

**IN THE MATTER OF PART 3 OF THE  
LEGAL PROFESSION ACT, RSA 2000, c. L-8**

**AND**

**IN THE MATTER OF AN APPEAL  
REGARDING SURINDER RANDHAWA  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Appeal Panel**

Bill Hendsbee, KC – Chair and Bencher  
Ryan Anderson, KC - Bencher  
Kene Ilochonwu, KC – Bencher  
Cal Johnson, KC - Bencher  
Barbara McKinley – Lay Bencher  
Bud Melnyk, KC - Bencher  
Salimah Walji-Shivji, KC - Bencher

**Appearances**

Shane Sackman – Counsel for the Law Society of Alberta (LSA)  
Dennis McDermott, KC – Counsel for Surinder Randhawa

**Hearing Date**

May 4, 2022

**Hearing Location**

Virtual Hearing

**APPEAL PANEL DECISION – COSTS**

**Overview**

1. The Appeal Panel heard the Appeal of Mr. Randhawa on May 4, 2022 and rendered its written decision (the Decision) on June 29, 2022.
2. In the Decision, the Appeal Panel invited Mr. Randhawa and the LSA to make any submissions on Appeal costs within one month of the Decision being issued.
3. A Statement of Costs was presented to the Chair of the Appeal Panel by the LSA following the issuance of the Decision. It was signed and ordered that the amount of \$5,761.88 be paid within three months of the Decision.

4. On July 28, 2022, the LSA provided submissions on Appeal costs. On the same date, Mr. Randhawa provided submissions with respect to Appeal costs and raised other ancillary issues.
5. After considering those submissions, the Appeal Panel has decided that Mr. Randhawa must pay the Appeal costs of the proceedings, as set out in the draft Statement of Costs, in the amount of \$5,761.88.

### **Submissions of the Parties**

6. The LSA takes the position that the Statement of Costs is both reasonable and proportionate, specifically referencing that the court reporter costs, the per diem hearing rate and LSA counsel time are all enumerated in Rule 102 of the Rules of the Law Society of Alberta.
7. The LSA submits that the 39.2 hours spent by counsel in this matter was reasonable under the circumstances, which was complex and involved a hearing record of approximately 2,500 pages. The Appeal involved detailed written briefs and two supplemental books of authorities, one of which had to be prepared by the LSA on the eve of the Appeal when Mr. Randhawa challenged the appropriate standard of review.
8. The LSA further submits that Mr. Randhawa's complete lack of success in the Appeal mitigates against any potential reduction in costs. In addition, the LSA stresses that none of the time spent by previous LSA counsel between 2015 and early 2022, which was extensive, has been included in the Statement of Account, such that there is no duplication of effort in the amount of costs being sought.
9. In his submissions, Mr. Randhawa has focused on the merits of the Decision, referencing paragraphs 29-31, which discussed the impact of Rule 99(6) of the Rules of the Law Society of Alberta.
10. In short, Rule 99(6) allowed Mr. Randhawa to ask the Hearing Committee to review the LSA's Statement of Costs arising from that hearing provided that the application was made within 15 days of being served with the Statement of Costs.
11. Mr. Randhawa suggests that he did, in fact, apply to the Hearing Committee under Rule 99(6) and that its failure to properly deal with his Rule 99(6) application provided him with no alternative but to proceed with the Appeal. He asks that the Appeal Panel reconsider the costs award.

## Legislation, Rules, Guidelines

12. Rule 102 of the Rules of the Law Society of Alberta reads as follows:

### **Benchers' Order for Costs on Appeal**

102 (1) An order of the Benchers respecting the payment of all or part of the costs of appeal proceedings under sections 75 and 76 of the Act may be based on or otherwise made referable to all or part of the following classes of charges, costs and expenses:

- (a) expenses incurred in serving any documents;
- (b) expenses incurred in connection with the appeal hearing before the appeal panel;
- (c) hearing charges at a rate, prescribed by the Benchers or by the Audit and Finance Committee, per day or half day of hearing, or part thereof;
- (d) expenses incurred in connection with a further hearing of the Hearing Committee to hear fresh evidence pursuant to a direction made under section 76(6)(b) of the Act;
- (e) fees and expenses of external counsel for the Society related to services performed in connection with the appeal proceedings;
- (f) reasonable costs for the indemnification of the Society for the cost of services by the Society's counsel performed in connection with the appeal proceedings;
- (g) where applicable, expenses incurred in connection with the convening and commencement of a meeting of the panel at which the appeal is dismissed pursuant to section 76(11) of the Act; and
- (h) adjournment charges at a rate or rates prescribed by the Benchers or by the Audit and Finance Committee.

(2) The Audit and Finance Committee may prescribe an hourly rate to be used to determine the cost of services performed by Society's counsel for the purposes of subrule 1(f).

### **Decision Regarding Costs**

13. Mr. Randhawa's submissions amount to an attempt to reargue the merits of the Appeal, in which he was wholly unsuccessful. The sole issue at this stage is the amount of costs to be awarded arising from the Appeal. As such, Mr. Randhawa's submissions were of no assistance to the Appeal Panel in reaching its decision on the reasonableness of the Statement of Costs arising from the Appeal.

14. Considering the complexity of this matter, the volume of materials to be reviewed, the number of issues dealt with and the amount of time that LSA counsel was required to spend, the Appeal Panel finds that the Statement of Costs is both reasonable and proportionate. Further, given that no time was charged for LSA counsel dealing with the Appeal prior to January 2022, Mr. Randhawa has, in effect, already received a significant costs reduction. Accordingly, pursuant to Rule 102, the amount of \$5,761.88 is allowed in full.
15. Payment of the costs outlined above must be made within 30 days of the date of this decision.

Dated September 19<sup>th</sup>, 2022

---

Bill Hendsbee, KC – Chair

---

Ryan Anderson, KC

---

Kene Ilochonwu, KC

---

Cal Johnson, KC

---

Barbara McKinley

---

Bud Melnyk, KC

---

Salimah Walji-Shivji, KC