

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9225

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

The Supreme Court of Texas hereby appoints the Honorable Mark Davidson, Judge of the 11th District Court of Harris County, Texas, to preside in the Disciplinary Action styled:

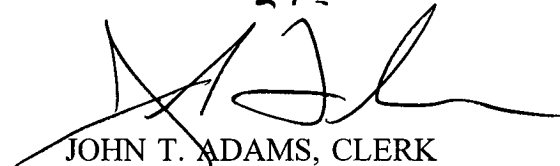
The Commission for Lawyer Discipline v. Armando Roberto Villalobos

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

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

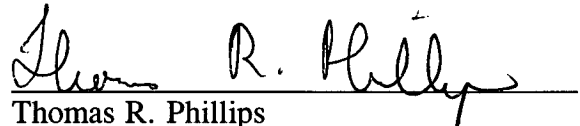
with the Seal thereof affixed at the City
of Austin, this ~~24~~^{29th} day of November, 1999.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9225, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code, §74.057.

Signed this 29 day of November, 1999.


Thomas R. Phillips
Chief Justice

No. _____

COMMISSION FOR LAWYER
DISCIPLINE

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IN THE DISTRICT COURT

V.

_____ JUDICIAL DISTRICT

ARMANDO ROBERTO VILLALOBOS

CAMERON COUNTY, TEXAS

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complaining of Respondent, ARMANDO ROBERTO VILLALOBOS, and in support thereof would respectfully show the Court the following:

Parties

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, ARMANDO ROBERTO VILLALOBOS, State Bar Number 00788584, was, at the time the following alleged acts of professional misconduct occurred, an attorney licensed to practice law in the State of Texas and a member of the State Bar of Texas. Respondent may be served with process at PMB #111, 1327 East Washington Avenue, Harlingen, Cameron County, Texas 78550, his usual place of business.

Venue

At the time the alleged professional misconduct occurred, Respondent maintained a law office and was a member of a law firm in Richardson, Dallas County, Texas. Although the alleged acts of professional misconduct occurred in whole or in part in Dallas County, Texas,

Respondent, in his *Principal Place of Practice Certification*, certifies that his principal place of practice is now San Benito, Cameron County, Texas. Accordingly, pursuant to Texas Rules of Disciplinary Procedure 3.03, venue is proper in Cameron County, Texas.

Discovery Level Designation

1.

Pursuant to Tex.R.Civ.P. 190.1, Petitioner designates that discovery in this action should proceed pursuant to Level 2 (Tex.R.Civ.P. 190.3).

Professional Misconduct

2.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Gov't. Code Ann., Sec. 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 this action was filed with the State Bar of Texas on November 13, 1998 by Complainant, William E. Robbins, of the Kondos & Kondos law firm regarding the representation by Respondent of Ms. Lucy Smith and Ms. Angela Brooks. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

Lucy Smith

3.

In September 1997, Lucy Smith ("Smith") telephoned the law firm of Kondos & Kondos, seeking legal representation for personal injuries she sustained in an automobile accident on July 20, 1997. The Kondos & Kondos receptionist forwarded Smith's call to Respondent, then a

Kondos & Kondos associate attorney, and Smith and Respondent discussed Smith's accident and injuries. Smith and Respondent then arranged for Respondent to visit Smith at her home on a Saturday to further discuss the matter.

4.

During the September 27, 1997, visit to Smith's home, Respondent presented Smith with the option of signing a one-third (1/3) contingent fee agreement with Kondos & Kondos or signing a contingent fee agreement for his individual services for only one-fourth (1/4) of the settlement. Respondent misrepresented his authority to enter into the contingent fee contract individually for a lower fee arrangement than the standard contingent fee contract of Kondos & Kondos. Respondent induced Lucy Smith to sign the contract by assuring her that it was an arrangement approved by the law firm and that she would still be represented by Kondos & Kondos. Smith understood that the Agreement she was signing was for the law firm of Kondos & Kondos to represent her. Instead, the Agreement Smith signed was for Respondent's services in his individual capacity.

5.

During the period of time that Respondent was representing Smith, Smith contacted Respondent at the Kondos & Kondos law firm, received calls from Respondent during his working hours at Kondos & Kondos, and received a facsimile transmission from Respondent with a Kondos & Kondos coversheet. Respondent allowed Smith to believe that she was being represented by Kondos & Kondos and did nothing to correct her misunderstanding.

ANGELA BROOKS

6.

In a separate matter, Respondent represented Angela Brooks ("Brooks") in a personal injury claim while still employed by Kondos & Kondos. Brooks' claim was settled for \$25,000.00. On November 24, 1997, as Brooks had no bank account, Respondent deposited Brooks' \$25,000.00 settlement check into his personal checking account. Respondent then remitted to Brooks her portion of the settlement proceeds.

7.

Complainant, William Robbins' law firm, Kondos & Kondos, terminated Respondent's employment in December 1997.

8.

In relation to the representation of Ms. Smith, pursuant to Complainant's allegations, the conduct of Respondent described above constitutes a violation of the following Disciplinary Rule:

Rule 7.02(a) -- A lawyer shall not make a false or misleading communication about the qualifications or services of any lawyer or firm.

Rule 8.04(a)(3) -- A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

9.

In relation to the representation of Ms. Brooks, pursuant to Complainant's allegations, the conduct of Respondent described above constitutes a violation of the following Disciplinary Rule:

Rule 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, maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other client property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.


PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other relief to which it is entitled, including costs of court, litigation expenses and attorney's fees.

Respectfully Submitted,

Dawn Miller
Acting General Counsel/Chief Disciplinary Counsel

Robert E. Kaszczuk
Assistant General Counsel
State Bar Of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
Telephone (210) 271- 7881
Telecopier (210) 271- 9642


ROBERT E. KASZCZUK
State Bar No.: 11106300

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#Z 298 831 930

Office of the General Counsel
Regional Office
Soledad Plaza West
425 Soledad, Suite 300
San Antonio, Texas 78205
(210) 271-7881
FAX: (210) 271-9642

October 12, 1999

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

RE: Commission for Lawyer Discipline v. Armando Roberto Villalobos

Dear Mr. Adams:

Enclosed please find an original and three (3) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Armando Roberto Villalobos. Mr. Villalobos has designated **Cameron County** 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:

Armando Roberto Villalobos
1327 E. Washington Avenue, Suite 111
Harlingen, Texas 78550

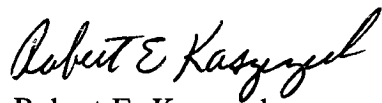
As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial as set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure. If not, I would respectfully request that an alternate appointment be made.

Once a trial judge has been appointed, please forward the original and three (3) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Cameron County, Texas, with the request that the suit be filed, a citation be prepared, and a filemarked copy of the petition and citation be returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Cameron County, Texas and a return envelope to be sent to the District Clerk of Cameron County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,



Robert E. Kaszczuk
Assistant General Counsel

Enclosures

REK/apr



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

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

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

DEC 10 1999

Honorable Mark Davidson
Judge, 11th District Court
304 Civil Courts Building
301 Fannin Street
Houston, Texas 77002

Dear Judge Davidson:

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. Villalobos and Mr. Kaszczuk, and a copy of the letter to the District Clerk of Cameron County.

It is recommended that, a month or six weeks after receipt of this letter, you or your coordinator contact the District Court Administrative Office (210-544-0847) to find out the district court to which this disciplinary case has been assigned, names and addresses of counsel, etc. 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 (210-544-0847) 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

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CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES

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JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

DEC 10 1995

Mr. Robert E. Kaszczuk
Assistant General Counsel, State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205

Mr. Armando Roberto Villalobos
1327 E. Washington Avenue, Suite 111
Harlingen, Texas 78550

Dear Mr. Kaszczuk and Mr. Villalobos:

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 Mark Davidson, Judge of the 11th District Court, Houston, Texas to preside in

Commission for Lawyer Discipline v. Armando Roberto Villalobos

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK
JOHN T. ADAMS

JUSTICES

NATHAN L. HECHT
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EXECUTIVE ASS'T
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JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

DEC 10 1999

The Honorable Aurora de la Garza
District Clerk of Cameron County
974 E. Harrison Street
Brownsville, Texas 78520

Dear Mr. de la Garza:

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. Armando Roberto Villalobos* and a copy of the Supreme Court's order appointing the Honorable Mark Davidson, Judge of the 11th District Court, Houston, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Mark Davidson
Mr. Robert E. Kaszczuk
Mr. Armando Roberto Villalobos