

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 97- 9225

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

The Supreme Court of Texas hereby appoints the Honorable Mary Roman, Judge of the 175th District Court of Bexar County, Texas, to preside in the Disciplinary Action styled:

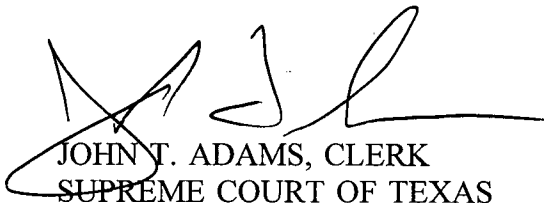
The Commission for Lawyer Discipline v. C. Tom Zarrati

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.

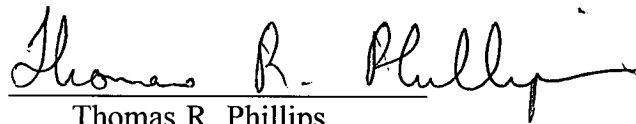
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 10th day of December, 1997.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9225, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 11 day of December, 1997.

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

Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINES

IN THE DISTRICT COURT OF

VS

§

_____ COUNTY, TEXAS

§

C. TOM ZARATTI

§

_____ JUDICIAL DISTRICT

§

ORIGINAL 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, C. Tom Zaratti, 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 7434 Darnell, Houston, Harris County, Texas 77074.

III.

On or about February 18, 1997, Respondent appeared in the 309th Judicial District Court of Harris County, Texas to testify as a witness in Cause No. 96-35886,

styled *In the Matter of the Marriage of C. Tom Zaratti and Susan Lorraine Zaratti, and in the Interest of Brandon Christian Zaratti, a minor child.* At the hearing, Respondent testified that the Complainant, Sarah Jane Keith, had engaged in unsavory conduct. Respondent's allegations to the court about Sarah Jane Keith were false and made only out of malice toward Sarah Jane Keith.

IV.

By testifying to untrue allegations regarding the character of Sarah Jane Keith, Respondent engaged in conduct in violation of Rules 3.03(a)(1)[a lawyer shall not knowingly make a false statement of material fact or law to a tribunal]; 8.04(a)(1)[a lawyer shall not violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship]; 8.04(a)(2)[a lawyer shall not commit a serious crime or commit any other criminal act that reflected adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects]; 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 of Rule 1.06(Q) of the Texas Rules of Disciplinary Procedure.

V.

The complaint which forms the basis of the allegations contained in Paragraphs III and IV 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 by Sarah Jane Keith on or about March 11, 1997.

VI.

On or about February 24, 1997, Barbara Hollins called attorney Nancy Chilivetis about representation in a criminal matter. Ms. Hollins had spoken with Nancy Chilivetis over the weekend and decided to appear in the County Criminal Court Number 7 of Harris County, Texas, on February 24, 1997, obtain a resetting of her case, and hire Ms. Chilivetis.

On Monday afternoon, February 24, 1997, Ms. Chilivetis again spoke with Barbara Hollins. Ms. Hollins informed Ms. Chilivetis that an attorney named C. Tom Zaratti had approached Ms. Hollins and her husband in court and inquired as to whether they had hired an attorney. Ms. Hollins told Respondent, C. Tom Zaratti, that she intended to reset her case and hire Ms. Chilivetis. Respondent then advised Ms. Hollins not to hire Ms. Chilivetis because she was not board certified in criminal law and that Ms. Chilivetis could not do anything for Ms. Hollins. Respondent, in his conversation with Ms. Hollins and John Madison implied that he was board certified in criminal law. Respondent is not board certified in criminal law by the Texas Board of Legal Specialization. Both Ms. Hollins and her husband, John Madison, stated Respondent told them he had more clients and made more money than Ms. Chilivetis and tried to persuade them to hire him. Respondent, in his manner and speech, implied that the professional legal services of Nancy Chilivetis were inferior. This led to the creation of unjustified expectations by Ms. Hollins and Mr. Madison, potential clients of Respondent.

VII.

By attempting to influence Barbara Hollins and John Madison to hire him to

represent Ms. Hollins, Respondent engaged in conduct in violation of Rules 7.02(a) [a lawyer shall not make a false or misleading communication about the qualifications of the services of any lawyer or firm]; 7.03(a)[a lawyer shall not by in-person or telephone contact seek professional employment concerning a matter arising out of a particular occurrence or event, from a prospective client or nonclient who has not sought the lawyer's advice regarding employment or with whom the lawyer has no family or past or present attorney-client relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain]; and 8.04(a)(1)[a lawyer shall not violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship]of the Texas Disciplinary Rules of Professional Conduct, and of Rule 1.06(Q) of the Texas Rules of Disciplinary Procedure.

VIII.

The complaint which forms the basis of the allegations contained in Paragraphs VI and VII 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 by Nancy Chilivets on or about March 3, 1997.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent, C. Tom Zaratti, 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.

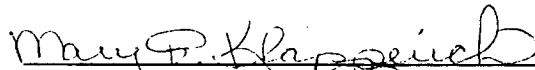
Respectfully submitted,

Steven W. Young
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) 752-2158 FAX



MARY F. KLAPPERICH

State Bar of Texas No. 11550700

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the General Counsel

November 6, 1997

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

Re: Commission for Lawyer Discipline v. C. Tom Zaratti

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 C. Tom Zaratti. Mr. Zaratti 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:

Mr. C. Tom Zaratti
Attorney-at-Law
7434 Darnell
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, citation be issued, and the citation, alone with a file-stamped copy of the petition, be returned to the undersigned.

Mr. John T. Adams, Clerk
Supreme Court of Texas
November 6, 1997
PAGE 2

I have enclosed a pre-addressed envelope for your use in transmitting the above reference 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 file-stamped 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
Assistant General Counsel

MFK/rr

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

DEC 18 1997

Honorable Mary Roman
Judge, 175th District Court
300 Dolorosa Street
San Antonio, Texas 78205

Dear Judge Roman:

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. Zaratti and Ms. Klapperich, 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

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CLERK
JOHN T. ADAMS

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JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

DEC 18 1997

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. C. Tom Zaratti, and a copy of the Supreme Court's order appointing the Honorable Mary Roman, Judge of the 175th District Court of San Antonio, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Mary Roman
Ms. Mary F. Klapperich
Mr. C. Tom Zaratti



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

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EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

DEC 18 1997

Ms. Mary F. Klapperich
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. C. Tom Zaratti
7434 Darnell
Houston, Texas 77074

Dear Ms. Klapperich and Mr. Zaratti:

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 Mary Roman, Judge of the 175th District Court of San Antonio, Texas to preside in

Commission for Lawyer Discipline v. C. Tom Zaratti

Sincerely,

SIGNED

John T. Adams
Clerk