

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 02 - 1067

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

The Supreme Court of Texas hereby appoints the Honorable Jose Longoria, Judge of the 214th District Court of Nueces County, Texas, to preside in the Disciplinary Action styled

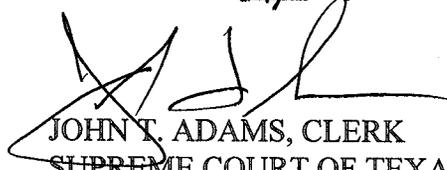
The Commission for Lawyer Discipline v. Edward C. Burwell

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.

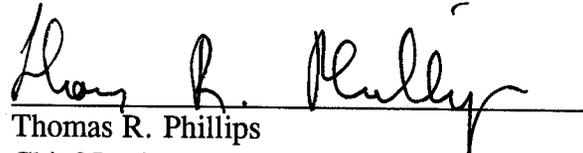
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City
Of Austin, this 27th day of March, 2002.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 02-9067 is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 27 day of March, 2002.


Thomas R. Phillips
Chief Justice



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

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

CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

APR 19 2002

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. Edward G. Burwell*, and a copy of the Supreme Court's order appointing the Honorable Jose Longoria, Judge of the 214th District Court, Corpus Christi, Texas.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Jose Longoria
Mr. J.G. Molleston
Mr. Edward W. Burwell
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
XAVIER RODRIGUEZ

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

APR 19 2002

The Honorable Jose Longoria
Judge, 214th District Court
901 Leopard Street
Corpus Christi, Texas 78401

Dear Judge Longoria:

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. Burwell and Mr. Molleston, 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



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
XAVIER RODRIGUEZ

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

APR 19 2002

Mr. J.G. Molleston
Assistant Disciplinary Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Edward C. Burwell
c/o Sharon Conway
4840 W. Panther Creek, Suite 201
The Woodlands, Texas 77381

Dear Mr. Molleston and Mr. Burwell:

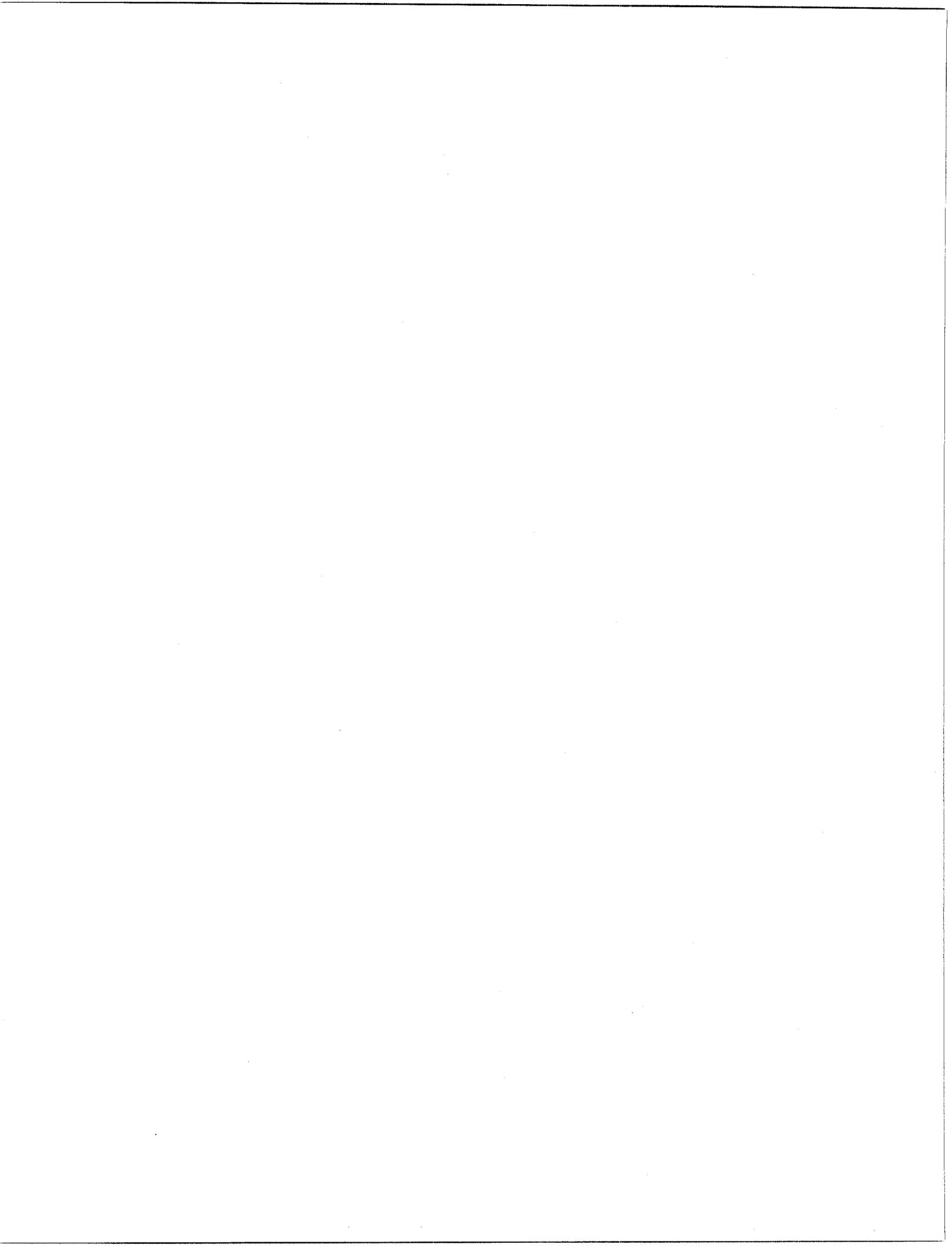
Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable Jose Longoria, Judge of the 214th District Court, Corpus Christi, Texas to preside in

Commission for Lawyer Discipline v. Edward C. Burwell

Sincerely,

SIGNED

John T. Adams
Clerk



CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
VS. §
§ HARRIS COUNTY, TEXAS
§
EDWARD C. BURWELL § _____ JUDICIAL DISTRICT

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

Petitioner the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas (hereinafter referred to as the "CFLD"), complains of EDWARD C. BURWELL ("hereinafter referred to as "Respondent") as follows:

**I.
DISCOVERY CONTROL PLAN**

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

**II.
PROCEDURAL BASIS FOR SUIT**

The CFLD 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. The complaint that forms the basis of this Disciplinary Petition was filed on or after May 1, 1992.

**III.
VENUE AND SERVICE**

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent's principal place of practice is 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 service citation upon Respondent, by and through his attorney of record, Sharon E. Conway, located at 4840 W. Panther Creek, Ste. 201, The Woodlands, Texas 77381.

**IV.
FIRST CAUSE OF ACTION
PHILLIPS COMPLAINT**

On or about September 1, 1997, Respondent was suspended from the practice of law in the state of Texas for failure to pay mandatory occupational taxes. On or about June 10, 1999, Respondent was also suspended from the practice of law for non-compliance with the minimum continuing legal education requirements of the State Bar of Texas.

V.

In or around 1998, Aaron C. Phillips (hereinafter referred to as "Phillips") retained Respondent for representation in a divorce matter. Respondent was paid a \$500.00 retainer.

VI.

Upon employment, Respondent failed to file Phillips' divorce matter. Thereafter, Phillips contacted Respondent to inquire as to why it was taking so long to file a divorce petition. Respondent offered no explanation and informed Phillips that he would refund the \$500.00 retainer. Respondent failed to refund the retainer.

VII.

When he did not receive the promised refund, Phillips attempted to contact Respondent, but was unsuccessful and left messages. Respondent failed to respond to those calls.

VIII.

On or about November 10, 2000, Respondent received notice from the State Bar of Texas that Phillips had filed a complaint alleging professional misconduct. That notice instructed

Respondent to file a written response to the allegations with thirty (30) days. Respondent failed to do so.

IX.

The acts and/or omissions of the Respondent described in Paragraphs IV-VIII above, which occurred on or after January 1, 1990, constitute conduct in violation of the following Rules of the Texas Disciplinary Rules of Professional Conduct ("TDRPC"):

1.01(b)(1) for neglecting a legal matter entrusted to the lawyer;

1.01(b)(2) for failing to carry out completely the obligations owed to a client;

1.01(c) as used in this Rule "neglect" signifies inattentiveness involving a conscious disregard for the responsibilities owed to a client or clients;

1.03(b) for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;

1.15(d) for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, or surrender papers and property which belongs to the client;

8.01(b) for knowingly failing to respond to a lawful demand for information from a disciplinary authority;

8.04(a)(1) for violating these Rules, knowingly assisting or inducing another to do so, or doing so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship;

8.04(a)(8) for failing to timely furnish a district grievance committee a response or other information as required unless he/she timely asserts a privilege or other legal ground for failure to do so; and

8.04(a)(11) for engaging 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.

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 Aaron C. Phillips filing a complaint on or about October 4, 2000.

X.
SECOND CAUSE OF ACTION
ELI COMPLAINT

On or about September 1, 1997, Respondent was suspended from the practice of law in the state of Texas for failure to pay mandatory occupational taxes. On or about June 10, 1999, Respondent was suspended from the practice of law for non-compliance with the minimum continuing legal education requirements of the State Bar of Texas.

XI.

In or around October 1999, Leroy Eli (hereinafter referred to as "Complainant") retained Respondent for representation in a worker's compensation matter.

XII.

During the pendency of the matter, Complainant was unable to work and had no reliable source of income. Complainant contacted Respondent on numerous occasions to inquire about his matter, but was unable to speak with Respondent and left messages, to which Respondent failed to respond. Complainant sent numerous letters via facsimile transmission requesting a status of his case and a request for information and/or advice, to which Respondent failed to respond.

XIII.

In or around May 2000, Complainant sent Respondent two (2) separate letters informing Respondent that TWCC has not received proper documentation to be able to schedule a benefits

hearing. Respondent failed to respond to Complainant's letter and failed to forward the documentation to schedule Complainant's benefit hearing.

IVX.

The acts and/or omissions of the Respondent described in Paragraphs X-XIII above, which occurred on or after January 1, 1990, constitute conduct in violation of the following Rules of the Texas Disciplinary Rules of Professional Conduct ("TDRPC"):

1.01(b)(1) for neglecting a legal matter entrusted to the lawyer;

1.01(b)(2) for failing to carry out completely the obligations owed to a client;

1.01(c) as used in this Rule "neglect" signifies inattentiveness involving a conscious disregard for the responsibilities owed to a client or clients;

1.03(a) failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information;

1.03(b) for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;

8.04(a)(1) for violating these Rules, knowingly assisting or inducing another to do so, or doing so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship; and

8.04(a)(11) for engaging 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.

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 Leroy Eli filing a complaint on or about May 23, 2000.

XV.
THIRD CAUSE OF ACTION
CATMULL COMPLAINT

On or about September 1, 1997, Respondent was suspended from the practice of law in the state of Texas for failure to pay mandatory occupational taxes. On or about June 10, 1999, Respondent was suspended from the practice of law for non-compliance with the minimum continuing legal education requirements of the State Bar of Texas.

XVI.

On or about April 11, 2000, Anita Hess (hereinafter referred to as "Hess") retained Respondent for representation in a divorce matter. However, due to the nature of the matter, Respondent later had Joe H. Rentz (hereinafter referred to as "Rentz") join Respondent as co-counsel for Hess. Respondent and Rentz signed a contract with Hess which indicated that Respondent's services would be billed at the rate of \$175.00 in addition to a portion of any tort claim.

XVII.

Thereafter and on or about April 20, 2000, Respondent signed a Motion to Withdraw and Substitute Counsel of Record requesting the 308th Judicial District Court to replacing him as Hess' attorney in charge. An Order was later signed granting such Motion.

XVIII.

The acts and/or omissions of the Respondent described in Paragraphs XV-XVII above, which occurred on or after January 1, 1990, constitute conduct in violation of the following Rules of the Texas Disciplinary Rules of Professional Conduct ("TDRPC"):

8.04(a)(1) for violating these Rules, knowingly assisting or inducing another to do so, or doing so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship; and

8.04(a)(11) for engaging 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.

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 K. W. Catmull filing a complaint on or about November 30, 2000.

XIX.
FOURTH CAUSE OF ACTION
BEACH COMPLAINT

On or about June 10, 1999, Respondent was suspended from the practice of law for non-compliance with minimum continuing legal education credits.

XX.

On or about March 9, 1999, Diane Beach (hereinafter referred to as "Beach") was involved in an accident on a Metro bus. Subsequent to the accident, Beach underwent three (3) back surgeries and later developed infections.

XXI.

On or about February 20, 2000, Beach retained Respondent for representation on a contingency fee basis. Thereafter, Beach made numerous calls to Respondent inquiring of the status of her matter. Respondent failed to return those calls.

XXII.

In or around March 2000 and later in December 2000, Beach met with Respondent who assured Beach that her matter was proceeding.

XXIII.

As part of Respondent's representation of Beach, Respondent was to obtain and review medical records that did not include billing for the post-operative infections that Beach developed. Respondent failed to do so. The insurance company attempted numerous times to contact Respondent to discuss the medical bills, but were unsuccessful. Respondent failed to return those calls. When he finally met with Beach to discuss the case, Respondent indicated that the case was proceeding normally when he knew that he had not filed a petition in the case.

XXIV.

On or about March 9, 2001, Beach's statute of limitations expired for her to make any legal claims regarding her accident. Respondent failed to file a lawsuit to preserve Beach's claims.

XXV.

The acts and/or omissions of the Respondent described in Paragraph XIX-XXIV above, which occurred on or after January 1, 1990, constitute conduct in violation of the following Rules of the Texas Disciplinary Rules of Professional Conduct ("TDRPC"):

1.01(b)(1) for neglecting a legal matter entrusted to the lawyer;

1.01(b)(2) for failing to carry out completely the obligations owed to a client;

1.01(c) as used in this Rule "neglect" signifies inattentiveness involving a conscious disregard for the responsibilities owed to a client or clients;

1.03(a) failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information;

1.03(b) for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;

8.04(a)(1) for violating these Rules, knowingly assisting or inducing another to do so, or doing so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship;

8.04(a)(3) for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation

8.04(a)(11) for engaging 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.

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 Diane Beach filing a complaint on or about March 28, 2001.

Prayer

WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent by reprimand, suspension or disbarment, 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 attorneys' fees.

Respectfully submitted,

Dawn Miller
Chief Disciplinary Counsel

J. G. Molleston
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel
STATE BAR OF TEXAS
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6931
Fax No. (713) 752-2158



J. G. Molleston
State Bar No. 00795924

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

February 7, 2002

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

Re: Commission for Lawyer Discipline v. Edward C. Burwell

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 Edward C. Burwell. Mr. Burwell 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:

Edward C. Burwell
C/O Sharon Conway
4840 W. Panther Creek, ste. 201
The Woodlands, Texas 77381

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 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, 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.

1111 Fannin, Suite 1370, Houston, Texas 77002
Telephone (713) 759-6931 Facsimile (713) 752-2158

Mr. John Adams
February 7, 2002
Page 2

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 file-marked copy of the Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,



J. G. Molleston
Assistant Disciplinary Counsel

JGM/vr

Enclosures

cc: Edward C. Burwell
C/O Sharon Conway
4840 W. Panther Creek, Ste. 201
The Woodlands, Texas 77381