

**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 KENNETH LEDREW
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Hearing Committee

Robert Philp, KC – Chair
Michael Mannas – Adjudicator
Louise Wasylenko – Lay Bencher

Appearances

Shanna Hunka – Counsel for the Law Society of Alberta (LSA)
Kenneth LeDrew – Self-represented

Hearing Date

January 11, 2024

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT – SANCTION PHASE

Overview

1. On August 25, 2023, this Hearing Committee (Committee) conducted a hearing (Merits Hearing) into the following five citations directed against Kenneth LeDrew:
 - 1) It is alleged that Kenneth P. LeDrew engaged in conduct that brings discredit to the profession, and that such conduct is deserving of sanction.
 - 2) It is alleged that Kenneth P. LeDrew failed to provide legal services to the standard of a competent lawyer, including failing to perform all functions competently, conscientiously, diligently and in a timely manner, and that such conduct is deserving of sanction.
 - 3) It is alleged that Kenneth P. LeDrew's communications were inconsistent with the proper tone of a professional communication from a lawyer, and that such conduct is deserving of sanction.
 - 4) It is alleged that Kenneth P. LeDrew failed to respond promptly and completely to communications from the Law Society, and that such conduct is deserving of sanction.

- 5) It is alleged that Kenneth P. LeDrew failed to be candid with the Law Society and that such conduct is deserving of sanction.
2. Mr. LeDrew did not attend or participate in the Merits Hearing. After hearing all of the evidence and submissions of the LSA, on October 16, 2023, the Committee found Mr. LeDrew guilty of conduct deserving of sanction on all five citations and issued a written decision (Merits Decision).
3. On January 11, 2024, the Committee reconvened for the sanction phase of the hearing (Sanction Hearing). Mr. LeDrew attended and represented himself at the Sanction Hearing.
4. For the reasons that follow, the Committee finds that the proper sanction for Mr. LeDrew's conduct is disbarment and costs of \$40,000.00, to be payable upon application for reinstatement to the LSA.

Preliminary Matters

5. There were no objections to the constitution of the Committee or its jurisdiction. No private hearing applications were made during the Sanction Hearing, so it continued in public.

LSA Submissions on Sanction

6. Counsel for the LSA sought disbarment. LSA counsel submitted that the sanction sought would suggest to the public that the LSA can effectively govern members. LSA counsel argued that a reprimand is not appropriate where governability is a serious concern and that a suspension does not go far enough in this case because LeDrew is presently suspended (for non-payment of fees since 2020).
7. LSA counsel stated that while the conduct of December 3, 2019, may not have called for disbarment, it is, in LSA counsel's words, the "indicia of ungovernability since that occurrence" that elevates the conduct to be deserving of disbarment. Mr. LeDrew's conduct includes ongoing non-cooperation and non-participation in the discipline process and numerous email communications to various people at the LSA from the pre-hearing stage through to the sanction hearing, indicating that he either resigns or that he no longer considered himself, or wished to be, a member of the LSA. LSA counsel and others alerted him several times over the past few years about the proper process for resignation.
8. LSA counsel stated that it was anticipated Mr. LeDrew would raise his medical condition at this stage of hearing and therefore thought it important to advise the Committee of her multiple attempts over a few years to advise Mr. LeDrew regarding the options of either seeking an abeyance of the proceedings or applying for a section 32 resignation (in the face of discipline). Mr. LeDrew did not avail himself of either of these options.
9. LSA counsel cited and provided multiple authorities in support of its submission for disbarment. LSA counsel submitted that the questions the Committee must answer in coming to a sanction decision are:

- a) Has Mr. LeDrew demonstrated that he can be governed by the LSA?

- b) Has Mr. LeDrew shown any respect for the system?
 - c) By the sanction imposed, does it show to the public that the LSA can effectively govern its members?
10. Having regard to the following facts, the LSA seeks disbarment:
- a) Mr. LeDrew's egregious misconduct in Court on December 3, 2019, paired with his incoherent and profane outbursts and neglect of another client that same day show significant departure from the rules of professional ethics and had the effect that day of undermining public confidence in legal institutions.
 - b) Mr. LeDrew's unwillingness to be candid and cooperate with the LSA and the subsequent failures to attend the pre-hearing conferences and to forego participation in the Merits Hearing are factors that further demonstrate ungovernability and warrant disbarment.
11. LSA counsel argues that disbarment is a just, reasonable, proportionate, and appropriate sanction and a message to the members of the profession about their obligations to cooperate and be governed by the LSA. It is the ultimate sanction, but nonetheless necessary in the circumstances to protect both the public and the profession.

Mr. LeDrew's Submissions on Sanction

12. Mr. LeDrew had opportunity to file written material with the LSA on sanctions and did not. Mr. LeDrew stated that he was medically interfered with and unable to do so.
13. Mr. LeDrew stated that his "problems" with the LSA and his clients were due to several medical conditions. The Chair asked Mr. LeDrew if he had provided any evidence about his medical conditions to the LSA, such as diagnosis or prognosis, that might have a bearing on what transpired on December 3, 2019, and he replied, "[t]o the best of my knowledge, I don't think I have".
14. Mr. LeDrew made statements claiming that what occurred, directed at events of December 3, 2019, was "completely out of character, definitely not intended" and in his opinion was a medical issue and "not a personal or professional competence issue."
15. Mr. LeDrew did state that he wishes he "could have been much more kosher, demure...more professional in [his] conversation and dialogue via email to the [LSA]. But it wasn't anything, shall we say, intentional, personal or professional..."
16. LeDrew stated that he is impecunious and believes that this is a "completely medical-related matter that's affected my professional ability". He stated that he would "like to

retain good standing with the Law Society of Alberta” and that “he is not immune to the ebb and flow of personal or health circumstances”. Further, he stated he would agree to a fine or a reprimand.

LSA Response

17. In response to Mr. LeDrew’s submissions, LSA counsel stated that Mr. LeDrew was specifically advised of the options of using medical evidence to seek an abeyance or make a section 32 resignation (in the face of discipline) application or to somehow use the medical evidence at the hearing to justify or mitigate with respect to the findings on guilt. He did not participate. He then had further opportunity to present the medical evidence at the Sanction Hearing and did not do so.

Analysis and Decision on Sanction

18. Section 49(1) of the *Act* states that:

For the purpose of the *Act*, any conduct of the member...that:

- a) is incompatible with the best interests of the public or the members of society, or
- b) tends to harm the standing of the legal profession generally,

is conduct deserving of sanction, whether or not that conduct relates to the member’s practice as a barrister and solicitor and whether or not that occurs in Alberta.

19. The LSA’s Pre-Hearing and Guideline (Guideline), at paragraph 100, states:

The purpose of disciplining lawyers is to protect the public interest and maintain the public confidence in the legal profession. By enforcing ethical and professional standards, the [LSA] is fulfilling its regulatory mandate and supporting the rule of law, the proper administration of justice and the independence of the legal profession.

20. In paragraph 54 of *Law Society v. Peterson*, 2022 ABLS 25, that hearing committee stated:

Based on the *Act* and the Guideline, it is clear that the mandate of the LSA to ensure a high degree of confidence in the legal profession and protection of the public from misconduct by the profession is essential to the viability of the profession. Accordingly, cooperation with the LSA and participation in the disciplinary process by a member is critical. If a member can simply ignore the disciplinary process with impunity, the LSA will have abdicated its authority and ceased to have any ongoing legitimacy.

21. As noted in the Guideline:

[t]he fundamental purposes of sanctioning are to ensure the public is protected from acts of professional misconduct and to protect the public’s confidence in the

integrity of the profession. These fundamental purposes are critical to the independence of the profession and the proper functioning of the administration of justice.

22. Other specific purposes of sanction, according to the Guideline, include the following:
 - a) specific deterrence of the lawyer;
 - b) where appropriate to protect the public, preventing the lawyer from practising law through disbarment or suspension;
 - c) general deterrence of other lawyers;
 - d) ensuring the [LSA] can effectively govern its members; and
 - e) denunciation of the misconduct.
23. The options available to the Committee with respect to sanction include reprimand, suspension or disbarment. The sanction in Mr. LeDrew's case must be purposeful with regard to the factors above.
24. The authorities that LSA counsel relied on were informative, and the Committee has summarized them below as they relate to Mr. LeDrew's matter.
25. In *Law Society of Alberta v. MacGregor*, 2016 ABLs 39, Mr. MacGregor attended Court where multiple individuals noted that he smelled of alcohol. He then proceeded to leave Court without dealing with matters that he had on docket that morning. Although Mr. MacGregor did suffer from alcohol and substance addiction issues, his conduct was similar to that of Mr. LeDrew in that he failed to serve his clients in a competent, conscientious, and diligent manner; failed to refrain from conduct that impaired his capacity to provide competent services; exhibited conduct incompatible with the best interests of the public; and exhibited conduct detrimental to the standing of the legal profession. Although the misconduct is similar, the outcome was different. Mr. MacGregor voluntarily resigned pursuant to a section 32 (in the face of discipline) resignation. Mr. MacGregor gave an undertaking to not seek readmission, effectively removing himself from the legal profession.
26. In *Law Society of Alberta v. Torske*, 2015 ABLs 13, Mr. Torske became addicted to painkillers and forged roughly 40 to 50 documents to obtain prescription painkillers. While the LSA sought disbarment, the hearing committee in that case ordered an 18-month suspension based on significant mitigating factors that were presented, such as the evidence of extensive treatment for his addiction and positive evaluations by his employers. In the case of Mr. LeDrew, these mitigating factors have not been presented and instead, aggravating factors are more at play, such as a failure to be candid to the LSA about receiving any treatment at all for his addiction and other indicia of ungovernability.
27. In *Law Society of Alberta v. Morales*, 2018 ABLs 23, Mr. Morales' addiction to alcohol led to serious failures in his professional obligations, including a DUI charge in Montana and failing to serve a client properly. Mitigating factors included submission of an admission of facts and guilt and Mr. Morales demonstrating that he was taking steps to

improve his health. The sanction in this case was an 18-month suspension, however the Committee notes that Mr. LeDrew has not presented such similar mitigating factors.

28. In the earlier referenced *Peterson* decision, Mr. Peterson demonstrated that he was ungovernable and was therefore disbarred. Like Mr. LeDrew, Mr. Peterson did not attend any of the pre-hearing conferences and did not attend his hearing. The hearing committee in *Peterson* reviewed examples from other cases of ungovernable conduct, including that of Mr. Britton in *Law Society of Alberta v. Terry Britton*, 2009 LSA 1 (at paragraph 64):

In deciding to disbar Mr. Britton, the Hearing Committee noted “the overwhelming evidence of ungovernability of the Member based on his lack of response to or cooperation with the LSA, his failure to attend the pre-hearing conference and to participate in the scheduling of or to attend this Hearing...

29. The hearing committee in *Peterson* also reviewed factors in the Guideline, in *Jaswal v. Medical Board (Nfld.)*, 1996 CanLII 11630 (NL SC), and quoted from the Supreme Court of Canada decision in *Law Society of New Brunswick v. Ryan*, 2003 SCC 20 the following poignant statement:

There is nothing unreasonable about the Discipline Committee choosing to ban a member from practicing law when his conduct involves an egregious departure from the rules of professional ethics and had the effect of undermining public confidence in basic legal institutions.

30. The events of December 3, 2019, summarized in more detail in the Merits Decision, are very concerning. What has become more concerning since is Mr. LeDrew’s lack of cooperation, lack of candour and lack of responsiveness with the LSA. Furthermore, Mr. LeDrew failed to participate in pre-hearing conferences. When he did respond to communications from the LSA, in just a sampling of the emails provided as recently as January 4, 2024, he stated such things as:
- a) “I again tender my resignation and hence no longer consider myself a member of the LSA”.
 - b) Calling the process an “unnecessary redundant career-rigamarole such as this never-ending pointless sexist bureaucratic farce.”
 - c) Calling the process a “bureaucratic and redundant make-work project”.
31. These words and the multiple other emails indicate a clear lack of respect for the LSA process and its role in governing members of the profession.
32. The Committee also accepts that the LSA provided the necessary information to Mr. LeDrew to avail himself of alternative routes in the conduct process if he provided medical evidence. Mr. LeDrew talked about it but has provided no medical documentation to the LSA to date.

33. The *Peterson* hearing committee noted a set of factors at paragraph 70 which result in disbarment being the appropriate sanction, and in Mr. LeDrew's case, some of the similar factors to that case are:
- a) Mr. LeDrew has amply demonstrated that he will not cooperate with the LSA;
 - b) Mr. LeDrew has amply demonstrated that he will impact the ability of the LSA to regulate its members;
 - c) Mr. LeDrew has amply demonstrated that he will not participate in the disciplinary process;
 - d) Mr. LeDrew has amply demonstrated that he will negatively impact confidence in the legal profession;
 - e) Mr. LeDrew has amply demonstrated that he will not accept responsibility for his actions;
 - f) Mr. LeDrew has amply demonstrated that he has no remorse for his actions; and
 - g) Mr. LeDrew has amply demonstrated that he will bring the administration of justice into disrepute.
34. While the Committee is sympathetic to Mr. LeDrew dealing with various medical issues, it does not remove his obligation to cooperate with the LSA. The LSA did not ambush or perpetrate a fast-tracked hearing upon him with no notice. The LSA took a patient and measured approach with Mr. LeDrew. His well-being was prioritized on discovering the conduct of December 3, 2019. The investigators and LSA counsel provided information and communicated with him in a fair manner. While initially appearing to be cooperative, Mr. LeDrew did not respond to communication on multiple occasions over several years and when he did respond it was not fully or candidly.
35. As time went on, Mr. LeDrew's responses became inappropriate and disrespectful. The Committee is extremely troubled by the tone and attitude of Mr. LeDrew's communication with the LSA. Even if Mr. LeDrew's comments about the frustration with his own medical treatment is taken into account, his tone of communication, his repeated attempts at one-sided resignation, his attacks on staff and counsel at the LSA, his non-attendance at the pre-hearing conferences, his lack of attendance at the Merits Hearing, all over a lengthy period of time up until the day before the Sanction Hearing, sets the foundation firmly for a disbarment based on ungovernability.
36. In the Committee's view, based on the facts of this case, authorities cited above and the principles of sanctioning, disbarment of Mr. LeDrew is necessary.

Costs

37. The LSA seeks costs of \$40,461.08, as set out in an Estimated Statement of Costs, to be payable by Mr. LeDrew upon a reinstatement application to rejoin the LSA.

38. The costs include the time of investigators and LSA counsel time in preparing for the Merits Hearing and the Sanction Hearing. The LSA counsel rate is \$125.00 per hour and the investigation rate is \$100.00 per hour, which are rates well below actual rates.
39. Mr. LeDrew's position on costs was surprise at the number and he submitted that he is impecunious. He had no other submissions on costs.
40. The Committee does not find these rates to be excessive and nor does the time claimed for investigators or counsel fees appear unwarranted.
41. The Committee finds the costs appropriate and reasonable, given the serious misconduct in this case, and orders that they be paid in full.

Concluding Matters

42. The Committee orders Mr. LeDrew be disbarred effective immediately and costs of \$40,000.00 be repaid prior to application for reinstatement.
43. A referral of these proceeding to the Attorney General is not required.
44. There will be a Notice to the Profession as mandated by section 85 of the *Act*.
45. The exhibits and 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 LeDrew will be redacted, and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3) of the Rules of the LSA).

Dated May 7, 2024.

Robert Philp, KC

Michael Mannas

Louise Wasylenko