

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9228

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

The Supreme Court of Texas hereby appoints the Honorable John R. Carter, Judge of the 277th District Court of Williamson County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Frank Perez

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 this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

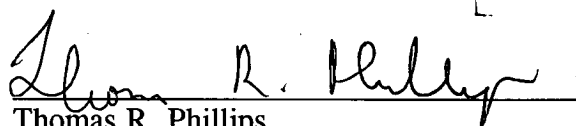
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this ^{29th} 24th day of November, 1999.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9228, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 29 day of November, 1999.


Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
V. §
FRANK PEREZ § DALLAS COUNTY, TEXAS
§
§ _____ 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, Frank Perez, (hereinafter called "Respondent"), showing the Court:

I.

Discovery Control Plan

Pursuant to Rules 190.1 and 190.2, 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 by and through his attorney of record, John Lozano, at 9900 Starlight, Dallas, Texas 75220.

IV.

On or about June 30, 1998, Jose Martinez ("Martinez") employed Respondent to represent him in a personal injury matter arising from a motor vehicle collision. Respondent assigned the matter to an associate attorney in the law firm. The other party's insurance carrier denied liability and subsequently the associate attorney filed a lawsuit.

V.

On or about January 15, 1999, the associated attorney sent Martinez a letter informing Martinez that the law firm was withdrawing from his matter and was going to non-suit the lawsuit. Neither Respondent nor the associate attorney discussed, or explained the meaning, or consequences on a non-suit to Martinez nor did they obtain his permission to file the Motion for Non-Suit. The Motion for Non-Suit with the 191st Judicial District Court on January 19, 1999, contains the false statement that Martinez expressed to his attorney that he no longer desired to prosecute the lawsuit. After receiving the January 15, 1999, letter, Martinez telephoned Respondent's law office and requested the return of this file. An Order of Non-Suit was entered by the 191st District Court on January 20, 1999. Respondent failed to return the client's file until May 1999, after receiving notice of the complaint and a request for the file from another attorney.

VI.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs IV and V, hereinabove, which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.01(b)(1), 1.02(a), 1.03(b), 3.03(a)(1), 1.15(d) and 5.01(a) of the Texas Disciplinary Rules of Professional Conduct.

VII.

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 Jose Martinez filing a complaint on or about March 3, 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.

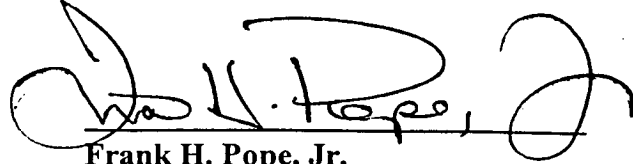
Respectfully submitted,

Dawn Miller
Acting General Counsel and
Chief Disciplinary Officer

Frank H. Pope, Jr.
Assistant General Counsel

State Bar of Texas
Litigation - Dallas
3710 Rawlins

Suite 800
Dallas, Texas 75219
(214) 559-4997
FAX (214) 559-4335

A handwritten signature in black ink, appearing to read "Frank H. Pope, Jr.", written over a horizontal line.

Frank H. Pope, Jr.
State Bar Card No. 16136000

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the General Counsel

October 14, 1999

CMRRR NO. Z 359 598 087

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

RE:: *Commission for Lawyer Discipline v. Frank Perez*

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 Frank Perez. Mr. Perez 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's attorney at the address shown below and the undersigned of the identity and address of the judge assigned:

**Frank Perez
c/o John Lozano
9900 Starlight
Dallas, Texas 75220**

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.

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

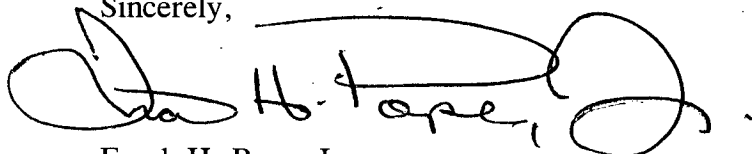
Regency Plaza, 3710 Rawlins, Suite 800, Dallas, Texas 75219
Telephone: (214) 559-4353 Fax: (214) 559-4335

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,

A handwritten signature in black ink, appearing to read "Frank H. Pope, Jr.", with a large, stylized flourish at the end.

Frank H. Pope, Jr.
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

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

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

DEC 10 1999

Mr. Frank H. Pope, Jr.
Assistant General Counsel, State Bar of Texas
3710 Rawlins, Suite 800
Dallas, Texas 75219

Mr. Frank Perez
c/o John Lozano
9900 Starlight
Dallas, Texas 75220

Dear Mr. Pope and Mr. Perez:

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 John R. Carter, Judge of the 277th District Court, Georgetown, Texas to preside in

Commission for Lawyer Discipline v. Frank Perez

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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ALBERTO R. GONZALES

DEC 10 1999

Honorable John R. Carter
Judge, 277th District Court
405 S. Martin Luther King Street, Box 6
Georgetown, Texas 78626

Dear Judge Carter:

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. Pope and Mr. Perez, 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

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JUSTICES
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EXECUTIVE ASS'T
WILLIAM L. WILLIS

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JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

DEC 10 1999

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. Frank Perez*, and a copy of the Supreme Court's order appointing the Honorable John R. Carter, Judge of the 277th District Court of Georgetown, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable John R. Carter
 Mr. Frank H. Pope, Jr.
 Mr. Frank Perez