

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 96- 9160**

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

The Supreme Court of Texas hereby appoints the Honorable John Robert Adamson, Judge of the 2nd District Court of Cherokee County, Texas, to preside in the Disciplinary Action styled:

**The Commission for Lawyer Discipline v. Morgan H. Johnson**

filed as No. 95-35518 in the 234th 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 for filing pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

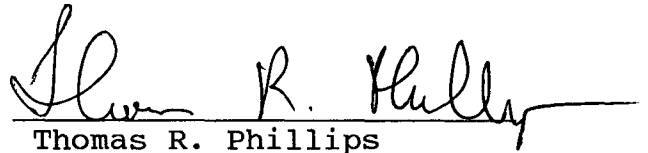
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City  
of Austin, this 26th day of June, 1996.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9160, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 27 day of June, 1996.

  
Thomas R. Phillips  
Chief Justice

# STATE BAR OF TEXAS



Office of the General Counsel

May 31, 1996

Mr. William L. Willis  
Executive Assistant  
The Supreme Court of Texas  
Post Office Box 12248  
Austin, Texas 78711

**RE: Cause No. 95-35518; Commission for Lawyer Discipline v. Morgan H. Johnson;  
In the 234th Judicial District Court of Harris County, Texas.**

Dear Mr. Willis:

I am writing to request that the court appoint yet another active district court judge who does not reside in the Administrative Judicial Region in which the Respondent, Morgan H. Johnson resides to preside in this case.

The Honorable Bill Bender, Judge of the 274th Judicial District Court was originally appointed on July 17, 1995 by the Supreme Court. On September 5, 1995, I received a letter from Judge Bender stating that he was recusing himself from this case due to a judicial grievance complaint pending against him. On April 29, 1996, the Supreme Court appointed the Honorable Robert Garza, Judge of the 138th Judicial District Court, to preside over this case. The Respondent, Morgan Johnson, has filed a timely objection to Judge Garza, pursuant to Section 74.053 of the Texas Government Code, and Part 3.02 of the Texas Rules of Disciplinary Procedure. A copy of his objection is enclosed.

I am sending you my response to the objection, in which I request that, pursuant to Part 3.02 of the Texas Rules of Disciplinary Procedure, the Supreme Court appoint another Judge to preside over this case within thirty (30) days. Frankly, I am at a loss as to how to properly present this matter to the Court. From my interpretation of the Rules of Disciplinary Procedure, the Supreme Court is the only court with jurisdiction to appoint a judge in disciplinary actions. Therefore, I have included an Order for the court, which contains the district court style, granting the objection and ordering another judge be appointed within thirty (30) days. Please let me know if you need a different type of Order for the Court.

Mr. William L. Willis  
Executive Assistant  
May 31, 1996  
PAGE 2

If you have any questions or comments, please do not hesitate to contact me or my legal assistant, Giovanna C. Phillips at the telephone number listed. Thank you for your assistance in this matter.

Sincerely yours,



Mary F. Klapperich  
Assistant General Counsel

MFK/rr  
enclosures

cc: Via Certified Mail No. Z 160 864 891 RRR  
Mr. Samuel R. Wilson  
Attorney for Respondent  
800 Gessner, Suite 254  
Houston, Texas 77024

Madeleine Clifton  
Alternate Trial Coordinator  
Civil District Courts  
301 Fannin, Room 510A  
Houston, Texas 77002

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

NO. 95-35518

COMMISSION FOR LAWYER  
DISCIPLINE

VS.

MORGAN H. JOHNSON

IN THE DISTRICT COURT OF

OF HARRIS COUNTY, TEXAS

234TH JUDICIAL DISTRICT

**RESPONDENT'S MOTION TO  
RECUSE VISITING JUDGE**

Now comes Morgan H. Johnson, herein called "Movant" and moves that the Court recuse the honorable Robert Garza from this case and shows the Court:

I

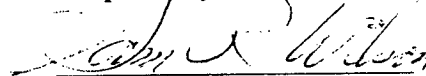
The Honorable Robert Garza is the presiding judge of the 138th district Court of Cameron County, Texas and he has been appointed to preside as visiting judge in the 234th District Court of Harris County, Texas for the purpose of hearing this case.

II

Pursuant to Texas Government Code Section 74.053, Movant objects to the visiting judge and seeks recusal pursuant to said Code Section.

WHEREFORE PREMISES CONSIDERED, Movant prays that the Honorable Robert Garza recuse himself from this case.

Respectfully Submitted,



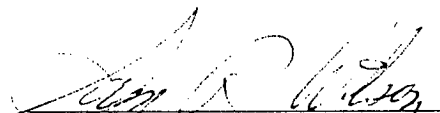
Sam R. Wilson  
Attorney for Movant  
800 Gessner, Suite 254  
Houston, Texas 77024  
(713) 464-8778  
Texas Bar 21721000

CERTIFICATE OF SERVICE

A True and correct copy of this motion has been served on all parties at interest by serving:

Ms. Mary F. Klapperich  
Attorney for Plaintiff  
Assistant General Counsel  
Office of the General Counsel  
1111 Fannin, suite 1370  
Houston, Texas 77002

on the 28 day of May, 1996.



**NO. 95-35518**

**COMMISSION FOR LAWYER  
DISCIPLINE**

**VS.**

**MORGAN H. JOHNSON**

**IN THE DISTRICT COURT OF**

**OF HARRIS COUNTY, TEXAS**

**234TH JUDICIAL DISTRICT**

**ORDER GRANTING RECUSAL**

It appearing to the Court that the motion of Morgan H. Johnson seeking recusal should be granted, it is ORDERED that the undersigned judge hereby recuses himself from this case.

Signed this \_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
Judge

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF  
vs. § HARRIS COUNTY, TEXAS  
MORGAN H. JOHNSON § 234th JUDICIAL DISTRICT

PETITIONER'S RESPONSE TO RESPONDENT'S  
MOTION TO RECUSE JUDGE

TO THE HONORABLE JUDGES OF THE SUPREME COURT OF TEXAS:

COMES NOW THE COMMISSION FOR LAWYER DISCIPLINE, Petitioner in the above-styled cause of action and files this Response to Respondent's Motion to Recuse Judge, and would show the following:

I.

This is an attorney disciplinary action brought pursuant to the 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. A Judge from outside Respondent's Administrative Judicial Region was appointed by this honorable Court to preside over this matter, and notice of the appointment of Judge Garza of the 138th District Court of Harris County, Texas was sent to the parties on or about April 23, 1996. The appointment of Judge Garza was made pursuant to Part 3.02 of the Texas Rules of Disciplinary Procedure.

II.

Respondent has filed a Motion to Recuse Judge Garza based on Texas Government Code Section 74.053, which states:

"(a) when a judge is assigned under this chapter the presiding judge shall, if it is reasonable and practicable and if time permits, give notice of the assignment to each attorney



representing a party to the case that is to heard in whole or part by the assigned judge.

(b) If a party to a civil case files a timely objection to the assignment, the judge shall not hear the case. Except as otherwise provided by Subsection (d), each party to the case is only entitled to one objection under this section for that case.

(c) An objection under this section must be filed before the first hearing or trial, including pretrial hearings, over which the assigned judge is to preside."

Respondent has timely filed his objection to Judge Garza, both pursuant to Section 74.053 of the Texas Government Code, and to Part 3.02 of the Texas Rules of Disciplinary Procedure. Therefore, Respondent's Objection to Judge Garza should be granted, and Respondent should be informed that, pursuant to Section 74.053(b), Respondent has used his one objection to the assigned judge, and is not entitled to another objection.

Petitioner would further add that the original appointment of Judge Bill Bender to this case occurred on July 13, 1995. Judge Bender voluntarily recused himself from this case for personal reasons, and this Court did not appoint another Judge to preside over this case until April 23, 1996. Petitioner respectfully requests that another Judge from outside Respondent's Administrative Judicial Region be assigned to this case within thirty (30) days, in accordance with part 3.02 of the Texas Rules of Disciplinary Procedure.

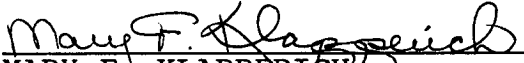
WHEREFORE, PREMISES CONSIDERED, Petitioner prays that Judge Garza be removed from presiding over this case, in accordance with Respondent's objection, and that a judge from outside the Respondent's Administrative Judicial Region be appointed within thirty (30) days.

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) 752-2158

  
MARY F. KLAPPERICH  
State Bar No. 11550700

ATTORNEYS FOR PETITIONER

**CERTIFICATE OF SERVICE**

I hereby certify that the original of Commission for Lawyer Discipline's *Response to Respondent's Motion to Recuse visiting Judge* has been forwarded to the attorney of record for Morgan H. Johnson, Mr. Sam R. Wilson, Memorial City Plaza, Tower One, 800 Gessner, Suite 254, Houston, Texas 77024, by placing same in the United States Mail, certified, return receipt requested, on the 31st day of May, 1996.

  
MARY F. KLAPPERICH

NO. 95-35518

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF  
vs. § HARRIS COUNTY, TEXAS  
MORGAN H. JOHNSON § 234th JUDICIAL DISTRICT

ORDER

On the \_\_\_\_\_ day of \_\_\_\_\_, 1996, came to be heard Respondent's Motion to Recuse Visiting Judge. After considering the pleadings and arguments of counsel, the Court is of the opinion that the Respondent, Morgan H. Johnson, has made an objection to the appointed judge, the Honorable Robert Garza of the 238th District Court of Cameron County, Texas, pursuant to Section 74.053(b) of the Texas Government Code. This Court further finds that the Respondent, cannot object to any future appointment of a visiting judge pursuant to Section 74.053 of the Texas Government Code.

It is therefore, ORDERED that the Honorable Robert Garza of the 138th Judicial District Court of Cameron County, Texas be removed from presiding over this cause of action, and that this Court appoint another judge within thirty (30) days, pursuant to Part 3.02 of the Texas Rules of Disciplinary Procedure.

By the Court, en banc, in chambers, this the \_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
Thomas R. Phillips, Chief Justice

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Raul A. Gonzalez, Justice

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Nathan L. Hecht, Justice

---

John Cornyn, Justice

---

Craig Enoch, Justice

---

Rose Spector, Justice

---

Priscilla R. Owens, Justice

---

James A. Baker, Justice

---

Greg Abbott, Justice

COPY

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

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
MORGAN H. JOHNSON	§	____ 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, complaining of Respondent, Morgan H. Johnson, 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 with the State Bar of Texas on or 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 1418 Washington Avenue, Houston, Harris County, Texas 77002.

III.

Respondent, Morgan H. Johnson, represented Be Van Duong in a paternity suit. After paternity testing was completed, Respondent gave Elba Monterroza, the plaintiff in the suit, and

mother of the child in question, an affidavit to execute. Respondent told Ms. Monterroza that the affidavit was only to give his client, Be Van Duong, visitation rights to the child. The affidavit was written in English. Ms. Monterroza cannot read English and did not understand that the affidavit gave full custody of the child the subject of the lawsuit to the father, Respondent's client. At the time he had Ms. Monterroza sign the affidavit, Respondent knew or should have known that she did not understand the affidavit.

#### IV.

By misrepresenting the contents of the affidavit to Elba Monterroza, Respondent engaged in conduct involving deceit, dishonesty, fraud and misrepresentation in violation of Rule 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

#### V.

The complaint which forms the basis of this lawsuit as hereinabove set forth was brought to the attention of the Office of the General Counsel of the State Bar of Texas by the filing of a complaint February 9, 1993.

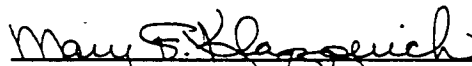
#### PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent, Morgan H. Johnson, be disciplined by reprimand, suspension, or disbarment, as the facts shall warrant; and that Petitioner have such other and further relief to which 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) 759-6932  
(713) 759-1932 FAX

  
**MARY F. KLAPPERICH**  
State Bar No. 11550700

**ATTORNEYS FOR 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

July 17, 1995

CLERK  
JOHN T. ADAMS

EXECUTIVE ASS'T.  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.  
NADINE SCHNEIDER

JUSTICES  
RAUL A. GONZALEZ  
JACK HIGHTOWER  
NATHAN L. HECHT  
JOHN CORNYN  
BOB GAMMAGE  
CRAIG ENOCH  
ROSE SPECTOR  
PRISCILLA R. OWEN

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

Mr. Morgan H. Johnson  
1418 Washington Ave.  
Houston, Texas 77002

Dear Mr. McCormack and Mr. Johnson:

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 Morgan H. Johnson, Judge of the 274th District Court, Seguin, Texas to preside in

Commission for Lawyer Discipline v. Morgan H. Johnson

Sincerely,

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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CRAIG ENOCH  
ROSE SPECTOR  
PRISCILLA R. OWEN

July 17, 1995

Honorable Bill Bender  
Judge, 274th District Court  
Guadalupe County Courthouse  
101 East Court Street  
Seguin, Texas 78155

Dear Judge Bender:

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. Johnson 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 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 (713-755-6593) 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,

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

TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASST  
WILLIAM L. WILLIS

ADMINISTRATIVE ASST  
NADINE SCHNEIDER

July 3, 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: Docket No. 95-35518 The Commission for Lawyer Discipline v. Morgan H. Johnson, filed in the 234th District Court of Harris County, a copy of the Supreme Court's order appointing the Honorable John Robert Adamson, Judge of the 2nd District Court, Rusk, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams  
Clerk

cc: Hon. John Robert Adamson  
Ms. Morgan H. Johnson  
Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK  
JOHN T. ADAMS

JUSTICES  
RAUL A. GONZALEZ  
NATHAN L. HECHT  
JOHN CORNYN  
CRAIG ENOCH  
ROSE SPECTOR  
PRISCILLA R. OWEN  
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EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

July 3, 1996

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

Mr. Morgan H. Johnson  
c/o Samuel R. Wilson  
800 Gessner, Suite 254  
Houston, Texas 77024

Dear Mr. McCormack and Mr. Johnson:

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 Robert Adamson, Judge of the 2nd District Court, Rusk, Texas to preside in

Commission for Lawver Discipline v. Morgan H. Johnson

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

TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

July 3, 1996

Honorable John Robert Adamson  
Judge, 2nd District Court  
Cherokee County Courthouse  
502 North Main Street  
Rusk, Texas 75785

Dear Judge Adamson:

We enclose for your information a copy of the order of assignment, a copy of the notification letter to Mr. Johnson and Mr. McCormack, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, soon after receipt of this letter, your coordinator contact the parties for a scheduling conference. At some point thereafter, your coordinator should 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