

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98- 9175

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

The Supreme Court of Texas hereby appoints the Honorable David E. Garner, Judge of the 10th District Court of Galveston County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Joseph Grady Tuck, III

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

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

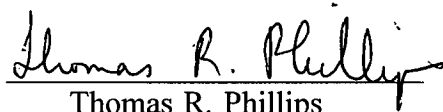
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 13th day of October, 1998.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9175, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 14 day of October, 1998.

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

COPY

NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	TRAVIS COUNTY, TEXAS
JOSEPH GRADY TUCK, III	§	_____ 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, JOSEPH GRADY TUCK, III, (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.

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 Travis County, Texas. An officer may serve citation on Respondent at his last known address, 3005 S. Lamar Boulevard, Suite D108, Austin, Travis County, Texas 78704.

III.

On or about May of 1996, Complainant Ronald E. Jackson hired Respondent Joseph Grady Tuck, III to represent him in a lawsuit styled *Ben Atwell v. Ron E. Jackson*, Cause No. 482,450 in the 250th Judicial District Court of Travis County, Texas. On May 9, 1994, the day the Atwell case was set on the jury docket, neither the Complainant nor his attorney, Respondent, appeared for trial and a default judgment in the amount of \$34,974.00 was entered against Complainant. Respondent knew that this default judgment had been entered against Complainant, but failed to communicate this fact to him.

Respondent filed a motion for new trial on or about June 15, 1994, however, he failed to secure a hearing on the motion within the 75 days required by the Texas Rules of Civil Procedure, thus foreclosing an appeal of the default judgment. As a result of Respondent's inaction, the motion for new trial was overruled by operation of law. Respondent failed to communicate the denial of the motion for new trial to Complainant.

IV.

On January 31, 1995, a Constable appeared at Complainant's office to execute on the now final \$34,974.00 judgment entered against Complainant in May of 1994. Complainant had not been previously notified of the judgment.

Respondent filed a bill of review on or about February 8, 1995 which was denied by Judge Hart on August 17, 1995.

Complainant negotiated a settlement of the judgment against him in the amount of \$15,000.00. Respondent agreed that he was negligent in his representation of Complainant and

agreed to pay one-half (1/2) of the \$15,000.00 settlement of the original judgment. Respondent also executed a promissory note in the principal amount of \$7,500.00 payable to Complainant.

Respondent has never made a payment on this promissory note.

V.

Respondent's conduct as set out above constitutes a violation of Rule 1.01(b) (1) & (2) of the Texas Disciplinary Rules of Professional Conduct which provides as follows: "In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer; or frequently fail to carry out completely the obligations that the lawyer owes to a client or clients."

Respondent's conduct also constitutes a violation of Rule 1.03(a) of the Texas Disciplinary Rules of Professional Conduct which provides as follows: "A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information."

VI.

The complaint which forms the basis of the Cause of Action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by Ronald E. Jackson's filing a complaint on or about April 4, 1997.

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

Brian Plotts
Assistant General Counsel

Office of the General Counsel
STATE BAR OF TEXAS
P.O. Box 12487, Capitol Station
Austin, Texas 78711-2487
(800) 204-2222
(512) 477-4607 (FAX)

By: 

Brian Plotts
State Bar Card No. 16074050

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the General Counsel

September 3, 1998

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

Re: Commission for Lawyer Discipline v. Joseph Grady Tuck, III

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 Joseph Grady Tuck, III. Mr. Tuck has designated Travis 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:

Mr. Joseph Grady Tuck, III
3005 S. Lamar Boulevard, Suite D108
Austin, Texas 78704

Our office would respectfully request 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 Travis 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.

Mr. John Adams, Clerk of the Supreme Court
September 3, 1998
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Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Travis County, Texas, and a return envelope to be sent to the District Clerk of Travis 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,

A handwritten signature in cursive script that reads "Brian Plotts" followed by a vertical line and the initials "aa".

Brian Plotts
Assistant General Counsel

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
CRAIG T. ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

OCT 20 1992

Mr. Brian Plotts
Assistant General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711-2487

Mr. Joseph Grady Tuck, III
3005 S. Lamar Boulevard, Suite D-108
Austin, Texas 78704
8011 Asmara Drive

Dear Mr. Plotts and Mr. Tuck:

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 E. Garner, Judge of the 10th District Court, Galveston, Texas to preside in

Commission for Lawyer Discipline v. Joseph Grady Tuck, III

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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GREG ABBOTT
DEBORAH G. HANKINSON

OCT 20 1998

The Honorable Amalia Rodriguez-Mendoza
District Clerk of Travis County
P.O. Box 1748
Austin, Texas 78767-1748

Dear Ms. Rodriguez-Mendoza:

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. Joseph Grady Tuck, III*, and a copy of the Supreme Court's order appointing the Honorable David E. Garner, Judge of the 10th District Court, Galveston, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. David E. Garner
Mr. Brian Plotts
Mr. Joseph Grady Tuck, III



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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CLERK
JOHN T. ADAMS

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EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

OCT 20 1998

Honorable David E. Garner
Judge, 10th District Court
722 Moody Avenue
Galveston, Texas 77550

Dear Judge Garner:

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. Tuck and Mr. Plotts, and a copy of the letter to the District Clerk of Travis County.

It is recommended that, about a month or six weeks after receipt of this letter, you contact the Travis County Court Administrative Office (512-753-9300) (certainly just before or immediately after you set the case for trial) 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 (210-379-8556) 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