

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98- 9185

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

The Supreme Court of Texas hereby appoints the Honorable K. Michael Mayes, Judge of the 410th District Court of Montgomery County, Texas, to preside in the Disciplinary Action styled:

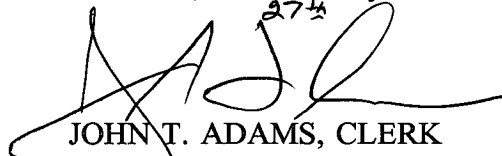
The Commission for Lawyer Discipline v. Ann Athlene Skaro

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Nueces 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.

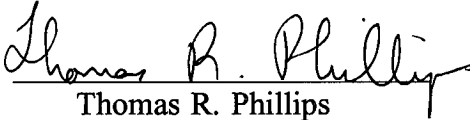
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 20th day of October, 1998.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9185, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 28 day of October, 1998.


Thomas R. Phillips
Chief Justice

No. _____

COMMISSION FOR LAWYER
DISCIPLINE

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§
§

IN THE DISTRICT COURT OF

V.

NUECES COUNTY, T E X A S

ANN ATHLENE SKARO

_____th JUDICIAL DISTRICT

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complaining of Respondent, ANN ATHLENE SKARO, and in support thereof would respectfully show the Court the following:

Parties

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, ANN ATHLENE SKARO, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas. Respondent is a resident of and maintains her principal place of law practice in Corpus Christi, Nueces County, Texas. Respondent may be served with process at 615 Upper North Broadway, Mercantile Tower, Suite 725, Corpus Christi, Nueces County, Texas 78477, her usual place of employment.

Venue

Respondent maintains her principal place of law practice in Nueces County, Texas. The alleged professional misconduct occurred in whole or in part in Nueces County, Texas. Accordingly, pursuant to Texas Rules of Disciplinary Procedure 3.03, venue is proper in Nueces County, Texas.

Professional Misconduct

I.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Gov't. Code Ann., Sec. 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 this action was filed by Genoveva Tanguma on or about March 20, 1997. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

II.

On or about April 13, 1993, Genoveva Tanguma hired Respondent to represent her in a claim for personal injury damages related to an accident which occurred on or about January 27, 1993. On April 13, 1993 a contract of employment was signed between Ms. Tanguma and Respondent. The contract of employment called for a contingent fee arrangement of 33-1/3% if the case was resolved prior to suit being filed, 40% if resolved after suit filed and 50% if case resolved after an appeal was perfected. The contract of employment stated that all necessary and reasonable "expenses advanced by the attorney or the law firm retained in this contract shall be deducted from the total settlement figure before attorneys fees are calculated."

III.

Ms. Tanguma's personal injury claims against Globe Business Furniture of Tennessee were resolved in late June or early July, 1996. Suit had been filed prior to settlement. On or about July 2, 1996, Respondent prepared a "settlement statement" which provided Ms. Tanguma the figures and calculations of the gross settlement, expenses, attorneys fees and other disbursements. The July 2, 1996 "settlement statement" had attached numerous pages outlining the expenses advanced by Respondent.

IV.

According to the July 2, 1996 "settlement statement", Ms. Tanguma's gross recovery was \$750,000.00. The contract expenses advanced or that were obligated to be paid by Respondent totaled \$136,513.73. On or about July 10, 1996, the settlement was funded. On or about July 10, 1996, a check in the amount of \$303,966.96 was written on Respondent's trust account made payable to Respondent. The \$303,966.96 amount represented Respondent's 40% contingent fee plus undisbursed expenses. Respondent's fee was \$209,494.32 (40% of the net recovery after expenses -- \$750,000.00 less expenses of \$136,513.73).

V.

On or about July 10, 1996, at the time the settlement funds were disbursed, Respondent knew that many of the expenses reflected on the "settlement statement" were fictitious, inaccurate or at the very least estimates. Due to the fact the "settlement statement" contained false expense figures, Ms. Tanguma was not given an accurate accounting of the funds prior to disbursement. In spite of the false representations related to expenses, Respondent calculated and paid herself her full attorneys fees to the penny.

VI.

Because Respondent disbursed funds from her trust account based on false expense representations, certain portions of the expenses and all of the attorneys fees were in dispute. Respondent failed to hold in trust all monies that were in dispute until an accurate accounting could be performed.

VII.

On July 10, 1996, when Ms. Tanguma's settlement funds were disbursed, Respondent knew that errors or misrepresentations were contained in the "settlement statement". Respondent failed

to take timely action to correct the misrepresentations and render to Ms. Tanguma an accurate accounting.

Disciplinary Rules of Professional Conduct

VIII..

The conduct of Respondent described above was in violation of the following Texas Disciplinary Rules of Professional Conduct:

Rule 8.04(a)(3) -- A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

Rule 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.

Rule 1.14(c) -- When in the course of representation a lawyer is in possession of funds or other property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interest. All funds in a trust or escrow account shall be disbursed only to those persons entitled to receive them by virtue of the representation or by law. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until the dispute is resolved, and the undisputed portion shall be distributed appropriately.

PRAYER

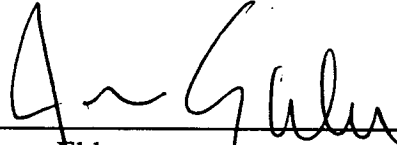
WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other relief to which it is entitled, including, but not limited to, costs of court, all direct expenses associated with these proceedings and reasonable attorney's fees as provided in Rule 1.06(T)(8)(b) of the Texas Rules of Disciplinary Procedure at a rate of \$150.00 per hour.

Respectfully submitted,

Steven W. Young
General Counsel

James Ehler
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
Telephone: (210) 271-7881
Telecopier: (210) 271-9642



James Ehler
State Bar No. 06484650

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
P 583 840 507**

Office of the General Counsel
Regional Office
Soledad Plaza West
425 Soledad, Suite 300
San Antonio, Texas 78205
(210) 271-7881
FAX: (210) 271-9642

September 29, 1998

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

RE: Commission for Lawyer Discipline v. Ann Athlene Skaro

Dear Mr. Adams:

Enclosed please find an original and three (3) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Ann Athlene Skaro. Ms. Skaro has designated **Nueces County** 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:

Ann Athlene Skaro
615 Upper North Broadway
Mercantile Tower, Suite 725
Corpus Christi, Texas 78477

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to 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 three (3) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing

order to the District Clerk of Nueces County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Nueces County, Texas and a return envelope to be sent to the District Clerk of Nueces County, Texas, for the Clerk's use in returning a filemarked 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. Ehler".

James Ehler
Assistant General Counsel

Enclosures

JAE/cah

cc: Richard Russell, State Bar of Texas, 500 N. Water, Ste. 604, North Tower, Corpus Christi,
Texas, 78471



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 ASS'T
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

October 30, 1998

Mr. James Ehler
Assistant General Counsel, State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205

Ms. Ann Athlene Skaro
615 Upper North Broadway
Mercantile Tower, Suite 725
Corpus Christi, Texas 78477

Dear Mr. Ehler and Ms. Skaro:

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 K. Michael Mayes, Judge of the 410th District Court, Conroe, Texas to preside in

Commission for Lawyer Discipline v. Ann Athlene Skaro

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

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JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

October 30, 1998

The Honorable Oscar Soliz
District Clerk of Nueces County
County Courthouse
901 Leopard
Corpus Christi, Texas 78401

Dear Mr. Soliz:

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. Ann Athlene Skaro*, and a copy of the Supreme Court's order appointing the Honorable K. Michael Mayes, Judge of the 410th District Court, Conroe, Texas, to preside in this Disciplinary Action.

Sincerely,

John T. Adams
Clerk

cc: Hon. K. Michael Mayes
Mr. James Ehler
Ms. Ann Athlene Skaro



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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TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

October 30, 1998

Honorable K. Michael Mayes
Judge, 410th District Court
104 Courthouse
300 N. Main Street
Conroe, Texas 77301

Dear Judge Mayes:

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. Skaro and Mr. Ehler, and a copy of the letter to the District Clerk of Nueces County.

It is recommended that, six to eight weeks after receipt of this letter, your coordinator contact the District Court Administrator (512-888-0220) to learn the names, addresses, and telephone numbers of counsel for purposes of scheduling a conference. This should also be the number to call to reserve a court room, court reporter, etc. Also, either before or immediately after you set the case for trial, you should contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (210-544-0847) to obtain claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams
Clerk