

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9234

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

The Supreme Court of Texas hereby appoints the Honorable Carmen Kelsey, Judge of the 289th District Court of Bexar County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Frederick L. Risker, Jr.

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

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

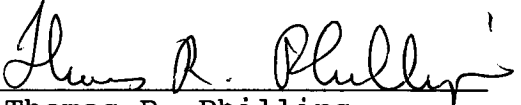
with the Seal thereof affixed at the City
of Austin, this 22nd day of October, 1996.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9234, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 23 day of October, 1996.


Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
v.	§	FT. BEND COUNTY, T E X A S
FREDERICK L. RISKER, JR.	§	_____ 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, complaining of Respondent, FREDERICK RISKER, Jr., showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't Code Ann. §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 which forms the basis of the Disciplinary Petition was filed with the State Bar of Texas 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 his principal place of practice in Fort Bend County, Texas. An officer may serve citation on Respondent at his place of business located at 11515 Mulholland, Stafford, Texas 77477.

III.

In and around July and August, 1990, Olden Keith Evans (hereinafter called "Evans") suffered injuries as a result of two industrial accidents while employed with Freedman

Distributors, Inc. Evans entered into a retainer agreement with Respondent on or about November 13, 1990, to represent his workman's compensation matter styled Cause No. 96-065948; Olden Keith Evans vs. Freedman Distributors, Inc; In the 164th Judicial District Court of Harris County, Texas. On or about March 16, 1994, the lawsuit was settled out of court through mediation for a total sum of \$105,000.00, and a Agreed Order of Dismissal was signed on March 30, 1994.

On or about March 23, 1994, a Release of All Claims (hereinafter called "Release") was executed by Evans, Respondent, and legal counsel for Freedman Distributors, Inc. In accordance with the settlement release, Respondent was to pay-out all of Evans' past medical expenses, and in the event the medical providers accepted less than the full amount of their bills, Evans was entitled to receive such benefit. It was further agreed that upon Freedman Distributors receiving evidence of payment to all medical providers, Evans would then receive the balance of his settlement funds.

Shortly thereafter, Respondent received from Freedman Distributors, check number 037357 in the amount of \$13,205.00, to pay-out all medical bills incurred by Evans for treatment of his injuries. Respondent however, subsequently failed to properly deliver funds and obtain releases from all of the doctors that provided medical treatment to Evans. As a result of Respondents failure to fully carry out his obligation to his client, Evans has been deprived of receiving his final settlement check for over a period of two (2) years.

IV.

The acts and/or omissions of the Respondent described in paragraph III above, which occurred on or after January 1, 1990, constitute conduct in violation of Rules 1.01(b)(1) [a

lawyer shall not neglect a legal matter entrusted to the lawyer]; **1.01(b)(2)** [a lawyer shall not frequently fail to carry out completely the obligations that the lawyer owes to the client]; **1.14(b)** [a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive] and **8.04(3)** [a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation] of the Texas Disciplinary Rules of Professional Conduct.

V.

On or about February 3, 1995, Respondent received a State Bar of Texas Subpoena Duces Tecum, requesting Respondent to produce a copy of Evans's client file, and to include copies of the front and back of all cancelled checks showing payments to medical providers to the District 4E Grievance Committee on or before February 17, 1995. Respondent failed to comply with said subpoena.

On or about May 16, 1995, Respondent was served, pursuant to the Texas Rules of Disciplinary Procedure, a subpoena requiring Respondent to provide a copy of Evans client file on or before May 25, 1995, and a State Bar of Texas Subpoena commanding Respondent to appear and testify before the District 4 Grievance Committee on May 25, 1995. Respondent failed both to produce the file and to appear before the grievance committee.

On or about September 18, 1995, Respondent was served, pursuant to the Texas Rules of Disciplinary Procedure, a subpoena (Duces Tecum) commanding him to appear and testify before the District 4 Grievance Committee on September 28, 1995. Respondent failed to appear.

VI.

The acts and/or omissions of the Respondent described in paragraph V above, and which

occurred on or after January 1, 1990, constitute conduct in violation of Rule(s) 8.01(b) [a lawyer shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority] and 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 ground to so] of the Texas Disciplinary Rules of Professional Conduct and a violation of Part 1.06(Q) of the Texas Rules of Disciplinary Procedure.

VII.

The facts that form the basis of this cause of action were brought to the attention of the Office of the General Counsel of the State Bar of Texas by Olden Keith Evans' filing a complaint on or about November 11, 1994.

PRAAYER


WHEREFORE, PREMISES CONSIDERED, Petitioner prays that this Court discipline Respondent, FREDERICK RISKER, Jr., by reprimand, suspension, or disbarment, as warranted by the facts and awarding the Commission for Lawyer Discipline all other relief to which it may show itself to be justly entitled, including an award of costs of court and attorney's fees.

Respectfully submitted,

Steven W. Young
Interim General Counsel

Stephen D. Statham
Assistant General Counsel

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



STEPHEN D. STATHAM
State Bar No. 19082500

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

September 23, 1996

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

Re: Commission for Lawyer Discipline v. Frederick L. Risker, Jr.

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 Frederick L. Risker, Jr. Mr. Risker has designated Fort Bend County, Texas 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 practices to preside in this case. Upon appointment, request is hereby made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Mr. Frederick L. Risker, Jr.
11515 Mulholland
Stafford, Texas 77477

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 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.

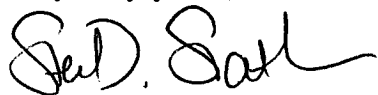
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Fort Bend County, Texas, with the request that the suit be filed, citation be issued, and a file-stamped copy of the petition, be returned to the undersigned.

I have also enclosed a pre-addressed envelope for your use in transmitting the above reference documents, to the District Clerk of Fort Bend County, Texas, and a return envelope to be sent to the District Clerk of Fort Bend County, Texas, for the Clerk's use in returning a file-stamped copy of the petition to the undersigned.

Mr. John T. Adams, Clerk
Supreme Court of Texas
September 23, 1996
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If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "S.D. Statham". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Stephen D. Statham
Assistant General Counsel

SDS/gcp
enclosures



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

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

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

October 28, 1996

The Honorable Glory Hopkins
District Clerk of Fort Bend County
401 Jackson Street
Richmond, Texas 77469

Dear Ms. Hopkins:

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. Frederick L. Risker, Jr. and a copy of the Supreme Court's order appointing the Honorable Carmen Kelsey, Judge of the 289th District Court, San Antonio, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Carmen Kelsey
Mr. Frederick L. Risker, Jr.
Mr. Stephen D. Statham



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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GREG ABBOTT

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

October 28, 1996

Honorable Carmen Kelsey
Judge, 289th District Court
600 Mission Road
San Antonio, Texas 78210

Dear Judge Kelsey:

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. Risker and Mr. Statham and a copy of the letter to the District Clerk of Fort Bend County, Texas.

It is recommended that, a month or six weeks after receipt of this letter, you or your coordinator contact the District Clerk (713-341-4515) to learn the names and addresses of counsel, etc., for purposes of scheduling a conference. 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 (713-655-2800) 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

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

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CLERK
JOHN T. ADAMS

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GREG ABBOTT

EXECUTIVE ASS'T
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ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

October 28, 1996

Mr. Stephen D. Statham
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Frederick L. Risker, Jr.
11515 Mulholland
Stafford, Texas 77477

Dear Mr. Statham and Mr. Risker:

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 Carmen Kelsey, Judge of the 289th District Court, San Antonio, Texas to preside in

Commission for Lawyer Discipline v. Frederick L. Risker, Jr.

Sincerely,

SIGNED

John T. Adams
Clerk