

**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 MATTHEW OTTEWELL
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Single Bencher Hearing Committee

Grant Vogeli, QC – Chair

Appearances

Christine Blair – Counsel for the Law Society of Alberta (Counsel for the LSA)
Matthew Ottewell – Self-represented

Hearing Date

April 13, 2021

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT

Overview

1. Matthew Ottewell was representing a client in a matrimonial matter. A procedural order was granted by the court setting dates for delivery of materials. Over an extended period of time, Mr. Ottewell failed to prepare the order and failed to assist his client in meeting the terms of the order.
2. The Counsel for the LSA and Mr. Ottewell entered into a Statement of Admitted Facts and Admissions of Guilt (the Statement) in relation to Mr. Ottewell's conduct. The Agreed Statement, appended to this Report as Schedule 1, sets out the relevant facts.
3. A Conduct Committee found the Statement acceptable. Accordingly, pursuant to subsection 60(4) of the *Legal Profession Act* (the Act), it is deemed to be a finding of this Hearing Committee (Committee) that Mr. Ottewell's conduct is deserving of sanction in relation to the following citation:

That Matthew Ottewell failed to serve his client L.H.

4. On April 13, 2021, the Committee convened a hearing into the appropriate sanction.

5. After reviewing all of the evidence and exhibits, and hearing the submissions of Counsel for the LSA and Mr. Ottewell, for the reasons set out below, the Committee has determined that a reprimand and payment of costs is appropriate.

Preliminary Matters

6. 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 the appropriate sanction proceeded.

Agreed Statement

7. After the commencement of proceedings in relation to Mr. Ottewell's conduct, the parties submitted the Statement. The Conduct Committee found the Statement acceptable. Pursuant to subsection 60(4) of the *Act*, the admission of guilt in the Statement is deemed to be a finding by this Committee that Mr. Ottewell's conduct is deserving of sanction under section 49 of the *Act*.
8. As provided by subsection 60(3) of the *Act*, once the Statement was accepted by the Conduct Committee, the hearing into the appropriate sanction could be conducted by a single Bencher. As a result, I was appointed to conduct the sanction hearing.
9. The Statement is summarized as follows:
 - In November 2016, Mr. Ottewell was retained by L.H. to assist her with a family law matter, in particular, pursuing retroactive child support from her spouse.
 - Commencing in January 2017, L.H. made ongoing requests for Mr. Ottewell to schedule a Special Chambers Hearing for the retroactive child support issue. In March 2017, Mr. Ottewell filed a Notice to Disclose Application.
 - In July 2017, Mr. Ottewell had numerous communications with L.H. about the financial information she was to provide to support her Application. On July 7, 2017, Mr. Ottewell sent her an email advising her that he believed he had everything he needed from her.
 - Starting in September 2017, L.H. requested updates on her matter and enquired as to whether a Special Chambers Hearing had been scheduled. On December 5, 2017, Mr. Ottewell emailed her to confirm a date for the hearing had been set.
 - A Special Chambers Application was scheduled for March [...], 2018. Mr. Ottewell sought a partial adjournment as the financial documents outlining the amounts of retroactive child support had not been completed and he had only recently received the opposing party's information on section 7 expenses. The Court ordered the parties to conclude various tasks by certain deadlines. This included:

- Counsel for each side was to provide within one week a letter outlining information required from the other party; and
 - By the end of May 2018, each side was to produce the information requested to the other party.
- On March 20, 2018, opposing counsel sent Mr. Ottewell a letter confirming he was to draft the Order arising from the Special Chambers Hearing. The letter reminded Mr. Ottewell that the Court ordered letters outlining the information required by each party from the other needed to be exchanged by the end of the week. Her letter listed the information her client wanted from L.H. Opposing counsel also reminded Mr. Ottewell that the information had to be produced by the end of May.
 - Mr. Ottewell did not do anything to comply with the March [...], 2018 Order of the Court. He did not send opposing counsel a letter requesting information from her client nor did he send her the information she requested from his client. Mr. Ottewell did not draft the Order arising from the March [...] Hearing.
 - Mr. Ottewell admitted that he failed to serve L.H. at the standard of a reasonably prudent lawyer because he:
 - a. failed to draft the Order granted on March [...], 2018; and
 - b. failed to assist L.H. in meeting the terms of the March [...], 2018 Order.

Submissions on Sanction

10. There was a joint submission on sanction, and counsel for the LSA and Mr. Ottewell made submissions in support of the joint submission.

Decision on Sanction

11. Counsel for the LSA and Mr. Ottewell confirmed their understanding that the Committee is not bound by a joint submission on sanction. However, a Committee is required to give serious consideration to a joint submission, should not lightly disregard it and should accept it unless it brings the administration of justice into disrepute and is not otherwise contrary to the public interest.
12. It is noted that the approach taken by both Mr. Ottewell and Counsel for the LSA in dealing with this matter through an agreed statement and admission of guilt avoided an unnecessary contested hearing, witness inconvenience, and process costs.
13. It is also noted that Mr. Ottewell acknowledged his guilt, was remorseful and committed to improvement.

14. Mr. Ottewell was given a reprimand and ordered to pay costs of \$1,207.50 on the earlier of May 15, 2022 or one year following Mr. Ottewell's reinstatement from an unrelated suspension.
15. A transcript of the reprimand is attached as Schedule 2.

Concluding Matters

16. No Notice to the Profession is required.
17. The exhibits, other hearing materials, and this report will be available for public inspection, including the provision of copies of exhibits for a reasonable copy fee, except that identifying information in relation to persons other than Matthew Ottewell will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Calgary, Alberta, April 21, 2021.

Grant Vogeli, QC

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

- AND -

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF
MATTHEW OTTEWELL
A MEMBER OF THE LAW SOCIETY OF ALBERTA

HEARING FILE HE20210002

STATEMENT OF ADMITTED FACTS
AND ADMISSIONS OF GUILT

INTRODUCTION

1. This hearing arises out of one complaint (CO20191433), which resulted in the following citation:
 1. It is alleged Matthew P. Ottewell failed to serve his client, L.H., and that such conduct is deserving of sanction.

ADMITTED FACTS

Professional Background

2. I was admitted as a member of the Law Society of Alberta (the “**LSA**”) on November 20, 2009.
3. I was an “Inactive/Non-Practising” member of the LSA from March 12, 2013 to April 28, 2015, when I returned to practice.
4. At all material times, my practice was focused primarily on Matrimonial/Family Law. I practiced in this area at a full-service law firm in Edmonton (the “Firm”) from April 28, 2015 until January 15, 2019, after which I practiced on my own.
5. On June 27, 2019, I elected to once again become an “Inactive/Non-Practising” member of the LSA.
6. On August 9, 2020 I executed a Statement of Facts and Admission of Guilt on three citations:
 1. It is alleged Matthew P. Ottewell Breached Rule 105 of the Rules of the Law Society of Alberta when he failed to report criminal charges to the Law Society and that such conduct is deserving of sanction;

2. It is alleged Matthew P. Ottewell failed to provide competent, timely, conscientious, and diligent service to his clients and that such conduct is deserving of sanction; and
3. It is alleged Matthew P. Ottewell failed to follow Rule 119.21 of the Rules of the Law Society of Alberta and that such conduct is deserving of sanction.
7. The Statement was submitted to a Conduct Committee Panel and on September 15, 2020 the Panel determined the Statement was in an acceptable form.
8. A Hearing took place on December 10, 2020 at which a joint submission on sanction was accepted by the Hearing Committee and I commenced a two-month suspension on February 1, 2021.
9. As of today's date, I am a suspended member of the LSA.

Procedural Background

10. On October 1, 2019, the LSA opened complaint (CO20191433) to review whether I had failed to serve my client, L.H.
11. The review was completed and on December 15, 2020, a Conduct Committee Panel directed that the citation set out in paragraph 1, above, be dealt with by a Hearing Committee.

Citation

Admission

12. In November 2016, I was retained by L.H. to assist her with a family law matter, in particular, pursuing retroactive child support from her spouse.
13. Commencing in January 2017 L.S. made ongoing requests for me to schedule a Special Chambers Hearing for the retroactive child support issue. In March 2017 I filed a Notice to Disclose Application.
14. In July 2017 I had numerous communications with L.H. about the financial information she was to provide to support her Application. On July 7, 2017 I sent her an email advising I believed I had everything needed from her.
15. Starting in September 2017 L.H. requested updates on her matter and enquired as to whether a Special Chambers Hearing had been scheduled. On December 5, 2017 I emailed her to confirm a date for the Hearing had been set.
16. A Special Chambers Application was scheduled for March [...], 2018. I was seeking an adjournment as the financial documents outlining the amounts of retroactive child support had not been completed. The Court ordered the parties to conclude various tasks by certain deadlines. This included:

- Counsel for each side will provide within one week a letter outlining information required from the other party;
 - By the end of May 2018 each side will produce the information requested to the other party;
 - Each party will produce a document outlining the amounts that have been paid or produced;
 - L.H. to determine what funds the children received directly from her spouse;
 - If there was some agreement on the parties' positions it could be a Special Chambers Hearing but if there was no agreement then a trial would be needed; and
 - The Special Chambers Application of that date was adjourned sine die.
17. On March 20, 2018 opposing counsel sent me a letter confirming I was to be draft the Order arising from the Special Chambers Hearing. She reminded me that the Court ordered letters outlining the information required by each party from the other needed to be exchanged by the end of the week. Her letter listed the information her client wanted from L.H. She also reminded me that the information had to be produced by the end of May.
18. I did not send opposing counsel a letter requesting information from her client nor did I send her the information she requested from my client. I did not draft the Order arising from the March [...] Hearing.
19. I emailed L.H. on January 10, 2019 advising her I was leaving my current firm and taking her file with me. She emailed me back indicating this was fine. I did not contact her again.
20. The Order was drafted and filed in November 2019 by other counsel.
21. I admit that I failed to serve L.H. at the standard of a reasonably prudent lawyer because I:
- a. failed to clarify and obtain relevant disclosure documents in a timely manner;
 - b. failed to draft the Order granted on March [...], 2018;
 - c. failed to assist my client in meeting the terms of the March [...], 2018 Order; and
 - d. failed follow up with my client following my departure from my firm after I had advised I would continue to represent her.

ADMISSIONS OF FACT AND GUILT

22. I admit as facts the statements in this Statement of Admitted Facts and Admissions of Guilt for the purposes of these proceedings.
23. When I admit guilt to the conduct described herein, I admit that the conduct is "conduct deserving of sanction" as defined under section 49 of the *Legal Profession Act*.

ACKNOWLEDGEMENTS

24. I have had the opportunity to consult with legal counsel.
25. I have signed this statement freely and voluntarily, without compulsion or duress.
26. I understand the nature and consequences of my admissions.
27. I understand 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
20th DAY OF February, 2021.**

“Matthew Ottewell”

MATTHEW OTTEWELL

Reprimand

Mr. Ottewell, you have acknowledged that your conduct related to this complaint is unacceptable. To me it's clearly unacceptable. And I was concerned as when I read through your file about this. You just cannot, even when you're not being paid, fail to advance the interests of your client and meet court-imposed deadlines. You just can't fail to do that.

As you know, the Law Society governs our profession, and as a regulator, the Law Society has two principal duties that we need to be aware of: One is the need to protect the interests of the public; and the second is the need to protect and maintain the reputation of the legal profession. So, protecting your client but also protecting the reputation of our legal profession.

And in this case, you did clearly fail to serve the interest of your client. And I'm pleased that it didn't cause her any significant harm to her case. From what I understand, it delayed her case, but didn't cause any harm to her case. But it still caused significant delay and would have increased stress for your client unnecessarily.

My biggest concern related to this is that leaving your client sort of drifting makes our profession look bad. When you commit to do things and meet deadlines, you need to meet them. As a lawyer, you need to do what you agree to do, and what you are ordered to do on behalf of clients. And in this instance, there was a court order that needed to be complied with that was not.

And you just generally need to diligently, ethically, and competently serve the interest of your clients at all times. Anything less is simply unacceptable. And you have acknowledged that by accepting your responsibility here.

And I understand that you do intend to seek reinstatement from the previous suspension that you are just finishing, and to continue practicing law. In order to successfully do so, as you move forward, you need to do what you say you are going to do. A lawyer, every time you say you are going to do something, it is an undertaking to do it; and not doing it is not appropriate. And if you can't, if you can't do things, and you are not properly getting instructions or payment from your client, you must withdraw. That's one of the lessons to learn here, you can't just let things drift.

Anything short of fully serving your client's interest falls short of the duties to both your client and the profession. And I know you know this, but you just have to keep that front of mind every day when you are practicing law.