

**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 KAREN HERRINGTON  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Hearing Committee**

Ryan Anderson, QC – Chair  
Catherine Workun, QC – Adjudicator  
Edith Kloberdanz – Adjudicator

**Appearances**

Kelly Tang – Counsel for the Law Society of Alberta (LSA)  
Mona Duckett, QC – Counsel for Karen Herrington

**Hearing Date**

November 12, 2020

**Hearing Location**

Virtual

**HEARING COMMITTEE REPORT**

**Overview**

1. Ms. Herrington is a lawyer practicing in Sherwood Park Alberta, primarily in family law. By way of a Statement of Admitted Facts and Admissions of Guilt (the “Statement”), she admitted her guilt in respect of two citations:
  - 1) It is alleged that Karen Herrington brought the administration of justice into disrepute by filing an affidavit containing inappropriate images and that such conduct is deserving of sanction; and
  - 2) It is alleged that Karen Herrington failed to provide legal services to the standard of a competent lawyer and that such conduct is deserving of sanction.  
(the “Citations”)
2. On November 12, 2020, the Hearing Committee (the “Committee”) convened a hearing and accepted the Statement as being in the appropriate form.
3. After hearing from the parties and reviewing the Statement and associated exhibits the

Committee accepted the Statement of Ms. Herrington and found Ms. Herrington guilty of conduct deserving of sanction on the Citations.

4. The Committee found that based on the facts and representation the appropriate sanction was a reprimand.
5. The other outstanding issues in contention between the LSA and Ms. Herrington were costs and whether this matter required a referral to the Solicitor General.
6. For the two outstanding issues the Committee finds:
  - Ms. Herrington should pay costs in the amount of \$5,407.50, payable within 6 months; and
  - This matter should be referred to the Solicitor General.

### **Preliminary Matters**

7. 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 Ms. Herrington's conduct proceeded.

### **Statement of Admitted Facts and Admissions of Guilt**

#### ***Facts***

8. The Statement, which is attached to this decision as Schedule 1, sets out the following facts.
9. Ms. Herrington was retained by B.H. (the "Husband") to represent him in a family law action against his former common-law partner, K.P (the "Wife"). The main dispute between the Husband and Wife were contact and parenting time for the children.
10. The Husband and Wife had resided together for approximately 12 years prior to separation. Ms. Herrington was attempting to negotiate a shared parenting regime on behalf of the Husband. Ms. Herrington sent a proposal to the Wife indicating if they could not come to an agreement Ms. Herrington would be bringing an application to determine parenting.
11. The Husband later expressed concern to Ms. Herrington that the Wife was planning to leave the Province of Alberta with the children. All communication had broken down between the parties. Ms. Herrington contacted the police who indicated that without a Court Order they would not prevent the Wife from leaving the jurisdiction.
12. Ms. Herrington drafted an emergency application and affidavit (the "Affidavit"). The Affidavit included texts that the Husband and Wife had sent back and forth but no

pictures. Ms. Herrington sent the draft affidavit for signing with a lawyer in [W] where the Husband was located.

13. The Husband added additional exhibits to the Affidavit without consulting Ms. Herrington. Some of the additional exhibits included explicit and nude pictures of the Wife.
14. Ms. Herrington was out of the office for the next two days at continuing education courses. Ms. Herrington received the sworn Affidavit late in the afternoon of March 8 with Court scheduled for the morning of March 9.
15. Upon reviewing the Affidavit and seeing the additional exhibits Ms. Herrington sought the advice of lawyers in her office and eventually decided to proceed using the Affidavit. It was thought by Ms. Herrington that the pictures showed a pattern of behaviour from the Wife and that she needed the Affidavit for the emergency application the next morning. Ms. Herrington did not want to alter the Affidavit by removing the exhibits as it would not be appropriate to alter a sworn Affidavit.
16. Ms. Herrington attended Court and received an ex-parte order using the sworn but unfiled Affidavit of the Husband. Ms. Herrington later filed the Affidavit after the Order was granted and served it on the Wife's counsel.
17. The Wife's counsel asked Ms. Herrington to remove the explicit photos from the Affidavit. After further communications between Ms. Herrington and the Wife's lawyer the parties agreed to black out the nude photographs. The Wife's lawyer brought an application to remove the Affidavit and the Court ordered that the Affidavit be expunged, the Wife be awarded \$250 in costs and that the Affidavit be refiled with redacted photographs.

## **Guilt**

### ***Citation 1***

18. Ms. Herrington admitted her guilt in that she brought the administration of justice into disrepute by filing an affidavit containing inappropriate images.
19. Ms. Herrington *admitted* that her conduct was deserving sanction under section 49 of the *Legal Profession Act* (the *Act*).

### ***Citation 2***

20. Ms. Herrington admitted her guilt in that she failed to provide legal services to the standard of a competent lawyer.
21. Ms. Herrington admitted that it was an error to include the nude and explicit pictures. She also admitted that this caused her client additional expense and time in having to deal with these matters.

22. Ms. Herrington admitted that her conduct was deserving sanction under section 49 of the *Act*.

### **Findings**

23. Before accepting an admission of guilt, a hearing committee may consider whether:
- 1) The admission was made voluntarily and free of undue coercion;
  - 2) The lawyer has unequivocally admitted guilt to the essential elements of the citations;
  - 3) The lawyer understands the nature and consequences of the admission; and
  - 4) The lawyer understands that the hearing committee is not bound by any submission advanced jointly by the lawyer and the LSA.
24. The Committee considered the above and found the Statement to be in an acceptable form pursuant to section 60 of the *Act* and accepts the Statement into the hearing record.
25. The Committee therefore finds Ms. Herrington Guilty on the Citations and that her conduct is deserving sanction.
26. This Committee is not bound by previous decisions, but this is somewhat a novel set of facts. Counsel for the parties did not have any caselaw that was directly on point.
27. Ms. Herrington has admitted that she should have dealt with this matter differently but being provided an Affidavit that had been altered by her client for an emergency application on short notice put her in a difficult position. She consulted other lawyers in her office for their advice and made this decision to proceed. This does not leave Ms. Herrington blameless but goes to show this was not a simple situation.
28. This Committee therefore sanctions Ms. Herrington to a reprimand (attached as Schedule 2), which reprimand was given in person at the time of the Hearing.

### **Submissions of the LSA**

#### ***Sanction***

29. Counsel for the LSA proposed that Ms. Herrington be given a one-month suspension. LSA counsel stressed the fact that Ms. Herrington's action potentially contravened the Criminal Code.
30. Counsel for the LSA further submitted that Ms. Herrington has an obligation to be fully aware of the evidence she is rendering and to follow the limits of the law. A lawyer has a responsibility to not follow unreasonable instructions.
31. LSA counsel stated that the images were very damaging to the Wife. Additionally, the

public should be able to be assured that the opposing counsel will treat them fairly and within the limits of the law.

32. Counsel for the LSA admitted that specific deterrence was not an issue in these circumstances. However, general deterrence is important and it is important that the profession know that these actions are inappropriate.

### **Costs**

33. Counsel for the LSA has proposed costs in the sum of \$5,880.00. Counsel indicated that Ms. Herrington has been cooperative but that costs were still appropriate in the circumstances. Counsel did advise that the matter was concluded quicker than expected so their estimate is likely high by 1 to 2 hours of time.

### **Referral to the Solicitor General**

34. Counsel for the LSA argued that this matter was significant as the addition of the explicit and nude pictures in the Affidavit could be criminal in nature under the *Criminal Code* (R.S.C., 1985, c. C-46) section 162.1(1) which reads:

#### ***Publication, etc., of an intimate image without consent***

**162.1 (1)** *Everyone who knowingly publishes, distributes, transmits, sells, makes available or advertises an intimate image of a person knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that person gave their consent to that conduct, is guilty*

**(a)** *of an indictable offence and liable to imprisonment for a term of not more than five years; or*

**(b)** *of an offence punishable on summary conviction.*

#### ***Definition of intimate image***

**(2)** *In this section, intimate image means a visual recording of a person made by any means including a photographic, film or video recording,*

**(a)** *in which the person is nude, is exposing his or her genital organs or anal region or her breasts or is engaged in explicit sexual activity;*

**(b)** *in respect of which, at the time of the recording, there were circumstances that gave rise to a reasonable expectation of privacy; and*

**(c)** *in respect of which the person depicted retains a reasonable expectation of privacy at the time the offence is committed.*

#### ***Defence***

**(3)** *No person shall be convicted of an offence under this section if the conduct that forms the subject-matter of the charge serves the public good and does not extend beyond what serves the public good.*

#### ***Question of fact and law, motives***

**(4)** For the purposes of subsection (3),

**(a)** it is a question of law whether the conduct serves the public good and whether there is evidence that the conduct alleged goes beyond what serves the public good, but it is a question of fact whether the conduct does or does not extend beyond what serves the public good; and

**(b)** the motives of an accused are irrelevant.

35. Counsel for the LSA states that as there is a potential criminal offence it is mandatory for the matter to be referred to the Solicitor General.

### **Submissions of Ms. Herrington**

#### **Sanction**

36. Counsel for Ms. Herrington proposed that a reprimand was a sufficient sanction.
37. Ms. Herrington's counsel argued that Ms. Herrington did not add the pictures to the Affidavit and felt she was stuck in a difficult situation of proceeding with the Application and relying on the Affidavit or not meeting her client obligations. This was an emergency mobility application that required quick action.
38. Counsel for Ms. Herrington also indicated that there was nothing criminal about the Affidavit as it met the test for the public good under the Criminal Code.
39. Counsel for Ms. Herrington further argued that the case law provided was not on point as the use of the images in the case law were for either sexual harassment or for abuse, but Ms. Herrington's actions did not fall into these categories.
40. Counsel for Ms. Herrington emphasized that a reprimand would meet the factors to be considered by the Committee. A reprimand would show the appropriate response to the public. This one action does not characterize Ms. Herrington or her practice. Counsel also noted that none of the other lawyers Ms. Herrington spoke to were aware of the Criminal Code provision or raised it as an issue in her discussions with them. A harsher sanction would do nothing more to protect the public interest.

#### **Costs**

41. Counsel for Ms. Herrington argued that this was a novel fact scenario without precedent. As it was novel it was argued that this matter required a determination for the matter to be decided. Counsel also stated that Ms. Herrington has been cooperative throughout the process.

#### **Referral to the Solicitor General**

42. Counsel for Ms. Herrington argued that these pictures were not criminal in nature. Ms. Herrington's counsel admitted that the pictures were not necessary, but Ms. Herrington had limited options.

43. Counsel further argued that Ms. Herrington did not originally place the pictures in the Affidavit, she did not know they had been added until the afternoon or evening one day prior to the emergency application, and she conferred with other counsel on the proper steps to take.
44. Ms. Herrington could not alter the Affidavit as it had been sworn already and she felt that she must use the Affidavit in the emergency application the next morning as the Wife may have been leaving the jurisdiction with the children.

## **Analysis and Decision**

### ***Sanction***

45. This is a novel situation. While this Committee is not bound by previous decisions neither counsel provided past decisions that were on point.
46. The sanctioning process is to ensure that the public is protected and maintains a high degree of confidence in the legal profession.
47. In this matter Ms. Herrington has admitted her actions and her guilt. The Committee has accepted these admissions, which leaves the Committee with the determination of the appropriate sanction.
48. Ms. Herrington relied on and filed an affidavit which contained intimate photos of the Wife. This should not have happened. However, Ms. Herrington was in a difficult position. She had what she considered to be an emergency Application, the Affidavit has been altered without her knowledge until the day prior to the Application, and she could not revise the Affidavit in time because her client lived out of town.
49. Ms. Herrington discussed the matter with other counsel and decided to proceed. This was ultimately the wrong decision, but all of these factors are relevant when it comes to sanctioning.
50. Ms. Herrington's actions specifically affected the Wife negatively. Her actions did not affect the public generally. Ms. Herrington has learned her actions were inappropriate and the process of this hearing and a reprimand will deter her in the future. Ms. Herrington does not need to bear the brunt of general deterrence for the sake of the profession. General deterrence can be handled in better ways than making an example of Ms. Herrington.
51. Ms. Herrington appears to be a capable lawyer who made a poor choice.
52. For these reasons this panel finds that a reprimand is the appropriate sanction.

### ***Costs***

53. While this is a novel matter there was still a finding of guilt and sanction. As such, this Committee finds that Ms. Herrington shall pay costs in the sum of \$5,407.50. The costs must be paid in full within 6 months of the date of this written decision.

## Referral to the Solicitor General

54. Section 78(6) of the *Act* states:

Notwithstanding subsections (1) to (4), if following a hearing under this Division, the Hearing Committee or the panel of Benchers is of the opinion that there are reasonable and probable grounds to believe that the member has committed a criminal offence, the Hearing Committee or the panel, as the case may be, shall forthwith direct the Executive Director to send a copy of the hearing record to the Minister of Justice and Solicitor General. [our emphasis]

55. The Criminal Code referenced by LSA Counsel in section 162.1 indicates that everyone who knowingly publishes an intimate image without consent is guilty of an offence. Motives are irrelevant. There is a “public good” defence to this section.
56. It is not within the scope of this Committee to determine if Ms. Herrington has a defence to this matter. The Committee only has to decide if there are reasonable and probable grounds to believe that the member has committed a criminal offence.
57. The Committee finds that there are reasonable and probable grounds that Ms. Herrington contravened section 161.1 of the Criminal Code and as such we are obligated to make a referral to the Solicitor General. Ms. Herrington may very well have a defence but that is not up to our Committee to decide.

## Concluding Matters

58. On November 12, 2020 the Committee found Ms. Herrington guilty of the Citations and her conduct was worthy of the sanction of a reprimand, which reprimand was given in person and is attached to this decision.
59. The Committee directs the Executive Director to send a copy of the hearing record to the Minister of Justice and the Solicitor General.
60. The exhibits, other hearing materials, and this report will be made available for public inspection, including the provision of copies of exhibits for reasonable copy fee, except that identifying information in relation to persons other than Ms. Herrington will be redacted and further redactions will be made to preserve client confidentiality and solicitor client privilege. Specifically, any pictures of the Wife will be redacted (Rule 98(3) of the Rules of the Law Society of Alberta).

Dated April 1, 2021.

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Ryan Anderson, QC



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Catherine Workun, QC

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Edith Kloberdanz

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

AND

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF

**KAREN HERRINGTON**

A MEMBER OF THE LAW SOCIETY OF ALBERTA

HEARING FILE NO. HE20200022

**STATEMENT OF ADMITTED FACTS, EXHIBITS, AND ADMISSIONS OF GUILT**

**INTRODUCTION**

1. I was admitted as a member of the Law Society of Alberta in 2010.
2. My present status with the Law Society of Alberta is Active/Practising.
3. I practise in Sherwood Park in the areas of family law, civil litigation, real estate conveyancing, wills and estates, personal injury, estate planning, and estate administration.

**CITATIONS**

4. On January 14, 2020, the Conduct Committee Panel (“CCP”) referred the following conduct to a hearing:
  - a) It is alleged that Karen Herrington brought the administration of justice into disrepute by filing an affidavit containing inappropriate images and that such conduct is deserving of sanction; and
  - b) It is alleged that Karen Herrington failed to provide legal services to the standard of a competent lawyer and that such conduct is deserving of sanction.

**ADMITTED FACTS**

5. In February of 2018, I was retained by B.H. (the “Husband”) to represent him in a family law action against his former common-law partner, K.P (the “Wife”). In particular, the Husband wanted my assistance in establishing contact and parenting time of his two children, ages 5 and 13 at the time.

6. The Husband and Wife cohabited for approximately 12 years prior to separating and have one biological child together. The Wife also has a child from a prior relationship and according to the Husband, he had been standing in the place of a father to this child since he was a few months old.
7. The parties separated and on February 4, 2018, the Wife left the family home with the children.
8. In an effort to arrange a shared parenting regime between the parties, I sent the Wife a letter on March 1, 2018, proposing a parenting plan whereby my client, the Husband, would have exclusive parenting time with the children on a 8-days on, 6-days off schedule (for greater clarity, the Wife would have exclusive parenting time with the children during the 8-days that were “on” for the Husband). I advised the Wife that if we did not receive a response from her by March 7, 2018, we would be filing an application with the Court to determine parenting.
9. The Husband called me on March 6, 2018 and expressed concerns that the Wife had plans to immediately leave the Province of Alberta with the children. He advised that he had been trying to get in contact with the Wife by text and by telephone since she left the family home, and that she was refusing to communicate with him about the children. He advised that the only responses he had received to his requests for parenting time were photographs.
10. He further advised that that a friend of his had sent him a text message advising him that she thought, based on conversations her child had with the Husband and Wife’s child, that the Wife was leaving Alberta with the children. The text message stated:

Hey I need to tell you something but it needs to stay between us.  
Please... I just picked up [name redacted] and he said [the parties’ son]  
was talking to him and he mentioned he might be moving back to [place  
redacted].  
I’m not sure what [the Wife] has said to him or if he’s imagining this... but  
you need to know.  
Keep my name out of it.
11. I called the RCMP detachment in [W] (where the parties resided) that day and was advised that they would not take any step to prevent the Wife from leaving the jurisdiction with the children until there was a parenting order in place.
12. Given my client’s concerns, on March 6, 2018, I drafted an emergency application and affidavit on behalf of my client seeking an order to prevent the Wife from leaving Alberta with the children. On March 7, 2018, my client sent me screenshots of some of his communications between him and the Wife and also a screenshot of the text message

referred to at paragraph 10 above.

13. The following are some of the text messages between the Husband and Wife, which were provided by my client, and could have supported the conclusion that the Husband had attempted to arrange contact with his children with no response and/or success:
- a) February 6, 2018, the Husband texts the Wife: "Ok if I talk or see kids tonight" to which he appears to receive no response via text;
  - b) February 9, 2018, the Husband texts the Wife: "How are you guys doing? I really miss the kids and would love to see them soon. Hope you doing ok..." to which he appears to receive no response via text;
  - c) February 12, 2018, the Husband texts the Wife: "Would like to see or talk to the kids please" to which he appears to receive no response via text;
  - d) February 15, 2018, the Wife texts the Husband asking when she can attend the family home to pick up one of the children's snowboarding equipment for the weekend. The Husband says: "I'll drop them off tomorrow morning... how are you doing? Are the kids awake. Would love to talk to them." The Wife responds that she wants to pick the equipment up as the Husband is not welcome at her home and that the Husband can either leave the equipment on the step or that she can attend at the family home with the police to retrieve the equipment.
  - e) February 16, 2018, the Husband texts the Wife:  
  
Can I talk to kids please  
Please  
Pretty please  
Don't call or text me unless it is for me too [sic] see kids or talk to them.  
Thx [sic]  
  
to which he appears to receive no response via text;
  - f) On February 17, 2018, the Husband texts the Wife: "Can I talk to kids please" to which he appears to receive no response via text;
  - g) On February 19, 2018, the Husband texts the Wife: "Can I talk to kids please" to which he appears to receive no response, although he texts "Thank you" to the Wife the following day via text;
  - h) On February 22, 2018, the Husband texts the Wife: "Hey [...] Wondering if I can talk to the kids again tonight please. Can u [sic] send me you email so I can send you some child support to [sic] please. Thx [sic]" to which he appears to receive no

response via text;

i) On February 25, 2018, the Husband texts the Wife: "Can I talk to kids please miss you guys lots..." to which he appears to receive no response via text;

j) On February 26, 2016, the Husband texts the Wife:

... last day of work for me tomorrow would love to see you guys

If you don't want to I understand but I would really to see the kids...

The Wife responds: "The only way that's gonna [sic] happen is if you can guarantee their safety. I'm not putting them in harm's way."

14. None of the text messages that I received from my client on March 7, 2018 contained photographs. I attached the screenshots of the text messages to the Husband's draft Affidavit, which is attached as **Exhibit A**. Due to the Husband's work schedule, he was unable to attend at my office in Sherwood Park to swear the affidavit. Therefore, I sent the draft affidavit and exhibits to the Husband to swear with a lawyer in [W], where he lived.
15. On both March 7 and 8, 2018, I was at LESA seminars and out of the office until late in the day. After the Husband attended at a law office in [W] to swear the Affidavit, he advised me by email that some of the text messages he wanted included were missing. I inquired what was missing, but he responded late in the day that the affidavit was signed and faxed. The affidavit which he faxed did not show changes, so I again asked what needed to be changed and requested the original affidavit which I required for court. I tried calling him a couple of times and could not reach him.
16. I received the sworn Affidavit late in the afternoon on March 8, 2018. The sworn affidavit attached a different thread of text messages than the thread shown at paragraph 13 above. Instead, the Husband had attached screenshots of text messages between him and the Wife, dated approximately February 27, 2018 to March 7, 2018. The text messages included two explicit, nude photographs of the Wife, sent by her to him, unsolicited.
17. After consulting with two lawyers at my law firm, and notwithstanding the removal of the text messages described at paragraph 13 above and the addition of the text messages containing explicit photographs of the Wife, I decided that the stream of text messages told the story of communication between the parties and that this application was urgent because there was only one working day left before the weekend and the Husband was concerned the Wife was leaving Alberta.
18. On March [...], 2018, I attended Morning Chambers on an *ex-parte* basis and sought and obtained an Order preventing the Wife from leaving Alberta with the children. I relied on an

unfiled claim and the sworn, unfiled Affidavit of the Husband, both of which I filed after the application. The sworn Affidavit of the Husband, filed, March [...], 2018, is attached as **Exhibit B**. The explicit photographs have been redacted from this Affidavit and can be provided to the Law Society of Alberta Hearing Committee upon request.

19. A transcript of my appearance before the Court on March [...], 2018, is attached as **Exhibit C**. Following my appearance, I served a copy of the Claim, my client's Affidavit, and the Order upon the Wife.
20. On March 13, 2018, I received a telephone call from the Wife's counsel, who had been retained after the March [...] application. The Wife's counsel addressed the explicit photographs and asked that the Husband's Affidavit be immediately removed from the Court record, failing which she planned to attend Morning Chambers the next day to speak to this matter on an emergency basis.
21. After consulting with two lawyers at my law firm and obtaining my client's instructions, on March 13, 2018, I sent a Calderbank offer to the Wife's counsel, stating:

Further to our telephone conversation of today's date, I understand that you intend to make a without notice application to strike portions of our client's Affidavit, filed March [...], 2018. In response we take the following position:

- a) An application to strike an Affidavit must be brought on notice;
- b) This application should be properly heard in Special Chambers rather in morning chambers;
- c) The Affidavit filed by my client was in support of an application for an emergency order to prevent your client from leaving the jurisdiction with the children;
- d) The test to strike portions of an Affidavit is one of relevance. The text messages in response to my client's repeated requests to see his children are of the utmost relevance in this matter;
- e) This Affidavit was presented to a Justice who made no objection to the contents of the Affidavit;
- f) All images in the Affidavit were created by your client of her own volition and sent to my client without his consent;
- g) Your client has not addressed the more relevant issue of refusing my client access to his children since February 2, 2018.

I have instructions to argue against your application and if we are successful I will be presenting this letter to the court in an application for enhanced costs against your client.

I would appreciate hearing from you by 9am on Wednesday, March 14, 2018, whether you are still planning on attending at Chambers.

22. In response to this offer, the Wife's counsel wrote to me on March [...], 2018 to advise that she would be bringing an application on notice to have my client's affidavit redacted from the Court's records. Later that day, she advised me that the application had been scheduled for [...] March [...], 2018.

23. Upon receiving this email, I responded to the Wife's counsel advising:

I note your application has been scheduled for March [...], 2018 at 2pm, I am not available to be in court at that time. It is customary when there is opposing counsel, confirmation of availability is sought prior to scheduling an application.

However, to refocus the discussion on the more pressing issues of getting a parenting order in pace, my client will consent to an order replacing his affidavit with the court. We will not remove the photographs; however, we will consent to redacting the photographs. I will require confirmation from you that you will adjourn your application and we will draft the consent order...

24. Later that day on March [...], 2018, the Wife's counsel wrote to me, serving me with her client's filed application and affidavit, and advising that she had attended at Court that afternoon and had obtained a fiat abridging the time required for service of her client's application. The Wife's counsel also stated the following to me:

Strict instructions have been provided to deal with this matter on an urgent basis and accordingly, we will not consent to an adjournment.

Furthermore, it is quite inappropriate for you to continue to dismiss my client's concerns regarding the inappropriate images. At this time, parenting is not the "more pressing issue", it is the inclusion of these images...

25. Following a further exchange of emails, I reached an agreement with the Wife's counsel to have the explicit photographs in the Husband's Affidavit blacked out in their entirety by the Clerk of the Court, rather than having the Affidavit removed from the Court record. However, the Wife's counsel also proposed that the Husband pay \$500.00 in costs, which no agreement was reached on.

26. The Wife's application proceeded in Chambers on March [...], 2018. A transcript of these proceedings is attached as **Exhibit D**. After hearing submissions from counsel for the parties, the Court ordered that the Husband's Affidavit be expunged from the Court record and refiled with the photographs redacted. Costs of \$250 were awarded to the Wife.

### **ADMISSIONS OF FACT AND GUILT**

27. I admit as facts the statements in this Statement of Admitted Facts and Admissions of Guilt for the purposes of these proceedings and section 60 of the *Legal Profession Act*.

28. I admit that:

a) I brought the administration of justice into disrepute by filing an affidavit that contained explicit and inappropriate images and that such conduct is deserving of sanction; and

b) I failed to provide legal services to the standard of a competent lawyer and that such conduct is deserving of sanction.

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

30. I acknowledge that I have signed this Statement freely and voluntarily.

31. I acknowledge that I understand the nature and consequences of these Admissions.

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

**THIS STATEMENT OF ADMITTED FACTS AND ADMISSIONS OF GUILT IS MADE THIS  
6 DAY OF NOVEMBER, 2020.**

"Karen Herrington"

\_\_\_\_\_  
**KAREN HERRINGTON**



**Reprimand**

You've admitted guilt to the two citations, which admissions were found acceptable by this panel pursuant to Section 60 of the *Act*.

The nature of your actions in this matter are serious, particularly relating to the publication of the explicit photos of [the Wife]. This has caused [the Wife] much stress and anxiety in her life which was due to this action.

We, as lawyers, must represent our clients vigorously, but we must also know when to draw the line. You crossed the line in filing these photos which caused issues to not only your client, but to the complainant and now ultimately to yourself.

We do feel like this is out-of-the-ordinary behaviour, and, as such, feel that a reprimand with no suspension but the payment of costs, as outlined in the agreed exhibits, is appropriate in this matter.