

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9219

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

The Supreme Court of Texas hereby appoints the Honorable Mark Davidson, Judge of the 11th District Court of Harris County, Texas, to preside in the Disciplinary Action styled:

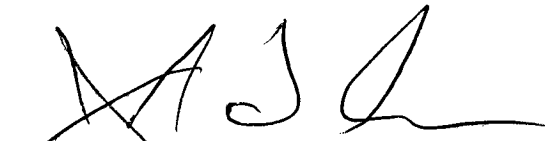
The Commission for Lawyer Discipline v. Candelario Ontiveros

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

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

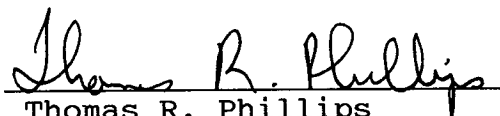
with the Seal thereof affixed at the City
of Austin, this 18th day of September, 1996.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9219, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 20 day of September, 1996.


Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
vs.	§	HIDALGO COUNTY, TEXAS
	§	
CANDELARIO ONTIVEROS	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

The Commission for Lawyer Discipline ("Petitioner") complains of Candelario Ontiveros ("Respondent") as follows:

1. NATURE OF PROCEEDINGS

Petitioner brings this disciplinary action pursuant to the State Bar Act, the Texas Government Code Annotated §81.001, the Texas Disciplinary Rules of Professional Conduct, and the Texas Rules of Disciplinary Procedure. The complaints that form the basis of this Disciplinary Petition were filed on or after May 1, 1992.

2. VENUE

Respondent is an attorney licensed to practice law in Texas. Respondent is a member of the State Bar of Texas. Respondent is a resident of Hidalgo County, Texas. Respondent's principal place of practice is Hidalgo County, Texas. Therefore, venue is appropriate in Hidalgo County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure.

3. CITATION REQUESTED

An officer may serve citation on Respondent at his business address located

at 4201 N. McCall Road, McAllen, Texas 78501-2735.

4. SALINAS COMPLAINT

- 4.1** On or about March 1, 1989, Rodolfo Salinas ("Salinas") was involved in a work related accident.
- 4.2** Shortly thereafter, Salinas retained Respondent to represent him in a worker's compensation claim. In addition, Salinas retained Respondent to represent him in a lawsuit against Pioneer Concrete of Texas, Inc.
- 4.3** On or about February 21, 1991, Respondent negotiated a settlement of Salinas' worker's compensation claim.
- 4.4** On or about March 1, 1991, Respondent filed a lawsuit on behalf of Salinas. This lawsuit was styled *Rodolfo Salinas vs. Pioneer Concrete of Texas, Inc.; Cause Number 91-08818; in the District Court of Harris County, Texas.*
- 4.5** Over the course of the representation, Salinas did not receive any information from Respondent. In order to determine the status of his case, Salinas began telephoning Respondent's office. However, Respondent failed to return Salinas' telephone calls. Respondent failed to keep Salinas reasonably informed about the status of Salinas' case. In addition, Respondent failed to promptly comply with Salinas' reasonable requests for information.
- 4.6** Because Respondent failed to keep Salinas informed, Salinas wanted

to hire another attorney to prosecute his case. Therefore, Salinas contacted Respondent's office in order to retrieve his file. Salinas made numerous calls to Respondent's office for a copy of his file. However, Respondent failed to return any of Salinas' calls. In addition, Respondent failed to promptly deliver to Salinas, property which Salinas was entitled to receive.

4.7 On or about February 25, 1992, Salinas' case was dismissed for want of prosecution. This was due to Respondent's neglect.

4.8 In and around 1992, Salinas was able to locate Respondent. Salinas found Respondent in McAllen, Texas. Respondent had moved his law practice without informing Salinas of his new address and telephone number.

4.9 Salinas spoke with Respondent and Respondent asserted that he was still prosecuting Salinas' case. However, prior to this conversation Salinas' case had been dismissed for want of prosecution. At the time of this conversation, Respondent knew Salinas' case had been dismissed. However, Respondent engaged in deceit, dishonesty and misrepresentation by telling Salinas that he was still prosecuting his case.

4.10 The acts and omissions of the Respondent, as described in paragraphs 4.1 through 4.9 and which occurred on or after January 1, 1990, constitute conduct in violation of rules 1.03(a), 1.01(b)(1), 1.14(b),

and 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

4.11 The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel by Rodolfo Salinas filing a complaint on or about December 1, 1994.

5. PRAYER

Petitioner respectfully prays that this Court discipline Respondent by disbarment, suspension or reprimand, as the facts shall warrant; and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

Steven W. Young
Interim General Counsel

Diego J. Vargas
Assistant 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



DIEGO J. VARGAS
State Bar No. 00791847

ATTORNEYS FOR PETITIONER/ THE
COMMISSION FOR LAWYER
DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

August 1, 1996

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

Re: Commission for Lawyer Discipline v. Candelario Ontiveros

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 Candelario Ontiveros. Mr. Ontiveros is a resident of Hidalgo County, Texas. 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 hereby made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Candelario Ontiveros
4201 N. McCall Road
McAllen, Texas 78501-2735

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to 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. 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 Hidalgo County, Texas, with the request that the suit be filed, service be obtained, and a file-stamped 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 Hidalgo County, Texas, and a return envelope to be sent to the District Clerk of Hidalgo County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Mr. John T. Adams, Clerk
Supreme Court of Texas
August 1, 1996
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If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,



Diego J. Vargas
Assistant General Counsel

DJV/slk
enclosures



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
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

September 23, 1996

The Honorable Pauline Gonzales
District Clerk of Hidalgo County
P.O. Box 87
Edinburg, Texas 78540

Dear Ms. Gonzales:

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. Candelario Ontiveros and a copy of the Supreme Court's order appointing the Honorable Mark Davidson, Judge of the 11th District Court, Houston, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Mark Davidson
Mr. Candelario Ontiveros
Mr. Steve Young



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

September 23, 1996

Honorable Mark Davidson
Judge, 11th District Court
304 Civil Courts Building
301 Fannin Street
Houston, Texas 77002

Dear Judge Davidson:

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. Ontiveros and Mr. Young, and a copy of the letter to the District Clerk of Hidalgo County.

It is recommended that, a month or six weeks after receipt of this letter, you or your coordinator contact the District Court Administrative Office (210-318-2200) 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 (210-546-0724) 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



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

September 23, 1996

Mr. Steve Young
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. Candelario Ontiveros
4201 N. McCall Road
McAllen, Texas 78501-2735

Dear Mr. Young and Mr. Ontiveros:

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 Mark Davidson, Judge of the 11th District Court, Houston, Texas to preside in

Commission for Lawyer Discipline v. Candelario Ontiveros

Sincerely,

SIGNED

John T. Adams
Clerk