

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 97- 9103

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

The Supreme Court of Texas hereby appoints the Honorable Robert McCoy, Judge of the 48th District Court of Tarrant County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Diantha Garrett Brennan

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 10th day of June, 1997.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9103, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 10 day of June, 1997.

A handwritten signature in cursive script, appearing to read "Thomas R. Phillips", written over a horizontal line.

Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
v.	§	HARRIS COUNTY, TEXAS
DIANTHA GARRETT BRENNAN	§	_____ JUDICIAL DISTRICT
	§	

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

The COMMISSION FOR LAWYER DISCIPLINE ("Petitioner") a permanent committee of the State Bar of Texas, pursuant to the authority of an investigatory panel for State Bar District Number 4E files this Disciplinary Petition complaining of **DIANTHA GARRETT BRENNAN** ("Respondent"), an attorney licensed to practice law in the State of Texas, showing the Court as follows:

1. NATURE OF PROCEEDING

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 complaints that form the basis of this Disciplinary Petition were filed on or after May 1, 1992.

2. VENUE

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. 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.

3. ISSUANCE OF CITATION REQUESTED

3.01 Petitioner requests that citation be issued and forwarded to: Jeannette Duer, 1111 Fannin, Suite 1370, Houston, Texas 77002, for service by an individual processor.

3.02 Respondent may be served at her business address located at 210 Texas Banc Savings Building, Humble, Harris County, Texas, 77338.

4. PURSUANT TO PART III OF THE TEXAS RULES OF DISCIPLINARY PROCEDURE, PETITIONER REQUESTS THIS COURT TO DISCIPLINE BRENNAN FOR ACTS OF PROFESSIONAL MISCONDUCT.

4.01 BRENNAN ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULE OF PROFESSIONAL CONDUCT 1.01(b)(1)

(A) On or about June 1993, **SHIRLEY A. LANGE** ("Complainant") retained the services of the Respondent to represent her in a divorce matter.

(B) Between June 1993 and March 1995, Complainant paid Respondent Three Thousand Six Hundred Thirty-Two Dollars (\$3,632.00) in legal fees.

(C) Between April 1995 and July 1995, there was no communication from Respondent to Complainant. Respondent led the Complainant to believe that the case was being pursued when, in

fact, Respondent failed to take necessary action on behalf of Complainant.

- (D) On or about June 1, 1995, Complainant's case was set for trial and Respondent failed to notify Complainant of the June 14, 1995, trial setting.
- (E) Respondent then failed to appear at a June 14, 1995, trial setting on behalf of Complainant. A default judgment regarding Complainant's divorce action was entered against Complainant at that trial setting.
- (F) Complainant was forced to retain other counsel at a cost of Eight Hundred Forty-Two Dollars and Fifty Cents (\$842.50), to have the default judgment set aside that was rendered on June 14, 1995.

4.02 BRENNAN ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULE OF PROFESSIONAL CONDUCT 1.03(a).

- (A) On or about June 1995, Complainant's case was set for trial on June 14, 1995; and Respondent failed to notify Complainant or appear on behalf of Complainant at that trial setting.

4.04 BRENNAN ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULE OF PROFESSIONAL CONDUCT 8.04(a)(11).

- (A) When Complainant retained Respondent's legal services, Respondent had been administratively suspended since September 1, 1994, from the practice of law for failing to pay her bar dues.
- (B) Respondent remained administratively suspended throughout the entire legal relationship, and until Complainant hired another counsel to set aside the default judgment rendered against Complainant.

5. PRAYER

Petitioner respectfully prays that this Court discipline Respondent 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 attorneys' fees.

Respectfully submitted,

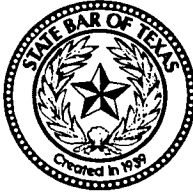
Steven W. Young
General Counsel

STATE BAR OF TEXAS
1111 Fannin, Suite 1370
Houston, Texas 77002
Phone: (713) 759-6931
Fax No.: (713) 752-2158



JEANNETTE M. DUER
State Bar No. 00793645
ATTORNEYS FOR PETITIONER/ THE
COMMISSION FOR LAWYER
DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

April 30, 1997

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

Re: Commission for Lawyer Discipline v. Diantha Garrett Brennan

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 Diantha Garrett Brennan. Ms. Brennan has designated Harris County, Texas as her 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:

***Diantha Garrett Brennan
210 Travis
Banc Savings Building
Humble, Harris County, Texas, 77338***

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 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.

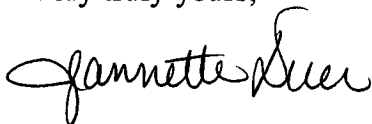
Also enclosed is a pre-addressed envelope for your use in transmitting the above referenced documents to the District Clerk of Harris County, Texas, and a return envelope to be sent to

Mr. John T. Adams, Clerk
Supreme Court of Texas
April 30, 1997
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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,

A handwritten signature in cursive script that reads "Jeannette M. Duer". The signature is written in black ink and is positioned above the printed name and title.

Jeannette M. Duer
Assistant General Counsel

JMD/sr
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 ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

Ms. Jeannette M. Duer
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Ms. Diantha Garrett Brennan
Banc Savings Building
201 Travis
Humble, Texas 77338

Dear Ms. Duer and Ms. Brennan:

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 Robert McCoy, Judge of the 48th District Court of Fort Worth, Texas to preside in

Commission for Lawyer Discipline v. Diantha Garrett Brennan

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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GREG ABBOTT

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

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. Diantha Garrett Brennan, and a copy of the Supreme Court's order appointing the Honorable Robert McCoy, Judge of the 48th District Court of Fort Worth, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Robert McCoy
Ms. Diantha Garrett Brennan
Ms. Jeannette M. Duer



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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JOHN T. ADAMS

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PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

Honorable Robert McCoy
Judge, 48th District Court
Justice Center
401 W. Belknap Street
Fort Worth, Texas 76196-0221

Dear Judge McCoy:

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 Ms. Brennan and Ms. Duer, 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