

**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 CAROLINE O'DRISCOLL
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Hearing Committee

Deanna Steblyk, KC – Chair and Former Benchers
Martha Miller – Adjudicator
David Tupper – Benchers

Appearances

Will Cascadden, KC – Counsel for the Law Society of Alberta (LSA)
Alain Hepner, KC – Counsel for Caroline O'Driscoll

Hearing Date

April 29, 2025

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT

Overview

1. The following citation was directed to hearing by a Conduct Committee Panel on June 18, 2024:

It is alleged that Caroline O'Driscoll made public statements that infringed on her obligations to the profession, the courts and the administration of justice, and that such conduct is deserving of sanction.

2. Ms. O'Driscoll was admitted as a member of the LSA on September 6, 2007. She is also member of the Law Society of Ontario. She currently resides in Cochrane, Alberta and practices in Calgary.
3. The citation relates to Ms. O'Driscoll's social media posts that publicly disparaged a judge of the Court of King's Bench (Judge) and the court itself (ABKB). She also wrote a lengthy and critical letter to the Canadian Judicial Council regarding the Judge (Letter), and posted it on social media.

4. Ms. O'Driscoll executed a Statement of Admitted Facts and Exhibits, and Admissions of Guilt (Statement) on April 28, 2025. She admitted the citation and that the citation described conduct deserving of sanction.
5. On April 29, 2025, this Hearing Committee (Committee) convened a hearing into Ms. O'Driscoll's conduct, based on the citation.
6. At the hearing, counsel for the LSA (LSA Counsel) and counsel for Ms. O'Driscoll (Defense Counsel) made a joint submission about sanction, proposing that she be reprimanded and ordered to pay a \$7,500.00 fine. They also jointly proposed that Ms. O'Driscoll be ordered to pay costs of \$8,500.00, and that both the fine and the costs be paid within six months of the date of the hearing.
7. After reviewing all of the exhibits and hearing the arguments of LSA Counsel and Defense Counsel, for the reasons set out below, the Committee found Ms. O'Driscoll guilty of conduct deserving sanction, pursuant to section 71 of the *Legal Profession Act* (Act).
8. The Committee also found that, based on the facts of this case and the results in comparable past decisions, the sanction jointly proposed by the parties was appropriate.
9. Therefore, in accordance with section 72 of the Act, the Committee ordered that Ms. O'Driscoll be reprimanded and fined \$7,500.00. The Committee also ordered that Ms. O'Driscoll must pay \$8,500.00 in costs, and that both amounts be paid by October 29, 2025.
10. The reprimand was delivered to Ms. O'Driscoll at the conclusion of the hearing and is appended to these reasons.

Preliminary Matters

11. There were no objections to the constitution of the Committee or its jurisdiction. A private hearing was not requested, so the hearing into Ms. O'Driscoll's conduct proceeded in public.

Agreed Statement of Facts/Background

12. The Statement described the circumstances that led to the citation. In and around March 2021, and in the context her sister's family law proceedings, Ms. O'Driscoll posted a series of comments on her publicly-accessible LinkedIn social media page that disparaged both the Judge and the ABKB.
13. The Statement set out a number of the impugned comments (Impugned Comments). We will not reproduce them all here, but include a sample to illustrate the seriousness of what Ms. O'Driscoll said:

- "All harm caused to my family and their neighbours is being enabled by . . . the Alberta Courts";
 - "ALL of our political leaders . . . were made aware of this horror and have been complicit in allowing . . . the Alberta Courts to empower abusers";
 - "It has been a nightmare to witness the blatant biases and abuses of power that are carrying on in the Alberta family courts";
 - "Why are [the Judge] and the RCMP continuing to pander to [the opposing party]? Why is this overt lack of impartiality acceptable in our family courts and law enforcement?"
 - "[The Judge] has just effectively shielded herself from being held accountable for her past and ongoing conduct in these proceedings for over a month. THIS IS WRONG AND A COMPLETE ABUSE OF JUDICIAL DISCRETION AND POWER. CANADIANS NEED TO CALL OUR JUDICIAL SYSTEM AND GOVERNMENT LEADERS TO ACCOUNT FOR THE ABUSES OF POWER THAT ARE HAPPENING IN OUR FAMILY COURTS AT THE IMMEASURABLE COST OF THE SAFETY OF MY FAMILY AND ALL CANADIANS."
14. As mentioned, Ms. O'Driscoll also wrote the Letter to the Canadian Judicial Council about the Judge, and posted it on her public LinkedIn page.
15. In the Statement, Ms. O'Driscoll admitted that the Impugned Comments – including the Letter – were public statements that infringed on her obligations to the profession, the courts, and the administration of justice, and that such conduct was deserving of sanction.

Committee's Conclusion on Liability

16. The Committee convened to discuss the Statement and concluded that it was in an acceptable form. In the Statement and through Defense Counsel's submissions on her behalf at the hearing, Ms. O'Driscoll confirmed that: (i) she made her admissions voluntarily and understood their nature and consequences; (ii) she unequivocally admitted guilt to the citation describing the conduct deserving of sanction; (iii) she had the opportunity to consult legal counsel and provided the Statement on a free and voluntary basis; and (iv) she understood the Committee was not bound by any joint submission on sanction.
17. The Committee was satisfied that the citation had been proven and that Ms. O'Driscoll was guilty of conduct deserving of sanction.

Submissions on Sanction

18. LSA Counsel presented the parties' joint submission on sanction. In support of the submission, he noted that:
- Ms. O'Driscoll's misconduct breached section 5.6-1 of the LSA's Code of Conduct, which requires lawyers to "encourage public respect for and try to improve the administration of justice". The commentary to the section notes, *inter alia*, that while proceedings and decisions of courts and tribunals are properly subject to scrutiny and criticism by all members of the public, including lawyers, judges and tribunal members are often prohibited by law or custom from defending themselves. This imposes special responsibilities on lawyers, who must avoid criticism "that is petty, intemperate or unsupported by a bona fide belief in its real merits, since, in the eyes of the public, professional knowledge lends weight to the lawyer's judgments or criticism".
 - The Impugned Comments and the Letter caused or may have caused the public to have less respect for our courts and judiciary.
 - Ms. O'Driscoll's misconduct was not a single incident, but was repeated.
19. LSA Counsel cited and provided to the Committee copies of four decisions in support of the joint submission:
- *Law Society of Alberta v. Rauf*, 2018 ABLS 24;
 - *Law Society of British Columbia v. Greene*, [2003] LSBC 30;
 - *Law Society of Manitoba v. Histed*, 2006 MBLS 15; and
 - *Law Society of Alberta v. Saleem*, 2023 ABLS 3.
20. LSA Counsel pointed out that while *Saleem* did not involve misconduct like Ms. O'Driscoll's, he provided it to the Committee for its statement of the legal test to be applied when a tribunal is considering whether to accept a joint submission on sanction. At paragraphs 22 and 23 of the decision, the hearing committee stated:
- The Committee is not bound by the joint submission. However, we must give it significant deference unless we are satisfied that it is contrary to the public interest. In the criminal law context, the Supreme Court of Canada in *R v Anthony-Cook*, 2016 SCC 43 has set out a test for assessing joint submissions:
- a) Is the joint submission so markedly out of line with the expectations of reasonable persons aware of the circumstances of the offence and the offender that the joint submission would be viewed as a break down in the proper functioning of the criminal justice system?

- b) Would the joint submission cause an informed and reasonable public to lose confidence in the institution of the courts?
- c) Is the joint submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down?

This public interest test has been adopted by professional disciplinary tribunals including the LSA.

- 21. LSA Counsel submitted that the *Rauf*, *Histed*, and *Greene* cases involved comparable misconduct, where a lawyer breached the applicable Code of Conduct by making intemperate public comments about another lawyer or members of the judiciary. Rauf was suspended for seven days and ordered to pay \$15,000.00 in costs, which LSA Counsel advised was upheld on appeal. Histed was fined \$2,500.00 and ordered to pay \$7,500.00 in costs. Greene was fined \$3,000.00 and ordered to pay costs of \$3,500.00.
- 22. LSA Counsel submitted that the sanctions in *Histed* and *Green* were most similar to the parties' joint submission in this matter. The respondent in *Rauf* was given what could be perceived as a more severe penalty because he was suspended, but LSA Counsel pointed out that that respondent made no admissions and contested the allegations throughout. Further, his misconduct was arguably worse because his statements were in a letter that he made publicly available by leaving copies in a common area of the court house. LSA Counsel also submitted that the fine proposed against Ms. O'Driscoll was approximately the amount of or more than a week's income, so it is roughly equivalent to a week's suspension in any event.
- 23. As for costs, LSA Counsel advised that he had estimated the LSA's costs at the time he was negotiating the Statement and they were higher than \$8,500.00 because of the complexity of the matter, the negotiations, and the volume of materials. However, he had agreed to cap them at \$8,500.00 and agreed to give Ms. O'Driscoll the six months to pay the fine and costs because he estimated that a contested hearing likely would have taken that long to conclude anyway.
- 24. Defense Counsel confirmed his client's agreement to the joint submission, and advised of the following relevant circumstances:
 - Although Ms. O'Driscoll acknowledged that there was no justification for her misconduct and that it was repeated, Defense Counsel pointed out that it

occurred during the COVID-19 pandemic and in the context of the difficult domestic circumstances Ms. O'Driscoll's sister was going through at the time.

- He had had Ms. O'Driscoll review the case law LSA Counsel provided – including the *Rauf* decision – and discussed the matter with her at length so that she would understand why her actions amounted to conduct deserving of sanction.
 - The ABKB decisions Ms. O'Driscoll criticized were confirmed on appeal.
 - The Canadian Judicial Council confirmed that it did not intend to take any further action concerning the Letter.
25. Ms. O'Driscoll had written a letter of apology to the Judge, and read it to the Committee during the hearing. In it, she acknowledged that her social media posts were inappropriate and offside her ethical and professional obligations. She also acknowledged the impact her comments would have had on the administration of justice. At the Committee's urging, she agreed to provide a copy of her apology letter to the Judge (Defense Counsel later confirmed that this was done after the conclusion of the hearing).

Committee's Conclusion on Sanction

26. Based on the facts set out in the Statement, the comparable decisions cited, the parties' submissions, and Ms. O'Driscoll's cooperation and expression of remorse in her letter of apology, the Committee was satisfied that the jointly-proposed sanction was appropriate. Although we were not bound by the joint submission, we gave it serious consideration in accordance with the test in *Anthony-Cook*, and determined that it was acceptable. We did not find that it was unfit or unreasonable, contrary to the public interest, or that there were any other good and cogent reasons to reject it.
27. Similarly, while prior decisions are not binding, the Committee determined that where possible, undue disparity from the results of decisions based on comparable facts should be avoided. We were satisfied that the decisions cited were sufficiently comparable to Ms. O'Driscoll's conduct to provide reasonable guidance as to the appropriate sanction here.

Concluding Matters

28. The appropriate sanction with respect to the citation at issue in this matter is a reprimand and a fine of \$7,500.00. In addition, Ms. O'Driscoll must pay costs to the LSA in the amount of \$8,500.00. The fine and costs are to be paid within six months of the date of the hearing, by October 29, 2025.
29. There will be no Notice to the Profession or Notice to the Attorney General.

30. 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 Ms. O'Driscoll will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated May 28, 2025.

Deanna Steblyk, KC

Martha Miller

David Tupper