

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 02 - **9049**

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

The Supreme Court of Texas hereby appoints the Honorable Julie H. Kocurek, Judge of the 390th District Court of Travis County, Texas, to preside in the Disciplinary Action styled


The Commission for Lawyer Discipline v. Steven C. Simmons

filed in the 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 pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

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

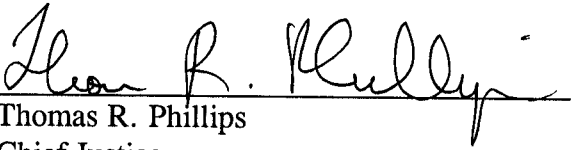
With the Seal thereof affixed at the City
Of Austin, this 28th day of February, 2002.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 02-9049 is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 26 day of February, 2002.


Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE,	§	IN THE DISTRICT COURT OF
	§	
Petitioner,	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
STEVEN C. SIMMONS,	§	
	§	
Respondent.	§	_____ JUDICIAL DISTRICT

ORIGINAL 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 (hereinafter referred to as "Petitioner"), complaining of Respondent, STEVEN C. SIMMONS (hereinafter referred to as "Respondent"), Texas Bar Card No. 18373300, and would respectfully show unto the Court the following:

I. DISCOVERY CONTROL PLAN

Pursuant to Rules 190.1 and 190.2 of the 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, 1648 Richmond, Houston, Texas 77006.

IV. CAUSE OF ACTION

On or about January 27, 1999, GAYE L. GILBERT (hereinafter referred to as "Gilbert") hired Respondent to file a *Motion for New Trial* with regard to a custody matter involving her minor son, styled *In the Interest of Ned Wesley Odell Givs, A Minor Child*; Cause No. 1998-56223; in the 313th Judicial District Court of Harris County, Texas. Gilbert paid Respondent one thousand and no/100 dollars (\$1,000.00) for his legal services. Respondent was unsuccessful in his efforts to challenge the court's default order which included a finding that Gilbert's former live-in boyfriend, Odell Givs, was the biological father of the child in question (hereinafter referred to as "the child").

According to Gilbert, and later supported by a paternity test, another man, Clarence Eldridge, III, is the biological father of the child. The results of the paternity test were released on or about July 1, 1999.

Thereafter, Respondent agreed to represent Gilbert in a suit seeking to modify the parent-child relationship. Gilbert paid to Respondent a portion (approximately one hundred and no/100 dollars (\$100.00)) of the total charge for these legal services (one thousand and no/100 dollars (\$1,000.00)).

On or about July 12, 1999, Respondent filed a *Motion to Modify in Suit Affecting the Parent Child Relationship*. The matter was set for hearing on February 7, 2000; however, Respondent failed to appear. Based upon Gilbert's default, the court entered an order that significantly favored Odell Givs.

On or about March 10, 2000, Respondent filed a *Motion for New Trial* on behalf of Gilbert. Gilbert discharged Respondent, and another attorney successfully argued the *Motion*.

During much of his representation of Gilbert, Respondent was administratively suspended from the practice of law for non-payment of the Texas Attorney Occupation Tax (09/01/99-03/23/00). Respondent filed pleadings and made court appearances while administratively suspended in violation of the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT.

V. RULE VIOLATIONS

The acts and/or omissions of Respondent described above constitute conduct in violation of Rules 1.01(b)(1) [a lawyer shall not neglect a legal matter entrusted to the lawyer]; and 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, including but not limited to situations where a lawyer's right to practice has been administratively suspended for failure to timely pay required fees or assessments or for failure to comply with Article XII of the STATE BAR Rules relating to Mandatory Continuing Legal Education] 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 Gaye L. Gilbert's filing of a grievance on or about March 29, 2000.

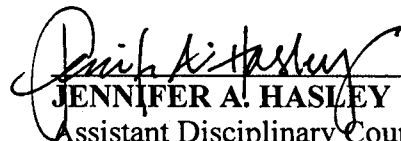
PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, respectfully prays that this Court discipline Respondent, STEVEN C. SIMMONS, by reprimand, suspension or disbarment, as the facts shall warrant; order restitution to Complainant, if applicable; and grant all other relief to which Petitioner may show itself to be justly entitled including, without limitation, expenses, costs of court, and attorneys' fees.

Respectfully submitted,

STATE BAR OF TEXAS
Office of the Chief Disciplinary Counsel

DAWN MILLER
Chief Disciplinary Counsel



JENNIFER A. HASLEY
Assistant Disciplinary Counsel
State Bar No. 00792818
1111 Fannin, Suite 1370
Houston, Texas 77002
Phone: (713) 759-6931
Fax: (713) 752-2158

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



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
DEBORAH G. HANKINSON
HARRIET O'NEILL
WALLACE B. JEFFERSON
XAVIER RODRIGUEZ

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

MAR 07 2002

CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST.
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

Ms. Jennifer A. Hasley
Assistant Disciplinary Counsel
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Steven C. Simmons
1648 Richmond
Houston, Texas 77006

Dear Ms. Hasley and Mr. Simmons:

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 Julie H. Kocurek, Judge of the 390th District Court, Austin, Texas to preside in

Commission for Lawyer Discipline v. Steven C. Simmons

Sincerely,

SIGNED

John T. Adams
Clerk



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

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WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

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. Steven C. Simmons*, and a copy of the Supreme Court's order appointing the Honorable Julie H. Kocurek, Judge of the 390th District Court, Austin, Texas.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Julie H. Kocurek
Ms. Jennifer A. Hasley
Mr. Steven C. Simmons
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
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JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

MAR 07 2002

The Honorable Julie H. Kocurek
Judge, 390th District Court
P.O. Box 1748
Austin, Texas 78767-1748

Dear Judge Kocurek:

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. Simmons 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 (936-538-8176) 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

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

December 18, 2001

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

RE: *Commission for Lawyer Discipline v. Steven C. Simmons*

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of the *Disciplinary Petition* being filed by the COMMISSION FOR LAWYER DISCIPLINE against **Steven C. Simmons**. Mr. Simmons 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:

**Steven C. Simmons
1648 Richmond
Houston, Texas 77006**

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 *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.

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**1111 Fannin, Suite 1370 Houston, Texas 77002
Phone: (713) 759-6931 Fax: (713) 752-2158**

STATE BAR OF TEXAS

Office of the Chief Disciplinary Counsel

John T. Adams, Clerk

SUPREME COURT OF TEXAS

December 18, 2001

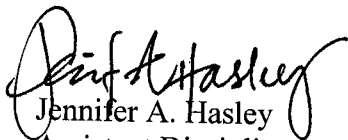
RE: *Commission for Lawyer Discipline v. Steven C. Simmons*

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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 yours,



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