

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 96-9127**

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

The Supreme Court of Texas hereby appoints the Honorable Don Koons, Judge of the 255th District Court of Dallas County, Texas, to preside in the Disciplinary Action styled:


**The Commission for Lawyer Discipline v. Robert A. Forester**

to be filed in a District Court of Bexar County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Bexar 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.

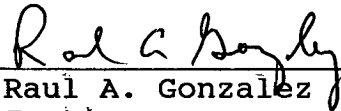
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City  
of Austin, this 13th day of May, 1996.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9127, is also an assignment pursuant to Texas Government Code §74.057.

Signed this 15<sup>th</sup> day of May, 1996.

A handwritten signature in cursive script, reading "Raul A. Gonzalez". The signature is written in dark ink and is positioned above a horizontal line.

Raul A. Gonzalez  
Justice  
(Tex. Gov't Code § 22.014)



# 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 ASS'T  
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

I hereby authorize the Honorable Raul A. Gonzalez, senior Justice of the Supreme Court of Texas, to sign certificates of eligibility of applicants for judicial retirement benefits, assignments of retired and former judges, and any other court documents which may require the signature of the Chief Justice of the Supreme Court, during my absence between May 13 and May 23, 1996, pursuant to Texas Government Code § 22.014.

May 6, 1996

  
Thomas R. Phillips  
Chief Justice

## § 22.014. Senior Justice Acting for Chief Justice

In the chief justice's absence, the justice with the most seniority on the supreme court may sign a court document for the chief justice if the chief justice has given that justice written authorization.

Added by Acts 1995, 74th Leg., ch. 356, § 1, eff. Aug. 28, 1995.

COPY

No. \_\_\_\_\_

COMMISSION FOR LAWYER  
DISCIPLINE

V.

ROBERT A. FORESTER

§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

BEXAR COUNTY, T E X A S

\_\_\_TH JUDICIAL DISTRICT

**DISCIPLINARY PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complaining of Respondent, ROBERT A. FORESTER, and in support thereof would respectfully show the Court the following:

**Parties**

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, ROBERT A. FORESTER, State Bar No. 07256550, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas. Respondent is a resident of San Antonio, Bexar County, Texas and may be served with process at 85 NE Loop 410, Suite 307, San Antonio, Bexar County, Texas 78216, his usual place of business.

**Venue**

Respondent maintains his principal place of practice in Bexar County, Texas. The alleged professional misconduct occurred in Bexar County, Texas. Accordingly, pursuant to Texas Rules of Disciplinary Procedure 3.03, venue is proper in Bexar County, Texas.

## Professional Misconduct

### I.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Gov't. Code Ann., Sec. 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 this action was filed on or about June 16, 1995. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

### Michelle Daniel Count

### II.

On or about July 23, 1993, Michelle Daniel hired Respondent for representation in a divorce action. On July 27, 1993, Ms. Daniel paid to Respondent the agreed fee of \$1,200.00. Although Respondent agreed to pursue temporary orders, Respondent neglected to obtain an agreement or obtain a ruling on the proposed temporary orders. Respondent also failed to file an answer to the divorce petition.

### III.

The final divorce hearing was set for October 18, 1993. Respondent failed to notify his client of the hearing date and failed to show up for trial resulting a default divorce decree being entered awarding custody of the minor child to the father. Respondent frequently failed to keep Ms. Daniel advised of the status of the case, failed to inform Ms. Daniel of the status of negotiations with opposing counsel, failed to inform Ms. Daniel of the effect of the entry of the default decree and failed to take steps necessary to mitigate the effects of his neglect.

## State Bar Count

### IV.

On or about August 4, 1995, Respondent received by mail a written request from District 10C Grievance Committee of the State Bar of Texas for information and a written response to the complaint filed by Ms. Daniel. Respondent failed to file a written response, failed to provide the requested information and failed to assert a valid privilege or other legal ground for his failure to respond.

## Texas Disciplinary Rules of Professional Conduct

### IV.

The conduct of Respondent described above constitutes violations of the following Disciplinary Rules

Rule 1.01(b)(1) -- In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Rule 1.01(b)(2) -- In representing a client, a lawyer shall not frequently fail to carry out completely the obligations that the lawyer owes to a client.

Rule 1.03(a) -- A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Rule 1.03(b) -- A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 8.04(a)(8) -- A lawyer shall not fail to timely furnish to a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he in good faith timely asserts a privilege or other legal ground for failure to do so.

**PRAYER**

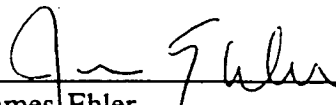
WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other relief to which it is entitled, including costs of court and attorney's fees.

Respectfully submitted,

James M. McCormack  
General Counsel

James Ehler  
Assistant General Counsel

Office of the General Counsel  
State Bar of Texas  
425 Soledad, Suite 300  
San Antonio, Texas 78205  
Telephone: (210) 271-7881  
Telecopier: (210) 271-9642

  
\_\_\_\_\_  
James Ehler  
State Bar No. 06484650  
ATTORNEYS FOR PETITIONER

# STATE BAR OF TEXAS



CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Z 372 312 419

Office of the General Counsel  
Regional Office  
Soledad Plaza West  
425 Soledad, Suite 300  
San Antonio, Texas 78205  
(210) 271-7881  
FAX: (210) 271-9642

March 15, 1996

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

RE: Commission for Lawyer Discipline v. Robert A. Forester; In the District Courts  
of Bexar County, Texas

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 Robert A. Forester. Mr. Forester has designated Bexar County 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 practices 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:

Robert A. Forester  
The Semler Atrium Building  
85 N.E. Loop 410, Suite 307  
San Antonio, Texas 78216

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 180 day deadline by which the case must be set for 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 and the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Kendall County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition returned to the undersigned.



Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Bexar County, Texas and a return envelope to be sent to the District Clerk of Bexar County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "J Ehler".

James Ehler  
Assistant General Counsel

Enclosures

JE/mc



# THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

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PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT

May 22, 1996

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

Mr. Robert A. Forester  
The Semler Atrium Building  
85 N.E. Loop 410, Suite 307  
San Antonio, Texas 78216

Dear Mr. McCormack and Mr. Forester:

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 Don Koons, Judge of the 255th District Court, Dallas, Texas to preside in

Commission for Lawyer Discipline v. Robert A. Forester

Sincerely,

SIGNED

Jchn T. Adams  
Clerk



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JAMES A. BAKER  
GREG ABBOTT

May 22, 1996

Honorable Don Koons  
Judge, 255th District Court  
George L. Allen Sr. Courts Building  
600 Commerce Street  
Dallas, Texas 75202

Dear Judge Koons:

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. Forester and Mr. McCormack, and a copy of the letter to the District Clerk of Bexar County.

It is recommended that, six to eight weeks after receipt of this letter, you or your coordinator contact the Bexar County Administrative Office (210-220-2300) to find out the district court to which this disciplinary case has been assigned, names and addresses of counsel, etc. We then recommend that, either before or immediately after you set the case for trial, you contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (210-769-3519) to reserve a courtroom, obtain a court reporter, obtain 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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JAMES A. BAKER  
GREG ABBOTT

May 22, 1996

The Honorable David J. Garcia  
District Clerk of Bexar County  
100 Dolorosa Street  
San Antonio, Texas 78205-1205

Dear Mr. Garcia:

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. Robert A. Forester, and a copy of the Supreme Court's order appointing the Honorable Don Koons, Judge of the 255th District Court, Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams  
Clerk

cc: Hon. Don Koons  
Mr. Robert A. Forester  
Mr. James M. McCormack