

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 00- 9077

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

The Supreme Court of Texas hereby appoints the Honorable Randy Catterton, Judge of the 231st District Court, Tarrant County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Kenneth T. Ward

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.

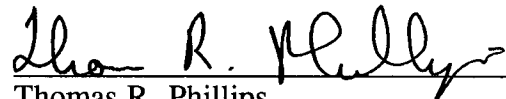
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City
Austin, this 25th day of April, 2000.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 00-9077, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 25 day of April, 2000.



Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE,

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IN THE DISTRICT COURT OF

Petitioner

v.

HARRIS COUNTY, TEXAS

KENNETH T. WARD,

Respondent

_____ JUDICIAL DISTRICT

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE 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, KENNETH T. WARD (hereinafter referred to as "Respondent"), and would respectfully show unto the Court the following:

I. DISCOVERY CONTROL PLAN

Pursuant to Rules 190.1 and 190.2, TEXAS RULES OF CIVIL PROCEDURE (TRCP), Petitioner intends discovery in this case to be conducted under the Level 1 Discovery Control Plan. Pursuant to Rule 190.2(a)(1), TRCP, Petitioner affirmatively pleads that it seeks only monetary relief aggregating fifty thousand and no/100 dollars (\$50,000.00) or less, excluding costs, pre-judgment interest and attorneys' fees.

II. NATURE OF PROCEEDING

Petitioner 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.

III. VENUE

Respondent is an attorney licensed to practice law in Texas and is a member of the STATE BAR OF TEXAS. Respondent's residence 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. Respondent may be served at his business address, 3300 S. Gessner, Suite 150, Houston, Harris County, Texas, 77063.

IV. CAUSE OF ACTION

In or around 1992, MARVIN SIMMONS (hereinafter referred to as "SIMMONS") hired Respondent to represent him in a property damage claim against U-Haul Company, Inc. On or about June 3, 1995, SIMMONS passed away and JANCY L. ALTUS (hereinafter referred to as "ALTUS") was his sole beneficiary.

On or about July 8, 1997, the case settled. Thereafter, on or about October 1, 1997, Respondent issued a check from his trust account to ALTUS in the amount of Seventeen Thousand Two Hundred Sixty and 96/100 Dollars (\$17,260.96) as her portion of the settlement proceeds. When ALTUS presented the check for payment on two (2) separate occasions, the check was returned for insufficient funds. Respondent failed to hold ALTUS' settlement proceeds separate from his own funds and as a result, Respondent converted those funds belonging to ALTUS for his personal use and benefit.

V. RULE VIOLATIONS

The acts and/or omissions of Respondent described in Paragraph IV above constitute conduct in violation of Rules **1.14(a)** [a lawyer shall hold funds and other property belonging in whole or part to clients or third persons that are in a lawyer's possession in connection with a representation separate from the lawyer's own property]; **1.14(b)** [a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive]; and **8.04(a)(1)** [a lawyer shall not violated the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship], of the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT.

VI.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the Chief Disciplinary Counsel of the STATE BAR OF TEXAS by JANCY L. ALTUS' filing of a complaint on September 30, 1999.

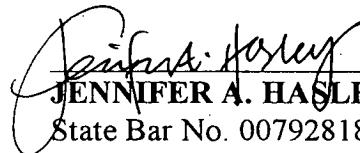
PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner, the **COMMISSION FOR LAWYER DISCIPLINE**, respectfully prays that this Court discipline Respondent, **KENNETH T. WARD**, by reprimand, suspension, or disbarment, as the facts shall warrant; order restitution to Complainant; and grant all other relief to which Petitioner may show itself to be justly entitled, including costs of court and attorneys' fees.

Respectfully submitted,

DAWN MILLER
Chief Disciplinary Counsel

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



JENNIFER A. HASLEY
State Bar No. 00792818

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

STATE BAR OF TEXAS



OFFICE OF THE CHIEF DISCIPLINARY COUNSEL

March 14, 2000

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

RE: *Commission for Lawyer Discipline v. Kenneth T. Ward*

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of the *Original Disciplinary Petition* being filed by the Commission for Lawyer Discipline against Kenneth T. Ward. Mr. Ward 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:

Kenneth T. Ward
3300 S. Gessner, Suite 150
Houston, Texas 77063.

As a practical matter, we respectfully suggest that an inquiry be made as to whether the judge will be able to comply with the one hundred and eighty (180) day deadline by which the case must be set for trial as set forth in Section 3.07 of the TEXAS RULES OF DISCIPLINARY PROCEDURE. If not, we respectfully request that an alternate appointment be made.

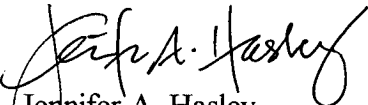
Once a trial judge has been appointed, please forward the original and two (2) copies of the *Original Disciplinary Petition*, the *Civil Case Information Sheet*, the filing fee check (all enclosed herewith), and the *Court's Appointing Order* to the District Clerk of Harris County, Texas, with the request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

John T. Adams, Clerk
Supreme Court of Texas
March 14, 2000
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Additionally, enclosed please find 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 *Original Disciplinary Petition* to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,


Jennifer A. Hasley
Assistant Disciplinary Counsel

JAH/sml

- Enclosures
1. Original Disciplinary Petition (original and two (2) copies)
 2. Civil Case Information Sheet
 3. Filing Fee Check
 4. Pre-Addressed Envelope to District Clerk
 5. Pre-Addressed Envelope to State Bar of Texas



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
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

MAY 05 2000

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. Kenneth T. Ward*, and a copy of the Supreme Court's order appointing the Honorable Randy Catterton, Judge of the 231st District Court, Fort Worth, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Randy Catterton
Ms. Jennifer A. Hasley
Mr. Kenneth T. Ward
Ms. Melissa Dartez



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

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Telephone: 512/463-1312 Facsimile: 512/463-1365

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DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

MAY 05 2000

Honorable Randy Catterton
Judge, 231st District Court
100 W. Weatherford Street
Fort Worth, Texas 76196-0226

Dear Judge Catterton:

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. Ward and Ms. Hasley, 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

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

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NADINE SCHNEIDER

MAY 05 2000

Ms. Jennifer A. Hasley
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Kenneth T. Ward
3300 S. Gessner, Suite 150
Houston, Texas 77063

Dear Ms. Hasley and Mr. Ward:

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 Randy Catterton, Judge of the 231st District Court, Fort Worth, Texas to preside in

Commission for Lawyer Discipline v. Kenneth T. Ward

Sincerely,

SIGNED

John T. Adams
Clerk