

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9120

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

The Supreme Court of Texas hereby appoints the Honorable David Evans, Judge of the 193rd District Court of Dallas County, Texas, to preside in the Disciplinary Action styled:

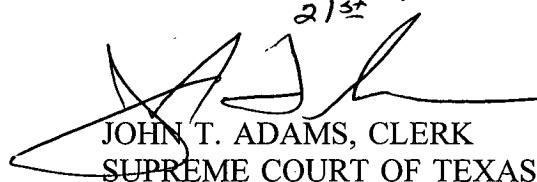
The Commission for Lawyer Discipline v. John H. Ward

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.

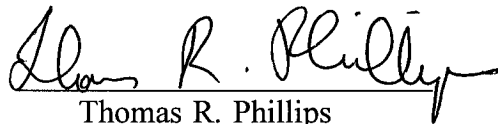
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this ~~18th~~^{21st} day of June, 1999.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9120, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 21 day of June, 1999.

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

Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE, §
Petitioner §

vs. §

JOHN H. WARD, §
Respondent §

IN THE DISTRICT COURT OF

HARRIS COUNTY, T E X A S

_____ JUDICIAL DISTRICT

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW Petitioner, the COMMISSION FOR LAWYER DISCIPLINE a committee of the State Bar of Texas (hereinafter referred to as "Petitioner"), complaining of Respondent, **John H. Ward** (hereinafter referred to as "Respondent"), and would respectfully show unto the Court the following:

1. NATURE OF PROCEEDING

1.01 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 forms the basis of this *Original Disciplinary Petition* were filed on or after May 1, 1992. Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure, Petitioner intends discovery in this case to be conducted under Discovery Control Plan - Level 1, as provided in Rule 190.3 of the Texas Rules of Civil Procedure.

2. VENUE

2.01 Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent's residence and principal place of practice is Harris County, Texas; therefore, venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the TEXAS RULES OF DISCIPLINARY PROCEDURE. Respondent may be served at his business address, 3271 West Alabama, Suite 100, Houston, Texas, 77098.

3. ANNETTE PETRAK COMPLAINT

PURSUANT TO PART III OF THE TEXAS RULES OF DISCIPLINARY PROCEDURE, PETITIONER REQUESTS THIS COURT TO DISCIPLINE WARD FOR ACTS OF PROFESSIONAL MISCONDUCT.

3.01 A. WARD ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT: 1.01(a) for accepting or continuing employment in a legal matter which the lawyer knew or should have known was beyond lawyer's competence;

1. Complainant, Annette Petrak, a German resident without a VISA was employed by the Aldine Independent School District, ("A.I.S.D.").
2. On or about April 16, 1997, Petrak retained Respondent to represent her in an immigration case.
3. Respondent was to obtain a proper VISA so that Petrak could remain employed by the AISD.
4. Respondent accepted employment when he did not have the knowledge to seek the proper VISA for Petrak.
5. Respondent failed to associate himself with another lawyer who was competent to handle the matter.

6. Respondent failed to limit his advice or assistance to Petrak regarding his competence in immigration law.

7. Respondent did not obtain a VISA for Petrak.

3.02 B. WARD ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT: 1.03(a) for failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information;

1. Petrak left both telephone messages and messages by facsimile requesting information as to the status of her case.

2. Respondent failed to return Petrak's requests for information as to the status of her case.

3.03 C. WARD ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT: 1.04(b) Factors that may be considered in determining the reasonableness of a fee include, but not to the exclusion of other factors, the following: (4) the amount involved and the results obtained;

1. Petrak paid Respondent a total of One Thousand Seven Hundred Fifty Dollars (\$1,750.00) for representation in an immigration case.

2. Respondent was to obtain the correct VISA that would allow Petrak to remain in the United States and to teach in AISD.

3. Respondent failed to follow appropriate procedures to obtain the correct VISA on behalf of Petrak.

4. Respondent charged an unconscionable fee for the amount of work involved and the results obtained.

3.04 D. WARD ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT: 1.15(d) for failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, or surrender papers and property which belongs to the client;

1. On or about May 19, 1998, Petrak terminated Respondent's employment.
2. Petrak demanded that Respondent forward her file to her new attorney.
3. Petrak demanded that Respondent refund unearned fees to her.
4. Respondent failed to provide Petrak's file to her new attorney.
5. Respondent failed to return any unearned fees to Petrak.
6. 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 Annette E. Petrak filing of a complaint on or about June 16, 1998.

4. ROBERT C. MCLAUGHLIN COMPLAINT

PURSUANT TO PART III OF THE TEXAS RULES OF DISCIPLINARY PROCEDURE, PETITIONER REQUESTS THIS COURT TO DISCIPLINE WARD FOR ACTS OF PROFESSIONAL MISCONDUCT.

4.01 A. WARD ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT: 1.01(b)(2) for failing to carry out completely the obligations owed to a client;

1. In or about April 1997, Robert C. McLaughlin, ("McLaughlin"), employed Respondent for representation regarding the modification of a final divorce decree seeking reduction of McLaughlin's monthly child support payments.
2. Respondent failed to meet with McLaughlin and his ex-wife at a scheduled appointment.
3. Respondent failed to file the motion on behalf of his client, McLaughlin.
4. Respondent failed to serve McLaughlin's ex-wife with the motion.
5. Respondent failed to take legal action necessary to fulfill obligations owed to his client.

4.02 B. WARD ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT: 1.03(a) for failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information;

1. McLaughlin attempted to leave messages with Respondent at his office with Respondent's secretary requesting information as to the status of his case.
2. McLaughlin attempted to leave messages on Respondent's business answering machine requesting that Respondent return his calls and answer questions as to the status of his case.
3. Respondent failed to answer McLaughlin's requests for information either by telephone or letter.

4.03 C. WARD ENGAGED IN CONDUCT VIOLATING TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT: 8.01(b) for knowingly failing to respond to a lawful demand for information from a disciplinary authority;

1. On or about October 26, 1998, the Investigatory Committee Panel 4B5, requested that Respondent provide them with a file-stamped copy of McLaughlin's child support modification to McLaughlin's ex-wife.
2. Respondent failed to comply with the grievance committee's request.
3. 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 Robert C. McLaughlin filing of a complaint on or about May 6, 1998.

5. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner, **COMMISSION FOR LAWYER DISCIPLINE,** respectfully prays that this Court discipline Respondent, **John H. Ward,** by reprimand, suspension or disbarment, as the facts shall warrant; order restitution, if applicable;

and grant 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

JEANNETTE M. DUER
Assistant General Counsel

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



JEANNETTE M. DUER
State Bar No. 00793645

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

J:\WARD.JHC\FLD3.JMD\DP.WPD

STATE BAR OF TEXAS



Office of the General Counsel

March 31, 1999

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

Re: Commission for Lawyer Discipline v. John H. Ward

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 John H. Ward. John H. Ward 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:

John H. Ward
3271 W. Alabama St., Suite 100
Houston, Texas 77098-1701

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.

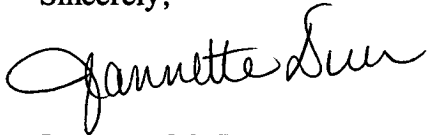
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, service be obtained,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

Mr. John Adams
March 31, 1999
Page Two

Also enclosed are a pre-addressed envelope for your use in transmitting the 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 Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Jeannette Duer". The signature is written in black ink and is positioned above the typed name and title.

Jeannette M. Duer
Assistant General Counsel

JMD/cg

Enclosures

J:\WARD.JH\CFLD3.JMD\CLERK1.SCT



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

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASST
NADINE SCHNEIDER

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

JUN 24 1999

Honorable David Evans
Judge, 193rd District Court
George L. Allen Sr. Courts Building
600 Commerce Street
Dallas, Texas 75202

Dear Judge Evans:

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. Ward 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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ALBERTO R. GONZALES

JUN 24 1999

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. John H. Ward*, and a copy of the Supreme Court's order appointing the Honorable David Evans, Judge of the 193rd District Court, Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable David Evans
Ms. Jeannette M. Duer
Mr. John H. Ward
Ms. Melissa Dartez



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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JUSTICES
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CLERK
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WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUN 24 1999

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

Mr. John H. Ward
3271 W. Alabama Street, Suite 100
Houston, Texas 77098-1701

Dear Ms. Duer and Mr. Ward:

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 David Evans, Judge of the 193rd District Court, Dallas, Texas to preside in

Commission for Lawyer Discipline v. John H. Ward

Sincerely,

SIGNED

John T. Adams
Clerk