

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9055

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

The Supreme Court of Texas hereby appoints the Honorable Jeanne Meurer, Judge of the 98th District Court of Travis County, Texas, to preside in the Disciplinary Action styled:

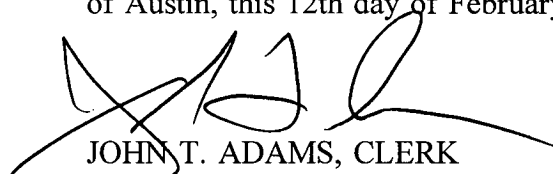
The Commission for Lawyer Discipline v. Kenneth C. Kobobel

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.

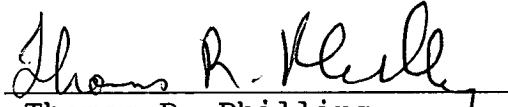
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 12th day of February, 1996.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9055, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 12 day of February, 1996.


Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE §
v. §
KENNETH C. KOBABEL §

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

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 (the "CFLD"), complaining of Respondent, KENNETH C. KOBABEL ("Respondent"), showing the Court:

I.

The CFLD brings this disciplinary action pursuant to the State Bar Act, 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 complaint that forms the basis of this Disciplinary Petition was filed on or after May 1, 1992.

II.

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 and has his principal place of practice in Harris County, Texas, and 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 located at 134 West Little York, Houston, Texas, 77076.

III.

On or about June 6, 1991, the Final Judgment of Dissolution of Marriage was signed in Case No. 90-14479 (13), *In Re: The Marriage of: Douglas C. Wolfe and Lottie Ann Wolfe*, in the Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida (the "Florida case"). It was ordered that the children, Stephanie Juanita Wolfe ("Stephanie") and Jason Alan Scanlon ("Jason"), would reside with Douglas C. Wolfe, Jr. ("Douglas").

IV.

Thereafter, on or about December 16, 1991, Respondent filed a Motion Affecting the Parent-Child Relationship in Cause No. 91-64150, *In the Matter of the Marriage of Douglas C. Wolfe and Lottie Ann Wolfe and in the Interest of Stephanie Juanita Wolfe and Jason Alan Scanlon-Wolfe, Minor Children*, in the 257th Judicial District Court of Harris County, Texas (the "Texas case"), on behalf of Lottie Ann Wolfe ("Lottie"). Respondent knowingly made a false statement of material fact when, in this motion, he asserted that the Texas Court had jurisdiction over Stephanie, even though she had not resided in Harris County, Texas for the required six months, and was in fact residing with Douglas in Florida at the time. In fact, the Court in the Florida case had continuing jurisdiction over Stephanie, and Respondent failed to disclose this fact to the Texas Court.

V.

On or about April 13, 1992, in the Order on Respondent/Former Wife's Motion to Modify Final Judgment of Dissolution; Motion to Enforce Final Judgment and Motion for Contempt in the Florida case, it was ordered that Lottie would not have visitation with Stephanie outside of Dade County, Florida. It was also ordered that Lottie was to inform the

Court in the Texas case of the findings of said Order.

VI.

On or about February 10, 1992, Douglas filed a Motion to Dismiss in the Texas case, advising the Court of the continuing jurisdiction the Florida Court had over Stephanie, and Respondent knew or should have known of the Florida Court's continuing jurisdiction at that time. The trial in the Texas case was held on or about March 2, 1992, and afterward Respondent submitted an order that included Stephanie, even though both Respondent and the Texas Court were aware that it did not have jurisdiction over Stephanie. However, on or about October 19, 1992, the Texas Court mistakenly signed the Order on Motion to Modify in Suit Affecting the Parent-Child Relationship (the "Order") that awarded custody of Stephanie to Lottie.

VII.

Thereafter, on or about December 10, 1992, Stephanie was abducted from a playground near her grandparents' residence in South Daytona, Florida. On or about December 11, 1992, Joe Curatolo ("Curatolo"), an officer with the South Daytona Police Department, received a telephone call from Respondent. Respondent advised Curatolo that Lottie had taken Stephanie pursuant to a court order that was dated October 19, 1992. A letter to that effect and a copy of the Order were faxed to Curatolo. Lottie had used the Order as her authority for the abduction, when in fact the Order was fraudulent because of the inclusion of Stephanie.

VIII.

Upon learning that the Order was signed in error because it did not have jurisdiction over Stephanie, the Texas Court set aside the Order "as if never having been entered." This occurred on or about December 15, 1992.

IX.

Furthermore, on or about December 8, 1992, Respondent filed a Motion Affecting the Parent-Child Relationship in Cause No. 92FD2110, *In the Matter of the Marriage of: Douglas C. Wolfe and Lottie Ann Wolfe and in the Interest of Jason Alan Scanlon, Minor Children*, in the County Court No. 2 of Galveston County, Texas, on behalf of Lottie. This case involved the issue of Jason's custody, and in his motion, Respondent knowingly made a false statement of material fact when he asserted that the Court in Galveston County had jurisdiction over Jason, even though Jason had not resided in Galveston County for the required six months.

X.

The acts and/or omissions of the Respondent described in Paragraphs III-IX above, which occurred on or after January 1, 1990, constitute conduct in violation of Rules 3.03(a), 3.03(b), 4.01(a), 4.01(b), 8.0(a)(1), 8.04(a)(3), 8.04(a)(4), and 8.04(a)(11) of the Texas Disciplinary Rules of Professional Conduct.

XI.

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 Douglas Wolfe, Sr.'s filing of a complaint on or about May 24, 1993.

Prayer

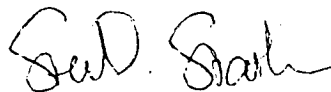
WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent KENNETH C. KOBABEL as the facts shall warrant; and that the CFLD have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

Stephen D. Statham
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) 759-1932



STEPHEN D. STATHAM
State Bar No. 19082500

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE



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

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

February 14, 1996

Mr. James M. McCormack
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. Kenneth C. Kobobel
134 West Little York
Houston, Texas 77076

Dear Mr. McCormack and Mr. Kobobel:

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 Jeanne Meurer, Judge of the 98th District Court, Austin, Texas to preside in

Commission for Lawyer Discipline v. Kenneth C. Kobobel

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

February 14, 1996

Honorable Jeanne Meurer
Judge, 98th District Court
P.O. Box 1748
Austin, Texas 78767-1748

Dear Judge Meurer:

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. Kobobel and Mr. McCormack, 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

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

February 14, 1996

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. Kenneth C. Kobobel and a copy of the Supreme Court's order appointing the Honorable Jeanne Meurer, Judge of the 98th District Court, Austin, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Jeanne Meurer
Mr. Kenneth C. Kobobel
Mr. James M. McCormack