

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 97-9008

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

The Supreme Court of Texas hereby appoints the Honorable Sharen Wilson, Judge of the Criminal District Court No. 1 of Tarrant County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Robert E. Garner

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

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

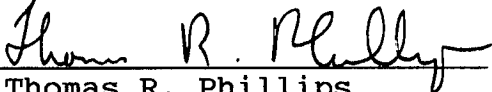
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this ²⁴~~20~~ day of January, 1997.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9008, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 6 day of January, 1997.



Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	POTTER COUNTY, TEXAS
ROBERT E. GARNER	§	_____ 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, ROBERT E. GARNER (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 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 Potter County, Texas. An officer may serve citation on Respondent at 1200 Amarillo National's Plaza Two, 500 S. Taylor, Amarillo, Potter County, Texas 79101.

CAUSE OF ACTION

III.

On or about April 15, 1992, Terry Jones (hereinafter called "Complainant") retained the

law firm of Garner, Stone and Lovell, P.C. ("The Firm") by the execution of an Attorney Employment Agreement by Complainant and John H. Lovell. Respondent was also retained by the execution of the Attorney Employment Agreement. The Attorney Employment Agreement provided for "The Firm" to represent the Complainant in a civil matter against Buddy Jeffers and the Western Stockyards Corporation.

On or about June 1, 1992, the Amarillo National Bank entered into an oral contingent fee agreement with Respondent and John Lovell to represent Amarillo National Bank to collect an indebtedness owed by Buddy Jeffers pursuant to a Settlement Agreement and Real Estate Lien Note. Respondent never obtained a written contingent fee agreement with the Amarillo National Bank for the above mentioned representation.

Due to the fact that the Respondent agreed to represent both Terry Jones and the Amarillo National Bank to seek monetary recoveries against Buddy Jeffers, Respondent requested that Terry Jones and Amarillo National Bank sign a written Waiver of Conflict of Interest. On or about June 5, 1992, Complainant signed a written Waiver of Conflict of Interest. However, no Waiver of Conflict of Interest was obtained from the Amarillo National Bank indicating their consent to the dual representation. Despite the fact that Respondent did not obtain a Waiver of Conflict of Interest from both parties, Respondent continued to represent Terry Jones and the Amarillo National Bank. Settlement negotiations ensued between Buddy Jeffers and the Amarillo National Bank, as well as between Buddy Jeffers and Complainant. Buddy Jeffers negotiated with Respondent on behalf of both the bank and the Complainant. A comprehensive settlement agreement was not obtained on behalf of both the Amarillo National Bank and Complainant. An agreement was reached between Respondent and Buddy Jeffers on

On or about July 16, 1992, the Complainant became aware of the contents of the Settlement Agreement between Buddy Jeffers and the Amarillo National Bank. Complainant informed the Respondent that he objected to the bank's Settlement Agreement with Jeffers. Respondent continued to represent both Amarillo National Bank and Complainant after Complainant's objection had been raised. The Complainant terminated Respondent's representation on or about August 12, 1992. The Respondent continued to represent Amarillo National Bank and consummated the bank's settlement with Jeffers.

IV.

Such acts and/or omissions on the part of Respondent as are described in Paragraph III hereinabove which occurred on or after January 1, 1990, constitute conduct violative of Rules 1.04(d), 1.06(b)(2), 1.06(c)(1), and 1.06(c)(2) of the Texas Rules of Professional Conduct.

V.

The complaint which forms the basis of the cause of action hereinabove set forth was brought to the attention of the Office of the General Counsel of the State Bar of Texas by a complaint filed by Terry W. Jones on or about December 26, 1995.

PRAYER

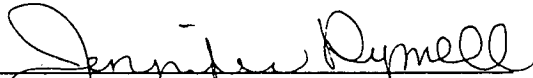
WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

Steven W. Young
General Counsel

Jennifer Rymell
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
201 Main Street, Suite 1150
Fort Worth, Texas 76102
817-877-4993
817-335-4249


Jennifer Rymell
State Bar of Texas No. 18043750

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

October 31, 1996

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

Re: Commission for Lawyer Discipline v. Robert E. Garner

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 Robert E. Garner. Mr. Garner is a resident of Potter 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:

Robert E. Garner
1200 Amarillo National's Plaza Two
500 S. Taylor St.,
Amarillo, TX 79101

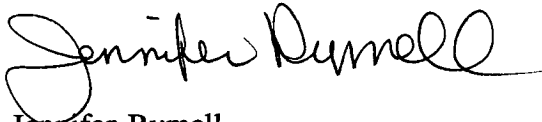
As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure. If not, I would 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 Potter County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition be returned to the undersigned. Further, please provide the undersigned a copy of the Court's appointing order in the pre-addressed envelope enclosed.

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

Sincerely,

A handwritten signature in black ink that reads "Jennifer Rymell". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Jennifer Rymell
Assistant General Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas

JSR/vvc

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

January 8, 1997

The Honorable Cindy Groomer
District Clerk of Potter County
1B Courts Building
501 S. Fillmore Street
Amarillo, Texas 79101-2449

Dear Ms. Groomer:

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. Robert E. Garner and a copy of the Supreme Court's order appointing the Honorable Sharen Miller, Judge of the Criminal District Court No. 1, Fort Worth, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Sharen Wilson
Mr. Robert E. Garner
Jennifer Rymell



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

January 8, 1997

Ms. Jennifer Rymell
Assistant General Counsel, State Bar of Texas
201 Main Street, Suite 1150
Fort Worth, Texas 76102

Mr. Robert E. Garner
1200 Amarillo National's Plaza Two
500 S. Taylor Street
Amarillo, Texas 79101

Dear Ms. Rymell and Mr. Garner:

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 Sharen Wilson, Judge of the Criminal District Court No. 1, Fort Worth, Texas to preside in

Commission for Lawyer Discipline v. Robert E. Garner

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

January 8, 1997

Honorable Sharen Wilson
Judge, Criminal District Court No. 1
401 West Belknap Street
Fort Worth, Texas 76196-0225

Dear Judge Wilson:

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. Rymell and Mr. Garner, and a copy of the letter to the District Clerk of Potter 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 Potter 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 case 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 (806-637-8171) to obtain claims forms for your expenses and other information incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams
Clerk