

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 99- 9076**

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

The Supreme Court of Texas hereby appoints the Honorable Margaret Cooper, Judge of the 353rd District Court of Travis County, Texas, to preside in the Disciplinary Action styled:

**The Commission for Lawyer Discipline v. Tina M. Andrews**

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.

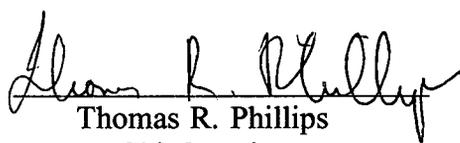
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City  
of Austin, this 9th day of April, 1999.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9076, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 12 day of April, 1999.

  
Thomas R. Phillips  
Chief Justice

COPY

CAUSE NO. \_\_\_\_\_

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
VS.	§	HARRIS COUNTY, TEXAS
TINA M. ANDREWS	§	_____ JUDICIAL DISTRICT

**ORIGINAL DISCIPLINARY PETITION**

TO THE HONORABLE JUDGE OF THE COURT:

Petitioner the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas (hereinafter referred to as the "CFLD"), complains of Tina M. Andrews (hereinafter referred to as "Respondent") as follows:

**I.**  
**Discovery Control Plan**

Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure, CFLD intends discovery in this case to be conducted under Discovery Control Plan - Level 2 as provided in Rule 190.3 of the Texas Rules of Civil Procedure.

**II.**  
**Procedural Basis for Suit**

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.

**III.**  
**Venue and Service**

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent's principal place of practice is Harris County, Texas, and therefore venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. Respondent may be served with process by and through her attorney of record, John R. Gladney, at The Lyric Centre, 440 Louisiana, Ste. 800, Houston, Texas 77002.

**IV.**  
**Cause of Action**

Juan Degollado ("Degollado") retained Tina M. Andrews ("Respondent") to represent him in a personal injury case. Respondent referred Degollado to Maria L. Valencia ("Complainant"), a medical provider for treatment for injuries sustained in the accident. Respondent provided Complainant with a letter of protection and lien on Degollado's settlement funds as a guarantee to payment Complainant. In November or December 1995, Degollado's case settled and Respondent received settlement funds [check No. 0400001 for Five Thousand Four Hundred (\$5,400.00) / issue date 11-21-95 ] on behalf of Degollado from CNA on behalf of its insured, Empire Coach, Inc.

On or about December 7, 1995, Respondent deposited a settlement check in the amount of Five Thousand Four Hundred Dollars (\$5,400.00) in Compass Bank IOLTA account number 70583755. The check was made payable to Degollado and Respondent.

On or about December 8, 1995, Respondent deposited an Internal Revenue Service refund check no. 222000589915 for the amount of \$1,879.90 in Compass Bank IOLTA account number 70583775 in an attempt to cover for lack of funds. Respondent commingled personal funds with a trust account.

On December 11, 1995, Respondent wrote herself a check for attorneys' fees (check number 2226 - drawn on Compass Bank IOLTA account) in the amount of One Thousand Eight Hundred Dollars (\$1,800.00), which represented an amount equivalent to one third of the settlement amount.

On December 14, 1995, Respondent wrote a check to Degollado (check number 2227 - Compass Bank IOLTA account) for Six Hundred Seventeen Dollars (\$617.00) for "settlement". What remained of the settlement funds at that point was Two Thousand Nine Hundred Eighty Three Dollars (\$2,983.00). Complainant was owed Two Thousand Five Hundred Sixty Seven Dollars (\$2,567.00) for medical expenses incurred in treating Degollado for his injuries.

Shortly thereafter, Degollado notified Complainant (an interested third party) of the settlement in his personal injury case. Degollado also notified Complainant that Respondent withheld money from the settlement to satisfy Complainant's medical treatment bill. Thereafter, Complainant informed Respondent that Degollado's medical bills relating to the personal injury case totaled Two Thousand Five Hundred Sixty Seven Dollars (\$2,567.00). Complainant sent letters to Respondent requesting payment, however, those requests were ignored. Respondent received funds on behalf of a client in which a third party (i.e. Complainant) had an interest and failed to promptly notify that third person.

Thereafter, on January 19, 1996, Respondent's trust account balance fell to Two Hundred Forty Dollars and Two Cents (\$240.02). At that time, Respondent had not paid Complainant for the medical expenses incurred as a result of treating Degollado.

On February 1, 1996, Respondent deposited other funds into her trust account and on February 29, 1996, Respondent wrote Degollado a second check for Seven Hundred Forty Eight Dollars and Ninety-Eight Cents (\$748.98) (check number 2239 - drawn on Compass Bank IOLTA account) as full & final settlement. This left a balance of the settlement funds amounting to Two Thousand Two Hundred Thirty Four Dollars and Two Cents (\$2,234.02). Again, at this time, Respondent had not yet paid Complainant for her medical expenses incurred in treating Degollado.

On or about April 15, 1996, Respondent's Compass Bank IOLTA account was overdrawn and all funds owed to Complainant or in which Complainant, as a third party, had an interest were gone.

On or about September 3, 1996, the Compass Bank IOLTA account was charged off in the amount of \$10.00 and closed.

On or about October 30, 1996, Respondent wrote Complainant's company and attorney, Phillip Brantley ("Brantley") and paid Complainant One Thousand Eight Hundred Dollars (\$1,800.00) (check number 1011 - drawn on a NationsBank IOLTA account).

An Investigatory Hearing was held on or about December 18, 1996 regarding the grievance filed by Complainant. At that time, Respondent was questioned regarding a transfer of funds totaling One Thousand Eight Hundred Dollars (\$1,800.00). Respondent informed the First Just Cause Grievance Committee that she transferred this amount to the NationsBank

IOLTA account number 2667016058 in December 1995. The First Just Cause Grievance Committee then requested that the records for this account be subpoenaed. Respondent opposed the subpoena by attempting to quash the efforts to obtain the requested records needed to verify and trace the client's funds and such opposition was denied.

Records were obtained and the First Just Cause Grievance Committee examined the records for NationsBank IOLTA account number 2667016052 for the time period of December 1995 and continuing through October 1996 and found that the Nations Bank IOLTA account number 2667016058 was opened on or about August 29, 1996, with a Ten Thousand Five Hundred Dollar (\$10,500.00) check from an unknown client's settlement funds, and was not opened in December 1995, as Respondent initially misrepresented to them. Another deposit was made on August 20, 1996 in cash in the amount of Four Thousand Fifty Dollars (\$4,050.00) from an unknown source.

Respondent violated the Texas Disciplinary Rules of Professional Conduct in that she failed to carry out completely the obligations owed to Degollado by failing to notify Complainant of receipt of funds to which Complainant had an interest and failing to promptly deliver those funds to her. Respondent also failed hold funds in which a third party has an interest separate from the lawyer's property and to promptly deliver to a third party (i.e., Complainant) funds (i.e., settlement funds) in which Complainant had an interest. Respondent further failed to safeguard the funds belonging to Complainant and misappropriated those funds for Respondent's own benefit and in doing so committed theft, embezzlement, or fraudulent or reckless misappropriation of money. Respondent's conduct in committing a serious crime by theft, embezzlement, or fraudulent or reckless misappropriation of money reflects adversely on her

honesty, trustworthiness or fitness as a lawyer in other respects. Respondent has violated the laws of this state relating to the professional conduct of lawyers and to the practice of law in that she misappropriated fiduciary funds. Respondent made a false statement of material fact to a tribunal during questioning regarding the transfer of funds to the Nationsbank IOLTA account. When Respondent received a subpoena to disclose the records of this bank account, she attempted to obstruct justice by attempting to defeat the subpoena and knowingly failed to respond to the lawful demand for information from a disciplinary authority, thereby attempted to conceal the misappropriation of those funds. This conduct prevented the State Bar of Texas Grievance Committee from obtaining the necessary records to uncover the misappropriation. These actions by Respondent constitute conduct involving dishonesty, fraud, deceit or misrepresentation.

The acts and/or omissions of the Respondent described in Paragraph III(A) above, which occurred on or after January 1, 1990, constitute conduct in violation of the following Rules of the Texas Disciplinary Rules of Professional Conduct ("TDRPC"):

- 1.01(b)(2)** frequently failing to carry out completely the obligations owed to a client;
- 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;
- 3.03(a)(1)** for making a false statement of material fact or law to a tribunal;
- 8.04(a)(1)** for violating these rules, ...whether or not such violation occurred in the course of a client-lawyer relationship;
- 8.04(a)(2)** for committing a serious crime or committing any other criminal act that reflects adversely on the lawyer's honesty trustworthiness or fitness as a lawyer in other respects;

**8.04(a)(3)** for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation;

**8.04(a)(4)** for engaging in conduct constituting obstruction of justice;

**8.04(a)(8)** for failing to timely furnish a district grievance committee a response or other information as required and failing to timely assert a privilege or other legal ground for failure to do so;

**8.04(a)(12)** for violating any other laws of this state relating to the professional conduct of lawyers and to the practice of law; and

**8.04(b)** As used in Rule 8.04(a)(2), "serious crime" means barratry; any felony involving moral turpitude; any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other property; or any attempt, conspiracy, or solicitation of another to commit any of the foregoing crimes.

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 Maria L. Valencia filing a complaint on or about September 25, 1996.

#### Prayer

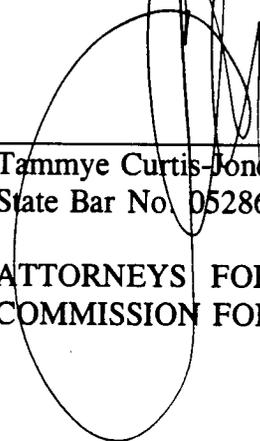
WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent by reprimand, suspension, or disbarment, as the facts shall warrant; and that the CFLD have all other relief to which it may show itself to be justly entitled, including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

Respectfully submitted,

Steven W. Young  
General Counsel

Tammye Curtis-Jones  
Assistant General Counsel

Office of the General Counsel  
State Bar of Texas  
1111 Fannin, Suite 1370  
Houston, Texas 77002  
Phone: (713) 759-6931  
Fax: (713) 752-2158



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Tammye Curtis-Jones  
State Bar No. 05286900

ATTORNEYS FOR PETITIONER THE  
COMMISSION FOR LAWYER

# STATE BAR OF TEXAS



## Office of the General Counsel

March 4, 1999

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

Re: Commission for Lawyer Discipline v. Tina M. Andrews

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 Tina M. Andrews. Ms. Andrews has designated Harris County, Texas, as her 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:

Tina M. Andrews  
C/O John Gladney  
440 Louisiana, Ste. 800  
Houston, Texas 77002

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.

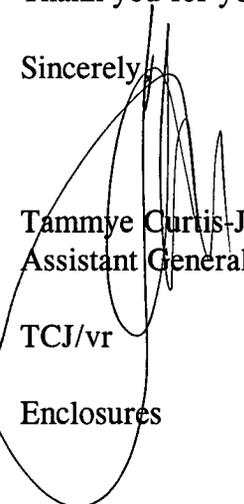
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, service be obtained,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

Mr. John Adams  
March 4, 1999  
Page Two

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,



Tammye Curtis-Jones  
Assistant General Counsel

TCJ/vr

Enclosures

J:\ANDREWS\CFLD2.TSC\CLERK1.SCT



# 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

JUSTICES  
NATHAN L. HECHT  
CRAIG T. ENOCH  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT  
DEBORAH G. HANKINSON  
HARRIET O'NEILL  
ALBERTO R. GONZALES

APR 15 1999

CLERK  
JOHN T. ADAMS

EXECUTIVE ASST  
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST  
JIM HUTCHESON

ADMINISTRATIVE ASST  
NADINE SCHNEIDER

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. Tina M. Andrews*, and a copy of the Supreme Court's order appointing the Honorable Margaret Cooper, Judge of the 353rd District Court, Austin, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams  
Clerk

cc: Honorable Margaret Cooper  
Ms. Tammye Curtis-Jones  
Ms. Tina M. Andrews  
Ms. Melissa Dartez



## THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

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ALBERTO R. GONZALES

APR 15 1999

Honorable Margaret Cooper  
Judge, 353rd District Court  
P.O. Box 1748  
Austin, Texas 78767-1748

Dear Judge Cooper:

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 Ms Andrews and Ms. Curtis-Jones, 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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APR 15 1999

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DEPUTY EXECUTIVE ASS'T  
JIM HUTCHESON

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

Ms. Tammye Curtis-Jones  
Assistant General Counsel, State Bar of Texas  
1111 Fannin, Suite 1370  
Houston, Texas 77002

Ms. Tina M. Andrews  
c/o John Gladney  
440 Louisiana, Suite 800  
Houston, Texas 77002

Dear Ms. Curtis-Jones and Ms. Andrews:

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 Margaret Cooper, Judge of the 353rd District Court, Austin, Texas to preside in

*Commission for Lawyer Discipline v. Tina M. Andrews*

Sincerely,

SIGNED

John T. Adams  
Clerk