

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9152

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

The Supreme Court of Texas hereby appoints the Honorable Burt Carnes, Judge of the 368th District Court of Williamson County, Texas, to preside in the Disciplinary Action styled:

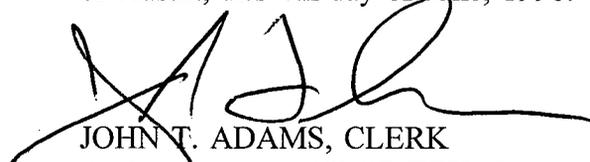
The Commission for Lawyer Discipline v. John M. McDermott

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. This assignment is separate and distinct from that made by Misc. Docket No. 96-9150, dated June 3, 1996.

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

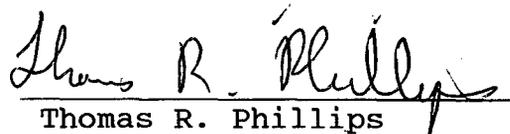
with the Seal thereof affixed at the City
of Austin, this 4th day of June, 1996.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9152, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 4 day of June, 1996.


Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
v.	§	_____ COUNTY, TEXAS
	§	
JOHN M. McDERMOTT	§	_____ 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, (hereinafter called "Petitioner") complains of Respondent JOHN M. McDERMOTT (hereinafter called "Respondent") showing the court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. §81.001 *et seq.* (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct, the Texas Rules of Disciplinary Procedure, and the State Bar Rules. The complaint that forms the basis of the Disciplinary Petition was filed 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 business 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. An officer may serve citation on Respondent at his business located at 6776 Southwest Freeway, Suite 150, Houston, Texas 77074.

III.

Reginald Williams retained Respondent in June 1994 to represent him in an uncontested divorce, and paid Respondent two hundred three dollars (\$203.00) for fees and costs. After preparing a petition and attempting to file it, Respondent learned that an active divorce case involving Williams was already pending in Cause No. 93-051972, styled *In the Matter of the Marriage of Reginald Wayne Williams and Linda F. Williams*, in the 245th Judicial District Court of Harris County, Texas. On or about September 16, 1994, Respondent learned that a Decree of Divorce had been entered in Cause No. 93-51972 on or about December 16, 1993. The parties involved in that divorce were the same as those involved in the divorce for which Respondent had been hired. Despite the fact that a divorce decree had already been entered for his client before he was hired, Respondent has not returned the filing fees paid to him by Williams. Although Williams made repeated requests for information regarding the status of his case, Respondent did not respond to these requests from his client. Respondent did not explain to Williams that the previously filed lawsuit had obtained the divorce.

On or about January 11, 1996, Respondent received notice from the State Bar of Texas that of Williams' complaint filed against him. The notice requested that Respondent furnish a written response to Williams' allegations to the State Bar of Texas. Respondent failed to timely file such a written response to the State Bar of Texas.

IV.

The acts and/or omissions of the Respondent described in Paragraph III, constitute conduct in violation of Rules 1.01(b)(1) [neglecting a legal matter entrusted to him]; 1.03(a)[failing to keep a client reasonably informed about the status of a matter and promptly

comply with reasonable requests for information]; 1.14(a) [failure to safeguard property in which his client has an interest]; 1.15(d)[failing, upon termination of representation, to reasonably protect a client's interests, file notice to the client to seek other counsel, or to surrender papers and property which belongs to the client]; 8.01(b) [failure to respond to a lawful demand for information from a disciplinary authority] and 8.04(a)(8)[failing to timely furnish a district grievance committee with a response or other information as required] of the Texas Disciplinary Rules of Professional Conduct, and Part 1.06(Q) of the Texas Rules of Disciplinary Procedure.

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 Reginald Williams filing a complaint on or about December 13, 1995.

Prayer

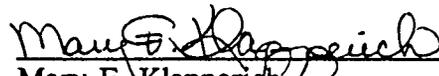
WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent John M. McDermott, by disbarment, suspension or reprimand as the facts shall warrant, and that the Petitioner have all other relief to which it may show itself to be 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 PETITIONER

STATE BAR OF TEXAS



Office of the General Counsel

May 29, 1996

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

Re: Commission for Lawyer Discipline v. John M. McDermott

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against John M. McDermott. Mr. McDermott is a resident of Harris County, Texas. 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 hereby made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

John M. McDermott
6776 Southwest Frwy, Suite 150
Houston, Texas 77074

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 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 two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, service be obtained, and a file marked copy of the petition be returned to the undersigned.

Mr. John T. Adams, Clerk
Supreme Court of Texas
May 29, 1996
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Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Harris County, Texas, and a return envelope to be sent to the District Clerk of Harris County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,



Mary F. Klapperich
Assistant General Counsel

MFK/gcp
enclosures



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK
JOHN T. ADAMS

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

TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASS'T
WILLIAM L. WILLIS

June 5, 1996

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

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. John M. McDermott and a copy of the Supreme Court's order appointing the Honorable Burt Carnes, Judge of the 368th District Court, Georgetown, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Burt Carnes
Mr. John M. McDermott
Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

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CLERK
JOHN T. ADAMS

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

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

June 5, 1996

Honorable Burt Carnes
Judge, 368th District Court
Criminal Justice Annex Building
405 S. Martin Luther King Street., Box 8
Georgetown, Texas 78626

Dear Judge Carnes:

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. McDermott 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

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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CLERK
JOHN T. ADAMS

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JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

June 5, 1996

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

Mr. John M. McDermott
6776 Southwest Freeway, Suite 150
Houston, Texas 77074

Dear Mr. McCormack and Mr. McDermott:

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 Burt Carnes, Judge of the 368th District Court, Georgetown, Texas to preside in

Commission for Lawyer Discipline v. John M. McDermott

Sincerely,

SIGNED

John T. Adams
Clerk