

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 99-9226

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

The Supreme Court of Texas hereby assigns the Honorable David M. McCoy, Judge of the 100th District Court of Childress County, Texas, to preside in the Disciplinary Action styled:

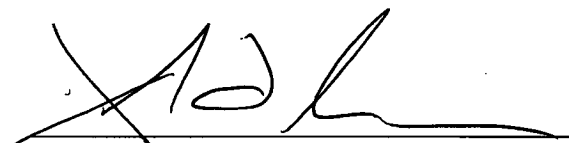
The Commission for Lawyer Discipline v. James Walter Coleson

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

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

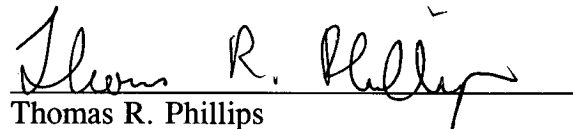
with the Seal thereof affixed at the City
of Austin, this 29th day of November, 1999.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9226, 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

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
V. § DENTON COUNTY, TEXAS
JAMES WALTER COLESON § _____ 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, James Walter Coleson (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 on or after May 1, 1992. Pursuant to Rule 190.1, Texas Rules of Civil Procedure (TRCP), Petitioner intends that discovery in this case be conducted under Discovery Control Plan - Level 2, as provided in Rule 190.3, TRCP.

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 his principal place of practice in, Denton County, Texas. An officer may serve citation on Respondent at P. O. Box 519, Lake Dallas, Texas 75065.

III.

In or around January, 1993, Respondent was employed by Margaret Lovette to purchase some land for Ms. Lovette. Respondent suggested to Ms. Lovette that the land be purchased in

his name and held in trust with no written agreement between them. On April 30, 1993, four tracts of land was purchased in for Margaret Lovett in Respondent's name. A verbal agreement was stated that Respondent was to act as Complainant's trustee, review all title work and contracts and he would receive 5% of the net proceeds upon the sale of a final piece of property. On June 30, 1998, there was a closing on the remaining piece of property and after expenses were paid, a check was issued for \$66,064.04. Respondent placed the check in his trust account for safekeeping. Respondent proceeded to write a check to Complainant for \$28,913.60, with the explanation of \$35,000.00 to be paid to the I.R.S., and \$2,150.44 to be paid to Denton County and the Denton County School District. Complainant stated to Respondent that she did not owe \$35,000.00 to the I.R.S. and would not pay a debt she did not owe. Respondent admitted to Complainant that the sum owed to the I.R.S. was for a debt that he personally owed. Respondent wrote the I.R.S. a check for \$35,000.00 out of his Trust Account to pay his personal debt.

IV.

Respondent misappropriated funds from his trust account, entered into an arrangement for charge and collected an illegal or unconscionable fee, and Respondent entered into a business arrangement with the Complainant without fully disclosing the terms in a manner which could be reasonably understood by the client. Complainant was not given a reasonable opportunity to seek the advice of independent counsel, nor was the Complainant's consent given verbally or in writing. Respondent, during the course of representation, did not safeguard all funds and provide a general accounting to Complainant before disbursing the funds for repayment of a personal debt. Respondent knowingly made false statements to the Title company and Complainant by stating the land was his, when in fact the land was only in his name as the representative of the Complainant and Complainants interest. Respondent knowingly engaged in conduct involving dishonesty, fraud, deceit or misrepresentation of facts. This conduct constitutes a violation of Rule(s) 1.14(a),

1.14(b) and 1.14(c) of the Texas Disciplinary Rules of Professional Conduct, Article X, Section 9, State Bar Rules, effective January 1, 1990.

V.

The complaint which forms the basis of the cause of action hereinabove set forth was brought to the attention of the Office of the General Counsel of the State Bar of Texas by a complaint filed by Margaret Lovette on or about October 20, 1998.

PRAYER

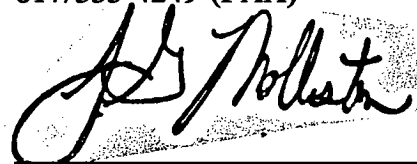
WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorneys' fees.

Respectfully submitted,

Dawn Miller
Acting General Counsel

J.G. Molleston
Assistant General Counsel

Office of the General Counsel
STATE BAR OF TEXAS
500 Throckmorton Street, Suite 2600
Fort Worth, TX 76102
817/877-4993
817/335-4249 (FAX)



J.G. Molleston
State Bar Card No. 00795924

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

October 19, 1999

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

Re: Commission for Lawyer Discipline v. Coleson, James Walter

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 James Walter Coleson. Mr. Coleson has designated Denton 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:

James Walter Coleson
P O Box 519
Lake Dallas, TX 75065-0519

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.

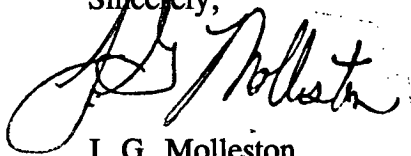
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Denton County, Texas, with the request that the suit be filed, service be obtained,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

Mr. John Adams
October 19, 1999
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Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Denton County, Texas, and a return envelope to be sent to the District Clerk of Denton 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, appearing to read "J. G. Molleston".

J. G. Molleston
Assistant General Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas

JGM/



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

DEC 10 1999

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

Honorable David M. McCoy
Judge, 100th District Court
Courthouse, Box 7
100 Avenue E, NW
Childress, Texas 79201

Dear Judge McCoy:

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. Coleson and Mr. Molleston, and a copy of the letter to the District Clerk of Denton County.

We then recommend that, four or five weeks after receipt of this letter, you or your coordinator contact the presiding judge or the District Clerk of Denton County 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 date for trial, the judge or coordinator of that court be contacted 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 (817-884-1558) 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

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EXECUTIVE ASS'T
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ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

DEC 10 1999

Mr. J.G. Molleston
Assistant General Counsel, State Bar of Texas
500 Throckmorton, Suite 2600
Fort Worth, Texas 76102

Mr. James Walter Coleson
P.O. Box 519
Lake Dallas, Texas 75065-0519

Dear Mr. Molleston and Mr. Coleson:

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 M. McCoy, Judge of the 100th District Court, Childress, Texas to preside in

Commission for Lawyer Discipline v. James Walter Coleson

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

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DEC 10 1999

The Honorable Sherri Adelstein
District Clerk, Denton County
1450 E. McKinney Street
Denton, Texas 76201-4524

Dear Ms. Adelstein:

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. James Walter Coleson*, and a copy of the Supreme Court's order appointing the Honorable David M. McCoy, Judge of the 100th District Court, Childress, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable David M. McCoy
 Mr. J. G. Molleston
 Mr. James Walter Coleson