

**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**

Single Bench Hearing Committee

Jim Lutz, KC – Chair

Appearances

Will Cascadden, KC – Counsel for the Law Society of Alberta (LSA)

Ed Halt, KC – Counsel for Jeffrey Rath

Hearing Date

October 10, 2025

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT - SANCTION

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 took steps in the representation of a client that were clearly without merit, and that such conduct is deserving of sanction.
 - 2) It is alleged that Jeffrey R.W. Rath unreasonably delayed the process of a tribunal, and that such conduct is deserving of sanction.
2. In 1990, Mr. Rath along with a colleague represented the Sturgeon Lake Cree Nation (SLCN) in a Treaty Land Entitlement Settlement Agreement action.
3. Late in 1997, an action was commenced against Canada in the Court of Queen's Bench, now the Court of King's Bench, (Action) claiming and asserting Canada required SLCN consent in the Agreement. The Action was founded in breach of trust, breach of fiduciary

duties, and failing to fully inform SLCN of the impact of the Agreement on its members rights.

4. Mr. Rath acted in a supervisory role and along with other counsel brought a motion to strike or dismiss in three separate Stay Applications. Mr. Rath did not participate directly in Stay Application number 2 or Stay Application number 3.
5. The relevant facts underpinning the citations are contained in *Goodswimmer v. Canada (Attorney General)*, 2022 ABKB 841.
6. In essence, the two Stay Applications were heard by Justice S arising in the context of a failure to comply with an order to answer questions which would constitute contempt *Goodswimmer* at paragraph 122.
7. The Court went on to note the conduct was a marked and unacceptable departure from reasonable conduct.
8. On October 10, 2025, a Hearing Committee (Committee) convened a hearing into the appropriate sanction.
9. After reviewing all of the evidence and exhibits, and hearing the submissions of the LSA and Mr. Rath, for the reasons set out below, the Committee has determined that a reprimand is the appropriate sanction along with costs in the amount of \$800.00.

Preliminary Matters

10. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested, so a public hearing into the appropriate sanction proceeded.

Agreed Statement of Facts/Background

11. After the commencement of proceedings in relation to Mr. Rath's conduct, Mr. Rath and the LSA counsel submitted a Statement of Admitted Facts and Exhibits, and Admissions of Guilt (Agreed Statement). The Conduct Committee found the Agreed Statement acceptable on July 15, 2025. Pursuant to section 60(4) of the *Legal Profession Act (Act)*, each admission of guilt in the Agreed Statement is deemed to be a finding by this Committee that Mr. Rath's conduct is deserving of sanction under section 49 of the *Act*.
12. As provided by section 60(3) of the *Act*, once the Agreed Statement was accepted by the Conduct Committee, the hearing into the appropriate sanction could be conducted by a single Benchers. As a result, I was appointed to conduct the sanction hearing.

13. In the above noted action a number of Stay Applications were filed. The trial judge, Justice S ruled two of the Stay Applications were without merit and ordered costs be paid by counsel personally at 75% of the costs on Stay Application 2 and 25% of the costs on Stay Application 3. Mr. Rath did not participate in Stay Applications 2 or 3, directly (Agreed Statement, paragraph 10).
14. Though Justice S ordered Undertakings to be provided, these were delayed or held in abeyance by the appeal to the Alberta Court of Appeal who ordered production of the Undertaking on October 6, 2017. Some two years and ten months after the original order. Thereby delaying the original order for production of Undertakings.
15. Leave was sought to the Supreme Court who denied the Applicant's motion.
16. Mr. Rath admits that under his supervision, steps were taken in the representation of a client that were clearly without merit and that such conduct is deserving of sanction.
17. As well, Mr. Rath admits that under his supervision, steps were taken which unreasonably delayed the process of a tribunal and that such conduct is deserving of sanction.

Submissions on Sanction

18. Counsel for the LSA and counsel for Mr. Rath advised that the parties would submit a joint submission on sanction agreeing the appropriate disposition would be for a reprimand and costs.

Decision on Sanction

19. Counsel for the LSA and Mr. Rath confirmed their understanding that the Committee is not bound by a joint submission on sanction. That said, a Committee is required to give significant deference to a joint submission and should not depart from a joint submission on sanction unless it would bring the administration of justice into disrepute or is otherwise contrary to the public interest.
20. Upon arriving at a joint submission, the Committee must give serious consideration to a mutually agreed upon resolution. The agreement by the parties contemplates a candid assessment of each party's case and the litigation risks involved.
21. In *R. v. Belakziz*, 2018 ABCA 370, at paragraph 18 the Court of Appeal held:

[T]he analysis should start with the basis of the joint submission, including the important benefits to the administration of justice, to see if there is something apart from the length of the sentence that engages the broader public interest or the repute of the administration of justice.

22. Here, the parties agree on sanction but not costs. Respectfully, the disagreement of counsel on a collateral matter such as cost does not mean there is no joint submission; this would run counter to important policy considerations such as the systems benefits to the tribunal process arising from resolving matters by agreement.
23. The approach taken by both Mr. Rath and the LSA in dealing with this matter through the Agreed Statement and admission of guilt also avoided an unnecessary contested hearing, witness inconvenience, and hearing costs.
24. Counsel for the LSA sought \$1,000.00 in costs. Mr. Halt, K.C., on behalf of Mr. Rath, sought a lower amount, given his client's role in the litigation.
25. While parity of sentence is important, the Committee cannot compare the costs to numerous other cost decisions for the same type of matter and conclude there is only one answer. The Committee is required to consider the merits of each case individually and not be bound by other decisions no matter how similar. The Committee accepts the substantial cost award imposed on Mr. Rath in the *Goodswimmer* action as mitigating.
26. In keeping with the circumstances above and applying *Charkhandeh v College of Dental Surgeons of Alberta*, 2025 ABCA 258 and the *Law Society of Alberta v. Scott*, 2025 ABLS 21, the Committee sets Mr. Rath's costs at \$800.00 to be paid within 30 days of the issuance of this decision.
27. Reprimand delivered by the Chair.

Mr. Rath, your counsel has actively pointed out that there is a tension or a line between zealous advocacy and following the process of the Law Society and the rules that we require, as we serve the public, and it is the public interest we are here for.

I do not want my comments to be taken as ones where I do not admire advocacy. I appreciate that we have a role, sometimes thankless, in the job of the courts. We take unpopular positions, but we should never lose sight of the fact that we have to do it within the context of the Rules of the Law Society of Alberta, the Code of Conduct, and of course the *Legal Profession Act*.

In this particular instance, perhaps your advocacy passed what we needed to expect, and certainly went into a realm that we did not need to have happen. I am quite confident that you will continue to advocate fiercely for your clients, but that this will be a reminder, as I said in the *Freeman* decision – a line that we have to remember all the time we are advocating. But, again, I take it that you will continue to learn from this lesson. This will be a situation where you can take from this that we appreciate your

advocacy, but we also appreciate that we have a role within society, one that is followed closely by people, members of the public and members of the media, and they look to us as an example, so we need to follow that example.

In any event, I would say this to you: I wish you good luck in your career as an advocate, but again I would ask you to consider when you are advocating that we have two roles to follow: one for the public and then one for the Courts and one – I guess three. One for the members, too. So, I wish you good luck and I hope for the best of your career, sir.

Concluding Matters

28. Payment of costs of \$800.00 are ordered to be paid within 30 days of the release of this written decision.
29. There will be no Notice to the Attorney General.
30. There will be no Notice to the Profession.
31. 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 November 26, 2025.

Jim Lutz, KC