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 MARY ODIASE
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Hearing Committee

Anthony Young, QC – Chair and Past President
Barbara McKinley – Lay Bencher
Glen Buick – Past Bencher

Appearances

Karen Hansen – Counsel for the Law Society of Alberta (LSA)
Elias Munshya – Counsel for Mary Odiase

Hearing Date

January 23, 2020

Hearing Location

LSA office, at 700, 333 - 11 Avenue SW, Calgary, Alberta

HEARING COMMITTEE REPORT

Overview

1. Ms. Odiase was admitted as a member of the Law Society of Alberta on January 11, 2017. At the time of the hearing her status was "Active/Practising". She practiced from February 1, 2017 to September 2, 2019 as a sole practitioner in Calgary; with a firm in Sylvan Lake from September 3 to October 22, 2019, and thereafter returning to her solo practice. Her practice areas were primarily Matrimonial and Family Law.

2. On January 22, 2020 the Hearing Committee (Committee) convened a hearing into the conduct of Mary Odiase, based on nine citations:

CO20172411

1. It is alleged that Mary Odiase failed to honour an agreement with opposing counsel to adjourn her client's application, instead proceeding with an ex parte without notice parenting application and that such conduct is deserving of sanction;

2. It is alleged that Mary Odiase failed to be candid with the Court and that such conduct is deserving of sanction;

CO20180147

3. It is alleged that Mary Odiase breached the Rules of the Law Society of Alberta, by practicing without approval of the Law Society, and that such conduct is deserving of sanction;

4. It is alleged that Mary Odiase failed to respond promptly and completely to communications from the Law Society and that such conduct is deserving of sanction;

CO20181841

5. It is alleged that Mary Odiase failed to provide competent, conscientious, and diligent service to her client, K.R., and that such conduct is deserving of sanction;

6. It is alleged that Mary Odiase failed to follow her client's instructions and that such conduct is deserving of sanction;

7. It is alleged that Mary Odiase failed to be candid with the Court and that such conduct is deserving of sanction;

8. It is alleged that contrary to the directions of the Court, the Rules of Court, and the Code of Conduct, Mary Odiase drafted a form of Order and sent it to the Court for execution without providing the Order, or prior notice of her communications with the Court, to opposing counsel and that such conduct is deserving of sanction; and

9. It is alleged that contrary to the directions of the Court, Mary Odiase drafted a Bill of Costs and submitted the Bill of Costs to the Review and Assessment Officer, without providing a copy to opposing counsel or allowing the opposing party to agree to the costs as proposed and that such conduct is deserving of sanction.

3. Ms. Odiase presented a Statement of Admitted Facts and Admission of Guilt which was accepted by the Committee.

4. There was a joint submission on sanction from Ms. Odiase and the Law Society which was also accepted by the Committee, resulting in the following sanctions and costs:

   (i) A one-month suspension; and
   (ii) Hearing costs in the agreed upon amount of $1,575.00.

Preliminary Matters

5. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested, so a public hearing into Mary Odiase's conduct proceeded.

6. The jurisdiction of the Committee was established by Exhibits 1, 2, and 3, consisting of the letter of appointment of the Committee, the Notice to Attend pursuant to section 59 of the Legal Profession Act (the Act), and the Certificate of Status of Ms. Odiase with the LSA.

Admission of Guilt

7. Ms. Odiase admitted guilt on all nine citations noted above.

8. The facts underlying her conduct are set out in the Statement of Admitted Facts and Admission of Guilt (the Statement), a redacted version of which is attached to this Hearing Committee Report as Schedule A.

Analysis and Decision on Citations

9. The essence of Citations 1 and 2 are admitted by Ms. Odiase in the Statement. In commenting on whether the court should proceed ex parte Madam Justice J.B. Veit had the following to say in H.B. v. A.B., 2005 ABQB 619 (Canlii):

> "[11] It goes without saying that a court, whose emblem of justice is a two-pan scale, should only proceed *ex parte* in exceptional circumstances. To the usual reasons of fundamental fairness which underlie such a policy is added the practical fact that, in family cases, where one party is perceived to have obtained a jump on the other because of an *ex parte* order that has poisoned the legal relationship between the parties from the outset, the court process can have a lasting impact on the children of the parties."

10. The fact that Ms. Odiase proceeded with the application on an ex parte basis after agreement that it would be adjourned was a breach of her duty to the profession. In this case, "fundamental fairness" was "thrown out the window"; compounded by Ms. Odiase failing to honour her agreement with opposing counsel to adjourn the application and misleading the Court by failing to tell it about that agreement.

11. Citations 3 and 4 are admitted by Ms. Odiase. The Statement supports the admission. Rule 119.1 states:

> "119.1 A law firm shall, before commencing the carrying on of its law practice in Alberta, obtain and at all times thereafter maintain, the following approvals:
>
> a) designation of a responsible lawyer; and

b) authorization to maintain a trust account

unless specifically exempted from these requirements by the Executive Director."

12. Ms. Odiase started her law firm, as a sole practitioner, on February 1, 2017. She did not have the approvals stipulated by Rule 119.1. She carried on her unauthorized practice until almost one year later (January 25, 2018) when her application to be a responsible lawyer and to be exempt from operating a trust account was approved.

13. It took from March 15, 2017 to January 25, 2018 to resolve the Rule 119.1 issue largely because Ms. Odiase either did not respond completely to Trust Safety or did not respond at all.

14. When Ms. Odiase flouted Rule 119.1, failing to obtain necessary approvals in a timely fashion or to answer questions of the Law Society is tantamount to refusing to be governed by her regulator.

15. Lawyer independence and self-regulation is an important part of upholding the Rule of Law. It reflects poorly on the legal profession and tends to harm the standing of the legal profession generally if the Law Society is unable to govern its members. It is for this reason that Ms. Odiase's behaviour is conduct deserving of sanction.

16. Ms. Odiase admits that during the course of her representation of her client, K.R., she:

a) delayed in finalizing documents;
b) drafted a deficient Order;
c) failed to follow up on having the Order approved by opposing counsel by delegating her responsibility to have Orders finalized and entered;
d) failed to follow the process for finalizing Orders as set out in Rule 9.2;
e) failed to attend Court with respect to an Emergency Protection Order review;
f) cited the wrong legislation in the application to extend an Emergency Protection Order;
g) filed her client's Affidavit in violation of Practice Note 2;
h) unilaterally adjourned the Emergency Protection Order application without canvassing the availability of opposing counsel;
i) failed to be gowned during a viva voce hearing;
j) lied to the Court stating that she had filed an application for access when, in fact, she had not;
k) received a comment from the Court about the "… irrelevant, immaterial, and sometimes incompetent cross-examination of both witnesses by both counsel …";
l) failed to reply to correspondence from her client regarding delay;
m) failed to reply to correspondence from her client regarding the payment of costs;

n) failed to address the finalization of the EPO and Statement of Costs on a timely basis;
o) wrote to the presiding Justice to finalize the EPO without copying opposing counsel;
p) failed to provide opposing counsel with a Bill of Costs for approval before submitting it to the Review Assessment Officer;
q) failed to take steps on behalf of her client regarding access;
r) failed to respond to her client about her delay, lack of communication and status;
s) failed to serve opposing counsel with her application for a Practice Note 7 Parenting Intervention;
t) disclosed confidential client information relating to a different client;
u) failed to respond to her client regarding a request for "a solution regarding getting proper contact with her child.";
v) failed to properly serve an application for parenting time; and
w) failed to file an Affidavit of Service of her Notice of Withdrawal of Lawyer of Record on a timely basis.

17. The Code of Conduct states:

> "3.1-2 A lawyer must perform all legal services undertaken on a client's behalf to the standard of a competent lawyer."

18. Rule 3.2-1 states that:

> "A lawyer has a duty to provide courteous, thorough and prompt service to clients. The quality of service required of a lawyer is service that is competent, timely, conscientious, diligent, efficient and civil."

19. The Commentary elucidates the meaning of the Rule:

> "[1] This rule should be read and applied in conjunction with Rule 3.1 regarding competence.
>
> [2] A lawyer has a duty to provide a quality of service at least equal to that which lawyers generally expect of a competent lawyer in a like situation. *An ordinarily or otherwise competent lawyer may still occasionally fail to provide an adequate quality of service*.
>
> [3] *A lawyer has a duty to communicate effectively with the client. What is effective will vary depending on the nature of the retainer, the needs and sophistication of the client and the need for the client to make fully informed decisions and provide instructions.* A lawyer must use reasonable efforts to ensure that the client comprehends the lawyer's advice and recommendations.

> [4] *A lawyer should ensure that matters are attended to within a reasonable time frame.* If the lawyer can reasonably foresee undue delay in providing advice or services, the lawyer has a duty to so inform the client, so that the client can make an informed choice about his or her options, such as whether to retain new counsel."

(our emphasis added)

20. In the Statement, Ms. Odiase cites the particulars of her failure to provide competent, conscientious and diligent service to her client proving the essence of Citation 5. These were not failures in quality of service, communication or timing that an ordinary or otherwise competent lawyer made on occasion. The cumulative nature of the failures demonstrates Ms. Odiase's incompetence. Such incompetence is incompatible with the best interests of the public and the members of the LSA. As such, it is conduct deserving of sanction.

21. Ms. Odiase also admits that she failed to follow her client's instructions to file an application for increased access on a timely basis (filing the application some 18 months after being retained for such purpose). This conduct is also incompatible with the best interests of the public. As such, Citation 6 is made out and is conduct deserving of sanction.

22. Lying to the Court stating that you have done something when you have not is, without question, sanctionable. A lack of honesty is something abhorrent to the legal profession. Ms. Odiase admits to lying by admitting that she … "failed to be candid with the Court on June 15, 2018 when (she) told the Court that an application for access had been filed and served when (she) had not filed or served such an application …" For this reason, Citation 7 is made out.

23. Rule 5.1-1 states:

> "When acting as an advocate, a lawyer must represent the client resolutely and honourably within the limits of the law, while treating the tribunal with candour, fairness, courtesy and respect."

The Commentary to this Rule is clear:

> "[6] A lawyer must not communicate with a tribunal respecting a matter unless the other parties to the matter, or their counsel, are present or have had reasonable prior notice, or unless the circumstances are exceptional and are disclosed fully and completely to the court."

The Foundational Rules of the Alberta Rules of Court "… oblige the parties to communicate honestly, openly and in a timely way …" Drafting the form of Order for the

June 15, 2018 EPO hearing and sending to the Court for execution without providing the Order, or prior notice of her communications with the Court to opposing counsel offends both the Code of Conduct and the Rules of Court, as does drafting of the Bill of Costs and submission to the Review and Assessment Office without providing a copy to opposing counsel or allowing the opposing counsel to agree to the costs proposed. The further admission that this was done contrary to the directions of the Court only exacerbates the seriousness of this conduct. It is conduct deserving of sanction. Citation 8 and 9 are, for this reason, both made out.

Conclusion

24. After reviewing the Statement, and in considering the relevant provisions of the Code of Conduct, and after hearing the arguments of the LSA, and counsel for Ms. Odiase, the Committee accepts the admission of guilt on each of the nine citations. In accordance with subsection 60(4) of the *Act*, it is deemed to be a finding of this Committee that such conduct is deserving of sanction on the citations pursuant to section 71 of the *Act*.

Joint Submission on Sanction

25. The Law Society and Ms. Odiase presented the following joint submission regarding sanction and costs in this matter:

    (i) A one-month suspension; and

    (ii) Hearing costs in the agreed upon amount of $1,575.00 (to be paid within three months of readmission.)

Analysis and Decision on Sanction

26. The Committee has noted the following mitigating factors in this matter that Ms. Odiase:

    (i) Has no discipline record with the Law Society;

    (ii) Cooperated in submitting the Statement thereby reducing costs and the hearing time required; and

    (iii) Has worked with Practice Management who reports that she has been cooperative and engaged.

27. The Committee has also noted the following aggravating factors including:

    (i) The conduct complained of (including lying to the Court and failing to honour her agreement with counsel) amounts to very serious misconduct;

    (ii) The conduct complained of (including failing to pursue matters on a timely basis, and failing to communicate) had serious implications for Ms. Odiase's client;

(iii) There are aspects of governability that are not ideal, including failure to observe the Rules of Court, the Code of Conduct and the direction of the Court.

28. The Supreme Court of Canada in *R.* v. *Anthony-Cook,* 2016 SCC 43 (CanLII), held that the trier of fact should not depart from a joint submission unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest. The Committee finds that the joint submission would not bring the administration of justice into disrepute nor is it otherwise contrary to the public interest.

29. The Committee has reviewed the cases submitted by counsel on sanction, including:

a) *R. v. Anthony-Cook*, 2016 SCC 43;
b) *LSA v. Peterson*, 2011 ABLS 10; and
c) *LSA v. Wald*, 2007 LSA 26.

30. In accepting the joint submission on sanction, the Committee accepts that the sanctions will be of such gravity as to maintain the public's confidence in the legal profession, and that such sanctions will serve as a specific deterrent to Ms. Odiase and a general deterrent to the membership. Accordingly, the Committee imposes the following sanctions and costs:

(i) A one-month suspension (to commence February 1, 2020); and

(ii) Hearing costs in the agreed upon amount of $1,575.00 (to be paid within three months of readmission.)

Concluding Matters

31. The Committee ordered a Notice to the Profession be sent out in accordance with section 85 but no Notice to the Attorney General is required.

32. The exhibits, other hearing materials, and this report will be available for public inspection, including providing copies of exhibits for a reasonable copy fee, although redactions will be made to preserve personal information, client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Calgary, Alberta September 24, 2020

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Anthony Young, QC

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Barbara McKinley

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Glen Buick

Schedule A

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

-AND-

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF

MARY ODIASE

A MEMBER OF THE LAW SOCIETY OF ALBERTA

HEARING FILE NUMBER HE20190222

STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT

INTRODUCTION

1. I was admitted as a member of the Law Society of Alberta (the "Law Society") on January 11, 2017.

2. My present status with the Law Society is Active/Practicing.

3. From February 1, 2017 to September 2, 2019 I was a sole practitioner in Calgary. From September 3 to October 22, 2019 I practiced with a firm in Sylvan Lake. As of October 23, 2019, I am again practicing as a sole practitioner.

4. My practice is primarily Matrimonial and Family Law.

CITATIONS

5. On August 20, 2019, the Conduct Committee Panel referred the following conduct to a hearing:

CO20172411

1. It is alleged that Mary Odiase failed to honour an agreement with opposing counsel to adjourn her client's application, instead proceeding with an ex parte without notice parenting application and that such conduct is deserving of sanction.

2. It is alleged that Mary Odiase failed to be candid with the Court and that such conduct is deserving of sanction.

CO20180147

3. It is alleged that Mary Odiase breached The Rules of the Law Society of Alberta, by practicing without approval of the Law Society, and that such conduct is deserving of sanction.

4. It is alleged that Mary Odiase failed to respond promptly and completely to communications from the Law Society and that such conduct is deserving of sanction.

CO20181841

5. It is alleged that Mary Odiase failed to provide competent, conscientious, and diligent service to her client, K.R., and that such conduct is deserving of sanction.

6. It is alleged that Mary Odiase failed to follow her client's instructions and that such conduct is deserving of sanction.

7. It is alleged that Mary Odiase failed to be candid with the Court and that such conduct is deserving of sanction.

8. It is alleged that contrary to the directions of the Court, the Rules of Court, and the Code of Conduct, Mary Odiase drafted a form of Order and sent it to the Court for execution without providing the Order, or prior notice of her communications with the Court, to opposing counsel and that such conduct is deserving of sanction.

9. It is alleged that contrary to the directions of the Court, Mary Odiase drafted a Bill of Costs and submitted the Bill of Costs to the Review and Assessment Office, without providing a copy to opposing counsel or allowing the opposing party to agree to the costs as proposed and that such conduct is deserving of sanction.

FACTS

ADMITTED FACTS REGARDING CO20172411

6. I represented the mother in a parenting matter where T.D. was counsel for the alleged father.

7. On March 27, 2017, K.R. obtained an Ex Parte Interim Parenting Order returnable in Provincial Court on April 7, 2017, and further adjourned to June […], 2017.

8. On June […], 2017, T.D. and I appeared in Provincial Court and an interim Order was granted as follows:
    a. That the alleged father would pay for and take a DNA Paternity Test.
    b. That the review of the Ex Parte Interim Parenting Order was adjourned to July […], 2017

c. That the Ex Parte Interim Parenting Order would remain in place until the review date.

9. On June 30, 2017, T.D. wrote to me and advised that the alleged father was having difficulties raising the funds for the DNA paternity test. T.D. requested an adjournment of the July […], 2017 review date for a month to allow sufficient time for the DNA testing to take place.

10. On July 7, 2017 I emailed T.D. and confirmed my agreement to the adjournment, noting that I would be attending court that day to advise the court as to the status of the matter and arrange a date in August. T.D.'s assistant replied to my email on July 10, 2017, advising that T.D. would be on vacation from July 20, 2017 to August 14, 2017, and requesting a Court date after her return.

11. On July […], 2017 I attended at the Provincial Court and advised the Judge that T.D. was counsel for the father and that she wanted the matter adjourned. When asked by the Judge if I was attending as T.D.'s agent, I stated that I was not. The Judge indicated that she was troubled by the lack of attendance of T.D. and that she felt it was "quite presumptuous" for T.D. to assume that the matter would be adjourned. The Judge stood the matter down for 30 minutes in case T.D. was simply running late.

12. During the 30-minute adjournment, I made no attempt to contact T.D.

13. When the matter was recalled, when the Judge again asked if I was appearing as T.D.'s agent, or on her behalf, I responded "[n]o, I wasn't asked to be her agent. I just told her that it's our application and would like to let the Court know the position of the mother at this time, so we'll be in court on this day". The Judge asked me if T.D. provided a reason for not attending. I replied "[n]o. She said, because the client doesn't have the money to pay for the DNA test yet-", "-so she'll be asking that the matter be adjourned."

14. I then proceeded to make an application for a parenting order, requesting parenting time for the alleged father, despite the fact that T.D. was not in attendance and the fact that the alleged father had not made an application for parenting time. When the Judge again expressed criticism of T.D. for not attending, I simply agreed with her, rather than confirming that T.D. was not there because I had agreed to an adjournment. The Judge granted a Final Parenting Order in favour of my client and awarded costs of $500 against T.D.'s client. In so ordering, the Judge stated that she found it unacceptable that [TD] and her client decided unilaterally not to come to Court. I responded by saying "[a]s the Court pleases."

15. On July 18, 2017, T.D. wrote to me to inquire as to the date to which the matter had been adjourned. In response I provided T.D. with the Final Parenting Order.

16. On July 19, 2017, T.D. wrote to the Judge, copying me, describing the sequence of events and stating as follows:

> I did not appear in Court on July 12, 2017 as Ms. Odiase and I had agreed that the matter would be adjourned and I trusted my friend to make those representations to the Court and to adjourn the application. This final Parenting Order is highly prejudicial to [the alleged father] and not of his doing. May I please appear before you this week to address this matter as I leave for vacation this weekend. I am seeking that the Final Parenting Order granted on July […], 2017 be vacated and the matter be adjourned to August 28, 2017.

17. The Judge provided T.D. and me with copies of the transcript of the proceedings from July […], 2017 and ordered that we appear before her on August […], 2017.

18. On August […], 2017, the Judge found that I should not have proceeded with the application on July […], 2017, in light of my communications with T.D., and that there was an obligation on me to advise the Court on that date that I was acting as T.D.'s agent with regard to the adjournment. The Judge vacated the July […], 2017 Order, ordered me to personally pay $500.00 in costs to T.D.'s client, and adjourned the matter to November […], 2017.

ADMISSIONS OF GUILT REGARDING C020172411

19. I admit that I failed to honour the agreement with T.D. to adjourn my client's application and instead proceeded with an ex parte without notice parenting application and that such conduct is deserving of sanction.

20. I admit that I failed to be candid with the Court when I denied to the Court that I was acting as T.D.'s agent with regard to the adjournment, and that such conduct is deserving of sanction.

ADMITTED FACTS REGARDING CO20180147

21. Around February 1, 2017, I commenced practicing as a sole practitioner.

22. On March 15, 2017, I sent an Application to Designate a Responsible Lawyer and/or Operate a Trust Account to the Trust Safety department of the Law Society of Alberta.

23. On March 16, 2017, Trust Safety sent two emails to me regarding the application, the first email indicating that the last page, being the declaration and signature page, of the application was missing and advising me that the application would not be processed until the last page was received. The second email advised me that my Application could not be processed until I had completed a module on Trust Accounting and providing the log in details for the course. I did not respond to those emails.

24. On March 28, 2017, Trust Safety again emailed me requesting the last page of the application and an update of the courses required to operate a trust account. I did not respond to that email.

25. On April 25, 2017, Trust Safety received the last page of my application.

26. On May 18, 2017, Trust Safety emailed me requesting an update on the courses required to operate a trust account. I did not respond to that email.

27. On May 25, 2017, I spoke to Resolution Counsel from the Law Society regarding resources for my practice. Resolution Counsel emailed me the same date providing recommendations of various resources and hyperlinks to those resources. Those resources included the Small Firm Practice Course which included in the "Before You Start" section the information that before commencing a legal practice a lawyer must apply for a Responsible Lawyer designation and either obtain authorization to operate a trust account or apply for an exemption from operating a trust account.

28. On July 27, 2017, Trust Safety sent me an email requesting an update on completing the required courses. In response, I called the Trust Safety department and advised a Trust Safety representative that I was unsure whether I would be staying in Alberta but wanted to complete all of the requirements in the event I did not move. The Trust Safety representative advised me that my application would be on hold until I completed the required courses.

29. On September 1, 2017, the Trust Safety department contacted me requesting an update on the required courses. I responded by telephone and advised a Trust Safety representative that I wanted to operate a trust account and would be completing the courses as soon as possible.

30. On November 27, 2017, a Trust Safety representative contacted me by telephone regarding my failure to complete the required courses. I advised the representative that I was practicing law without a trust account. The Trust Safety representative told me that since I had not been approved as a responsible lawyer, I should not be practicing. I advised the representative that I would complete the courses by the end of the week.

31. On December 6, 2017, I submitted my proof of completion of the required courses to the Trust Safety Department.

32. On January 5, 2018, Trust Safety emailed me and acknowledged receipt of the proof of completion of the courses, confirmed that I should not be practicing law in Alberta until my application had been approved, and advised me that Trust Safety would approve my Application for Designation as a Responsible Lawyer after it received an Application for Exemption to maintain a Trust Account.

33. On January 10, 2018, Trust Safety received my Application for Exemption.

34. On January 25, 2018, Trust Safety notified me that my application to be a responsible lawyer and to be exempt from operating a trust account was approved.

ADMISSIONS OF GUILT REGARDING CO20180147

35. I admit that I breached the Rules of the Law Society of Alberta by practicing from February 1 to January 25, 2018 without the approval of the Law Society as required by Rule 119.1, and that such conduct is deserving of sanction.

36. I admit that I failed to respond promptly and completely to communications from the Trust Safety department of the Law Society and that such conduct is deserving of sanction.

ADMITTED FACTS REGARDING CO20181841

The Unjust Enrichment and Partner Support Claim

37. I was retained on behalf of K.R. on two matters by way of two legal aid certificates. In the first matter, I was retained to represent K.R. in an ongoing unjust enrichment and partner support claim against a former common law partner G.B.

38. K.R.'s claim against G.B. was resolved by way of a binding Judicial Dispute Resolution ("JDR") on September […], 2017.

39. On at least two occasions, K.R. emailed me regarding concerns with the JDR Judgment, including the fact that a delay in finalizing the documents would mean that she would not be able to pay rent, and the fact that there were no Maintenance Enforcement Program clauses.

40. Instead of addressing K.R.'s concerns by taking steps to correct the Judgment and Order and have them filed, I advised K.R. that she should herself go to court and obtain an ex parte order compelling opposing counsel to sign the order or for the Judge to dispense with the signature of the other party. I admit that it was my obligation as K.R.'s counsel to take the necessary steps to have the orders finalized and entered. I further admit that given my concerns about opposing counsel being uncooperative in signing the orders, I should have followed the process provided by Rule 9.2.

41. The provisions of the JDR Judgment provided that K.R.'s spousal support would commence on October 15, 2017. I failed to have the JDR Judgment finalized before October 15th, and accordingly it was necessary for me to also prepare a Consent Order to deal with catching up the delayed spousal support.

42. The JDR Judgment and Consent Order were not filed until November 8, 2017. Neither the Judgment nor the Order contained the necessary clauses dealing with the Maintenance Enforcement Program.

The Emergency Protection Order Proceedings

43. On March 13, 2017, K.R., acting on her own behalf, obtained an Emergency Protection Order ("EPO") regarding D.R. Thereafter, I agreed to act on behalf of K.R. with regard to the EPO.

44. A review of the EPO was scheduled for April […], 2018. I failed to attend the Court on that date, resulting in an order vacating the EPO unless K.R. filed an application for a hearing of the EPO within 10 days or service of the Order.

45. On April 27, 2018, I filed K.R.'s application returnable June […], 2018 and affidavit in support of an extension of the EPO. On that date, I received an email from counsel for D.R. noting that I had cited the wrong legislation in my application to extend the EPO, that K.R.'s Affidavit violated Practice Note 2, and that I had unilaterally adjourned the EPO review date to June […], 2018 without canvassing his availability.

46. On June […], 2018, I attended the EPO viva-voce hearing. The presiding Justice took issue with my failure to be gowned, but made a one-time exception for me.

47. During the June […], 2018 I was asked by the Court if an application for access had been filed. I told the Court that I had filed and served an application for access. This was not true, as I had not at that point filed or served an application on K.R.'s behalf for access to the child, and in fact did not file that application until August 13, 2018.

48. Following viva voce evidence from both parties, the Justice ordered that the EPO be extended for one year and ordered costs against D.R. In delivering his decision the Justice commented: "And after some of the most irrelevant, immaterial, and sometimes incompetent cross-examination of both witnesses by both counsel, we get no further information of any value than what we had before." The Court directed me to draft the order and a Bill of costs and provide both to D.R.'s counsel for approval.

49. On July 24, 2018 K.R. emailed me and raised, among other concerns, the delay in my drafting of the EPO order. I did not reply to that email.

50. On July 27, 2018, K.R. emailed me, and, among other things, ask me to immediately address the fact that D.R. had not paid the costs ordered at the EPO hearing. I did not reply to that email.

51. On September 27, 2018, K.R. submitted a complaint to the Law Society regarding my representation of her.

52. In June of 2019 and in the course of her review of K.R.'s complaint, Conduct Counsel for the Law Society of Alberta asked me why I had not finalized the EPO Order and the Statement of Costs.

53. On July 8, 2019, without prior notice to counsel for D.R., and without copying him on my letter, I wrote to the Justice who had granted the EPO order on June […], 2018, enclosing a form of Order and requesting the Justice sign it along with a fiat which was required because of the delay in entering the order.

54. In July of 2019, I submitted a Bill of Costs from the June […], 2018 hearing to the Review and Assessment Officer without first providing it to counsel for D.R. for his approval.

The Custody and Parenting Proceedings

55. In April of 2016 D.R. had been granted interim sole custody of the child with supervised parenting time for K.R. by way of a Consent Interim Without Prejudice Order. On May […], 2016, a further Interim Consent Order expanded K.R.'s parenting time and order that the issue of parenting be addressed by way of a Domestic special application. On June […], 2016, a further Court Order suspended K.R.'s access until the hearing of the matter.

56. On February 15, 2017 K.R. retained me by way of a Legal Aid Certificate with regard to amending the interim orders and increase her parenting time.

57. On April 10, 2017 I filed a brief on K.R.'s behalf with regard to the Domestic Special application which was scheduled for April […], 2017. On April 12, 2017, K.R. was hospitalized on a Form 8 Mental Health Warrant, and the Domestic Special application was adjourned sine die. I took no further steps with regard to that application.

58. On July 25, 2017, K.R. emailed me to express concern about a lack of communication from me, and to ask what I was doing about increasing her access to her child. I did not respond to that email.

59. On November 15, 2017, I filed an application and affidavit on K.R.'s behalf seeking appointment of counsel for the child. That application was originally set for December […], 2017 and later adjourned to March […], 2018 and then March […], 2018. On March […], 2018, the application to appoint counsel for the child was granted.

60. On March 28, 2018, I filed an application and supplemental affidavit on behalf of K.R. seeking a Practice Note 7 Parenting Intervention which application was set for April […], 2018.

61. On April 16, 2018, I received correspondence from counsel for D.R. indicating that he had only learned of the April […], 2018 application from counsel for the child as the application had not been served on him. He requested an adjournment.

62. On June 7, 2018, emails were exchanged between myself, counsel for D.R. and counsel for the child regarding K.R.'s Practice Note 7 application scheduled for June […], 2017. Counsel for the child requested an adjournment so that she could complete her assessment.

63. On July 10, 2018, I sent K.R. a draft of an application and related affidavit seeking parenting time for K.R. The draft Affidavit refers a different party rather than D.R. and includes confidential client information relating to a different client. K.R. replied expressing her concerns about the mistakes.

64. In July of 2018, counsel for the child proposed an interim access schedule, and there were emails exchanges regarding organizing access for K.R. with the child in a public place.

65. On July 24, 2018, K.R. emailed me and, among other things, requested a "solution regarding getting proper contact with her child". I did not respond to that letter.

66. On July 27, 2018, K.R. emailed me and instructed me to bring two applications, one for supplemental support payments and one for parenting time.

67. Between August 1 and August 13, 2018, I communicated with counsel for the child and counsel for D.R. indicating that a parenting application had been scheduled for August […], 2018. D.R. responded that he had not been served with any application for parenting time.

68. On August 13, 2018 I filed a Family Application on behalf of K.R. for parenting time. The application was scheduled for August […], 2018, and was then adjourned to September […], 2018.

69. On August 23, 2018, K.R. emailed me to say that she felt that my diligence on the file was not adequate and that I was not responding in a timely and reasonable fashion. I responded by informing K.R. that she could not terminate my services without contacting Legal Aid.

70. On August 28, 2018, K.R. filed and served an application in the Court of Queen's Bench to have me removed as her counsel.

71. After receiving K.R.'s application and affidavit in support regarding my removal as counsel, opposing counsel emailed me on August 28, 2018 requesting that I confirm whether I was still acting for K.R., or, if not, requesting that I file and serve a Notice of Withdrawal.

72. On August 30, 2018, Counsel for the Child provided her parenting recommendations and the child's wishes.

73. On September 4, 2018, I filed and served a notice of Withdrawal of Lawyer of Record and adjourned K.R.'s parenting application sine die.

74. I did not attend K.R.'s application on September […], 2018 to have me removed as counsel. D.R.'s counsel attended and advised the Court that I had served his office with a Notice of Withdrawal the day before. On that basis, the Court determined that the issue had been addressed and indicated that costs would be in the cause.

75. I did not file the Affidavit of Service of my Notice of Withdrawal of Lawyer of Record until July 8, 2019, after Conduct Counsel for the Law Society inquired as to whether the Affidavit of Service had been filed as required by the Rules of Court.

ADMISSIONS OF GUILT REGARDING C020181851

76. I admit that I failed to provide competent, conscientious, and diligent service to my client, K.R., and that such conduct is deserving of sanction, particulars of which are:
    i. Failing to file the JDR Judgment and Consent Order arising from the September […], 2017 JDR in a timely fashion;
    ii. Failing to include the necessary Maintenance Enforcement Program clauses in the September […], 2017 JDR Judgment and Consent Order;
    iii. Advising K.R. to go to court herself to get the September […], 2017 JDR Judgment signed contrary to both the Rules of Court and my professional duties to K.R. ;
    iv. Failing to attend the EPO review hearing scheduled for April […], 2018;
    v. Filing materials in support of the extension of the EPO which cited the wrong legislation and an affidavit which contained hearsay and violated Family Law Practice Note 2;
    vi. Attending the June […], 2018 viva voce hearing without being gowned;
    vii. Engaging in irrelevant, immaterial, and sometimes incompetent cross-examination of the witnesses at the June […], 2018 hearing;
    viii. Failing to finalize the order and bill of costs from the June […], 2018 hearing in a timely fashion;
    ix. Failing to reply to K.R.'s communications on a number of occasions;

x. Setting down applications without service upon or notice to opposing counsel;
xi. Including another client's confidential information in a draft affidavit for K.R.;
xii. Incorrectly advising K.R. that she could not terminate my services without contacting Legal Aid;
xiii. Failing to attend K.R.'s application on August […], 2018 seeking to have me removed as her counsel;
xiv. Failing to file the Affidavits of Service of my Notice of Withdrawal of Lawyer of Record in a timely manner.

77. I admit that I failed to follow my client's instructions in that I failed to file an application for increased access until August of 2018, despite having been retained for that purpose in February of 2017, and that such conduct is deserving of sanction.

78. I admit that I failed to be candid with the Court on June […], 2018 when I told the Court that an application for access had been filed and served when I had not filed or served such an application, and that such conduct is deserving of sanction.

79. I admit that, contrary to the directions of the Court, the Rules of Court, and the Code of Conduct, I drafted the form of Order for the June […], 2018 EPO hearing and sent it to the Court for execution without providing the Order, or prior notice of my communications with the Court to opposing counsel, and that such conduct is deserving of sanction.

80. I admit that contrary to the directions of the Court, I drafted a Bill of Costs for the June […], 2018 EPO hearing and submitted the Bill of Costs to the Review and Assessment Office, without providing a copy to opposing counsel or allowing the opposing party to agree to the costs as proposed and that such conduct is deserving of sanction.

ACKNOWLEDGEMENTS

81. I acknowledge that I have had the opportunity to consult legal counsel and that I have consulted legal counsel.

82. I acknowledge that I have signed this Statement of Facts and Admission of Guilt freely and voluntarily.

83. I acknowledge that I understand the nature and consequences of this Admission.

84. I acknowledge that, although entitled to deference, a Hearing Committee is not bound to accept a joint submission on sanction.

DATED THE 17th DAY OF November, 2019

"Mary Odiase"
Mary Odiase