

ORDER OF THE SUPREME COURT OF TEXAS

9128

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 James Brian Rains, Judge of the 176th District Court of Harris County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Joseph B. Garza

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 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,

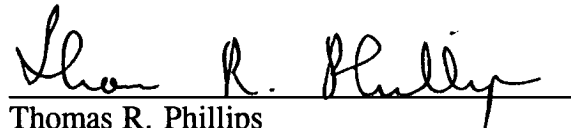
With the Seal thereof affixed at the City
Of Austin, this 12th day of July, 2001.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 01-9128 is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 16 day of July, 2001.


Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	DALLAS COUNTY, TEXAS
JOSEPH B. GARZA	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complains of Respondent, Joseph B. Garza, (hereinafter called "Respondent"), showing the Court:

I.

Discovery Control Plan

Pursuant to Rules 190.1 and 190.3, 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. Respondent and be served via certified mail by and through his attorney of record, John R. Gladney,

Arena Tower Two, 7324 Southwest Freeway, Suite 800, Houston, Texas 77074..

IV.

In the fall of 1990, Glen Petta ("Petta") employed Respondent to implement, administer and maintain an Employee Stock Ownership Plan (ESOP) for Petta's business. The ESOP was established in February of 1991. In 1996, an examiner from the Internal Revenue Service's Employee Plans Division audited the plan. The examiner referred the matter to the U.S. Department of Labor, which conducted an audit. Petta and Respondent met with the auditor in April of 1997.

V.

Following the meeting with the U.S. Department of Labor, Respondent failed to clearly communicate to Petta that Respondent had not been retained to assist Petta further in the DOL matter. As a result, Petta had to obtain an extension of time to respond to the U.S. Department of Labor and to obtain other counsel.

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 Rule 1.01(b) of the Texas Disciplinary Rules of Professional Conduct.

VIII.

The complaint which forms the basis of the Cause of Action hereinabove set forth was brought to the attention of the Office of the Chief Disciplinary Counsel of the State Bar of Texas by Glen Petta filing a complaint on or about August 16, 1999.

PRAYER

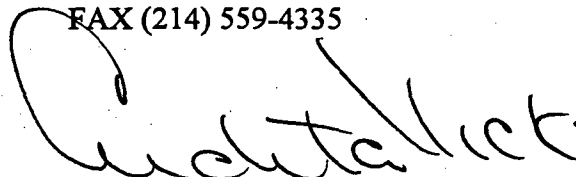
WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

Dawn Miller
Chief Disciplinary Counsel

Ardita Vick
Assistant Disciplinary Counsel

State Bar of Texas
Litigation - Dallas
3710 Rawlins
Suite 800
Dallas, Texas 75219
(214) 559-4353
FAX (214) 559-4335



Ardita Vick
State Bar Card No. 00786311

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

June 26, 2001

CMRRR NO. 7000 1670 0013 5407 4944

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

RE: *Commission for Lawyer Discipline v. Joseph B. Garza*

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 B. Garza. Mr. Garza 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 at the address shown below and the undersigned of the identity and address of the judge assigned:

**Joseph B. Garza
c/o John Gladney
Arena Tower Two
7324 Southwest Fwy. - Suite 800
Houston, Texas 77074**

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.

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

John T. Adams, Clerk

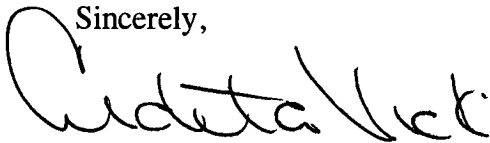
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Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Dallas County, Texas, with the 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 "Ardita Vick". The signature is written in a cursive style with a large initial "A".

Ardita Vick
Assistant Disciplinary Counsel

Enclosures



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

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUL 19 2001

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. Joseph B. Garza*, and a copy of the Supreme Court's order appointing the Honorable James Brian Rains, Judge of the 176th District Court of Houston, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable James Brian Rains
Ms. Ardita Vick
Mr. Joseph B. Garza



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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HARRIET O'NEILL
WALLACE B. JEFFERSON

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUL 19 2001

Honorable James Brian Rains
Judge, 176th District Court
19th Floor, Criminal Justice Center
1201 Franklin Street
Houston, Texas 77002

Dear Judge Rains:

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 Ms. Vick and Mr. Garza, 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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JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUL 19 2001

Ms. Ardita Vick
Assistant General Counsel, State Bar of Texas
3710 Rawlins, Suite 800
Dallas, Texas 75219

Mr. Joseph B. Garza
c/o John Gladney
Arena Tower Two
7324 Southwest Parkway, Suite 800
Houston, Texas 77074

Dear Ms. Vick and Mr. Garza:

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 James Brian Rains, Judge of the 176th District Court, Houston, Texas to preside in

Commission for Lawyer Discipline v. Joseph B. Garza

Sincerely,

SIGNED

John T. Adams
Clerk