

LAW SOCIETY OF ALBERTA
IN THE MATTER OF THE *LEGAL PROFESSION ACT*;
AND
IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF JEFFREY KLASSEN
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Single Bencher Hearing Committee:

Walter Pavlic, QC - Bencher

Appearances:

Counsel for the Law Society – Nancy Bains

Counsel for Jeffrey Klassen – Peter Royal, QC

Hearing Date:

March 30, 2017

Hearing Location:

Law Society of Alberta at Bell Tower, 800, 10104-103 Avenue, Edmonton, AB, T5H 0H8

HEARING COMMITTEE REPORT

Jurisdiction, Preliminary Matters and Exhibits

1. On March 30, 2017, a Single Bencher Hearing Committee (Committee) convened at the office of the Law Society of Alberta (LSA) to conduct a hearing regarding a Statement of Admitted Facts and Admission of Guilt dated February 7, 2017.
2. Mr. Klassen and counsel for the LSA were asked whether there were any objections to the constitution of the Committee. There were no objections to the identity of the Bencher hearing the submissions, on the grounds of bias or otherwise and the hearing proceeded.

3. The hearing was held in public.
4. The jurisdiction of the Committee was established by Exhibits 1 through 4, consisting of the letter of appointment of the Committee, the Notice to Solicitor pursuant to section 60 of the *Legal Profession Act*, the Notice to Attend to the Member and the Certificate of Status of the Member with the Law Society of Alberta.

Statement of Facts and Admission of Guilt

5. The Statement of Admitted Facts and Admission of Guilt is attached hereto as Exhibit "A" (the "Statement"). The Statement was found to be in acceptable form by a Conduct Committee Panel on March 15, 2017, and therefore this hearing was convened by a single bencher pursuant to section 60(3) of the *Legal Profession Act*.
6. Pursuant to section 60(4) of the *Legal Profession Act*, after a statement of admission of guilt is accepted by the Conduct Committee, it is deemed to be a finding of the Hearing Committee that the lawyer's conduct is conduct deserving of sanction. After hearing submissions by counsel for the LSA and Jeffrey Klassen and confirming Jeffrey Klassen's understanding that the Bencher was not bound by the Joint Submission on Sanction, the Bencher confirmed the Statement of Admitted Facts and the Admission of Guilt constituted a finding of conduct deserving of sanction on one citation pursuant to section 49 of the *Legal Profession Act*.
7. The only question for determination by this Committee is one of appropriate sanction.

Discussion on Sanction

8. Both the Law Society and Mr. Klassen rightly noted that Mr. Klassen in mitigation had freely admitted his error. The approach taken by both Mr. Klassen and the LSA in dealing with this matter through a single Bencher hearing avoided an unnecessary contested hearing, witness inconvenience, and process costs. This is commendable.

Concluding Matters

9. The parties agreed to a joint submission on sanction. Specifically they agreed that Mr. Klassen ought to receive a reprimand and that he ought to be responsible for the costs of the hearing. An estimated statement of costs of \$1,918.88 was presented. It was noted that, as the hearing concluded in less than the estimated time, those costs may well be reduced.
10. Upon considering the joint submission on sanction, it was determined that the submissions were fair and reasonable.

11. Mr. Klassen was then reprimanded by the Committee. It was noted that Mr. Klassen had cooperated fully with the investigation and that he had benefited greatly from his involvement with and commitment to Practice Review. It was stressed to Mr. Klassen that the citizens of the Province of Alberta rely upon their legal counsel to ensure that their legal actions are processed in a timely and effective manner and that failure to do so is unacceptable. Mr. Klassen was advised that his conduct for failing to pursue this action was inappropriate and that he had failed his client.
12. At the conclusion of the reprimand, costs were spoken to. It was agreed that Mr. Klassen would be responsible for the costs of the hearing. Mr. Royal then asked that Mr. Klassen be given three months to pay those costs. The Committee agreed to allow that time for payment.
13. Hearing exhibits shall be made available to the public, with the exception that they shall be redacted to prevent the disclosure of confidential or privileged information.
14. There shall be no Notice to the Profession issued.
15. There will be no Notice to the Attorney General.

Dated at the City of Edmonton in the Province of Alberta, this 24th day of May, 2017.

Walter Pavlic, QC

EXHIBIT "A"

IN THE MATTER OF *THE LEGAL PROFESSION ACT*

AND

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF JEFFREY KLASSEN,
A MEMBER OF THE LAW SOCIETY OF ALBERTA

STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT

INTRODUCTION

1. I was admitted as a member of the Law Society of Alberta in August 1995.
2. My present status with the Law Society of Alberta is Active/Practicing.
3. I have practiced in Edmonton, Alberta from August 1995 to present.
4. My practice comprises Criminal Law (75%), Matrimonial/Family Law (10%), Real Estate Conveyancing (5%).

CITATIONS

5. On January 27, 2016 the Conduct Committee Panel referred the following conduct to hearing:
 1. It is alleged that you failed to advance two civil litigation matters for your client MR from approximately 2007 to 2013.

FACTS

6. [MR] retained my services in 2005 and 2007 to assist with two civil litigation matters.

The first action

7. I was retained by [MR] to advance a civil claim [•] against several Defendants concerning allegations of wrongful detention, arrest and assault on [MR] by security guards at a shopping mall.
8. I filed the Statement of Claim in August 2007 and served the Claim in 2008.
9. I initially corresponded with insurance adjusters and advised I would not take further steps against [•] without notice.

10. One of the Defendants, [•] filed a Statement of Defence and Demand for Particulars in May 2010. I filed a reply to that demand in October 2010.
11. In 2010, I sought and obtained DVD video surveillance regarding the incident.
12. In January 2011, a Partial Discontinuance was filed against the Defendant [•].
13. Respecting the defendants other than [•], I did not take any steps against them between service of the Statement of Claim in 2008, and October 2013. Other than with respect to forbearance to Note in Default, there were a few letters received from adjusters, but nothing sent by me during that time period.
14. By letter of November 1, 2013, I provided [MR] with her file and confirmed a previous telephone conversation wherein I advised her to retain new counsel. I advised her that the next step on the file must be taken by November 17, 2013 and that she should advise the remaining Defendants to file and serve their Defence before November 15th, failing which [MR] could note them in default. I further advised [MR] that if the matter did not advance by November 15th, the Defendants may apply to strike her claim.
15. Despite the November 1st letter, I assisted [MR] by writing to the insurance Adjusters and demanding the filing of a Statement of Defence by November 15, 2013. The Adjusters responded by stating they had referred the matter to counsel to have the claim struck. Despite that response, opposing counsel filed their Defence on November 22, 2013.
16. I admit that, apart from certain communications with [MR], the various insurers, and counsel for [•], I did not properly serve [MR] in advancing this claim against the remaining defendants and took no steps between 2008 and November 2013 when I withdrew as counsel.

The second action

17. I was retained by [MR] in 2007 to assist with continuing a claim against Westfair Foods Ltd. ("Westfair") alleging wrongful detention, arrest, and assault. Examinations for Discovery had occurred prior to my retainer.
18. In 2007 and early 2008, I provided [MR]'s outstanding undertakings to opposing counsel.
19. In April 2008, opposing counsel provided me with the Defendants' outstanding undertakings.
20. I recall that subsequent to receiving the Defendant's answers to undertakings in 2008, I advised [MR] that because [•] had rejected a \$10,000.00 offer to settle, it was likely that taking the matter to trial would cost more than she would recover. I admit that my file contains no written record confirming this advice.

21. Between April 2008 and June 2013, no further steps were taken, nor correspondence written, by me to advance the claim. Further, I acknowledge that I have no record of any instructions from [MR] for the same timeframe.
22. On June 24, 2013, opposing counsel filed an application for dismissal due to long delay.
23. In September 2013, I provided the Alberta Lawyers Insurance Association (ALIA) with a claim report regarding this action. The matter was resolved by ALIA.

ADMISSIONS OF FACT AND GUILT

24. I admit that I failed to advance two civil litigation matters for my client MR from approximately 2007 to 2013.
25. I admit as facts the statements in this Statement of Admitted Facts and Admission of Guilt for the purposes of these proceedings.
26. I acknowledge that I have had the opportunity to consult legal counsel and provide this Statement of Admitted Facts and Admission of Guilt on a voluntary basis.
27. For the purposes of Section 60 of the *Legal Profession Act*, I admit my guilt to Citation 1 directed on January 27, 2016.

THIS AGREED STATEMENT OF FACTS AND ADMISSION OF GUILT IS MADE THIS 7TH DAY OF FEBRUARY, 2017.

“Jeffrey Klassen”

JEFFREY KLASSEN