

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9237

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

The Supreme Court of Texas hereby appoints the Honorable James R. Wilson, Judge of the 371st District Court of Tarrant County, Texas, to preside in the Disciplinary Action styled:

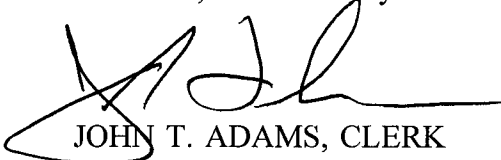
The Commission for Lawyer Discipline v. George Robert Neely

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.

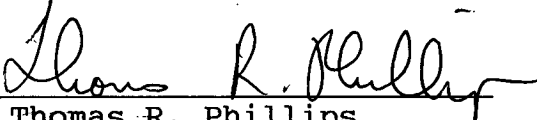
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 22nd day of October, 1996.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9237, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 23 day of October, 1996.


Thomas R. Phillips
Chief Justice

STATE BAR OF TEXAS



Office of the General Counsel

September 5, 1996

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

RE: Commission for Lawyer Discipline v. George Robert Neely

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 George Robert Neely. George Robert Neely has designated Harris County, Texas 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 hereby made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

George Robert Neely
Attorney at Law
1018 Preston, Suite 250
Houston, Texas 77002
Harris County, Texas

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 Civil Case Information Sheet, and the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris

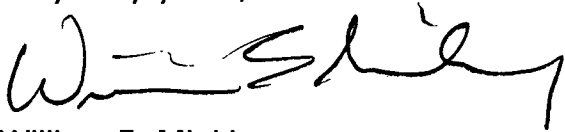
Mr. John T. Adams, Clerk
Supreme Court of Texas
September 5, 1996
Page 2

County, Texas, with the request that the suit be filed, citation be issued, and citation, along with a file-stamped copy of the petition be returned to the undersigned.

Also enclosed is a pre-addressed envelope for your use in transmitting the above referenced documents 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,



William E. Minkley
Chief Trial Attorney

WEM:lac/enclosures

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
V. § HARRIS COUNTY, TEXAS
GEORGE ROBERT NEELY § _____ 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 (hereinafter called "Petitioner"), complaining of Respondent GEORGE ROBERT NEELY, (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, the 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 form the basis of this Disciplinary Petition was 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 Harris County, Texas and Respondent's principal place of practice is Harris County, Texas. 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 1018 Preston, Suite 250, Houston, Harris County, Texas 77002.

TO CLERK: "FILE MARK THIS
COPY AND RETURN"

III.

Peggy Ann Glass hired Respondent to represent her in a divorce action styled *In the Matter of the Marriage of Peggy Ann Glass and Dale Steen Glass*, Cause No. 90-013893, in the 308th Judicial District Court of Harris County, Texas. The Decree of Divorce, entered in Volume 5545, pages 0374 through 0386 in the minutes of the Court, contained a complete description of all community and separate property of Peggy Ann Glass and her former spouse, Dale Steen Glass. On or about August 10, 1990, the Court granted and signed the Decree of Divorce based upon a compromise settlement agreement executed by all parties with particular reference given to the division of assets, liabilities, and community property.

IV.

After the divorce was granted, Respondent filed a Motion for New Trial in Cause No. 90-013893 on or about September 10, 1990. Respondent alleged that Dale Glass had acquired certain real estate in Gonzales County, Texas during his marriage to Peggy Glass which had not been recognized and divided as community property. Respondent pursued the allegation notwithstanding the fact that Dale Glass had previously given sworn deposition testimony that the property in question was acquired by gift in approximately 1980 or 1981, prior to his marriage to Peggy Ann Glass. That fact was not controverted by Respondent and was approved by Peggy Ann Glass in the Statement of Facts documenting the agreed settlement.

On September 19, 1990, Respondent prepared and sent a post-trial settlement offer to Dale Glass's attorneys, and demanded that it be immediately accepted. Respondent threatened that if the offer was not accepted, litigation would be filed against the lawyers representing Dale Steen Glass, his mother, a Gonzales, Texas bank, and a certified public accountant.

V.

Subsequent to sending the letter, Respondent filed several legal pleadings that the trial court ultimately determined were groundless, filed in bad faith, frivolous in nature, and were solely for the purposes of harassment and delay. These post-judgment pleadings filed by Respondent included: (1) Documents styled as Motion for Sanctions and for an Order of Contempt in *Cause No. 90-013893* against Dale Glass, Thomas K. Robinson, and Miller, Miller & Robinson, filed on or about September 20, 1990; (2) First Amended Original Petition for Divorce, filed on or about September 20, 1990; (3) Amended Motion for New Trial, filed on or about September 21, 1990; (4) First Supplement to Petitioner's Amended Motion for New Trial, filed on or about October 1, 1990; (5) Supplement to Petitioner's Motion for New Trial, filed on or about October 2, 1990; and (6) Supplemental Exhibits to Petitioner's Motion for New Trial, filed on or about October 3, 1990.

As a result of Respondent filing these groundless post-judgment pleadings on behalf of his client, Dale Glass was required to retain counsel to defend the allegations, appear with counsel at the hearings thereon, file several responsive pleadings, and incur attorney fees and expenses. The responsive pleadings filed by Dale Glass included: (1) Response to the Motion for Sanctions and for an Order of Contempt; (2) Motion to Strike Amended Motion for New Trial; (3) Amended Response to Motion for New Trial; (4) Motion to Strike Amended Motion for New Trial; (5) Motion to Strike First Supplement to Petitioner's Amended Motion for New Trial; (6) Motion to Strike Supplemental Exhibits to Petitioner's Amended Motion for New Trial; and (7) Motion to Strike Supplement to Petitioner's Motion for New Trial.

VI.

Respondent had knowledge that the post-judgment pleadings were not warranted by a good faith argument for the extension, modification, or reversal of existing law. Furthermore, Respondent threatened third parties with legal action that was meritless and had no basis in law or in fact. As a result, the trial court found that the post-judgment pleadings filed by Respondent were in violation of Rule 13 of the Tex.R.Civ.P. entitled "Effect of Signing of Pleadings, Motions and Other Papers; Sanctions," which provides the following:

The signatures of attorneys or parties constitute a certificate by them that they have read the pleading, motion, or other paper; that to the best of their knowledge, information and belief formed after reasonable inquiry the instrument is not groundless and brought in bad faith or groundless and brought for the purpose of harassment... "Groundless" for purposes of this rule means no basis in law or fact and not warranted by good faith argument for the extension, modification, or reversal of existing law.

VII.

The acts and/or omissions of the Respondent in bringing a frivolous proceeding and misrepresenting matters filed by Respondent, as described in Paragraphs IV and V above, which occurred on or after January 1, 1990, constitute conduct in violation of Rule(s) 3.01 and 8.04 of the Texas Disciplinary Rules of Professional Conduct.

VII.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel by the State Bar of Texas' filing a complaint against the actions of the Respondent on or about February 2, 1993.

PRAYER

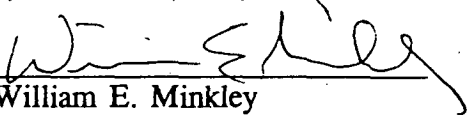
WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent, GEORGE ROBERT NEELY, by disbarment, suspension, or reprimand, as the facts shall warrant; and that the Petitioner have all other relief to which it may show itself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

Respectfully submitted,

Steven W. Young
Interim General Counsel

William E. Minkley
Chief Trial Counsel

Office of the General Counsel
STATE BAR OF TEXAS
400 West 15th Street, Suite 1500
P.O. Box 12487
Austin, Texas 78711
1-800-204-2222
(512) 477-4607 (FAX)

By: 
William E. Minkley
State Bar Card No. 14181000

ATTORNEY FOR THE PETITIONER
STATE BAR OF TEXAS



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

October 25, 1996

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

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

Mr. William E. Minkley
Assistant General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. George Robert Neely
1018 Preston, Suite 250
Houston, Texas 77002

Dear Mr. Minkley and Mr. Neely:

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 James R. Wilson, Judge of the 371st District Court, Fort Worth, Texas to preside in

Commission for Lawyer Discipline v. George Robert Neely

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

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
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CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

October 25, 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. George Robert Neely and a copy of the Supreme Court's order appointing the Honorable James R. Wilson, Judge of the 371st District Court, Fort Worth, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. James R. Wilson
Mr. George Robert Neely
Mr. William Minkley



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 ASST
NADINE SCHNEIDER

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

October 25, 1996

Honorable James R. Wilson
Judge, 371st District Court
Justice Center
401 West Belknap Street
Fort Worth, Texas 76196-0225

Dear Judge Wilson:

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. Neely and Mr. Minkley, 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 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 [409 538-8176] 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