

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 96-9088**

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

The Supreme Court of Texas hereby appoints the Honorable Charles A. Gonzalez, Judge of the 57th District Court of Bexar County, Texas, to preside in the Disciplinary Action styled:


**The Commission for Lawyer Discipline v. Weldon H. Berry**

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Harris 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.

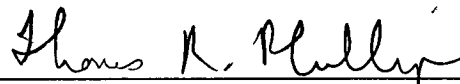
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City  
of Austin, this 29th day of March, 1996.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9088, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 1 day of April, 1996.

Handwritten signature of Thomas R. Phillips in cursive script.

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Thomas R. Phillips  
Chief Justice

CAUSE NO. \_\_\_\_\_

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
WELDON H. BERRY	§	_____ JUDICIAL DISTRICT

**DISCIPLINARY PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas complains of Respondent WELDON H. BERRY as follows:

**I.**

Petitioner brings this disciplinary action pursuant to the State Bar Act, Texas Government Code Annotated §81.001 *et seq.* (Vernon 1988 and supp. 1994), the Texas Disciplinary Rules of Professional Conduct, and the Texas Rules of Disciplinary Procedure. The complaint that forms the basis of the Disciplinary Petition was filed on or after May 1, 1992.

**II.**

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent is a resident of and has his principal place of practice in Harris County, Texas, and therefore venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. Respondent may be served with citation at his principle place of business located at 723 Main Street, Suite 410, Houston, Texas 77002.

### III.

In February 1995, Carol and Frederick Thomas hired Respondent, Weldon H. Berry, to stop a foreclosure of their home by the mortgage company. On or about February 26, 1995, Carol and Frederick Thomas paid Respondent Three hundred dollars (\$300.00) as one-half payment on the house foreclosure negotiation. On or about March 18, 1995, The Thomas' paid Respondent another Three hundred dollars (\$300.00) to forestall the foreclosure.

After receiving the initial payment of Three Hundred dollars (\$300.00) Respondent failed to notify the mortgage company that he represented Carol and Frederick Thomas. Respondent also failed to perform any work to fight the foreclosure on behalf of Mr. and Mrs. Thomas. Therefore, the mortgage company continued to send all correspondence regarding the foreclosure to Mr. and Mrs. Thomas. Carol and Frederick Thomas thought that Respondent was handling the matter with the mortgage company.

On or about April 4, 1995, Carol Thomas received a notice of foreclosure. Upon contacting Respondent, he assured her that it would not happen and she had nothing to worry about. A few weeks later, Mrs. Thomas contacted the Respondent and he informed her that he had not heard from the mortgage company, and that no news was good news.

In June of 1995, Mrs. Thomas received a letter demanding she vacate the premises within three (3) days. Upon informing Respondent of the letter, he informed her that if they did not receive a letter by certified mail, the mortgage company could not force the Thomas' to vacate. A few days later a constable served Carol Thomas with papers telling her to go to court on June 20, 1995. Mrs. Thomas contacted Respondent about this, and he told her it was too late to stop the foreclosure and he could do nothing.

Frederick Thomas asked Respondent for their money and for their papers. Respondent insisted on keeping Three hundred dollars (\$300.00) of the Six hundred dollars (\$600.00) paid to him.

#### IV.

Respondent's conduct in accepting a fee from Mr. and Mrs. Thomas and failing to inform the mortgage that he represented the Thomas', as alleged in Paragraph III above, constitutes a violation of Rules 1.01(b)(1)[ in representing a client, a lawyer shall not neglect a legal matter entrusted to him]; and 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] of the Texas Disciplinary Rules of Professional Conduct.

Respondent's conduct in accepting a fee from Mr. and Mrs. Thomas and failing to perform any meaningful service for them, as alleged in Paragraph III above, constitutes a violation of Rules 1.01(b)(1)[ in representing a client, a lawyer shall not neglect a legal matter entrusted to him]; 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] and 1.04(a)[a lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee] of the Texas Disciplinary Rules of Professional Conduct.

#### V.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel of the State Bar of Texas by Carol Thomas filing a complaint on or about July 18, 1995.

Prayer


WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent WELDON H. BERRY by disbarment, suspension, or reprimand as the facts shall warrant, and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

James M. McCormack  
General Counsel

Mary F. Klapperich  
Assistant General Counsel

Office of the General Counsel  
STATE BAR OF TEXAS  
1111 Fannin, Suite 1370  
Houston, Texas 77002  
(713) 759-6931  
Fax No. (713) 759-1932

  
Mary F. Klapperich  
State Bar No. 11550700

ATTORNEYS FOR THE COMMISSION  
FOR LAWYER DISCIPLINE



## THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

POST OFFICE BOX 12248      AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK  
JOHN T. ADAMS

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

JUSTICES  
RAUL A. GONZALEZ  
NATHAN L. HECHT  
JOHN CORNYN  
CRAIG ENOCH  
ROSE SPECTOR  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT

April 2, 1996

Mr. James M. McCormack  
General Counsel, State Bar of Texas  
P.O. Box 12487  
Austin, Texas 78711

Mr. Weldon H. Berry  
723 Main Street, Suite 410  
Houston, Texas 77002

Dear Mr. McCormack and Mr. Berry:

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 Charles A. Gonzalez, Judge of the 57th District Court, San Antonio, Texas to preside in

Commission for Lawyer Discipline v. Weldon H. Berry

Sincerely,

**SIGNED**

John T. Adams  
Clerk



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EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

April 2, 1996

Honorable Charles A. Gonzalez  
Judge, 57th District Court  
100 Dolorosa Street  
San Antonio, Texas 78205

Dear Judge Gonzalez:

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. Berry and Mr. McCormack, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, six to eight weeks after receipt of this letter, you contact the Harris County District Court Administrative Office (713-755-7593) to find out the district court to which this disciplinary case has been assigned. We then recommend that, either before or immediately after you set the case for trial, you again contact the Harris County District Court Administrative Office (713-755-6593) to reserve a courtroom, provide for a court reporter, etc. Finally, you should contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (713-471-3911) to obtain information on lodging, allowable expenses, and claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

**SIGNED**

John T. Adams  
Clerk





THE SUPREME COURT OF TEXAS

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EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

April 2, 1996

The Honorable Charles Bacarisse  
District Clerk of Harris County  
P.O. Box 4651  
Houston, Texas 77210

Dear Mr. Bacarisse:

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. Weldon H. Berry and a copy of the Supreme Court's order appointing the Honorable Charles A. Gonzalez, Judge of the 57th District Court, San Antonio, Texas, to preside in this Disciplinary Action.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

cc: Hon. Charles A. Gonzalez  
Mr. Weldon H. Berry  
Mr. James M. McCormack