

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98- 9180

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

The Supreme Court of Texas hereby appoints the Honorable Jeanne Meurer, Judge of the 98th District Court of Travis County, Texas, to preside in the Disciplinary Action styled:

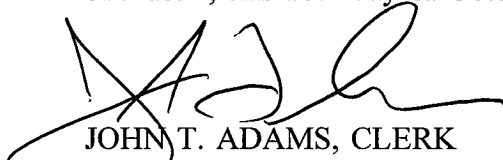
The Commission for Lawyer Discipline v. Jack G. Swisher

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. *This assignment is separate and distinct from the assignment of Judge Meurer to a similarly styled case by Misc. Docket order 98-9178, dated October 13th, 1998.*

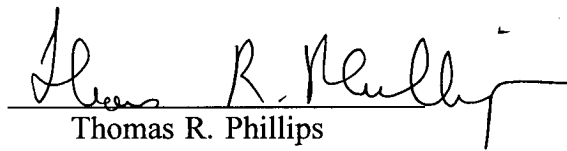
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 16th day of October, 1998.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9180, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 19 day of October, 1998.

A handwritten signature in cursive script, reading "Thomas R. Phillips", written over a horizontal line.

Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE §
v. §
JACK G. SWISHER, JR. §

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, JACK G. SWISHER, JR. (hereinafter called "Respondent"), showing the Court:

**I.
Nature of Proceeding**

Petitioner brings this disciplinary action pursuant to the State Bar Act, the 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. The complaint that forms the basis of this Disciplinary Petition was filed on or after May 1, 1992.

**II.
Venue**

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 Harris County, Texas. Respondent's principal place

of practice was in Harris County, Texas,¹ and therefore, venue is appropriate in Harris County, Texas, pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. Respondent may be served at his home address located at 778 Bateswood #2, Houston, Texas, 77079.

III. Cause of Action

Habib Abedinzadeh (hereinafter called "Abedinzadeh") was injured on the job on or about July 22, 1992. Mr. Abedinzadeh won his workers' compensation claim and was given an award. Service Lloyds Insurance Company, insurance company for Landmark Chevrolet, Abedinzadeh's employer, filed a lawsuit in district court, on or about August 2, 1995, to have the award set aside. Abedinzadeh continued to retain Respondent to represent and defend him in the lawsuit filed by Service Lloyds Insurance Company.

Thereafter, Respondent was actively suspended from the practice of law from April 12, 1996, until September 12, 1996. However, Respondent continued to practice law and failed to notify Abedinzadeh of the suspension.²

Respondent failed to keep Abedinzadeh sufficiently informed about his legal matter so he could make informed decisions about his representation. Abedinzadeh made numerous phone calls to Respondent's office only to be told that they were working on his case.

This matter had been set for trial September 30, 1996, and Respondent failed to notify Abedinzadeh about the trial date. Additionally, Respondent failed to notify Abedinzadeh that on August 30, 1996, Plaintiff's Motion for Sanctions was to be taken before the Court. The Court

¹ Respondent is currently actively suspended from the practice of law for a period of two years.

² The judgment suspending Respondent required Respondent to notify his clients of Respondent's suspension.

granted the Motion and ordered that Abedinzadeh's pleadings be stricken, judgment entered in favor of the Plaintiff, and the Decision and Order of the Texas Workers' Compensation Commission was set aside. Respondent failed to notify his client, Abedinzadeh of the decision of the Court.

IV.

The acts and/or omissions of the Respondent described in Paragraph III above, which occurred on or after January 1, 1990, constitute conduct in violation of Rules: **1.01(b)(1)** for neglecting a legal matter entrusted to the lawyer; **1.01(b)(2)** frequently failed to carry out completely the obligations owed to a client; **1.02(f)** when a lawyer knows that a client expects representation not permitted by the rules of professional conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct; **1.03(a)** for failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information; **1.03(b)** for failing to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; **3.02** a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays resolution of the matter; **5.02** a lawyer is bound by these rules notwithstanding that the lawyer acted under the supervision of another person, except that a supervised lawyer does not violate these rules if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional conduct; **8.04(a)(1)** a lawyer shall not violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-

lawyer relationship; **8.04(a)(3)** for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation;

8.04(a)(4) for engaging in conduct constituting obstruction of justice; **8.04(a)(7)** for violating any disciplinary or disability order or judgment; **8.04(a)(10)** for failing to comply with section 13.01 of the Texas Rules of Disciplinary Procedure relating to notification of an attorney's cessation of practice; and **8.04(a)(11)** engage in the practice of law when the lawyer is on inactive status or when the lawyer's right to practice has been suspended or terminated, including but not limited to situations where a lawyer's right to practice has been administratively suspended for failure to timely pay required fees or assessments or for failure to comply with Article XII of the State Bar Rules relating to Mandatory Continuing Legal Education; of the Texas Disciplinary Rules of Professional Conduct.

V.

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 Habib Abedinzadeh's filing of a complaint on or about August 26, 1997.

Prayer

WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent, JACK G. SWISHER, JR., by reprimand, suspension or disbarment, as the facts shall warrant; and that the

Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorneys' fees.

Respectfully submitted,

Steven W. Young
General Counsel

L. Andy Paredes
Assistant General Counsel

Office of the General Counsel
STATE BAR OF TEXAS
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6931
Fax No. (713) 752-2158



L. ANDY PAREDES
State Bar No. 00788162

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE

J:\SWISHER\CFLD4.LAP\DP.DOC

STATE BAR OF TEXAS



October 5, 1998

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

Re: Commission for Lawyer Discipline v. Jack Swisher

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 Jack Swisher. Mr. Swisher 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:

Mr. Jack Swisher
778 Bateswood, #2
Houston, TX 77079

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
October 5, 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 "L. Andy Paredes". The signature is written in black ink and has a long horizontal flourish extending to the right.

L. Andy Paredes
Assistant General Counsel

LAP/elr

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 20 1998

Mr. L. Andy Paredes
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Jack Swisher
778 Bateswood, #2
Houston, Texas 77079

Dear Mr. Paredes and Mr. Swisher:

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 Jeanne Muerer, Judge of the 98th District Court of Austin, Texas to preside in

Commission for Lawyer Discipline v. Jack G. Swisher

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 ASS'T
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 20 1998

Honorable Jeanne Muerer
Judge, 98th District Court
P.O. Box 1748
Austin, Texas 78767-1748

Dear Judge Muerer:

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. Swisher and Mr. Paredes, 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

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 20 1998

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. Jack G. Swisher*, and a copy of the Supreme Court's order appointing the Honorable Jeanne Meurer, Judge of the 98th District Court of Austin, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Jeanne Meurer
Mr. L. Andy Paredes
Mr. Jack G. Swisher