

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 96-9191**

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

The Supreme Court of Texas hereby appoints the Honorable David E. Garner, Judge of the 10th District Court of Galveston County, Texas, to preside in the Disciplinary Action styled:

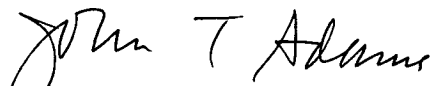
**The Commission for Lawyer Discipline v. Juan J. Alvarez**

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 20th day of August, 1996.



JOHN T. ADAMS, CLERK<sub>sr</sub>  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9191, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 22 day of August, 1996.

  
Thomas R. Phillips  
Chief Justice

COPY

No. \_\_\_\_\_

COMMISSION FOR LAWYER  
DISCIPLINE

V.

JUAN J. ALVAREZ

§  
§  
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§  
§  
§

IN THE DISTRICT COURT OF

BEXAR COUNTY, T E X A S

\_\_\_TH JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complaining of Respondent, JUAN J. ALVAREZ, and in support thereof would respectfully show the Court the following:

Parties

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, JUAN J. ALVAREZ, State Bar Number 01126970, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas. Respondent is a resident of Bexar County, Texas and may be served with process at 105 West Woodlawn, San Antonio, Bexar County, Texas 78212, his usual place of business.

Venue

Respondent resides in and maintains his principal place of practice in Bexar County, Texas. Accordingly, pursuant to Texas Rules of Disciplinary Procedure 3.03, venue is proper in Bexar County, Texas.

## Professional Misconduct

### I.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Gov't. Code Ann., Sec. 81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaints which form the basis of this action were filed by Dr. Thomas E. Williams and Dr. Richard Parmley on or about December 1, 1995. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

### II.

In 1993 a medical negligence law suit was filed by Respondent against Dr. Richard Parmley, Dr. Thomas E. Williams, and other defendants alleging that children being treated at Santa Rosa Hospital died as a result of negligence. The suit was file on behalf of the families of the deceased children, Victor Jimenez, Jr., Felix Martinez and Pablo Guerrero. Additionally, Dr. Parmley, Dr. Williams and others were put on notice that an additional eight claims for medical negligence were being made on behalf of the families of Adriana Martinez, Mark Murray, Taylor Peck, Martin Garza, Margie Serrata, Rudy Rodriguez and Alyssa Hernandez who also died in the oncology unit at Santa Rosa Hospital.

### III.

Respondent represented to each of his clients he was investigating the possible improper use of the drug Adriamycin as a basis of a medical negligence action. Prior to suit being filed, Respondent failed to inform his clients he was initiating a cause of action against the Hospital and Drs. Williams and Parmley. For a period exceeding one year, Respondent failed to communicate with his clients that a suit had been filed, the status of the suit and the results of

his investigation, if any. As a result of Respondent's failure to advise his clients suit was being filed and his failure to communicate the status of the claims, the clients were not permitted to make informed decisions about the representations.

IV.

Respondent filed suit without ever having obtained a written contingent fee agreement setting forth the fee to be charged and the scope of the representation. Additionally, Respondent filed suit without the consent or permission of at least two of his clients.

V.

Respondent filed suit alleging several grounds of medical negligence. The allegations were not supported by fact and/or law. Respondent did little or no investigation into the cases, failed to obtain the medical records and failed to substantiate any of the alleged facts. A summary judgment was granted in favor of the defendants on June 26, 1993.

VI.

Respondent continued to represent the families of the deceased children even after learning that the cases were obtained through an improper solicitation.

VII.

The conduct of Respondent described above constitutes a violation of the following Texas Disciplinary Rules of Professional Conduct:

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 1.04(d) -- \* \* \* \* A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined.

Rule 3.01 -- A lawyer shall not bring or defend a proceeding, or assent or controvert an issue therein, unless the lawyer reasonably believes that there is a basis for doing so that is not frivolous.

Rule 7.06 -- A lawyer shall not accept or continue employment when the lawyer knows or reasonably should know that the person who seeks the lawyer's services does so as a result of conduct prohibited by these rules.

**PRAAYER**

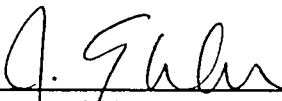
WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other relief to which it is entitled, including costs of court and attorney's fees.

Respectfully submitted,

James M. McCormack  
General Counsel

James Ehler  
Assistant General Counsel

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

  
\_\_\_\_\_  
James Ehler  
State Bar No. 06484650  
ATTORNEYS FOR PETITIONER

# STATE BAR OF TEXAS



CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Z 426 178 014

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

July 8, 1996

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

RE: Commission for Lawyer Discipline v. Juan J. Alvarez; In the District Courts  
of Bexar County, Texas

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 Juan J. Alvarez. Mr. Alvarez 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 practices 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:

Juan J. Alvarez  
105 W. Woodlawn  
San Antonio, Texas 78212

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 two (2) copies of the Disciplinary Petition and 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 cursive script, appearing to read "J. Ehler".

James Ehler  
Assistant General Counsel

Enclosures

JE/mc





# 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 ASST  
WILLIAM L. WILLIS

ADMINISTRATIVE ASST  
NADINE SCHNEIDER

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

September 13, 1996

Mr. Steve Young  
General Counsel, State Bar of Texas  
P.O. Box 12487  
Austin, Texas 78711

Mr. Juan J. Alvarez  
105 W. Woodlawn  
San Antonio, Texas 78212

Dear Mr. Young and Mr. Alvarez:

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 David E. Garner, Judge of the 10th District Court, Galveston, Texas to preside in

Commission for Lawyer Discipline v. Juan J. Alvarez

Sincerely,

**SIGNED**

John T. Adams  
Clerk



## THE SUPREME COURT OF TEXAS

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JAMES A. BAKER  
GREG ABBOTT

September 13, 1996

Honorable David E. Garner  
Judge, 10th District Court  
722 Moody Avenue  
Galveston, Texas 77550

Dear Judge Garner:

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. Alvarez and Mr. Young 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 (210-220-2300) 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

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PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT

September 13, 1996

The Honorable David J. Garcia  
District Clerk of Bexar County  
100 Dolorosa Street  
San Antonio, Texas 78205-1205

Dear Mr. Garcia:

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. Juan J. Alvarez, and a copy of the Supreme Court's order appointing the Honorable David E. Garner, Judge of the 10th District Court, Galveston, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams  
Clerk

cc: Hon. David E. Garner  
Mr. Juan J. Alvarez  
Mr. Steve Young