

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9075

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

The Supreme Court of Texas hereby appoints the Honorable Janet P. Littlejohn, Judge of the 150th District Court of Bexar County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. S. Mitchell Glassman

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,

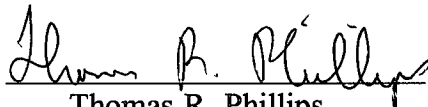
with the Seal thereof affixed at the City
of Austin, this 9th day of April, 1999.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9075, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 12 day of April, 1999.


Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINES

IN THE DISTRICT COURT OF

VS

§
§
§
§

HARRIS COUNTY, TEXAS

S. MITCHELL GLASSMAN

_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas, complaining of Respondent, S. Mitchell Glassman, showing the Court:

I.

Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure (TRCP), Petitioner intends discovery in this case to be conducted under Discovery Control Plan--Level 2, as provided in Rule 190.3, TRCP.

II.

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 and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of the Disciplinary Petition was filed with the State Bar of Texas on or after May 1, 1992.

III.

Respondent is an attorney licensed to practice law in Texas and a member of the State Bar of Texas. Respondent is a resident of and has his principal place of practice in Harris County, Texas. An officer may serve citation on Respondent at his place of

business located at 720 North Post Oak Road, Suite 612, Houston, Texas 77024.

IV.

Respondent represented the defendant in a lawsuit styled, W. William Coe v. Ricardo Dietz, Individually and d/b/a Momentum BMW, et al, Cause No. 94-62215, in the 215th Judicial District Court of Harris County, Texas. On February 19, 1996, Respondent took the oral deposition of the Plaintiff, W. William Coe in his law office.

During the course of the deposition, the Respondent repeatedly demeaned the Plaintiff and his attorney, DeEdward J. Greer. The Respondent attempted to provoke the Plaintiff, W. William Coe, into arguments and physical engagements. In particular, the Respondent acted as follows during the deposition:

1. Respondent (to Greer):

He was finished. Sit back and go to sleep again.

2. Respondent (to Mr. Coe):

No, sir. You did not answer my question. Now, let's not play games with me. Did any person that you know to be an employee of BMW of North America make any representation to you? I am not talking about your assumptions. You are a man with two college degrees, behave like one. You are the president of a company, behave like one. . . .

Respondent (to Greer):

I don't care about your comments. I am talking to your client. This is a deposition, Counsel.
Did Mr. Westfall make any representation to you? . . .

. . . I don't care what your pleadings allege. I am talking to your client and asking him a question.
The question is, did Mr. Westfall make any representations to you?

Mr. Coe: It's difficult for me to answer and difficult for me to understand your question when you are so outraged.

Respondent: I am absolutely, totally outraged by you.

Mr. Coe: If you would, calm down.

Mr. Glassman: There is no question that I am outraged by this lawsuit and your conduct, and --

Mr. Coe: If you will, calm down.

Mr. Glassman: -- and this deposition conduct.

Mr. Coe: If you would calm down and ask clear questions without being rude and immature and I will be better able to understand what you are trying to communicate, Mr. Glassman.

3. Mr. Coe: I asked you not to smoke. I think you will damage my health.

Respondent: Oh, that would be a joy and a blessing to the world at large.

Mr. Coe: Then you would like to damage my health?

Respondent: Absolutely, I would love to damage your health.

Mr. Coe: Are you serious?

Mr. Greer: Go ahead.

Mr. Coe: I asked you not to smoke in my presence.

Mr. Glassman: You ask in my office for me to accommodate you by not smoking?

Mr. Coe: I am accommodating you by being in your office.

4. Respondent (to Greer):

Sit back in your seat and be quiet. While I am conducting this examination, treat yourself like a lawyer.

5. Respondent (to Greer):

Counsel, somebody ought to teach you how to practice law

because it's fairly apparent that your law school failed.

6. Respondent (to Greer):

Counsel, don't be a fool anymore than you have to.

7. Respondent (to Greer):

I think you are trying to do this for his benefit.

.....

Your client's benefit, trying to posture as if you are a real lawyer with a real degree.

8. Respondent (to Greer):

Don't be any more a fool than you have to be. . . .

Counsel, don't be a fool. . . .

9. Respondent (to Coe and Greer):

And, if you both had brain surgery or brain transplants -- I don't think they are currently doing brain transplants, but you might need one or the both of you.

10. Respondent (to Coe):

Look, sit back for a moment, fool, and let me make my objection.

.....

Any time you want, just any time you want, if you are man enough. Listen to me, you have an open invitation when you figure you are big enough.

Coe: Are you threatening me personally?

Respondent: You have an open invitation when you think you are big enough, sport.

Respondent's conduct during the course of the deposition crossed the line from

advocacy to harassment, intimidation and contempt. Respondent's conduct indicated an intent on the part of the Respondent to harass, degrade, and intimidate the Plaintiff and his counsel by way of unnecessary insults and obnoxious behavior.

V.

By his insults and combative behavior during the deposition of W. William Coe, the Respondent engaged in conduct in violation of Rules **3.04(c)(4)**[a lawyer shall not ask any question intended to degrade a witness or other person except where the lawyer reasonably believes that the question will lead to relevant and admissible evidence]; **3.04(c)(5)** [a lawyer shall not engage in conduct intended to disrupt the proceedings]; **4.04(a)** [in representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal right of such a person]; and **8.04(a)(1)**[a lawyer shall not violate these rules, whether or not such violation occurred in the course of a client-lawyer relationship]; and **8.04(a)(12)**[a lawyer shall not violate any laws of this state relating to professional conduct of lawyers and to the practice of law] of the Texas Disciplinary Rules of Professional Conduct, and of Rule **1.06(Q)** of the Texas Rules of Disciplinary Procedure.

VI.

The complaint which forms the basis of this lawsuit as hereinabove set forth was brought to the attention of the Office of the General Counsel of the State Bar of Texas by the filing of a complaint by John Walter William Coe on or about September 6, 1996.

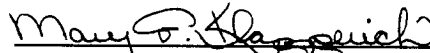
PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined by reprimand, suspension, or disbarment, as the facts shall warrant; and that Petitioner have such other and further relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

Steven W. Young
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) 759-6932
(713) 752-2158 FAX



MARY F. KLAPPERICH
State Bar No. 11550700

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the General Counsel

March 4, 1999

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

Re: Commission for Lawyer Discipline v. S. Mitchell Glassman

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 S. Mitchell Glassman. Mr. Glassman has designated Harris County, Texas, 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:

S. Mitchell Glassman
720 North Post Oak Road, Suite 612
Houston, Texas 77024

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to: (1) 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; and (2) whether he or she can accommodate compliance with Mellon Service Co., et al v. Touche Ross Co., 946 S.W.2d 862 (Tex. App. - Houston [14th Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. If not, I would respectfully request that an alternate appointment be made.

Mr. John Adams
March 4, 1999
Page 2

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.

I have enclosed 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 file-marked copy of the Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,



Mary F. Klapperich
Assistant General Counsel

MFK/rr
Enclosures



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

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

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

APR 15 1999

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77002

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. S. Mitchell Glassman*, and a copy of the Supreme Court's order appointing the Honorable Janet P. Littlejohn, Judge of the 150th District Court, San Antonio, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Janet P. Littlejohn
Ms. Mary F. Klapperich
Mr. S. Mitchell Glassman
Ms. Melissa Dartez



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

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES

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

APR 15 1999

Ms. Mary F. Klapperich
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. S. Mitchell Glassman
720 North Post Oak Blvd., Suite 612
Houston, Texas 77024

Dear Ms. Klapperich and Mr. Glassman:

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 Janet P. Littlejohn, Judge of the 150th District Court, San Antonio, Texas to preside in

Commission for Lawyer Discipline v. S. Mitchell Glassman

Sincerely,

SIGNED

John T. Adams
Clerk



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

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

APR 15 1999

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

Honorable Janet P. Littlejohn
Judge, 150th District Court
100 Dolorosa Street
San Antonio, Texas 78205

Dear Judge Littlejohn:

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. Glassman and Ms. Klapperich, 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