

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 96- 9150**

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

The Supreme Court of Texas hereby appoints the Honorable Burt Carnes, Judge of the 368th District Court of Williamson County, Texas, to preside in the Disciplinary Action styled:


**The Commission for Lawyer Discipline v. John M. McDermott**

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,

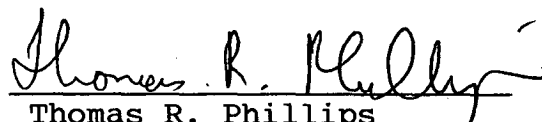
with the Seal thereof affixed at the City  
of Austin, this 3rd day of June, 1996.



JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9150, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 4 day of June, 1996.

A handwritten signature in cursive script, reading "Thomas R. Phillips". The signature is written in black ink and is positioned above a horizontal line.

Thomas R. Phillips  
Chief Justice

COPY

CAUSE NO. \_\_\_\_\_

COMMISSION FOR LAWYER DISCIPLINE

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IN THE DISTRICT COURT OF

v.

HARRIS COUNTY, TEXAS

JOHN M. MCDERMOTT

\_\_\_ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complains of Respondent JOHN M. McDERMOTT as follows:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. §81.001 *et seq.* (Vernon 1988), and the State Bar Rules. The complaint that 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 is 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 located at 6776 Southwest Freeway, Suite 150, Houston, Texas 77074.

III.

First Cause of Action

On or about May 26, 1994, Sherry Rouse retained Respondent, John M. McDermott. to represent her in a divorce. Rouse paid Respondent One Hundred Seventy-eight Dollars (\$178.00) in addition to filing fees. On November 29, 1994, Rouse asked Respondent to withdraw from her case. Rouse sent Respondent a certified letter on December 16, 1994 asking

for the papers indicating his withdrawal.

Respondent sent a Motion to Withdraw to Rouse on or about January 23, 1995. Rouse signed the document and returned it to Respondent. The Motion to Withdraw was filed with the Harris County District Clerk on or about February 15, 1995. Although a hearing on the Motion was set for April 18, 1995, Respondent did not obtain an Order granting the Withdrawal. As a result, the opposing attorney continued to send notice of all matters to Respondent, despite the fact that Respondent had been dismissed. Respondent failed to inform Rouse of the existence of these documents.

Rouse sent another certified letter to Respondent on or about July 28, 1995 to Respondent, and to the opposing counsel explaining that she had dismissed Respondent as her attorney. In response, Respondent sent Rouse another copy of the Motion to Withdraw. Rouse signed the Motion and returned it to Respondent by certified mail. Respondent received it on August 4, 1995.

Rouse inquired as to the status of the Motion to Withdraw on September 22, 1995, and discovered that Respondent had still not withdrawn from the case. Rouse contacted Respondent's office on September 22, 1995, and was informed that Respondent refused to withdraw until Rouse retained another attorney, despite the fact that Rouse had decided to represent herself.

In the fall of 1995 Respondent received notice from the Court that the case would be dismissed on November 16, 1995 if a court date had not been set by that date. Respondent failed to do anything to retain the case on the docket, although he was still the attorney of record for Sherry Rouse. The Court dismissed the case on November 16, 1995 for want of

prosecution.

Upon learning her case was dismissed, Rouse filed a Motion to Reinstate, which was granted on January 8, 1996. On that same date, the Court granted Respondent's Motion to Withdraw as attorney of record.

#### IV. Second Cause of Action

Godson C. Igwe retained Respondent on or about December 23, 1993 to obtain an uncontested divorce. Mr. Igwe paid Respondent his full fee of One Hundred Seventy-eight Dollars (\$178.00) at the time he retained Respondent's services. Between December 1993 and April 1994, Respondent failed to communicate with his client, Mr. Igwe, or to respond to Mr. Igwe's requests for information regarding the status of his case.

Mr. Igwe received notice from Respondent in April 1994 that his divorce hearing had been scheduled for April 15, 1994. Due to the misspelling of Complainant's name on the pleadings, Respondent had to reschedule the April 15 hearing. The hearing was rescheduled for April 28, 1994, and then to May 4, 1994.

On May 3, 1994, Mr. Igwe learned that the May 4, 1994 hearing had to be rescheduled. Mr. Igwe received no communication from Respondent until September, 1994.

The Court granted Mr. Igwe's divorce on September 28, 1994. Respondent did not obtain a written, signed Final Decree of Divorce until August 11, 1995 -- after Mr. Igwe filed his grievance with the State Bar of Texas against Respondent.

#### V.

The acts and/or omissions of the Respondent described in Paragraphs III and IV constitute conduct in violation of Rules 1.01(b)(1) [neglecting a legal matter entrusted to him];

1.01(b)(2) [frequently failing to carry out completely the obligations that Respondent owed to Mr. Igwe]; and 1.03(a) [failing to keep a client reasonably informed of the status of a matter and failing to promptly comply with a client's reasonable requests for information]; 1.15(a)(3) [a lawyer shall withdraw from the representation of a client if the lawyer is discharged, with or without good cause]; and 1.15(d) [upon termination of representation a lawyer shall take steps to the extent reasonably practicable to protect a clients' interests] of the Texas Disciplinary Rules of Professional Conduct.

#### V.

The complaints that form the basis of this cause of action were brought to the attention of the Office of the General Counsel of the State Bar of Texas by Sherry Price Rouse filing a complaint on or about September 29, 1995 and by Godson C. Igwe filing a complaint on or about June 29, 1995.

#### Prayer

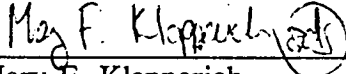
WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent John M. McDermott, by disbarment, suspension or reprimand as the facts shall warrant, and that the Petitioner have all other relief to which it may show itself to be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

Respectfully submitted,

James M. McCormack  
General Counsel

Mary F. Klapperich  
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

  
\_\_\_\_\_  
Mary F. Klapperich  
State Bar No. 11550700

ATTORNEYS FOR PETITIONER

# STATE BAR OF TEXAS



Office of the General Counsel

April 9, 1996

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

**Re: Commission for Lawyer Discipline v. John M. McDermott #2**

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 John M. McDermott. Mr. McDermott is a resident of Harris County, Texas. Request is hereby made that the Court appoint an active District Judge who does not reside in the Administrative Judicial Region in which Respondent resides to preside in this case. Upon appointment, request is hereby made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

John M. McDermott  
6776 Southwest Freeway, Ste. 150  
Houston, Texas 77074

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 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, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition be returned to the undersigned.



Mr. John T. Adams, Clerk  
Supreme Court of Texas  
April 9, 1996  
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Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Harris County, Texas, and a return envelope to be sent to the District Clerk of Harris County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,

Mary F. Klapperich 

Mary F. Klapperich  
Assistant General Counsel

MFK/gcp  
enclosures



## 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 ASST  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

June 5, 1996

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

Mr. John M. McDermott  
6776 Southwest Freeway, Suite 150  
Houston, Texas 77074

Dear Mr. McCormack and Mr. McDermott:

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 Burt Carnes, Judge of the 368th District Court, Georgetown, Texas to preside in

Commission for Lawyer Discipline v. John M. McDermott

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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CLERK  
JOHN T. ADAMS

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

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

June 5, 1996

Honorable Burt Carnes  
Judge, 368th District Court  
Criminal Justice Annex Building  
405 S. Martin Luther King Street., Box 8  
Georgetown, Texas 78626

Dear Judge Carnes:

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. McDermott 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

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

June 5, 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. John M. McDermott and a copy of the Supreme Court's order appointing the Honorable Burt Carnes, Judge of the 368th District Court, Georgetown, Texas, to preside in this Disciplinary Action.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

cc: Hon. Burt Carnes  
Mr. John M. McDermott  
Mr. James M. McCormack