

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98- 9222

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

The Supreme Court of Texas hereby appoints the Honorable Manny Alvarez, Judge of the Criminal District Court No. 5 of Dallas County, Texas, to preside in the Disciplinary Action styled:

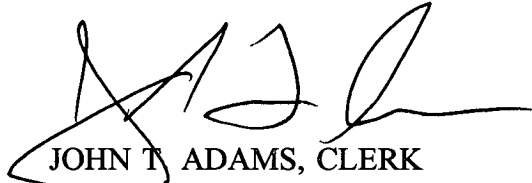
The Commission for Lawyer Discipline v. Ronald N. Etzel

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.

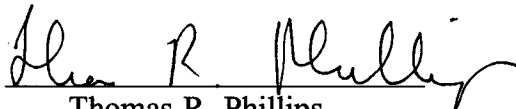
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 21st day of December, 1998.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9222, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 22 day of December, 1998.


Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER
DISCIPLINE

§
§
§
§
§
§

IN THE DISTRICT COURT OF

V.

HARRIS COUNTY, TEXAS

RONALD N. ETZEL

_____ 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, RONALD N. ETZEL, and would show the Court the following:

I.

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

II.

Respondent's alleged Professional Misconduct occurred in whole or in part in Harris County, Texas; therefore, venue is appropriate in Harris County, Texas, pursuant to Rule

3.03 of the Texas Rules of Disciplinary Procedure. An officer may serve citation on Respondent at his business address located at 4620 Fairmont Parkway, Suite 202, Pasadena, Harris County, Texas 77504.

III.

Attorney Frank A. Lima entered into a contract to represent Deborah Kirby in a tort claim. Deborah Kirby agreed that the Respondent, Ronald N. Etzel, would aid in the representation. Respondent settled Ms. Kirby's claim in November 1992 for Three Hundred Twenty-five Thousand Dollars (\$325,000).

On November 9, 1992, Deborah Kirby and her husband, Ronald Kirby, signed a settlement breakdown which indicated the \$325,000 would be divided as follows:

\$275,000 attorneys' fees to Respondent and to Frank Lima;

\$10,000 payable to Ronald Kirby; and

\$40,000 payable to Deborah Kirby.

Respondent withheld Fifteen Thousand Dollars (\$15,000) Deborah Kirby's proceeds to "pay for expenses." Respondent informed Ms. Kirby that upon payment of the expenses, he would reimburse her for any portion of the \$15,000 greater than the expenses. Respondent never intended to reimburse Ms. Kirby any of the \$15,000.00 he withheld from her settlement proceeds, and engaged in a pattern of deception and fraud upon Ms. Kirby to keep from paying her the \$15,000.00 he withheld from her. The actual costs incurred in the case totaled One Thousand Five Hundred Twenty-seven Dollars and Seventy-one Cents (\$1,527.71). Respondent has refused to reimburse Ms. Kirby the \$15,000.00 he

withheld from her settlement proceeds.

On or about March 6, 1998, Respondent was served with a subpoena duces tecum issued by the Grievance Committee for District 04 of the State Bar of Texas. The subpoena duces tecum demanded Respondent produce his trust account records pertaining to Ms. Kirby's case. Respondent did not respond to the subpoena duces tecum, did not produce the items listed in the subpoena duces tecum, and did not assert a privilege or other grounds for failing to comply with the subpoena.

On or about June 12, 1998, Respondent was served with a subpoena issued by the Grievance Committee for District 04 of the State Bar of Texas. The subpoena commanded him to appear and give testimony at a hearing scheduled for June 25, 1998. Respondent failed to appear or give testimony.

IV.

The acts and/or omissions of Respondent described in Paragraph III above constitute conduct in violation of Rules **1.04(a)** a lawyer shall not enter into an arrangement for, charge or collect an illegal fee or unconscionable fee; **1.14(a)** for failing to hold funds belonging in whole or in part to a client that were in his possession in connection with a representation separate from the lawyer's own property; **1.14(b)** for failing, upon receiving funds or other property in which a client or third person has an interest, to promptly notify the client or third person and render a full accounting upon request; **1.14(c)** failing to keep property in which both the lawyer and another person claim an interest separate until there is an accounting and severance of the interest; **8.01(b)** for knowingly failing to respond to

a lawful demand for information from a disciplinary authority; **8.04(a)(1)** for violating these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship; **8.04(a)(3)** for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and **8.04(a)(8)** for failing to timely furnish a district grievance committee a response or other information as required unless he/she timely asserts a privilege or other legal ground for failure to do so.

V.

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 Deborah Kirby's filing of a complaint on or about August 5, 1997.

PRAYER

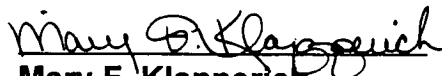
WHEREFORE, PREMISES CONSIDERED, Petitioner, **COMMISSION FOR LAWYER DISCIPLINE**, respectfully prays that this Court discipline Respondent, **Ronald N. Etzel**, by reprimand, suspension, or disbarment, as the facts shall warrant; restitution; and all other relief to which Petitioner may show itself to be justly entitled, including costs of court and attorneys' 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


Mary F. Klapperich
State Bar No. 11550700

**ATTORNEYS FOR PETITIONER,
COMMISSION FOR LAWYER DISCIPLINE**

STATE BAR OF TEXAS



Office of the General Counsel

November 10, 1998

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

Re: Commission for Lawyer Discipline v. Ronald N. Etzel

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 Ronald N. Etzel. Mr. Etzel 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 resides to preside in this case. Upon appointment, request is made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Ronald N. Etzel
Attorney-at-Law
4620 Fairmont Parkway, Suite 202
Pasadena, Texas 77504

As a practical matter, I would respectfully suggest that you inquire with the Judge to be appointed as to: (1) 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 and (2) whether he or she can accommodate compliance with Mellon Service Co., et al v. Touche Ross Co., 946 S.W.2d 862 (Tex. App. - Houston [14th Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. 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, service be obtained, and a file-marked copy of the petition be returned to the undersigned.

Mr. John Adams
Supreme Court of Texas
November 10, 1998
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Also enclosed are two (2) pre-addressed envelopes for your use in transmitting the Disciplinary Petition, etc., 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-marked copy of the Disciplinary Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,



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

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
CRAIG T. ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

DEC 28 1998

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. Ronald N. Etzel*, and a copy of the Supreme Court's order appointing the Honorable Manny Alvarez, Judge of the Criminal District Court No. 5 of Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Manny Alvarez
Ms. Mary F. Klapperich
Mr. Ronald N. Etzel
Ms. Melissa Dartez



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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DEC 28 1998

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

Mr. Ronald N. Etzel
Attorney-at-Law
4620 Fairmont Parkway, Suite 202
Pasadena, Texas 77504

Dear Ms. Klapperich and Mr. Etzel:

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 Manny Alvarez, Judge of the Criminal District Court No. 5 of Dallas, Texas to preside in

Commission for Lawyer Discipline v. Ronald N. Etzel

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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DEC 28 1998

Honorable Manny Alvarez
Judge, Criminal District Court No. 5
Frank Crowley Courts Building
133 N. Industrial Boulevard, LB 50
Dallas, Texas 75207

Dear Judge Alvarez:

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. Etzel 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