

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 01-----**9166**

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

The Supreme Court of Texas hereby appoints the Honorable Martha J. Trudo, Judge of the 264th District Court of Bell County, Texas, to preside in the Disciplinary Action styled

The Commission for Lawyer Discipline v. Olu McGuinnis Otubusin

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.

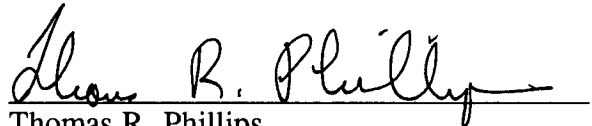
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City
Of Austin, this 10th day of October, 2001.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 01-9166, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 9 day of October, 2001.



Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
VS.	§	HARRIS COUNTY, TEXAS
	§	
OLU MCGUINNIS OTUBUSIN	§	_____ JUDICIAL DISTRICT

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

Petitioner the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas (hereinafter referred to as the "CFLD"), complains of OLU MCGUINNIS OTUBUSIN ("hereinafter referred to as "Respondent") as follows:

**I.
DISCOVERY CONTROL PLAN**

Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure, CFLD intends discovery in this case to be conducted under Discovery Control Plan - Level 2 as provided in Rule 190.3 of the Texas Rules of Civil Procedure.

**II.
PROCEDURAL BASIS FOR SUIT**

The CFLD brings this disciplinary action pursuant to the State Bar Act, 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.

III.
VENUE AND SERVICE

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of 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 service citation upon Respondent at his office address of 6430 Richmond Ave. Ste 420 Houston, Texas 77057

IV.
FIRST CAUSE OF ACTION

On or about June 25, 1997, a Petition for Divorce was filed under cause number 97-33387; In the Matter of the Marriage of Larry W. Rogers and Veronica Faye Rogers; and in the Interest of Larry Eugene Rogers and Anthony Carl Rogers, Minor Children, in the 308th Judicial District Court of Harris County, Texas (the Rogers matter).

V.

Upon issuance of a court Scheduling Order in the Rogers matter, a pre-trial conference was scheduled for May 21, 1998, at which Respondent failed to appear. On or about May 22, 1998, the Rogers matter was dismissed for want of prosecution. By his conscious disregard of responsibilities owed to his client leading up to such dismissal, Respondent neglected a legal matter entrusted to him.

VI.

On or about June 1, 1998, Respondent appeared in the 308th Judicial District Court of Harris County, Texas before Associate Judge Janice Pardue. Judge Pardue reinstated the cause of action

until June 5, 1998 to allow Respondent time to perfect the divorce. On this same date, Respondent and Larry Rogers (hereinafter referred to as "Rogers") appeared in the 308th Judicial District Court before the Honorable Georgia Dempster (hereinafter referred to as "Complainant") and announced ready and proved the Rogers' uncontested divorce. The decree ordered Veronica Rogers (hereinafter referred to as "Ms. Rogers") to pay child support. A Final Decree of Divorce was signed on June 23, 1998.

VII.

Upon entry of the decree, Ms. Rogers failed to make any child support payments and in or around February 1999, the Harris County Domestic Relations office filed a contempt of action against Ms. Rogers. Thereafter, Ms. Rogers was served with a Motion for Enforcement and order to appear at a hearing scheduled for April 22, 1999. Ms. Rogers did not appear and a *capias* was subsequently issued for her arrest. Ms. Rogers was later arrested on an unrelated matter and incarcerated. Ms. Rogers was brought before the court and during questioning of the Motion for Contempt matter, Ms. Rogers stated that she was unaware that she was divorced and denied having signed the Waiver of Citation contained in cause number 97-33387. Upon review of the citation, it was determined that the signature on the Waiver was not Ms. Rogers' usual signature.

VIII.

On or about August 6, 1999, the court held a hearing regarding the Motion for Contempt. During testimony of this hearing, it was discovered that Respondent never personally met Rogers until Rogers and Respondent appeared in the 308th Judicial District Court on June 1, 1998 to prove up the divorce. Lynette Montes (hereinafter referred to as "Montes"), who was a former employee of Respondent's law firm, testified that she interviewed Rogers when he sought the legal services

of Respondent and advised him throughout the proceedings as to how the case would proceed. Respondent was aware of this conduct occurring, but failed to discourage Montes from advising Rogers on how his matter would proceed. When Montes was questioned regarding the Waiver, she testified that Rogers had returned a signed, but unnotarized Waiver and that Montes delivered it to Melissa Gonzales (hereinafter referred to as "Gonzales"), who was employed in another office of Respondent, to have it notarized. During Gonzales testimony at this hearing, she testified that she notarized the document without Ms. Rogers being present and did so under Respondent's instructions. Respondent knowingly ordered an employee to notarize a document without the affiant being present. Rogers testified at this hearing that he signed Ms. Rogers' name to the Waiver so the divorce could proceed and be granted. The document notarized read, "On this day, VERONICA FAYE ROGERS appeared before me and after being first duly sworn, while under oath, deposed and said as follows: . . ." and SUBSCRIBED AND SWORN TO BEFORE ME, this 7th day of May, 1998..." Respondent knew that Veronica Faye Rogers had not appeared before Melissa E. Gonzales and that she had not been sworn by Melissa E. Gonzales.

IX.

The acts and/or omissions of the Respondent described in Paragraph III(A) above, which occurred on or after January 1, 1990, constitute conduct in violation of the following Rules of the Texas Disciplinary Rules of Professional Conduct ("TDRPC"):

- 1.01(b)(1)** for neglecting a legal matter entrusted to the lawyer;
- 3.03(1)** for knowingly making a false statement of fact or law to a tribunal;
- 3.03(2)** For knowingly failing to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act.

3.03(3) for knowingly failing in an ex parte proceeding to disclose to the tribunal an unprivileged fact which the lawyer reasonably believed should have been made known to the tribunal for her to make an informed decision;

3.03(5) knowingly offering or using evidence that the lawyer knows to be false;

5.03(a) for failing to make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the professional obligations of the lawyer;

5.03(b)(1) a lawyer shall be in violation if the lawyer orders, encourages, or permits the conduct involved of a non-lawyer to be in violation of the rules of the Texas Disciplinary rules of Professional Conduct;

5.03(b)(2)(ii) a lawyer shall be subject to discipline for the conduct of a non-lawyer employed or retained by the lawyer that would be a violation of these rules if engaged in by a lawyer if the lawyer with knowledge of such misconduct by the nonlawyer knowingly fails to take reasonable remedial action to avoid or mitigate the consequences of that person's misconduct;

5.05(b) for assisting a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law;

8.04(a)(1) for violating these Rules, knowingly assisting or inducing another to do so, or doing so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship; and

8.04(a)(3) for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

X.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel of the State Bar of Texas by the Honorable Georgia Dempster filing a complaint on or about September 1, 1999.

Prayer

WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent 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

J. G. Molleston
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel
STATE BAR OF TEXAS
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6931
Fax No. (713) 752-2158



J. G. Molleston
State Bar No. 00795924

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE

J:\OTUBUSIN\CFLD.JGMDP.OTU

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

August 3, 2001

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

Re: Commission for Lawyer Discipline v. Olu McGuinnis Otubusin

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 Olu McGuinnis Otubusin. Mr. Otubusin 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 at the address shown below and the undersigned of the identity and address of the judge assigned:

Olu McGuinnis Otubusin
C/O Andrew L. Jefferson, Jr.
1314 Texas Ave., Ste. 420
Houston, Texas 77002

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 trial as 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

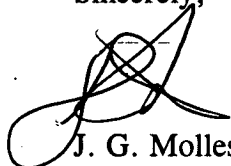
August 3, 2001

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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,



J. G. Molleston
Assistant Disciplinary Counsel

JGM/vr

Enclosures

cc: Olu M. Otubusin
C/O Andrew L. Jefferson, Jr.
1314 Texas Ave., Ste. 420
Houston, Texas 77002
CMRRR - 7000 1670 0004 9609 4018

J:\OTUBUSIN\CFLD.JGM\CLERK1.SCT



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

OCT 12 2001

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

Mr. Olu McGuinnis Otubusin
c/o Andrew L. Jefferson, Jr.
1314 Texas Avenue, Suite 420
Houston, Texas 77002

Dear Mr. Molleston and Mr. Otubusin:

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 Martha J. Trudo, Judge of the 264th District Court, Belton, Texas to preside in

Commission for Lawyer Discipline v. Olu McGuinnis Otubusin

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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JUSTICES
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EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

OCT 12 2001

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. Olu McGuinnis Otubusin*, and a copy of the Supreme Court's order appointing the Honorable Martha J. Trudo, Judge of the 264th District Court, Belton, Texas.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Martha J. Trudo
Mr. J.G. Molleston
Mr. Olu M. Otubusin
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

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DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

OCT 12 2001

Honorable Martha J. Trudo
Judge, 264th District Court
P.O. Box 747
Belton, Texas 76513-0747

Dear Judge Trudo:

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. Otubusin and Mr. Molleston, 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