

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 00- 9066

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

The Supreme Court of Texas hereby appoints the Honorable Sharolyn P. Wood, Judge of the 127th District Court, Harris County, Texas, to preside in the Disciplinary Action styled:

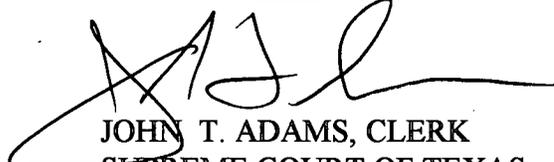
The Commission for Lawyer Discipline v. Edward N. Daneri

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

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

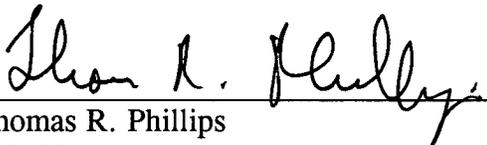
With the Seal thereof affixed at the City
Austin, this 13th day of April, 2000.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 00-9066, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 13 day of April, 2000.



Thomas R. Phillips
Chief Justice

No. _____

COMMISSION FOR LAWYER
DISCIPLINE

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§

IN THE DISTRICT COURT OF

V.

BEXAR COUNTY, TEXAS

EDWARD N. DANERI

_____ JUDICIAL DISTRICT

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complaining of Respondent, EDWARD N. DANERI, and in support thereof would respectfully show the Court the following:

Parties

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, EDWARD N. DANERI, State Bar Number 05352900, was, at the time the following alleged acts of professional misconduct occurred, an attorney licensed to practice law in the State of Texas and a member of the State Bar of Texas. Respondent may be served with process at 115 E. Travis, Suite 1105, San Antonio, Bexar County, Texas 78205-1605, his usual place of business.

Venue

At the time the alleged professional misconduct occurred, Respondent maintained a law office in San Antonio, Bexar County, Texas. The alleged acts of professional misconduct occurred in whole or in part in Bexar County, Texas. Accordingly, pursuant to Texas Rules of

Disciplinary Procedure 3.03, venue is proper in Bexar County, Texas.

Discovery Level Designation

1.

Pursuant to Tex.R.Civ.P. 190.1, Petitioner designates that discovery in this action should proceed pursuant to Level 2 (Tex.R.Civ.P. 190.3).

Professional Misconduct

2.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Gov't. Code Ann., Sec. 81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaints which form the basis of this action were filed with the State Bar of Texas as follows:

Masayuki Kawamura	October 4, 1998
State Bar of Texas	April 7, 1999
Muhammad A. Aziz	July 13, 1999
Carlos R. Torres	June 29, 1999

The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

Count I -- Masayuki Kawamura

3.

Masayuki Kawamura hired Respondent on January 21, 1993 to represent him in an application for permanent residency. Complainant deposited \$1,500.00 with Respondent to cover the legal fees. The Respondent has failed to file an application for permanent residency and respondent has failed to return the retainer of \$1,500.00 paid for the purpose of filing the

application.

4.

Respondent made misrepresentations to Masayuki Kawamura by (a) stating an application for residency had been filed with the Immigration and Naturalization Service; (b) stating a hearing before the Immigration and Naturalization Service was scheduled during May 1996; © providing Masayuki Kawamura with an Immigration and Naturalization Service case file number belonging to someone else; and (d) providing Masayuki Kawamura with a falsified Immigration and Naturalization Service receipt for filing an application for permanent residency.

5.

Respondent failed to file an application with the Immigration and Naturalization Service on Masayuki Kawamura's behalf during a four year period of representation. Respondent failed to adequately respond to his client's requests for information and provide a true status of the matter. Further, Respondent failed to explain matters to his client as necessary to enable him to make informed decisions about his immigration status.

6.

Respondent failed to return the unearned fee after the Complainant terminated the services of the Respondent in this matter. Respondent failed to surrender the client file to new counsel upon request after his services were terminated.

7.

Mr. Kawamura is due restitution in the amount of \$1,500.00.

8.

Respondent knowingly made false statements to the Grievance Committee. Respondent made misrepresentations to the Grievance Committee regarding filing the application and the significance of what appeared to be a federal form given to his client as evidence of Respondent's filing of the application for permanent residency. Respondent failed to respond to the Grievance Committee's subpoena for information and documentation, and knowingly provided falsified Immigration and Naturalization Service receipt as evidence of service as prescribed. Respondent failed to respond to the Grievance Committee's request for information.

9.

In relation to the representation of Mr. Kawamura, the conduct of Respondent described above constitutes a violation of the following Disciplinary Rules:

Rule 1.01(b)(1) -- In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Rule 1.01(b)(2) -- In representing a client, a lawyer shall not frequently fail to carry out completely the obligations that the lawyer owes to a client.

Rule 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.

Rule 1.03(b) -- A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 1.15(d) -- Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as * * * refunding any advance payments of fee that has not been earned.

Rule 8.01(a) -- A lawyer in connection with a bar disciplinary matter, shall not knowingly make a false statement of material fact

Rule 8.01(b) -- A lawyer in connection with a bar disciplinary matter, shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority.

Rule 8.04(a)(8) -- A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal grounds for failure to do so.

Count II - State Bar of Texas

10.

Complainant, the State Bar of Texas, issued a subpoena dated April 15, 1999. Respondent was served the subpoena on April 19, 1999 by certified mail return receipt requested. The Respondent was ordered to produce, pursuant to Rule 1.14(a) of the Texas Disciplinary Rules of Professional Conduct and Section 15.12 of the Texas Disciplinary Rules of Procedure; copies of any and all records of IOLTA, trust, and operating accounts in the name of Edward N. Daneri, P.C. or Edward N. Daneri Attorney at Law from January 1, 1996 through the present, including, but not limited to, "checkbooks, canceled checks, check stubs, check registers, bank statements, vouchers, deposit slips, ledgers, journals, closing statements, accounting and other similar records clearly reflecting the date, amount, source, and explanation for all receipts, withdrawals, deliveries, and disbursements" of client funds or other client property and of your operating account. The Respondent was ordered to produce the described documents instanter, but no later than May 21, 1999. Respondent has failed to provide the Grievance Committee with the items relating to his trust and operating account despite the subpoena for said records and after a hearing was continued upon Respondent's assurance that the documents would be provided.

11.

In relation to the complaint by the State Bar of Texas, the conduct of Respondent described above constitutes a violation of the following Disciplinary Rules:

Rule 8.01(b) -- A lawyer in connection with a bar disciplinary matter, shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority.

Rule 8.04(a)(8) -- A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal grounds for failure to do so.

Count III - Muhammad A. Aziz

12.

Muhammad A. Aziz hired Respondent in May 1998 to represent him and file an I-360 Immigration and Naturalization Service application for religious worker permanent resident status. Respondent handled the immigration matter in an incompetent manner resulting in the rejection of the application by the Immigration and Naturalization Service. Respondent failed to take appropriate action after receiving the rejection notice from the Immigration and Naturalization Service of the Department of Justice. The application was rejected based on Respondent's failure to submit the proper application processing fee along with the application. The Respondent has failed to provide evidence that the application was ever properly filed.

13.

Respondent failed to keep his client reasonably informed about his immigration status or to provide his client with requested documentation. Respondent failed to advise his client of his

illegal status after being informed by the Immigration and Naturalization Service that because his visa had expired and no application was on file his status changed.

14.

Respondent misrepresented his actions in the immigration matter of Mr. Aziz before the Grievance Committee hearing this matter.

15.

In relation to the representation of Mr. Aziz, the conduct of Respondent described above constitutes a violation of the following Disciplinary Rules:

Rule 1.01(a)(1) -- 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, unless another lawyer who is competent to handle the matter is, with prior consent of the client, associated in the matter.

Rule 1.01(b)(1) -- In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer.

Rule 1.01(b)(2) -- In representing a client, a lawyer shall not frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.

Rule 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.

Rule 1.03(b) -- A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 8.04(a)(3) -- A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

Count IV - Carlos R. Torres

16.

Mr. Carlos R. Torres hired Respondent on October 1, 1998 to represent him in a federal criminal matter involving several co-defendants. Mr. Torres paid the Respondent a non-refundable retainer fee of \$40,000.00 and later an additional \$5,000.00 to be used to hire an investigator to assist Respondent in the presentation of Mr. Torres' defense.

17.

Respondent failed to disclose and explain to his client all relevant facts necessary to enable his client to make informed decisions about his case. Specifically, the Respondent never informed his client about Respondent's pending active period of suspension from the practice of law for the thirty (30) days immediately preceding trial. Further, Respondent, after collecting the additional \$5,000.00 for an investigator, misrepresented to his client and to the Grievance Committee the circumstances of his retaining an investigator and the failure to make payment to the investigator which resulted in the investigator withdrawing from Mr. Torres' case.

18.

Respondent failed to disclose to the Federal District Court that he was to go on suspension for a period of thirty days, and that the suspension was to be effective on June 15, 1998 through July 15, 1998, and that Respondent was counsel for a criminal defendant in a trial set for July 19, 1998. Respondent's failure to advise the court caused a significant delay in the hearing of the criminal matter.

19.

In relation to the complaint filed by Carlos R. Torres, the conduct of Respondent described above constitutes a violation of the following Disciplinary Rules:

Rule 1.03(b) -- A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Rule 3.03(a)(3) -- A lawyer shall not knowingly in an ex parte proceeding, fail to disclose to the tribunal an unprivileged fact which the lawyer reasonably believes should be known by that entity for it to make an informed decision.

Rule 8.04(a)(3) -- A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other relief to which it is entitled, including costs of court, litigation expenses and attorney's fees.

Respectfully submitted,

Dawn Miller
Acting Chief Disciplinary Counsel

Robert E. Kaszczuk
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel
State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
Telephone: (210) 271-7881
Telecopier: (210) 271-9642


Robert E. Kaszczuk
State Bar No. 11106300

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



**CERTIFIED MAIL #Z149 064 475
RETURN RECEIPT REQUESTED**

**Regional Office
Soledad Plaza West
425 Soledad, Suite 300
San Antonio, Texas 78205
(210) 271-7881
FAX: (210) 271-9642**

February 23, 2000

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

RE: Commission for Lawyer Discipline v. Edward N. Daneri

Dear Mr. Adams:

Enclosed please find an original and three (3) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Edward N. Daneri. Mr. Daneri has designated **Bexar County** 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:

Edward N. Daneri
115 E. Travis, Suite 1105
San Antonio, Texas 78205-1605

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 as 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 three (3) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Bexar County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Bexar County, Texas and a return envelope to be sent to the District Clerk of Bexar County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Robert E. Kaszczuk".

Robert E. Kaszczuk
Assistant Disciplinary Counsel

Enclosures

REK/apr



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

CLERK
JOHN T. ADAMS

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

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

APR 17 2000

The Honorable Reagan Greer
District Clerk of Bexar County
100 Dolorosa Street
San Antonio, Texas 78205-1205

Dear Mr. Greer:

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. Edward N. Daneri.*, and a copy of the Supreme Court's order appointing the Honorable Sharolyn P. Wood, Judge of the 127th District Court, Houston, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Sharolyn P. Wood
Mr. Robert E. Kaszczuk
Mr. Edward N. Daneri



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

JUSTICES
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CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

APR 17 2000

Honorable Sharolyn P. Wood
Judge, 127th District Court
301 Fannin Street, #205
Houston, Texas 77002

Dear Judge Wood:

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. Kaszczuk and Mr. Daneri, and a copy of the letter to the District Clerk of Bexar County.

It is recommended that, six to eight weeks after receipt of this letter, you or your coordinator contact the Bexar County Administrative Office (210-335-2300) 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 (210-769-3519) 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

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

JUSTICES
NATHAN L. HECHT
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CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

APR 17 2009

Mr. Robert E. Kaszczuk
Assistant General Counsel, State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205

Mr. Edward N. Daneri
115 E. Travis, Suite 1105
San Antonio, Texas 78205-1605

Dear Mr. Kaszczuk and Mr. Daneri:

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 Sharolyn P. Wood, Judge of the 127th District Court, Houston, Texas to preside in

Commission for Lawyer Discipline v. Edward N. Daneri

Sincerely,

SIGNED

John T. Adams
Clerk