

**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 M. NAEEM RAUF  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Hearing Committee**

Kent Teskey, QC – Chair  
Glen Buick – Adjudicator  
Sandra Petersson – Adjudicator

**Appearances**

Shanna Hunka – Counsel for the Law Society of Alberta (LSA)  
M. Naeem Rauf – Self-Represented

**Hearing Date**

November 30, 2021

**Hearing Location**

Virtual Caucus

**HEARING COMMITTEE REPORT – SANCTION PHASE**

**Overview**

1. In December 2018, Mr. Rauf attended the Fort Saskatchewan Correctional Centre to visit clients. Due to operational issues, he was told that he would be delayed seeing his clients. Mr. Rauf's reaction to the staff, involving profanity and abusive behaviour, has been found to be conduct deserving of sanction.
2. For the reasons set out in its decision dated August 3, 2021 (*Law Society of Alberta v. Rauf*, 2021 ABLS 24), the Hearing Committee (Committee) found Mr. Rauf guilty of conduct deserving of sanction in relation to one citation, that while attending at a correctional centre on December 28, 2018, M. Naeem Rauf failed to act in a courteous and civil manner by communicating in a manner that was abusive, offensive, and inconsistent with the proper tone of a professional communication from a lawyer.
3. Submissions for sanction were done in writing by both the LSA and Mr. Rauf. After a virtual caucus on November 30, 2021, for the reasons set out below, the Committee finds that, based on the facts of this case, the appropriate sanction is a reprimand and a fine of \$2,000.

4. In addition, pursuant to section 72(2) of the *Legal Profession Act* (the *Act*), the Committee orders costs in the amount of \$12,191. Mr. Rauf has one year from the date of this decision to pay the fine and costs.

### **Submissions on Sanction**

5. A sanction against a lawyer must contribute to the LSA's ultimate responsibility to protect the public interest. A sanction is not intended to be exclusively punitive, rather it must serve to further the regulator's fundamental role to protect the public and to uphold ethical and competent practice. The determination of a just sanction is an individualized process that must recognize the individual member and the specific conduct involved.
6. LSA Counsel submitted that a suspension in the range of one month would be appropriate. They argue that the conduct involved is serious and represents a significant departure from the tone of civility that the Code of Conduct expects from Alberta's lawyers. They also note that Mr. Rauf has a discipline history for incivility where a suspension of seven days was imposed.
7. Mr. Rauf did not address a particular position on sanction in his written submissions. His position was that the merits decision of this Committee was factually incorrect. He also provided a number of references from former clients and colleagues speaking to his honesty and congeniality.

### **Analysis and Decision on Sanction**

8. We found that Mr. Rauf's conduct was serious and in the words of section 49 of the *Act* "was both incompatible with the best interests of the public or of the members of the Society" and "tends to harm the standing of the legal profession generally".
9. Mr. Rauf may have been justified in his frustration about the difficulties of seeing his clients. He was entitled to raise these issues and do so with vigour. The requirement for civility under the Code of Conduct cannot improperly fetter a lawyer's ultimate obligation to act as advocate for their client's interest and to protect the rule of law.
10. As Alice Woolley wrote, "Hard-hitting and unvarnished critiques are essential to working towards the justice system we should have, and to ensuring that lawyers play the role they need to play within that system. Pursuing the impossible dream of a positive public image, or seeking to soften the discomfort of hearing unpalatable and uncivil truths, is not required."<sup>1</sup>

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<sup>1</sup> Woolley, Alice. "Does Civility Matter?" *Osgoode Hall Law Journal* 46.1 (2008): pages 175-188 at page 188.

11. What is required though is the tone expected of a professional. Mr. Rauf's conduct fell well short of that standard. Many of the witnesses testified to their surprise at the imperious and aggressive conduct of Mr. Rauf, but also commented about how they felt reluctant to respond because Mr. Rauf was a lawyer. This speaks to the privileged position that lawyers occupy in society. It also speaks to the need for members of the profession to act civilly with members of the public when acting in their professional capacity. It is unacceptable for lawyers to attempt to achieve their professional aims by bullying or abuse. When a lawyer crosses this line, a regulatory response is required.
12. We have been provided authorities where suspensions have been imposed for similar conduct. That said, we find that a short suspension would have a disproportionate effect on Mr. Rauf as opposed to other practitioners; beyond that, it is likely that a suspension would create prejudice for Mr. Rauf's clients who are largely marginalized people, many of whom are in custody.
13. The punitive effect of a suspension may not be felt equally by different members of the profession. Where a lawyer practices in a firm with colleagues, it is often the case that the impact of the suspension is softened by the fact that the work can be distributed to other lawyers. Where a lawyer is a member of a partnership, the financial impact of a suspension may be attenuated. For a lawyer like Mr. Rauf who practices alone, a suspension is likely to be far more disruptive to the continuity of his practice. The financial impact on the lawyer is also likely to be more severe.
14. If this was the only issue with a suspension, it might be possible to address those considerations by tailoring the length of the suspension. However, the Committee is concerned that a suspension in the range proposed by the LSA would create unnecessary prejudice for Mr. Rauf's clients. If Mr. Rauf is suspended, it is likely his clients would suffer delays in their cases and moreover that those delays may involve individuals in custody.
15. While we are reluctant to impose a suspension, we believe it is necessary to strongly denounce Mr. Rauf's behaviour. He is a senior member of the Bar who ought to govern himself with an appropriate temperament and respect for others in the justice system.
16. In our view, a reprimand coupled with a fine of \$2,000 appropriately addresses and denounces Mr. Rauf's conduct. Mr. Rauf will have one year to pay the fine and costs.
17. The reprimand is issued as follows:

Mr. Rauf, the practice of law requires advocacy for the interest of a client and the rule of law. Your conduct at the Fort Saskatchewan Correctional Centre was abusive and bullying. It would have been unacceptable for any member of the public to act as you did, but it is wholly unacceptable for a member of the legal profession to use the tone and language that

you did. The Panel is disappointed in your conduct and invites you to reflect on how your conduct diminishes the reputation of the legal profession and your reputation personally.

### **Concluding Matters**

18. There will be no notice to the Attorney General.
19. There will be no Notice to the Profession.
20. 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 Mr. Rauf will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Calgary, Alberta, January 25, 2022.

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Kent Teskey, QC

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Glen Buick

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Sandra Petersson