

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 94-9188

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

The Supreme Court of Texas hereby appoints the Honorable Candace G. Tyson, Judge of the 44th District Court of Dallas County, Texas, to preside in the Disciplinary Action styled:

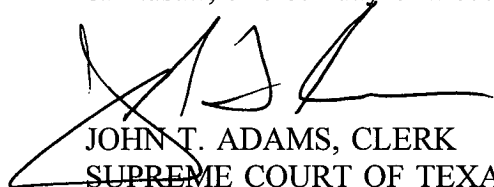
The Commission for Lawyer Discipline v. Vincente J. Velasquez

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.

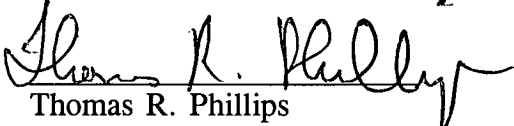
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 6th day of December, 1994.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 94-9188, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 9 day of December, 1994.


Thomas R. Phillips
Chief Justice

TO CLERK: "FILE MARK
THIS COPY AND RETURN"

NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	HARRIS COUNTY, TEXAS
VICENTE J. VELASQUEZ	§	_____ JUDICIAL DISTRICT

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 called "Petitioner"), complaining of Respondent, Vicente J. Velasquez, (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. §81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of the Disciplinary Petition was filed on or after May 1, 1992.

II.

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. An officer may serve citation on Respondent at his business address located at 2318 Gray Falls, Houston, Harris County, Texas 77077.

COPY

III.

On or about July 13, 1987, Emmanuel Concepcion (hereinafter called "Concepcion") hired Respondent to represent him in a personal injury case after his eighteen month-old son fell into an apartment complex swimming pool and almost drowned. At the time he hired Respondent, Concepcion signed a contract for representation on his own claim for damages; however, the contract did not provide for Respondent's representation of his son.

IV.

Respondent thereafter filed a lawsuit against the apartment complex's owner and the complex's property management company. In and around February, 1989, one of the defendants filed a Motion for Appointment of a Guardian Ad Litem to represent the interests of the minor child. On or about February 13, 1989, the court appointed Corwin Teltschik (hereinafter called "Teltschik") guardian ad litem. Respondent thereafter entered into settlement negotiations with the Defendants, and in and around March, 1989, agreed to settle the case for \$18,000.00 in cash, which would pay attorney's fees and outstanding medical expenses, plus a \$5,000.00 annuity for the child.

V.

After his appointment, Teltschik reviewed the facts of the case and realized that the proposed settlement was grossly inadequate given the possible nature and extent of the minor child's injuries. In addition, he realized that Respondent had failed to assert a potential bystander claim on behalf of Concepcion arising from the fact that Concepcion had discovered his child unconscious at the bottom of the swimming pool and had rescued and resuscitated him. Teltschik advised Respondent to engage in services of co-counsel, and Respondent thereafter

hired Lloyd Lunsford (hereinafter called "Lunsford") in and around July, 1989, to assist in his representation of Concepcion. Lunsford promptly filed an amended petition alleging Concepcion's bystander cause of action one day prior to the expiration of the statute of limitations.

VI.

Teltschik later requested that Respondent produce a copy of the contract of employment hiring him to represent Concepcion and the child. Respondent then produced the contract signed by Concepcion on or about July 13, 1987, which provided only for Respondent's representation of Concepcion in his claim but did not provide for Respondent's representation of the child. Teltschik thereafter filed a Motion to Show Authority to require Respondent to produce evidence that he did in fact have a contract to represent the child. At the hearing on the Motion, Respondent produced a second contract purportedly hiring him to represent the child dated on or about July 13, 1987, the date the first contract was signed. Concepcion later admitted he had only recently signed the second contract providing for Respondent's representation of his son, and upon Respondent's request, had back dated the second document to the date of the original signing of the first contract.

VII.

Respondent thereafter filed a motion to have Teltschik removed as the guardian ad litem, which the presiding judge refused to grant. Respondent then offered to pay Teltschik part of his own attorney's fees when the case settled if Teltschik would be more cooperative and less critical of Respondent's conduct and actions in the course of his representation. Teltschik refused Respondent's offer.

VIII.

Respondent fired Lunsford and hired another attorney, Ken Harrison, to represent Concepcion and the child. Harrison later settled both cases for a total \$962,500.00, plus \$40,000.00 in ad litem fees paid by the Defendant. Respondent later fired Harrison. Respondent's firing of both Lunsford and Harrison was done without the knowledge or consent of Concepcion.

IX.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs III., IV., V., VI., VII. and VIII. hereinabove which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.01(a), 1.02(c), 1.03(a), 3.03(a)(1), 3.03(a)(2), 3.04(a), 4.01(a) and/or 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

X.

The complaint which forms the basis of the First Cause of Action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by Lloyd M. Lunsford filing a complaint on or about September 23, 1993, Emmanuel Concepcion filing a complaint on or about October 7, 1993 and Corwin Teltschik filing a complaint on or about October 20, 1993.

SECOND CAUSE OF ACTION

XI.

In and around January, 1993, Respondent settled the personal injury claim of his client, Elvin Crayton (hereinafter called "Crayton"), arising from injuries Crayton sustained in an automobile accident. At the time Respondent disbursed Crayton's settlement proceeds, he

maintained \$645.00 in his trust account to pay Crayton's outstanding medical expenses at the Coleman Medical Clinic.

XII.

In and around August, 1993, Respondent settled the personal injury claim of his client, Tommy Hall (hereinafter called "Hall"), arising from injuries Hall sustained in an automobile accident. At the time Respondent disbursed Hall's settlement proceeds, he maintained \$1,945.00 in his trust account to pay Hall's outstanding medical expenses at the Coleman Medical Clinic.

XIII.

Notwithstanding the fact that Respondent retained a portion of Crayton's and Hall's settlement proceeds to pay their outstanding medical bills at the Coleman Medical Clinic, Respondent did not promptly send such monies to the clinic, purportedly because he was disputing the amount of each client's unpaid medical bills. Respondent refused to disburse such monies to the clinic except on the condition that the clinic execute a release relieving him and his clients from any obligation to pay the disputed portion of the outstanding medical bills.

XIV.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs XI., XII., XIII. and XIV. hereinabove which occurred on or after January 1, 1990, constitute conduct which violates Rule 1.14(c) of the Texas Disciplinary Rules of Professional Conduct.

XV.

The complaint which forms the basis of the Second Cause of Action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by M. L. Coleman filing a complaint on or about October 6, 1993.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

E. Lynn Rodriguez
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
Telephone: (512) 463-1463
Telecopier: (512) 477-4607



E. LYNN RODRIGUEZ
State Bar of Texas No. 17143880

ATTORNEYS FOR PETITIONER

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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
JACK HIGHTOWER
NATHAN L. HECHT
LLOYD DOGGETT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR

December 8, 1994

Mr. James M. McCormack
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. Vincente J. Velasquez
2318 Gray Falls
Houston, Texas 77077

Dear Mr. McCormack and Mr. Velasquez:

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 Candace G. Tyson, Judge of the 44th District Court, Dallas, Texas to preside in

Commission for Lawyer Discipline v. Vincente J. Velasquez

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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EXECUTIVE ASST.
WILLIAM L. WILLIS

ADMINISTRATIVE ASST.
NADINE SCHNEIDER

December 8, 1994

Honorable Candace G. Tyson
Judge, 44th District Court
George L. Allen, Sr. Courts Bldg.
600 Commerce Street
Dallas, Texas 75202

Dear Judge Tyson:

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. Velasquez and Mr. McCormack, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, four or five weeks after receipt of this letter, you contact the Harris County District Court Administrative Office (713-755-6576) 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

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JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR

December 8, 1994

The Honorable Katherine Tyra
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77210

Dear Ms. Tyra:

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. Vincente J. Velasquez and a copy of the Supreme Court's order appointing the Honorable Candace G. Tyson, Judge of the 44th District Court, Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Candace G. Tyson
Mr. Vincente J. Velasquez
Mr. James M. McCormack