

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 01-----⁹¹⁵⁵

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

The Supreme Court of Texas hereby appoints the Honorable Janet P. Littlejohn, Judge of the 150th District Court of Bexar County, Texas, to preside in the Disciplinary Action styled


The Commission for Lawyer Discipline v. John W. Hennessey

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

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

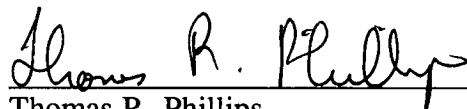
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City
Of Austin, this 7th day of September, 2001.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 01-9155, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 7 day of September, 2001.

A handwritten signature in cursive script, reading "Thomas R. Phillips", written over a horizontal line.

Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER
DISCIPLINE

V.

JOHN W. HENNESSEY

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§
§

IN THE DISTRICT COURT OF

NUECES COUNTY, TEXAS

___TH JUDICIAL DISTRICT

PETITIONER'S ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complaining of Respondent, JOHN W. HENNESSEY, and in support thereof would respectfully show the Court the following:

Parties

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, JOHN W. HENNESSEY, Texas State Bar Number 09469000, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas. Respondent is a resident of Nueces County, Texas. Respondent may be served with citation and a copy of this petition by serving him at his principal place of business located at **638 Moray Place, Corpus Christi, Texas 78411-6564.**

Venue

Respondent's principal place of law practice is in Nueces County, Texas. Accordingly, pursuant to Texas Rules of Disciplinary Procedure 3.03, venue is proper in Nueces County, Texas.

Discovery Level Designation

I.

Pursuant to Tex.R.Civ.P. 190.1, Petitioner designates that discovery in this action should proceed pursuant to Level 2 (Tex.R.Civ.P. 190.3).

Professional Misconduct

II.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Gov't. Code Ann., Sec. 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 this action was filed by Clifford Ponton on or about April 4, 2000. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

III.

1. Respondent filed frivolous and non meritorious pleadings after the Judgment of the court had become final to the financial detriment of the Complainant by unreasonably increasing the cost of litigating the case.
2. Elva Gonzales was given a Notice of Foreclosure on property Complainant held a lien. Ms. Gonzales hired Respondent, who filed suit on her behalf against Complainant and others. Complainant's counsel filed a motion for summary judgment which was granted August 5, 1998. The judgment became final by operation of law on September 5, 1998.

3. Respondent filed Plaintiff's Motion in Arrest of Judgment; Judgment Interlocutory Not Final on October 4, 1998. On November 12, 1998, respondent files Plaintiff's Second Amended Original Petition adding Diane Larue as a new party to the original suit alleging she improperly held the trustee sale for the land foreclosed upon by Complainant. Respondent filed both actions after a final judgment had been entered and after he had knowledge of the court's action in disposing of his cause of action by final judgment on August 5, 1998.

IV.

The conduct of Respondent described above constitutes a violation of the following Texas Disciplinary Rules of Professional Conduct:

Rule 3.01 -- A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless the lawyer reasonably believes that there is a basis for doing so that is not frivolous.

Rule 3.02 -- In the course of litigation, a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter.


PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other and further relief to which it is entitled, including costs of court, restitution, and reasonable attorney fees.

Respectfully submitted,
Dawn Miller
Chief Disciplinary Counsel

Robert E. Kaszczuk
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel
State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
Telephone: (210) 271-7881
Telecopier: (210) 271-9642


ROBERT E. KASZCZUK
State Bar No. 11106300

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#7000 1670 0005 9695 8777**

**Regional Office
Soledad Plaza West
425 Soledad, Suite 300
San Antonio, Texas 78205
(210) 271-7881
FAX: (210) 271-9642**

July 17, 2001

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

RE: Commission for Lawyer Discipline v. John W. Hennessey

Dear Mr. Adams:

Enclosed please find an original and three (3) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against John W. Hennessey. Mr. Hennessey has designated **Nueces County** 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:

John W. Hennessey
638 Moray Place
Corpus Christi, Texas 78411-6564

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 as set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure; and (2) whether he or she can accommodate compliance with Mellon Service Co., et al v. Touche Ross Co., 946 S.W.2d 862 (Tex.App.- Houston [14th Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. If not, I would respectfully request that an alternate appointment be made.

Once a trial judge has been appointed, please forward the original and three (3) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Nueces County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Nueces County, Texas and a return envelope to be sent to the District Clerk of Nueces County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in cursive script, reading "Robert E. Kaszczuk".

Robert E. Kaszczuk
Assistant Disciplinary Counsel

Enclosures

REK/apr



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

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

CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

SEP 12 2001

The Honorable Oscar Soliz
District Clerk of Nueces County
County Courthouse
901 Leopard
Corpus Christi, Texas 78401

Dear Mr. Soliz:

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. John W. Hennessey*, and a copy of the Supreme Court's order appointing the Honorable Janet P. Littlejohn, Judge of the 150th District Court, San Antonio, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Janet P. Littlejohn
Mr. Robert E. Kaszczuk
Mr. John W. Hennessey



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711
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JOHN T. ADAMS

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ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

SEP 12 2001

Mr. Robert E. Kaszczuk
Assistant General Counsel, State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205

Mr. John W. Hennessey
638 Moray Place
Corpus Christi, Texas 78411-6564

Dear Mr. Kaszczuk and Mr. Hennessey:

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 Janet P. Littlejohn, Judge of the 150th District Court, San Antonio, Texas to preside in

Commission for Lawyer Discipline v. John W. Hennessey

Sincerely,

SIGNED

John T. Adams
Clerk



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

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Telephone: 512/463-1312 Facsimile: 512/463-1365

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JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JEP 12 2001

Honorable Janet P. Littlejohn
Judge, 150th District Court
100 Dolorosa Street, 4th Floor
San Antonio, Texas 78205

Dear Judge Littlejohn:

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. Hennessey and Mr. Kaszczuk, and a copy of the letter to the District Clerk of Nueces County.

It is recommended that, six to eight weeks after receipt of this letter, your coordinator contact the District Court Administrator (512-888-0220) to learn the names, addresses, and telephone numbers of counsel for purposes of scheduling a conference. This should also be the number to call to reserve a court room, court reporter, etc. Also, either before or immediately after you set the case for trial, you should contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (210-544-0847) to obtain claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams
Clerk