

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98-9147

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

The Supreme Court of Texas hereby appoints the Honorable Billie Ray Stubblefield, Judge of the 26th District Court of Williamson County, Texas, to preside in the Disciplinary Action styled:

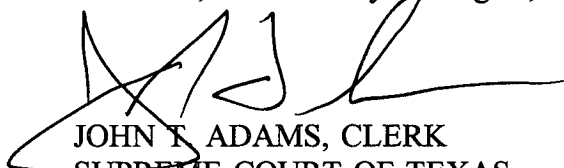
The Commission for Lawyer Discipline v. McCuller C. Stephens, III

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 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 31st day of August, 1998.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9147, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 2 day of September, 1998.


Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§ § §	IN THE DISTRICT COURT OF
V.	§	HARRIS COUNTY, TEXAS
MCCULLER C. STEPHENS, III	§	_____ JUDICIAL DISTRICT

ORIGINAL 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 referred to as "Petitioner"), complaining of Respondent, MCCULLER C. STEPHENS, III, (hereinafter referred to as "Respondent"), and would show the Court the following:

I. NATURE OF PROCEEDING

Petitioner brings this disciplinary action pursuant to the State Bar Act, the Tex.Gov't 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 Original Disciplinary Petition were filed on or after May 1, 1992.

II. VENUE

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 practice in Harris County, Texas; therefore, venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. An officer may serve citation on Respondent through his attorney of record, Andrew L. Jefferson, Jr., at his business address located at 2100 Travis @ Gray, Suite 707, Houston, Harris County, Texas 77002-8721.

III. CAUSE OF ACTION

On or about April 1, 1995, the Respondent was employed for representation in a personal injury case on a contingency fee agreement. In October 1996, the Respondent received settlement proceeds. The Respondent issued medical provider payments totaling Two Thousand Twenty Dollars (\$2,020.00). The checks were issued on a trust account, and the account held insufficient funds for payment. The Respondent neglected to have a proper trust account.

The Respondent provided a written response to the Grievance Committee dated February 4, 1997. The written response states, "The file was then located, and the bills were then paid prior to knowledge of this complaint." This is a misrepresentation to the Grievance Committee that the medical providers have been paid.

On or about October 1996, the Respondent received settlement funds to pay medical providers. The Respondent failed to safely protect the funds of the medical provider, and to promptly pay the medical providers.

From September 1, 1996 through November 30, 1996, the Respondent maintained client trust account #0062006, at Bank of Houston, styled McCuller C. Stephens, III, Trust Account. The account did not protect client funds, in that five checks totaling Seven Thousand Seven Hundred Fifty Dollars Sixty-seven Cents (\$7,750.67) were returned.

IV.

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 Calvin Riley's filing of a complaint on or about October 25, 1996.

V. RULE VIOLATIONS

The acts and/or omissions of Respondent described in Paragraph III above which occurred on or before January 1, 1990, constitute conduct in violation of Rules **1.14(a)** [for failing to hold funds and other property belonging in whole or part to clients or third persons in a lawyer's possession separate from the lawyer's own property]; **1.14(b)** [for failing, upon receiving funds or other property in which a client or third person has an interest, to promptly notify the client or third person and render a full accounting upon request]; and **8.04(a)(3)** [for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.]

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner, **COMMISSION FOR LAWYER DISCIPLINE,** respectfully prays that this Court discipline Respondent, **MCCULLER C. STEPHENS, III,** by reprimand, suspension, or disbarment, as the facts shall warrant; restitution; and all other relief to which Petitioner may show itself to be justly entitled, including costs of court and attorneys' fees.

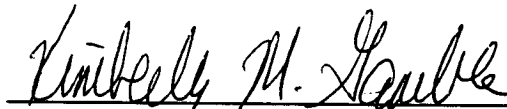
Respectfully submitted,

Steven W. Young
General Counsel

Kimberly M. Gamble
Assistant General Counsel

Office of the General Counsel
State Bar of Texas

1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6932
(713) 752-2158 FAX


KIMBERLY M. GAMBLE
State Bar No. 00789804

**ATTORNEYS FOR PETITIONER,
COMMISSION FOR LAWYER DISCIPLINE**

STATE BAR OF TEXAS



Office of the General Counsel

August 5, 1998

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

Re: Commission for Lawyer Discipline v. McCuller C. Stephens, III

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 McCuller C. Stephens, III. Mr. Stephens 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:

McCuller M. Stephens, III
c/o Andrew L. Jefferson, Jr.
2100 Travis @ Gray, Suite 707
Houston, Texas 77002-8721

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; and (2) whether he or she can accommodate compliance with Mellon Service Co., et al v. Touche Ross Co., 946 S.W.2d 862 (Tex. App. - Houston [14th Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. If not, I would respectfully request that an alternate appointment be made.

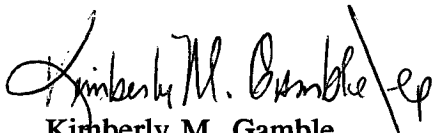
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, service be obtained,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

Mr. John Adams
August 6, 1998
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I have enclosed 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,

Handwritten signature of Kimberly M. Gamble in cursive script.

Kimberly M. Gamble
Assistant General Counsel

KMG/lp

encls.

JARISKER\CLERK1.NEW



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

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
CRAIG T. ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

SEP 14 2002

Ms. Kimberly M. Gamble
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. McCuller M. Stephens, III
c/o Andrew L. Jefferson, Jr.
2100 Travis @ Gray, Suite 707
Houston, Texas 77002-8721

Dear Ms. Gamble and Mr. Stephens:

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 Billie Ray Stubblefield, Judge of the 26th District Court of Georgetown, Texas to preside in

Commission for Lawyer Discipline v. McCuller C. Stephens, III

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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GREG ABBOTT
DEBORAH G. HANKINSON

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

SEP 14 1998

Honorable Billie Ray Stubblefield
Judge, 26th District Court
405 S. Martin Luther King Street
Georgetown, Texas 78626

Dear Judge Stubblefield:

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. Stephens and Ms. Gamble, 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



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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CLERK
JOHN T. ADAMS

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NATHAN L. HECHT
CRAIG T. ENOCH
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JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

SEP 14 1998

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. McCuller C. Stephens, III* and a copy of the Supreme Court's order appointing the Honorable Billie Ray Stubblefield, Judge of the 26th District Court of Georgetown, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Billie Ray Stubblefield
Mr. McCuller C. Stephens, III
Ms. Kimberly M. Gamble