

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98- 9163

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

The Supreme Court of Texas hereby appoints the Honorable Rick Morris, Judge of the 146th District Court of Bell County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Charles F. Malloy

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

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

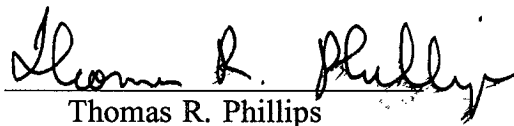
with the Seal thereof affixed at the City
of Austin, this 14th day of September, 1998.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9163, 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

NO. _____

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
V. §
CHARLES F. MALLOY § DALLAS COUNTY, TEXAS
§
§ _____ 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, Charles F. Malloy, (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.

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 Dallas County, Texas. An officer may serve citation on Respondent at 3232 McKinney Avenue, Suite 680, Dallas, Texas 75204.

First Cause of Action

III.

On or about March 14, 1997, Dana Turner (hereinafter referred to as "Turner") signed a contract employing Respondent to represent him in an uncontested/waiver divorce. On or about October 8, 1997, the prove-up hearing was held. During the hearing, child support payments were set by the Court and the divorce was granted. Before filing the final divorce decree, Respondent requested additional legal fees from Turner. Turner refused to pay the additional fees. Therefore, Respondent refused to file the final divorce decree. By January 1998, Respondent had still not filed the final divorce decree nor had he withdrawn from the representation so Turner terminated the relationship and hired new counsel who secured the filing of the decree on February 26, 1998.

IV.

As a result of the conduct described in paragraph III above, Turner filed a complaint against Respondent with the State Bar of Texas on December 12, 1997. On December 17, 1997, the State Bar of Texas sent, by certified mail return receipt requested, a letter to Respondent notifying him that a complaint alleging professional misconduct on his part had been filed against him by Turner. In said letter, Respondent was advised that, pursuant to Rule 2.09 of the Texas Rules of Disciplinary Procedure he was required to file a written response with the State Bar of Texas within thirty (30) days of his receipt of the letter. Respondent received the letter December 19, 1997, and failed to furnish the State Bar of Texas a written response to the complaint until February 12, 1998.

V.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs III and IV hereinabove, which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.01(b)(1) and 8.04(a)(8) 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 of the State Bar of Texas by Dana Turner filing a complaint on or about December, 1997.

Second Cause of Action

VII.

In or about May 1993, Charles Douglas (hereinafter referred to as "Douglas"), employed Respondent to defend him on criminal charges. Trial was held on March 2, 1994, with Douglas being found guilty and sentenced to twenty-five (25) years in prison. Following his conviction and sentencing, Douglas hired Respondent to represent him in an appeal of said conviction. Respondent took the necessary steps to preserve Douglas' appeal and finally submitted the appellate brief on October 20, 1995. The appeal was heard by the court on June 19, 1996, and on June 25, 1998, the court issued its opinion affirming Douglas' conviction.

VIII.

Subsequent to Douglas retaining Respondent to file the above mentioned appeal, Respondent failed to keep Douglas informed about the status of the appeal.

IX.

As a result of the conduct described in paragraphs VII and VIII, Douglas filed a complaint against Respondent with the State Bar of Texas on February 18, 1998. On February 27, 1998, the State Bar of Texas sent, by certified mail return receipt requested, a letter to Respondent notifying him that a complaint alleging professional misconduct on his part had been filed against him by Douglas. In said letter, Respondent was advised that, pursuant to Rule 2.09 of the Texas Rules of Disciplinary Procedure, he was required to file a written response with the State Bar of Texas within thirty (30) days of his receipt of the letter. Respondent received the letter on March 3, 1998, and failed to furnish the State Bar of Texas a written response to the complaint until June 11, 1998.

X.

Such acts and/or omissions on the part of Respondent as described in Paragraphs VII, VIII, and IX, hereinabove, which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.03(a), and/or 8.04(a)(8) of the Texas Disciplinary Rules of Professional Conduct.

XI.

The complaint which forms the basis of the Causes of Action hereinabove set forth was brought to the attention of the Office of General Counsel of the State Bar of Texas by Charles Ray Douglas filing a complaint on or about February 18, 1998.

PRAYER

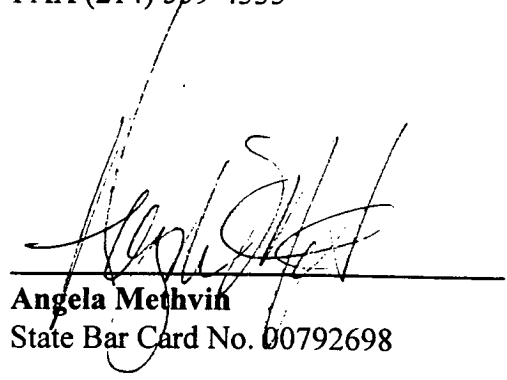
WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

Steve W. Young
General Counsel

Angela Methvin
Assistant General Counsel

State Bar of Texas
Litigation - Dallas
3710 Rawlins
Suite 800
Dallas, Texas 75219
(214) 559-4997
FAX (214) 559-4335



Angela Methvin
State Bar Card No. 00792698

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the General Counsel

August 24, 1998

CMRRR NO. Z 359 585 052

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

RE:: Commission for Lawyer Discipline v. Charles F. Malloy

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 Charles F. Malloy. Mr. Malloy has designated Dallas 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:

**Charles F. Malloy
3232 McKinney Avenue - Suite 680
Dallas, Texas 75204**

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.

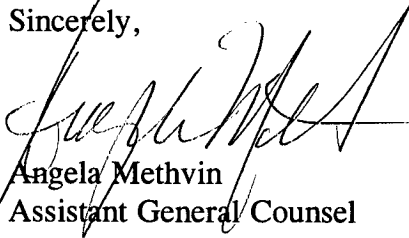
Regency Plaza, 3710 Rawlins, Suite 800, Dallas, Texas 75219
Telephone: (214) 559-4353 Fax: (214) 559-4335

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 Dallas 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.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Dallas County, Texas, and a return envelope to be sent to the District Clerk of Dallas 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 black ink, appearing to read 'Angela Methvin', is written over the typed name and title.

Angela Methvin
Assistant General Counsel

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

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

OCT 02 1998

Ms. Angela Methvin
Assistant General Counsel, State Bar of Texas
3710 Rawlins, Suite 800
Dallas, Texas 75219

Mr. Charles F. Malloy
3232 McKinney Avenue, Suite 680
Dallas, Texas 75204

Dear Ms. Methvin and Mr. Malloy:

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 Rick Morris, Judge of the 146th District Court, Belton, Texas to preside in

Commission for Lawyer Discipline v. Charles F. Malloy

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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FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

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GREG ABBOTT
DEBORAH G. HANKINSON

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

OCT 02 1998

The Honorable Bill Long
District Clerk of Dallas County
George L. Allen Courts Building
600 Commerce Street
Dallas, Texas 75202

Dear Mr. Long:

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. Charles F. Malloy*, and a copy of the Supreme Court's order appointing the Honorable Rick Morris, Judge of the 146th District Court of Belton, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Rick Morris
Ms. Angela Methvin
Mr. Charles F. Malloy



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
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EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

OCT 02 1998

Honorable Rick Morris
* Judge, 146th District Court
P.O. Box 747
Belton, Texas 76513-0747

Dear Judge Morris:

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. Methvin and Mr. Malloy, and a copy of the letter to the District Clerk of Dallas County.

We then recommend that, either before or immediately after you set the case for trial, the Dallas County District Court Administrative Office (214-653-6510) 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 (214-653-2943) 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