

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 01-⁹²⁰⁹-----

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

The Supreme Court of Texas hereby appoints the Honorable Jack E. Hunter, Judge of the 94th District Court of Nueces County, Texas, to preside in the Disciplinary Action styled

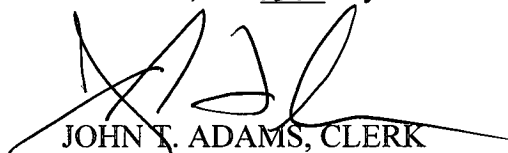
The Commission for Lawyer Discipline v. Michael G. Matthews

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.

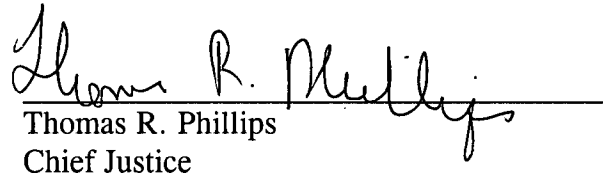
As ordered by the Supreme Court of Texas, in chambers,

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


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 01-9209 is also an assignment by Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 13 day of December, 2001.


Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE §
v. §
MICHAEL G. MATTHEWS §
IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
_____ 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 (the "CFLD"), complains of Respondent, MICHAEL G. MATTHEWS ("Respondent") as follows:

1. **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 2 Discovery Control Plan. Pursuant to Rule 190.3(b), TRCP, Petitioner affirmatively pleads that it seeks monetary relief aggregating fifty thousand and no/100 dollars (\$50,000.00) or more, not excluding costs, pre-judgment interest and attorneys' fees.

2. **NATURE OF PROCEEDING**

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.

3. **VENUE**

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent's address and principal place of practice is Harris County, Texas; therefore, venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the TEXAS RULES OF DISCIPLINARY PROCEDURE, (TRDP). Respondent, **MICHAEL G. MATTHEWS** may be served with citation at his business address, 5425 Blythwood Street, Houston, Texas 77021.

4. **BRITTON COMPLAINT**

In or about December 1998, Mickey Britton, (hereinafter called "Britton") contacted Michael Matthews (hereinafter called "Respondent") regarding a Worker's Compensation matter. Upon Respondent's oral agreement to review Britton's case, Britton faxed Respondent copies of his medical records.

After leaving messages with Respondent's staff for several months, Britton finally made telephone contact with Respondent in December 1999. As Britton was aware of a January 2000 deadline to file his civil petition, he needed information from Respondent. Respondent informed him that he did not have access to the file.

On or about December 14, 1999, Britton again sent Respondent his medical records and a fee so that Respondent would complete the review of the records and file the petition. Respondent accepted and negotiated the fee. Respondent failed to either review the records or respond to Britton.

Subsequently, Britton was forced to initiate his civil suit without the benefit of counsel.

5. MATTHEWS ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT:

1.01(b)(1) neglecting a legal matter entrusted to the lawyer.

1.01(b)(2) failing to carry out completely the obligations owed to a client;

1.03(a) failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information;

1.03(b) failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;

1.15(a)(1) failing to decline or withdraw from representation of a client if the representation will result in a violation of Rule 3.08, other applicable rules of professional conduct, or other law;

8.04(a)(1) 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;

PURSUANT TO PART III OF THE TEXAS RULES OF DISCIPLINARY PROCEDURE, PETITIONER REQUESTS THIS COURT DISCIPLINE MATTHEWS FOR HIS ACTS OF PROFESSIONAL MISCONDUCT.

6. Respondent accepted and negotiated the fee from Britton while administratively suspended from the active rolls of the State Bar of Texas.

7. MATTHEWS ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT:

5.05(a) for practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction;

8.04(a)(11) for engaging in the practice of law when the lawyer is on inactive status or when the lawyer's right to practice has been suspended or terminated, including but not limited to situations where a lawyer's right to practice has been administratively suspended for failure to timely pay required fees or assessments or for failure to comply with Article XII of the STATE BAR RULES relating to Mandatory Continuing Legal Education.

PURSUANT TO PART III OF THE TEXAS RULES OF DISCIPLINARY PROCEDURE, PETITIONER REQUESTS THIS COURT DISCIPLINE MATTHEWS FOR HIS ACTS OF PROFESSIONAL MISCONDUCT.

8. On or about February 20, 2001, Respondent told the 5B2 Investigatory Committee of the State Bar of Texas that he had not received any money from Britton for any matter. Subsequent investigation revealed that Respondent had negotiated the fee.

9. **MATTHEWS ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT:**

3.03(a)(1) for making a false statement of material fact or law to a tribunal;

8.01(a) knowingly making a false statement of material fact;

8.04(a)(1) violating these Rules, whether or not such violation occurred in the course of a client-lawyer relationship;

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

PURSUANT TO PART III OF THE TEXAS RULES OF DISCIPLINARY PROCEDURE, PETITIONER REQUESTS THIS COURT DISCIPLINE MATTHEWS FOR HIS ACTS OF PROFESSIONAL MISCONDUCT.

10. The complaint that forms the basis of this cause of action was brought by the office of the Chief Disciplinary Counsel of the State Bar of Texas on or about October 9, 2000.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent as the facts shall warrant by finding professional misconduct with regard to the above-stated rule violations and imposing a

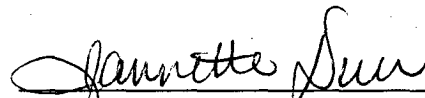
sanction of reprimand, suspension and/or disbarment; and that the CFLD have all other relief to which it may show itself to be justly entitled, including costs of court, and attorneys' fees.

Respectfully submitted,

DAWN MILLER
Chief Disciplinary Counsel

JEANNETTE M. DUER
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel
State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002
Phone: (713) 759-6931
Fax: (713) 752-2158



JEANNETTE M. DUER
State Bar No. 00793645

**ATTORNEYS FOR PETITIONER
THE COMMISSION FOR
LAWYER DISCIPLINE**

J:\MATTHEWS.MG\CFLD1.JMD\DP-V2.WPD

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

October 26, 2001

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

Re: Commission for Lawyer Discipline v. Michael G. Matthews

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 Michael G. Matthews. Michael G. Matthews 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:

Michael G. Matthews
5425 Blythwood Street
Houston, Texas 77021

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.

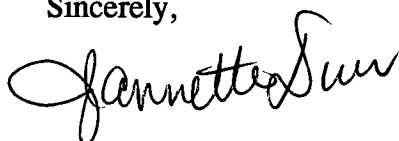
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, service be obtained, and a file-marked copy of the petition be returned to the undersigned.

Mr. John Adams
October 26, 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,

A handwritten signature in cursive script that reads "Jeannette Duer".

Jeannette M. Duer
Assistant Disciplinary Counsel

JMD/dy

Enclosures

J:\MATTHEWS.MG\CFLD1.JMD\SUP-CT.LTR



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

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
DEBORAH G. HANKINSON
HARRIET O'NEILL
WALLACE B. JEFFERSON
XAVIER RODRIGUEZ

DEC 17 2001

CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

Ms. Jeannette Duer
Assistant Disciplinary Counsel
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Michael W. Matthews
5425 Blythwood Street
Houston, Texas 77021

Dear Ms. Duer and Mr. Matthews:

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 Jack E. Hunter, Judge of the 94th District Court, Corpus Christi, Texas to preside in

Commission for Lawyer Discipline v. Michael G. Matthews

Sincerely,

SIGNED

John T. Adams
Clerk



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

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DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

The Honorable Jack E. Hunter
Judge, 94th District Court
901 Courthouse
901 Leopard Street
Corpus Christi, Texas 78401

Dear Judge Hunter:

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. Matthews and Ms. Duer, 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 (936-538-8176) 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

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

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DEC 17 2001

CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

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. Michael G. Matthews*, and a copy of the Supreme Court's order appointing the Honorable Jack E. Hunter, Judge of the 94th District Court, Corpus Christi, Texas.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Jack E. Hunter
Ms. Jeannette M. Duer
Mr. Michael G. Matthews
Ms. Melissa Dartez