

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 96-9174**

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

The Supreme Court of Texas hereby appoints the Honorable Lamar McCorkle, Judge of the 133rd District Court of Harris County, Texas, to preside in the Disciplinary Action styled:

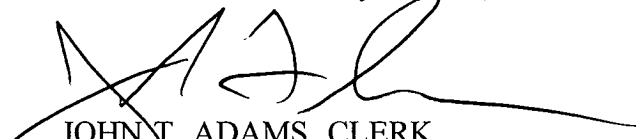
**The Commission for Lawyer Discipline v. Mary Carol Cunningham**

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Travis 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.

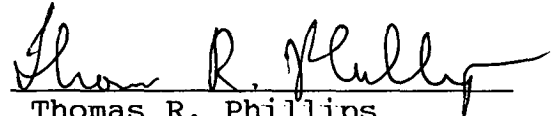
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City  
of Austin, this 27th day of June, 1996.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9174, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 27 day of June, 1996.

  
Thomas R. Phillips  
Chief Justice

COPY

No. \_\_\_\_\_

COMMISSION FOR  
LAWYER DISCIPLINE

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§

IN THE DISTRICT COURT OF

V.

TRAVIS COUNTY, TEXAS

MARY CAROL CUNNINGHAM

\_\_\_\_ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complaining of Respondent, Mary Carol Cunningham (hereinafter called "Respondent"), showing the Court as follows:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. §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 the Disciplinary Petition were filed on or after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and a member of the State Bar of Texas. Respondent is a resident of and has her principal place of practice in Travis County, Texas. An officer may serve citation on Respondent through her attorney of record Steven L. Lee, Lione & Lee, P.C., 8303 N. Mopac Expressway, Building C, Suite 238, Austin, Texas, 78759-8370.

### III.

In 1992, Respondent agreed to represent Megan Jean Edwards (hereinafter called "Complainant") in her divorce from her husband, Sergio Luis Martinez (hereinafter called "Martinez"). Respondent accepted the case on a pro bono basis as the result of a referral from AIDS Services of Austin.

Complainant's divorce action was heard by the Court on September 29, 1992. One term of the divorce required Martinez to pay to Complainant a portion of the proceeds from his City of Austin retirement plan. After the divorce hearing, Respondent prepared a Decree of Divorce to finalize the terms that had been established at the hearing. The provision regarding Martinez's retirement plan was one of the terms to be finalized by the Decree of Divorce.

In October of 1993, Complainant remarried. In 1994, Complainant and her husband attempted to obtain a copy of the finalized Decree of Divorce so that she could verify the ownership status of a piece of real property. However, Complainant discovered that the Decree of Divorce had never been submitted to the Court so that the presiding judge could sign it. Thus, Complainant's divorce from Martinez had never been finalized.

The Decree of Divorce finally was signed by the judge on August 16, 1995. Between the date of the original divorce hearing in 1992 and the finalization of the decree in 1995, however, Martinez withdrew all monies from his City of Austin retirement plan and failed to distribute any portion to Complainant.

#### IV.

Through her conduct in failing to file Complainant's Decree of Divorce so that the divorce action could be finalized within a reasonable time, Respondent committed professional misconduct in violation of Rule 1.01(b)(1) [a lawyer shall not neglect a legal matter entrusted to the lawyer] of the Texas Disciplinary Rules of Professional Conduct and Rule 1.06(Q) of the Texas Rules of Disciplinary Procedure.

Through her conduct in failing to communicate with Complainant about the status of her divorce action and any problems that needed to be resolved, Respondent committed professional misconduct in violation of Rule 1.03(a) [a lawyer shall keep a client reasonably informed about the status of a matter] and 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] of the Texas Disciplinary Rules of Professional Conduct and Rule 1.06(Q) of the Texas Rules of Disciplinary Procedure.

Through each violation of the Texas Disciplinary Rules of Professional Conduct described above, Respondent committed professional misconduct in violation of Rule 8.04(a)(1) [a lawyer shall not violate any of these disciplinary rules] of the Texas Disciplinary Rules of Professional Conduct.

#### V.

The complaint which forms the basis of the cause of action hereinabove set forth was brought to the attention of the Office of the General Counsel of the State Bar of Texas by Complainant's filing a grievance on or about January 29, 1996.

**PRAYER**

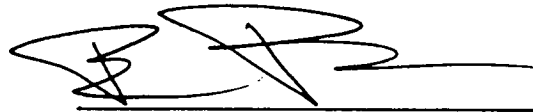
WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant and that Petitioner have such other relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

James M. McCormack  
General Counsel

Brian Plotts  
Assistant General Counsel

Office of the General Counsel  
State Bar of Texas  
P.O. Box 12487, Capitol Station  
Austin, Texas 78711-2487  
1-800-204-2222, Ext. 2302  
512/463-1463, Ext. 2302  
FAX: (512) 477-4607



Brian Plotts  
State Bar Card No. 16074050

ATTORNEYS FOR PETITIONER

# STATE BAR OF TEXAS



Office of the General Counsel

June 6, 1996

Mr. John T. Adams, Clerk  
Supreme Court of Texas  
P.O. Box 12248  
Austin, Texas 78711-2487

Re: Commission For Lawyer Discipline v. Mary Carol Cunningham

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 Carol Cunningham. Mary Carol Cunningham has designated Travis County, Texas, as his principal place of practice. Request is hereby made that the Supreme 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 please notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Mary Carol Cunningham, Attorney at Law  
c/o Steven L. Lee, Attorney at Law  
Lione & Lee, P.C.  
8303 N. Mopac Expressway, C-238  
Austin, Texas 78759-8370

I would respectfully request that inquiry be made 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.

Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, which is enclosed, and the Court's appointing order to the District Clerk of Travis County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition be returned to the undersigned.

Mr. John T. Adams, Clerk  
Supreme Court of Texas  
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Also enclosed are a pre-addressed envelope for your use in transmitting the petition and any other documents, to the District Clerk of Travis County, Texas, and a return envelope to be sent to the District Clerk of Travis County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to be "BP", followed by a long horizontal line extending to the right.

Brian Plotts  
Assistant General Counsel

BP/tjm/enclosures

c: William E. Minkley, Chief Trial Counsel, State Bar of Texas, with enclosure





## 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 ASST  
WILLIAM L. WILLIS

ADMINISTRATIVE ASST  
NADINE SCHNEIDER

July 3, 1996

Honorable Lamar McCorkle  
Judge, 133rd District Court  
Civil Courts Building, Room 511  
301 Fannin Street  
Houston, Texas 77002

Dear Judge McCorkle:

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. Cunningham and Mr. McCormack, and a copy of the letter to the District Clerk of Travis County.

It is recommended that, about a month or six weeks after receipt of this letter, you contact the Travis County Court Administrative Office (512-753-9300) (certainly just before or immediately after you set the case for trial) 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 (210-379-8556) 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

POST OFFICE BOX 12248      AUSTIN, TEXAS 78711

CLERK  
JOHN T. ADAMS

JUSTICES  
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EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

July 3, 1996

Mr. James M. McCormack  
General Counsel, State Bar of Texas  
P.O. Box 12487  
Austin, Texas 78711

Ms. Mary Carol Cunningham  
c/o Steven L. Lee  
Lione & Lee, P.C.  
8303 N. MoPac Expressway, C-238  
Austin, Texas 78759-8370

Dear Mr. McCormack and Ms. Cunningham:

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 Lamar McCorkle, Judge of the 133rd District Court, Houston, Texas to preside in

Commission for Lawyer Discipline v. Mary Carol Cunningham

Sincerely,

**SIGNED**

John T. Adams  
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

POST OFFICE BOX 12248      AUSTIN, TEXAS 78711

CLERK  
JOHN T. ADAMS

JUSTICES  
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EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

July 3, 1996

The Honorable Amalia Rodriguez-Mendoza  
District Clerk of Travis County  
P.O. Box 1748  
Austin, Texas 78767-1748

Dear Mr. Rodriguez-Mendoza:

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 Lawver Discipline v. Mary Carol Cunningham and a copy of the Supreme Court's order appointing the Honorable Lamar McCorkle, Judge of the 133rd District Court, Houston, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams  
Clerk

cc: Hon. Lamar McCorkle  
Ms. Mary Carol Cunningham  
Mr. James M. McCormack