

**ORDER OF THE SUPREME COURT OF TEXAS**

**Misc Docket No. 97- 9235**

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

The Supreme Court of Texas hereby appoints the Honorable Thomas W. Lowe, III, Judge of the 236th District Court of Tarrant County, Texas, to preside in the Disciplinary Action styled:

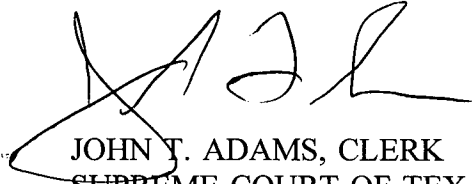
**The Commission for Lawyer Discipline v. Wendell S. Loomis**

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.

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

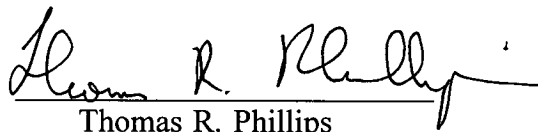
with the Seal thereof affixed at the City  
of Austin, this 30th day of December, 1997.



JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9235, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 5 day of January, 1998.

A handwritten signature in cursive script, reading "Thomas R. Phillips". The signature is written in black ink and is positioned above a horizontal line.

Thomas R. Phillips  
Chief Justice

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

COMMISSION FOR LAWYER DISCIPLINES

IN THE DISTRICT COURT OF

VS

§  
§  
§  
§

HARRIS COUNTY, TEXAS

WENDELL S. LOOMIS

\_\_\_\_\_ JUDICIAL DISTRICT

ORIGINAL 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, Wendell S. Loomis, 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), 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 Harris County, Texas. An officer may serve citation on Respondent at his business address located at 4136 Laverock Rd., Spring, Harris County, Texas 77388.

III.

On or about October 27, 1995, Complainant, Alex Kavourgias, retained Respondent to represent him in a divorce. Kavourgias paid Respondent One Thousand Five Hundred Dollars (\$1,500.00). On or

about November 2, 1995, Respondent deposited the \$1,500.00 into his operating account. On or about January 3, 1996, Kavourgias terminated Respondent's services. Pursuant to the termination, Kavourgias requested an accounting from Respondent of the \$1,500.00, and a description of the services performed, as well as a refund of any unearned portion of the \$1,500.00 he paid to Respondent.

At that time, Respondent, who had not regularly represented Kavourgias, or previously communicated to Kavourgias the basis of Respondent's fee or the fact that Respondent considered the \$1,500.00 a non-refundable retainer, advised Kavourgias that he would not return any portion of the \$1,500.00. Respondent informed Kavourgias that he considered the \$1,500.00 to be a non-refundable retainer, and advised Kavourgias that as such, none of the money would be returned. Respondent also refused to render an accounting to Kavourgias.

#### IV.

By refusing to return any unearned portion of the \$1,500.00 retainer given to him by Kavourgias, and by failing to render an accounting to his client, Alex Kavourgias, upon request, Respondent engaged in conduct in violation of Rules 1.04(c)[a lawyer shall communicate--preferably in writing--to a client he had not regularly represented, the basis or rate of Respondent's fee before or within a reasonable time after commencing the representation]; 1.14(a)[a lawyer shall hold funds and other property belonging in whole or in part to clients or third persons that are in a lawyer's possession in connection with a

representation separate from the lawyer's own property. Such funds shall be kept in a separate account, designated as a "trust" or "escrow" account.]; 1.14(b) [Upon receiving funds or other property in which a client or a third person has an interest, a lawyer shall promptly notify the client or third person; 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, upon request by the client or third person, shall promptly render a full accounting regarding such property]; and 1.15(d) [upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled ]of the Texas Disciplinary Rules of Professional Conduct, and of Rule 1.06(Q) of the Texas Rules of Disciplinary Procedure.

**v.**

The complaint which forms the basis of this lawsuit as hereinabove set forth was brought to the attention of the Office of the General Counsel of the State Bar of Texas by the filing of a complaint by Alex Kavourgias on or about January 26, 1996.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Petitioner prays for judgment that Respondent, Wendell S. Loomis, be disciplined by reprimand, suspension, or disbarment, as the facts shall warrant; and that Petitioner have such other and further relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

**Steven W. Young**  
General Counsel

**Mary F. Klapperich**  
Assistant General Counsel

Office of the General Counsel  
State Bar of Texas  
1111 Fannin, Suite 1370  
Houston, Texas 77002  
(713) 759-6932  
(713) 752-2158 FAX



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**MARY F. KLAPPERICH**  
State Bar of Texas No. 11550700

**ATTORNEYS FOR PETITIONER**

# STATE BAR OF TEXAS



Office of the General Counsel

November 24, 1997

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

*Re: Commission for Lawyer Discipline v. Wendell S. Loomis*

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 Wendell S. Loomis. Mr. Loomis is a resident of Harris County, Texas. 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 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. Wendell S. Loomis  
Attorney-at-Law  
4138 Laverock Road  
Spring, Texas 77388

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 Harris County, Texas, with the request that the suit be filed, citation be issued, and the citation, alone with a file-stamped copy of the petition, be returned to the undersigned.

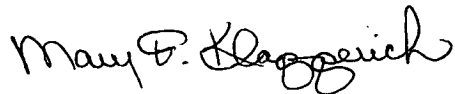
Mr. John T. Adams, Clerk  
Supreme Court of Texas  
November 24, 1997  
PAGE 2

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I have enclosed a pre-addressed envelope for your use in transmitting the above reference 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 file-stamped copy of the petition to the undersigned.

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

Very truly yours,



Mary F. Klapperich  
Assistant General Counsel

MFK/rr  
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  
CRAIG T. ENOCH  
ROSE SPECTOR  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT  
DEBORAH G. HANKINSON

TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

JAN 09 1998

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. Wendell S. Loomis, and a copy of the Supreme Court's order appointing the Honorable Thomas W. Lowe, III, Judge of the 236<sup>th</sup> District Court of Fort Worth, Texas, to preside in this Disciplinary Action.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

cc: Hon. Thomas W. Lowe, III  
Ms. Mary F. Klapperich  
Mr. Wendell S. Loomis



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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JOHN T. ADAMS

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WILLIAM L. WILLIS

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NADINE SCHNEIDER

JAN 09 1998

Ms. Mary F. Klapperich  
Assistant General Counsel, State Bar of Texas  
1111 Fannin, Suite 1370  
Houston, Texas 77002

Mr. Wendell S. Loomis  
Attorney-at-Law  
4138 Laverock Road  
Spring, Texas 77388

Dear Ms. Klapperich and Mr. Loomis:

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 Thomas W. Lowe, III, Judge of the 236<sup>th</sup> District Court of Fort Worth, Texas to preside in

Commission for Lawyer Discipline v. Wendell S. Loomis

Sincerely,

**SIGNED**

John T. Adams  
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK  
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EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

JAN 09 1998

Honorable Thomas W. Lowe, III  
Judge, 236<sup>th</sup> District Court  
401 W. Belknap Street  
Fort Worth, Texas 76196-0228

Dear Judge Lowe:

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. Loomis and Ms. Klapperich, 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