

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 94-9209**

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

The Supreme Court of Texas hereby appoints the Honorable Jim N. Thompson, Judge of the 62nd District Court of Lamar County, Texas, to preside in the Disciplinary Action styled:

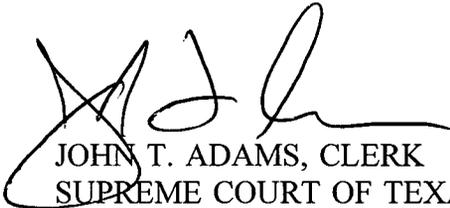
**The Commission for Lawyer Discipline v. Don E. Peavy, Sr.**

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Tarrant 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 19th day of December, 1994.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 94-9209, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 19 day of December, 1994.

  
Thomas R. Phillips  
Chief Justice

NO. \_\_\_\_\_

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF  
V. §  
DON E. PEAVY, SR. § TARRANT 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, Don E. Peavy, Sr., (hereinafter called "Respondent"), showing the Court:

**I.**

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.

**II.**

Respondent is an attorney licensed to practice law in Texas and a member of the State Bar of Texas. Respondent is a resident of and has his principal place of business in Tarrant County, Texas. An officer may serve citation on Respondent at his business address located at 401 Riverside Drive, Fort Worth, Tarrant County, Texas 76111-4519.

### III.

In and around August, 1989, Dorothy G. Williams (hereinafter called "Williams") hired Respondent to file a lawsuit for breach of contract against a patent marketing center. At the time Williams hired Respondent, she agreed to pay him a \$1,500.00 retainer fee, and paid him \$500.00 towards that retainer on or about August 2, 1989.

### IV.

Respondent thereafter engaged in settlement negotiations with the defendant. In and around May, 1991, Respondent informed Williams that in order for him to file a lawsuit against the patent company, she would have to pay him the unpaid portion of the \$1,500.00 retainer fee, plus filing fees in the amount of \$167.00. Williams forwarded \$667.00 to Respondent on or about June 8, 1991, which included \$500.00 towards the retainer fee and \$167.00 for filing fees.

### V.

Respondent settled Williams' case in and around May, 1993, for \$5,000.00. Pursuant to his agreement with the defendant, Respondent received a check for \$2,500.00 in and around May, 1993, and was to receive the remaining funds, at such time that he dismissed the pending lawsuit. On or about May 26, 1993, Respondent forwarded a check in the amount of \$2,490.00 to Williams. However, when Williams presented the check for payment, it was returned unpaid due to non-sufficient funds in Respondent's bank account. Respondent apparently used funds in his trust account to pay personal expenses and the operating expenses for his law practice. Williams eventually received a valid check from Respondent in and around August, 1993.

## VI.

Williams thereafter demanded that Respondent send her the remaining settlement proceeds of \$2,500.00, which Respondent had received upon filing of a motion to dismiss. Notwithstanding the fact that Williams had already paid Respondent a \$1,000.00 retainer, Respondent informed her that the remaining \$2,500.00 was his attorney's fees pursuant to an alleged contingent fee agreement that purportedly existed between them. However, at no time had Williams signed a contract providing for payment of contingent fees to Respondent. Furthermore, despite the fact that a dispute existed regarding allocation of the remaining \$2,500.00 in settlement proceeds, Respondent thereafter failed to maintain such funds in his trust account pending resolution of the dispute.

## VII.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs III., IV., V., and VI. hereinabove which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.04(a), 1.14(b), 1.14(c), and/or 8.04(a)(3) 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 General Counsel of the State Bar of Texas by Dorothy G. Williams filing a complaint on or about November 18, 1993.

**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,

**James M. McCormack**  
General Counsel

**E. Lynn Rodriguez**  
Assistant General Counsel.

Office of the General Counsel  
State Bar of Texas  
P.O. Box 12487  
Austin, Texas 78711  
Telephone: (512) 463-1463  
Telecopier:(512) 477-4607

  
**E. LYNN RODRIGUEZ**  
State Bar of Texas No. 17143880

**ATTORNEYS FOR PETITIONER**

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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  
JACK HIGHTOWER  
NATHAN L. HECHT  
LLOYD DOGGETT  
JOHN CORNYN  
BOB GAMMAGE  
CRAIG ENOCH  
ROSE SPECTOR

EXECUTIVE ASS'T.  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.  
NADINE SCHNEIDER

December 20, 1994

Mr. James M. McCormack  
General Counsel, State Bar of Texas  
P.O. Box 12487  
Austin, Texas 78711

Mr. Don E. Peavy, Sr.  
401 Riverside Drive  
Fort Worth, Texas 76111-4519

Dear Mr. McCormack and Mr. Peavy:

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 J. D. Langley, Judge of the 85th District Court, Bryan, Texas to preside in

Commission for Lawyer Discipline v. Don E. Peavy, Sr.

Sincerely,

SIGNED

John T. Adams  
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

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CRAIG ENOCH  
ROSE SPECTOR

December 20, 1994

Honorable Jim N. Thompson  
Judge, 62nd District Court  
119 N. Main Street  
Paris, Texas 75460

Dear Judge Thompson:

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. Peavy and Mr. McCormack, and a copy of the letter to the District Clerk of Tarrant County.

It is recommended that, four or five weeks after receipt of this letter, you contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (817-884-1558) to reserve a courtroom, provide for a court reporter, to obtain information on lodging, allowable expenses, and claim forms for your expenses and other information incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams  
Clerk



THE SUPREME COURT OF TEXAS

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THOMAS R. PHILLIPS

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ROSE SPECTOR

December 20, 1994

The Honorable Thomas P. Hughes  
District Clerk of Tarrant County  
Tarrant County Justice Center  
401 West Belknap  
Fort Worth, Texas 76296-0402

Dear Mr. Hughes:

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. Don E. Peavy, Sr. and a copy of the Supreme Court's order appointing the Honorable Jim N. Thompson, Judge of the 62nd District Court, Paris, Texas, to preside in this Disciplinary Action.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

cc: Hon. Jim N. Thompson  
Mr. Don E. Peavy, Sr.  
Mr. James M. McCormack