

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98-9160

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

The Supreme Court of Texas hereby appoints the Honorable Jon N. Wisser, Judge of the 299th District Court of Travis County, Texas, to preside in the Disciplinary Action styled:

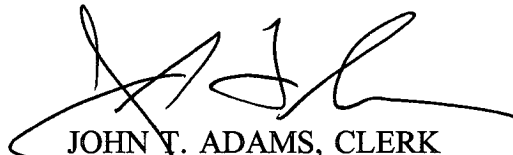
The Commission for Lawyer Discipline v. John Holloway Ward

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,

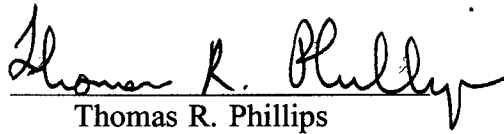
with the Seal thereof affixed at the City
of Austin, this 14th day of September, 1998.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9160, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 23 day of September, 1998.

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

Thomas R. Phillips
Chief Justice

COPY

CAUSE NO. _____

COMMISSION FOR LAWYER
DISCIPLINE

§
§
§
§
§
§

IN THE DISTRICT COURT OF

V.

HARRIS COUNTY, TEXAS

JOHN HOLLOWAY WARD

_____ 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 (hereinafter referred to as "Petitioner"), complaining of Respondent, JOHN HOLLOWAY WARD, (hereinafter referred to as "Respondent"), and would show the Court the following:

I. NATURE OF PROCEEDING

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. VENUE

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 his principal place of practice 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 through his attorney of record, Andrew L. Jefferson, Jr., at his business address located at 2100 Travis @ Gray, Suite 707, Houston, Harris County, Texas 77002-8721.

III. FIRST CAUSE OF ACTION

On or about June 13, 1997, Complainant retained the services of Respondent to represent her son, Kenneth Kelch in an appellate process and signed a contingent fee contract with Respondent. On June 13, 1997, Complainant paid Respondent a cashier's check in the amount of \$10,000.00. Complainant requested Respondent to visit her son in jail. On June 15, 1997, after Respondent had visited Complainant's son, Respondent requested additional sums of money, \$3,000.00 for investigative services, \$3,200.00 to type incomplete transcripts. Respondent failed to tell Complainant that the transcripts could not be used, only a certified copy would be accepted. Respondent was paid a total fee of \$16,200.00.

On or about July 21, 1997, Complainant terminated the services of Respondent for failure to send her copies of or report to her any investigative work which was paid for by the Complainant. Respondent failed to complete the motion and almost cost the Complainant's son a hearing. Respondent also failed to send Complainant a copy of the print out of the work which Respondent had done on her son's case. Complainant had to retain another attorney to continue her son's case. Respondent neglected to refund the unearned portion of the fee.

SECOND CAUSE OF ACTION

On or about November 23, 1996, Complainant retained Respondent to represent the Complainant in a dispute with the Social Security Administration, and a related worker's compensation case. Complainant then signed a contingent fee contract with Respondent, and paid Respondent \$5,000.00 in attorney fees for the Social Security matter. Thereafter, Respondent failed to keep the Complainant informed about the status of his case, or return Complainant's phone calls. Respondent also failed to communicate with an employee with the

Social Security Administration concerning Complainant's case.

During Respondent's representation, Respondent closed his office and had his phone disconnected for a month. On June 10, 1997, Complainant sent a letter to Respondent to terminate Respondent's services.

On or about July 30, 1997, Respondent was properly noticed of a complaint filed by the Complainant in this case, which notice directed Respondent to provide a written response on or before August 30, 1997. Respondent failed to respond.

THIRD CAUSE OF ACTION

On or around April 1, 1996, Complainant retained Respondent to re-establish his visitation rights with his child and to file a motion to modify child support. Complainant paid Respondent a total of \$8,650.00. Complainant tried several times to contact Respondent at his office as to the status of his case. Respondent then called Complainant and told him that he would go to court and take care of the visitation rights and motion to modify child support. In May of 1997, Respondent met Complainant at the courthouse and after Respondent met with the associate judge a hearing was set for October 23, 1997. Respondent failed to appear. Complainant was informed at the hearing by the Ad-Litem Attorney for Complainant's daughter, that he had tried to get Complainant's case back in court, but that for over two years he has called Respondent's office and Respondent failed to return his calls.

On October 27, 1997, Complainant faxed Respondent a termination letter and requested a refund of the unearned portion of fees. Respondent failed to respond.

IV.

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 Ruth Hein filing of a complaint on or about October 6, 1997, by Olan Pope filing of a complaint on or about July 10, 1997 and Michael Meredith's filing of a complaint on or about November 25, 1997.

V. RULE VIOLATIONS

The acts and/or omissions of Respondent described in Paragraph III above which occurred on or before January 1, 1990, constitute conduct in violation of Rules **1.01(b)(1)** [a lawyer shall not neglect a legal matter entrusted to him]; **1.01(b)(2)** [a lawyer shall not fail to carry out completely the obligations that the lawyer owes to a client]; **1.03(b)** [a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation]; **1.04(b)(1)** [factors that may be considered in determining the reasonableness of a fee include, but not to the exclusion of other relevant factors, the following: the time and labor required, the novelty and difficulty of the questions involved , and the skill requisite to perform the legal service properly]; **1.15(d)** [upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel; surrendering papers and property to which the client is entitled and refunding any advance payments of fee that has not been earned]; and **8.04(a)(8)** [a lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure].

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, respectfully prays that this Court discipline Respondent, JOHN

HOLLOWAY WARD, 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.

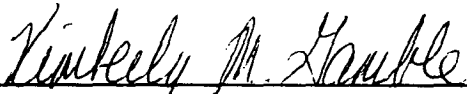
Respectfully submitted,

Steven W. Young
General Counsel

Kimberly M. Gamble
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


KIMBERLY M. GAMBLE
State Bar No. 00789804

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

STATE BAR OF TEXAS



Office of the General Counsel

August 19, 1998

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

Re: Commission for Lawyer Discipline v. John Holloway 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 Holloway Ward. Mr. Ward is a resident of Harris County, Texas. 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 hereby made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

John Holloway Ward
3271 W. Alabama St.
Houston, Texas 77098-1701

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 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.

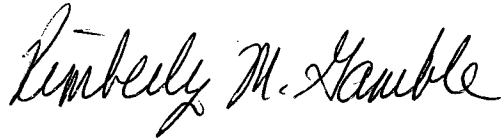
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, citation be issued,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

Mr. John T. Adams, Clerk
Supreme Court of Texas
August 19, 1998
Page 2

I have enclosed a pre-addressed envelope for your use in transmitting the above reference documents, 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-stamped copy of the petition to the undersigned.

If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Kimberly M. Gamble". The signature is written in dark ink and is positioned above the typed name.

Kimberly M. Gamble
Assistant General Counsel

KMG/lp

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

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

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

OCT 02 1998

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

Mr. John Holloway Ward
3271 W. Alabama Street
Houston, Texas 77098-1701

Dear Ms. Gamble 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 Jon N. Wisser, Judge of the 299th District Court of Austin, Texas to preside in

Commission for Lawyer Discipline v. John Holloway Ward

Sincerely,

SIGNED

John T. Adams
Clerk



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

OCT 02 1998

Honorable Jon Wisser
Judge, 299th District Court
P.O. Box 1748
Austin, Texas 78767-1748

Dear Judge Wisser:

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. Gamble, 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

TEL: (512) 463-1312

FAX: (512) 463-1365

OCT 02 1998

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

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

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 Holloway Ward, and a copy of the Supreme Court's order appointing the Honorable Jon N. Wisser, Judge of the 299th District Court of Austin, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Jon N. Wisser
Ms. Kimberly M. Gamble
Mr. John Holloway Ward