

**IN THE MATTER OF THE *Legal Profession Act, R.S.A. 2000, c. L-8*, and the
Resignation of Karen Prystai,
A Member of the Law Society of Alberta**

Introduction

1. On June 16, 2014, a Resignation Committee comprised of Anne Kirker, QC (Chair), Walter Pavlic, QC and Miriam Carey, PhD convened at the Law Society of Alberta ("LSA") offices in Calgary to hear the resignation application of Ms. Karen Prystai. The LSA was represented by Ms. Molly Naber-Sykes, QC. Ms. Prystai was present at the application and was represented by Mr. Dana Schindelka.

Jurisdiction and Preliminary Matters

2. The jurisdiction of the Resignation Committee was established with the admission by consent of the following exhibits:

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| Exhibit 1 | Letter of Appointment dated June 9, 2014 |
| Exhibit 2 | Statement of Outstanding Formal Citations |
| Exhibit 3 | Certificate of the exercise of discretion regarding the delivery of private hearing application notices dated June 10, 2014 |
| Exhibit 4 | Certificate of Status dated June 6, 2014, confirming Ms. Prystai was a member of the LSA. |

3. The Parties had no objection to the composition of the Committee.

4. The Committee was advised that no party intended to apply to have the application held in private. As a consequence, the application proceeded in public.

5. The Resignation Committee was advised that Ms. Prystai's application for resignation was proceeding with the consent of the LSA pursuant to section 32 the *Legal Profession Act*, R.S.A. 2000, c. L-8 (the "LPA"). Ms. Prystai provided the necessary application documents which were admitted by consent as follows:

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| Exhibit 5 | Letter dated June 10, 2014, signed by the Deputy Executive Director and Director, Regulation confirming that Ms Prystai has no discipline record. |
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- Exhibit 6 (a) The Application for Resignation dated June 3, 2014 and signed by Ms. Prystai.
- (b) A Statutory Declaration sworn by Ms. Prystai on June 3, 2014 confirming that:
- i) all trust funds and client property for which she was responsible had been accounted for and paid or delivered to the persons entitled thereto; and,
 - ii) Ms. Prystai was not aware of any outstanding claims against her.
- (c) An Undertaking dated June 3, 2014 signed by Ms. Prystai confirming her agreement:
- i) not to apply to be re-instated to active membership in the LSA or any other law society;
 - ii) to cooperate with the LSA in respect of any future claim made against her or the Assurance Fund;
 - iii) to pay to the LSA, upon its demand, any amount paid on her behalf out of the Assurance Fund or any deductible with respect to any claim paid by her insurer;
 - iii) not to act as an agent before any tribunal, court, or other similar body;
 - iv) to undertake best efforts to locate her certificate of enrollment, and if located, to return it to the LSA; and,
 - v) to advise the LSA in the event she seeks to be relieved of her undertaking and acknowledging that she will in that event, be required to pay costs to the LSA as outlined below.
- (d) A Statement of Facts dated June 16, 2014 signed by Ms. Prystai.

Exhibit 7 An Estimated Statement of Costs

Facts Upon Which Application Was Made

6. The Statement of Facts (Exhibit 6(d)) stated as follows:

- 1 *I was admitted to the Law Society of Alberta on June 26, 1998.*
- 2 *I have practiced law in Calgary, Alberta since June 30, 1998. I have been a sole practitioner since June 30, 1998.*
- 3 *I have applied to resign as a member of the Law Society of Alberta pursuant to Section 32 of the Legal Profession Act.*
- 4 *I admit the facts in this Statement of Facts which I tender to support my resignation application.*

5 I face 18 citations directed by a Conduct Committee Panel on August 30, 2012. The first 7 citations were directed on file COXXXXXXXXX as a result of a complaint against me by my client EW. Those 7 citations are:

- (1) *IT IS ALLEGED THAT you failed to respond to communications from your client, EW, which contemplated a reply, and that such conduct is conduct deserving of sanction.*
- (2) *IT IS ALLEGED THAT you failed to serve your client, EW, in not advancing a litigation matter, and that such conduct is conduct deserving of sanction.*
- (3) *IT IS ALLEGED THAT you failed to obtain instructions from your client, EW, to enter into a consent order, and that such conduct is conduct deserving of sanction.*
- (4) *IT IS ALLEGED THAT you failed to advise your client, EW, of the consent order, and that such conduct is conduct deserving of sanction.*
- (5) *IT IS ALLEGED THAT in the EW matter you failed to respond to communications from other counsel which contemplated a reply, and that such conduct is conduct deserving of sanction.*
- (6) *IT IS ALLEGED THAT you failed to respond to the Law Society on a timely basis or at all in the matter of a complaint by EW, and that such conduct is conduct deserving of sanction.*
- (7) *IT IS ALLEGED THAT you failed to be candid with the Law Society in the matter of a complaint by EW, and that such conduct is conduct deserving of sanction.*

6 The next 3 citations directed by the Conduct Committee Panel on August 30, 2012 are on file COXXXXXXXXX. These citations were directed as a result of a complaint against me by my client MN. Those 3 citations are:

- (8) *IT IS ALLEGED THAT you failed to serve your client, MN, by not keeping him informed as to the progress of his matter, and that such conduct is conduct deserving of sanction.*
- (9) *IT IS ALLEGED THAT you failed to serve your client, MN, by not responding to him on a timely basis to communications which contemplated a reply, and that such conduct is conduct deserving of sanction.*
- (10) *IT IS ALLEGED THAT you failed to respond to the Law Society on a timely basis or at all in the matter of a complaint by MN, and that such conduct is conduct deserving of sanction.*

7 The next 2 citations directed by the Conduct Committee Panel on August 30, 2012 are on file COXXXXXXXXX. These citations were directed as a result of a complaint against me by a lawyer named Melissa Rico. Those 2 citations are:

- (11) *IT IS ALLEGED THAT in the DP matter you failed to respond to communications from Melissa Rico and other counsel which contemplated a reply, and that such conduct is conduct deserving of sanction.*
- (12) *IT IS ALLEGED THAT you failed to respond to the Law Society on a timely basis or at all in the matter of a complaint by Melissa Rico, and that such conduct is conduct deserving of sanction.*

8 *The final 6 citations directed by the Conduct Committee Panel on August 30, 2012 are on file COXXXXXXXX. These citations were directed as a result of a complaint against me by my client B. Those 6 citations are:*

- (13) *IT IS ALLEGED THAT in the MW matter you failed to respond to communications from your client, B, which contemplated a reply, and that such conduct is conduct deserving of sanction.*
- (14) *IT IS ALLEGED THAT in the MW matter you failed to serve your client, B, and that such conduct is conduct deserving of sanction.*
- (15) *IT IS ALLEGED THAT in the MW matter you failed to respond to communications from other counsel which contemplated a reply, and that such conduct is conduct deserving of sanction.*
- (16) *IT IS ALLEGED THAT you misled your client, B, and that such conduct is conduct deserving of sanction.*
- (17) *IT IS ALLEGED THAT you failed to respond to the Law Society on a timely basis or at all in the matter of a complaint by B, and that such conduct is conduct deserving of sanction.*
- (18) *IT IS ALLEGED THAT you failed to be candid with the Law Society in the matter of a complaint by B, and that such conduct is conduct deserving of sanction.*

BACKGROUND

- 9 *I received a degree in nursing and worked as a nurse before going to law school.*
- 10 *I have been a sole practitioner since being called to the Bar on June 30, 1998. Initially, I had my office outside my home. In approximately July of 2006, I moved my practice to my home.*
- 11 *My practice comprises family matters, health care negligence matters, simple wills, personal directives, and powers of attorney.*

W'S COMPLAINT

- 12 *W and her husband retained me in May 2000 to sue the doctors who failed to detect Mr. W's cancer. I filed the Statement of Claim in July, 2001. Discoveries were held in March, June and December 2002, as well as in January 2003. An*

independent economic assessment of the family business was conducted in May 2001.

- 13 *In February 2003, Mr. W died from cancer. His wife and two young children survived him. He and his wife had operated a small electronics business before his death.*
- 14 *In late 2004, I found it increasingly difficult to devote the requisite time and attention to the Ws' file.*
- 15 *After Mr. W died, I was required to amend the Statement of Claim to reflect that fact. I delayed in doing so to allow Mrs. W some time to grieve. In May 2004, Bennett Jones wrote me to ask for the Amended Statement of Claim. I provided the draft amendment to Bennett Jones in October, 2004. My recollection is that counsel at Bennett Jones had become seriously ill and this was part of the reason for the delay. In February 2005, I filed and served the Amended Statement of Claim on Bennett Jones.*
- 16 *Although I do not recall, I accept that October 2005 was the last time I spoke with Mrs. W. I was aware that Mrs. W wanted to proceed with her action without delay.*
- 17 *I last wrote Mrs. W in 2008 to ask for financial information. Mrs. W called me four times thereafter, leaving me a voicemail each time. Although I do not recall, I accept that I did not return these calls.*
- 18 *I did not immediately provide Bennett Jones with my client's response to her undertakings given during discoveries because Mr. W had just died, Mrs. W was grieving and I was away on holidays for a period of time in the summer. Bennett Jones wrote to me on April 29, 2003, June 23, 2003, July 28, 2003, August 14, 2003, September 4, 2003, October 31, 2003 and December 20, 2006. These letters asked me to provide Bennett Jones with responses to the undertakings. All undertaking responses were eventually provided.*
- 19 *I failed to respond to Bennett Jones' letters dated February 7, April 9, May 8, July 31 and September 5, 2007 asking me to respond to the undertakings. By September 5, 2007 letter, Bennett Jones told me it would bring a motion to compel Mrs. W to respond to her undertaking and would seek costs if it had not heard from me by the end of September. I did not respond to Bennett Jones until November 2007. I did not tell my client that Bennett Jones had brought an application to compel her to respond to undertakings by January 10, 2008. I did not seek Mrs. W's instructions to consent to this order nor did I tell her that I had consented to this order and had agreed to pay \$700.00 costs to the defendants. I intended to pay the costs personally and eventually did pay them personally.*
- 20 *Bennett Jones wrote to me on February 8, February 29, March 11, April 8, 2008 and again on January 26 and May 6, 2009. I did not respond to these letters.*
- 21 *John Sparling, QC wrote me on behalf of Mrs. W in January 2010 regarding Mrs. W's action. I did not respond to Mr. Sparling because I did not perceive that his letter requested a response.*

- 22 *Mrs. W retained Brian Devlin to advance her claim in June, 2011. Mr. Devlin wrote to me on June 2, 2011 asking for a copy of my file. I did not respond to Mr. Devlin's request. I had already provided the W file to the Law Society on May 24, 2011.*
- 23 *The Law Society had written to me on May 3, 2011 asking me to send the W file and accompanying documents by May 13, 2011. I did not provide the documents by May 13, 2011 but my recollection is that I spoke to a Law Society employee asking if they wanted the entire file. My recollection is that the Law Society employee told me to send only the correspondence and communication components of the file. I provided the W file to the Law Society on May 24, 2011.*
- 24 *By May 31, 2011 letter, the Law Society asked me to provide the settlement proposal I prepared for W. I did not reply because I did not discover the letter upon receiving the accordion file that came with it. Although I did not receive the e-mail, I accept that the Law Society e-mailed me on June 13 asking me a second time for the draft settlement proposal and to respond by June 15. I did not reply. I received the Law Society's June 20, 2011 letter under Part 3 of the Legal Profession Act and told the Law Society on June 21, 2011 that I would reply by June 30.*
- 25 *I couriered a reply to the Law Society on June 30, 2011. The Law Society did not receive this package. Therefore, on July 5, 2011, the Law Society wrote me directing me to reply.*
- 26 *I was first interviewed by the Law Society on July 14, 2011. I gave the Law Society a courier receipt, a Form 22 (2 pages) and a half page of typed comments and calculations. The Law Society investigator understood that the three pages I gave him on July 14, 2011 were the documents I said I had couriered to the Law Society on June 30, 2011. This understanding was incorrect. The documents I provided on July 14, 2011 were all the documents I still had access to.*
- 27 *The Law Society requested my digital files for the Ws. The Law Society learned from those files that the three typed documents I gave the Law Society on July 14, 2011 had been typed by me on July 13, 2011 (and therefore were not what I said I sent to the Law Society on June 30, 2011). I created the digital files on July 11, 2011 to provide the Law Society with something more than my rough notes. It was not my intention to mislead the Law Society.*

N's COMPLAINT

- 28 *N retained me in April 2005 to represent him on his divorce and with respect to child custody. I attended a meeting with N, his estranged wife and her lawyer in June 2009. N recalls that following the meeting, I agreed to arrange for a child psychologist, set up the counseling and move the matter of child custody forward. I do not recall agreeing to take responsibility for these actions. Although he has no notes recording the dates and number of times N called me after that meeting, N believes he called me about 30 times after that meeting. N states that I did not return any of those calls. I have no record on my file that I returned any of those calls. N regularly called me multiple times per day. I recall returning at least two calls.*

- 29 *On June 29, 2009, I wrote to N's estranged wife's counsel about the Ns' son. I sent a copy of this letter to N. By December 28, 2009 letter, N raised a number of issues. He asked me to call him and asked for my immediate assistance. I did not call N.*
- 30 *By January 12, 2010 letter, I suggested N retain new counsel. N says he did not receive this letter. N did not respond to this letter and I did not write a follow-up letter.*
- 31 *On March 31, 2010, N sent a registered letter to me in which he detailed his efforts to contact me. He wrote of his concern of being unable to see his son; it had been 17 months since N last saw him. He asked me to call him as soon as possible. I did not call N as he requested.*
- 32 *On May 7, 2010, N complained to the Law Society that I did not keep him informed about his file nor did I respond to his telephone calls or letters. Until January 12, 2010 I kept N informed to the best of my ability. I did not communicate with N after January 12, 2010 because I had suggested he retain new counsel. I acknowledge that I did not respond to all of his telephone calls or letters.*
- 33 *The Law Society sent me N's complaint on May 7, 2010 and asked me to respond by May 17, 2010.*
- 34 *I did not respond to the Law Society by May 17, 2010.*
- 35 *The Law Society wrote me again on May 19, 2010 and asked me to reply within 14 days. I responded to the Law Society by June 1, 2010 letter.*

MELISSA RICO'S COMPLAINT

- 36 *In November 2004, the Ps retained me to represent them and their daughter with respect to medical malpractice at her birth.*
- 37 *In December 2005, I filed a Statement of Claim on behalf of the Ps. I renewed the Statement of Claim in December 2006 and served it on the defendants.*
- 38 *In December 2006, I learned Blair Carbert and Melissa Rico of Stones Fontaine Carbert were representing C. Org. and Gowling Lafleur Henderson was representing the doctors.*
- 39 *Blair Carbert wrote to me on October 4, 2007, November 8, 2007, November 27, 2007, December 12, 2007 and February 4, 2008, requesting my clients' Affidavit of Records. Similarly, Lindsay Gluck of Gowlings asked me for my clients' Affidavit of Records by December 13, 2007 and February 11, 2008 letters. I did not respond to these letters.*
- 40 *On April 8, 2008, an Order was granted requiring my clients to file an Affidavit of Records within 30 days of service. My clients were ordered to pay \$2,600 costs to the defendants.*

- 41 *Mr. Carbert wrote to me on July 14, 2008, July 25, 2008, August 11, 2008 and October 1, 2008, asking me to schedule Examinations for Discovery. I did not respond to these letters.*
- 42 *By October 21, 2008 letter, Mr. Carbert reminded me of the outstanding \$2,600 costs. Mr. Carbert wrote me again on October 27, 2008 asking me to respond to his October 21, 2008 letter. I did not respond to either letter.*
- 43 *Mr. Carbert wrote me on November 25, 2008 to tell me the date the nurse was available to be discovered. Mr. Carbert wrote me on December 10, 2008 and February 12, 2009 to let me know he was waiting for a response to his November 25, 2008 letter. I finally responded to Mr. Carbert by February 23, 2009 letter.*
- 44 *Gowlings wrote to me about conduct money for their client and updated medical records on March 17, 2009. Gowlings again wrote on April 21, 2009 and June 11, 2009. I did not respond to these letters.*
- 45 *Mr. Carbert wrote me on October 5, 2009 indicating that my delays were not acceptable. He again wrote me on November 6, 2009 and December 7, 2009. On February 4, 2010, Carbert wrote that it had been 11 months since he had heard from me.*
- 46 *By February 9, 2010 letter, Gowlings told me it would proceed with an application to compel me to proceed with the litigation.*
- 47 *On April 20, 2010, the defendants filed a Notice of Motion to strike the action for want of prosecution.*
- 48 *When counsel for the defendants appeared before Justice Mahoney on their application on April 29, 2010, I was not there. I had not personally received the Notice of Motion. It had been sent to my UPS mailbox and signed for by someone at the UPS counter. I never received it. I understand Justice Mahoney directed counsel for the defendants to notify the Law Society of my conduct. I later appeared before Justice Mahoney and explained the reason for my absence. My recollection is that Justice Mahoney accepted my explanation.*
- 49 *By May 7, 2010 letter, the Law Society sent me Rico's complaint dated May 6, 2010 and asked me to respond by May 17, 2010. I responded on June 1, 2010.*
- 50 *The Law Society wrote me on May 3, 2011 to ask for my client's file and accompanying documents by May 13, 2011. I do not recall receiving the May 3, 2011 letter. I received a telephone call from a Law Society employee who told me the Law Society had not received my reply to the May 3, 2011 letter. I told the Law Society employee I had not received the letter. I asked the Law Society employee to send the letter to my home address because I was having problems with UPS. The Law Society Investigator came to my home on May 16, 2011 and personally delivered the May 3 and May 16, 2011 letters. I told him that I was attempting to gather the file. I gave my client's file to the Law Society Investigator on May 20, 2011.*

B'S COMPLAINT

- 51 *My client W was injured at her workplace and believed she had not been properly diagnosed or treated, thereby resulting in increased disability and resulting costs. I filed a Statement of Claim on her behalf in August 2000.*
- 52 *In November 2001, I was retained by B to represent its interests in W's lawsuit. B, as the party entitled to receive all settlement funds, was my sole client in this matter. As part of my retainer agreement with B, I agreed to, inter alia,:*
- (a) *send quarterly status reports to B;*
 - (b) *advise B of all settlement offers; and*
 - (c) *take instructions from B which I acknowledged to be my sole client.*
- 53 *I sent B a progress report in January 2002, April 2003, July 2003 and February 2004.*
- 54 *B wrote to me in January and April 2005 to ask me for a progress report. I did not respond to these letters.*
- 55 *In October 2006, B wrote to me saying it had been two years since my last status report and requested a report within 30 days. This letter was returned to B marked "moved". When B learned that I had moved my practice, B resent this letter to me by fax. I did not respond to this letter.*
- 56 *In October 2006, B wrote to me introducing the new person to whom I would report. I did not send quarterly status reports to this new person.*
- 57 *Steve Robertson acted for the defendants. In April 2006, Mr. Robertson tried to arrange a pre-trial conference date. When I responded to Mr. Robertson, that date was no longer available.*
- 58 *On May 17, 2006, Mr. Robertson sent me new dates and asked me to respond immediately so as to not to lose any of the proposed dates. I did not respond to Mr. Robertson.*
- 59 *On June 6, 2006, Mr. Robertson filed a motion asking the Court to impose timelines for the action.*
- 60 *Thereafter, Mr. Robertson left me a number of voice mail messages to which I did not respond. In January 2007, Mr. Robertson wrote to ask me the status of the action. I did not respond. As a result, Mr. Robertson filed a motion to move the litigation forward. I contacted Mr. Robertson and asked him to adjourn the matter to June, which he did.*
- 61 *I did not respond to Mr. Robertson's August 2007 letter or his two letters of October 2007.*
- 62 *In December 2007, Mr. Robertson filed a motion to dismiss W's action for want of prosecution or, alternatively, to impose deadlines.*

- 63 *In December 2007, Mr. Justice Rooke dismissed W's action with costs to the defendants but stayed the Order until February 15, 2008 to permit W to provide certain documents and undergo further discoveries by the end of March 2008.*
- 64 *On January 2, 2008, Mr. Robertson sent me a draft form of order. I did not respond to him. Thereafter, I asked Mr. Robertson for a copy of the schedule to the 2007 Rooke Order. Mr. Robertson sent me the schedule in February 2008. I then sought an extension of time to provide some treatment notes to Mr. Robertson. Mr. Robertson granted my request.*
- 65 *In February 2008, Mr. Robertson asked me when the treatment notes would be available and for the draft 2007 order. I did not reply.*
- 66 *Mr. Robertson wrote me again on February 13, 2008. I did not reply.*
- 67 *In April 2008, Mr. Robertson filed a motion asking for W's claim to be dismissed for want of prosecution. An Order was granted modifying the 2007 Order and allowing W until June 30, 2008 to produce records. The defendants were awarded costs leading up to the 2007 Order.*
- 68 *I produced most of the required records by June 30, 2008.*
- 69 *Mr. Robertson and I spoke on May 8, 2009 and I told him I would let him know W's availability for an Independent Medical Examination ("IME").*
- 70 *Mr. Robertson wrote me on May 26, 2009 about the IME. I did not reply.*
- 71 *In July 2009, Mr. Robertson provided me with a date for the IME but, because I did not respond, the appointment was cancelled.*
- 72 *In July 2009, Mr. Robertson brought a motion to dismiss the action or direct the plaintiff to attend the IME and set dates for further discoveries. This application was adjourned to September 2, 2009. Although I had agreed to tell Mr. Robertson before September 2, 2009 the dates I was available to argue this application, I did not do so. The matter was then adjourned to September 4, 2009.*
- 73 *Mr. Robertson wrote me on October 19, 2009 and October 29, 2009 asking me to select a date for the IME. I did not respond to these letters.*
- 74 *Mr. Robertson and I spoke in February 2010 about scheduling the IME. He asked me to give him W's available dates by March 1, 2010, failing which he would file a motion to have the action dismissed for want of prosecution. I did not respond to Mr. Robertson by March 1.*
- 75 *On March 9, 2010, Mr. Robertson filed his motion. I wrote him on March 12 to let him know I was trying to achieve consistent instructions on the file. On March 29, 2010, I told Mr. Robertson I had instructions to discontinue the action without costs.*

- 76 *On March 30, 2010, Mr. Robertson told me his client was willing to consent to a discontinuance of the action upon payment of costs by the plaintiff.*
- 77 *In my March 24, 2010 e-mail to B, I stated my belief that Mr. Robertson would be amenable to discontinuing without costs. However, at that time, I did not tell B that Mr. Robertson had filed a motion specifically seeking costs of the action, or, alternatively costs of the application on a solicitor and client basis.*
- 78 *I asked Mr. Robertson for several adjournments to allow me to receive instructions. Mr. Robertson agreed with those adjournments but stated he wouldn't agree to a further adjournment of the April 14, 2010 application date.*
- 79 *By April 13, 2010 e-mail, I told B that Mr. Robertson was bringing an application to dismiss and intended to seek costs. I sent this e-mail the day before Mr. Robertson's application. I went to Chambers on April 14, 2010 with instructions from W (but not from B) to oppose the imposition of costs.*
- 80 *Mr. Robertson's application was heard on April 14, 2010. W's action was dismissed with costs to the defendants. I approved the terms of the order on May 1, 2010 and the bill of costs in the amount of \$22,629.71.*
- 81 *Mr. Robertson brought a motion to have B responsible for the costs of the action in July 2010. Mr. Robertson served B directly with notice of this application.*
- 82 *In early November 2010, I filed and served my Notice of Ceasing to Act.*
- 83 *The ways in which I did not serve my client B are:*
- (a) *I did not keep them informed of the developments in the litigation;*
 - (b) *I did not send them quarterly status reports as I had agreed to do;*
 - (c) *I did not tell them about Mr. Robertson's June 2007 letter in which he told me of the defendants' intention to seek costs from B if the plaintiff was unsuccessful;*
 - (d) *I did not tell B about the numerous applications brought by Mr. Robertson between 2006 and 2010;*
 - (e) *I did not tell B about the April 2010 Order dismissing W's action and awarding costs to the defendants;*
 - (f) *There is an issue as to whether I sent the defendants' May 2009 Offer of Judgment to B. B states I did not tell them about this offer. However, I did notify B of the offer by July 2009 letter. B did not respond to me and I did not follow-up;*
 - (g) *I did not advance this action in a timely fashion;*
 - (h) *I did not always seek or receive B's instructions;*

- (i) *I sought B's instructions in March 2010 to discontinue the P's action. I did not tell B that Mr. Robertson had already filed a Notice of Motion seeking to dismiss the action for want of prosecution.*
- 84 *B complained about my representation of it to the Law Society. I was notified of B's complaint by March 17, 2011 letter. I did not respond to the Law Society.*
- 85 *The Law Society wrote me again on April 12, 2011, asking me to respond immediately. I did not respond.*
- 86 *On May 3, 2011, the Law Society sent me a copy of the Investigation Order and asked me to provide it with my file for B by May 13, 2011. I do not recall receiving the May 3, 2011 letter. I received a telephone call from a Law Society employee who told me the Law Society had not received my reply to the May 3, 2011 letter. I told the Law Society employee I had not received the letter. I asked the Law Society employee to send the letter to my home address because I was having problems with UPS.*
- 87 *On May 16, 2011, the Law Society hand delivered a letter to me asking me to contact the Law Society immediately. I called the Law Society and agreed to provide my original file by May 20, 2011. I delivered my file to the Law Society on May 20, 2011.*
- 88 *My letter to B telling him about the defendants' settlement offer was dated July 2009. Upon review of my digital files, the Law Society learned that this letter was typed on May 19, 2011. I told the Law Society I had to retype this letter to provide it with a digital copy because the hard copy could not be scanned. I did not tell the Law Society I had retyped the document until it asked me about the digital dating it had discovered.*
- 89 *I told the Law Society I had W's instructions to discontinue before I contacted B on March 18, 2010. There is a March 23, 2010 e-mail on my file stating I had recommended to W that she discontinue her action. On March 29, 2010, I wrote that I had received instructions from W to offer the defendants a discontinuance without costs. Although I recall receiving instructions via email from W confirming her consent to the discontinuance without costs, I acknowledge that there are no written instructions on my file from W confirming her consent to the discontinuance without costs.*

CONCLUSION

- 90 *I believe I was experiencing compassion fatigue and that this affected my ability to represent my clients.*
- 91 *I admit the statements in the Statement of Facts for the purpose of providing a record of the events which preceded and precipitated my application to resign.*
7. No additional evidence was led by either party.

Decision of the Resignation Committee

8. Counsel for Ms. Prystai outlined for the Resignation Committee the basis for Ms. Prystai's application and confirmed that she fully understood the nature of the application and the fact that if granted, she would no longer be a member of the LSA. He pointed out that Ms. Prystai had agreed to a detailed statement of facts and admitted that her conduct fell below the standard of professional conduct expected of members of the LSA. He submitted that allowing Ms. Prystai to resign would serve the public interest and avoid the unnecessary time and expense of a hearing.

9. Counsel for the LSA concurred. Ms Naber-Sykes provided the Resignation Committee with a helpful overview of the admitted facts correlating them with the outstanding citations in relation to which Ms. Prystai had admitted her wrongdoing.

10. Against this background, the Resignation Committee was tasked with deciding whether or not Ms Prystai's resignation prior to the resolution of the outstanding conduct matters would be in the best interests of the public.

11. The Resignation Committee concluded that it was and granted the application as outlined below.

12. Ms. Prystai's admissions of fact are a candid acknowledgment of conduct that would, had a hearing proceeded, been found deserving of sanction. Her application for resignation reflects an effort on her part to cooperate with the LSA to ensure that such conduct is not repeated. Refusing Ms. Prystai's application to resign and forcing all parties through a hearing would accomplish nothing more for the public we are trying to protect. This is not to diminish in any way the legitimacy of the complainants' concerns, but rather recognizes that Ms. Prystai's resignation is a very reasonable way in the circumstances to address the conduct which was of concern in the best interests of the public.

13. Ms. Prystai requested that she be granted two weeks from the date of the application to complete her transition of two remaining client matters. The Committee therefore directed that her resignation be effective June 30, 2014.

14. Finally, with respect to the issue of costs, the membership of the LSA as a whole should not bear the costs of discipline proceedings that arise as a result of conduct of any particular lawyer. That said, Ms. Prystai has worked cooperatively with the LSA and in volunteering to

resign, has saved a great deal of unnecessary time and expense for all involved. The Resignation Committee therefore confirms that as a condition of her resignation, Ms. Prystai pay costs totaling \$53,093.73 (as she has undertaken to do) if, and only if, she ever seeks to be relieved of the undertaking she has given.

Final Matters Arising

15. With respect to matters arising, the Resignation Committee directs that:
- (a) all exhibits in these proceedings be available for inspection and copying, subject to redaction of the names of third parties for privacy purposes;
 - (b) the details of this decision shall be noted in the Roll, including the condition related to costs, and the record of these proceedings, including the Statement of Facts shall be preserved for reference in any future application for reinstatement;
 - (c) a Notice to the Profession and the Courts in the form agreed to by the parties shall be given subject to the discretion and final approval of the Executive Director of the LSA ; and,
 - (d) no referral to the Attorney General shall be made.

Dated at Calgary, Alberta, August 7, 2014

Anne L. Kirker, QC

Walter Palvic, QC

Miriam Carey, PhD