

ORDER OF THE SUPREME COURT OF TEXAS

9121

Misc. Docket No. 01-----

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

The Supreme Court of Texas hereby appoints the Honorable Judith G. Wells, Judge of the 325th District Court of Tarrant County, Texas, to preside in the Disciplinary Action styled:

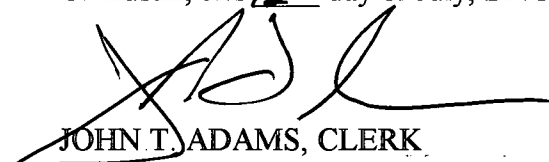
The Commission for Lawyer Discipline v. Benjamin J. Durant

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 the Disciplinary Petition and this Order for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

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

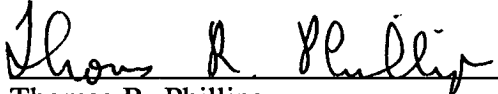
With the Seal thereof affixed at the City
Of Austin, this 12th day of July, 2001.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 01-9121 is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 16 day of July, 2001.



Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE,

Petitioner

vs.

BENJAMIN J. DURANT,

Respondent

§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, a committee of the STATE BAR OF TEXAS (hereinafter referred to as "Petitioner"), complaining of Respondent, BENJAMIN J. DURANT (hereinafter referred to as "Respondent"), Texas Bar Card No. 06273900 and would respectfully show unto the Court the following:

I. DISCOVERY CONTROL PLAN

Pursuant to Rules 190.1 and 190.2, TEXAS RULES OF CIVIL PROCEDURE, Petitioner intends discovery in this case to be conducted under the Level 1 Discovery Control Plan. Pursuant to Rule 190.2(a)(1), Petitioner affirmatively pleads that it seeks only monetary relief aggregating fifty thousand and no/100 dollars (\$50,000.00) or less, excluding costs, pre-judgment interest and attorneys' fees.

II. NATURE OF PROCEEDING

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.

III. VENUE

Respondent is an attorney licensed to practice law in Texas and is a member of the STATE BAR OF TEXAS. Respondent's residence and principal place of practice is Harris County, Texas; therefore, venue is appropriate in **Harris County, Texas**, pursuant to Rule 3.03 of the TEXAS RULES OF DISCIPLINARY PROCEDURE. Respondent may be served at his business address, **4810 Caroline Street, Houston, Harris County, Texas, 77004.**

IV. CAUSE OF ACTION

On April 15, 1999, Respondent entered into an *Agreed Judgment of Partially Probated Suspension*, in Case No. H0039715216, styled *Commission for Lawyer Discipline v. Benjamin J. Durant*, Before the Evidentiary Panel of the District 4A Grievance Committee. According to the terms of the *Judgment*, Respondent agreed to a three (3) year partially probated suspension, one (1) year active suspension and two (2) years probated suspension. Respondent's active suspension was effective June 1, 1999, through May 31, 2000.

Thereafter, on or about May 23, 2000 and while still on active suspension, Respondent appeared as counsel or in a representative capacity on behalf of Larry Blackman (hereinafter referred to as "Blackman") in Cause No. 195880, *The State of Texas v. Larry Blackman*, In the Municipal Court of the City of Humble, Harris County, Texas.

Additionally, Respondent knowingly made a false statement to the Grievance Committee when he stated that he did not represent Blackman, but was there at the request of Blackman's attorney.

V. RULE VIOLATIONS

The acts and/or omissions of Respondent described herein constitute conduct in violation of Rules 3.03(a)(1) [a lawyer shall not make a false statement of material fact or law to a tribunal]; 5.05(a) [a lawyer shall not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction]; 8.04(a)(1) [a lawyer shall not violate the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT]; 8.04(a)(3) [a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation]; 8.04(a)(7) [a lawyer shall not violate any disciplinary judgment]; 8.04(a)(11) [a lawyer shall not engage in the practice of law when the lawyer is on inactive status or when the lawyer's right to practice has been suspended or terminated]; and 8.04(a)(12) [a lawyer shall not violate any other laws of this state relating to the professional conduct of lawyers and to the practice of law] of the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT.

VI.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the Chief Disciplinary Counsel of the STATE BAR OF TEXAS by EASTER GABRIEL's filing of a complaint on or about July 11, 2000.

PRAYER FOR RELIEF


WHEREFORE, PREMISES CONSIDERED, Petitioner, the **COMMISSION FOR LAWYER DISCIPLINE**, respectfully prays that this Court discipline Respondent, **BENJAMIN**

J. DURANT, by reprimand, suspension or disbarment, as the facts shall warrant; order restitution; and grant all other relief to which Petitioner may show itself to be justly entitled, including costs of court and attorneys' fees.

Respectfully submitted,

DAWN MILLER,
Chief Disciplinary Counsel

STATE BAR OF TEXAS
Office of the Chief Disciplinary Counsel
1111 Fannin, Suite 1370
Houston, Texas 77002
Phone: (713) 759-6931
Fax: (713) 752-2158



JENNIFER A. HASLEY
Assistant Disciplinary Counsel
State Bar No. 00792818

**ATTORNEYS FOR PETITIONER,
COMMISSION FOR LAWYER DISCIPLINE**

STATE BAR OF TEXAS



OFFICE OF THE CHIEF DISCIPLINARY COUNSEL

June 6, 2001

John T. Adams, Clerk
SUPREME COURT OF TEXAS
P.O. Box 12248
Austin, Texas 78711

RE: *Commission for Lawyer Discipline v. Benjamin J. Durant*

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of the *Original Disciplinary Petition* being filed by the COMMISSION FOR LAWYER DISCIPLINE against **Benjamin J. Durant**. Benjamin J. Durant 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:

**Benjamin J. Durant
4810 Caroline Street
Houston, Texas 77004**

As a practical matter, we respectfully suggest that an inquiry be made as to whether the judge will be able to comply with the one hundred and eighty (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, we 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 *Original Disciplinary Petition*, the *Civil Case Information Sheet*, the filing fee check (all 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.

J:\DURANT.BJ\CFLD3.JAH\CORRESP\C_ADAMS.01

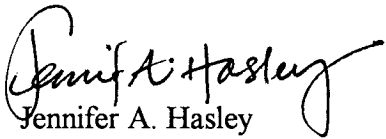
**1111 FANNIN, SUITE 1370 HOUSTON, TEXAS 77002
PHONE: (713) 759-6931 FAX: (713) 752-2158**

John T. Adams, Clerk
SUPREME COURT OF TEXAS
June 6, 2001
RE: CFLD v. Benjamin J. Durant
Page 2

Additionally, enclosed please find a pre-addressed envelope for your use in transmitting the necessary documentation 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 *Original Disciplinary Petition* to the undersigned.

Thank you for your courtesies in this regard.

Sincerely,


Jennifer A. Hasley
Assistant Disciplinary Counsel

JAH/sml

- Enclosures
1. Original Disciplinary Petition (original and two (2) copies)
 2. Civil Case Information Sheet
 3. Filing Fee Check
 4. Pre-Addressed Envelope to District Clerk
 5. Pre-Addressed Envelope to the STATE BAR OF TEXAS



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
DEBORAH G. HANKINSON
HARRIET O'NEILL
WALLACE B. JEFFERSON

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUL 19 2001

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. Benjamin J. Durant*, and a copy of the Supreme Court's order appointing the Honorable Judith G. Wells, Judge of the 325th District Court, Fort Worth, Texas.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Judith G. Wells
Ms. Jennifer A. Hasley
Mr. Benjamin J. Durant
Ms. Melissa Dartez



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
DEBORAH G. HANKINSON
HARRIET O'NEILL
WALLACE B. JEFFERSON

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUL 19 2001

Honorable Judith G. Wells
Judge, 325th District Court
100 N. Houston Street, 4th Floor
Fort Worth, Texas 76196-0233

Dear Judge Wilson:

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. Durant and Ms. Hasley, 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

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
DEBORAH G. HANKINSON
HARRIET O'NEILL
WALLACE B. JEFFERSON

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUL 19 2001

Ms. Jennifer A. Hasley
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Benjamin J. Durant
4810 Caroline Street
Houston, Texas 77004

Dear Ms. Hasley and Mr. Durant:

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 Judith G. Wells, Judge of the 325th District Court, Fort Worth, Texas to preside in

Commission for Lawyer Discipline v. Benjamin J. Durant

Sincerely,

SIGNED

John T. Adams
Clerk