

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 97- 9120

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

The Supreme Court of Texas hereby appoints the Honorable Lana McDaniel, Judge of the 203rd District Court of Dallas County, Texas, to preside in the Disciplinary Action styled:

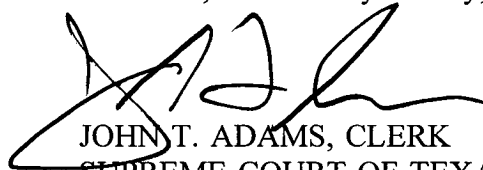
The Commission for Lawyer Discipline v. James A. McGuire

to be filed in a 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 this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure. (This order of appointment of Judge McDaniel is separate and distinct from the appointment in Misc. Docket No. 97-9083, dated May 15, 1997.)

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

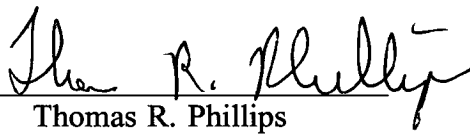
with the Seal thereof affixed at the City
of Austin, this 8th day of July, 1997.

A handwritten signature in black ink, appearing to read "J. Adams", is written over the typed name and title.

JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9120, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 8 day of July, 1997.



Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE §
v. §
JAMES A. MCGUIRE §
§
§

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
____ JUDICIAL DISTRICT

DISCIPLINARY PETITION AND PETITION FOR IMMEDIATE INTERIM SUSPENSION

TO THE HONORABLE JUDGE OF THE COURT:

The Commission for Lawyer Discipline ("Petitioner"), a permanent committee of the State Bar of Texas, pursuant to the authority of an investigatory panel for State Bar District Number 4E, files this Disciplinary Petition and Petition for Immediate Interim Suspension, complaining of James A. McGuire ("Respondent"), an attorney licensed to practice law in the State of Texas, showing the Court as follows:

1. NATURE OF PROCEEDING

Petitioner brings this disciplinary action pursuant to the State Bar Act, the 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 complaints that form the basis of this disciplinary petition were filed on or after May 1, 1992.

2. VENUE

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent is a resident of Harris County, Texas. Respondent's principal place of practice is located in Harris County, Texas. Therefore

venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure.

3. ISSUANCE OF CITATION AND SERVICE OF PROCESS REQUESTED

3.01 Petitioner requests that citation be issued and process be served upon Respondent.

3.02 Respondent may be served at his business address located at 3737 Westheimer, P.O. Box 22717, Houston, Harris County, Texas, 77227.

4. PURSUANT TO PART XIV OF THE TEXAS RULES OF DISCIPLINARY PROCEDURE, PETITIONER REQUESTS THIS COURT TO SUSPEND THE LAW LICENSES OF RESPONDENT PENDING THE FINAL DISPOSITION OF THIS DISCIPLINARY ACTION.

4.01 Petitioner has received evidence that Respondent poses a substantial threat of irreparable harm to clients or prospective clients. On or about October 24, 1996, an investigatory panel for State Bar District Number 4E voted to authorize the Office of the General Counsel of the State Bar of Texas to seek immediate interim suspension of Respondent's license to practice law pursuant to Part XIV of the Texas Rules of Disciplinary Procedure.

4.02 Petitioner believes that Respondent poses a substantial threat of irreparable harm to clients and prospective clients by reason of his conduct as set forth hereinafter.

4.03 MCGUIRE ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULE OF PROFESSIONAL CONDUCT 1.14(b).

(A) On or about April 26, 1993, **DARLA A. LOVE** ("Complainant") retained the services of the Respondent on a contingency fee basis to represent her in a personal injury case.

- (B) On or about January 26, 1994, the Respondent received an Allstate Insurance settlement of Ten Thousand Dollars (\$10,000.00).
- (C) The Respondent withheld funds to pay North Houston Imaging, Inc. In the amount of One Thousand Seventy Five Dollars (\$1,175.00) for services rendered to the Complainant.
- (D) The funds were not paid to North Houston Imaging, Inc.

4.04 MCGUIRE ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULE OF PROFESSIONAL CONDUCT 8.04(a)(8).

- (A) On or about May 25, 1995, the Respondent received written notice from the State Bar of Texas to provide additional information concerning payment of medical providers. The Respondent had testified before the Grievance Committee that the would provide the information. The Respondent wholly failed to respond to said notice.

5. PRAYER

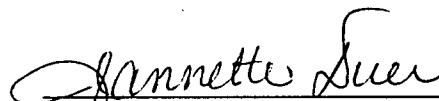
Petitioner respectfully prays that this Court discipline Respondent by disbarment, suspension or reprimand, as the facts shall warrant; and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

Steven W. Young
General Counsel

Jeannette M. Duer
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



JEANNETTE M. DUER
State Bar No. 00793645

ATTORNEYS FOR PETITIONER/
THE COMMISSION FOR
LAWYER DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

June 11, 1997

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

Re: Commission for Lawyer Discipline v. James A. McGuire

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of a Disciplinary Petition and Petition for Immediate Interim Suspension being filed by the Commission for Lawyer Discipline against James A. McGuire. Mr. McGuire has designated Harris 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:

James A. McGuire
3737 Westheimer
P.O. Box 22717
Houston, Texas 77227

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.

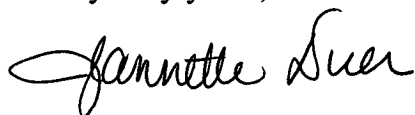
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition and Petition for Immediate Interim Suspension, the Civil Case Information Sheet, and the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk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

Mr. John T. Adams, Clerk
Supreme Court of Texas
June 11, 1997
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Also enclosed is a pre-addressed envelope for your use in transmitting the above referenced documents 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 filemarked copy of the petition to the undersigned.

If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,



Jeannette M. Duer
Assistant General Counsel

JMD/sr
enclosures



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 ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

July 9, 1997

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77210

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. James A. McGuire, and a copy of the Supreme Court's order appointing the Honorable Lana McDaniel, Judge of the 203rd District Court of Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Lana McDaniel
Mr. James A. McGuire
Ms. Jeannette M. Duer



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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CLERK
JOHN T. ADAMS

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JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

July 9, 1997

Honorable Lana McDaniel
Judge, 203rd District Court
Frank Crowley Courts Building
133 N. Industrial Blvd.
Dallas, Texas 75207

Dear Judge McDaniel:

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. McGuire and Ms. Duer, 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 (713-471-3911) 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

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CLERK
JOHN T. ADAMS

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EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

July 9, 1997

Ms. Jeannette Duer
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. James A. McGuire
3737 Westheimer
P.O. Box 22717
Houston, Texas 77227

Dear Ms. Duer and Mr. McGuire:

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 Lana McDaniel, Judge of the 203rd District Court of Dallas, Texas to preside in

Commission for Lawyer Discipline v. James A. McGuire

Sincerely,

SIGNED

John T. Adams
Clerk