

ORDER OF THE SUPREME COURT OF TEXAS

9187

Misc. Docket No. 01-----

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

The Supreme Court of Texas hereby appoints the Honorable Juanita Gardner-Vasque, Judge of the 399th District Court of Bexar County, Texas, to preside in the Disciplinary Action styled

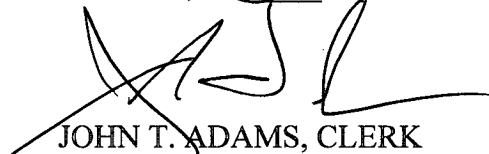
The Commission for Lawyer Discipline v. Garry L. Washington

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

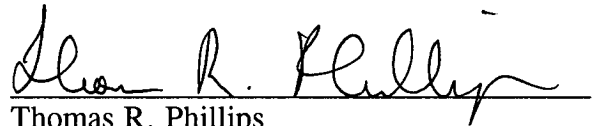
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City
Of Austin, this 30th day of October, 2001.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 01-9187, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 29 day of October, 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

Petitioner

v.

GARRY LAMONTE WASHINGTON

Respondent

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

_____ JUDICIAL DISTRICT

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, a committee of the STATE BAR OF TEXAS (hereinafter "Petitioner"), files this Disciplinary Petition, complaining of Respondent, GARRY LAMONTE WASHINGTON (hereinafter "Respondent"), showing the Court:

1. DISCOVERY CONTROL PLAN

1.1 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 1 Discovery Control Plan. Pursuant to Rule 190.2(a)(1), TRCP, Petitioner affirmatively pleads that it seeks only monetary relief aggregating Fifty Thousand and 00/100 dollars (\$50,000.00) or less, excluding costs, pre-judgment interest and attorney's fees.

2. NATURE OF PROCEEDING

2.1 Petitioner brings this disciplinary action pursuant to the State Bar Act, the Texas Government Code Annotated §81.001, *et seq.* (Vernon 1988 and supp. 1994), the TEXAS DISCIPLINARY RULES

OF PROFESSIONAL CONDUCT (TDRPC), and the TEXAS RULES OF DISCIPLINARY PROCEDURE (TRDP).

3. VENUE

3.1 Respondent is an attorney licensed to practice law in Texas and is a member of the STATE BAR OF TEXAS, bar number 00785188. Respondent is a resident of Houston, Texas. Respondent's principal place of practice is Harris County, Texas, and therefore venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the TEXAS RULES OF DISCIPLINARY PROCEDURE. An officer may serve citation on Respondent through his attorney, Cedrick L. Muhammad, at his business address located at 9894 Bissonnet, Suite 340, Houston, Texas, 77036.

4. FIRST CAUSE OF ACTION (SCHWAB)

4.1 In 2000, John F. Schwab (hereinafter "Schwab"), hired Respondent to handle three (3) separate matters. First, Respondent was hired to modify a divorce degree establishing visitation rights for Schwab. Respondent was paid One Thousand and 00/100 Dollars (\$1,000.00). Thereafter, Respondent failed to keep Schwab informed about the status of his case and neglected Schwab's matter by failing to file a Motion to Modify with the court. Schwab requested that his file and money be returned to him. Respondent failed to return Schwab's file and fee.

4.2 Second, Respondent agreed to represent Schwab in a civil matter involving the recovery of personal property seized from Schwab by Suburban Lodge. Respondent was paid Five Hundred and 00/100 Dollars (\$500.00). Schwab telephoned Respondent but Respondent failed to return any of Schwab's telephone calls. Because Schwab was personally unable to personally contact Respondent, Schwab incorporated the aid of friends and relatives to keep in contact with Respondent. Respondent failed to return the telephone calls he received or respond to any requests for

information. In addition, Respondent failed to perform any meaningful legal work on behalf of Schwab regarding this matter. As a result of Respondent's neglect, Schwab has been unable to gain possession of his property.

4.3 Third, Respondent agreed to retrieve Schwab's 1994 Jeep Cherokee while Schwab was incarcerated on an unrelated matter. Schwab paid Respondent Five Hundred and 00/100 Dollars (\$500.00). The vehicle contained important documents including a mortgage payment which Schwab's ex-wife drove down from the State of Ohio to retrieve. Subsequently, Schwab was jailed and was unable to personally contact Respondent. Schwab incorporated the aid of friends and requested that his friends and family attempt to contact Respondent. Respondent did not return any of these phone calls nor did Respondent contact Schwab regarding the return of his vehicle. As a result, Schwab failed to recover the majority of personal articles from the vehicle because the vehicle was sold at an auction as a result of Respondent's neglect.

5. RULE VIOLATIONS

5.1 The acts and/or omissions of the Respondent described in Paragraph IV above, constitute conduct in violation of Rule(s) **1.01(b)(1)** [Neglected a legal matter entrusted to the lawyer]; **1.01(b)(2)** [Failed to carry out completely the obligations owed to a client]; **1.03(a)** [Failed to keep a client reasonably informed about the status of a matter]; **1.03(b)** [Failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation]; and **1.14(b)** [Failed, upon receiving funds or other property in which a client or third person has an interest, to promptly notify the client or third person and render a full accounting upon request] of the TDRPC; **1.15(d)** failing, upon termination of representation to reasonably protect a

client's interests, give notice to the client to seek other counsel, or surrender papers and property which belongs to the client].

6.

6.1 The complaint that forms the basis of this cause of action was brought to the attention of the Office of the Chief Disciplinary Counsel of the STATE BAR OF TEXAS by John F. Schwab's filing of a complaint on or about November 15, 2000.

7. SECOND CAUSE OF ACTION (VALENCIA)

7.1 In or around March 2000, Respondent agreed to represent Maria M. Valencia (hereinafter "Valencia") in a personal injury matter on a contingency basis.

7.2 In or around July 2000, Respondent settled Valencia's matter and received a settlement check. Respondent failed to notify Valencia that her proceeds from the check were available. In addition, Respondent failed to issue Valencia's settlement portion and failed to pay Valencia's medical expenses.

7.3 On or about November 16, 2000, Valencia filed a complaint against Respondent with the State Bar of Texas. Upon notification of Valencia's grievance, Respondent engaged in behavior solely for the purpose of interfering with the tribunal by trying to persuade the Valencia not to attend the Grievance Committee hearing on or about May 5, 2001.

7.4 Finally, Respondent engaged in fraud, deceit, and misrepresentation by submitting false documents indicating that Valencia's medical bills had been paid and by having someone pose as a hospital employee to state the same.

8. RULE VIOLATIONS

8.1 The acts and/or omissions of the Respondent described in Paragraph IV above, constitute conduct in violation of Rule(s) **1.03(a)** [Failed to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information]; **1.14(b)** [Failed, upon receiving funds or other property in which a client or third person has an interest, to promptly notify the client or third person and render a full accounting upon request; **1.14(c)**] [Failed to keep funds or other property in which both the lawyer and another person claim interests separate until there is an accounting and severance of their interests]; **3.04(b)** [Falsified evidence, counseling or assisting a witness to testify falsely, or paying, offering to pay, or acquiescing in the offer or payment of compensation to a witness or other entity contingent upon the content of the testimony of the witness or the outcome of the case]; and **8.04(a)(3)** [Engaged in conduct involving dishonesty, fraud, deceit or misrepresentation] of the TDRPC.

9.

9.1 The complaint that forms the basis of this cause of action was brought to the attention of the Office of the Chief Disciplinary Counsel of the STATE BAR OF TEXAS by Maria M. Valencia's filing of a complaint on or about November 16, 2000.

10. THIRD CAUSE OF ACTION (SILVA)

10.1 In or around March 2000, Respondent agreed to represent Enriquetta Silva (hereinafter "Silva") in a personal injury matter on contingency basis.

10.2 In or around July 2000, Respondent settled Silva's matter and received a settlement check. Respondent issued a check to Silva for her portion of the settlement on or about August 31, 2000. Respondent's check was returned to Silva due to insufficient funds in Respondent's bank account.

10.3 On or about November 16, 2000, Silva filed a complaint against Respondent with the State Bar of Texas. On or about December 7, 2000, Respondent received a State Bar of Texas Subpoena commanding him to submit a copy of Silva's client file to the Grievance Committee. Respondent failed to comply to the subpoena.

11. RULE VIOLATIONS

11.1 The acts and/or omissions of the Respondent described in Paragraph IV above, constitute conduct in violation of Rule(s) **1.14(b)** [Failed, upon receiving funds or other property in which a client or third person has an interest, to promptly notify the client or third person and render a full accounting upon request]; **1.14(c)** [Failed to keep funds or other property in which both the lawyer and another person claim interests separate until there is an accounting and severance of their interests]; **8.01(b)** [Knowingly failed to respond to a lawful demand for information from a disciplinary authority]; and **8.04(a)(8)** [Failed to timely furnish a district grievance committee a response or other information as required unless he timely asserts a privilege or other legal ground for failure to do so] of the Texas Disciplinary Rules of Professional Conduct.

12.

12.1 The complaint that forms the basis of this cause of action was brought to the attention of the Office of the Chief Disciplinary Counsel of the STATE BAR OF TEXAS by Enriquetta Silva's filing of a complaint on or about November 16, 2000.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, respectfully prays that this Court discipline Respondent, **GARRY LAMONTE WASHINGTON** by reprimand, suspension or disbarment, as the facts shall warrant;

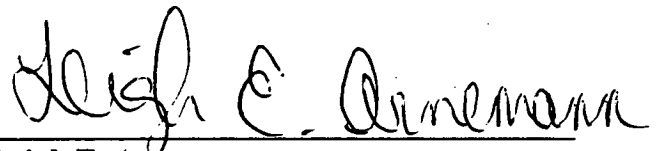
and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorneys' fees.

Respectfully submitted,

Dawn Miller
Chief Disciplinary Counsel

Leigh E. Arnemann
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel
STATE BAR OF TEXAS
1111 Fannin, Suite 1370
Houston, Texas 77002
Telephone (713) 759-6931
Facsimile (713) 752-2158



Leigh E. Arnemann
State Bar No. 24025229

**ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE**

STATE BAR OF TEXAS



Office of the General Counsel

September 17, 2001

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

Re: Commission for Lawyer Discipline v. Garry L. Washington

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 Garry L. Washington. Mr. Washington has designated Harris 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 through his attorney of record at the address shown below and the undersigned of the identity and address of the judge assigned:

c/o Cedrick L. Muhammad
9894 Bissonnet, Suite 340
Houston, Texas 77036

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.

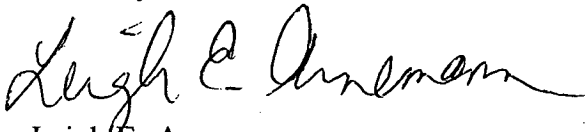
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, service be obtained, and a file-marked copy of the petition be returned to the undersigned.

Mr. John Adams
Clerk of the Supreme Court
September 17, 2001
Page Two

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., 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-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 "Leigh E. Arnemann". The signature is written in black ink and is positioned above the typed name.

Leigh E. Arnemann
Assistant Disciplinary Counsel

LEA/rr
Enclosures

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The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

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

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

NOV 01 2001

CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77002

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. Garry L. Washington*, and a copy of the Supreme Court's order appointing the Honorable Juanita Vasquez-Gardner, Judge of the 399th District Court, San Antonio, Texas.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Juanita Vasquez-Gardner
Ms. Leigh E. Arnemann
Mr. Garry L. Washington
Ms. Melissa Dartez



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

CLERK
JOHN T. ADAMS

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

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

NOV 01 2001

Ms. Leigh E. Arnemann
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Garry L. Washington
c/o Cedrick L. Muhammad
9894 Bissonnet, Suite 340
Houston, Texas 77036

Dear Ms. Arnemann and Mr. Washington:

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 Juanita Vasquez-Gardner, Judge of the 399th District Court, San Antonio, Texas to preside in

Commission for Lawyer Discipline v. Garry L. Washington

Sincerely,

SIGNED

John T. Adams
Clerk



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

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NOV 01 2001

CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

Honorable Juanita Vasquez-Gardner
Judge, 399th District Court
300 Dolorosa Street
San Antonio, Texas 78205

Dear Judge Vasquez-Gardner:

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. Washington and Ms. Arnemann, 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,

SIGNED

John T. Adams
Clerk