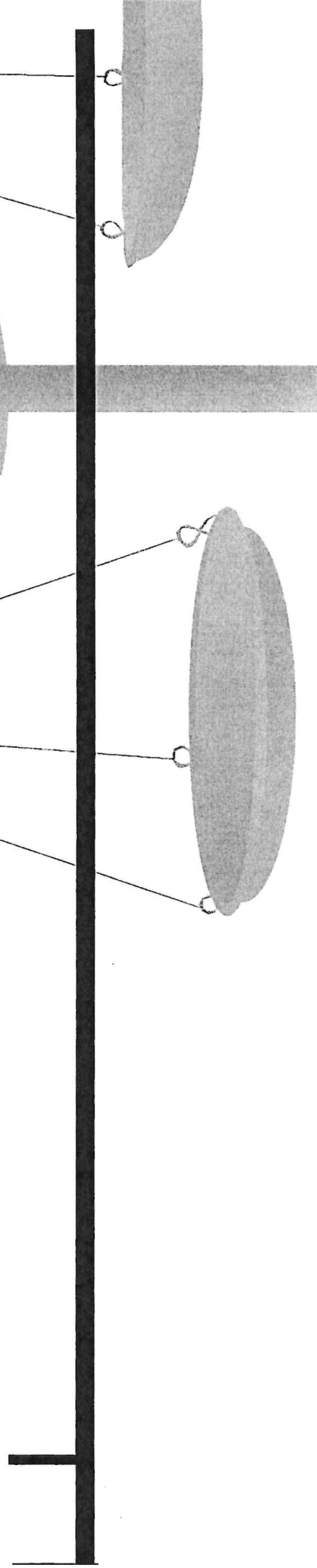
- within 3 working days.
- Notice issued to parties of record no later than 45 days prior to arguments.

Formal Charges:

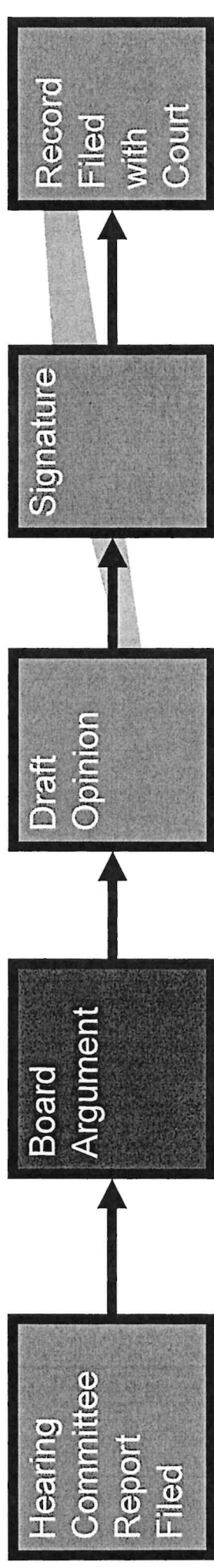


Initial briefs are due 30 days prior to argument date.

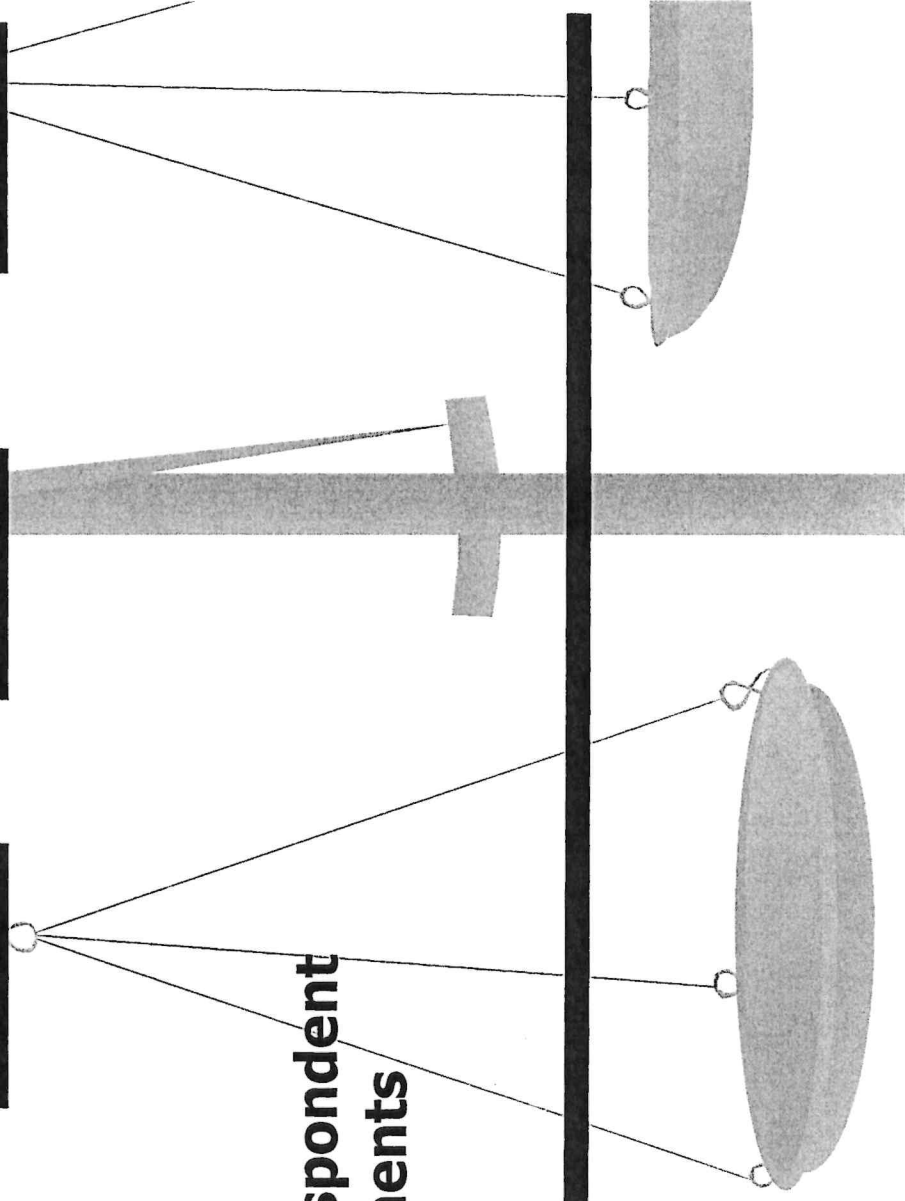
Reply Briefs due 15 days after initial Briefs are filed



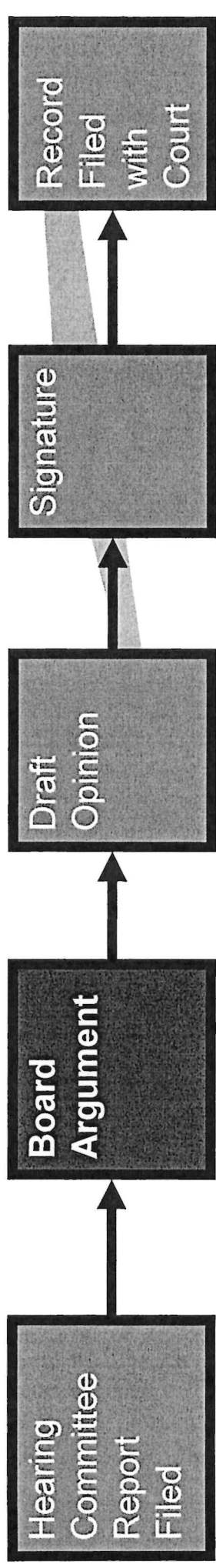
Formal Charges:



Appearance form to respondent/counsel for respondents due 15 days prior to arguments

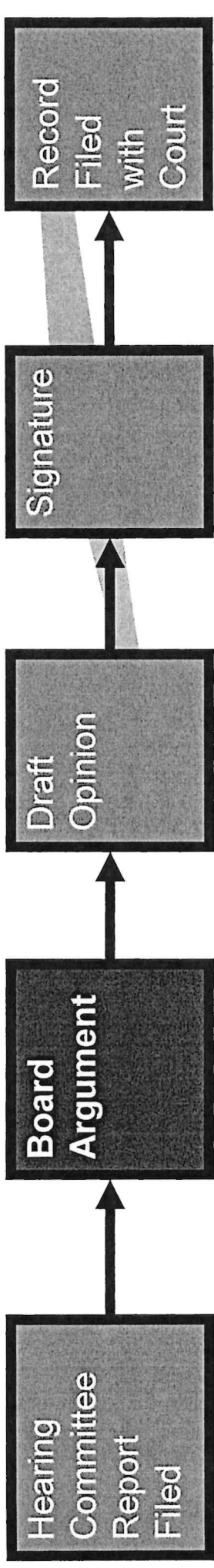


Formal Charges:



- Pleadings are viewed via the Document Management Site by clicking the "Docket #" under Board Panel Cases;
- if the chair grants a continuance: the panel can see the order uploaded as a pleading and an announcement will be entered.

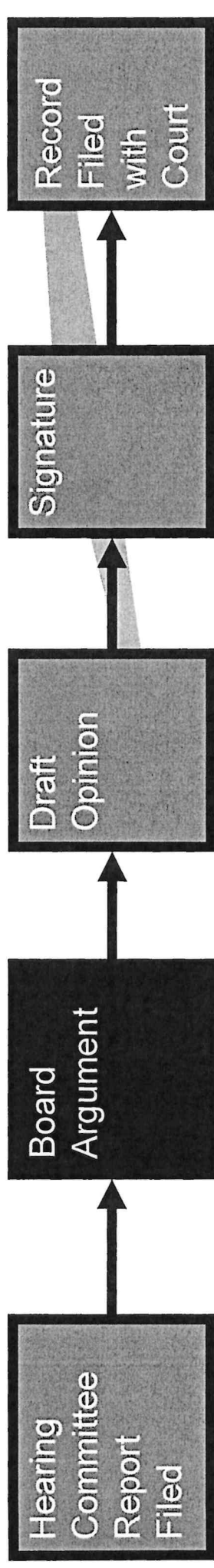
Formal Charges:



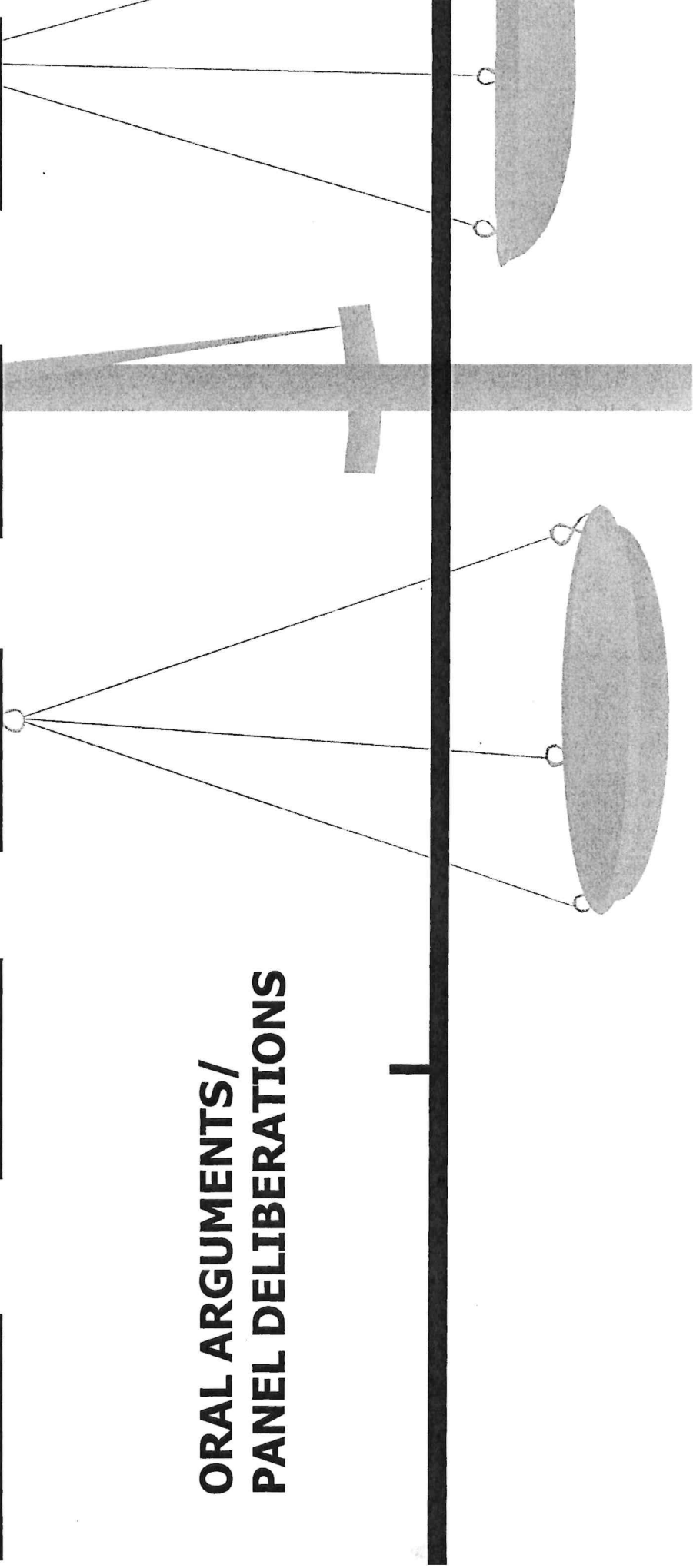
Docket prepared

- 14 days prior to arguments
- Synopsis prepared and uploaded
- 7 – 10 days prior to arguments

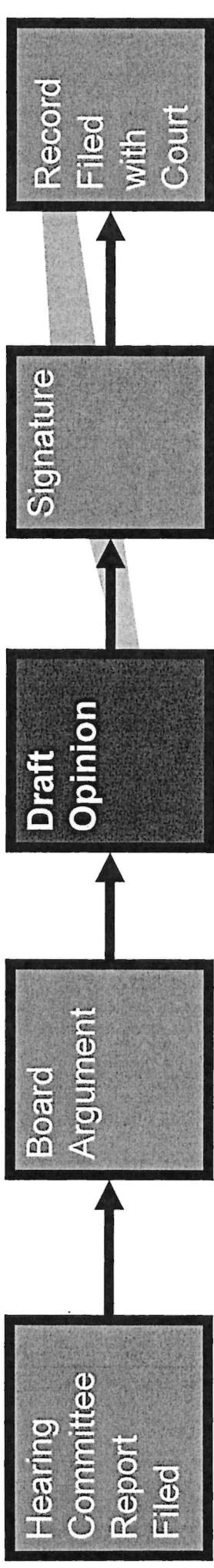
Formal Charges:



ORAL ARGUMENTS/ PANEL DELIBERATIONS



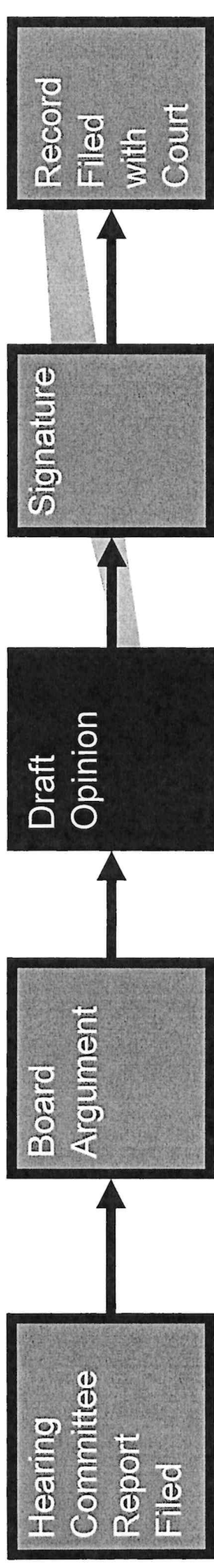
Formal Charges:



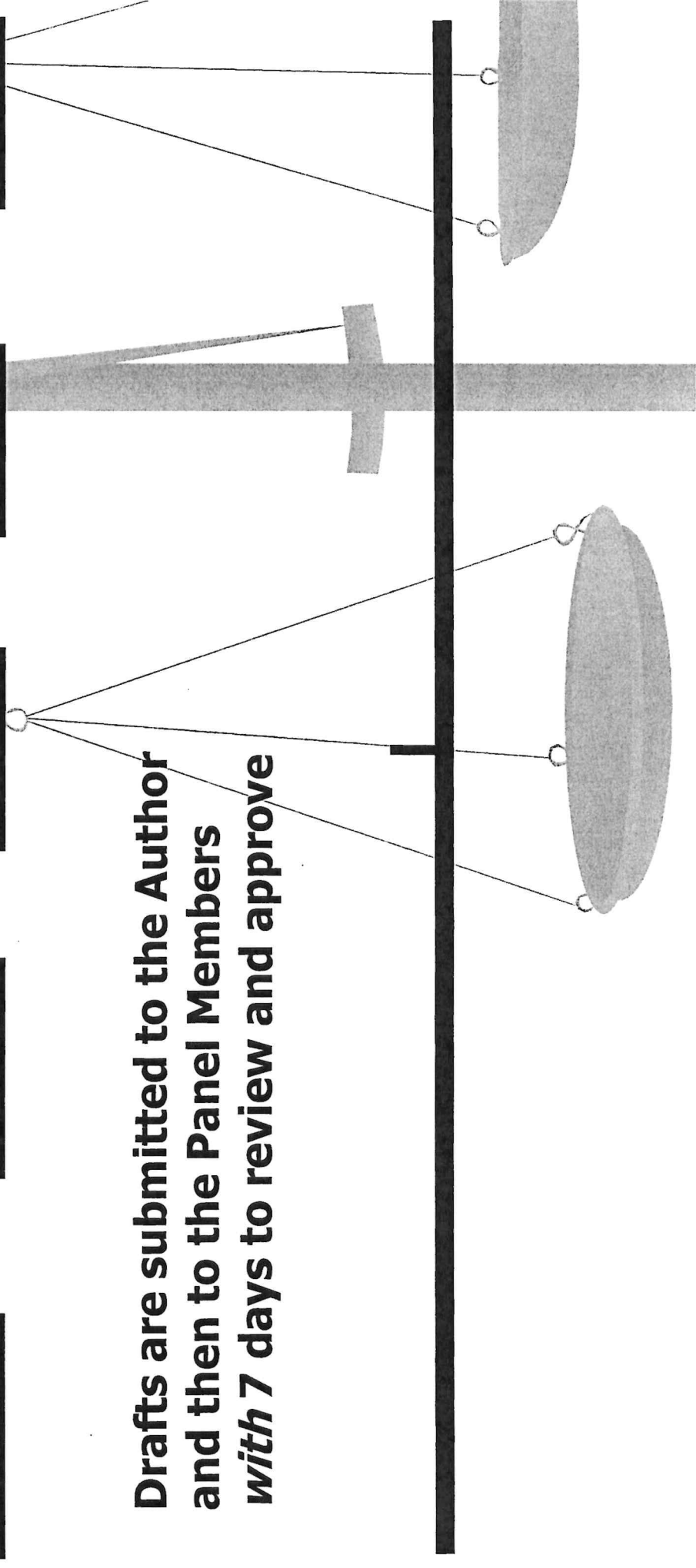
Draft recommendations and rulings are prepared and uploaded 30 days from argument date

|

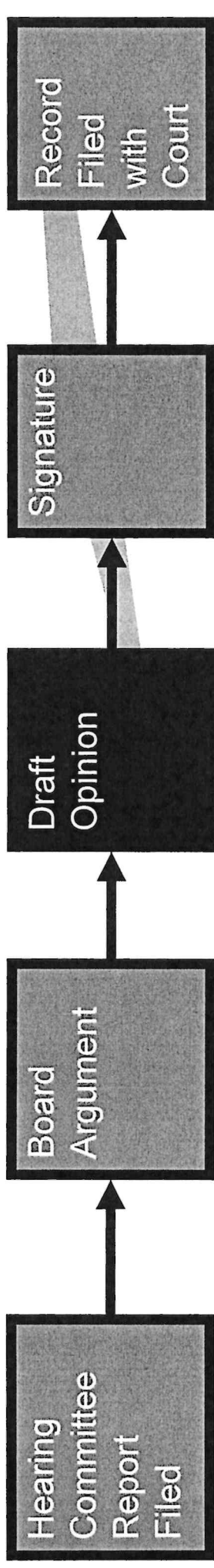
Formal Charges:



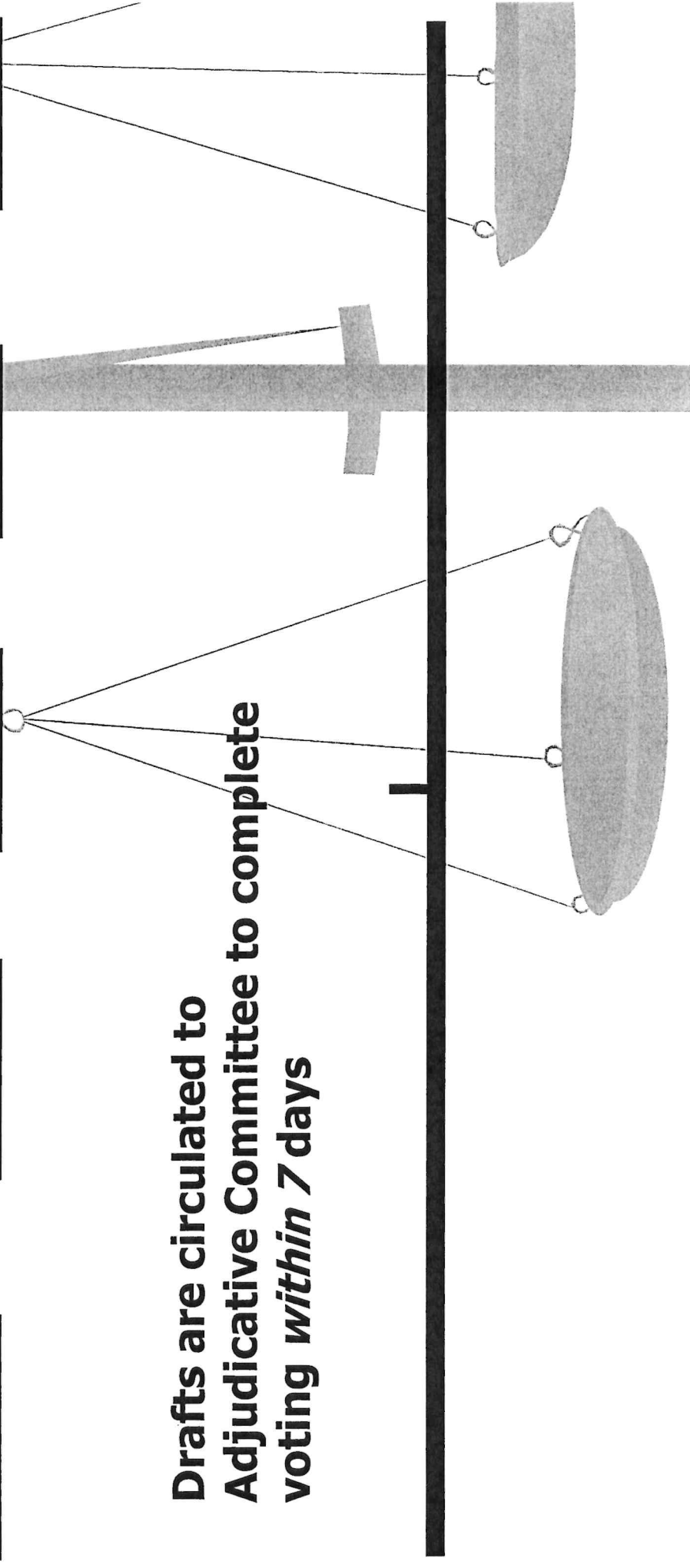
Drafts are submitted to the Author and then to the Panel Members *with* 7 days to review and approve



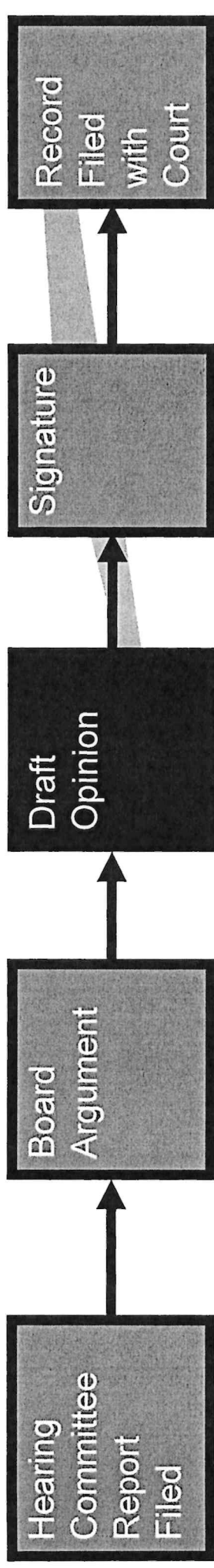
Formal Charges:



**Drafts are circulated to
Adjudicative Committee to complete
voting *within 7 days***

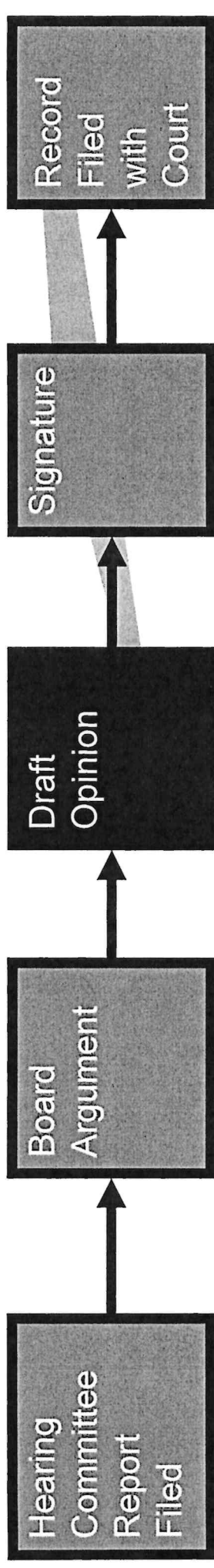


Formal Charges:

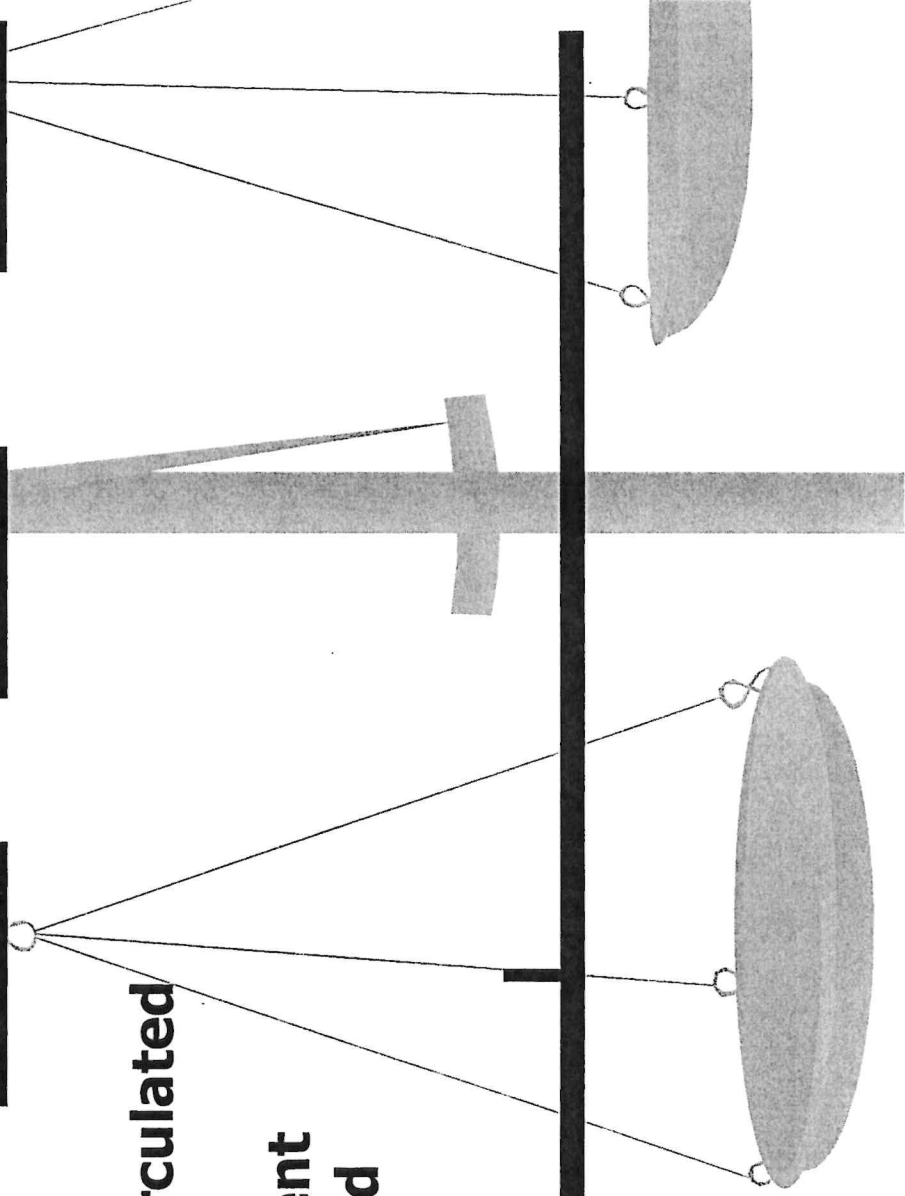


Dissents should be forwarded via the Docket Management Voting Workspace in the comment section

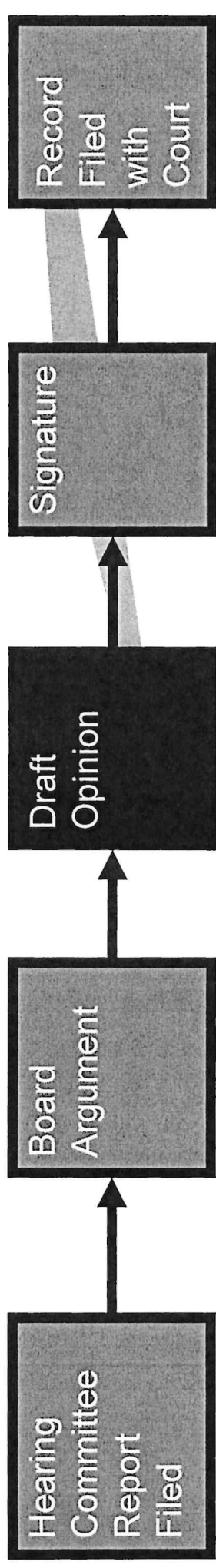
Formal Charges:



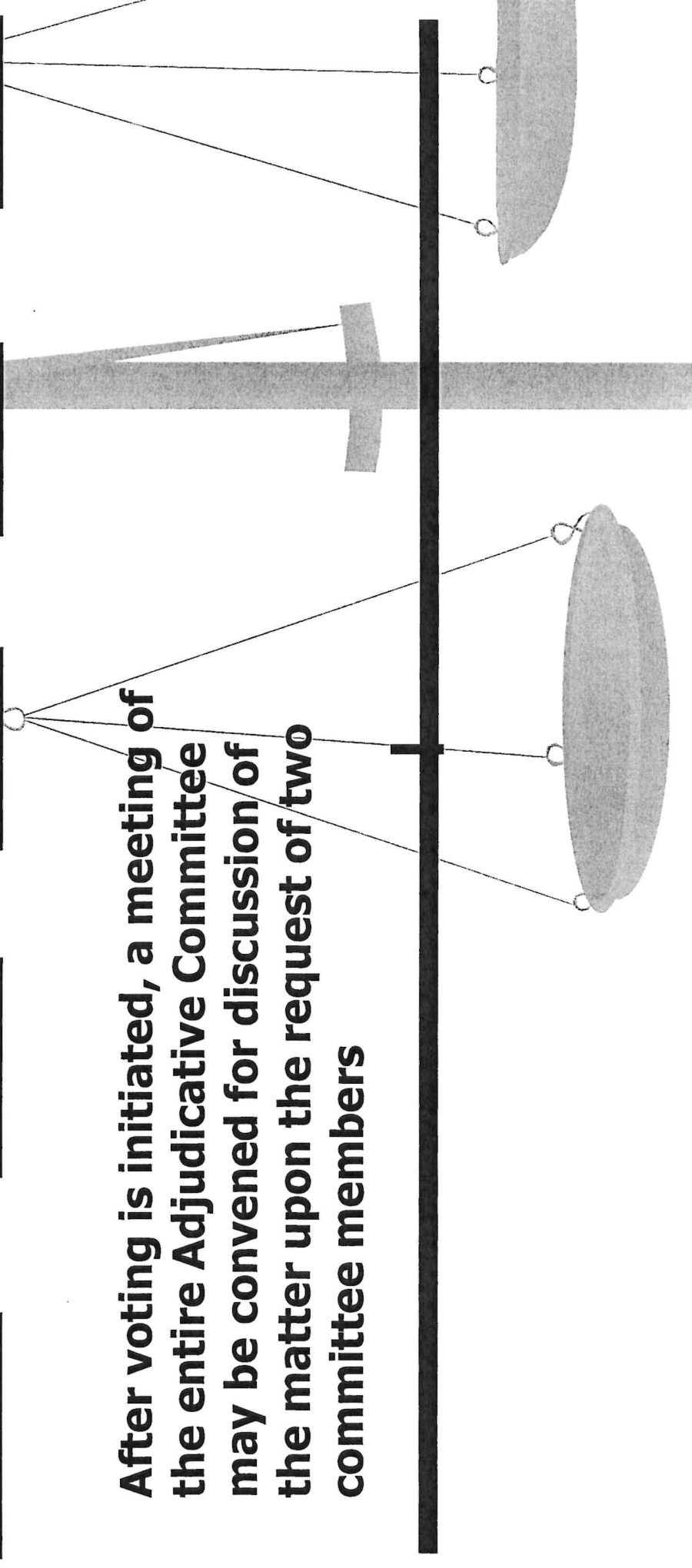
As received, a Dissent is circulated to the entire Adjudicative Committee via the Document Management Site by Shared Document with an alert notification



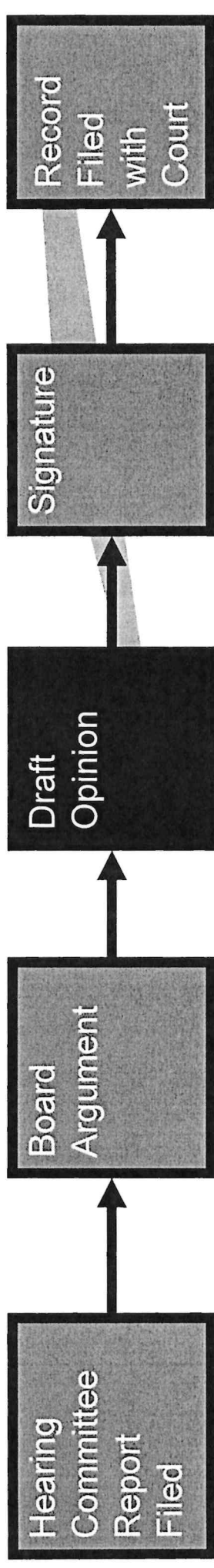
Formal Charges:



After voting is initiated, a meeting of the entire Adjudicative Committee may be convened for discussion of the matter upon the request of two committee members

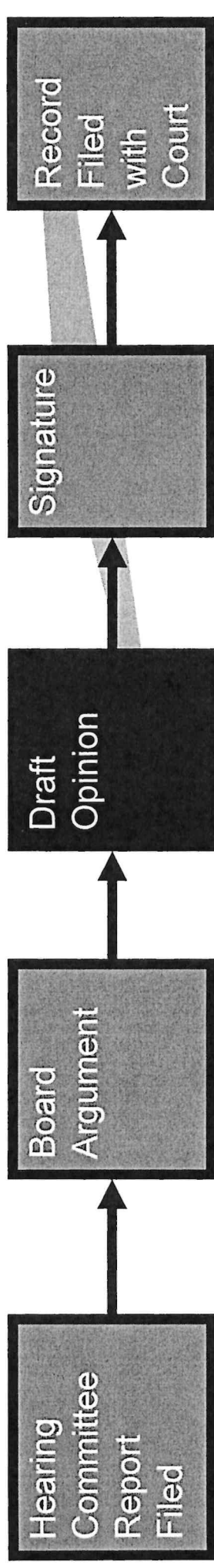


Formal Charges:

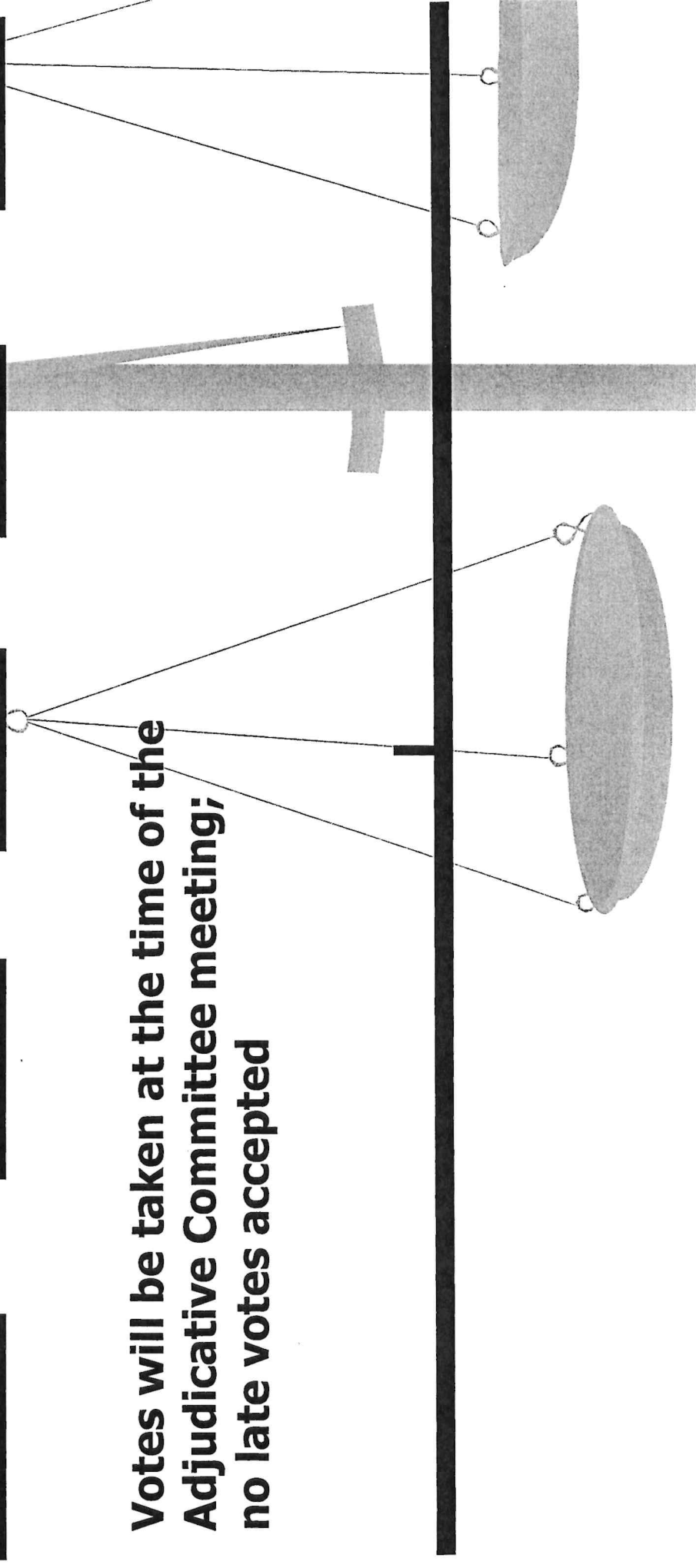


If an entire Adjudicative Committee Meeting is scheduled, a sanction is determined at the Adjudicative Committee Meeting and voted on that day

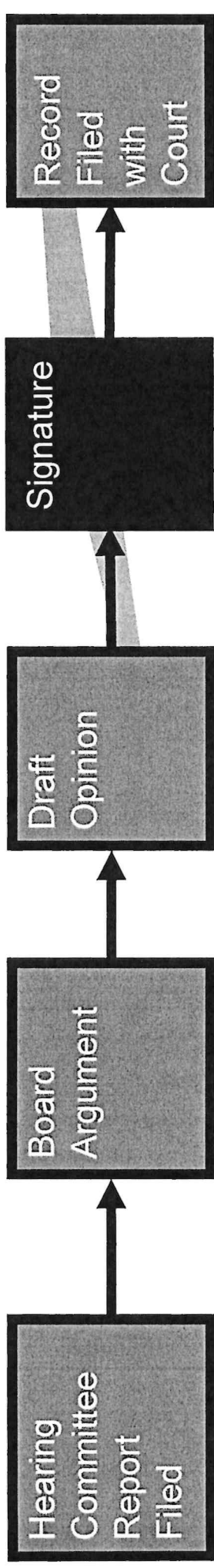
Formal Charges:



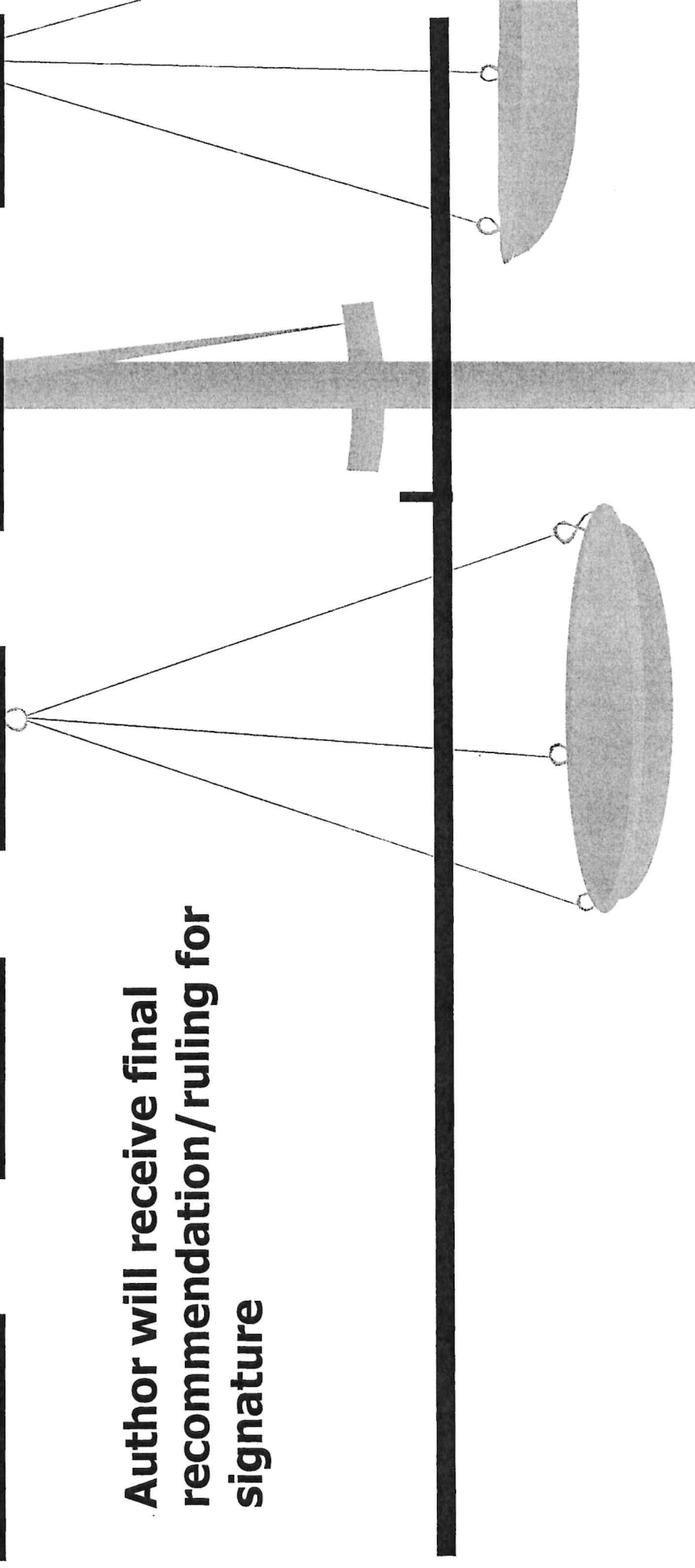
**Votes will be taken at the time of the
Adjudicative Committee meeting;
no late votes accepted**



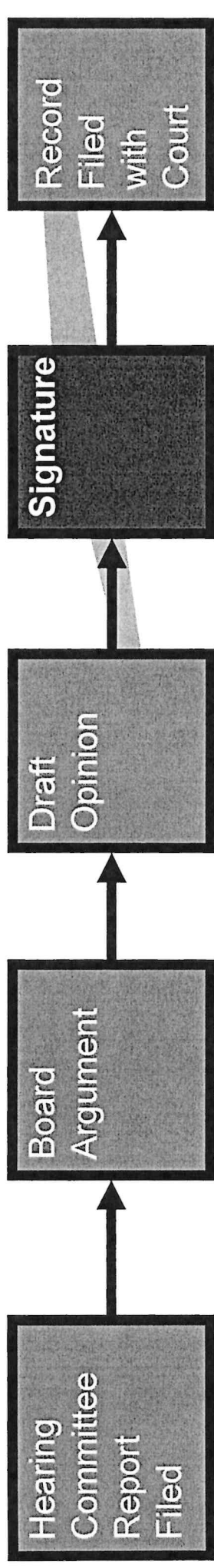
Formal Charges:



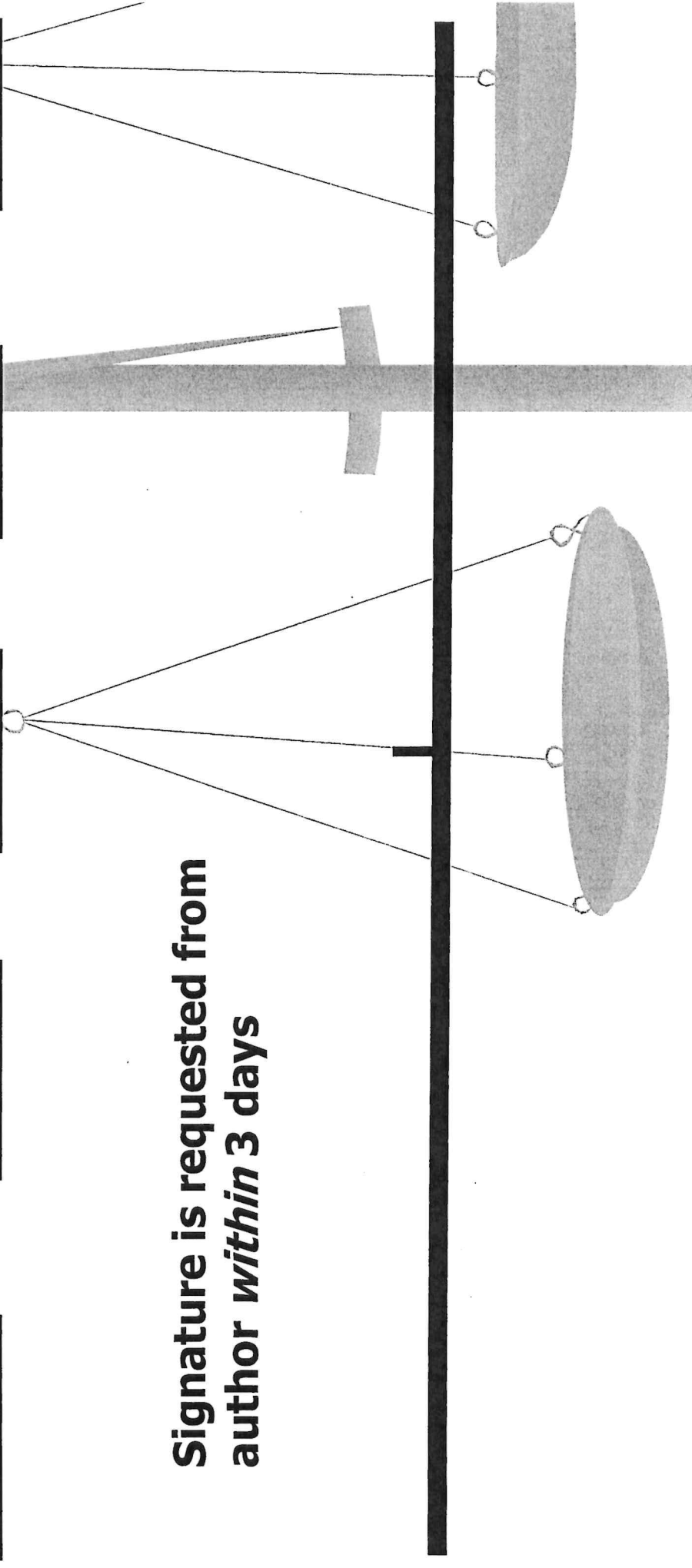
**Author will receive final
recommendation/ruling for
signature**



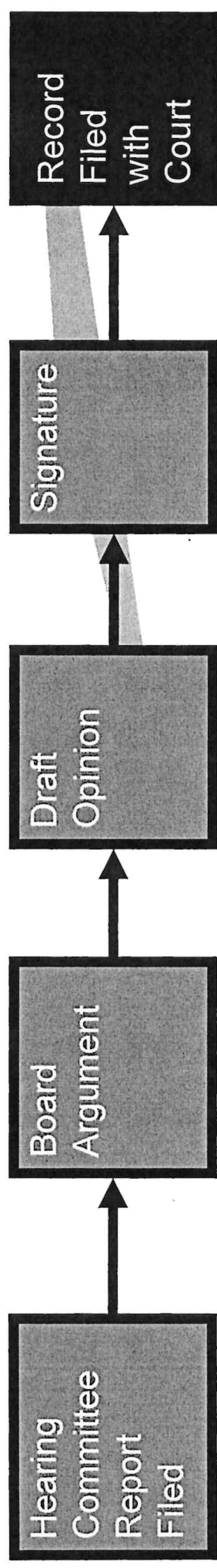
Formal Charges:



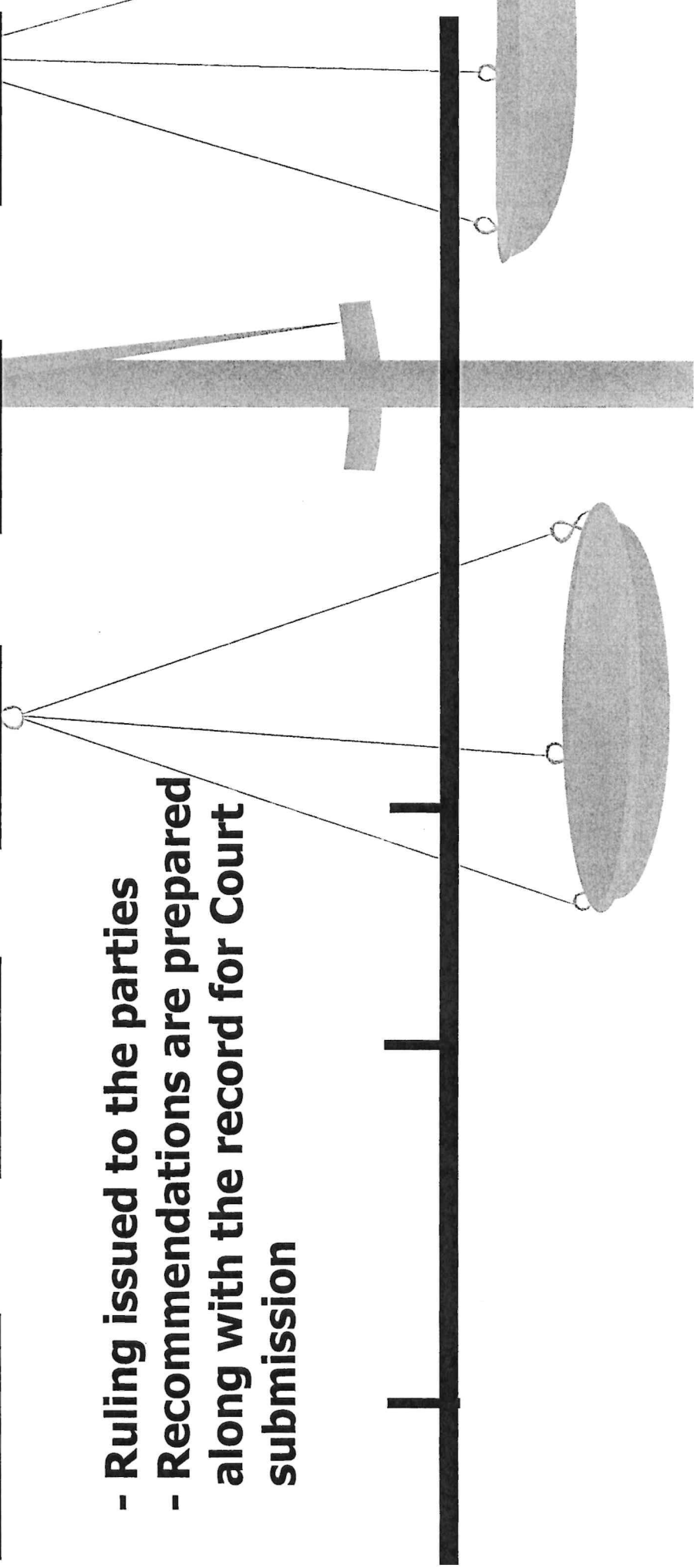
Signature is requested from author *within* 3 days



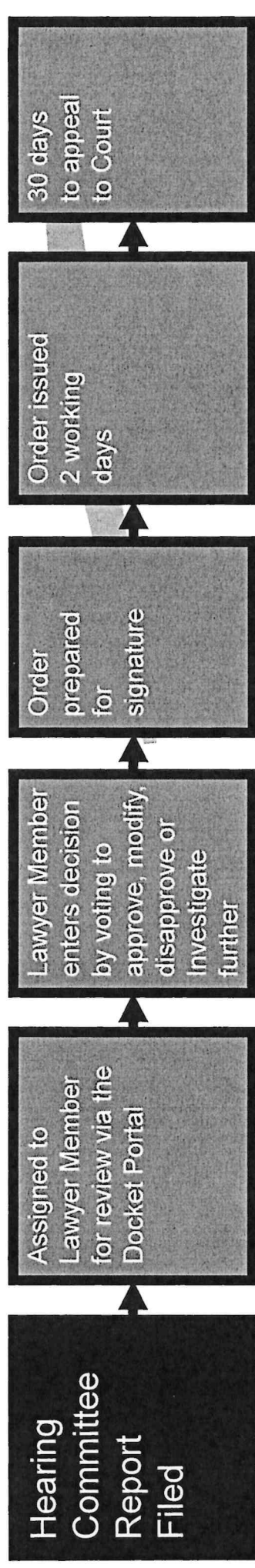
Formal Charges:



- Ruling issued to the parties
- Recommendations are prepared along with the record for Court submission

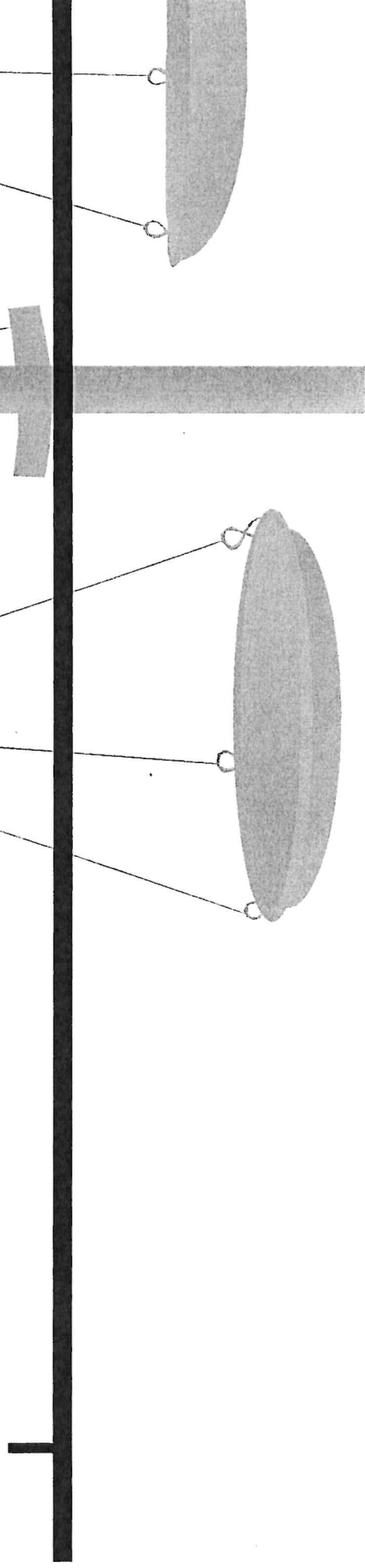


Appeals of Dismissal:



Hearing Committee Report Filed

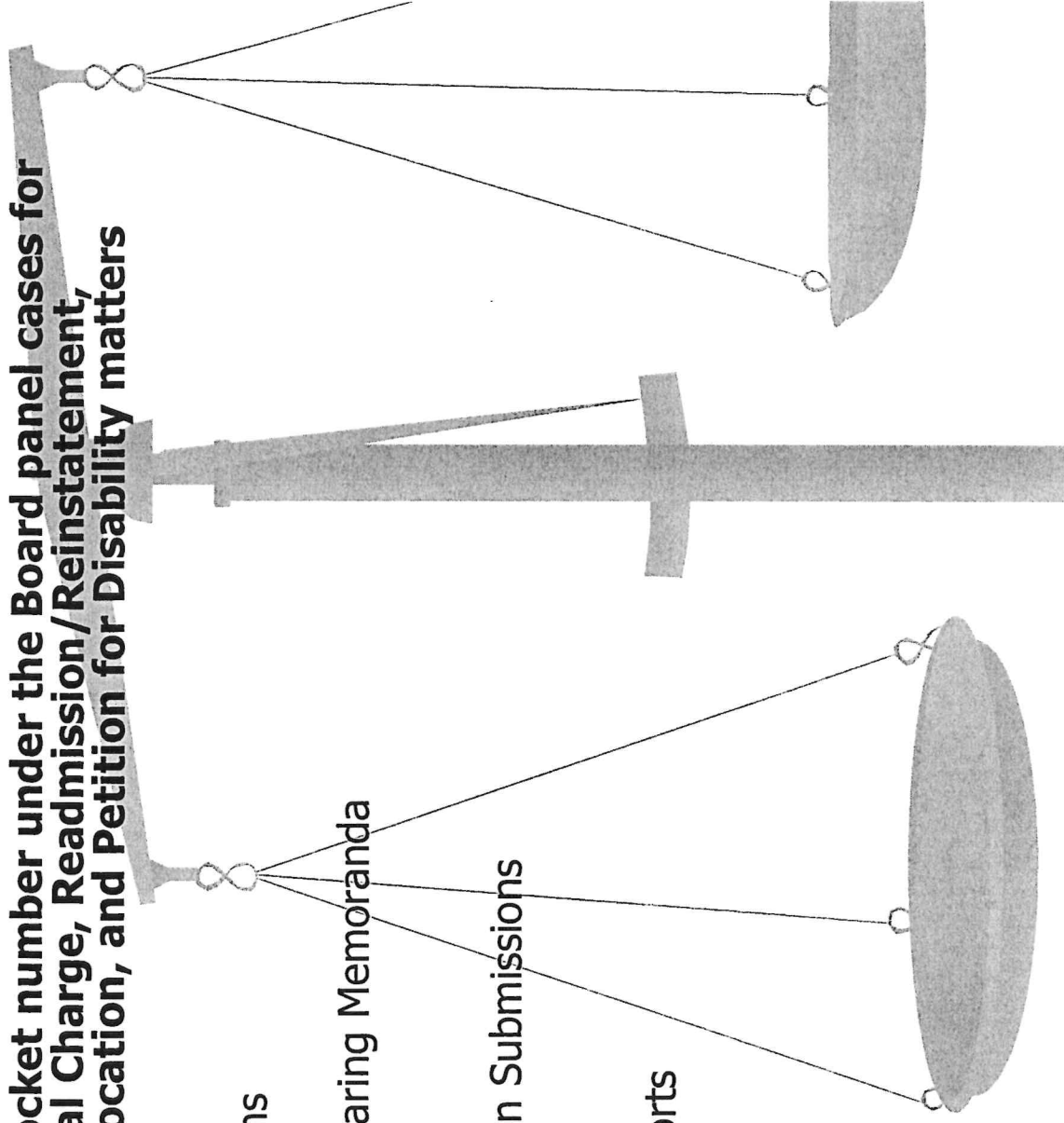
ODC may request reconsideration by full Panel if lawyer member disapproves disposition or orders that matter be investigated further



Materials Available for Panels via the Docket Management Site

- Choose the assigned docket number under the Board panel cases for pleadings filed in Formal Charge, Readmission/Reinstatement, Deemed Admitted, Revocation, and Petition for Disability matters which may include:

- * Formal Charges / Petitions
- * Answers
- * Pre-Hearing and Post Hearing Memoranda
- * Motions
- * Orders
- * Deemed Admitted Written Submissions
- * Briefs
- * Transcripts and Exhibits
- * Hearing Committee Reports



Materials Available for Panels via the Docket Management Site

- Choose the assigned docket number under the Board panel cases for Appeal of Dismissal pleadings:

- * Initial Complaint
- * Answer to Complaint
- * Subsequent responses
- * Closure Memorandum by ODC
- * Appeal (Section 11(B)(3))
- * Hearing Committee Report
- * Appeal (Section 30(a))

