

ORDER OF THE SUPREME COURT OF TEXAS

9212

Misc. Docket No. 01-----

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

The Supreme Court of Texas hereby appoints the Honorable Mark Joseph Rusch, Judge of the 401st District Court of Collin County, Texas, to preside in the Disciplinary Action styled

The Commission for Lawyer Discipline v. Woodrow W. Miller

filed in the 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 for filing pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

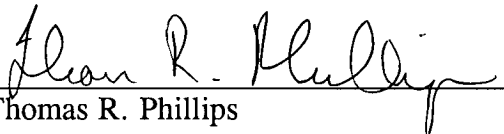
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City  
Of Austin, this 14<sup>th</sup> day of December, 2001.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 01-9212 is also an assignment by Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 17 day of December, 2001.

  
\_\_\_\_\_  
Thomas R. Phillips  
Chief Justice

Cause No. \_\_\_\_\_

COMMISSION FOR LAWYER DISCIPLINE §

Petitioner §

v. §

WOODROW W. MILLER §

Respondent §

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

\_\_\_\_ JUDICIAL DISTRICT

**ORIGINAL 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 (hereinafter called "Petitioner"), complaining of Respondent WOODROW W. MILLER, (hereinafter called "Respondent"), and will respectfully show this Court the following:

**1. DISCOVERY CONTROL PLAN**

1.1 Pursuant to Rules 190.1 and 190.2, TEXAS RULES OF CIVIL PROCEDURE (TRCP), Petitioner intends discovery in this case to be conducted under the Level 1 Discovery Control Plan. Pursuant to Rule 190.2(a)(1), TRCP, Petitioner affirmatively pleads that it seeks only monetary relief aggregating fifty thousand and 00/100 dollars (\$50,000.00) or less, excluding costs, pre-judgment interest and attorney's fees.

**2. NATURE OF PROCEEDING**

2.1 Petitioner 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.

**3. VENUE**

3.1 Respondent is an attorney licensed to practice law in Texas and is a member of the STATE BAR OF TEXAS. Respondent's bar card number is 4125500 Respondent is a resident of Harris County, Texas. Respondent's principal place of practice is Harris County, Texas. Venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the TEXAS RULES OF DISCIPLINARY PROCEDURE. An officer may personally serve citation on Respondent at 2600 South Loop West, Suite 230, Houston, Harris County, Texas 77054.

**4. CAUSE OF ACTION**

4.1 During the fall of 1999, Lila Toasperm, Complainant, (hereinafter "Ms. Toasperm") moved from Lafayette, Louisiana to Houston, Texas. At the time of the move, Ms. Toasperm shared joint custody of her son, Roland Chaumont, with her ex-husband, Scott Chaumont. After Ms. Toasperm notified Scott Chaumont of the move, Mr. Chaumont sought custody of Roland in a Louisiana Court.

4.2 On or about December 30, 1999, Lila Toasperm retained Respondent to represent her in the child custody matter. Ms. Toasperm sought sole custody of her son Roland and requested that the custody be transferred from the Louisiana Courts to the Texas Courts. Respondent agreed to the representation. In addition, Respondent informed Ms. Toasperm that he would be able to assist her in acquiring custody of her son Roland in Texas. Respondent also told Ms. Toasperm that he could handle the entire matter and she would not need to retain the services of a Louisiana attorney. Respondent failed to inform Ms. Toasperm that in order to successfully seek custody in Texas, the movant must maintain residency for at least six (6) months. Respondent agreed to represent Ms. Toasperm in a legal matter which he knew or should have known was beyond his

competence.

**4.3** Ms. Toasperm paid Respondent Two Thousand Dollars (\$2,000.00). After paying Respondent, Toasperm made several telephone calls to Respondent. Respondent failed to return the telephone calls. Throughout the course of representation, Respondent failed to keep Toasperm informed of the status of her case.

**4.4** On or about January 26, 2000, a hearing was scheduled before the 33rd District Court in Allen Parish, Louisiana, regarding Toasperm's former husband's motion for custody of Roland. Ms. Toasperm requested that Respondent attend the hearing in the interest of her child and to inform the Court regarding the jurisdictional transfer of the custody case to Harris County, Texas. Respondent informed Ms. Toasperm that he would be unable to attend the hearing and that she would need to retain a Louisiana attorney to handle the matter in Louisiana.

**4.5** On or about January 26, 2000, Respondent failed to appear before the 33rd Judicial District Court, Allen Parish, Louisiana. Ms. Toasperm was forced to hire another attorney on the day of the hearing in Louisiana. Ms. Toasperm paid Louisiana attorney, Judy Abrusbey, approximately Six Hundred Dollars (\$600.00) to handle the transfer of custody.

**4.6** Respondent failed to explain matters to Ms. Toasperm in order that an informed decision could be made by Ms. Toasperm regarding her case.

**4.7** On or about March 24, 2001, Respondent submitted a Motion to Withdraw, after Ms. Toasperm terminated Respondent's services. At the time of the termination, Ms. Toasperm requested that all of her documents and file(s) be returned. Respondent failed to return any of Ms. Toasperm's documents and/or files.

## **5. RULE VIOLATIONS**

**5.1** The acts and/or omissions on the part of Respondent as are described in Paragraphs IV, above constitute conduct which violates of Rules **1.01(a)** [Accepted or continued employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence]; **1.01(b)** [Neglected a legal matter entrusted to the lawyer]; **1.03(a)** [Failed to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information]; **1.03(b)** [Failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation]; **1.04(a)** [charging an unconscionable fee]; **1.15(d)** [failing, upon termination of representation to reasonably protect a client's interests, give notice to the client to seek other counsel, or surrender papers and property which belongs to the client]; and **8.04(a)(3)** [engaging in conduct involving dishonesty, fraud, deceit or misrepresentation]; of the **TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT**.

## **6.**

**6.1** 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 Lila Toasperm's filing of a complaint on or about February 11, 2000.

## **PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Petitioner the **COMMISSION FOR LAWYER DISCIPLINE** respectfully prays that this Court discipline Respondent, **WOODROW W. MILLER**, by reprimand, suspension or disbarment as the facts shall warrant; order restitution to Complainant, if applicable, and grant all other relief to which Petitioner may show itself to be justly entitled, including costs of court and attorneys' fees.

Respectfully submitted,

**Dawn Miller**  
**Chief Disciplinary Counsel**

**Leigh E. Arnemann**  
**Assistant Disciplinary Counsel**

Office of the General Counsel  
STATE BAR OF TEXAS  
1111 Fannin, Suite 1370  
Houston, Texas 77002  
(713) 759-6931  
(713) 759-1932 Facsimile



**LEIGH E. ARNEMANN**  
State Bar No. 24025229

**ATTORNEYS FOR THE COMMISSION  
FOR LAWYER DISCIPLINE**

# STATE BAR OF TEXAS



## Office of Chief Disciplinary Counsel

October 30, 2001

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

**Re: Commission for Lawyer Discipline v. Woodrow W. Miller**

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 Woodrow W. Miller. Mr. Miller has designated Harris 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:

Woodrow W. Miller  
2600 South Loop West, Suite 230  
Houston, Texas 77054

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. 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, service be obtained, and a file-marked copy of the petition be returned to the undersigned.



Mr. John Adams

October 30, 2001

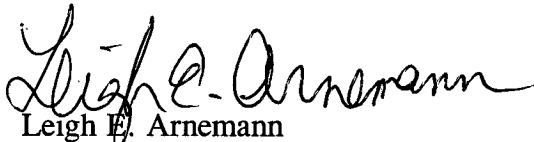
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I have enclosed a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Harris County, Texas, and a return envelope to be sent to the District Clerk of Harris County, Texas, for the Clerk's use in returning a file-marked copy of the Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Leigh E. Arnemann".

Leigh E. Arnemann

Assistant Disciplinary Counsel

LEA\rr

Enclosures



# The Supreme Court of Texas

CHIEF JUSTICE  
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711  
Telephone: 512/463-1312 Facsimile: 512/463-1365

CLERK  
JOHN T. ADAMS

JUSTICES  
NATHAN L. HECHT  
CRAIG T. ENOCH  
PRISCILLA R. OWEN  
JAMES A. BAKER  
DEBORAH G. HANKINSON  
HARRIET O'NEILL  
WALLACE B. JEFFERSON  
XAVIER RODRIGUEZ

EXECUTIVE ASSISTANT  
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST  
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT  
NADINE SCHNEIDER

DEC 20 2001

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. Woodrow W. Miller*, and a copy of the Supreme Court's order appointing the Honorable Mark Joseph Rusch, Judge of the 401<sup>st</sup> District Court, McKinney, Texas.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

cc: Honorable Mark Joseph Rusch  
Ms. Leigh E. Arnemann  
Mr. Woodrow W. Miller  
Ms. Melissa Dartez



# The Supreme Court of Texas

CHIEF JUSTICE  
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711  
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ADMINISTRATIVE ASSISTANT  
NADINE SCHNEIDER

DEC 20 2001

The Honorable Mark Joseph Rusch  
Judge, 401<sup>st</sup> District Court  
210 S. McDonald Street  
McKinney, Texas 75069

Dear Judge Rusch:

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. Miller and Ms. Arnemann, 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 (936-538-8176) 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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NADINE SCHNEIDER

DEC 20 2001

Ms. Leigh Arnemann  
Assistant Disciplinary Counsel  
1111 Fannin, Suite 1370  
Houston, Texas 77002

Mr. Woodrow W. Miller  
2600 South Loop West, Suite 230  
Houston, Texas 77054

Dear Ms. Arnemann and Mr. Miller:

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 Joseph Rusch, Judge of the 401<sup>st</sup> District Court, McKinney, Texas to preside in

*Commission for Lawyer Discipline v. Woodrow W. Miller*

Sincerely,

**SIGNED**

John T. Adams  
Clerk