

ORDER OF THE SUPREME COURT OF TEXAS

9117

Misc. Docket No. 01-----

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

The Supreme Court of Texas hereby appoints the Honorable K. Michael Mayes., Judge of the 410th District Court of Montgomery County, Texas, to preside in the Disciplinary Action styled:

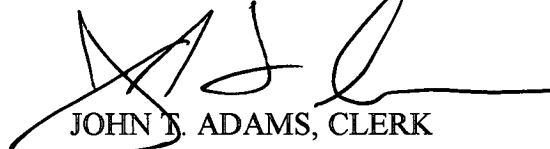
The Commission for Lawyer Discipline v. Donald H. Brandt, Jr.

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Dallas County, Texas, a copy of the Disciplinary Petition and this Order for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

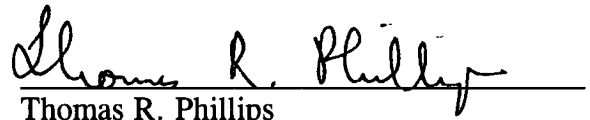
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City
Of Austin, this 12th day of July, 2001.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 01-9117 is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 16 day of July, 2001.


Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
V. § DALLAS COUNTY, TEXAS
DONALD H. BRANDT, JR. § _____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complains of Respondent, Donald H. Brandt, Jr., (hereinafter called "Respondent"), showing the Court:

I.

Discovery Control Plan

Pursuant to Rules 190.1 and 190.3, TEXAS RULES OF CIVIL PROCEDURE (TRCP), Petitioner intends discovery in this case to be conducted under the Level II Discovery Control Plan.

II.

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 May 1, 1992.

III.

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 and has his principal place of practice in Dallas County, Texas. An officer may serve citation on Respondent at 604 University Village Center, Richardson, Texas 75081.

FIRST CAUSE OF ACTION

IV.

Respondent was employed by Eugene Thomas' ("Thomas") ex-wife to represent her in Thomas' Motion to Modify In-Suit Affecting The Parent-Child Relationship. Prior to the representation, on October 17, 1997, Thomas had filed the motion to modify seeking to be named sole managing conservator of his children with his ex-wife having limited possession of the children. On December 19, 1997, the Court entered temporary orders in the lawsuit. On May 7, 1998, Respondent served Thomas with notice of his intent to take the oral depositions of Thomas' minor children. On May 20, 1998, Court appointed Attorney/Guardian Ad Litem for the children, John Turner, filed a Motion For Protective Order with the Court. Thereafter, on July 9, 1998, Respondent's client brought the children to Respondent's office. Although he knew the children were represented by counsel, Respondent questioned the children about their testimony in the pending lawsuit without gaining permission from either the Court or counsel.

V.

Such acts and/or omissions on the part of Respondent as are described in Paragraph IV, hereinabove, which occurred on or after January 1, 1990, constitute conduct which violates Rules 4.02(a) and 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

VI.

The complaint which forms the basis of the Cause of Action hereinabove set forth was brought to the attention of the Office of the Chief Disciplinary Counsel of the State Bar of Texas by Eugene Thomas filing a complaint on or about October 14, 1998.

SECOND CAUSE OF ACTION

VII.

On or about June 25, 1998, Kathy Weagle ("Weagle") employed Respondent to prosecute a divorce. Weagle paid \$3,500.00 of the required \$5,000.00 retainer. Respondent's contract stipulated that a \$5,000.00 non-refundable retainer was required, but his service would begin when \$2,500.00 was paid. Respondent informed Weagle it would take sixty (60) days to complete the divorce. Respondent filed the Original Petition for Divorce with the Court on July 14, 1998, but he waited almost three (3) months before serving said petition in October 1998. On March 12, 1999, Weagle wrote a letter to Respondent releasing him from further work on the case, and requesting that portion of the paid \$3,500.00 retainer fee be returned. Respondent failed to return any portion of the fee, and he failed to finalize the matter.

VIII.

Such acts and/or omissions on the part of Respondent as are described in Paragraph VII, hereinabove, which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.01(b)(1), and 1.15(d) of the Texas Disciplinary Rules of Professional Conduct.

IX.

The complaint which forms the basis of the Cause of Action hereinabove set forth was

brought to the attention of the Office of the Chief Disciplinary Counsel of the State Bar of Texas by
Kathy Weagle filing a complaint on or about April 7, 1999.

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,

Dawn Miller
Chief Disciplinary Counsel

Lisa M. Holt
Assistant Disciplinary Counsel

State Bar of Texas
Litigation - Dallas
3710 Rawlins
Suite 800
Dallas, Texas 75219
(214) 559-4353
FAX (214) 559-4335

Lisa M. Holt

Lisa M. Holt
State Bar Card No. 24026068

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

May 1, 2001

CMRRR NO. 7099 3220 0005 9143 5089

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

RE: Commission for Lawyer Discipline v. Donald H. Brandt, 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 Donald H. Brandt, Jr. Mr. Brandt has designated Dallas 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:

**Donald H. Brandt, Jr.
604 University Village Center
Richardson, Texas 75081**

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. If not, I would respectfully request that an alternate appointment be made.

Regency Plaza, 3710 Rawlins, Suite 800, Dallas, Texas 75219
Telephone: (214) 559-4353 Fax: (214) 559-4335

John T. Adams, Clerk

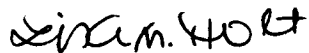
Page 2

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 Dallas 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.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Dallas County, Texas, and a return envelope to be sent to the District Clerk of Dallas 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,



Lisa M. Holt
Assistant Disciplinary Counsel

Enclosures



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

CLERK
JOHN T. ADAMS

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
DEBORAH G. HANKINSON
HARRIET O'NEILL
WALLACE B. JEFFERSON

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUL 19 2001

The Honorable Jim Hamlin
District Clerk of Dallas County
George L. Allen Courts Building
600 Commerce Street
Dallas, Texas 75202

Dear Mr. Hamlin:

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. Donald H. Brandt, Jr.*, and a copy of the Supreme Court's order appointing the Honorable K. Michael Mayes, Judge of the 410th District Court of Conroe, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable K. Michael Mayes
Ms. Lisa M. Holt
Mr. Donald H. Brandt, Jr.



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

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EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUL 19 2001

Honorable K. Michael Mayes
Judge, 410th District Court
200 Courthouse
300 N. Main Street
Conroe, Texas 77301

Dear Judge Mayes:

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. Holt and Mr. Brandt, and a copy of the letter to the District Clerk of Dallas County.

We then recommend that, either before or immediately after you set the case for trial, the Dallas County District Court Administrative Office (214-653-6510) 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 (214-653-2943) 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

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

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JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUL 19 2001

Ms. Lisa Holt
Assistant General Counsel, State Bar of Texas
3710 Rawlins, Suite 800
Dallas, Texas 75219

Mr. Donald H. Brandt, Jr.
604 University Village Center
Richardson, Texas 75081

Dear Ms. Holt and Mr. Brandt:

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 K. Michael Mayes, Judge of the 410th District Court, Conroe, Texas to preside in

Commission for Lawyer Discipline v. Donald H. Brandt, Jr.

Sincerely,

SIGNED

John T. Adams
Clerk