

THE LAW SOCIETY OF ALBERTA
IN THE MATTER OF THE *LEGAL PROFESSION ACT*, RSA 2000, c L-8,

- and -

**IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF RICHARD GLENN,
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

HEARING REPORT

HEARING COMMITTEE:

Neena Ahluwalia, Q.C., Chair

Dennis Edney, Q.C., Committee Member

Miriam Carey, Committee Member

COUNSEL:

Gillian Clarke, for the Law Society of Alberta

Jim Lutz, for the Member

INTRODUCTION

1. Richard Glenn, a member with the Law Society of Alberta (“LSA”), is subject to conduct proceedings under the *Legal Profession Act*, RSA 2000, c L-8, on the citations listed below.
2. On October 15, 2014, a Hearing Committee comprised of Neena Ahluwalia, Q.C., Chair, Dennis Edney, Q.C. and Miriam Carey convened at the LSA offices in Calgary, Alberta. The LSA was represented by Gillian Clarke. Richard Glenn was present at the application and was represented by counsel, Jim Lutz. On the first day of hearing, October 15, 2014, the Hearing Committee commented that a great deal of material had been put before the Committee the day before. To fully review that material and be properly prepared, the Hearing was adjourned until 1:00 p.m. the next day on the assurances of both counsel that the matter would not last longer than a half day. The panel reconvened on October 16, 2014 for the hearing of this matter.

CITATIONS

3. The following citations were referred to hearing by a panel of the Conduct Committee on September 13, 2012:
 1. IT IS ALLEGED THAT you failed to fulfill commitments made to your client, B.C., and that such conduct is conduct deserving of sanction.
 2. IT IS ALLEGED THAT you failed to respond to client communications that contemplated a reply, and that such conduct is conduct deserving of sanction.
 3. IT IS ALLEGED THAT you failed to keep your client, B.C., informed as to the progress of her matter, and that such conduct is conduct deserving of sanction.
 4. IT IS ALLEGED THAT you withdrew improperly and without proper notice to your client, B.C., and that such conduct is conduct deserving of sanction.
 5. IT IS ALLEGED THAT you failed to provide your client, B.C., with her file upon withdrawing, and that such conduct is conduct deserving of sanction.
 6. IT IS ALLEGED THAT you failed to respond to communications from other lawyers on a timely basis, and that such conduct is conduct deserving of sanction.

At the hearing of the matter, the Hearing Committee allowed the joint proposal of counsel to amend the citations: Citations 1 and 2 were combined into Amended Citation 1:

1. IT IS ALLEGED THAT you failed to fulfill commitments made to your client B.C. and that you failed to respond to client communications that contemplated a reply from your client, B.C., and that such conduct is conduct deserving of sanction.

PRELIMINARY MATTERS

4. On October 16, the Agreed Exhibit Book, the Agreed Statement of Facts and Supplementary Agreed Statement of Facts and Admissions of Conduct Deserving of Sanction were tendered and admitted as Exhibits. The LSA also advised the Hearing Committee that it was not calling evidence in respect of Citation 4. Mr. Glenn admitted guilt in respect of Amended Citation 1, and Citations 3, 5 and 6.

Jurisdiction

5. The jurisdiction of the Hearing Committee was established with the admission by consent of the Exhibits 1 to 5, listed below.
6. An Agreed Exhibit Book was entered; additional exhibits by way of the Discipline Record and an Estimated Statement of Costs were entered at the hearing.

J1	July 28, 2014	Letter of Appointment
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J2	May 23, 2014	Notice to Solicitor
J3	May 23, 2014	Notice to Attend
J4	July 29, 2014	Certificate of Status
J5	September 22, 2014	Certificate of Exercise of Discretion re Private Hearing Application Notices
1	Various	Copies of Original Client file information in respect of B.C. provided by Richard Glenn to the Law Society of Alberta
2	Various	Copies of Email information provided by the Complainant, B.C.
3	Various	Law Society of Alberta Complaint related records
4	October 15, 2014	Agreed Statement of Facts and Admission of Conduct Deserving of Sanction
5	October 15, 2014	Supplementary Agreed Statement of Facts and Admission of Conduct Deserving of Sanction
6	September 22, 2014	Record of Richard Glenn
7	October 15, 2014	Estimated Statement of Costs

Other

7. The Parties had no objection to the composition of the Committee.
8. The Committee was advised that no party had applied to have either the application or the hearing held in private, and as a consequence, the application and hearing both proceeded in public.

FACTS

9. The LSA and Richard Glenn had entered an Agreed Statement of Facts and Supplementary Agreed Statement of Facts (attached as Schedule A).
10. The complaint that led to this hearing arose from Mr. Glenn's representation on the complainant's behalf on a medical malpractice lawsuit. There were 8 physicians, the A.A. and the A. Hospital named as defendants in the lawsuit.
11. Mr. Glenn was retained on a contingency basis, however, no Contingency Fee Agreement was prepared or signed due to the urgent nature of the steps that had to be taken to preserve prosecution of the complainant's claims.
12. Initially, Mr. Glenn believed that the complainant had a good claim and advised her that he would represent her. There was a statement of claim that had been filed by another lawyer on July 2006, renewed a year later in July 2007. Mr. Glenn filed and served an amended Statement of Claim in October, 2007.

13. There were some meetings between Mr. Glenn and the complainant. Many of these took place in her home. At these meetings, they would review the files in preparation for Examinations for Discovery of the defendant physicians.
14. Eventually, with the complainant's knowledge and consent, three physicians were removed from the case.
15. In January of 2010, Mr. Glenn examined 3 doctors and rescheduled examinations for 2 others on the request of their counsel. The complainant did not attend at the examinations.
16. After conducting the examinations of the 3 doctors, Mr. Glenn concluded that the lawsuit should not be advanced further because of the unlikelihood of success.
17. Mr. Glenn sent a Notice of Ceasing to Act by regular mail to the complainant's address. A copy of the same notice was served to the defendant's counsel.
18. Shortly after the notice was sent, Mr. Glenn received information that the Notice of Ceasing to Act sent to the complainant was not sent to her last known address.
19. With respect to the first citation that Mr. Glenn failed to fulfill commitments made to his client and to respond to client communications, Mr. Glenn admitted the following facts:
 - a. The complainant requested that Mr. Glenn send copies of the questions and answers from the examinations for discovery and he did not provide them to her.
 - b. He failed to respond to any emails sent by the complainant or her friend on her behalf.
 - c. Mr. Glenn did not respond to telephone calls made by the complainant or her friend (on the complainant's behalf) on a timely basis or at all on many occasions despite the fact that the communications contemplated a reply.
 - d. Mr. Glenn is unable to confirm that the complainant was actually served with either of the 2 Notices of Ceasing to Act which were filed at the Courthouse in May and July, 2010.
 - e. Mr. Glenn did not advise the complainant, in writing or otherwise, that he intended to or had withdrawn as her counsel, the reasons for the withdrawal, or as to whether or not she should retain new counsel promptly.
 - f. Further, Mr. Glenn admits that in December, 2010 he had a conversation with the complainant indicating that he would be prepared to continue to act for her if she was able to provide evidence from two professionals that she had a valid claim. She provided the name of one doctor and Mr. Glenn unsuccessfully attempted to contact him. He did not advise the complainant of this.
 - g. Mr. Glenn admitted that this conduct is conduct deserving of sanction.

20. With respect to citation number 3, Mr. Glenn admitted the following:
- a. Mr. Glenn admitted that he failed to keep the complainant informed as to the progress of her file on a timely basis or at all.
 - b. He did not provide her with a copy of the proceedings.
 - c. He did not provide her with a copy of any correspondence received from opposing counsel. He did not update the complainant or her friend (on her behalf) on the progress of the file when asked by them. With the exception of one letter, the complainant did not receive any copies of correspondence sent by Mr. Glenn to opposing counsel.
 - d. During the period of representation, only 4 letters were sent to the complainant. Two of them relate to Mr. Glenn's attempt to cease to act and the other two relate to the enclosure of medical consent to release information forms and advice regarding a schedule for questioning the defendants.
 - e. Mr. Glenn did not discuss a limitation defence raised by opposing counsel with the complainant, nor its implications on her case or her potential liability for costs. The complainant was not informed that certain defendants were contemplating an application on this issue.
 - f. Mr. Glenn did not advise the complainant of opposing counsel's numerous requests for further and better Affidavit of Records, nor of the application brought by one counsel on behalf of her client or of the Consent Order signed by Mr. Glenn on the complainant's behalf on this issue.
 - g. There were three offers of a "without costs Consent Dismissal Order" that Mr. Glenn did not discuss with the complainant.
 - h. Mr. Glenn did not advise the complainant of impending limitation dates in respect of her claim at any time.
 - i. Mr. Glenn admits that this is conduct deserving of sanction.
21. Citation number 5 deals with failing to provide the client with her file upon withdrawing. Mr. Glenn admits that although the complainant requested her file on three separate occasions including twice in letters to the Law Society in 2011, he did not provide her with a copy until May 5, 2014. He admits that this is conduct deserving of sanction.
22. Finally, Mr. Glenn admits that during the period of April 1, 2008 and April 14, 2009, he failed to respond to communications from two opposing counsel with respect to the issue of provision of further and better Affidavit of Records. He replied only when served with an application to compel the Affidavit. He further admits that he did not respond at all to 15 requests from opposing counsel on the issue of a limitation defence between December, 2007 and July, 2009. Mr. Glenn admits that this is conduct deserving of sanction as outlined in citation number 6.

DECISION

23. The Hearing Committee accepted the Agreed Statement of Facts, the Supplementary Agreed Statement of Facts and admissions pursuant to Section 60 of the *Legal Profession Act* and found Mr. Glenn guilty of Amended Citation 1, and Citations 3, 5 and 6.
24. Mr. Glenn is a sole practitioner. The majority of his files are civil litigation matters. He shares office space with another lawyer whose practice consists mainly of real estate transactions.
25. Mr. Glenn is 68 years of age. He has been practicing law for nearly 30 years. He has no discipline record.
26. It was clearly evident that this file demanded his attention and he did not heed his obligation.
27. The Hearing Committee heard evidence that Mr. Glenn was referred to the Practice Review Committee in 2009. Certain recommendations were made by the Committee to Mr. Glenn to implement in his practice. The Committee completed its involvement with Mr. Glenn in February 2012. Mr. Glenn successfully implemented the recommendations made by the committee.
28. His testimony before the Committee indicated a genuine remorse for his conduct on this file. He indicated a strong commitment to not repeat these mistakes. He believes that he now has the tools required to ensure that his clients will be well served by him.
29. The Hearing Committee accepted the Joint Submission of Counsel as to sanction.
30. The sanction for this matter is both a reprimand, which was delivered orally at the hearing by the Chair and reproduced below¹, and a \$1,000 fine. As for costs, Mr. Glenn is to pay \$7,000 in costs within 60 days of the hearing date.

CONCLUDING MATTERS

31. The Hearing Committee directed that any client names and identifying information be redacted from all exhibits, which will be made available to the public.
32. No referral to the Attorney General is directed.

¹ Mr. Glenn, you come before us as a lawyer practicing in Alberta for almost 30 years. It is of note to this committee that this is the first time in your practice that you come before a discipline hearing in your practice. We have acknowledged that your conduct with respect to one file was conduct deserving of sanction. You've testified before this committee quite candidly that you failed to conduct yourself in a manner expected of a member of the Law Society of Alberta, and we have accepted that. Your signed Agreed Statement of Facts outlines the shortcomings in this file. This committee has heard that you have heeded the concerns that the Law Society of Alberta has with respect to file management and communication. It would appear to this committee that you're genuinely remorseful with respect to this conduct that brings you before us today and that you do not expect it to ever be repeated. We expect the same.

33. There shall not be a Notice to the Profession.

Dated this 25th day of May, 2015.

Neena Ahluwalia, Q.C., Chair

Dennis Edney, Q.C., Committee Member

Miriam Carey, Committee Member

Schedule A

**IN THE MATTER OF THE *LEGAL PROFESSION ACT*;
AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF RICHARD J. GLENN
A MEMBER OF THE LAW SOCIETY OF ALBERTA

LAW SOCIETY HEARING FILE HE20120064**

**AGREED STATEMENT OF FACTS
AND ADMISSION OF CONDUCT
DESERVING OF SANCTION**

1. Richard J. Glenn (“Mr. Glenn”) is a member of the Law Society of Alberta (“Law Society”), having been admitted on September 15, 1986. He was a member at all times relevant to this proceeding.

CITATIONS

2. Mr. Glenn faces 6 citations as follows:

B.C. Complaint (COXXXXXXXX)

- 1 It is alleged that you failed to fulfill commitments made to your client, B.C., and that such conduct is conduct deserving of sanction.
- 2 It is alleged that you failed to respond to client communications that contemplated a reply, and that such conduct is conduct deserving of sanction.
- 3 It is alleged that you failed to keep your client, B.C., informed as to the progress of her matter, and that such conduct is conduct deserving of sanction.
- 4 It is alleged that you withdrew improperly and without proper notice to your client, B.C., and that such conduct is conduct deserving of sanction.
- 5 It is alleged that you failed to provide your client, B.C., with her file upon withdrawing, and that such conduct is conduct deserving of sanction.
- 6 It is alleged that you failed to respond to communications from other lawyers on a timely basis, and that such conduct is conduct deserving of sanction.

COMPLAINT PROCESS BACKGROUND

3. The Law Society received a written complaint dated March 7, 2011 in respect of Mr. Glenn from a client, B.C. The complaint is attached as **EXHIBIT 3.1**.
4. A copy of this complaint was sent to Mr. Glenn who provided a written response by letter dated April 6, 2011 (**EXHIBIT 3.2**).
5. By letter dated June 8, 2011 B.C. provided the Law Society of Alberta with an extensive response to Mr. Glenn's letter of April 6, 2011, including considerable detail on her medical history (**EXHIBIT 3.3**) and a letter from her family physician, Dr. B. (**EXHIBIT 3.4**).
6. The complaint was referred to the formal complaints process and a letter was sent to the member on August 17, 2011, requesting his response pursuant to Section 53 of the *Legal Professions Act*. By letter dated September 16, 2011 (**EXHIBIT 3.5**), Mr. Glenn advised that he wished to adopt his previous response of April 6, 2011 (Exhibit 3).
7. In response to a further request from the Law Society, Mr. Glenn also provided information by way of letter dated May 9, 2012 (**EXHIBIT 3.6**).

FACT SUMMARY

8. Mr. Glenn obtained his Bachelor of Laws degree from the University of Calgary in 1985, articulated with a firm that specialized in personal injury work, and was called to the bar on September 15, 1986. From 1994 to 2002 he practiced with another personal injury lawyer. Since June, 2002 Mr. Glenn has maintained a practice as a sole practitioner.
9. Mr. Glenn was retained by B.C. in 2007 to handle a medical malpractice claim in which 8 physicians, A.A., and A. Hospital were named as Defendants.
10. Mr. Glenn was retained by B.C. to pursue the malpractice claim on a contingency fee basis pursuant to which he would collect 35% of any recovery obtained on B.C.'s behalf. No written Contingency Fee Agreement was prepared or signed due to the urgent nature of the steps that had to be taken to preserve prosecution of B.C.'s claims (including service of numerous parties).
11. During their initial meeting, B.C. offered Mr. Glenn her medical files but he indicated he would order his own copies. It is his practice to obtain full and complete medical records from the appropriate health facility as opposed to using a client's potentially incomplete

- copy of the record. Mr. Glenn advised B.C. at this preliminary stage that he believed she had a good case and that he would represent her.
12. B.C.'s landlord, roommate, and best friend, D.W., attended this initial meeting and other meetings between Mr. Glenn and B.C. because of his connection to B.C. and familiarity with her medical issues.
 13. A Statement of Claim was filed on behalf of B.C. by Mr. Trevor Ford in July, 2006 and then renewed in July, 2007. After Mr. Glenn was retained, an Amended Statement of Claim was filed and served in October, 2007. A copy of the Amended Statement of Claim is provided at **EXHIBIT 1.8**.
 14. Mr. Dan Downe of Field LLP represented A.A. and A. Hospital. Ms. Valerie Prather of Bennett Jones represented the individual doctors.
 15. B.C. acknowledges that she did have some meetings with Mr. Glenn that, more often than not, occurred in her home (which she appreciated). At those meetings, they would review a few details from specific times and dates regarding each of the doctors as Mr. Glenn was preparing for Examinations for Discovery.
 16. B.C. met with Mr. Glenn at her home when he asked her to sign a document requesting information and again to have Affidavits signed to remove certain doctors from the case.
 17. In January, 2010, Mr. Glenn examined 3 doctors and the rescheduling of 2 other doctors was at the request of Defendants Counsel due to a conflict of their clients' schedule. others. Immediately prior to the Examinations for Discovery there were a couple of other doctors who were let out of the action because, based on Mr. Glenn's review of the medical notes, they could not be properly connected to the action.
 18. Mr. Glenn indicates in his response to the Law Society that he told B.C. her attendance was not required at the Examinations for Discovery of the doctors and that her Examination for Discovery would take place at some later point. B.C. did not attend any of the doctors' Examinations for Discovery.
 19. After conducting the 3 examinations, Mr. Glenn concluded that the lawsuit should not be advanced any further because it would not in all likelihood be successful.
 20. Mr. Glenn sent a Notice of Ceasing to Act by regular mail to B.C. at XXXX A. Road NE, Calgary under cover of letter dated May 11, 2010. Please refer to **EXHIBITS 1.126 and 1.127**. This is B.C.'s address and was her address when he took over her file – see **EXHIBIT 1.4**.
 21. The same Notice of Ceasing to Act was served on both defence counsel and shortly thereafter, Mr. Glenn was advised by Mr. Downe that the Notice was deficient in that it did not include B.C.'s last known address. **EXHIBITS 1.125, 1.128**

22. Mr. Glenn's office conducted a demographic search on B.C. in June, 2010 (**EXHIBIT 1.130**). In July, 2010, a second Notice of Ceasing to Act was sent to B.C. by regular mail to XXX A. Way NE, Calgary (**EXHIBITS 1.131 and 1.132**). This was the address noted in the demographic search but was a very old, outdated address.
23. The envelope containing the letter and Notice of Ceasing to Act was returned to Mr. Glenn's office with the handwritten note "moved" (**EXHIBIT 1.133**)
24. Sometime after the events described above regarding the Notices of Ceasing to Act, B.C. spoke with Mr. Glenn by telephone. During this telephone conversation, there was a discussion about Mr. Glenn not quitting the file. Further, Mr. Glenn advised B.C. that if she could provide the names of two doctors who would confirm that she was not given proper care, then Mr. Glenn would reconsider his position. Mr. Glenn then advised B.C. he would call her a few days later.
25. Mr. Glenn neither sent B.C. the discovery questions and answers nor did he call her back.
26. B.C. states she later sent an e-mail to Mr. Glenn indicating that she had two doctors, one of whom was her current physician, and she was under the impression that Mr. Glenn would call them. B.C. understands that Mr. Glenn did not call the doctors. Mr. Glenn indicates in his response to the LSA that he did try to call one of the doctors without success.
27. During the course of the complaint process, B.C. provided a letter from her family doctor, Dr. B. dated May 3, 2011 (**EXHIBIT 3.4**) which she felt supported her case. During the course of the complaint process, Mr. Glenn reviewed the letter and indicated it did not change his opinion.
28. During the course of the complaint process, Mr. Glenn was asked to provide his complete file, client ledger, and any invoices. Mr. Glenn provided his original file materials in May, 2012 for the Law Society to copy, but did not provide copies of the documents referenced in the Affidavits of Records nor any of the transcripts from Examinations for Discovery. A review of the file information all of which is provided in **EXHIBIT 1** reveals that:
 - a. There is only one invoice for disbursements totaling \$1,504.65, marked "W/O Aug 13/10" (**EXHIBIT 1.135**);
 - b. The client ledger for the file reflects that disbursements of \$1,504.65 had been written off as a bad debt in August, 2010. No time entries appeared on the client ledger **EXHIBIT 1.136**).

- c. The file did not contain any e-mails originating from B.C., nor any e-mails sent to B.C.
- d. During Mr. Glenn's entire term of representation, approximately 2.5 years, there are only 4 letters addressed to B.C. directly, and one letter on which it is noted that she was sent a copy of the same. Two of these letters related to Mr. Glenn's attempts to serve the Notice of Ceasing to Act upon B.C. Please refer to **EXHIBITS 1.35, 1.86, 1.108, 1.126 and 1.131**.
- e. There are no letters or other documentation on the file to indicate that Mr. Glenn sent B.C. the questions he planned on asking the doctors, copies of the examination for discovery transcripts, or the file itself.
- f. Mr. Downe, defence counsel from Field LLP, wrote to Mr. Glenn on 15 occasions between December 2007 and July 2009 seeking Mr. Glenn's position on a potential limitations argument (namely that B.C.'s hospital treatment ended more than two years before the date her Statement of Claim was filed). At times, Mr. Downe indicated his client was pressing for the limitation issue to be decided by the Court and advised he would be seeking the costs of such application and action if successful. Mr. Glenn never responded to Mr. Downe's requests on this issue.
- g. Mr. Downe and Ms. Prather consistently pressed Mr. Glenn for a further and better Affidavit of Records. When Mr. Glenn did not provide the requested Affidavit of Records, Ms. Prather set down an application compelling the same. Ultimately, a Consent Order was signed by Mr. Glenn on behalf of B.C. and granted in May, 2009 obliging B.C. to provide a further and better Affidavit of Records by June 29, 2009 and to produce medical documents by July 29, 2009 (there was no order for costs).
- h. Please refer to **EXHIBITS 1.22, 1.26, 1.31, 1.34, 1.36, 1.40, 1.44, 1.45, 1.48, 1.49, 1.57, 1.60, 1.61, 1.63, 1.65, 1.68, 1.72, 1.85, 1.99**, regarding the correspondence from defence counsel on the issues described in Paragraph 28(f) and (g) above. Please refer to correspondence (**EXHIBITS 1.71 and 1.71A**) and court application documents (**EXHIBITS 1.71B and 1.71C**) from Bennett Jones for an order for a better Affidavit of Records and the resulting filed Consent Order Mr. Glenn agreed to in respect of the same (**EXHIBIT 1.71A**).
- i. Mr. Downe raised the possibility of a without costs consent dismissal order against his clients in his letter of June 5, 2009 and once again in July, 2009 (**EXHIBITS 1.72 and 1.85**).

CONCLUSIONS AND ADMISSIONS

29. Mr. Glenn agrees and admits to the facts set out in paragraphs 1 to 28 above. In addition, Mr. Glenn admits that all correspondence sent to him was received by him on our about the dates indicated unless stated otherwise.
30. This Agreed Statement of Facts is not exhaustive and the Law Society and the Member may lead additional evidence not inconsistent with the stated facts herein.
31. With the exception of Citation 5, Mr. Glenn does not admit that these facts amount to conduct deserving of sanction.
32. Regarding Citation 5, Mr. Glenn admits the following:

Citation 5

It is alleged that you failed to provide your client, B.C., with her file upon withdrawing, and that such conduct is conduct deserving of sanction.

Admission

I admit that B.C. requested a copy of her file sometime prior to March 7, 2011 as well as in her Complaint to the Law Society of Alberta dated March 7, 2011 (**EXHIBIT 3.1**) and again in her letter dated June 8, 2011 to the Law Society of Alberta (**EXHIBIT 3.3**)

I admit that I did not send B.C. a copy of her file until May 5, 2014 (**EXHIBIT 1.140**).

This Agreed Statement of Facts and Admission is dated the 15th day of October, 2014.

"Witness Signature"

WITNESS

"Richard J. Glenn"

RICHARD J. GLENN

IN THE MATTER OF THE *LEGAL PROFESSION ACT*;

**AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF RICHARD J. GLENN
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

LAW SOCIETY HEARING FILE HE20120064

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19. After conducting the 3 examinations, Mr. Glenn concluded that the lawsuit should not be advanced any further because it would not in all likelihood be successful.
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21. The same Notice of Ceasing to Act was served on both defence counsel and shortly thereafter, Mr. Glenn was advised by Mr. Downe that the Notice was deficient in that it did not include B.C.'s last known address. **EXHIBITS 1.125, 1.128**
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mail to XXX A. Way NE, Calgary (**EXHIBITS 1.131 and 1.132**). This was the address noted in the demographic search but was a very old, outdated address.

23. The envelope containing the letter and Notice of Ceasing to Act was returned to Mr. Glenn's office with the handwritten note "moved" (**EXHIBIT 1.133**)
24. Sometime after the events described above regarding the Notices of Ceasing to Act, B.C. spoke with Mr. Glenn by telephone. During this telephone conversation, there was a discussion about Mr. Glenn not quitting the file. Further, Mr. Glenn advised B.C. that if she could provide the names of two doctors who would confirm that she was not given proper care, then Mr. Glenn would reconsider his position. Mr. Glenn then advised B.C. he would call her a few days later.
25. Mr. Glenn neither sent B.C. the discovery questions and answers nor did he call her back.
26. B.C. states she later sent an e-mail to Mr. Glenn indicating that she had two doctors, one of whom was her current physician, and she was under the impression that Mr. Glenn would call them. B.C. understands that Mr. Glenn did not call the doctors. Mr. Glenn indicates in his response to the LSA that he did try to call one of the doctors without success.
27. During the course of the complaint process, B.C. provided a letter from her family doctor, Dr. B. dated May 3, 2011 (**EXHIBIT 3.4**) which she felt supported her case. During the course of the complaint process, Mr. Glenn reviewed the letter and indicated it did not change his opinion.
28. During the course of the complaint process, Mr. Glenn was asked to provide his complete file, client ledger, and any invoices. Mr. Glenn provided his original file materials in May, 2012 for the Law Society to copy, but did not provide copies of the documents referenced in the Affidavits of Records nor any of the transcripts from Examinations for Discovery. A review of the file information all of which is provided in **EXHIBIT 1** reveals that:
 - a. There is only one invoice for disbursements totaling \$1,504.65, marked "W/O Aug 13/10" (**EXHIBIT 1.135**);
 - b. The client ledger for the file reflects that disbursements of \$1,504.65 had been written off as a bad debt in August, 2010. No time entries appeared on the client ledger **EXHIBIT 1.136**).
 - c. The file did not contain any e-mails originating from B.C., nor any e-mails sent to B.C.

- d. During Mr. Glenn's entire term of representation, approximately 2.5 years, there are only 4 letters addressed to B.C. directly, and one letter on which it is noted that she was sent a copy of the same. Two of these letters related to Mr. Glenn's attempts to serve the Notice of Ceasing to Act upon B.C. Please refer to **EXHIBITS 1.35, 1.86, 1.108, 1.126 and 1.131**.
- e. There are no letters or other documentation on the file to indicate that Mr. Glenn sent B.C. the questions he planned on asking the doctors, copies of the examination for discovery transcripts, or the file itself.
- f. Mr. Downe, defence counsel from Field LLP, wrote to Mr. Glenn on 15 occasions between December 2007 and July 2009 seeking Mr. Glenn's position on a potential limitations argument (namely that B.C.'s hospital treatment ended more than two years before the date her Statement of Claim was filed). At times, Mr. Downe indicated his client was pressing for the limitation issue to be decided by the Court and advised he would be seeking the costs of such application and action if successful. Mr. Glenn never responded to Mr. Downe's requests on this issue.
- g. Mr. Downe and Ms. Prather consistently pressed Mr. Glenn for a further and better Affidavit of Records. When Mr. Glenn did not provide the requested Affidavit of Records, Ms. Prather set down an application compelling the same. Ultimately, a Consent Order was signed by Mr. Glenn on behalf of B.C. and granted in May, 2009 obliging B.C. to provide a further and better Affidavit of Records by June 29, 2009 and to produce medical documents by July 29, 2009 (there was no order for costs).
- h. Please refer to **EXHIBITS 1.22, 1.26, 1.31, 1.34, 1.36, 1.40, 1.44, 1.45, 1.48, 1.49, 1.57, 1.60, 1.61, 1.63, 1.65, 1.68, 1.72, 1.85, 1.99**, regarding the correspondence from defence counsel on the issues described in Paragraph 28(f) and (g) above. Please refer to correspondence (**EXHIBITS 1.71 and 1.71A**) and court application documents (**EXHIBITS 1.71B and 1.71C**) from Bennett Jones for an order for a better Affidavit of Records and the resulting filed Consent Order Mr. Glenn agreed to in respect of the same (**EXHIBIT 1.71A**).
- i. Mr. Downe raised the possibility of a without costs consent dismissal order against his clients in his letter of June 5, 2009 and once again in July, 2009 (**EXHIBITS 1.72 and 1.85**).

CONCLUSIONS AND ADMISSIONS OF CONDUCT DESERVING OF SANCTION

- 29. Mr. Glenn agrees and admits to the facts set out in paragraphs 1 to 28 above. In addition, Mr. Glenn admits that all correspondence sent to him was received by him on our about the dates indicated unless stated otherwise.

30. This Agreed Statement of Facts is not exhaustive and the Law Society and the Member may lead additional evidence not inconsistent with the stated facts herein.
31. Mr. Glenn admits that the facts described in paragraphs 1 to 29 above amount to conduct deserving of sanction and in particular, makes the following admissions:

Proposed Amended Citation 1:

It is alleged that you failed to fulfill commitments made to your client B.C. and that you failed to respond to client communications that contemplated a reply from your client, B.C., and that such conduct is conduct deserving of sanction.

Admission

I admit that B.C. requested that I send copies of the questions and answers from the examinations for discovery I conducted of some of the doctor Defendants on more than one occasion and that I never provided her with this information.

I admit that I failed to respond to any emails sent by B.C. or by D.W. on her behalf (**EXHIBITS 2.001 to 2.009**)

I admit that I failed to respond to telephone calls made by B.C. (or by D.W. on her behalf) on a timely basis or at all on many occasions despite the fact that the communications contemplated a reply.

I admit that I am unable to confirm that B.C. was actually served with either of the 2 Notices of Ceasing to Act, which I filed at the Courthouse in May and July, 2010.

I admit that I did not advise B.C., in writing or otherwise, that I intended to or had withdrawn as her counsel, the reasons for my withdrawal, or as to whether or not B.C. should retain new counsel promptly.

I admit that in December, 2010 I had a conversation with B.C. indicating that I would only be prepared to continue acting on her behalf if she was able to provide me with evidence from two professionals that she had a valid claim. I admit to receiving the name and phone numbers of 1 doctor (Dr. B.) and unsuccessfully attempting to contact this doctor. I admit that I failed to advise B.C. regarding my unsuccessful attempt to contact Dr. B.

I admit that this conduct is conduct deserving of sanction.

Citation 3

It is alleged that you failed to keep your client, B.C., informed as to the progress of her matter, and that such conduct is conduct deserving of sanction.

Admission

I admit that I failed to keep B.C. informed as to the progress of her file on a timely basis or at all.

I admit that I did not provide B.C. with copies of the pleadings.

I admit that during my period of representation of B.C. (approximately 2.5 to 3 years), I did not provide B.C. (or D.W. on her behalf) with copies of any correspondence that I received from opposing counsel. I did not always update B.C. or D.W. on the progress of the file when asked by them. Finally, with the exception of one letter (**EXHIBIT 1.86**), I did not copy her on any correspondence I sent to opposing counsel. I admit I only sent B.C. 4 letters during this period of representation, 2 of which relate to my attempts to cease to act (**EXHIBITS 1.126 and 1.131**). The other 2 relate to the enclosure of medical consent forms to be signed (**EXHIBIT 1.035**) and advice regarding a schedule for questioning the defendants (**EXHIBIT 1.108**)

I admit that I did not discuss the limitation defence raised by Mr. Dan Downe on behalf of his clients with B.C., nor its implications for B.C.'s case or her potential liability for costs. I did not advise her that Mr. Downe's clients were contemplating an application in this regard.

I admit that I did not advise B.C. of defence counsels' numerous requests for a further and better Affidavit of Records, nor did I advise her of the application brought by Ms. Prather on behalf of her client nor of the Consent Order I signed on her behalf in respect of the same.

I admit that I did not advise B.C. that Mr. Downe had provided an offer of a without costs Consent Dismissal Order on three separate occasions.

I admit that I did not advise B.C. of impending limitation or drop-dead limitation dates in respect of her claim at any time.

I admit that this conduct is conduct deserving of sanction.

Citation 5

It is alleged that you failed to provide your client, B.C., with her file upon withdrawing, and that such conduct is conduct deserving of sanction.

Admission

I admit that B.C. requested a copy of her file sometime prior to March 7, 2011 as well as in her Complaint to the Law Society of Alberta dated March 7, 2011 (**EXHIBIT 3.1**) and again in her letter dated June 8, 2011 to the Law Society of Alberta (**EXHIBIT 3.3**)

I admit that I did not provide B.C. with a copy of her file on withdrawing nor as requested. I did not provide her with a copy of her file until May 5, 2014 (**EXHIBIT 1.140**)

I admit that this conduct is conduct deserving of sanction.

Citation 6

It is alleged that you failed to respond to communications from other lawyers on a timely basis, and that such conduct is conduct deserving of sanction.

Admission

I admit that I failed to respond to communications from Mr. Downe and Ms. Prather between April 1, 2008 and April 14, 2009 in respect of the provision of a further and better Affidavit of Records until after my office was served with Ms. Prather's application to compel the same. I agree I did not respond on a timely basis in the face of these many requests.

I admit that I never responded to Mr. Downe's 15 requests for comment on his clients' limitation defence between December, 2007 and July, 2009 or at all.

Please see EXHIBITS referred to in paragraph 28(f) to (h) of this Agreed Statement of Facts.

I admit that this conduct is conduct deserving of sanction.

This Agreed Statement of Facts and Admission is dated the 15th day of October, 2014.

"Witness Signature" _____
WITNESS

"Richard J. Glenn" _____
RICHARD J. GLENN