

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 02 - **9109**

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

The Supreme Court of Texas hereby appoints the Honorable John J. Specia, Jr., Judge of the 225th District Court of Bexar County, Texas, to preside in the Disciplinary Action styled


**The Commission for Lawyer Discipline v. Mary E. Conn**

to be 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.

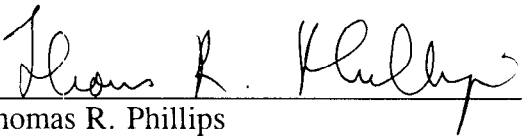
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City  
Of Austin, this 7<sup>th</sup> day of June, 2002.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 02-9109, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 10 day of June, 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

DEPUTY EXECUTIVE ASST  
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT  
NADINE SCHNEIDER

JUN 14 2002

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. Mary E. Conn* and a copy of the Supreme Court's order appointing the Honorable John J. Specia, Judge of the 225<sup>th</sup> District Court, San Antonio, Texas.

Sincerely,

SIGNED

John T. Adams  
Clerk

cc: Honorable John J. Specia  
Mr. J.G. Molleston  
Ms. Mary E. Conn  
Ms. Melissa Dartez



# The Supreme Court of Texas

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JUN 14 2002

The Honorable John J. Specia  
Judge, 225<sup>th</sup> District Court  
100 Dolorosa Street, 2<sup>nd</sup> Floor  
San Antonio, Texas 78205

Dear Judge Specia:

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. Conn 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

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NADINE SCHNEIDER

JUN 14 2002

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

Ms. Mary E. Conn  
115 Calcita  
Santa Cruz, California 95060

Dear Mr. Molleston and Ms. Conn:

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 John J. Specia, Judge of the 225<sup>th</sup> District Court, San Antonio, Texas to preside in

*Commission for Lawyer Discipline v. Mary E. Conn*

Sincerely,

SIGNED

John T. Adams  
Clerk

CAUSE NO. \_\_\_\_\_

COMMISSION FOR LAWYER DISCIPLINE §  
v. §  
MARY E. CONN §  
§

IN THE DISTRICT COURT OF  
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 MARY E. CONN ("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 at 115 Calcita Santa Cruz, California 95060.

#### IV. FIRST CAUSE OF ACTION

On or about June 8, 1997, J. W. McCowan (hereinafter referred to as "Complainant") received a lifetime prison sentence for a criminal matter in Cause number 733800; State of Texas vs. J. W. McCowan; In the 179th Judicial District Court of Harris County, Texas. On this same day, Complainant signed an appeal request in the herein stated cause of action and Respondent was appointed to represent Complainant in his appeal. Complainant was informed by the Judge that Respondent would be in touch with him within ten to fourteen days. Complainant was transferred to another prison facility ten days later and had not received any form of communication(s) from Respondent during this time.

During late June 1997, Complainant contacted his trial counsel in writing to obtain Respondent's name and address. After receiving the information, Complainant wrote Respondent a letter during August 1997 for information and a status on the Brief to be filed. Respondent responded to that letter indicating her representation and that she would review the record and statement of facts. Complainant had no contact with Respondent for the remaining year 1997.

During January 1998 and June 1998, Complainant again wrote Respondent letters requesting information to which Respondent did not reply.

On or about July 7, 1997, Respondent received notice that the trial transcript had been filed with the First District Court of Appeals. That notice further instructed Respondent that the Appellant's Brief was due within thirty (30) days after the filing of the Statement of Facts.

On or about November 30, 1997, Respondent filed a Motion for Extension to file the Appellant's Brief, in which said motion was granted extending the time to file the Brief to January 8, 1998.

On or about January 5, 1998, Respondent filed another Motion for Extension to file the Appellant's Brief. An order was entered on January 23, 1998 allowing the Brief to be filed by February 9, 1998.

On or about March 16, 1998, Respondent filed a third Motion for Extension to file the Appellant's Brief. An order was entered on April 16, 1998 for Respondent to file the Brief within thirty (30) days. Respondent failed to file the Brief.

On or about August 29, 1998, Complainant requested information on his matter as well as requested a copy of the Brief that had been filed. Respondent failed to respond to his request.

On or about September 2, 1998, Respondent received notice of Complainant's grievance filed against her. That notice instructed Respondent to file a written response within thirty (30) days. Respondent's deadline to file a response was October 4, 1998. Respondent did not file a response to the grievance until November 13, 1998. In her response, Respondent did not assert a privilege or legal ground for failing to timely respond to the grievance.

In a letter dated September 13, 1998 to Complainant, Respondent acknowledged that she had received notice of Complainant's grievance. She further indicated to Complainant that his Brief had been filed and that she would forward a copy to Complainant within a few days. Respondent failed to mail a copy of the Brief to Complainant. At the time Respondent wrote this letter, she knew that the Appellant's Brief had not been filed.

On or about September 19, 1998, Complainant informed Respondent that he had not received a copy the Brief. Respondent failed to respond.



Complainant again wrote Respondent a letter on or about October 28, 1998 inquiring about a copy of the Brief that was filed. Complainant further indicated to Respondent that he received a notice from the First Court of Appeals informing him that the Brief in his appellate matter should have been filed by May 16, 1998.

Respondent did not file Complainant's Appellant Brief until October 30, 1998.

In a response letter dated on or about November 30, 1998 to Complainant, Respondent agreed to be responsible for filing a Petition for Discretionary Review for Complainant with the Texas Court of Criminal Appeals. However, Respondent failed to file said Petition.

Respondent violated the Texas Disciplinary Rules of Professional Conduct in that she neglected Complainant's legal matter by not filing the necessary Brief in a timely manner. She further failed to keep Complainant informed of the status of his appeal, did not comply with reasonable requests for information, and failed to explain matter to Complainant to allow him to make informed decisions regarding her representation. Respondent consciously disregarded her responsibility to Complainant to file such Petition for Discretionary Review. Respondent was dishonest and misrepresented to Complainant that his Brief had been filed when in fact she had not. Respondent failed to timely respond to the grievance or provide a legal ground for failure to timely respond to the State Bar of Texas' demand for information.

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"):

**1.01(b)(1)** neglecting a legal matter entrusted to the lawyer;

**1.01(b)(2)** for failing to carry out completely the obligations owed to a client;

**1.01(c)** "neglect" signifies inattentiveness involving a conscious disregard for the responsibilities owned to a client or clients.

**1.03(a)** failing to keep a client reasonably informed about the status of a matter and to promptly comply with reasonable requests for information;

**1.03(b)** failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;

**8.01(b)** for knowingly failing to respond to a lawful demand for information from a disciplinary authority;

**8.04(a)(1)** 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)** engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and

**8.04(a)(8)** failing to timely furnish a district grievance committee a response or other information as required and failing to timely assert a privilege or other legal ground for failure to do so.

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 J. W. McCowan filing a complaint on or about August 23, 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.