

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98- 9030

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

The Supreme Court of Texas hereby appoints the Honorable Suzanne Covington, Judge of the 201st District Court of Travis County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Olu S. Otubusin

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.

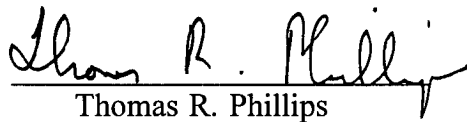
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 11th day of February, 1998.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9030, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 12 day of February, 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

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE §
v. §
OLU S. OTUBUSIN §
§
§

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
____ 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 (the "CFLD"), complaining of Respondent, OLU S. OTUBUSIN ("Respondent"), showing the Court:

I.

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.

II.

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent's residence is in and his principal place of practice is in Harris County, Texas, and 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, OLU S. OTUBUSIN, by and through his attorney of record, Andrew L. Jefferson, Jr., at 2100 Travis @ Gray, Suite 707, Houston, Texas, 77002.

III.

On or about April 25, 1995, Edwin T. Kelly (hereinafter referred to as "Kelly") signed a contingency fee contract with Respondent to file a lawsuit on his behalf in a personal injury matter. The fee contract stated percentage for legal fees would be paid out of the settlement. Additionally, expenses would be paid by the client, out of any recovery obtained for the client. After several months of representation, Kelly was contacted by a law firm representative stating that no further action would occur in the matter without Kelly paying for expenses in advance.

IV.

Changes in the staff member of the law firm handling Kelly's legal matter occurred and notices of the changes were not sent to the client. Kelly made attempts to phone Respondent or his representative however, calls were not returned. Numerous letters requesting information were sent by Kelly and he was still unable to obtain status on his case.

V.

During the lengthy representation of Kelly, little progress was obtained by Respondent in settling the case or pursuing through a trial before the court. Kelly became apprehensive about the statute of limitations expiring before disposition of the case could be obtained. Kelly was not completely informed of the actions and possible repercussions of pursuing an alternate method to take his matter before a different court.

VI.

The acts and/or omissions of the Respondent described in Paragraphs III. - V. above, which occurred on or after January 1, 1990, constitute conduct in violation of Rule(s) **1.01(b)(1)** for neglecting a legal matter entrusted to the lawyer; **1.01(b)(2)** frequently failed to carry out completely the obligations owed to a client; **1.01(c)** as used in this Rule "neglect" signifies inattentiveness involving a conscious disregard for the responsibilities owed to a client or clients; **1.02(a)(1)** a lawyer shall abide by a client's decisions: concerning the objectives and general methods of representation; **1.02(b)** a lawyer may limit the scope, objectives and general methods of the representation if the client consents after consultation; **1.03(a)** a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information; **1.03(b)** for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; **1.04(b)** factors that may be considered in determining the reasonableness of a fee include, but not to the exclusion of other relevant factors, the following: (8) whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered; **2.01** for failing to give a client straightforward advice, expressing the lawyer's honest assessment of the case; **5.01(a)** for failing to supervise a partner lawyer, and orders, encourages, or knowingly permits the conduct involved; and **8.04(a)(1)** a lawyer shall not violate these rules, 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.

VII.

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 Edwin T. Kelly's filing of a complaint on or about April 28, 1997.

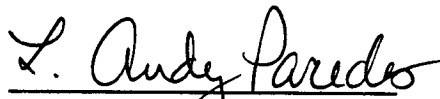
Prayer

WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent, OLU S. OTUBUSIN as the facts shall warrant; 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,

Steven W. Young
General Counsel

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


L. ANDY PAREDES
State Bar No. 00788162

ATTORNEYS FOR THE COMMISSION FOR
LAWYER DISCIPLINE

J:\OTUBUSIN\DP.WPD

STATE BAR OF TEXAS



Office of the General Counsel

January 6, 1998

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

Re: Commission for Lawyer Discipline v. Olu S. Otubusin

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 Olu s. Otubusin. Mr. Otubusin 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:

Olu S. Otubusin
C/O Andrew L. Jefferson, Jr.
Jefferson & Mims
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

Mr. John Adams, Clerk
January 6, 1998
Page 2 _____

be obtained, and a file-marked copy of the petition be returned to the undersigned.

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,



L. Andy Paredes
Assistant General Counsel

LAP/vr

Enclosures

J:\OTUBUSIN\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

JUSTICES
RAUL A. GONZALEZ
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

FEB 19 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. Olu S. Otubusin, and a copy of the Supreme Court's order appointing the Honorable Suzanne Covington, Judge of the 201st District Court of Austin, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Suzanne Covington
Mr. L. Andy Paredes
Mr. Olu S. Otubusin



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
RAUL A. GONZALEZ
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

FEB 19 1998

Honorable Suzanne Covington
Judge, 201st District Court
P.O. Box 1748
Austin, Texas 78767-1748

Dear Judge Covington:

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. Otubusin and Mr. Paredes, 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

TEL: (512) 463-1312

FAX: (512) 463-1365

FEB 19 1998

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

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

Mr. L. Andy Paredes
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Olu S. Otubusin
c/o Andrew L. Jefferson, Jr.
Jefferson & Mims
2100 Travis @ Gray, Suite 707
Houston, Texas 77002-8721

Dear Mr. Paredes and Mr. Otubusin:

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 Suzanne Covington, Judge of the 201st District Court of Denton, Texas to preside in

Commission for Lawyer Discipline v. Olu S. Otubusin

Sincerely,

SIGNED

John T. Adams
Clerk