

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98- 9164

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

The Supreme Court of Texas hereby appoints the Honorable John Narsutis, Judge of the 16th District Court of Denton County, Texas, to preside in the Disciplinary Action styled:

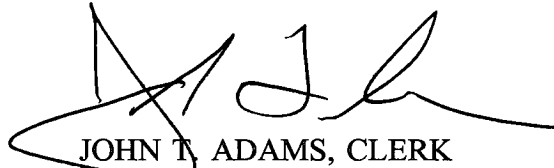
**The Commission for Lawyer Discipline v. Richard L. Macon and Karen
Kroesche Gulde**

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Bexar 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,

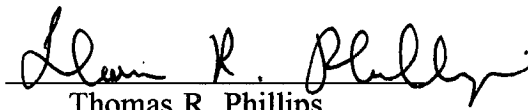
with the Seal thereof affixed at the City
of Austin, this 14th day of September, 1998.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9164, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 23 day of September, 1998.

A handwritten signature in cursive script, reading "Thomas R. Phillips". The signature is written in black ink and is positioned above a horizontal line.

Thomas R. Phillips
Chief Justice

No. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
	§	
V.	§	BEXAR COUNTY, T E X A S
	§	
RICHARD L. MACON, and KAREN KROESCHE GULDE	§	_____th JUDICIAL DISTRICT

PETITIONER'S ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complaining of Respondents, RICHARD L. MACON and KAREN KROESCHE GULDE, and in support thereof would respectfully show the Court the following:

Parties

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, RICHARD L. MACON, State Bar No. 12787500; and Respondent, KAREN KROESCHE GULDE, State Bar No. 08612150, at all times relevant to this cause of action, are attorneys licensed to practice law in the State of Texas and are members of the State Bar of Texas. Respondents are residents of San Antonio, Bexar County, Texas and may be served with process at 300 Convent Street, Suite 1500, San Antonio, Bexar County, Texas 78205, their usual place of employment.

Venue

Respondents maintain their principal place of law practice in Bexar County, Texas. The alleged acts of professional misconduct occurred in whole or in part in Bexar County, Texas. Accordingly, pursuant to Texas Rules of Disciplinary Procedure 3.03, venue is proper in Bexar County, Texas.

Professional Misconduct

I.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Gov't. Code Ann., Sec. 81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaints which form the basis of this action were filed on or about July 3, 1997 by the State Bar of Texas. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

Count I -- Richard L. Macon

II.

Respondent, at all times relevant to this cause of action, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas.

III.

Users System Services, Inc., USSI Computer Services, Inc., and Ron Landreth ("USSI plaintiffs") hired the law firm of Akin, Gump, Strauss, Hauer & Feld, L.L.P to sue News America Publishing, Inc., and individual defendants, Eugene M. McKeown, Sandra S. Shafer and Don Frazier ("News America defendants"). Respondent, R.L. Macon, was a senior partner in the law firm of Akin, Gump and served as lead counsel for the USSI plaintiffs. The USSI plaintiffs sued for damages alleging the News America defendants breached contracts and tortiously interfered with the business relations of USSI.

IV.

On or about May 12, 1995, Respondent, R.L. Macon, as a partner and supervising lawyer encouraged or knowingly permitted a subordinate associate attorney, Respondent Karen Kroesche

Gulde, to communicate about the subject of the ongoing litigation with an adverse party, Don Frazier, when Respondent, R.L. Macon, and Respondent, K.K. Gulde, knew Mr. Frazier's attorney was still the attorney of record. Respondent, R.L. Macon, and Respondent, K.K. Gulde, made no attempt to obtain the consent from Mr. Frazier's attorney prior to the unauthorized communication.

Count II -- Karen Kroesche Gulde

V.

Respondent, at all times relevant to this cause of action, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas.

VI.

Users System Services, Inc., USSI Computer Services, Inc., and Ron Landreth ("USSI plaintiffs") hired the law firm of Akin, Gump, Strauss, Hauer & Feld, L.L.P to sue News America Publishing, Inc., and individual defendants, Eugene M. McKeown, Sandra S. Shafer and Don Frazier ("News America defendants"). Respondent, K.K. Gulde, was an associate attorney in the law firm of Akin, Gump and worked under the direct supervision of Respondent, R.L. Macon, in the representation of the USSI plaintiffs. The USSI plaintiffs sued for damages alleging the News America defendants breached contracts and tortiously interfered with the business relations of USSI.

VII.

On or about May 12, 1995, Respondent, K.K. Gulde, communicated about the subject of the ongoing litigation with an adverse party, Don Frazier, when Respondent knew Mr. Frazier's attorney was still the attorney of record. Respondent, K.K. Gulde, made no attempt to obtain the consent from Mr. Frazier's attorney prior to the unauthorized communication.

Disciplinary Rules of Professional Conduct

VIII.

The conduct of Respondents, R.L. Macon and K.K. Gulde described above was in violation of the following Texas Disciplinary Rules of Professional Conduct:

Rule 4.02(a) -- In representing a client, a lawyer shall not communicate or cause or encourage another to communicate about the subject of the representation with a person * * * the lawyer knows to be represented by another lawyer regarding that subject, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.

Rule 5.01(a) -- A lawyer shall be subject to the discipline because of another lawyer's violation of these rules of professional conduct if the lawyer is a partner or supervising lawyer and orders, encourages, or knowingly permits the conduct involved.

Rule 5.01(b) -- A lawyer shall be subject to the discipline because of another lawyer's violation of these rules of professional conduct if the lawyer is a partner in the law firm in which the other lawyer practices * * * or has direct supervisory authority over the other lawyer, and with knowledge of the other lawyer's violation of these rules knowingly fails to take reasonable remedial action to avoid or mitigate the consequences of the other lawyer's violation.

PRAYER

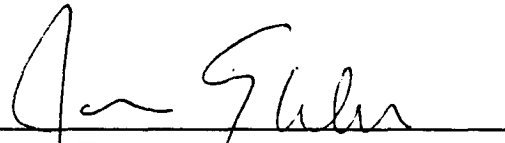
WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondents imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other relief to which it is entitled, including, but not limited to, costs of court, all direct expenses associated with these proceedings and reasonable attorney's fees as provided in Rule 1.06(T)(8)(b) of the Texas Rules of Disciplinary Procedure.

Respectfully submitted,

Steven W. Young
General Counsel

James Ehler
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
Telephone: (210) 271-7881
Telecopier: (210) 271-9642



James Ehler
State Bar No. 06484650

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
P 583 840 533**

Office of the General Counsel
Regional Office
Soledad Plaza West
425 Soledad, Suite 300
San Antonio, Texas 78205
(210) 271-7881
FAX: (210) 271-9642

August 20 ,1998

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

RE: Commission for Lawyer Discipline v. Richard L. Macon and Karen Kroesche Gulde

Dear Mr. Adams:

Enclosed please find an original and three (3) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Richard L. Macon and Karen Kroesche Gulde. Mr. Macon and Ms. Gulde has designated **Bexar County** as their 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 Respondents reside to preside in this case. Upon appointment, request is made that you notify the Respondents at the address shown below and the undersigned of the identity and address of the judge assigned:

Richard L. Macon and
Karen Kroesche Gulde
300 Convent Street, Suite 1500
San Antonio, Texas 78205

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to 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 three (3) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Bexar County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Bexar County, Texas and a return envelope to be sent to the District Clerk of Bexar County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Ehler". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

James Ehler
Assistant General Counsel

Enclosures

JE/ch



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK
JOHN T. ADAMS

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

TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

OCT 02 1998

Mr. James Ehler
Assistant General Counsel, State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205

Richard L. Macon
Karen Kroesche Gulde
300 Convent Street, Suite 1500
San Antonio, Texas 78205

Dear Mr. Ehler, Mr. Macon and Ms. Gulde:

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 John Narsutis, Judge of the 16th District Court, Denton, Texas to preside in each of the three disciplinary actions styled:

Commission for Lawyer Discipline v. Richard L. Macon and Karen Kroesche Gulde

Sincerely,

SIGNED

John T. Adams
Clerk



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

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

OCT 02 1998

The Honorable Mary White
District Clerk of Bexar County
100 Dolorosa Street
San Antonio, Texas 78205-1205

Dear Ms. White:

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. Richard L. Macon and Karen Kroesche Gulde, and a copy of the Supreme Court's order appointing the Honorable John Narsutis, Judge of the 16th District Court of Denton, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. John Narsutis
Mr. James Ehler
Richard L. Macon and Karen Kroesche Gulde



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

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
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ROSE SPECTOR
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GREG ABBOTT
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EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

OCT 02 1998

Honorable John Narsutis
Judge, 16th District Court
Joseph Carroll Courts Building
401 W. Hickory Street
Denton, Texas 76201

Dear Judge Narsutis:

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. Macon and Ms. Gulde, and Mr. Ehler, and a copy of the letter to the District Clerk of Bexar County.

It is recommended that, six to eight weeks after receipt of this letter, you or your coordinator contact the Bexar County Administrative Office (210-335-2300) to find out the district court to which this disciplinary case has been assigned, names and addresses of counsel, etc. We then recommend that, either before or immediately after you set the case for trial, you contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (210-769-3519) to reserve a courtroom, obtain a court reporter, obtain claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams
Clerk