

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 97- 9061

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

The Supreme Court of Texas hereby appoints the Honorable Joe Carroll, Judge of the 27th District Court of Bell County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Sam W. Choate

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 2nd day of April, 1997.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9061, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 3 day of April, 1997.

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	§	IN THE DISTRICT COURT OF
V.	§	HARRIS COUNTY, TEXAS
SAM W. CHOATE	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

The Commission for Lawyer Discipline ("Petitioner"), a permanent committee of the State Bar of Texas, complains of Sam W. Choate ("Respondent"), an attorney licensed to practice law in the State of Texas, showing the Court as follows:

1. NATURE OF PROCEEDING

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, and the Texas Rules of Disciplinary Procedure. The complaint that forms the basis of this disciplinary petition was filed on or after May 1, 1992.

2. VENUE

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 Comal County, Texas. Respondent's principal place of practice is located in Harris County, Texas. Therefore venue is appropriate in Harris County, Texas, pursuant to

Rule 3.03 of the Texas Rules of Disciplinary Procedure.

3. ISSUANCE OF CITATION

Petitioner requests that citation be issued and forwarded to Diego J. Vargas, Assistant General Counsel, State Bar of Texas, 1111 Fannin, Suite 1370, Houston, Texas 77002, so that an independent process server may serve Respondent by serving his attorney Wayne H. Paris at his business address located at 3100 South Gessner, Suite 600, Houston, Texas 77063.

4. CHRONOLOGY OF EVENTS GIVING RISE TO PROCEEDING

4.01 In and around 1994, Respondent referred several of his personal injury clients to Dr. David Whittaker ("Whittaker"), a doctor of chiropractic medicine.

4.02 In exchange for Whittaker's treatment of Respondent's clients, Respondent guaranteed Whittaker that he would be paid his medical fees out of any settlements or judgments taken on behalf of Respondent's clients.

4.03 In addition, Respondent and Whittaker entered into an agreement whereby which Respondent would be paid thirty percent of any and all medical fees recovered on behalf of Whittaker. These monies paid to Respondent were attorneys' fees for Respondent's efforts in collecting Whittaker's fees.

4.04 Respondent allowed himself to represent Whittaker when the representation of Whittaker involved a substantially related matter in

which Whittaker's interests were materially and directly adverse to the interests of Respondent's personal injury clients.

5. SPECIFIC VIOLATIONS OF THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

The acts and/or omissions of the Respondent described in Section 5 above, which occurred on or after January 1, 1990, constitute conduct in violation of Rule 1.06(b)(1) of the Texas Disciplinary Rules of Professional Conduct.

6. TIMELINESS OF FILING

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel by Richard Hurder's filing this complaint on or about June 8, 1995.

7. PRAYER

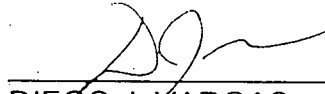
Petitioner prays that this Court discipline Respondent by disbarment, suspension, or reprimand as the facts shall warrant; and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorneys' fees.

Respectfully submitted,

Steven W. Young
General Counsel

Diego J. Vargas
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6931
(713) 752-2158 FAX



DIEGO J. VARGAS
State Bar No. 00791847

ATTORNEYS FOR PETITIONER/ THE
COMMISSION FOR LAWYER DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

February 21, 1997

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

Re: Commission for Lawyer Discipline v. Sam W. Choate

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 Sam W. Choate. Mr. Choate 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 practices 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:

Sam W. Choate
c/o Wayne H. Paris
3100 South Gessner, Suite 600
Houston, Texas 77063

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 Civil Case Information Sheet, and 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 citation, along with a file-stamped copy of the petition be returned to the undersigned.

Also enclosed is a pre-addressed envelope for your use in transmitting the above referenced documents to the District Clerk of Harris County, Texas, and a return envelope to be sent to

Mr. John T. Adams, Clerk
Supreme Court of Texas
February 21, 1997
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the District Clerk of Harris County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Diego Vargas/sk". The signature is written in black ink and is positioned above the typed name and title.

Diego J. Vargas
Assistant General Counsel

DJV/slk
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

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

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

April 4, 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. Sam W. Choate, and a copy of the Supreme Court's order appointing the Honorable Joe Carroll, Judge of the 27th District Court of Belton, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Joe Carroll
Mr. Sam W. Choate
Mr. Diego J. Vargas



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GREG ABBOTT

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

April 4, 1997

Honorable Joe Carroll
Judge, 27th District Court
P.O. Box 747
Belton, Texas 76513-0747

Dear Judge Carroll:

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. Choate and Mr. Vargas, 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



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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April 4, 1997

Mr. Diego J. Vargas
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Sam W. Choate
c/o Wayne H. Paris
3100 South Gessner, Suite 600
Houston, Texas 77063

Dear Mr. Vargas and Mr. Choate:

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 Joe Carroll, Judge of the 27th District Court of Belton, Texas to preside in

Commission for Lawyer Discipline v. Sam W. Choate

Sincerely,

SIGNED

John T. Adams
Clerk