

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 94- 9192

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

The Supreme Court of Texas hereby appoints the Honorable Phillip H. Zeigler, Judge of the 52nd District Court of Coryell County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Larry Wayne Lewis

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 12th day of December, 1994.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 94-9192, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 14 day of December, 1994.


Thomas R. Phillips
Chief Justice

TO CLERK: "FILE MARK
THIS COPY AND RETURN"

NO. _____

COMMISSION FOR LAWYER DISCIPLINE §
V. §
LARRY WAYNE LEWIS §

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
_____ 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, Larry Wayne Lewis (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 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 practice in Harris County, Texas. An officer may serve citation on Respondent at his business address located at Great Southwest Building, 1314 Texas Avenue, Suite 512, Houston, Texas 77002.

COPY

FIRST CAUSE OF ACTION

III.

Respondent was retained by Lucille Denise Collier (hereinafter called "LDC") to represent her in connection with seeking recovery for personal injuries and/or property damage she sustained on or about October 14, 1990. LDC received treatment from Dalawa Physical Therapy & Rehabilitation Clinic, Inc. (hereinafter called "Dalawa"), related to such personal injuries. On or about February 20, 1991, Respondent wrote a letter to Dalawa in which Respondent asserted that he would protect Dalawa's bill for services rendered to LDC out of any amount received in trial or settlement of the case. Thereafter, Respondent settled LDC's case, failed to notify Dalawa that the case had been settled, and failed to tender to Dalawa any portion of the Two Thousand Nine Hundred and no/100 (\$2,900.00) Dollar outstanding balance for services rendered to LDC even though Respondent asserted to LDC that money was being retained out of the settlement to pay Dalawa, or words to that effect.

IV.

Respondent was retained by Lucille Elaine Collier (hereinafter called "LEC") to represent her in connection with seeking recovery for personal injuries and/or property damage she sustained on or about October 14, 1990. LEC received treatment from Dalawa related to such personal injuries. On or about February 20, 1991, Respondent wrote a letter to Dalawa in which Respondent asserted that he would protect Dalawa's bill for services rendered to LEC out of any amount received in trial or settlement of the case. Thereafter, Respondent settled LEC's case, failed to notify Dalawa that the case had been settled, and failed to tender to Dalawa any portion of the Two Thousand Six Hundred Ten and no/100 (\$2,610.00) Dollar outstanding

balance for services rendered to LEC even though Respondent asserted to LEC that money was being retained out of the settlement to pay Dalawa, or words to that effect.

V.

Respondent was retained by Manuel Guajardo (hereinafter called "Guajardo") to represent him in connection with seeking recovery for personal injuries and/or property damage he sustained on or about November 7, 1990. Guajardo received treatment from Dalawa related to such personal injuries. On or about December 4, 1990, Guajardo executed an agreement that Respondent pay Dalawa directly from the proceeds of any settlement or judgment obtained in Guajardo's case. On or about January 15, 1991, Respondent executed and/or someone acting under Respondent's control or at Respondent's direction executed on Respondent's behalf an agreement to advise Dalawa immediately of any substantial change in the status of Guajardo's case, such as settlement, referral to another attorney, termination of Respondent as his attorney, or a negative verdict, and to protect Dalawa's expenses out of any final settlement or judgment in Guajardo's case. Thereafter, Respondent settled Guajardo's case, failed to notify Dalawa that the case had been settled, and failed to tender to Dalawa any portion of the One Thousand Seven Hundred Ten and no/100 (\$1,710.00) Dollar outstanding balance for services rendered to Guajardo even though Respondent asserted to Guajardo that money was being retained out of the settlement to pay Dalawa, or words to that effect.

VI.

Respondent was retained by Roy E. Stewart (hereinafter called "Stewart") to represent him in connection with seeking recovery for personal injuries and/or property damage he sustained on or about February 12, 1991. Stewart received treatment from Dalawa related to

such personal injuries. On or about February 14, 1991, Stewart executed an agreement that Respondent pay Dalawa directly from the proceeds of any settlement or judgment obtained in Stewart's case. On or about March 21, 1991, Respondent executed and/or someone acting under Respondent's control or at Respondent's direction executed on Respondent's behalf an agreement to advise Dalawa immediately of any substantial change in the status of Stewart's case, such as settlement, referral to another attorney, termination of Respondent as his attorney, or a negative verdict, and to protect Dalawa's expenses out of any final settlement or judgment in Stewart's case. Thereafter, Respondent settled Stewart's case, failed to notify Dalawa that the case had been settled, and failed to tender to Dalawa any portion of the Four Hundred Thirty-nine and 24/100 (\$439.24) Dollar outstanding balance for services rendered to Stewart even though Respondent asserted to Stewart that money was being retained out of the settlement to pay Dalawa, or words to that effect.

VII.

Respondent was retained by Terrence McCreight (hereinafter called "McCreight") to represent him in connection with seeking recovery for personal injuries and/or property damage he sustained on or about November 23, 1990. McCreight received treatment from Dalawa related to such personal injuries. On or about November 29, 1990, McCreight executed an agreement that Respondent pay Dalawa directly from the proceeds of any settlement or judgment obtained in McCreight's case. Thereafter, at a point in time prior to settlement of McCreight's case, Respondent executed and/or someone acting under Respondent's control or at Respondent's direction executed on Respondent's behalf an agreement to advise Dalawa immediately of any substantial change in the status of McCreight's case, such as settlement, referral to another

attorney, termination of Respondent as his attorney, or a negative verdict, and to protect Dalawa's expenses out of any final settlement or judgment in McCreight's case. Thereafter, Respondent settled McCreight's case, failed to notify Dalawa that the case had been settled, and failed to tender to Dalawa any portion of the Two Hundred Eighty and no/100 (\$280.00) Dollar outstanding balance for services rendered to McCreight even though Respondent asserted to McCreight that money was being retained out of the settlement to pay Dalawa, or words to that effect.

VIII.

Respondent was retained by Gilbert Celestino (hereinafter called "Celestino") to represent him in connection with seeking recovery for personal injuries and/or property damage he sustained on or about November 7, 1990. Celestino received treatment from Dalawa related to such personal injuries. On or about December 3, 1990, Celestino executed an agreement that Respondent pay Dalawa directly from the proceeds of any settlement or judgment obtained in Stewart's case. On or about January 15, 1991, Respondent executed and/or someone acting under Respondent's control or at Respondent's direction executed on Respondent's behalf an agreement to advise Dalawa immediately of any substantial change in the status of Celestino's case, such as settlement, referral to another attorney, termination of Respondent as his attorney, or a negative verdict, and to protect Dalawa's expenses out of any final settlement or judgment in Celestino's case. Thereafter, Respondent settled Celestino's case, failed to notify Dalawa that the case had been settled, and failed to tender to Dalawa any portion of the One Thousand Six Hundred Eighty-five and no/100 (\$1,685.00) Dollar outstanding balance for services rendered

to Celestino even though Respondent asserted to Celestino that money was being retained out of the settlement to pay Dalawa, or words to that effect.

IX.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs III., IV., V., VI., VII., and VIII. hereinabove constitute six (6) separate instances of conduct violative of Rules 1.14(b), 1.14(c), and/or 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

X.

The complaint which forms the basis of the First Cause of Action hereinabove set forth was brought to the attention of the Office of General Counsel, State Bar of Texas, by Terry Twardowski's filing of a complaint on or about July 21, 1993.

SECOND CAUSE OF ACTION

XI.

By letter dated August 3, 1993, the Grievance Committee for State Bar District 4E urged Respondent to provide information in response to the complaint presented against him by Terry Twardowski (hereinafter called the "Twardowski complaint") within thirty (30) days from Respondent's receipt of the letter. Respondent received the letter on or about August 4, 1993. On or about September 8, 1993, at a point in time subsequent to the expiration of thirty (30) days from the date of Respondent's receipt of the letter, Respondent requested an extension of time in which to respond. Thereafter, Respondent failed to respond to the complaint. On or about December 2, 1993, Respondent received a subpoena issued by the Grievance Committee for State Bar District No. 4 directing Respondent to appear to testify regarding the Twardowski

complaint. Respondent, though duly served with the subpoena, failed to appear. Respondent thereby knowingly failed to respond to a lawful demand for information from a disciplinary authority, to-wit, the Grievance Committee for State Bar District 4E, thereby engaging in professional misconduct in violation of Rule 8.01(b) of the Texas Disciplinary Rules of Professional Conduct.

PRAYER

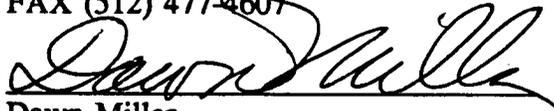
WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

Dawn Miller
Senior Assistant General Counsel

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



Dawn Miller
State Bar of Texas No. 15561900

ATTORNEYS FOR PETITIONER



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

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CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

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

December 13, 1994

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

Mr. Larry Wayne Lewis
Great Southwest Building
1314 Texas Avenue, Suite 512
Houston, Texas 77002

Dear Mr. McCormack and Mr. Lewis:

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 Phillip H. Zeigler, Judge of the 52nd District Court, Gatesville, Texas to preside in

Commission for Lawyer Discipline v. Larry Wayne Lewis

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

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JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

December 13, 1994

Honorable Phillip H. Zeigler
Judge, 52nd District Court
P.O. Box 19
Gatesville, Texas 76528

Dear Judge Zeigler:

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. Lewis 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



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR

December 13, 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. Larry Wayne Lewis and a copy of the Supreme Court's order appointing the Honorable Phillip H. Zeigler, Judge of the 52nd District Court, Gatesville, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Phillip H. Zeigler
Mr. Larry Wayne Lewis
Mr. James M. McCormack