

**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 LAURIE CUNNINGHAM
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 Laurie Cunningham pursuant to section 56 of the *Legal Profession Act* (the Act);

AND WHEREAS:

- a) Laurie Cunningham has executed a Statement of Admitted Facts and Admission of Guilt (the “Statement”) attached to this Order in relation to the following citations:
 1. It is alleged that Laurie Cunningham failed to communicate with her client and provide regular updates and that such conduct is deserving of sanction;
 2. It is alleged that Laurie Cunningham failed to serve her client and that such conduct is deserving of sanction;
 3. It is alleged that Laurie Cunningham failed to provide the client’s file to her in a timely manner and that such conduct is deserving of sanction;
 4. It is alleged that Laurie Cunningham has engaged in conduct that impaired her ability to competently serve her clients and that such conduct is deserving of sanction;
 5. It is alleged that Laurie Cunningham failed to self-report her criminal charges to the Law Society and that such conduct is deserving of sanction;
 6. It is alleged that Laurie Cunningham failed to be candid with the Law Society and that such conduct is deserving of sanction.
- b) Laurie Cunningham admits in the Statement that she is guilty of the above noted Citations, and that her conduct is deserving of sanction;
- c) On May 14, 2019, the Conduct Committee found the Statement acceptable, pursuant to subsection 60(2) of the Act;
- d) On June 5, 2019, the Chair of the Conduct Committee appointed a single Bencher 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 Laurie Cunningham's conduct is deserving of sanction;
- f) On August 1, 2019, the Committee convened a public hearing into the appropriate sanction related to the conduct of Laurie Cunningham;
- g) The LSA and Laurie Cunningham 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 Laurie Cunningham to pay \$11,944.35 in costs in relation to this matter, payable within 6 months of her return to active practicing status with the LSA;
- 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;
- 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 Laurie Cunningham's conduct is a reprimand.
2. The text of the reprimand will be attached to this Order as a schedule prior to the Order being published.
3. Laurie Cunningham must pay costs in the amount of \$11,944.35.
4. Laurie Cunningham must pay the costs by within 6 months of her return to active practicing status with the LSA.
5. No Notice to the Profession or Notice to the Attorney General is to be made.
6. The exhibits and this order will be available for public inspection, including the provision of copies of exhibits for a reasonable copy fee, except identifying information in relation to persons other than Laurie Cunningham 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 August 1, 2019.

Robert Philp, QC, Benchler

IN THE MATTER OF *THE LEGAL PROFESSION ACT*
AND
IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF
Laurie Cunningham
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 on August 8, 2003.
2. My present status with the Law Society of Alberta is inactive and administratively suspended for non-payment of fees.
3. Prior to signing an undertaking not to practice law on August 31, 2017 I was a family lawyer in sole practice in Edmonton.

CITATIONS

4. On December 11, 2018, the Conduct Committee Panel referred the following conduct to hearing:

CO20170399

1. It is alleged that Laurie Cunningham failed to communicate with her client and provide regular updates and that such conduct is deserving of sanction;
2. It is alleged that Laurie Cunningham failed to serve her client and that such conduct is deserving of sanction;
3. It is alleged that Laurie Cunningham advised her client not to follow a Court Order and that such conduct is deserving of sanction;
4. It is alleged that Laurie Cunningham failed to provide the client's file to her in a timely manner and that such conduct is deserving of sanction;

CO20171357

5. It is alleged that Laurie Cunningham has engaged in conduct that impaired her ability to competently serve her clients and that such conduct is deserving of sanction;
6. It is alleged that Laurie Cunningham failed to self-report her criminal charges to the Law Society and that such conduct is deserving of sanction; and

7. It is alleged that Laurie Cunningham failed to be candid with the Law Society and that such conduct is deserving of sanction.
5. On April 10, 2019, Citation 3 was withdrawn by the Pre-hearing Chair [BH].

ADMITTED FACTS

CO20170399

6. I had a meeting with K.C. on June 20, 2016 regarding issues surrounding her ex-partner's exercise of access to their child. A Consent Interim Variation Order had been issued on March [..], 2016 allowing K.C.'s ex-partner access and parenting time with their child.
7. On August 19, 2016, K.C. left a message with my assistant indicating she had not heard from me for a couple months. I failed to return that phone call.
8. On September 12, 2016 I spoke to K.C. and she asked me to contact opposing counsel to book a four-way meeting to discuss changes to the existing Order. I failed to follow my client's instructions to contact opposing counsel at that time.
9. On September 23, 2016, K.C. left a message for me inquiring as to whether I had made any progress regarding the four-way meeting. I failed to respond to that message.
10. On October 15, 2016, and October 25, 2016 I spoke to K.C. by telephone regarding her outstanding issues.
11. On November 2, 2016, I received correspondence from opposing counsel asking that I confirm I was retained to act for K.C. and suggesting a four-way meeting between the lawyers and clients.
12. Also on November 2, 2016, I received an email from K.C. asking me to call regarding getting the ball rolling on a parenting agreement. I spoke to K.C. on November 3, 2016 and scheduled a meeting with her.
13. Also on November 3, 2016, I responded to opposing counsel and offered available dates for the four-way meeting.
14. I met with K.C. on November 7, 2016 regarding concerns she had in light of information she had received from an assessor with Child and Family Services that the ex-partner had been charged on August 8, 2016 with impaired driving while the child was in the vehicle. We discussed options for addressing this concern. I told K.C. at the November 7th meeting that I would do a search at Provincial Court to determine whether the ex-partner's drivers license had been revoked. I failed to do that search.
15. On November 7, 2016, I also sent a letter to opposing counsel again asking for available dates for a four-way meeting. Opposing counsel then responded confirming that the four-way meeting was scheduled for November 21, 2016 at 9:30 a.m. at his offices.
16. On November 8, 10, 14 and 17, 2016, K.C. left messages for me to call her. I failed to respond to those messages.
17. On November 15, 2016, opposing counsel wrote to me regarding concerns with K.C. not providing access in accordance with the Court order. I failed to respond to that letter.
18. I failed to inform my client of the date of the four-way meeting.

19. Neither my client nor I attended the four-way meeting on November 21, 2016. The assistant for the opposing counsel emailed me at 9:49 a.m. on November 21, 2016 inquiring as to whether my client and I would be attending. I responded later that morning indicating that I did not believe a four-way meeting would work at that time.
20. Following my email to opposing counsel on November 21, 2016, I spoke to K.C. again regarding her concerns about access in light of the ex-partner's driving under the influence charges. Following that conversation I left a message for the assessor from Child and Family Services, however, that message was not returned and I took no further steps to reach the assessor.
21. On November 22, 2016, opposing counsel emailed me to indicate that the weekend was coming and it was time for his client to have parenting time, and advising that this was his final demand prior to initiating Court action. I failed to respond to that correspondence.
22. On December 1, 2016, opposing counsel served me with an application returnable in court on December [...], 2016 seeking to enforce the existing Consent Interim Variation Order due to K.C.'s failure to provide access to the child.
23. On December 1, 2016, I wrote to opposing counsel indicating that I was not available on December [...] and proposing alternate dates. Opposing counsel responded by letter dated December 1, 2016 indicating that my proposed dates were not available, and indicating that if my client agreed to some interim parenting time over the holidays, he may be able to move the application to January. I failed to respond to that correspondence.
24. Opposing counsel emailed me on December 6, 2016 confirming that the matter would proceed on December [...], 2016 at 2 p.m.
25. I did not inform K.C. of the application scheduled for December [...], 2016 until the morning of December [...], 2016.
26. On December 5, 2016, K.C. sent me a draft Affidavit responding to the ex-partner's Affidavit.
27. I appeared at the application in Court on December [...], 2016 with K.C.'s Affidavit and argued that the existing Order should be varied given K.C.'s evidence about the impaired driving charges. The Court ruled that the matter would proceed to Special Chambers and that the existing Order would continue to apply.
28. On December 8, 2016, I wrote to opposing counsel about scheduling another four-way meeting and giving available dates for the scheduling of Special Chambers.
29. On December 13, 2016, and on January 6, 2017, opposing counsel wrote to me providing his availability for the Special Chambers application and seeking dates for the four-way meeting. I failed to respond to those letters.
30. On January 6, 2017, K.C. sent me an email indicating that she had not been able to reach me for several weeks. I failed to respond to that email.
31. On January 12, 2017, K.C. left a message asking me to call her. I failed to respond to that message.
32. On February 14, 2017, K.C. spoke to my assistant and requested her file. My assistant advised me of that request but I failed to take steps to make the file available to K.C. at that time.

33. On February 21, 2017, K.C. attended at my office to pick up her file, but my assistant told her that she could not release the file without my approval. Although my assistant informed me of K.C.'s visit, I failed to take steps to make the file available to K.C. at that time.
34. On February 21, 2017, K.C. submitted a complaint to the Law Society.
35. On April 27, 2017, Resolution Counsel from the Law Society sent me an email indicating that K.C. was looking for file and had not yet received a statement of account. My assistant responded to that email on May 1 and May 3, 2017 indicating that both she and I had been out of the office due to illness, but that she would speak to me about having the file returned as soon as possible.
36. On May 10, 2017, I sent correspondence to K.C. stating that upon appointment she could pick up the file and requesting that K.C. pay an enclosed account.

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37. On May 27, 2017, I was charged with impaired driving under section 253(1)(a) and driving with a blood alcohol level of over .08 under section 253(1)(b) of the Criminal Code. I failed to report the charges to the Law Society at that time.
38. On June 7, 2017, the Law Society received information from J.L., an acquaintance of mine who had lived at my home for a period of time, that I was [...] and had recently been charged with impaired driving.
39. An investigator from the Law Society contacted me on June 7, 2017 and I confirmed the criminal charges to him. The investigator advised me that I needed to report the charges to the LSA pursuant to Rule 105(1) of the Rules of the Law Society. Notwithstanding this conversation, I failed to report the charges to the Law Society until June 19, 2017.
40. On August 15, 2017, K.K., a Law Society employee with the Practice Management department and T.H., an independent assessor, attended my office to perform a practice assessment. During the course of that review, the assessors asked if I had [...], and I denied that I did so.
41. On August 16, 2017, I was interviewed by two Law Society investigators. During the course of that interview I was asked about [...]. I said that I had stopped [...] a little more than a year ago, although I would [...], and no more than once a week. I said I had never attended court while [...] and that my service to my clients had never been affected by [...].
42. I failed to be candid with the Practice Management Assessors and with the Investigators as to [...], whether I had [...] and whether my [...] had impaired my ability to competently serve my clients. In fact I was suffering from [...] at the time, and was [...] on a daily basis.
43. I admit that my [...] impaired my ability to competently serve my clients in 2016 and 2017. I admit that I was [...] on a number of occasions while practicing law, including when attending client meetings and four-way meetings, and when appearing in Court.
44. On August 31, 2017, I consented to the appointment of a custodian for my practice and provided an Undertaking to the Law Society not to practice law until the Law Society agreed I was competent to do so and to provide, upon request, an IME assessing my competence in light of any [...] conditions including [...]. I remain bound by this Undertaking.

45. On November 10, 2017 I elected to become a non-practising member of the Law Society.
46. I have engaged in the following treatment and rehabilitation to [...]. I remain engaged in the following ongoing treatment: [...].

ADMISSION OF FACTS AND GUILT

47. I admit as facts the statements in this Statement of Admitted Facts and Admission of Guilt for the purposes of these proceedings.
48. I admit that I failed to communicate with my client K.C. and provide regular updates and that such conduct is deserving of sanction.
49. I admit that I failed to serve my client K.C. and that such conduct is deserving of sanction.
50. I admit that I failed to provide K.C.'s file to her in a timely manner and that such conduct is deserving of sanction.
51. I admit that I engaged in conduct that impaired my ability to competently serve my clients and that such conduct is deserving of sanction.
52. I admit that I failed to self-report my criminal charges and that such conduct is deserving of sanction.
53. I admit that I failed to be candid with the Law Society and that such conduct is deserving of sanction.
54. For the purposes of section 60 of the *Legal Profession Act*, I admit my guilt to the above conduct.
55. 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.

THIS STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT IS MADE THIS 18 DAY OF April, 2019.

“Laurie Cunningham”

LAURIE CUNNINGHAM

Schedule 2

Reprimand

Ms. Cunningham, as your regulator, the Law Society has two principal duties which we must be constantly aware of: the need to protect the interests of the public, and the need to protect and maintain the reputation of the legal profession. Your very serious conduct in these matters engages both of these considerations.

As lawyers, we have a great privilege of being a self-regulated profession, but that privilege can be lost if our members are not governable. Your conduct, as related in the Agreed Statement of Facts, raises some serious governability issues.

I note that these concerns were mitigated in part by your admission to the conduct, the fact that you have no prior disciplinary record, and most importantly, that you are working diligently to address your [...] problems.

A joint submission on sanction is to be given deference. You have admitted guilt to six citations which evidence very serious conduct matters. However, your cooperation in proceeding with the process today helped to avoid unnecessary hearing costs, avoid time and inconvenience to various parties and witnesses, and as well, minimize process costs.

I conclude that in light of all these circumstances and consideration, it is in the public interest to accept the joint submission. For those reasons, you are reprimanded today, but I must note that I am pleased to see that you are cooperating with your own rehabilitation, and I wish you all the best as you go forward.