

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 96- 9060**

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

The Supreme Court of Texas hereby appoints the Honorable John D. Gabriel, Jr., Judge of the 131st District Court of Bexar County, Texas, to preside in the Disciplinary Action styled:

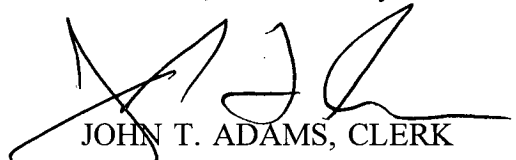
**The Commission for Lawyer Discipline v. Willie J. Rhodes**

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. (This assignment is separate and distinct from that made by Misc. Docket No. 96-9054.)

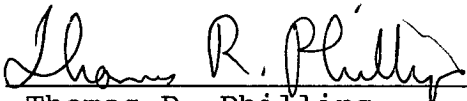
As ordered by the Supreme Court of Texas, in chambers,

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. 96-9060, 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	§	IN THE DISTRICT COURT OF
	§	
VS.	§	HARRIS COUNTY, TEXAS
	§	
WILLIE J. RHODES	§	_____ JUDICIAL DISTRICT

**DISCIPLINARY PETITION**

TO THE HONORABLE JUDGE OF THE COURT:

Petitioner the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas (the "CFLD"), complains of Respondent Willie J. Rhodes ("Respondent") as follows:

**I.**

**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.

**II.**

**Venue and Service**

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent has his principal place of practice and resides in Harris County, Texas, therefore venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure.

### III.

#### First Cause of Action

- A. On March 3, 1993, Peggy Ann Lewis (hereinafter "Lewis") was involved in an automobile accident with an uninsured motorist. On March 10, 1993, Lewis retained Respondent to represent her in an action against her insurance carrier.
- B. Lewis began medical treatment for her injuries shortly after the accident. Respondent assured Lewis that any bills resulting from the medical treatment would be covered by the settlement. In addition, by letter dated August 4, 1993, Respondent guaranteed HFE and Massotherapy Clinic of Texas that "the balance of your charges for treatment of our client, Ms. Peggy Lewis, arising out of the injuries sustained on or about March 3, 1993, will be protected out of any sums of money received through our office on behalf of Ms. Lewis, after our fees have been deducted."
- C. In settlement of Lewis' claim Respondent received four checks on behalf of Lewis from Lewis' insurer, the Government Employees Insurance Company. The checks received by Respondent on behalf of Lewis totaled \$5,300.00.
- D. Respondent withheld one third of the \$5,300.00 as his fee. In addition, Respondent withheld the funds belonging to Lewis' medical providers. Respondent assured Lewis that her medical bills would be paid with these funds.
- E. Some time after Respondent assured Lewis that he would pay Lewis' medical bills, Lewis received a telephone call from HFE and Massotherapy Clinic of

Texas. Lewis was informed that her bill for medical treatment was over due. Surprised by this, Lewis quickly called Respondent to inquire whether payment for her medical services was made. Respondent told Lewis that her case settled for close to nothing and that she would have to pay the medical bills.

- F. Concerned, Lewis began calling her other medical providers. To Lewis' disgust and surprise not one of her medical providers received payment for their services.
- G. The acts and/or omissions of the Respondent described in Paragraph III(A), (B), (C), (D), (E), and (F) above, which occurred on or after January 1, 1990, constitute conduct in violation of Rule 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct ("TDRPC").
- H. 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 Peggy Lewis' filing of a complaint on or about January 24, 1995.

#### IV.

##### Second Cause of Action

- A. On or about August 4, 1993, Respondent sent a letter of protection to HFE and Massotherapy Clinic of Texas.
- B. In the letter of protection Respondent confirmed "that the balance of your charges for treatment of our client, Ms. Peggy Lewis, arising out of the injuries sustained on or about March 3rd, 1993, will be protected out of any sums of money received through our office on behalf of Ms. Lewis, after our fees have been deducted."
- C. In settlement of Lewis' claim Respondent received four checks on behalf of Lewis from Lewis' insurer, the Government Employees Insurance Company. The checks received by Respondent on behalf of Lewis totaled \$5,300.00.
- D. Respondent withheld one third of the \$5,300.00 as his fee. In addition, Respondent withheld the funds belonging to Lewis' medical providers.
- E. However, Respondent did not pay HFE and Massotherapy Clinic of Texas the money owed them by Lewis.
- F. The acts and/or omissions of the Respondent described in Paragraph IV(A), (B), (C), (D), and (E)above, which occurred on or after January 1, 1990, constitute conduct in violation of Rule 1.14(b) of the Texas Disciplinary Rules of Professional Conduct ("TDRPC").

G. 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 Michael Graves' filing of a complaint on or about February 16, 1995.

**Prayer**

WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent, Willie J. Rhodes, as the facts shall warrant; and that the CFLD 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

Diego J. Vargas  
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

  
\_\_\_\_\_  
DIEGO J. VARGAS  
State Bar No. 00791847

ATTORNEYS FOR PETITIONER THE  
COMMISSION FOR LAWYER  
DISCIPLINE



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

EXECUTIVE ASST  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

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

February 15, 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. Willie J. Rhodes. and a copy of the Supreme Court's order appointing the Honorable John D. Gabriel, Jr., Judge of the 131st District Court, San Antonio, Texas, to preside in this Disciplinary Action. [Please note that this is a distinct case and assignment from that assignment made by Misc. Docket order No. 96-9054, dated February 12, 1996.]

Sincerely,

SIGNED

John T. Adams  
Clerk

cc: Hon. John D. Gabriel, Jr.  
Mr. Willie J. Rhodes  
Mr. James M. McCormack





THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

POST OFFICE BOX 12248      AUSTIN, TEXAS 78711

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CLERK  
JOHN T. ADAMS

JUSTICES  
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NATHAN L. HECHT  
JOHN CORNYN  
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ROSE SPECTOR  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

February 15, 1996

Honorable John D. Gabriel, Jr.  
Judge, 131st District Court  
Bexar County Courthouse  
100 Dolorosa  
San Antonio, Texas 78205

Dear Judge Gabriel:

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. Rhodes and Mr. McCormack, and a copy of the letter to the District Clerk of Harris County. \*[Please note that this is a separate and distinct case from that to which you are assigned by Misc. Docket No. 96-9054. You may or may not wish to consolidate.]\*

It is recommended that, six to eight weeks after receipt of this letter, you or your coordinator 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 (713-755-7593) 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

CLERK  
JOHN T. ADAMS

JUSTICES  
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February 15, 1996

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

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

Mr. Willie J. Rhodes  
2600 South Loop W., Suite 640  
Houston, Texas 77054-2644

Dear Mr. McCormack and Mr. Rhodes:

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 D. Gabriel, Jr., Judge of the 131st District Court, San Antonio, Texas to preside in

Commission for Lawyer Discipline v. Willie J. Rhodes

Sincerely,

**SIGNED**

John T. Adams  
Clerk