

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9005

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

The Supreme Court of Texas hereby appoints the Honorable David Brabham, Judge of the 188th District Court of Gregg County, Texas, to preside in the Disciplinary Action styled:

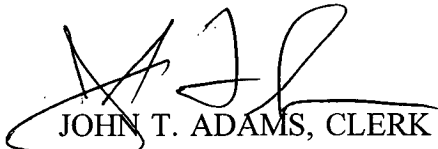
The Commission for Lawyer Discipline v. Michael L. Minns

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.

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

with the Seal thereof affixed at the City
of Austin, this 11th day of January, 1999.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9005, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 12 day of January, 1999.

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

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE §
v. §
MICHAEL L. MINNS §

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, MICHAEL L. MINNS. (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 is in Harris County, Texas, 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 business address of 9119 South Gessner, Houston, Texas, 77071.

III. Cause of Action

In January 1998, Complainant, Floyd Freed was appointed as criminal defense attorney in a capitol murder case against Franklin Alix. About the same time, Respondent was representing a client that had been raped at an apartment complex and was suing the complex for unsafe conditions on the property.

There had been much publicity over the criminal matter and the defendant was identified to the public. One of the local television station reporters informed Complainant that Respondent had been to the jail to talk to his client, the criminal defendant. This interview had been conducted without Complainant's knowledge or permission. A few days later, Respondent went to the Harris County Jail and took the deposition of Franklin Alix, again without Complainant's knowledge or permission. Prior to the deposition, Complainant's client had identified Complainant as his attorney. During the deposition, Complainant's client identified Complainant and spelled out his name during testimony. Respondent had prior knowledge of Complainant's representation and made no effort to contact Complainant.

By taking a deposition of Complainant's client, the criminal defendant gave up his right to silence and was denied the right to counsel by Respondent prior to and during the deposition. All of which jeopardized Complainant's criminal defense of his client, Franklin Alix.

Respondent was aware that a "Gag Order" had been given with regard to the capitol murder case. However, after the deposition was concluded, Respondent offered information from the deposition of Franklin Alix to the District Attorney's office in exchange for information from that office. Additionally, subsequent to the deposition, citation was issued and served on Complainant's client to enjoin him into the civil suit against the apartment complex where the rape occurred. Counsel for Ranklight, Investments claimed that the injuries to Plaintiff, in the civil suit, were caused by the criminal acts of Mr. Alix.

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: **4.02(a)** in representing a client, a lawyer shall not communicate or cause or encourage another to communicate about the subject of the representation with a person, organization or entity of government the lawyer knows to be represented by another lawyer regarding that subject, unless the lawyer has the consent of the other lawyer or is authorized by law to do so; **4.04(a)** in representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal right of such a person; **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; 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 Floyd Freed's filing of a complaint on or about May 1, 1998.

Prayer

WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent, MICHAEL L. MINNS, 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

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:\MINNS\CFLD1\DP.

STATE BAR OF TEXAS



Office of the General Counsel

December 8, 1998

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

Re: Commission for Lawyer Discipline v. Michael L. Minns

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 Michael L. Minns. Mr. Minns has designated Harris County, Texas, as his/her 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:

Michael L. Minns
9119 South Gessner
Houston, Texas, 77071.

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 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.

1111 Fannin, Suite 1370, Houston, Texas 77002, (713)759-6931

Mr. John Adams
December 8, 1998
Page Two

Also enclosed are 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,



L. Andy Paredes
Assistant General Counsel

LAP/dy

Enclosures

J:\MINNS\CFLD1\CLERK1.SCT



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
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

EXECUTIVE ASST
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASST
NADINE SCHNEIDER

JAN 15 1999

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

Mr. Michael L. Minns
9119 South Gessner
Houston, Texas 77071

Dear Mr. Paredes and Mr. Minns:

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 Brabham, Judge of the 188th District Court, Longview, Texas to preside in

Commission for Lawyer Discipline v. Michael L. Minns

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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JAN 15 1999

CLERK
JOHN T. ADAMS

EXECUTIVE ASST
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

Honorable David Brabham
Judge, 188th District Court
101 E. Methvin Street, Room 408
Longview, Texas 75601

Dear Judge Brabham:

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. Minns 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
NATHAN L. HECHT
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JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JAN 15 1999

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. Michael L. Minns*, and a copy of the Supreme Court's order appointing the Honorable David Brabham, Judge of the 188th District Court, Longview, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable David Brabham
 Mr. L. Andy Paredes
 Mr. Michael L. Minns
 Ms. Melissa Dartez