



**BEFORE THE STATE COMMISSION  
ON JUDICIAL CONDUCT**

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**CJC No. 19-0661**

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**PUBLIC WARNING  
AND  
ORDER OF ADDITIONAL EDUCATION**

**HONORABLE FREDERICKA PHILLIPS  
61<sup>ST</sup> JUDICIAL DISTRICT COURT  
HOUSTON, HARRIS COUNTY, TEXAS**

During its meeting on August 5-6, 2020, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Fredericka Phillips, 61<sup>st</sup> Judicial District Court, Harris County, Texas. Judge Phillips was advised by letter of the Commission's concerns and provided a written response. Judge Phillips appeared before the Commission on April 8, 2021 and gave testimony.

**BACKGROUND**

Beginning in 2018, Judge Phillips presided over a multi-party civil case involving Plaintiffs, David and Donna Hotze (the "Hotzes").<sup>1</sup> One of the defendants in the case, Steven Hotze, was represented by John Zavitsanos and his law firm, Ahmad, Zavitsanos, Anaipakos, Alavi and Mensing P.C. ("AZA"). The trial on the merits was conducted in September 2018 and resulted in a jury verdict in favor of the defendants. The defendants moved for entry of judgment on the jury verdict and for attorney's fees.

On November 7, 2018, the day before the hearing on the defendants' post-judgment motions, Judge Phillips conducted a swearing-in ceremony for five new attorneys employed with AZA and attended a celebratory luncheon with Zavitsanos and the new lawyers at Brennan's restaurant in downtown Houston. A hearing on the defendants' attorney's fees and other post-judgment motions was conducted on November 8, 2018. Judge Phillips took the matter under advisement and subsequently entered a judgment awarding Defendants \$2 million in attorney's fees.

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<sup>1</sup> Cause No. 2016-36300, styled *David Hotze, et. al., Plaintiff v. In Management, LLC, Inter Nos Barker Cypress, LTD, Inter Nos Odessa, LTD., Inter Nos Wichita, LTS., New Orleans In, LTD., Inter Nos Space Plus, LTD., Inter Nos Springville, LTD., Inter Nos Walker, LTD., Inter Nos Pipeline, LTD, Inter Nos TP Investments, LTD., Mark Hotze, Steven Hotze, Richard Hotze and Bruce R. Hotze, Sr., Defendants.*

The Hotzes filed a motion to alter or amend the judgment and for new trial. A hearing on the motion was set for January 17, 2019. On January 15, 2019, the Hotzes cancelled the hearing as to their parts of the motion, though the other Plaintiffs proceeded to hearing on their post-judgment motions as scheduled on January 17, 2019. The Hotzes filed a Motion to Recuse Judge Phillips on January 17, 2019. Judge Phillips declined to voluntarily recuse and referred the matter to 11<sup>th</sup> Region Administrative Presiding Judge Susan Brown, who presided over the recusal hearing and entered an order granting the recusal on January 25, 2019.

In her written responses to the Commission, Judge Phillips confirmed that she conducted the swearing-in ceremony for the five new attorneys employed with AZA, and that she attended part of the celebratory luncheon at Brennan's with Zavitsanos and the new attorneys immediately after the swearing-in. Judge Phillips indicated that although she left the luncheon before it was over and before the table received the check, she assumed that Zavitsanos and/or his firm paid the bill. Judge Phillips also confirmed that at the time of the luncheon, no final judgment had been issued in the contested case pending before her.

Judge Phillips expressed her belief that given the nature of the luncheon as a celebration of the new attorneys, the small price of her meal and the very public nature of the luncheon taking place in the open at a restaurant near downtown Houston that is frequented by attorneys, she did not believe anyone could reasonably view the circumstances of the swearing-in and celebratory lunch as improper.

After considering the evidence before it, the Commission entered the following Findings and Conclusion:

### **FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Fredericka Phillips was Judge of the 61<sup>st</sup> Judicial District Court in Houston, Harris County, Texas.
2. On November 7, 2018, Judge Phillips conducted the swearing-in ceremony for five new attorneys employed with John Zavitsanos and his law firm, Ahmad, Zavitsanos, Anaipakos, Alavi and Mensing P.C., who represented defendant, Steven Hotze, in a highly contested civil case pending in her court.
3. Judge Phillips also attended a celebratory luncheon with Zavitsanos and the new attorneys, immediately after the swearing-in ceremony, at Brennan's Restaurant in downtown Houston. Zavitsanos and/or his law firm paid for the luncheon.
4. At the time of the luncheon, the motion for entry of judgment on the jury verdict and for attorney's fees, as to the attorney's fees incurred by Zavitsanos's firm, was pending before Judge Phillips and set for hearing the next day.
5. A hearing on the defendants' attorney's fees and other post-judgment motions was conducted on November 8, 2018. Judge Phillips entered a judgment awarding Defendants \$2 million in attorney's fees.
6. Neither Zavitsanos's firm, nor Judge Phillips, disclosed the judge's participation in the luncheon to the Hotzes' counsel prior to their filing the motion to recuse Judge Phillips on January 17, 2019.
7. The Hotzes filed a Motion to Recuse Judge Phillips on January 17, 2019. Judge Phillips declined to voluntarily recuse and referred the matter to 11<sup>th</sup> Region Administrative Presiding Judge Susan Brown.
8. Judge Brown presided over the recusal hearing and on January 25, 2019 entered an order granting the recusal based on the public appearance created by Judge Phillips' actions described herein.

## RELEVANT STANDARDS

1. Canon 2B of the Texas Code of Judicial Conduct states in relevant part that a judge shall not: “[c]onvey or permit others to convey the impression that they are in a special position to influence the judge.”
2. Canon 4A(1) of the Texas Code of Judicial Conduct states in relevant part: “A judge shall conduct all of the judge’s extra-judicial activities so that they do not cast reasonable doubt on the judge’s capacity to act impartially as a judge.”
3. Canon 4A(2) of the Texas Code of Judicial Conduct states in relevant part: “A judge shall conduct all of the judge’s extra-judicial activities so that they do not interfere with the proper performance of judicial duties.”

## CONCLUSION

Based upon the record before it and the factual findings recited above, the State Commission on Judicial Conduct has determined that the Honorable Fredericka Phillips, Judge of the 61<sup>st</sup> Judicial District Court in Houston, Harris County, Texas, should be publicly warned and ordered to obtain additional education for; (i) attending a luncheon hosted and paid for by one of the law firms involved in a highly contested civil case while the case was still pending before her court and set for post-judgment matters the following day; and (ii) failing to disclose that event to all parties involved in the litigation. This conduct violated Canons 2B, 4A(1) and 4A(2) of the Texas Code of Judicial Conduct.

Pursuant to this Order, Judge Phillips must obtain **two (2) hours** of instruction with a mentor, in addition to her required judicial education for Fiscal Year 2021. In particular, the Commission desires that Judge Phillips receive this additional education in the areas of avoiding the appearance of impropriety and conducting her extrajudicial activities so that they do not cast reasonable doubt on her ability to act impartially as a judge. Pursuant to the authority contained in §33.036 of the Texas Government Code, the Commission authorizes the disclosure of certain information relating to this matter to the Texas Center for the Judiciary to the extent necessary to enable that entity to assign the appropriate mentor for Judge Phillips.

Judge Phillips shall complete the additional **two (2) hours** of instruction recited above within **60 days** from the date of written notification from the Commission of the assignment of a mentor. Upon receiving such notice, it is Judge Phillips’s responsibility to contact the assigned mentor and schedule the additional education.

The Commission has taken this action pursuant to the authority conferred it in Article V, §1-a (8) of the Texas Constitution in a continuing effort to promote confidence in and high standards for the judiciary.

Issued this the 9<sup>th</sup> day of April, 2021.

  
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David Hall  
Chairman, State Commission on Judicial Conduct