

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9134

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

The Supreme Court of Texas hereby appoints the Honorable Terry A. Canales, Judge of the 79th District Court of Jim Wells County, Texas, to preside in the Disciplinary Action styled:

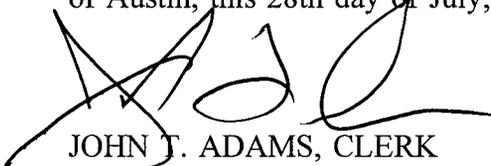
The Commission for Lawyer Discipline v. E. J. Van Buren, Jr.

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,

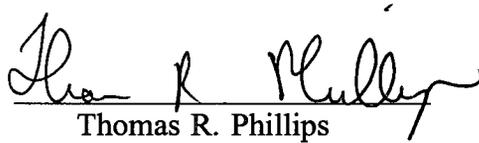
with the Seal thereof affixed at the City
of Austin, this 28th day of July, 1999.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9134, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 30 day of July, 1999.

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

Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
V. §
E. J. VAN BUREN, JR. § HARRIS COUNTY, TEXAS
§
§ _____TH JUDICIAL DISTRICT

ORIGINAL 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 referred to as "Petitioner"), complaining of Respondent, E. J. VAN BUREN, JR., (hereinafter referred to as "Respondent"), and would respectfully show unto the Court the following:

I. DISCOVERY CONTROL PLAN

Pursuant to Rule 190.1 of the TEXAS RULES OF CIVIL PROCEDURE (TRCP), Petitioner intends discovery in this case to be conducted under the Level 2 Discovery Control Plan, as provided in Rule 190.3 TRCP.

II. NATURE OF PROCEEDING

Petitioner brings this disciplinary action pursuant to the STATE BAR ACT, 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 forms the basis of this *Original Disciplinary Petition* was filed on or after May 1, 1992.

III. VENUE

Respondent is an attorney licensed to practice law in Texas and is a member of the STATE BAR OF TEXAS. Respondent's residence and 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. He may be served through his attorney of record D. Craig Landin, 3506 Highway 6, South, Suite 315, Sugar Land, Texas 77478.

IV. FIRST CAUSE OF ACTION

On or about February 1995, Mr. and Mrs. Monterroza visited Fernando Luna, Immigration Specialist, at the Law Office of E. J. Van Buren, Jr. in an attempt to arrange for his wife's citizenship and his legal residence in the United States. Luna disclosed that he worked in conjunction with attorney E. J. Van Buren, Jr. whose office was in the same location. Luna initially requested Six Hundred Fifty Dollars (\$650.00) to start the immigration process and later an additional Seven Hundred Eighty Dollars (\$780.00) for attorney and immigration fees. Once both amounts were paid, Monterroza requested receipts to confirm that both the attorney and Immigration office had received their money. Luna became annoyed and requested they leave his office. The Monterrozas then visited with E. J. Van Buren, Jr. ("Respondent"), Respondent stated that he would return any money given to Luna. At the conclusion of their meeting, Respondent referred them to Mario Acosta although the Respondent said he would continue being responsible for Monterrozas case and that if Acosta could not help them, they were to contact him.

The Monterrozas went to see Acosta and gave him all the necessary documents to initiate the immigration process. Several weeks later, Acosta's secretary called the Monterrozas to inform them that Acosta had left the country and made arrangements to return their file. Upon review of the file's contents, the file revealed that the Immigration office had requested the Monaterrozas divorce decrees and when

Acosta failed to submit these documents, their case had been closed.

The Monterrozas returned to the Respondent and gave him all the documents to start the immigration process again. Once again, the Respondent stated that the case was his responsibility and he would return their money. The Monterrozas were assured that their case was the Respondent's responsibility when he submitted an appearance as attorney for the Monterrozas on Immigration's Form G-28 dated September 4, 1995.

On March 17, 1997, the Monterrozas visited the Respondent's office in order to request a refund. Respondent refused to meet with them. The Monterrozas allege that the Respondent not only kept their money but wasted their time.

V.

The complaint which forms the basis of this action was brought to the attention of the Office of the General Counsel of the State Bar of Texas by Julio Monteroza's filing of a complaint on or about March 21, 1997.

VI. SECOND CAUSE OF ACTION

On June 3, 1995, Charles Donner and his nephew were involved in an automobile accident. Shortly after the accident, Donner received a telephone call from E.J. Van Buren, Jr.'s office seeking to represent Donner in settling his personal injury case. Donner signed a contingency fee contract with Van Buren as a result of the phone call.

During the representation, Van Buren settled Donner's case but failed to address the property damages. He did not communicate with Donner prior to settling the case and should have known about his clients property damages.

VII.

The complaint which forms the basis of this action was brought to the attention of the Office of the General Counsel of the State Bar of Texas by Charles Donnor's filing of a complaint on or about January 21, 1997.

VIII. RULE VIOLATIONS

The acts and/or omissions of the Respondent described in Section 4 above, which occurred on or after January 1, 1990, constitute conduct in violation of Rule(s) **1.01(a)** [a lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence; **1.01(b)(1)** [in representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer]; **1.02(a)(1)** [a lawyer shall abide by a client's decisions concerning the objectives and general methods of representation]; **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]; **1.03(b)** [a lawyer shall not fail to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation]; **7.02(a)(1)** [a lawyer shall not make a false or misleading communication about the qualifications of the services of any lawyer or firm. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading]; **7.03(a)** [a lawyer shall not in-person or telephone contact seek professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a prospective client or non-client 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 **7.03(b)** [a lawyer shall not pay, give, or offer to pay or give anything of value to a person not licensed to practice law for

soliciting prospective clients for , or referring clients or prospective clients to any lawyer or firm] of the Texas Disciplinary Rules of Professional Conduct.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, respectfully prays that this Court discipline Respondent , E. J. VAN BUREN, JR., by reprimand, suspension, or disbarment, as the facts shall warrant; restitution; and all other relief to which Petitioner may show itself to be justly entitled, including costs of court and attorneys' fees.

Respectfully submitted,

Steven W. Young
General Counsel

Kimberly M. Gamble
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



KIMBERLY M. GAMBLE
State Bar No. 00789804

**ATTORNEYS FOR PETITIONER/THE COMMISSION
FOR LAWYER DISCIPLINE**

STATE BAR OF TEXAS



Office of the General Counsel

June 24, 1999

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

Re: Commission for Lawyer Discipline v. E. J. Van Buren, Jr.

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 E. J. Van Buren, Jr.. Mr. Van Buren 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:

E. J. Van Buren, Jr.
c/o D. Craig Landin
3506 Highway 6 South, Suite 315
Sugar Land, Texas 77478

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to: (1) 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, and (2) whether he or she can accommodate compliance with Mellon Service Co., et al v. Touche Ross Co., 946 S.W.2d 862 (Tex. App. - Houston [14th. Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. 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

Mr. John T. Adams

June 24, 1999

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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.

I have enclosed 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 for the Clerk's use in returning a file-marked copy to the undersigned.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance.

Very truly yours,


Kimberly M. Gamble
Assistant General Counsel

KMG/lp

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

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

AUG 04 1999

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77002

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. E. J. Van Buren, Jr.*, and a copy of the Supreme Court's order appointing the Honorable Terry A. Canales, Judge of the 79th District Court, Alice, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Terry A. Canales
Ms. Kimberly M. Gamble
Mr. E. J. Van Buren, Jr.
Ms. Melissa Dartez



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

JUSTICES
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AUG 04 1999

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
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ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

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

Mr. E. J. Van Buren, Jr.
C/o D. Craig Landin
3506 Highway 6 South, Suite 315
Sugar Land, Texas 77478

Dear Ms. Gamble and Mr. Van Buren:

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 Terry A. Canales, Judge of the 79th District Court, Alice, Texas to preside in

Commission for Lawyer Discipline v. E. J. Van Buren, Jr.

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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JOHN T. ADAMS

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JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

AUG 04 1994

Honorable Terry A. Canales
Judge, 79th District Court
P.O. Box 1375
Alice, Texas 78333-1375

Dear Judge Canales:

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. Van Buren, Jr. and Ms. Gamble, 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