

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc. Docket No. 97- 9172**

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

The Supreme Court of Texas hereby appoints the Honorable David Brooks, Judge of the 191st District Court of Dallas County, Texas, to preside in the Disciplinary Action styled:

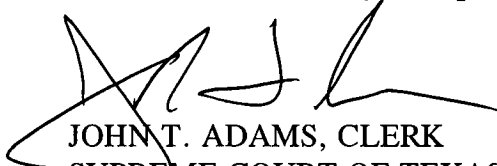
**The Commission for Lawyer Discipline v. Gerald B. Scheve**

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 18th day of September, 1997.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9172, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 22 day of September, 1997.

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

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

COMMISSION FOR LAWYER DISCIPLINES §

IN THE DISTRICT COURT OF

VS §

\_\_\_\_\_ COUNTY, TEXAS

GERALD B. SCHEVE §

\_\_\_\_\_ 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, complaining of Respondent, Gerald B. Scheve, showing the following to 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 September 27, 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 Harris County, Texas. An officer may serve citation on Respondent, by and through his attorney of record, Tina K. Salem, 4300 Scotland, Houston, Texas 77007.

**III.**

Respondent was the Guardian Ad Litem for the Probate Court in Cause No.

226771, for funds of David A. Domec, an invalid in a nursing home. Marie Manovich is the court approved Guardian for her brother, David A. Domec. On or about April 10, 1996, Respondent convinced Ms. Manovich to write him a check in the amount of Five Thousand Dollars (\$5,000.00), as a loan from her brother's account. The means by which Respondent got Ms. Manovich to loan her brother's funds to Respondent did not comply with the Probate Court Rules in that Respondent did not get permission from the Probate Court for the loan, which is a requirement before obtaining the money. Respondent executed a hand-written receipt for the money, which he has acknowledged is false in that the reason for the loan was not as stated on the receipt. Prior to obtaining the loan, Respondent failed to inform Ms. Manovich that she could seek the advice of independent counsel. Respondent did not reduce the terms of the loan to writing and obtain Ms. Manovich's consent through her signature on a written agreement. The transaction was not fair and reasonable to Mr. Domec, Respondent's client.

On or about April 16, 1996, Respondent attempted to re-pay the loan with a check that was returned for having insufficient funds. On or about January 8, 1997, after threat of criminal prosecution, Respondent repaid five Thousand Sixty Dollars (\$5,060.00) to Ms. Manovich.

#### IV.

By convincing the guardian of the funds of David A. Domec to give him a loan of funds from his client, David A. Domec, without first obtaining the authorization of the Probate Court, Respondent engaged in conduct in violation of Rules 1.08(a)(1)[a

lawyer shall not enter into a business transaction with a client unless the transaction and the terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed in a manner which can be reasonably understood by the client]; 1.08(a)(2)[a lawyer shall not enter into a business transaction with a client unless the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction]; and 1.08(a)(3)[ a lawyer shall not enter into a business transaction with a client unless the client consents in writing thereto. practice of law] of the Texas Disciplinary Rules of Professional Conduct and Rule 1.06(Q) of the Texas Rules of Disciplinary Procedure.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Petitioner prays for judgment that Respondent 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*

**MARY F. KLAPPERICH**  
State Bar No. 11550700

**ATTORNEYS FOR PETITIONER**

# STATE BAR OF TEXAS



Office of the General Counsel

July 28, 1997

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

*Re: Commission for Lawyer Discipline v. Gerald B. Scheve*

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 Gerald B. Scheve. Mr. Scheve 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. Gerald B. Scheve  
c/o Tina K. Salem  
Attorney-at-Law  
4300 Scotland  
Houston, Texas 77007

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.

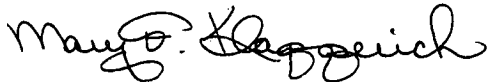
Mr. John T. Adams, Clerk  
Supreme Court of Texas  
July 28, 1997  
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I have enclosed a pre-addressed envelope for your use in transmitting the above reference documents, to the District Clerk of Harris County, Texas, and a return envelope to be sent 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

OCT 02 1997

JUSTICES  
RAUL A. GONZALEZ  
NATHAN L. HECHT  
JOHN CORNYN  
CRAIG ENOCH  
ROSE SPECTOR  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT

CLERK  
JOHN T. ADAMS

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

Honorable David Brooks  
Judge, 191st District Court  
George L. Allen Sr. Courts Building  
600 Commerce Street  
Dallas, Texas 75202

Dear Judge Brooks:

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. Scheve 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,

John T. Adams  
Clerk



# THE SUPREME COURT OF TEXAS

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THOMAS R. PHILLIPS

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CLERK  
JOHN T. ADAMS

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

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

Mr. Gerald B. Scheve  
c/o Tina K. Salem  
4300 Scotland  
Houston, Texas 77007

Dear Ms. Klapperich and Mr. Scheve:

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 David Brooks, Judge of the 191st District Court in Dallas Texas to preside in

Commission for Lawyer Discipline v. Gerald B. Scheve

Sincerely,

CT 1153

John T. Adams  
Clerk



# THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

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FAX: (512) 463-1365

CLERK  
JOHN T. ADAMS

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JOHN CORNYN  
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JAMES A. BAKER  
GREG ABBOTT

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

OCT 02 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. Gerald B. Scheve, and a copy of the Supreme Court's order appointing the Honorable David Brooks, Judge of the 191st District Court in Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,

A handwritten signature in blue ink, appearing to read "John T. Adams".

John T. Adams  
Clerk

cc: Hon. David Brooks  
Ms. Mary F. Klapperich  
Mr. Gerald B. Scheve