

**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 ADEMOLA EMILOJU  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Hearing Committee**

Cal Johnson, KC – Chair and Former Bencher  
Corie Flett, KC – Former Bencher  
Levonne Louie – Lay Bencher

**Appearances**

Will Cascadden, KC – Counsel for the Law Society of Alberta (LSA)  
Peter Tesi – Counsel for Ademola Emiloju

**Hearing Date**

December 2, 2024

**Hearing Location**

Virtual Hearing

**HEARING COMMITTEE REPORT**

**Overview**

1. The following citations were directed to hearing by a Conduct Committee Panel on May 14, 2024:

**Complaint 1**

- 1) It is alleged that Ademola Emiloju failed to treat the Court with candour, courtesy and respect and such conduct is deserving of sanction.

**Complaint 2**

- 2) It is alleged that Ademola Emiloju did not correct a court order that improperly excluded required information and that such conduct is deserving of sanction.
- 3) It is alleged that Ademola Emiloju did not provide required documentation and information to the Court, to an opposing party and to opposing counsel in a timely manner and/or at all, and that such conduct is deserving of sanction.

(Citations)

2. Mr. Emiloju was admitted as a member of the LSA in July of 2019 and practiced in the areas of criminal and family law and more recently some real estate conveyancing. At the time of the admitted conduct leading to the above citations Mr. Emiloju was practicing as a sole practitioner and had taken a recent stress leave as he had become very busy, overwhelmed and struggled with poor practice management.
3. Mr. Emiloju experienced some negative interactions with a member of the Alberta Provincial Court (now known as the Alberta Court of Justice) as a result of his failures to accurately carry out the instructions of the Court in relation to various draft orders resulting in complaint letters to the LSA from the Court. As well, Mr. Emiloju was admonished by another member of the Court by way of a costs award made against him personally as a result of appearing late for Court. In that matter he also on another occasion failed to appear, other than by way of an agent who was not properly instructed, resulting in an extremely difficult situation for the Court, his client, the opposing client and opposing counsel.
4. On another matter involving a self-represented litigant, he once again prepared and filed an order that failed to include a direction of the Court resulting in substantial delays and expense.
5. On November 5, 2024, Mr. Emiloju executed a Statement of Admitted Facts and Exhibits, and Admissions of Guilt (Statement) in which he admitted guilt to each of the Citations and that his conduct was deserving of sanction.
6. On December 2, 2024, the Hearing Committee (Committee) convened a hearing into the conduct of Mr. Emiloju, based on the Citations (Hearing). The Committee reviewed the Statement for compliance with the requirements of paragraph 47 of the Pre-Hearing and Hearing Guideline (Guideline) and pursuant to section 60 of the *Legal Profession Act (Act)* the Committee found that the Statement to be in an acceptable form. Accordingly, the Committee finds Mr. Emiloju guilty of conduct deserving of sanction in respect of each of the Citations.
7. Thus, the significant questions before the Committee were considering a joint submission on sanction and a joint submission on costs. After reviewing all of the evidence and exhibits and hearing the testimony and arguments of the LSA and Mr. Emiloju, for the reasons set out below, the Committee finds the appropriate sanction to be a one-month suspension in accordance with section 72 of the Act.
8. In addition, pursuant to section 72(2) of the Act, the Committee orders costs of the LSA's investigation and this Hearing in the amount of \$2,000.00 to be paid in full by March 1, 2025.

## Preliminary Matters

9. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested. Accordingly, a public hearing into Mr. Emiloju's conduct proceeded.

## Agreed Statement of Facts/Background

10. In the Statement, Mr. Emiloju acknowledged that a Judge had given him specific and detailed directions on the terms to be included in an order. Upon review by the Court, a strongly worded letter was sent to Mr. Emiloju expressing extremely serious concerns with misrepresentations and errors in the draft, noting that some of the errors constituted more than inadvertence. The letter also advised Mr. Emiloju that the matter had been reported to the Chief Judge to advise his colleagues to carefully proofread any future orders drafted by Mr. Emiloju.
11. Mr. Emiloju apologized and provided a corrected order that still contained errors or misrepresentations, leading to exasperation on the part of the Judge and requiring a third draft which was finally endorsed.
12. The Court provided the LSA with copies of the two draft orders and one of the follow up letters to Mr. Emiloju for the purpose of determining whether it would be appropriate to offer some assistance to Mr. Emiloju.
13. In a separate incident, Mr. Emiloju was acting in a high conflict parenting dispute and failed to appear as ordered for a case management meeting, sending an agent instead. Although the agent indicated Mr. Emiloju was away on stress leave, the fact was that Mr. Emiloju had double booked himself and was in a trial in Lethbridge. The Court was unable to proceed, and the matter was further set over with the Judge awarding costs against Mr. Emiloju personally for failing to attend. In his decision the Judge noted that it was no answer to blame the double booking on his assistant as any negligence by his assistant is his negligence. This incident resulted in a further letter from the Court to the LSA noting that this was serious misconduct that undermined the authority of the Court. The letter suggested that this incident, coupled with the other conduct that had been previously reported to the LSA, raised concerns about Mr. Emiloju's professional competency and his understanding of his professional obligations.
14. In respect of the final Citation, Mr. Emiloju acknowledged that he had been ordered to schedule a Special Chambers parenting application but failed to include that direction in an order that he filed and then subsequently failed to properly serve the filed order on the self-represented party. This failure was detected by the lawyer subsequently retained by the self-represented party and was reported to the Judge. By the time the amended order was finally entered, the matter had already been delayed for six months after it had first been ordered to proceed to a Special Chambers parenting application.

## Analysis and Decision on Sanction

15. LSA counsel and counsel for Mr. Emiloju advised the Committee of a joint submission on sanction. The joint submission was for a one-month suspension and costs in the amount of \$2,000.00.
16. LSA counsel cited, as mitigating factors:
  - (a) the absence of a prior disciplinary record;
  - (b) the significant cooperation of Mr. Emiloju and his counsel which took a matter originally scheduled for a one week contested hearing to the Statement and the joint submission;
  - (c) the acknowledgement by Mr. Emiloju of responsibility for his conduct; and
  - (d) that Mr. Emiloju would be taking the course recently made available by the LSA on the LSA's Code of Conduct.
17. As aggravating factors, LSA counsel noted:
  - (a) this was not a situation involving just one incident, but multiple incidents of problematic interactions with the Court; and
  - (b) the conduct occurred over an extended period.
18. LSA counsel referred to several cases to bolster the argument for a mere one-month suspension. *Law Society of Alberta v Carlson* 2019, ABLs 14, involved a member who failed to sign a court order and consent judgment, failed to respond to communications from opposing counsel, failed to finalize and file an order on behalf of his client, failed to respond to communication from his client and failed to respond to requests from the LSA. The parties provided a joint submission on sanction for a one-month suspension and payment of \$8,800.00 in costs. In this case the member had a prior disciplinary record, without which that hearing committee said it would have simply ordered a reprimand considering his acceptance of responsibility, and his attempt to effect restitution with his clients.
19. In an older case of *Law Society of Alberta v. Shaun Langin*, 2006 LSA 17, the member failed on numerous instances to fulfill his commitments to his clients, to other solicitors and failed to respond in a timely manner to the LSA. The member was suspended for one month, fined \$5,000.00, ordered to pay the actual costs of the hearing, participate in a Practice Review and perform certain undertakings in relation to outstanding client matters.
20. *Law Society of Alberta v Saleem*, 2023 ABLs 3, involved a member who made misrepresentation to a client about acting on a matter for the client, and failed to provide

legal services to the standard of a competent lawyer. Despite agreeing to help a family friend in relation to child custody orders, the member indicated to the client that he had filed documents in Court, appeared in Court and obtained Court orders, when in fact he had not done so. He did little or no work to advance his client's matters. A joint submission was accepted for a one-month suspension, a fine of \$5,000.00 and cost of \$5,187.

21. The final case of *Law Society of Alberta v Farrell*, 2024 ABLS 11, dealt with citations that the member had practiced law while administratively suspended and had failed to be candid with the LSA. There was a statement of admitted facts and admission of guilt and a joint submission on sanction for a reprimand, payment of a fine of \$1,000.00 and payment of costs of \$3,500.00. The member had chosen to pay his annual membership fee in two installments but missed the second installment since the LSA notice of this failure had been blocked by his new firm's server, as was the general notice to the profession regarding lawyers such as the member who had been administratively suspended. Although the second payment was promptly made, the member failed to concurrently make an application for reinstatement but did so once notified by the LSA. In accepting the joint submission, that hearing committee noted that the failure was largely inadvertent, the public was not at risk, no clients were harmed, the reputational risk to the profession was slight, governability was not in issue and there were a small number of incidents over a relatively brief period.
22. In accordance with the Guideline, the Committee is required to give significant deference to a joint submission and the Guideline references the Supreme Court of Canada case of *R. v. Anthony-Cook*, 2016 SCC 43, which outlined a test for assessing the acceptability of joint submissions in a criminal law context. That case proposed a "public interest test" whereby a judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or otherwise be contrary to the public interest. Engaging the public interest test requires considering the following issues:
  - (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 breakdown 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 certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down?

23. The public interest test has been widely adopted by professional discipline tribunals across Canada. The case law confirms that the test is appropriate and should be applied in LSA conduct proceedings.
24. The Committee found the case authorities presented to not be particularly helpful considering the significant disparities between the facts of this case and those cited. *Carlson* was the most on point in that the member failed to sign a court order and consent judgment, but this conduct and the rest of the citations related to failures in respect of his own client or the LSA. *Langin* similarly related to failures to his clients, other lawyers or the LSA in respect of commitments or communications. *Saleem* concerned misrepresentations and failure to serve his client. *Farrell* was the most remote in dealing with practicing while suspended and failing to be candid. The conduct of Mr. Emiloju included the element of interference with the administration of justice and undermining the authority of the courts. In all but *Farrell*, the suspension sanction was, as proposed by the joint submission, one month. However, in two of the cases there was also a \$5,000.00 fine and in all cases the costs awards were more substantial.
25. Considering the qualified relevance of the cited authorities, the Committee questioned both counsel as to the justifications for the proposed suspension. Every case must be examined on its own facts and the Committee acknowledged the direction of the Guideline that it is not bound by the joint submission but must show deference. The answers to the questions put forward by counsel, or in a limited sense by Mr. Emiloju, provided some helpful colour on some of the more seemingly egregious conduct. Mr. Emiloju was at the time a very junior lawyer practicing on his own, without the benefit of any senior advisor or mentor. He had serious practice management issues, was disorganized and overwhelmed. It appears that the misrepresentations or failures to follow directions from the Court were not deliberate, but nevertheless careless or avoidable. His communications with his agents were again lacking but not intended to deceive or mislead, nor were they malicious. His subsequent conduct seems to demonstrate a commitment to better practice management, ethics and professionalism. His counsel indicated that he has agreed to provide mentorship to Mr. Emiloju going forward.
26. In the result, the Committee concluded, and advised both counsel and the member, that in light of the public interest test and the additional details provided at the Hearing, this joint submission on sanction would be given deference but that it cleared the bar by the slimmest of possible margins. The Committee would suggest that any precedential value for this sanction should be looked at very carefully.
27. Although the Committee found *Farrell* to be of little or no assistance on sanction, it was helpful on the issue of costs. Once again, the Committee saw a substantial disconnect between the default rule on costs proposed by paragraph 221 of the Guideline, and the very low amount proposed by the joint submission. That decision summarizes the progression of the Alberta Court of Appeal's views on costs from *K.C. v. College of Physical Therapists of Alberta*, 1999 ABCA 253 through to the more decisions in *Jinnah*

*v Alberta Dental Association and College*, 2022 ABCA 336 and *Dr. Ignacio Tan III v Alberta Veterinary Medical Association* 2024 ABCA 94. Shortly put, the current view of the ABCA is that the costs of discipline proceedings should be borne in whole or in part by the profession as all members benefit from self-regulation. This is qualified by certain cited circumstances where the full imposition of the default rule is appropriate.

28. The Committee was influenced by the comments of Justice Khullar (now Chief Justice of the Alberta Court of Appeal) in *Alsaadi v Alberta College of Pharmacy*, 2021 ABCA 313 who favored the approach to costs set out in *KC v. College of Physical Therapists of Alberta*, 1999 ABCA 253. The Committee is particularly guided by the following statement from *KC* (at paragraph 94):

...a discipline committee awarding costs must consider such factors as the seriousness of the charges, the conduct of the parties and the reasonableness of the amounts. Costs are not a penalty, and should not be awarded on that basis. When the magnitude of a costs award delivers a crushing financial blow, it deserves careful scrutiny...

29. As was the case with the issue of sanction, the Committee questioned both counsel on a costs submission that seemed disconnected from precedent or the facts appearing in the Statement. It became quite clear that the publication of the Citations, the very negative comments from the Alberta Court of Justice, coupled with Mr. Emiloju's issues dealing with the stresses of practice, had resulted in the loss of almost all of his practice with the exception of some real estate. This has caused some major financial challenges for Mr. Emiloju.
30. The Committee notes, as did *Farrell*, that a significant portion of these costs are for preparation and hearing time for LSA counsel which are charged at only \$125.00 per hour. As *Farrell* states these costs "represent a small fraction of the market rate for experienced advocacy counsel in the Alberta market". The Committee takes this as evidence that the LSA already bears a portion of the costs, even if the default rule was fully applied.
31. The Committee reluctantly has accepted the joint submission on costs and does so only based on the financial hardships Mr. Emiloju has suffered as a result of his conduct and the Citations. The Committee does not wish to punish or burden Mr. Emiloju further by way of the costs award, but also expresses the view that this is on the very lowest end of the spectrum.

### **Concluding Matters**

32. The Committee ordered that Mr. Emiloju:
- (a) be suspended for a 1-month period commencing December 3, 2024; and
  - (b) must pay \$2,000 in costs to the LSA not later than March 1, 2025.

33. A Notice to the Profession pursuant to Section 85 of the *Act* is required in the circumstances of a suspension and such Notice was issued on December 3, 2024.
34. No referral to the Minister of Justice and Solicitor General is to be made in respect of the conduct outlined in the Citations.
35. 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. Emiloju will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated January 30, 2025.

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Cal Johnson, KC

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Corie Flett, KC

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Levonne Louie