

ORDER OF THE SUPREME COURT OF TEXAS

9054

Misc. Docket No. 01-----

Appointment of a District Judge to Rule on a Motion
to Recuse filed in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable Mary Lou Keel, Judge of the 232nd District Court of Harris County, Texas, to preside in the Disciplinary Action styled:

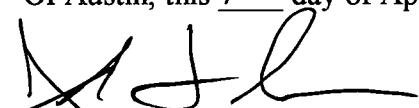
The Commission for Lawyer Discipline v. Linda B. Aland

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Dallas County, Texas, a copy of the Disciplinary Petition and this Order for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

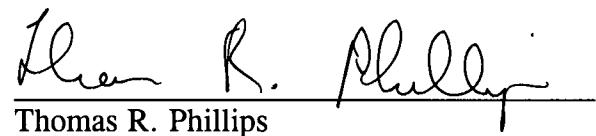
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City
Of Austin, this 4th day of April, 2001.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 01-9054, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 4 day of April, 2001.



Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

**COMMISSION FOR LAWYER DISCIPLINE §
VS. §
LINDA B. ALAND §**

**IN THE DISTRICT COURT OF
DALLAS COUNTY, TEXAS
____ 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 LINDA B. ALAND ("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 Dallas County, Texas, and therefore venue is appropriate in Dallas County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. An officer may service citation upon Respondent, who can be located at 8500 N. Stemmons Frwy., Ste. 5070, Dallas, Texas 75247.

**IV.
FIRST CAUSE OF ACTION**

Respondent was retained by Catherine Stow (hereinafter referred to as "Stow") for representation in a Motion to Modify Suit Affecting Parent-Child Relationship regarding Cause number 296-51922-96; In the Interest of Catherine Taylor Stow and Rosemary Elaine Stow, Minor Children; In the 296th Judicial District Court of Collin County, Texas, in which Stow was seeking modifications to certain provisions the Final Decree of Divorce entered on November 29, 1997 under said cause number.

V.

On or about November 24, 1997, Stow and R. L. Stow (hereinafter referred to as "Complainant") were ordered to mediation, in which R. B. Pool (hereinafter referred to as "Pool") was to act as mediator.

VI.

On or about January 21, 1998, Stow and Complainant participated in the court ordered mediation and reached an agreement as to the material matters respecting the final order to be entered by the court. The terms and agreements were outlined in a pre-printed written Mediated

Settlement Agreement form provided by Pool and attached with an additional document entitled "Stow Mediation Settlement Offer." Upon conclusion of the mediation, marked-up copies of the Mediated Settlement Agreement and Stow Mediation Settlement Offer were provided to all parties.

VII.

Complainant reviewed the documents and the next day, indicated two (2) revisions at the end of the Mediated Settlement Agreement regarding suspension of the Employer's Withholding Order and direct payment of child support. These changes were signed by Complainant and his attorney of record, Jeffrey A. Hines (hereinafter referred to as "Hines") and faxed to Respondent. With a cover letter making reference to the handwritten changes.

VIII.

On or about January 26, 1998, Respondent sent a letter to Hines with a portion of the Mediation Settlement Agreement which contained revisions to paragraph 13(b) by which Respondent's client agreed to the withholding order, but under conditions that child support payments be made through the Collin County Child Support Office. Hines replied by letter including a mediation agreement signed by Complainant and requesting that a copy of the written agreement with all signatures be faxed to him at the same time it was fax-filed with the court.

IX.

On or about January 27, 1998 and during a telephone conversation between Respondent and Hines, Respondent informed Hines that an agreement had been reached and upon Stow signing the agreement, Respondent would fax the Mediation Settlement Agreement to Respondent and file it with the Collin County District Clerk. Hines confirmed this telephone conversation in a letter dated

January 27, 1998 and again requested that a copy of the agreement be faxed to him at the time it was fax filed.

X.

On or about January 28, 1998, after Hines again wrote requesting same, Hines received a letter from Respondent with the Mediated Settlement Agreement and Stow Mediation Settlement Offer attached. In reviewing the documents, Hines discovered that Respondent had made changes to paragraphs 9 and 10 of the Stow Mediation Settlement Offer, which were not noted by Respondent in her cover letter nor the telephone conversation of January 27, 1998. Complainant and Hines did not agree to or initial these changes. The copy of the agreement faxed by Respondent was unclear as to the changes to paragraphs 9 and 10. In response to Hines's questions about the nature of the additions and Hines's request for a clear copy, Respondent stated that Hines, Complainant and R.B. Pool had been a parties to the changes when she knew that they had not. Hines contacted Pool to obtain a copy and upon receipt and review, confirmed that Respondent had made these changes, initialed the bottom page, but failed to convey this revision to Complaint and/or Hines prior to filing same with the Collin County District Clerk. Thus Respondent filed a an alleged agreement with the court when she knew that she had unilaterally altered the agreement without the knowledge or consent of the other parties to the case or their attorneys.

XI.

The next day, Hines sent Respondent a letter addressing the revisions and attempted to resolve the matter by requesting Respondent to sign an Addendum to the Mediated Settlement Agreement to delete all referenced to paragraph 9 of the Stow Mediation Settlement Offer. Respondent refused and indicated that Pool did not send Hines the correct Stow Mediation

Settlement Offer. Respondent knew that Pool had, indeed sent the correct Stow Mediation Settlement Offer. It was later confirmed by Hines with Pool that the revisions to the paragraphs in questions were not in the Stow Mediation Settlement Offer reflecting the parties agreement at the end of the mediation session.

XII.

After attempts to resolve the issue surrounding Respondent's revisions to the paragraph 9 and 10, Hines was forced to file various motions to have a judge settle the matter. Hearings were not immediately set as Hines was attempting to work with Respondent to reach an agreeable date. Thereafter, Complainant retained new counsel, Richard Abernathy (hereinafter referred to as "Abernathy"), who scheduled a deposition of Respondent. On the eve of Respondent's deposition, Respondent capitulated by agreeing to delete all referenced to paragraph 9 of the Stow Mediation Settlement Offer as had been requested by Hines on or about January 28, 1998 and Respondent appeared at Hines' office to sign various documents settling the matter.

XIII.

In the course of representing Catherine Stow, Linda Aland knowingly made false statements of material fact to Jeffrey Hines and Edwin Stow and failed to disclose a material facts to Jeffrey Hines and L. R. Stow when she filed a mediation agreement in the case of Stow v. Stow, Collin County District Court No. 296-51922-96 knowing that the agreement contained a provision which she herself and/or Catherine Stow had inserted without the knowledge or consent of the opposing party and when she failed to disclose the fact that such provision had been included in the copy of the said mediation agreement filed with the District Court of Collin County, Texas and attempted to conceal same. Also, Linda B. Aland knowingly made false statements of material fact to Jeffrey

Hines and L. R. Stow when she told Jeffrey Hines and L.R. Stow that they had been parties to and approved changes in the said mediation agreement when she knew that they had not.

IVX.

Linda S. Aland knowingly made a false statement of material fact or law to a tribunal, the District Court of Collin County, Texas and failed to disclose to the District Court of Collin County, Texas the fact that a mediation agreement filed by her in the case of Stow v. Stow, contained a provision which she herself had inserted without the knowledge or consent of the opposing party when such disclosure was necessary to avoid assisting a criminal or fraudulent act. The false representation undertaken by Linda Aland when she filed the altered mediation agreement also constituted the use of false evidence.

XV.

Linda S. Aland knowingly made a false statement of material fact or law to a tribunal, the District Court of Collin County, Texas and failed to disclose to the District Court of Collin County, Texas the fact that a mediation agreement filed by her in the case of Stow v. Stow, Collin County District Court No. 296-51922-96 contained a provision which she herself had inserted without the knowledge or consent of the opposing party when such disclosure was necessary to avoid assisting a criminal or fraudulent act. The false representation undertaken by Linda Aland when she filed the altered mediation agreement also constituted the use of false evidence.

XVI.

In the course of representing Catherine Stow, Linda Aland knowingly made false statements of material fact to Jeffrey Hines and Edwin Stow and failed to disclose a material facts to Jeffrey Hines and L. R. Stow when she filed a mediation agreement in the case of Stow v. Stow, Collin

County District Court No. 296-51922-96 knowing that the agreement contained a provision which she herself and/or Catherine Stow had inserted without the knowledge or consent of the opposing party and when she failed to disclose the fact that such provision had been included in the copy of the said mediation agreement filed with the District Court of Collin County, Texas and attempted to conceal same. Also, Linda B. Aland knowingly made false statements of material fact to Jeffrey Hines and L. R. Stow when she told Jeffrey Hines and L.R. Stow that they had been parties to and approved changes in the said mediation agreement when she knew that they had not

XVII.

The actions of Linda S. Aland were exacerbated by the fact that she refused to admit her actions and refused to consent to an order recognizing the true and correct mediation agreement actually agreed to by the parties until Richard M. Abernathy served her with notice to take her deposition. This resulted in substantial additional costs to L.R. Stow.

XVIII.

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"):

3.02 In the course of litigation, a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter;

3.03(a)(1) for making a false statement of material fact or law to a tribunal;

3.03(a)(2) for knowingly failing to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act;

3.03(a)(5) for knowingly offering or using evidence that the lawyer knows to be false;

3.04(a) a lawyer shall not unlawfully obstruct another party's access to evidence; in anticipation of a dispute unlawfully alter, destroy or conceal a document or other material

that a competent lawyer would believe has potential or actual evidentiary value; or counsel or assist another person to do any such act;

3.04(b) for falsifying evidence, counseling or assisting a witness to testify falsely, or paying, offering to pay, or acquiescing in the offer or payment of compensation to a witness or other entity contingent upon the content of the testimony of the witness or the outcome of the case;

4.01(a) for making a false statement of material fact or law to a third person;

4.01(b) for failing to disclose a material fact to a third person when disclosure is necessary to avoid making the lawyer a party to a criminal act or knowingly assisting a fraudulent act perpetrated by a client;

8.04(a)(1) for violating these Rules, knowingly assisting or inducing another to do so, or doing so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship;

8.04(a)(2) for committing a serious crime or any other criminal act that reflects adversely on the lawyer's honesty trustworthiness or fitness as a lawyer in other respects; and

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

IXX.

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 L.R. "Skip" Stow filing a complaint on or about August 3, 1998.

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 Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorneys' fees.

Respectfully submitted,

Dawn Miller
Chief Disciplinary Counsel

J. G. Molleston
Assistant Disciplinary Counsel

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


J. G. Molleston
State Bar No. 00795924

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE

J:\ALAND\CFLD2.JGM\ALAND.DP

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

February 20, 2001

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

Re: Commission for Lawyer Discipline v. Linda B. Aland

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 Linda B. Aland. Ms. Aland has designated Dallas 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:

Linda B. Aland
8500 N. Stemmons Frwy., Ste. 5070
Dallas, Texas 75247

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 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 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 Dallas 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
February 20, 2001
Page Two

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Dallas County, Texas, and a return envelope to be sent to the District Clerk of Dallas 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,



J. G. Molleston
Assistant Disciplinary Counsel

JGM/vr

Enclosures

cc: Linda Bess Aland
C/O L. Vance Stanton
8330 Meadow Rd., Ste. 226
Dallas, Texas 75231
CMRRR - 7000 0600 0024 7098 7334

J:\ALAND\CFLD2.JGM\CLERK1.SCT



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 10 2001

Mr. J. G. Molleston
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Ms. Linda B. Aland
8500 N. Stemmons Freeway, Suite 5070
Dallas, Texas 75247

Dear Mr. Molleston and Ms. Aland:

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 Mary Lou Keel, Judge of the 232nd District Court, Houston, Texas to preside in

Commission for Lawyer Discipline v. Linda B. Aland

Sincerely,

SIGNED

John T. Adams
Clerk



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

JUSTICES
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CRAIG T. ENOCH
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CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

APR 10 2001

Honorable Mary Lou Keel
Judge, 232nd District Court
16136 Criminal Justice Center
1201 Franklin Street
Houston, Texas 77002

Dear Judge Keel:

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. Aland and Mr. Molleson, and a copy of the letter to the District Clerk of Dallas County.

We then recommend that, either before or immediately after you set the case for trial, the Dallas County District Court Administrative Office (214-653-6510) be contacted 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 (214-653-2943) 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

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
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APR 10 2001

CLERK
JOHN T. ADAMS

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

The Honorable Jim Hamlin
District Clerk of Dallas County
George L. Allen Courts Building
600 Commerce Street
Dallas, Texas 75202

Dear Mr. Hamlin:

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. Linda B. Aland*, and a copy of the Supreme Court's order appointing the Honorable Mary Lou Keel, Judge of the 232nd District Court of Houston, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Mary Lou Keel
Mr. J. G. Molleston
Ms. Linda B. Aland