

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9059

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

The Supreme Court of Texas hereby appoints the Honorable John K. Dietz, Judge of the 250th District Court of Travis County, Texas, to preside in the Disciplinary Action styled:

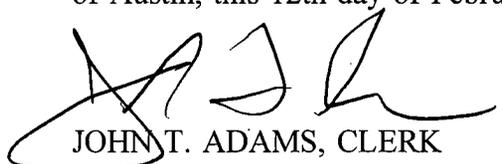
The Commission for Lawyer Discipline v. James M. Sims

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.

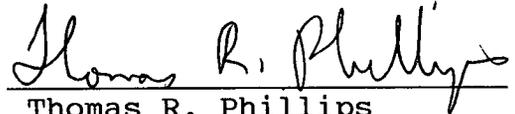
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 12th day of February, 1996.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9059, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 13 day of February, 1996.


Thomas R. Phillips
Chief Justice

CAUSE NO. _____

THE COMMISSION FOR LAWYER
DISCIPLINE

v.

JAMES M. SIMS

§
§
§
§
§
§

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

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 (the "CFLD"), complaining of Respondent James M. Sims ("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 and Supp. 1994), the Texas Disciplinary Rules of Professional Conduct, and the Texas Rules of Disciplinary Procedure. The complaints that form the basis of this Disciplinary Petition were filed on or after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent is a resident of and has his principal place of practice in 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 serve citation on Respondent at his business address located at 3220 Louisiana, Suite 102, Houston, Harris County, Texas 77006.

III.

On or about February 3, 1995, Jeffrey Wilkening (hereinafter called "Wilkening"), retained Respondent to represent him in a personal injury matter which occurred on January 30, 1995, at Wilkening's job. Respondent led Wilkening to believe that by signing the Representative Agreement he would advance him money until his case settled.

IV.

Wilkening was released from the hospital on February 9, 1995, and had to see several doctors for follow-up treatments on February 10, 1995. Wilkening was refused medical treatment because of no insurance coverage.

V.

On or around February 14, 1995, Wilkening went to Respondent's office to ask for help. Respondent's response to Wilkening was to remain with the doctors he had previously seen in the hospital, but even those doctors refused continued health care to Wilkening without insurance coverage. Thereafter, Wilkening never heard from Respondent about the status of his case.

VI.

Wilkening wrote Respondent on February 22, 28 and March 3, 1995, requesting Respondent release him from his contract. Respondent failed to reply to Wilkening's letters of request.

VII.

On March 13, 1995, Respondent wrote Wilkening a letter requesting Wilkening to schedule an appointment so they could discuss his case. On April 7, 1995 Wilkening filed a complaint with the Grievance Committee for the State Bar of Texas.

VIII.

On April 18, 1995 Respondent received notice of the grievance and failed to respond. On June 5, 1995 Respondent received a notice and a subpoena regarding the setting of a Grievance Committee hearing, and Respondent again failed to respond. In September 22, 1995, Respondent sent a letter to the State Bar of Texas with a release of interest in Wilkening's case.

IX.

The acts and/or omissions of the Respondent described above that occurred on or after January 1, 1990, constitute conduct in violation of Rules 1.01(b)(1), 1.03(a)(b), 1.05(b)(1), 8.01(b), and 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct ("TDRPC").

X.

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 Mr. Wilkening's filing of a complaint on or about April 12, 1995.

Prayer

WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent JAMES M. SIMS, as the facts shall warrant; and that the SBOT have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

Stephen D. Statham
Assistant General Counsel

Office of the General Counsel
STATE BAR OF TEXAS
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6931
Fax No. (713) 759-1932



STEPHEN D. STATHAM
State Bar No. 19082500

ATTORNEYS FOR PETITIONER



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
RAUL A. GONZALEZ
NATHAN L. HECHT
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

February 14, 1996

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

Mr. James M. Sims
3220 Louisiana, Suite 102
Houston, Texas 77006

Dear Mr. McCormack and Mr. Sims:

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 John K. Dietz, Judge of the 250th District Court, Austin, Texas to preside in

Commission for Lawyer Discipline v. James M. Sims

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

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WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

February 14, 1996

Honorable John K. Dietz
Judge, 250th District Court
P.O. Box 1748
Austin, Texas 78767-1748

Dear Judge Dietz:

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. Sims and Mr. McCormack, 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

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WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

February 14, 1996

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

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. James M. Sims, and a copy of the Supreme Court's order appointing the Honorable John K. Dietz, Judge of the 250th District Court, Austin, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. John K. Dietz
Mr. James M. Sims
Mr. James M. McCormack