

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 97- 9168

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

The Supreme Court of Texas hereby appoints the Honorable Sid L. Harle, Judge of the 226th District Court of Bexar County, Texas, to preside in the Disciplinary Action styled:

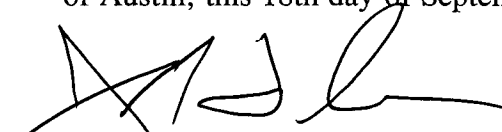
The Commission for Lawyer Discipline v. Mary B. Edwards

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.

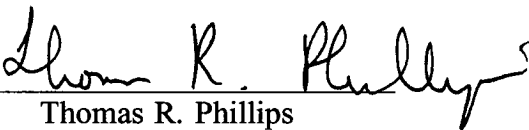
As ordered by the Supreme Court of Texas, in chambers.

with the Seal thereof affixed at the City
of Austin, this 18th day of September, 1997.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9168, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 22 day of September, 1997.


Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE §

IN THE DISTRICT COURT OF

v. §

HARRIS COUNTY, TEXAS

MARY B. EDWARDS §

_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

The COMMISSION FOR LAWYER DISCIPLINE ("Petitioner") a permanent committee of the State Bar of Texas, pursuant to the authority of an investigatory panel for State Bar District Number 4E files this Disciplinary Petition complaining of MARY B. EDWARDS ("Respondent"), an attorney licensed to practice law in the State of Texas, showing the Court as follows:

1. NATURE OF PROCEEDING

Petitioner brings this disciplinary action pursuant to the State Bar Act, the 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 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 and is a member of the State Bar of Texas. Respondent is a resident of Harris County, Texas. Respondent's 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.

3. ISSUANCE OF CITATION REQUESTED

3.01 Petitioner requests that citation be issued and forwarded to: Jeannette Duer, 1111 Fannin, Suite 1370, Houston, Texas 77002, for service by an individual processor.

3.02 Respondent may also be served through her attorney of record, Bobby H. Caldwell, at his business address located at 4001 San Jacinto, Suite E, Houston, Harris County, Texas, 77004.

4. PURSUANT TO PART XIV OF THE TEXAS RULES OF DISCIPLINARY PROCEDURE, PETITIONER REQUESTS THIS COURT TO SUSPEND THE LAW LICENSES OF RESPONDENT PENDING THE FINAL DISPOSITION OF THIS DISCIPLINARY ACTION.

4.01 Petitioner has received evidence that Respondent poses a substantial threat of irreparable harm to clients or prospective clients. On or about November 19, 1996, an investigatory panel for State Bar District Number 41 voted to authorize the Office of the General Counsel of the State Bar of Texas to seek immediate interim suspension of Respondent's license to practice law pursuant to Part XIV of the Texas Rules of Disciplinary Procedure.

4.02 Petitioner believes that Respondent poses a substantial threat of irreparable harm to clients and prospective clients by reason of his conduct as set forth hereinafter.

5. HUBBARD COMPLAINT

PURSUANT TO PART III OF THE TEXAS RULES OF DISCIPLINARY PROCEDURE, PETITIONER REQUESTS THIS COURT TO DISCIPLINE EDWARDS FOR ACTS OF PROFESSIONAL MISCONDUCT.

5.01 EDWARDS ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULE OF PROFESSIONAL CONDUCT 1.01(a)[A lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence].

- (A) Respondent was hired in 1993 by Julie Hubbard ("Hubbard") to defend her in a personal injury lawsuit filed in New Mexico.
- (B) Respondent accepted and continued the representation when she knew or should have known that such representation was beyond her competence in that Respondent was not licensed to practice law in the state of New Mexico and did not associate herself with another lawyer who was competent in the matter.
- (C) Respondent lacked the understanding of personal jurisdiction and her lack of understanding lead to an entry of judgment against Hubbard.

6. BRUNA COMPLAINT

PURSUANT TO PART III OF THE TEXAS RULES OF DISCIPLINARY PROCEDURE, PETITIONER REQUESTS THIS COURT TO DISCIPLINE EDWARDS FOR ACTS OF PROFESSIONAL MISCONDUCT.

6.01 EDWARDS ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULE OF PROFESSIONAL CONDUCT

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]; and

1.14(c) [when in the course of representation a lawyer is in possession of funds or other property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until

there is an accounting and severance of their interest. All funds in a trust or escrow account shall be disburse only to those persons entitled to receive them by virtue of the representation or by law. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved, and the undisputed portion shall be distributed appropriately].

- (A) On or about December 9, 1001, Respondent sent a letter of protection to Dr. Silvio Bruna ("Bruna") on behalf of services rendered to Jose A. Martinez ("Martinez").
- (B) Payment for services to Martinez was to be made upon receipt of funds received through Respondent's office on behalf of Martinez.
- (C) On or about June 9, 1992, Respondent received a check from State Farm Insurance Company in the amount of Ten Thousand Dollars (\$10,000.00) made payable to Respondent and Martinez.
- (D) That check was not deposited into an escrow account, but was deposited into Respondent's operating account.
- (E) Respondent failed to notify Bruna, an interested third party, that such funds had been received.
- (F) There was a dispute as to the amount owed to Bruna on behalf of services rendered to Martinez.
- (G) Respondent failed to hold the disputed portion of the funds owed to Bruna separate until the dispute was resolved.

7.0 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 attorneys' fees.

Respectfully submitted,

Steven W. Young
General Counsel

Jeannette M. Duer
Assistant General Counsel

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


JEANNETTE M. DUER
State Bar No. 00793645

ATTORNEYS FOR PETITIONER
THE COMMISSION FOR
LAWYER DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

July 31, 1997

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

Re: Commission for Lawyer Discipline v. Mary B. Edwards

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 Mary B. Edwards. Ms. Edwards is a resident of Harris 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:

Mary B. Edwards
c/o Bobby H. Caldwell
4001 San Jacinto, Suite E
Houston, Texas 77004

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 Harris County, Texas, with the request that the suit be filed, citation be issued, and citation, along with 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 Harris County, Texas, and a return envelope to be sent to the District

Mr. John T. Adams, Clerk
Supreme Court of Texas
July 31, 1997
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Clerk of Harris County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Jeannette Duer".

Jeannette M. Duer
Assistant General Counsel

JMD/sr
enclosures



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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

TEL: (512) 463-1312
FAX: (512) 463-1365

EXECUTIVE ASS'T
WILLIAM L. WILLIS

OCT 02 1997

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

Ms. Jeannette M. Duer
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Ms. Mary B. Edwards
c/o Bobby H. Caldwell
4001 San Jacinto, Suite E
Houston, Texas 77004

Dear Ms. Duer and Ms. Edwards:

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 Sid L. Harle, Judge of the 226th District Court of San Antonio, Texas to preside in

Commission for Lawyer Discipline v. Mary B. Edwards

Sincerely,

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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CLERK
JOHN T. ADAMS

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JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

OCT 02 1997

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

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. Mary B. Edwards, and a copy of the Supreme Court's order appointing the Honorable Sid L. Harle, Judge of the 226th District Court of San Antonio, Texas, to preside in this Disciplinary Action.

Sincerely,

J. ADAMS

John T. Adams
Clerk

cc: Hon. Sid L. Harle
Ms. Jeannette M. Duer
Ms. Mary B. Edwards



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
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ROSE SPECTOR
PRISCILLA R. OWEN
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GREG ABBOTT

TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASST
WILLIAM L. WILLIS

OCT 02 1997

ADMINISTRATIVE ASST
NADINE SCHNEIDER

Honorable Sid L. Harle
Judge, 226th District Court
300 Dolorosa
San Antonio, Texas 78205

Dear Judge Harle:

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. Edwards and Ms. Duer, 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,

A handwritten signature in dark ink, appearing to read "JOHN T. ADAMS".

John T. Adams
Clerk