

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 97- 9197**

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

The Supreme Court of Texas hereby appoints the Honorable Stella Saxon, Judge of the 218th District Court of Karnes County, Texas, to preside in the Disciplinary Action styled:


**The Commission for Lawyer Discipline v. Richard A. Fielder**

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

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

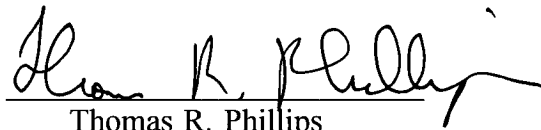
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City  
of Austin, this 6th day of November, 1997.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9197, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 13 day of November, 1997.

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

Thomas R. Phillips  
Chief Justice

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

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
V.	§	CALDWELL COUNTY, TEXAS
	§	
RICHARD A. FIELDER	§	_____ 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 (hereinafter called "Petitioner"), complaining of Respondent, Richard A. Fielder, (hereinafter called "Respondent"), 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 on or after October 3, 1996.

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 Caldwell County, Texas. A constable, sheriff, or authorized process server may serve citation on Respondent at his business address located at Market Street Office Building, 102 East Market Street, Lockhart, Caldwell County, Texas.

### III.

On or about December 6, 1995, Robert J. Carter (hereinafter called "Complainant"), hired Respondent to represent him in a lawsuit for an accounting and payment of oil royalties. A retainer of \$2,500.00 was paid to the Respondent.

Subsequent to hiring Respondent, Complainant received no communication from Respondent despite numerous attempts to reach him. Telephone messages were left with Respondent's secretary by the Complainant and his son, Stuart Carter, but Respondent failed to return any of the calls.

On or about March 29, 1996, the Complainant called Respondent and left a message with his secretary, informing him that he no longer required his services and requested a refund of the retainer Respondent had been paid. A certified letter to this affect was forwarded to Respondent and was received by his office in Lockhart, Texas, on or about April 10, 1996. No response was received from Respondent.

Complainant hired attorney, William L. Knobles (hereinafter called "Knobles"), to pursue the lawsuit on or about April 22, 1996. On August 25, 1996, Knobles called Respondent and requested the Complainant's file, and a refund of the unearned portion of the retainer. The file and refund were not sent. Thereafter, on or about June 18 and August 8, 1996, two additional letters were sent to Respondent reiterating the request. Respondent sent Nobles a portion of the file by letter dated November 26, 1996.

Respondent failed to refund the unearned portion of the Complainant's retainer until specifically requested to do so by the investigatory panel of the District Grievance Committee with

jurisdiction of this complaint at its January 16, 1997 hearing.

When testifying before the District Grievance Committee about this case, Respondent stated that he had made numerous telephone calls and had sent written correspondence to the Complainant. Respondent's testimony in this regard was untruthful and amounts to material misrepresentations of fact.

#### IV.

By his conduct in neglecting to communicate properly with Complainant, Robert J. Carter, the Respondent committed professional misconduct in violation of 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] of the Texas Disciplinary Rules of Professional Conduct and Part 1.06(Q) of the Texas Rules of Disciplinary Procedure.

By his conduct in failing to return Complainant's file, Respondent committed professional misconduct in violation of Rule 1.15(d) [upon termination of representation, a lawyer shall take steps reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned] of the Texas Disciplinary Rules of Professional Conduct and Part 1.06(Q) of the Texas Rules of Disciplinary Procedure.

By his conduct Respondent knowingly made a material misrepresentation to a tribunal and committed professional misconduct in violation of Rule 8.01(a) [shall not knowingly make a false statement of material fact] and 8.04(a)(3) [a lawyer shall not engage in conduct involving

dishonesty, fraud, deceit or misrepresentation] of the Texas Disciplinary Rules of Professional Conduct and Part 1.06(Q) of the Texas Rules of Disciplinary Procedure.

**PRAYER**


WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

Steven W. Young  
General Counsel

Brian L. Plotts  
Assistant General Counsel

Office of the General Counsel  
State Bar of Texas  
400 West 15th Street Suite 1500 (78701)  
P.O. Box 12487  
Austin, Texas 78711-2487  
512/463-1463  
512/477-4607 (FAX)

  
Brian Plotts  
State Bar Card No.16074050

ATTORNEYS FOR PETITIONER  
COMMISSION FOR LAWYER DISCIPLINE

# STATE BAR OF TEXAS



Office of the General Counsel

September 3, 1997

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

Re: Commission for Lawyer Discipline v. Richard A. Fielder

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 Richard A. Fielder. Mr. Fielder has designated Caldwell 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 resides 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:

Richard A. Fielder  
Market Street Office Building  
102 East Market Street  
Lockhart, Caldwell 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 filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Caldwell County, Texas, with the request that the suit be filed, service be obtained, and a file-marked copy of the petition be returned to the undersigned.

Mr. John Adams  
September 3, 1997  
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Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Caldwell County, Texas, and a return envelope to be sent to the District Clerk of Caldwell County, Texas, for the Clerk's use in returning a file-marked copy of the Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian Plotts', with a stylized flourish at the end.

Brian Plotts  
Assistant General Counsel

BP:aa\g:\general\fielder\corr\adams8.28

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

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

NOV 21 1997

Honorable Stella Saxon  
Judge, 218th District Court  
101 N. Panna Maria Avenue, #2  
Karnes City, Texas 78118-2930

Dear Judge Saxon:

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. Fielder and Mr. Plotts, and a copy of the letter to the District Clerk of Caldwell County.

We then recommend that, four or five weeks after receipt of this letter, you or your coordinator contact the presiding judge or the District Clerk of Caldwell County 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 date for trial, the judge or coordinator of that court be contacted 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 (210-379-8556) 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

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JAMES A. BAKER  
GREG ABBOTT

NOV 21 1997

The Honorable Emma Jean Schulle  
District Clerk of Caldwell County  
P.O. Box 739  
Lockhart, Texas 78644

Dear Ms. Schulle:

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. Richard A. Fielder, and a copy of the Supreme Court's order appointing the Honorable Stella Saxon, Judge of the 218th District Court, Karnes City, Texas, to preside in this Disciplinary Action.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

cc: Hon. Stella Saxon  
Mr. Richard A. Fielder  
Mr. Brian L. Plotts



## THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

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GREG ABBOTT

NOV 21 1997

Mr. Brian L. Plotts  
Assistant General Counsel, State Bar of Texas  
400 West 15th Street, Suite 1500  
P.O. Box 12487  
Austin, Texas 78711-2487

Mr. Richard A. Fielder  
Market Street Office Building  
102 East Market Street  
Lockhart, Texas 78644

Dear Mr. Plotts and Mr. Fielder:

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 Stella Saxon, Judge of the 218th District Court, Karnes City, Texas to preside in

Commission for Lawyer Discipline v. Richard A. Fielder

Sincerely,

**SIGNED**

John T. Adams  
Clerk