

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 00- 9008

Appointment of a District Judge to Preside
in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable John R. Carter, Judge of the 277th District Court of Williamson County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Fernando Cortes

to be filed in a District Court of Bexar County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Bexar County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

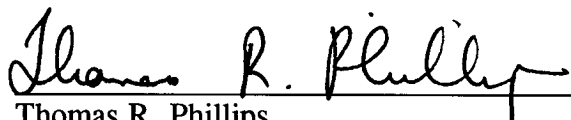
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 4th day of January, 2000.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 00-9008, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 7 day of January, 2000.


Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR
LAWYER DISCIPLINE,
Petitioner,

vs.

FERNANDO CORTES,
Respondent

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IN THE DISTRICT COURT

_____ JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

PETITIONER'S ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW PETITIONER, COMMISSION FOR LAWYER DISCIPLINE,

and would respectfully show the following:

I.

DISCOVERY CONTROL PLAN

Discovery proceedings in this cause should be conducted on Level 2 pursuant to
Tex.R.Civ.P. Rule 190.3.

II.

PARTIES

Petitioner is the Commission for Lawyer Discipline, a committee of the State
Bar of Texas. Respondent, Fernando Cortes, is a member of the State Bar of Texas and
is presently licensed to practice law in the State of Texas. Respondent maintains his

principle place of practice in San Antonio, Bexar County, Texas. Respondent may be served with process in this proceeding at his place of practice at 5707 IH 10 West, Suite 206, San Antonio, Bexar County, Texas 78201.

III.

JURISDICTION, VENUE AND CONDITIONS PRECEDENT

The cause of action and the relief sought in this case are within the jurisdictional requirements of this Honorable Court. Venue of this case is proper in Bexar County, Texas pursuant to Texas Rules of Disciplinary Procedure Rule 3.03, because Bexar County is the county of the Respondent's principle place of practice. All conditions precedent to proceeding with this cause have been performed or fulfilled.

IV.

PROFESSIONAL MISCONDUCT

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex.Gov't.Code §81.001 *et seq.*, the Disciplinary Rules of Professional Conduct ("DRPC") and the Texas Rules of Disciplinary Procedure ("TRDP"). The complaints which form the basis of this action were filed by Liocadio R. Ortiz on August 28, 1997, Domingo Sifuentes on March 20, 1997 and Steve Gonzales on March 25, 1998. The acts and omissions of Respondent, as hereinafter alleged, constitute professional misconduct.

V.

FACTUAL BACKGROUND

ORTIZ COMPLAINT

Respondent was hired by Liocadio R. Ortiz for representation in a criminal matter. Respondent was paid \$1,500.00, but failed to research or prepare for the case, failed to appear in court, failed to notify the Court that he could not appear and failed to communicate with his client regarding the case. After a complaint was filed with the State Bar of Texas, Respondent failed to respond to the complaint.

VI.

SIFUENTES COMPLAINT

Complainant hired Respondent in July 1995 to represent him regarding a claim on his homeowners' insurance policy. For eight months, Respondent neglected the matter. Respondent failed to return telephone calls and communicate with the client. Respondent also failed to timely furnish information or respond to the grievance committee.

VII.

GONZALES COMPLAINT

Respondent was hired by complainant on January 6, 1998 to represent him in obtaining an occupational driver's license. Complainant paid \$350.00 to Respondent. Respondent failed to timely apply for a license or pursue any other possible remedies and failed to communicate with the client. Respondent then failed to timely respond to

the grievance committee.

VIII.

DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

The conduct described above is in violation of the following Texas Rules of

Disciplinary Conduct:

As to the *Ortiz* complaint:

Rule 1.01(b)(1) -- In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Rule 1.01(b)(2) -- In representing a client, a lawyer shall not frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.

Rule 1.03(a) -- A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Rule 1.03(b) -- A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 8.04(a)(8) -- A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

As to the *Sifuentes* complaint:

Rule 1.01(b)(2) -- In representing a client, a lawyer shall not frequently fail to carry out completely the obligations that the lawyer owes to a client or clients. A

lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Rule 1.03(b) -- A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 8.04(a)(8) -- A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

As to the *Gonzales* complaint:

Rule 1.01(b)(1) -- In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Rule 8.04(a)(8) -- A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

IX.

RELIEF SOUGHT

Petitioner would show that This Honorable Court should enter a judgment of professional misconduct and impose a sanction against Respondent, including restitution, which is in the Court's discretion appropriate under the facts established. Additionally, Respondent should be ordered to pay attorney fees and all costs associated

with this litigation.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent and that this Honorable Court impose an appropriate sanction against Respondent as the facts proved shall warrant. Petitioner further prays to recover costs of court and all expenses associated with these proceedings, including attorney fees as provided in TRDP Rule 1.06(T)(8)(b). Petitioner further prays for such other and additional relief, general or specific, at law or in equity, to which it may show itself entitled.

Respectfully submitted,

DAWN MILLER,
Interim Chief Disciplinary Counsel

PAUL H. HOMBURG III,
Assistant General Counsel

Office of General Counsel
State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
Telephone: (210) 271-7881
FAX: (210) 271-9642

By: 

PAUL H. HOMBURG III
State Bar No. 09934050
ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Z 292 150 113

Office of the General Counsel
Regional Office
Soledad Plaza West
425 Soledad, Suite 300
San Antonio, Texas 78205
(210) 271-7881
FAX: (210) 271-9642

November 2, 1999

John T. Adams, Clerk
Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

RE: Commission for Lawyer Discipline v. Fernando Cortes

Dear Mr. Adams:

Enclosed please find an original and three (3) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Fernando Cortes. Mr. Cortes has designated **Bexar County** as his principal place of practice. Request is hereby made that the Court appoint an active District Judge who does not reside in the Administrative Judicial Region in which Respondent resides to preside in this case. Upon appointment, request is made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Fernando Cortes
5707 IH 10 West, Suite 206
San Antonio, Texas 78201

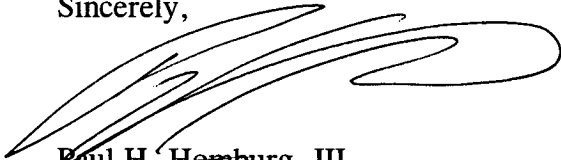
As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial as set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure. If not, I would respectfully request that an alternate appointment be made.

Once a trial judge has been appointed, please forward the original and three (3) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Bexar County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Bexar County, Texas and a return envelope to be sent to the District Clerk of Bexar County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul H. Homburg, III". The signature is fluid and cursive, with a large loop at the end.

Paul H. Homburg, III
Assistant General Counsel

Enclosures

PHH/apr



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

CLERK
JOHN T. ADAMS

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

JAN 14 2990

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

Mr. Paul H. Homberg, III
Assistant General Counsel, State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205

Mr. Fernando Cortes
5707 IH 10, Suite 206
San Antonio, Texas 78201

Dear Mr. Homburg and Mr. Cortes:

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable John R. Carter, Judge of the 277th District Court, Georgetown, Texas to preside in

Commission for Lawyer Discipline v. Fernando Cortes

Sincerely,

SIGNED

John T. Adams
Clerk



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

JUSTICES
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PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

JAN 14 2000

CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

Honorable John R. Carter
Judge, 277th District Court
405 S. Martin Luther King Street, Box 6
Georgetown, Texas 78626

Dear Judge Carter:

We enclose for your information a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to Mr. Cortes and Mr. Homburg, and a copy of the letter to the District Clerk of Bexar County.

It is recommended that, six to eight weeks after receipt of this letter, you or your coordinator contact the Bexar County Administrative Office (210-335-2300) to find out the district court to which this disciplinary case has been assigned, names and addresses of counsel, etc. We then recommend that, either before or immediately after you set the case for trial, you contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (210-769-3519) to reserve a courtroom, obtain a court reporter, obtain claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams
Clerk



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

CLERK
JOHN T. ADAMS

JUSTICES
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EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JAN 14 2000

The Honorable Reagan Greer
District Clerk of Bexar County
100 Dolorosa Street
San Antonio, Texas 78205-1205

Dear Mr. Greer:

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing State Bar of Texas Disciplinary Action styled: *The Commission for Lawyer Discipline v. Fernando Cortes*, and a copy of the Supreme Court's order appointing the Honorable John R. Carter, Judge of the 277th District Court, Georgetown, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. John R. Carter
Mr. Paul H. Homburg, III
Mr. Fernando Cortes