

**IN THE MATTER OF PART 3 OF THE
LEGAL PROFESSION ACT, RSA 2000, c. L-8**

AND

**IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF JOHN W. PFRIEM
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

ORDER OF THE HEARING COMMITTEE

UPON THE ISSUANCE OF CITATIONS by the Law Society of Alberta (LSA) to John W. Pfriem pursuant to section 56 of the *Legal Profession Act* (the Act);

AND WHEREAS:

- a) John W. Pfriem and the LSA have entered into a Statement of Admitted Facts and Admission of Conduct Deserving of Sanction (the Statement, attached to this Order) in relation to his conduct;
- b) John W. Pfriem admits in the Statement that the conduct set out in the Statement is deserving of sanction;
- c) On January 15, 2019, the Conduct Committee found the Statement acceptable, pursuant to subsection 60(2) of the Act;
- d) On January 17, 2019, the Chair of the Conduct Committee appointed a single Benchler as the Hearing Committee (Committee) for this matter, pursuant to subsection 60(3) of the Act;
- e) Pursuant to subsection 60(4) of the Act, it is deemed to be a finding of this Committee that John W. Pfriem's conduct is deserving of sanction;
- f) On February 26, 2019, the Committee convened a public hearing into the appropriate sanction related to the conduct of John W. Pfriem;
- g) The LSA and John W. Pfriem have provided a joint submission on sanction for the Committee's consideration, seeking a reprimand;
- h) The parties have also agreed that it is reasonable for John W. Pfriem to pay \$997.50 in costs in relation to this matter by December 31, 2019;

- i) The Committee has determined that the joint submission is reasonable, consistent with sanctions in similar cases, does not bring the administration of justice into disrepute and is therefore in the public interest; and
- j) The Committee has accepted the joint submission on sanction, and accepted the submission with respect to the payment of costs.

IT IS HEREBY ORDERED THAT:

- 1. The appropriate sanction with respect to John W. Pfriem's conduct is a reprimand, which was delivered orally by the Committee to John W. Pfriem at the hearing.
- 2. The text of the reprimand will be attached to this Order as a schedule prior to the Order being published.
- 3. John W. Pfriem must pay costs in the amount of \$997.50, by December 31, 2019.
- 4. No Notice to the Profession or Notice to the Attorney General is to be made.
- 5. The exhibits and this order will be available for public inspection, including the provision of copies of exhibits for a reasonable copy fee, except that identifying information in relation to persons other than John W. Pfriem will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Edmonton, Alberta, on February 26, 2019.

BILL HENSBEE

APPROVED AS TO FORM AND CONTENT:

Christine Blair, Conduct Counsel
for the Law Society of Alberta

John W. Pfriem

IN THE MATTER OF THE *LEGAL PROFESSION ACT*
AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF JOHN W. PFRIEM
A MEMBER OF THE LAW SOCIETY OF ALBERTA
LAW SOCIETY HEARING FILE HE20180047

STATEMENT OF ADMITTED FACTS
AND ADMISSION OF CONDUCT DESERVING OF SANCTION

BACKGROUND

1. I, John W. Pfriem, was admitted as a member of the Law Society of Alberta on July 25, 1985.
2. Since 2010, I have carried on a general practice of law in Edmonton, Alberta as a sole practitioner.

CITATIONS

3. I am facing one citation arising from M.L.'s complaint to the Law Society, as follows:

C020170629

It is alleged that John W. Pfriem failed to provide competent, timely, conscientious and diligent service when he failed to advance his client's legal matter and that such conduct is deserving of sanction.

AGREED FACTS

4. I was retained by M.L in July 2010 to pursue an action against a builder for deficient construction of M.L.'s residence. The client provided a retainer of \$2,000.00.
5. On July 26, 2010, I filed a Statement of Claim against two corporate defendants, Corp. A and Corp. B. The Statement of Claim was served via registered mail dated August 31, 2010.
6. A Statement of Account dated August 31, 2010 was prepared for the amount of \$1,998.40 for the initial meeting and follow-up discussions with the client, review of documents, corporate searches and the drafting, filing and service of the Statement of

Claim. The full amount of the Statement of Account was paid from trust to general on August 31, 2010.

7. On September 14, 2010, counsel for Corp. A advised he had been retained and requested that no further steps be taken in the action without prior notice.
8. On November 19, 2010, I wrote to opposing counsel requesting an update as to when I could expect to receive the Statement of Defence.
9. On November 19, 2010, I provided M.L. with a copy of the filed Statement of Claim, the August 31st Statement of Account and the correspondence between counsel in the matter.
10. On December 13, 2010, opposing counsel confirmed that he acted for Corp. A. He advised that he did not act for Corp. B, which had been the subject of receivership proceedings in 2009. He requested particulars as to the amount of general and special damages being claimed in M.L.'s action.
11. On March 25, 2011, I wrote to opposing counsel requesting receipt of the Statement of Defence by April 1, 2011, failing which I would note Corp. A in default.
12. On April 1, 2011, opposing counsel provided a copy of Corp. A's Statement of Defence. He also requested that I provide particulars as to the amount of damages sought, as previously requested, as well as particulars concerning the construction failings alleged in the Statement of Claim.
13. On September 4, 2012, I advised opposing counsel that I would provide particulars by the end of September.
14. On November 6, 2012, I spoke to M.L. and requested an updated list of deficiencies and photographs. I understood that repairs had been completed on the property but I misapprehended the extent of the repairs and the remaining defects.
15. On April 25, 2014, opposing counsel served an application to dismiss the action for delay. The application was set to be heard on May [...], 2014; it was adjourned by consent several times and finally heard on June [...], 2014.
16. On May 8, 2014, I wrote to opposing counsel advising that my client wished to proceed with the action whether by the original Statement of Claim or "pursuant to the settlement which your client attempted by way of repair". He requested that the application be adjourned to May [...], 2014.
17. I spoke with my client prior to the application being heard but did not clearly explain the nature of the application. I inquired as to the possibility of meeting with my client but did not follow through on the suggested meeting. I drafted an affidavit in response to the dismissal application, but it was not sworn or filed.

18. On June [...], 2014, Justice [G] dismissed M.L.'s action for long delay. The defendants were awarded costs of the action and the application and for failure to serve an affidavit of records. I signed the order, approving of its form.
19. On October 1, 2014, I paid costs in the amount of \$1,706.08 to Corp. A from my general account.
20. There were email communications between me and my client after the action was dismissed. However, there are no emails or notes of telephone conversations evidencing that I advised my client that the action was dismissed.
21. On March 13, 2017, M.L. submitted a complaint to the Law Society. The complainant asserted that he had tried to contact me to discuss the action, but I had not returned his calls or let him know the status of the matter.
22. At the suggestion of the Law Society, on September 8, 2017, I sent a reporting letter to M.L. listing the steps taken in the matter including the application to dismiss granted June 2014 and "communications with you subsequent with a view to reviving action". I advised further that I was "no longer in a position to practice in the area of civil litigation and I consider myself unable to assess whether carrying your action forward is possible and to continue to act for you". I proposed withdrawing and offered to recommend a new lawyer.

ADMISSION OF FACTS

23. I, John W. Pfriem, admit as facts the statements contained in this Statement of Admitted Facts for the purposes of these proceedings.

ADMISSION OF CONDUCT DESERVING OF SANCTION

24. For the purposes of s. 60 of the *Legal Profession Act*, I, John W. Pfriem, admit that I failed to provide competent, timely, conscientious and diligent service when I failed to advance M.L.'s legal matter and that such conduct is deserving of sanction.

This Statement of Admitted Facts and Admission of Conduct Deserving of Sanction is dated the 12 day of December, 2018.

Witness

John W. Pfriem

Reprimand

The Hearing Guide of the Law Society requires that a hearing committee take a purposeful approach in sanctioning a member found guilty of conduct deserving of sanction. The fundamental purpose of sanctioning is the protection of the public and the protection of the reputation and standing of the legal profession generally.

Mr. Pfriem, I acknowledge your cooperation with the Law Society leading up to today and your choice to resolve this complaint by admitting guilt and proceeding with a single Benchers hearing. Your admissions have permitted this citation to be resolved efficiently, which is not just a benefit to you, but also a benefit to the public and to the Law Society.

Mr. Pfriem, you are a senior member of the profession, having been called to the bar in 1985. The experience and professionalism that accompanies a senior lawyer is certainly one of the primary reasons your client retained you in this matter. It is clear that you did not meet the standard expected of you in this case. As a self-regulated profession, it is incumbent upon the Law Society to ensure that members of the profession adhere to the highest possible standards, which include diligently protecting the interests of clients so as to maintain public faith in the legal profession.

I am reassured by your lack of disciplinary history and your submissions today that your actions in this matter represent an isolated incident. Nonetheless, I wish to implore you, as you move forward, to strive to practice in a manner that justifies the faith your clients place in you to represent them competently, diligently, and expeditiously.

I wish you well with the remainder of your legal career, and I am hopeful that this process, as difficult as it has no doubt been, has been helpful in reinforcing the manner in which you will practice as you move forward.