

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 94-9181

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

The Supreme Court of Texas hereby appoints the Honorable Homer Salinas, Judge of the 92th District Court of Hidalgo County, Texas, to preside in the Disciplinary Action styled:

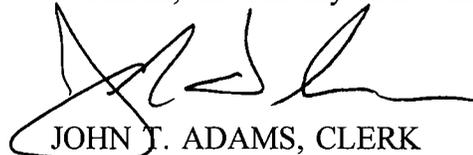
The Commission for Lawyer Discipline v. Harold J. Eisenman

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.

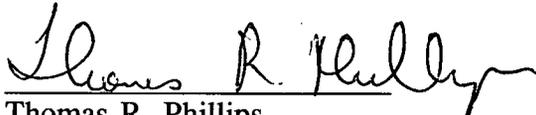
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 5th day of December, 1994.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 94-9181, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 9 day of December, 1994.


Thomas R. Phillips
Chief Justice

NO. _____



COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	HARRIS COUNTY, TEXAS
HAROLD J. EISENMAN	§	_____ 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 (hereinafter called "Petitioner"), complaining of Respondent, Harold J. Eisenman (hereinafter called "Respondent"), showing the Court:

I.

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 on or after May 1, 1992.

II.

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 business in Harris County, Texas. An officer may serve citation on Respondent at his business address located at 1900 West Loop South, Suite 1420, Houston, Harris County, Texas 77027.

III.

On or about March 26, 1990, Louis C. Wishum (hereinafter called "Wishum") was injured in the course of his employment with the Southern Pacific Railroad (hereinafter called "Southern Pacific"). Southern Pacific thereafter offered to settle Wishum's worker's compensation claim for \$250,000.00.

IV.

Wishum decided not to accept Southern Pacific's settlement offer, and instead hired an attorney, Charles W. Medlin (hereinafter called "Medlin") to represent him. The parties signed a contract of employment on or about May 12, 1992, that expressly provided that attorney's fees would be paid to Medlin only in the event Medlin was able to obtain a settlement on Wishum's behalf that exceeded \$250,000.00; otherwise, Medlin would not be paid any attorney's fees.

V.

Medlin thereafter engaged the services of Respondent to assist in his representation of Wishum. Wishum did not sign a new or additional contract for services with Respondent. Respondent settled Wishum's case with Southern Pacific in early September, 1993, for \$250,000.00. On or about September 14, 1993, Respondent sent Wishum a list detailing attorney's fees and expenses he intended to deduct from the settlement proceeds at the time he disbursed the proceeds. The deductions included payment of attorney's fees to Respondent in the amount of \$30,000.00. The deduction for attorney's fees was made by Respondent notwithstanding the fact that the parties' contract for services expressly provided that no attorney's fees would be paid to him unless Wishum's recovery exceeded \$250,000.00. When Wishum protested payment of the attorney's fees, Respondent indicated that he felt he was

entitled to the money for all the work he had performed on the case prior to settlement. When Respondent later disbursed the settlement proceeds, he paid himself the \$30,000.00 in attorney's fees.

VI.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs III., IV. and V. hereinabove which occurred on or after January 1, 1990, constitute conduct which violates Rule 1.04(a) of the Texas Disciplinary Rules of Professional Conduct.

VII.

The complaint which forms the basis of the Cause of Action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by Louis C. Wishum filing a complaint on or about September 21, 1993.

PRAYER

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

Respectfully submitted,

James M. McCormack
General Counsel

E. Lynn Rodriguez
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
Telephone: (512) 463-1463
Telecopier: (512) 477-4607


E. Lynn Rodriguez
State Bar of Texas No. 17143880

ATTORNEYS FOR PETITIONER

u:\users\catherin\lynn\eiseman.dp



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

JUSTICES
RAULA GONZALEZ
JACK HIGHTOWER
NATHAN L. HECHT
LLOYD DOGGETT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

December 8, 1994

Mr. James M. McCormack
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. Harold J. Eisenman
1900 West Loop South, Suite 1420
Houston, Texas 77027

Dear Mr. McCormack and Mr. Eisenman:

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 Homer Salinas, Judge of the 92nd District Court, Edinburg, Texas to preside in

Commission for Lawyer Discipline v. Harold J. Eisenman

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) 465-1312

FAX: (512) 465-1365

CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
JACK HIGHTOWER
NATHAN L. HECHT
LLOYD DOGGETT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR

EXECUTIVE ASST.
WILLIAM L. WILLIS

ADMINISTRATIVE ASST.
NADINE SCHNEIDER

December 8, 1994

The Honorable Katherine Tyra
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77210

Dear Ms. Tyra:

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. Harold J. Eisenman and a copy of the Supreme Court's order appointing the Honorable Homer Salinas, Judge of the 92nd District Court, Edinburg, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Homer Salinas
Mr. Harold J. Eisenman
Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711
TEL: (512) 463-1312
FAX: (512) 463-1365

CHIEF JUSTICE
THOMAS R. PHILLIPS

JUSTICES
RAULA GONZALEZ
JACK HIGHTOWER
NATHAN L. HECHT
LLOYD DOGGETT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

December 8, 1994

Honorable Homer Salinas
Judge, 92nd District Court
Courthouse
100 N. Clossner
Edinburg, Texas 78539

Dear Judge Salinas:

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. Eisenman and Mr. McCormack, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, four or five weeks after receipt of this letter, you contact the Harris County District Court Administrative Office (713-755-6576) 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