

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 02 - **1071**

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

The Supreme Court of Texas hereby appoints the Honorable Guy W. Griffin, Judge of the 123rd District Court of Panola County, Texas, to preside in the Disciplinary Action styled

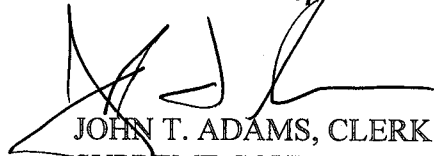
The Commission for Lawyer Discipline v. Colleen Patrice Barnett

filed in the 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 the Disciplinary Petition and this Order for filing 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 27th day of March, 2002.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 02-9071 is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 27 day of March, 2002.



Thomas R. Phillips
Chief Justice



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
DEBORAH G. HANKINSON
HARRIET O'NEILL
WALLACE B. JEFFERSON
XAVIER RODRIGUEZ

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

APR 19 2002

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
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. Colleen Patrice Barnett*, and a copy of the Supreme Court's order appointing the Honorable Guy W. Griffin, Judge of the 123rd District Court, Carthage, Texas.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Guy W. Griffin
Mr. J.G. Molleston
Ms. Colleen Patrice Barnett
Ms. Melissa Dartez



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

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JIM HUTCHESON

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NADINE SCHNEIDER

APR 19 2002

The Honorable Guy W. Griffin
Judge, 123rd District Court
217A Courthouse
110 S. Sycamore Street
Carthage, Texas 75633

Dear Judge Griffin:

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. Barnett and Mr. Molleston, 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 (936-538-8176) 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

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

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JUSTICES
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APR 19 2002

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

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

Ms. Colleen Patrice Barnett
c/o George McCall Secrest, Jr.
808 Travis Street, 24th Floor
Houston, Texas 77002

Dear Mr. Molleston and Ms. Barnett:

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 Guy W. Griffin, Judge of the 123rd District Court, Carthage, Texas to preside in

Commission for Lawyer Discipline v. Colleen Patrice Barnett

Sincerely,

SIGNED

John T. Adams
Clerk

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
VS. §
COLLEEN PATRICE BARNETT § HARRIS 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 COLLEEN PATRICE BARNETT ("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. An officer may service citation upon Respondent by and through her attorney of record, George McCall Secrest, Jr. located at 808 Travis St, 24th Floor, Houston, Texas 77002.

IV. FIRST CAUSE OF ACTION

In or around February or March of 1996, a tree fell on Respondent's residential property causing damage to her home and garage. Thereafter, Respondent retained Connie Vasquez-Harrison (hereinafter referred to as "Complainant" for representation in the property damage claim. On or about February 27, 1998, a lawsuit was filed under 98-10207; Barnett, et al. vs. Perry Homes in the 270th Judicial District Court of Harris County, Texas.

In or around August 1999, Respondent's matter settled for \$24,000.00. On or about August 4, 1999, Complainant remitted check number 526 from Complainant's Escrow Account for the amount of \$13,903.26 as settlement to Respondent. Upon receipt of this settlement, Respondent contacted Complainant disputing the fee charged by Complainant. On or about August 9, 1999, Complainant sent Respondent a letter indicating that if there was a dispute regarding the amount of settlement, to return the check to be held in trust until the dispute could be resolved. Respondent did not return the check until October 1999, some two (2) months later. Also on August 9, 1999, Respondent sent Complainant a letter indicating that the disputed sum was \$2,085.35.

In or around February 2000, Respondent requested Complainant to remit the settlement check for the amount of \$13,903.26. On or about March 9, 2000, Complainant issued check number 1041 from her IOLTA account for the amount of \$15,503.26 to Respondent and her husband, Joe Salhab (hereinafter referred to as "Salhab"). After sending the check Complainant realized she had made an

error in the amount. On or about March 10, 2000, Complainant sent Respondent a letter informing Respondent that the \$15,503.26 check had been sent in error and enclosed check number 1042 for the amount of \$13,903.26.

check number 1041 was negotiated on or about March 15, 2000 and check number 1042 was negotiated on or about March 20, 2000. Both checks were endorsed by Respondent and Salhab. Thus giving Respondent a total of \$29,406.52 when the total settlement was only 24,000.00 with no deduction for fees or costs. Thereafter, Complainant made a demand to Respondent to return the amount of \$15,503.26, which were trust account funds belonging to Complainant and her other clients. Respondent failed to return the excess funds to which she was not entitled.

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"):

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

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 Connie Vasquez-Harrison filing a complaint on or about May 5, 2000.

Prayer

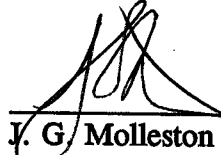
WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent by reprimand, suspension or disbarment, as the facts shall warrant; and that the Petitioner have all other relief to which it may show itself to be justly entitled,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

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

February 7, 2002

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

Re: Commission for Lawyer Discipline v. Colleen Patrice Barnett

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 Colleen Patrice Barnett. Ms. Barnett 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:

Colleen Patrice Barnett
c/o George McCall Secrest, Jr.
808 Travis St, 24th Floor
Houston, Texas 77002

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 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.

1111 Fannin, Suite 1370, Houston, Texas 77002
Telephone (713) 759-6931 Facsimile (713) 752-2158

Mr. John Adams
February 7, 2002
Page 2

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,



J. G. Molleston
Assistant Disciplinary Counsel

JGM/vr

Enclosures

cc: Colleen Patrice Barnett
c/o George McCall Secrest, Jr.
808 Travis St, 24th Floor
Houston, Texas 77002
CMRRR - 7001 2510 0001 8211 5718