

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96-9106

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

The Supreme Court of Texas hereby appoints the Honorable John M. Delaney, Judge of the 272nd District Court of Brazos County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Mary Lou Clark

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Travis 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.

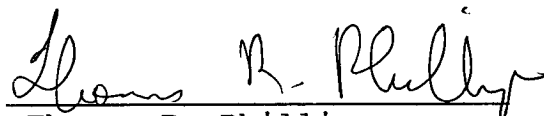
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 9th day of April, 1996.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9106, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 10 day of April, 1996.

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

Thomas R. Phillips
Chief Justice

COPY

NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	TRAVIS COUNTY, TEXAS
MARY LOU CLARK	§	_____ JUDICIAL DISTRICT

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 (hereinafter called "Petitioner"), complaining of Respondent, Mary Lou Clark (hereinafter called "Respondent"), 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 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 her principal place of practice in Travis County, Texas. An officer may serve citation on Respondent at 1717 West 6th Street, Suite 350, Austin, Texas 78703.

III.

In or around February of 1990, Paul David Betts (hereinafter called "Betts") retained the law firm of Walker and Associates to represent him in the filing and pursuit of a Chapter 13 bankruptcy proceeding. The petition was filed on Betts' behalf in the United States Bankruptcy Court for the Western District of Texas/Austin Division, an order setting forth a plan of payment was entered, and payments were periodically made by Betts on the plan set forth in the proceeding over a course of the subsequent five (5) year period. The Chapter 13 bankruptcy proceeding which was filed on Betts' behalf is hereinafter referred to as the "bankruptcy proceeding".

IV.

In or around February of 1995, Betts received from the United States Bankruptcy Court for the Western District of Texas/Austin Division (hereinafter called "Bankruptcy Court") a copy of an instrument which was filed in the bankruptcy proceeding entitled "Motion to Dismiss and Notice of Opportunity for Hearing" (hereinafter called "Motion to Dismiss"), a true and correct copy of which is attached hereto as Exhibit A and made a part hereof for all intents and purposes as if the same were copied verbatim herein. Upon receipt said copy of the Motion to Dismiss, Betts contacted Walker and Associates, whereupon he was put in touch with Respondent, who was employed by Walker and Associates, to act as his attorney in the matter. Respondent and Betts discussed Betts' options in how to proceed. Betts was reasonable in his belief and did believe that Respondent was from that point in time forward acting as his attorney in the bankruptcy

proceeding. As a result of their conversation, Respondent filed in the bankruptcy proceeding on Betts' behalf an instrument entitled "Debtor's Response to Motion to Dismiss and Notice of Opportunity for Hearing" (hereinafter called "Debtor's Response"), a true and correct copy of which is attached hereto as Exhibit B and made a part hereof for all intents and purposes as if the same were copied verbatim herein, thereby entering an appearance as Betts' attorney of record in the bankruptcy proceeding. A copy of Debtor's Response was transmitted to Betts by Respondent's office.

V.

Thereafter, on or about April 24, 1995, an order entitled "Agreed Order Retaining Case Upon Conditions" was entered in the bankruptcy proceeding (hereinafter called "Agreed Order") which required in pertinent part that Betts make a payment of Two Thousand and no/100 (\$2,000.00) Dollars within thirty (30) days of the order and a payment of Two Thousand Three Hundred Eighty-four and 72/100 (\$2,384.72) Dollars within sixty (60) days of the date of the order, failing which the case could be dismissed in accordance with certificate of non-compliance procedures of the Bankruptcy Court. A true and correct copy of said Agreed Order is attached hereto as Exhibit C and made a part hereof for all intents and purposes as if the same were copied verbatim herein. Respondent failed to provide Betts with a copy of the Agreed Order and/or otherwise failed to take reasonable steps to insure that Betts was aware of the entry and terms of said Agreed Order. In addition or in the alternative, Respondent failed to herself communicate or take reasonable steps to insure that any other employee of Walker and

Associates communicate to Betts the legal significance of Bett's failure to abide by the payment terms of the Agreed Order, including, but not limited to, what a certificate of non-compliance was and/or what the certificate of non-compliance procedures of the Bankruptcy Court were.

VI.

Because Betts had not received a copy of the Agreed Order, Betts was unaware of the deadlines by which payments needed to be made in accordance with said Agreed Order and of when the thirty (30) day and sixty (60) day periods provided for in the Agreed Order had elapsed. In or around June of 1995, Betts received from the Bankruptcy Court a true and correct copy of an instrument filed in the bankruptcy proceeding entitled, "Certificate of Non-Compliance and Request for Dismissal of Case" (hereinafter called "Certificate"), a copy of which was also sent by the Bankruptcy Court to Respondent, who was designated in the certificate of service contained therein as "Attorney for Debtor". A true and correct copy of said Certificate is attached hereto as Exhibit D and made a part hereof for all intents and purposes as if the same were copied verbatim herein. Respondent initiated no steps to contact Betts regarding Respondent's receive of a copy of the Certificate. On or about June 9, 1995, an order entitled, "Order Dismissing Case Without Prejudice", was entered in the bankruptcy proceeding (hereinafter called "Dismissal Order") which dismissed the proceeding premised upon the filing of the Certificate. Betts contacted Respondent by telephone regarding the dismissal. Respondent asserted words to the effect that the office procedures of Walker

and Associates were such that Respondent should have received a copy of the Agreed Order and that Betts should have contacted Respondent sooner regarding receipt of the Certificate.

VII.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs IV., V., and VI. hereinabove constitute conduct violative of Rules 1.01(b)(1), 1.03(a), and/or 1.03(b) of the Texas Disciplinary Rules of Professional Conduct.

VI.

The complaint which forms the basis of the cause of action hereinabove set forth was brought to the attention of the Office of General Counsel, State Bar of Texas, by Betts' filing of a complaint on or about July 14, 1995.

PRAYER

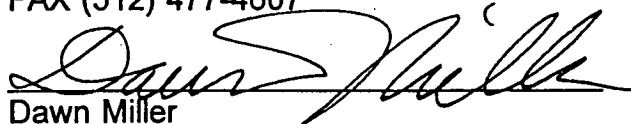
WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disbarred, suspended, or reprimanded as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

Dawn Miller
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
(512) 463-1463
FAX (512) 477-4607



Dawn Miller
State Bar of Texas No. 15561900

ATTORNEYS FOR PETITIONER



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
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

April 15, 1996

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

Ms. Mary Lou Clark
Clark & Clark
1717 West 6th Street, Suite 350
Austin, Texas 78703

Dear Mr. McCormack and Ms. Clark:

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 John M. Delaney, Judge of the 272nd District Court, Bryan, Texas, Texas to preside in

Commission for Lawyer Discipline v. Mary Lou Clark

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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GREG ABBOTT

April 15, 1996

The Honorable Amalia Rodriguez-Mendoza
District Clerk of Travis County
P.O. Box 1748
Austin, Texas 78767-1748

Dear Mr. Rodriguez-Mendoza:

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. Mary Lou Clark and a copy of the Supreme Court's order appointing the Honorable John M. Delaney, Judge of the 272nd District Court, Bryan, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. John M. Delaney
Ms. Mary Lou Clark
Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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GREG ABBOTT

April 15, 1996

Honorable John M. Delaney
Judge, 272nd District Court
204 Courthouse
300 E. 26th Street
Bryan, Texas 77803

Dear Judge Delaney:

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 Ms. Clark and Mr. McCormack, and a copy of the letter to the District Clerk of Travis County.

It is recommended that, about a month or six weeks after receipt of this letter, you contact the Travis County Court Administrative Office (512-753-9300) (certainly just before or immediately after you set the case for trial) 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 (210-379-8556) 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