

**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 JEFFREY RATH  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Hearing Committee**

Cal Johnson, KC – Chair and Former Bencher  
John Byrne – Public Adjudicator  
Angela Saccomani, KC – Lawyer Adjudicator

**Appearances**

William E. Cascadden, KC – Counsel for the Law Society of Alberta (LSA)  
Edward W. Halt, KC – Counsel for Jeffrey Rath

**Hearing Dates**

January 13, 2026

**Hearing Location**

Virtual Hearing

**HEARING COMMITTEE REPORT**

**Overview**

1. The following citations were directed to hearing by the Conduct Committee Panel on October 22, 2024:
  - 1) It is alleged that Jeffrey R.W. Rath threatened criminal charges, including for murder, in an attempt to gain a benefit for a client and that such conduct is deserving of sanction.
  - 2) It is alleged that Jeffrey R.W. Rath sent correspondence directly to an opposing party when he knew or ought to have known that person was represented by a lawyer, and that such conduct is deserving of sanction.
  - 3) It is alleged that, in the course of his professional practice, Jeffrey R.W. Rath sent correspondence and communicated in a manner that was discourteous, offensive or otherwise inconsistent with the proper tone of professional communication from a lawyer, and that such conduct is deserving of sanction.

2. Mr. Rath is a lawyer who is currently practicing in Foothills County. He was admitted to the Alberta bar in 1991 and has practiced in the areas of administrative law, constitutional law and Aboriginal law. Over the course of several months in late 2021 and early 2022, he sent several letters addressed to different federal and provincial politicians and health professionals in which he raised various concerns relating to the administration and use of vaccines during the COVID-19 pandemic. The text of some of this correspondence, and particularly the threatening nature of some of the language, led to complaints made to the LSA concerning this conduct, and the issuance of citations 1 and 3 above. During the same time, he had issued a statement of claim on behalf of a number of individual doctors and named several public health officials as defendants. After one of the letters referenced above was sent to one of these officials, a lawyer acting for that individual in respect of the legal action requested that Mr. Rath not communicate further with his client. Mr. Rath did send a further letter to that individual, which led to the issuance of citation 2.
3. On January 13, 2025, the Hearing Committee (Committee) convened a hearing into the conduct of Mr. Rath, based on the above citations.
4. After reviewing all of the evidence and exhibits, and hearing the testimony and arguments of the LSA and Mr. Rath, for the reasons set out below, the Committee finds Mr. Rath guilty of conduct deserving sanction on citation 3, and not guilty on citations 1 and 2, pursuant to section 71 of the *Legal Profession Act (Act)*.
5. A further hearing will be scheduled to hear submissions on sanction and costs.

### **Preliminary Matters**

6. 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. Rath's conduct proceeded.

### **Background**

7. At the commencement of the hearing, counsel for the LSA entered a number of agreed upon Exhibits. Exhibit 14 is a letter from Mr. Rath's counsel attaching a "Statement" from Mr. Rath which his counsel described as an admission of guilt to citation 3 (Rath Statement). During his testimony at the hearing, Mr. Rath confirmed under questioning that he reviewed and approved Exhibit 14, and accepted responsibility for it regarding citation 3. Later in the hearing, Mr. Rath was questioned about the content of the Rath Statement and Mr. Rath confirmed that it was his unequivocal admission of guilt to citation 3, that it was made voluntarily and free of undue coercion, that he understood the nature and consequences of such an admission and that his confirmations effectively amounted to a ruling on guilt.
8. In November of 2021, January of 2022 and February of 2022, Mr. Rath sent letters written on his firm letterhead to federal government officials (the Prime Minister, the

Chief Public Health Officer, the Attorney General and the RCMP Superintendent), and to Alberta government officials (the Premier, the Chief Medical Health Officer, the Attorney General, the Registrar of the College of Physician and Surgeons, and the President and CEO of Alberta Health Services).

9. Exhibit 8 is Mr. Rath's letter on his firm letterhead, dated November 16, 2021 addressed to the federal officials (Federal Letter) and in which Mr. Rath wrote:

This letter constitutes a request on behalf of Canadian parents of 5 to 11-year-old children that a criminal investigation be immediately opened with regard to fraudulent submissions of Pfizer Corp. regarding the provision of the Pfizer Vaccine to children 5 through 11 years of age.

10. That same letter contained the following language:

This letter serves as a notice of liability to Prime Minister Trudeau and Dr. [TT] that in the event that these products are approved absent a complete criminal investigation being conducted, and that any child is harmed or killed by these products, a further complaint with regard to unlawfully causing bodily harm under s. 269 of the Criminal Code or Canada or homicide or a complaint under the War Crimes and Crimes Against Humanity Act will be forthcoming as against any party approving the Pfizer Vaccine for 5 to 11 year old children.

11. In the Federal Letter, Mr. Rath generally expressed concerns about the safety of the Pfizer vaccine and alleged fraudulent misstatements by Pfizer with respect to the safety profile of the vaccine. Mr. Rath further suggested that there was no urgency in licensing or approving the vaccine and concludes by reiterating the Federal Letter is a criminal complaint.

12. Exhibit 9 is Mr. Rath's letter of November 23, 2021 sent on his firm letterhead to Premier Jason Kenney, Dr. [DH], and Alberta Attorney General [KM] (Provincial Letter) to which he attached a copy of the Federal Letter, referencing it as a "criminal complaint". In the Provincial Letter Mr. Rath states:

Please be on notice that if the Government of Alberta proceeds with the rollout of this vaccine in Alberta, that Pfizer's own evidence proves that the vaccine will kill children while having only a theoretical benefit. We have yet to have a single child under the age of 18 die from COVID-19 in the Province of Alberta. In the event that any child is either harmed with this product or alternatively dies from the injection of this product, all legal options will be pursued against the recipients of this letter, including the filing of criminal charges, including pre-meditated first-degree murder.

13. In the Provincial Letter, Mr. Rath goes on to say he trusts that the addressees will not be proceeding with any vaccine rollout for children under the age of 12. It also states "[o]n a related note" that Mr. Rath had been contacted by a cardiologist that had seen a marked increase in cases of pediatric myocarditis in 12 to 18 years-olds since COVID-19 vaccines had been approved. The letter then states:

As a concerned parent, and on behalf of our clients, we respectfully request that the CMOH [undefined] immediately undertake investigation of the increase in myocarditis cases in the Province of Alberta following vaccination.

14. On January 25, 2022, Mr. Rath sent a letter contained in Exhibit 10 to Dr. [DH], Dr. [SM], and Dr. [VY] (Fluvoxamine Letter) regarding the approval of Fluvoxamine for outpatient use in Alberta; Dr. [VY]'s Alberta Health Services email address was among the recipients. The Fluvoxamine Letter contained the following language:

...numerous doctors that I represent have requested that I write to you to ask whether or not Fluvoxamine is now approved for outpatient use in Alberta or whether their medical license will be in jeopardy if they follow the guidance of the Ontario Science Table and prescribe Fluvoxamine for outpatient use.

...

Can you please advise as to **which of you is responsible for 9 out of 10 COVID DEATHS in the Province of Alberta** if it turns out that guidance has not been issued on the benefits of Fluvoxamine for COVID treatment in the Province of Alberta for the period following December 20, 2021, to date.

15. Litigation ([P] Litigation) had been commenced by Mr. Rath, and an Amended Statement of Claim was filed November 1, 2021 (Exhibit 12), in which Dr. [VY] was named as a defendant in her capacity as Chief Executive Officer of Alberta Health Services. Mr. Rath acted as counsel for the plaintiffs in the [P] Litigation, and Mr. [H] of [B Firm] was identified as counsel of record for Dr. [VY] in the [P] Litigation. On January 25, 2022, after the sending of the Fluvoxamine Letter, Mr. [H] notified Mr. Rath by email:

I have been provided with the attached letter from you to my client. This is not the first time you have written directly to Dr. [VY] while you have been aware that we are counsel of record for her. I formally request that you cease corresponding with my client. (Exhibit 11)

16. That same day Mr. Rath responded by email (Exhibit 11) to Mr. [H] as follows:

I wrote her on behalf of doctors other than [P], [M], [C] et al. and in my personal capacity as a concerned citizen. If you want to advise me as to how many people Dr. [VY] has killed by denying them life saving drugs...I'll be pleased to have your response on her behalf.

17. Nine days later, on February 3, 2022, Mr. Rath sent another letter (Exhibit 13) (Fluvoxamine Letter 2) directly to Dr. [VY], as well as to Dr. [DH] and Dr. [SM], again regarding Fluvoxamine referencing the Fluvoxamine Letter; Mr. Rath again did not copy

Mr. [H]. Mr. Rath did not seek clarification or otherwise confirm the scope of Mr. [H]'s representation before sending this subsequent communication.

### **Citation 1**

#### *Evidence of Mr. Rath*

18. Mr. Rath testified that his office had been inundated with hundreds of communications from citizens concerned about the safety of COVID-19 vaccines. He stated that his letters in Exhibit 8 (Federal Letter) and Exhibit 9 (Provincial Letter) were motivated by his belief, based on materials he reviewed, that the vaccines posed serious risks to children, and he wished to alert the named decision-makers approving the use of the vaccines as to the safety issues concerning their use, including the possible development of myocarditis.
19. He indicated he also wrote the Federal Letter to urge investigation of Pfizer's EUA materials which he characterized as fraudulent and had included the RCMP Commissioner as an addressee in the hope that Pfizer would be investigated for criminal conduct as the issuer of a fraudulent document. He indicated that he wrote the letter in Exhibit 10 (Fluvoxamine Letter) to the Alberta officials as a private citizen hoping to save lives, but that there was no retainer for any specific client. He had become aware that Fluvoxamine had been approved for use in Ontario but had not been made available in Alberta as a treatment for COVID-19 that could, in his estimation, reduce mortality.
20. Mr. Rath further testified that his reference to file "99000" at the top of each of Exhibits 8, 9 and 10 denoted a personal, non-client matter for which he had no specific client. He indicated that Exhibit 8 (Federal Letter) was written on behalf of parents of 5 to 11 year-old children but that he had not received a specific engagement or retainer by any specific individuals. Again, he stated that he did not have a specific retainer with a specific client in respect of Exhibit 9 (Provincial Letter) and Exhibit 10 (Fluvoxamine Letter).
21. Mr. Rath testified that Exhibit 8, Exhibit 9 and "these letters" were not used in the [P] Litigation, nor were they used as a bargaining chip or lever in connection with that litigation.
22. In the Rath Statement (Exhibit 14) Mr. Rath acknowledged that while the letters reflected his honestly held concerns, his words "went beyond identifying and expressing my concerns to asserting that public officials would be held criminally responsible in the event investigations regarding vaccines were not properly completed and deaths resulted from the administration of vaccines to children". He recognized his assertions and this language was discourteous, offensive, and inconsistent with the proper tone for lawyer communications, and apologized for the negative impact on the legal profession.

### *Cross Examination of Mr. Rath on Citation 1*

23. Mr. Rath confirmed that Exhibits 8, 9, 10 and 13 were written on Rath & Company letterhead, which is the same letterhead he uses when corresponding on legal matters and that all of the letters were signed by him as a barrister and solicitor. He also confirmed that the letters were posted to a website that had been established specifically for COVID-19 related litigation matters, but that they were not posted to his firm's website.
24. In answer to a direct question about the reference in the Federal Letter to "the filing of criminal charges, including pre-meditated first-degree murder", Mr. Rath confirmed that he did unfortunately write that.
25. In answer to questions from the Committee following the cross examination, Mr. Rath was questioned as to why, when he said he was writing these letters as a private citizen, he did then use firm letterhead as opposed to personal letterhead. He indicated that it never crossed his mind to do that.
26. The Committee also questioned his use of the language in the Provincial Letter where he wrote "As a concerned parent, and on behalf of our clients", when he had testified that he was writing as a private citizen and did not have any clients. His brief answer was that he "misspoke". He was also questioned as to the use of the language "numerous doctors that I represent" in the Fluvoxamine Letter, if he was writing as a private citizen. He indicated that it was on his mind at the time since he was, and still is, representing some doctors in complaints arising from either the prescription or promotion of Ivermectin, but that he again clearly misspoke as he had not sought instructions from anyone and was writing merely as a private citizen.

### *Submissions of the LSA – Citation 1*

27. LSA counsel referenced the LSA Code of Conduct (Code) and the commentary to section 3.2-11 which says in part:

It is an abuse of the court or regulatory authority's process to threaten to make or advance a complaint in order to secure the satisfaction of a private grievance.
28. LSA counsel argued that the Federal Letter clearly threatened criminal prosecution, including for murder. He similarly pointed to the threat of "the filing of criminal charges, including pre-meditated murder" in the Provincial Letter. The threats in Exhibit 8 and Exhibit 9 went beyond reporting concerns about the use of the vaccines or non-use of Ivermectin, to threatening the public officials that they could be held criminally responsible.

29. In relation to the element of the citation requiring the gaining of a benefit, the LSA argued that the benefit sought included stopping the approval and rollout of vaccines, particularly in relation to the use for children, and which benefit Mr. Rath had acknowledged in his cross-examination. The commentary to section 3.2-11 of the Code indicates that it is an abuse "...to threaten or advance a complaint in order to secure the satisfaction of a private grievance". LSA counsel argued that the citation does not specifically state that Mr. Rath had breached that section of the Code, but rather that his actions were conduct deserving of sanction. The conduct does not have to comply with the precise wording of the section or the commentary thereto; lawyers are expected to comply with both the letter and the spirit of the Code. The Code reference to a private grievance does not mandate that the benefits sought by Mr. Rath had to be resolution of a private grievance.
30. As for the "client" element of the citation, he argued that this was met by Mr. Rath writing "on behalf of Canadian parents of 5 to 11-year old children" in the Federal Letter and in his reference to "our clients" in the Provincial Letter. He referenced the Code definition of a "client" which can include "a person who reasonably believes that a lawyer/client relationship exists, whether or not that is the case at law" and referenced the commentary to that definition which states in part that "an express retainer or remuneration is not required for a lawyer/client relationship to arise".
31. LSA counsel also argued that Mr. Rath had indicated in his testimony that his submissions and authorities had been reviewed by numerous doctors and that in approving them it created a relationship where Mr. Rath was effectively advocating for them. His argument was whether he was specifically retained to send the letters, or whether he was doing it based on the complaints he had received or the people he had spoken to, his advocating for them made them his clients for the purposes of the citation.
32. The LSA presented a few cases which were cited as authority for conduct deserving of sanction even in circumstances where the threats were not made for the benefit of a formally retained client. He cited *Law Society of Alberta v. Merchant*, 2012 ABLS 7, and *Law Society of Upper Canada v. James Alexander Kay*, 2006 ONLSHP 31, as conduct deserving of sanction where the threats were made in relation to a lawyer's own economic interests or fees. In *Merchant* the lawyer had sent out settlement funds to his clients but neglected to withhold for his own fees and then wrote to the clients basically threatening them with criminal proceedings if they did not return the money to him. *Kay* was also a situation where the lawyer threatened criminal proceedings to get his fees paid. A benefit for his firm but not for the benefit of a specific client. He also cited *Law Society of Ontario v Vitsentzatos*, 2025 ONLSTH 145 where a lawyer's daughter was stopped by police and the lawyer attended personally at the scene and threatened professional disciplinary proceedings and alleged theft by the police and sought to have the police exercise their discretion on behalf of his daughter and the release of her vehicle. He noted that Mr. Rath had indicated in his testimony that part of the reason for

sending one of the letters was because he himself had an 11-year-old child and that part of his motivation was protecting his child, much as it was in *Vitsentzatos*.

33. In relation to the case of *Law Society of Alberta v. Shandro*, 2024 ABLS 14, LSA counsel noted that the member had been found not guilty of the citation relating to making a threat because the threatening email in question had not been sent in his capacity as a lawyer, whereas Mr. Rath had sent his letters on his firm letterhead clearly identifying himself as a lawyer.
34. In conclusion, the LSA argued that citation 1 had been made out in that Mr. Rath breached both the letter and the spirit of the Code and that his conduct was deserving of sanction.

#### *Submissions of Mr. Rath – Citation 1*

35. Counsel for Mr. Rath argued that the LSA is required to prove the specific elements of the applicable Code section, being section 3.2-11. He characterized the citation as alleging a breach of that specific Code provision. The specific language of the Code must be applied and each of the elements of that provision must be satisfied. The commentary to that section provides the guidance to the Code provision and the mere assertion of a potential criminal case is not enough. That commentary requires that there be a threat that is related to the satisfaction of a private grievance. Mr. Rath's letters addressed public interest concerns, not a private grievance or leveraging a civil dispute.
36. The threats in the letters were only conditional threats in the sense that a criminal complaint would only arise if the criminal conduct occurred. They would only have been improper if Mr. Rath actually used or threatened to use criminal proceedings to gain a civil advantage, as opposed to conditioning the threats on some future actions.
37. Counsel for Mr. Rath also reiterated from Mr. Rath's testimony that his letters were not used in relation to the [P] Litigation or in an attempt to gain any leverage in the [P] Litigation.
38. Counsel for Mr. Rath referred to a number of cases to demonstrate that there must be a necessary linkage between the threat and the securing of a civil or private remedy. In *Pierce v. Law Society of British Columbia*, 2002 BCCA 251, the member threatened to give damaging evidence in a civil matter unless a settlement was reached in relation to other litigation. It was found that there was a clear linkage between the satisfaction of a matrimonial matter, and the provision of evidence in another civil trial. He asserts that there is simply no linkage here between Mr. Rath's public interest assertions and any private grievance or dispute.
39. The *Vitsentzatos* case was distinguished on the basis that the necessary linkage existed because the threat was made to the police officer in a situation in which the member was

found to be acting in a legal capacity. He referred to *Law Society of Alberta v. Denis*, 2024 ABLS 19, as a situation where the member threatened a peace officer with a complaint to her professional body unless she ceased having any communication with the member's client. The decision noted that the member was not protecting the public interest by threatening a disciplinary complaint, but rather on the potential civil remedies if the demand made by the member was not complied with. He also very briefly referenced *Shandro* where the member threatened to report the complainant to Protective Services if the complainant communicated again with his wife. The hearing committee in that case found that there was no outright threat and dismissed the charges. Similarly, he touched briefly on *Ganapathi v. The Law Society of British Columbia*, 2020 BCCA 340, and *Law Society of Ontario v. Ramal-Shah*, 2023 ONLSTH 58, as examples of threats involving the necessary linkage to securing a civil or private remedy that led to determinations of conduct worthy of sanction.

40. Counsel for Mr. Rath asserted that there was no "benefit for a client" here since advocating in the public interest is not acting for a client and Mr. Rath had confirmed that there was no retainer nor instructions behind any of his letters. Simply advocating in the public interest does not constitute a client representation. Countering the LSA argument for a broad application for the definition of a client in the Code, he argued that an undefined group of parents that happened to be mentioned in the letters was insufficient to attract the benefit for a client characterization.

## Citation 2

### *Evidence of Mr. Rath*

41. Mr. Rath testified that he had become aware that Fluvoxamine had been approved for use in Ontario, and he claimed it had been determined that it reduced COVID-19 mortality substantially and wrote the Fluvoxamine Letter (Exhibit 10) out of a concern that this drug was not being made available in Alberta. Regarding the email exchange with Mr. [H] on January 25, 2022 at 5:06 pm and his response at 6:10 pm the same day (Exhibit 11), Mr. Rath understood that Mr. [H] had only been retained by Dr. [VY] with respect to the [P] Litigation and that he was not on a general retainer. Mr. Rath testified that he found the correspondence confusing. He received no reply to that email.
42. Mr. Rath sent a second letter (Fluvoxamine Letter 2) (Exhibit 13) directly to the same officials (including Dr. [VY]) with the same concern. He said that he had no reservation sending the letter directly since Mr. [H] hadn't replied to his email and had not clarified his retainer. He understood Mr. [H] to only having been retained with regard to the [P] Litigation and was not acting as general counsel to Alberta Health with regard to all matters.

### *Cross Examination of Mr. Rath*

43. Mr. Rath confirmed that he knew Mr. [H] was acting in the [P] Litigation but did not feel it necessary, as a matter of courtesy, to send a copy of the Fluvoxamine Letter (Exhibit 10) to Mr. [H].
44. The Committee questioned whether Mr. Rath had sought any clarifications after Mr. [H]'s email stated that he was "counsel of record". Mr. Rath reiterated that he saw no reason to since he interpreted that phrase to have reference only to the [P] Litigation.

### *Submissions of the LSA – Citation 2*

45. LSA counsel referenced section 7.2-8 of the Code which deals with precluding a lawyer from communicating with a person on a matter where the lawyer knows that the person is represented by another lawyer in respect of the matter. He argued that there was a sufficient nexus between Mr. Rath's letters in Exhibit 10 and Exhibit 13 and the [P] Litigation since they all related to COVID-19 health issues, various public health measures in response and the treatments used as part of that response. Mr. Rath referred to Dr. [VY] in his letters as the CEO of Alberta Health Services and should have recognized that she had counsel in a matter related to COVID-19, and that there was a good chance Dr. [VY] was represented also in relation to the matters he was raising in his letters. Mr. Rath did not take any steps to clarify Mr. [H]'s role before he sent the Fluvoxamine Letter despite the [P] Litigation.
46. He further argued that even if there was some doubt about the circumstances before sending the Fluvoxamine Letter, it was clear by the exchange of emails that Dr. [VY] was Mr. [H]'s client, and he formally requested that Mr. Rath stop communicating directly with Dr. [VY]. The reference in Mr. [H]'s email that he was "counsel of record" should not be read narrowly.
47. LSA counsel cited *Law Society of Alberta v. Gary Bilyk*, 2006 LSA 18, as authority for the proposition that contacting a person represented by a lawyer, even outside of the exact retainer scope can still breach section 7.2-8 of the Code. In that decision, an amalgamation of two related family businesses required share transfers by the children to the parents. The member acted on the amalgamation but was contacted by one of the daughters seeking answers in relation to the request for transfer. The member indicated that the daughter would have to get independent advice, which she did and advised the member of such. When the member was advised by another family member that the represented daughter thought the RCMP should be contacted, the member phoned her and claimed that her actions were extortion. He asserted that the case showed that the issue of extortion was outside of the amalgamation retainer but nevertheless the contact with the daughter outside of that retainer still breached the Code provision.

### *Submissions of Mr. Rath - Citation 2*

48. Counsel for Mr. Rath argued that there was no breach of the applicable Code provision since it does not import a negligence standard and does not deal with what the member ought to have known but instead requires an element of mens rea or intentionality to communicate with a represented person inappropriately.
49. He submitted that the word "matter" as used in the Code provision should be taken in the ordinary sense of a specific retainer and that the [P] Litigation was a distinct matter from Mr. Rath's questions about the use of Fluvoxamine.
50. It was noted that Mr. Rath received no response or clarification from Mr. [H] and that Mr. [H] had not been called upon to testify at this hearing.
51. In response to questions from the Committee concerning the wording or the commentary to section 7.2-8 that "actual knowledge may be inferred from the circumstances" he indicated that no inference should be drawn here since Mr. [H] never replied to Mr. Rath's email to challenge his statement on the narrowness of the representation or to indicate that he was counsel on a broader range of matters. Further, Mr. [H] did not give any testimony that would have allowed the Committee to draw that inference. He argued that the use of the term "counsel of record" was simply a confirmation the Mr. [H] was acting in that capacity in the [P] Litigation and did not establish any sort of global representation.

### **Analysis and Decision**

#### *Citation 1*

52. The citation as drafted requires two distinct elements. The first is that there must be a threat of criminal charges or regulatory proceedings. This element is clearly established in the penultimate paragraph of the Federal Letter, as admitted to by Mr. Rath in the Rath Statement and clearly admitted on page 61 of the hearing transcript. In making this finding, the Committee rejects the submission of Mr. Rath that the threats were only conditional threats dependent on some future actions of the person being threatened. The Committee viewed the argument as a distinction without a difference, and not relevant to the citation in question.
53. The second element is that through that threat there must be an attempt to gain a benefit for a client. This element requires a more detailed analysis in that the threat must be linked to a benefit and, since both Exhibit 8 and Exhibit 9 contain different addressees, the applicable letter must contain both elements.
54. Exhibit 10 and Exhibit 13 contain inflammatory and excessively hyperbolic language. However, the Committee did not find the requisite elements of a threat sufficient for the purposes of the citation. The unprofessional language is addressed by citation 3.

55. Dealing firstly with the Federal Letter, the LSA argues that the reference to writing as a request "on behalf of Canadian parents of 5 to 11 year-old children" establishes the necessary client connection. Similarly, the LSA argues that the reference to "on behalf of our clients" in the Provincial Letter is sufficient to establish the requisite connection. It was also argued that the use of his firm letterhead and signing in his capacity as a lawyer was consistent with acting in a customary manner as a lawyer on behalf of a client. Countering these arguments was the direct testimony of Mr. Rath that there were no specific client retainers in either case, that he used a personal non-billable file number on each letter, that the letters were written in the public interest in the hope that the applicable decision makers would reconsider their approvals and investigate Pfizer, and that the letters had not been used as leverage in any civil matter.
56. In the view of the Committee, the reference to writing on behalf of 5 to 11-year-old children is inadequate to establish a client connection. This is particularly so where the addressees are highly visible public officials charged with managing a broad public interest mandate in a national public health emergency. Mr. Rath may be guilty of excessive hubris in presuming to know the public interest and assuming he could speak on behalf of this broad range of the populace, but the Committee accepts that he was motivated by genuine concerns. His explanation that he simply misspoke in using the language was not persuasive, but the Committee found the language in and of itself did not meet the required second element of the citation. Beyond the use of these words, the LSA did not adduce any persuasive evidence to suggest that the statements of Mr. Rath as to the absence of any retainers were anything less than accurate. The Committee did not find Mr. Rath to be particularly persuasive in his explanations as to why he did not use personal letterhead and put little weight on the oblique reference to file "99000". However, these were not sufficient to overcome the other deficiencies in the evidence. The Committee found both Mr. Rath and the evidence before it to be sufficiently credible to determine on a balance of probabilities that there was no client or client retainer in relation to the Federal Letter.
57. The Provincial Letter was more difficult. This required a closer examination of the letter and its construction. The first part of the letter, addressed to a different set of decision makers, reiterates the substance of the Federal Letter with an update of the threat along the lines of the Federal Letter. The fourth paragraph sums up his same submission that the Pfizer vaccine rollout not be proceeded with for children under the age of 12. However, in the second full paragraph on the second page, Mr. Rath appears to switch gears and begins by saying "On a related note" and then starts discussing physicians who have been punished for speaking out on vaccine issues and one physician who had contacted Mr. Rath about a 'marked increase in pediatric myocarditis' in 12 to 18-year-olds. Then, writing as a "concerned parent, and on behalf of our clients", he asks for an investigation in relation to myocarditis.

58. The Provincial Letter contains several challenging elements for the LSA submission. Firstly, the threat contained in the first part of the letter relates to the same beneficiaries as the Federal Letter. When Mr. Rath appears to change gears in the second matter the beneficiaries are 12 to 18-year-olds and he asks simply for an investigation in relation to myocarditis and whether any children have incurred myocarditis as a result of injection or have died as a result of injection.
59. The LSA argument on the Provincial Letter suffers from some of the same problematic conclusions as the Federal Letter. The Committee viewed the threat as being made on behalf of the 5 to 11-year-olds which we previously found to not being made on behalf of a client. The second part of the Provincial Letter was seen as independent of the threat and in any event seeking to attach a client designation to a largely amorphous group. Beyond the language in the letter, there was no evidence adduced in the view of the Committee to adequately counter the evidence of Mr. Rath. While the Committee agreed with the LSA that some of Mr. Rath's answers were self-serving, they nevertheless were consistent and sufficiently credible.
60. The above findings do not address all the arguments on citation 1 that were before the Committee. Mr. Rath argued that there must be a linkage between the threat and an identifiable client, with which the Committee agrees. However, the argument went on to suggest that the commentary to section 3.2-11 mandates that the linkage of the threat must be to "advance or advance a complaint in order to secure the satisfaction of a private grievance". The Committee disagrees with this characterization and accepts the LSA argument that the Code is a general statement of a broad principle and that the commentary is illustrative, and while useful as a guideline, is not prescriptive of an element that must form part of the breach.
61. The LSA made a broader argument that effectively suggested that a lawyer cannot threaten criminal proceedings in order to obtain a benefit, which can be independent of an actual client. In support of that broader interpretation, the LSA cited *Merchant*, *Kay* and *Vitsentzatos* as all being cases where a threat of criminal or regulatory proceedings resulted in guilt findings, even where the beneficiary was clearly not a client. However, these cases have some distinguishing elements which weaken the argument. Examining the citations in each case, the language differs in a material respect from the language which the LSA chose to frame its citation. In *Merchant* it was alleged the member threatened criminal proceedings to induce the repayment of monies paid by mistake and that such conduct was deserving of sanction. In *Kay*, the hearing committee simply made a finding of professional misconduct in a situation where a letter was written by the lawyer to a client threatening criminal proceedings in order to obtain payment of his fees. In *Vitsentzatos*, the citation was that the member had "engaged in professional misconduct and conduct unbecoming a barrister and solicitor contrary to the *Law Society Act*, RSO 1990, c. L-8". It is noted that the Ontario equivalent of our Code section 3.2-11 reads very much the same. However, the specific allegation made in that case was that the member "threatened without reasonable and lawful justification to

initiate proceedings against and/or to make a complaint to a regulatory authority about one of the police officers on behalf of his daughter in an attempt to gain a benefit". There was no reference to the benefit being for a client, or to their Code equivalent provision in their finding. Their ultimate finding was that the Law Society of Ontario had simply proven the allegations of professional misconduct.

62. The Committee viewed the various authorities cited by the LSA as insufficient to establish the broader interpretation, primarily due to the LSA framing the citation specifically linking it for the benefit of a client, which none of the other authorities did. Indeed, the wording of citation 3 was adequate to engage the issues raised. The authorities cited did not cure the evidentiary gap on the "for the benefit of a client" requirement of citation 1.
63. The LSA has proven that Mr. Rath's letters contained language amounting to threats of criminal complaints and that he intended to influence public health decisions makers. However, the LSA has failed to adduce sufficient evidence for the Committee to find, on a balance of probabilities, that Mr. Rath made those threats in an attempt to gain a benefit for a client. In coming to this conclusion, the Committee is not in any manner approving or condoning the tone or civility of Mr. Rath's communications, but which are addressed separately in citation 3.
64. Accordingly, citation 1 is dismissed.

#### *Citation 2*

65. The brief record consists of Mr. Rath's letters in Exhibit 10 and Exhibit 13, the Amended Statement of Claim in the [P] Litigation (Exhibit 12), the email exchanges on January 25, 2022 between Mr. Rath and Mr. [H] (Exhibit 11), and Mr. Rath's testimony at the hearing.
66. The language of section 7.2-8 of the Code indicates that the prohibition on communication with a represented person applies where the lawyer knows that the person being communicated with is represented by counsel in the matter to which the communication relates. Mr. Rath argued, and the Committee agrees, that "matter" should be taken in the ordinary sense requiring a specific engagement on a specific issue. In this case the LSA has the burden of proof of showing Dr. [VY] was represented by counsel in respect of the matter in question and that Mr. Rath knew that. The Committee had no trouble finding that Mr. Rath knew Mr. [H] was counsel of record in the [P] Litigation. However, we did not find a necessary relationship between Mr. Rath's letters concerning the use of Fluvoxamine, and the [P] Litigation concerning Alberta Health Services vaccination policies with its employees.
67. Dr. [VY] was a high-profile public official engaged in many public health issues and could reasonably be expected to be involved in varying capacities in other litigation. It is a reasonable expectation that communications might be addressed to her within the broad

public duties and beyond the specific matters of the [P] Litigation. Mr. [H]'s brief email statement that his firm was counsel of record is vague, ambiguous or cryptic, and there was no evidence adduced by the LSA to indicate any broader representation than the [P] Litigation. Mr. [H] wasn't called to testify and failed to make any response to Mr. Rath's response seeking clarification of any broader retainer. In that light the Committee does not find that Mr. Rath's conclusions that the role was limited to the [P] Litigation was an unreasonable one to come to in the circumstances.

68. The Committee finds that citation 2 has not been proven on a balance of probabilities and the conduct is not deserving of sanction.

### **Concluding Matters**

69. A further hearing will be scheduled to determine sanction and costs.
70. 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. Rath will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated May 25, 2026.

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Cal Johnson, KC

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John Byrne

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Angela Saccomani, KC