

**LAW SOCIETY OF ALBERTA**  
**IN THE MATTER OF THE *LEGAL PROFESSION ACT*;**  
**AND**  
**IN THE MATTER OF A HEARING REGARDING**  
**THE CONDUCT OF DONNA HALLETT**  
**A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Single Bencher Hearing Committee:**

Robert Harvie QC, Bencher

**Appearances:**

Counsel for the Law Society – Nancy Bains

Donna Hallett – Self-Represented

**Hearing Date:**

June 27, 2017

**Hearing Location:**

Law Society of Alberta at 500, 919 – 11<sup>th</sup> Avenue S.W., Calgary, Alberta

**HEARING COMMITTEE REPORT**

**Jurisdiction, Preliminary Matters and Exhibits**

1. On June 27, 2017, a Single Bencher Hearing Committee (Committee) convened at the office of the Law Society of Alberta (LSA) to conduct a hearing regarding a Statement of Facts and Admission of Guilt dated April 27, 2017.
2. Ms. Hallett and counsel for the LSA were asked whether there were any objections to the constitution of the Committee. There were no objections to the identity of the Bencher hearing the submissions, on the grounds of bias or otherwise, and the hearing proceeded.
3. The hearing was held in public.

4. The jurisdiction of the Committee was established by Exhibits 1 through 4, consisting of the letter of appointment of the Committee, the Notice to Solicitor pursuant to section 60 of the *Legal Profession Act*, the Notice to Attend to the Member and the Certificate of Status of the Member with the Law Society of Alberta.

### **Statement of Facts and Admission of Guilt**

5. The Statement of Facts and Admission of Guilt is attached hereto as Exhibit "A" (the "Agreed Statement"). This Agreed Statement was found to be in an acceptable form by a Conduct Committee Panel on May 17, 2017 and therefore this hearing was convened by a single Bencher pursuant to section 60(3) of the *Legal Profession Act*.
6. Pursuant to section 60(4) of the *Legal Profession Act*, after a statement of admission of guilt is accepted by the Conduct Committee, it is deemed to be a finding of the Hearing Committee that the lawyer's conduct is conduct deserving of sanction. After hearing submissions by counsel for the LSA and Ms. Hallett and confirming Ms. Hallett's understanding that the Bencher was not bound by the joint submission on sanction, the Bencher confirmed the Agreed Statement of Facts and the Admission of Guilt constituted a finding of conduct deserving of sanction on 4 citations pursuant to s. 49 of the *Legal Profession Act*.
7. The only question for determination by this Committee was one of appropriate sanction.

### **Discussion on Sanction**

8. The LSA sought a reprimand and fixed hearing costs of \$1,500.00. The LSA submitted that the conduct admitted to by Ms. Hallett raised concerns both from the perspective of the client's expectation of their counsel to communicate and provide proper service, and further, from the perspective of the LSA's expectation of its members to respond promptly and fully to inquiries regarding their conduct when called upon to do so. As such, it was submitted that a modest fine and reprimand would be an appropriate sanction in this case.
9. Ms. Hallett made no further submissions on sanction, beyond affirming her agreement with the representations of counsel for the LSA.
10. Both the Law Society and Ms. Hallett rightly noted that Ms. Hallett, in mitigation, had freely admitted her error after reporting the matter. The approach taken by both Ms. Hallett and the LSA in dealing with this matter through a single Bencher hearing avoided an unnecessary contested hearing, witness inconvenience, and process costs. This is commendable.

## Concluding Matters

11. It is acknowledged, firstly, that upon consideration of a joint submission by counsel for the LSA and Ms. Hallett, such submissions are to be given deference, and while not binding upon this Committee, should be accepted unless it appears that such submissions are clearly contrary to the interests of the public and the interests of the profession.
12. In considering this matter, and the submissions of the parties, this Committee found no fact or basis upon which to interfere with the recommendations set out in the joint submission. The committee directed a reprimand and further directed that Ms. Hallett shall pay the costs of the conduct proceedings in the sum of \$1,500.00.
13. With respect to the reprimand, a verbal reprimand was given to the member at the time of the hearing as follows:

The reliance of a client on their counsel to proceed with matters with reasonable diligence and to respond to questions and concerns in a reasonably prompt fashion is something the clients have every right to expect of counsel, particularly in this case.

In reading the facts and the submissions of the Complainant, we have a woman whose husband had passed away and who found herself in a difficult situation, and that was compounded, to some degree, Ms. Hallett, by your inability or refusal to provide a full and prompt response to the questions and concerns that were raised.

That's further compounded when the Law Society addressed these matters with you, and there is a lack of what is expected in terms of diligence in response.

So all of those matters go to two principal issues in my mind, which are our obligation, as a regulator, to assure that the public is protected, the public interest, and to also assure that the respect for the profession is maintained.

We have the privilege of being self-governed, which is somewhat unusual these days, and it's something that we, as a profession, have to guard carefully. And if we are blasé about our obligations to our clients and the public, that goes to our ability to continue what I think is an important element of self-regulation.

Ms. Hallett, at a recent Jasper convocation, we had a conversation about ethics. And one of the things that I pointed out in the conversation was that we shouldn't see our ethical obligations or our duties to our regulator as burdens. We should hold those as a badge of honour, as a privileged position in society.

We hold a position in society that is incredibly important to the functioning of democracy, and sometimes, in these days of I guess what I would refer to as running on a treadmill to pay our bills and to do the business of law, we sometimes lose track of the nobler aspects of what we do and the importance of what we do.

And it is for those reasons that, when matters like this happen, our members, and in this case you, Ms. Hallett, get called upon to come before the regulator who is required to say to you, "This is not good enough."

And it's not because we want to punish you, it's because we're honoured to be lawyers, and it's important, what we do, and when we fall below that standard that the public reasonably expects of us, it's important that we denounce that and say, you can do better.

14. The member requested time to pay the costs directed herein of one month from the hearing date, which was not opposed by the LSA, and accordingly, it is directed such costs are to be paid on or before July 27, 2017.
15. Hearing exhibits shall be made available to the public, with the exception that they shall be redacted to prevent the disclosure of confidential or privileged information.
16. There shall be no Notice to the Profession issued.
17. There will be no Notice to the Attorney General.

Dated at the City of Calgary in the Province of Alberta, this 18th day of August, 2017.

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**Robert Harvie, QC**

# EXHIBIT A

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

AND

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF DONNA HALLETT

A MEMBER OF THE LAW SOCIETY OF ALBERTA

## **STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT**

### INTRODUCTION

1. I was admitted as a member of the Law Society of Alberta on July 23, 1992.
2. My present status with the Law Society of Alberta is Active/Practicing.
3. I have practiced in Strathmore, Alberta from 1992 present.
4. My practice comprises: Matrimonial/Family law (55%), Estate Planning & Administration (15%), Real Estate Conveyancing (15%), Civil Litigation (5%), Corporate (5%) and Mediation (5%).

### CITATIONS

5. On December 15, 2015, the Conduct Committee Panel referred the following citations to hearing:
  1. It is alleged that Ms. Hallett failed to serve her client and that such conduct is conduct deserving of sanction;
  2. It is alleged that Ms. Hallett failed to respond to another lawyer on a timely basis and that such conduct is conduct deserving of sanction;
  3. It is alleged that Ms. Hallett failed to respond promptly or completely to the Law Society and that such conduct is conduct deserving of sanction;
  4. It is alleged that Ms. Hallett failed to be candid with the Law Society and that such conduct is conduct deserving of sanction.

## ADMITTED FACTS

6. The Complainant, [•] (AZ), hired my firm in 2011 to recover damages from a tenant and to seek redress regarding construction defects in her house. My firm's articling student had initially handled the files but, on her departure from the firm, I took over the files in late 2011/early 2012.
7. I received an email from opposing counsel about moving the court file from the Court of Queen's Bench to the Provincial Court in early 2012. The matter was adjourned in the Court of Queen's Bench a number of times. On May 7, 2012, I wrote to opposing counsel via email indicating that I had recommended to AZ that the file be transferred, and enquiring as to whether he could provide a form of Order to that effect. AZ emailed back on May 10, 2012 to advise that transferring the file to the Provincial Court would be agreeable to her on May 10, 2012.
8. Sometime in 2012 AZ moved to British Columbia. AZ and I communicated about this matter in early 2012. I received information from AZ via email in April of 2012, including a letter from her flooring contractor, the listing realtor, the painting contractor, and a copy of AZ's insurance file in April of 2012. In March and May of 2012, but after May of 2012, AZ was unable to reach me. In her May 10, 2012 email, AZ had agreed that her civil claim against the tenant could be transferred from the Court of Queen's Bench to Provincial Court.
9. I acknowledge that AZ tried to call me on many occasions starting in June 2012 seeking information about the court date and the status of the action. I also acknowledge that AZ was only able to speak to my assistant, who told AZ that I was unavailable but would have me return the call. I understand that AZ even attended at my office on April 22, 2013 when she was visiting Calgary but, again, was unable to speak to anyone other than my assistant. I admit that I did not return AZ's calls.
10. I understand that eventually AZ asked her lawyer in British Columbia, [•] (GB), to try to get the information from me. GB wrote to me in May, June, July and August 2013 without receiving any reply other than one fax from my office to say that I was away for the week and the file would be brought to my attention on her return. I acknowledge that GB also left a number of telephone messages for me and those went unanswered.
11. In September 2013, GB wrote to the Law Society on AZ's behalf in an attempt to compel a response from me.
12. A Law Society Complaints Resolution Officer telephoned me regarding the complaint and also asked for my written response to the complaint. I verbally advised that I would locate the file and would telephone GB.
13. On October 23, 2013, I provided my written response to the complaint and advised that:
  - I had asked opposing counsel for a form of order for the transfer of the landlord/tenant action to Provincial Court (the "Transfer Order") in May 2012, but had never received it. I had that morning followed up with opposing counsel who had said that he would

prepare a consent Transfer Order. I anticipated that I would receive the Transfer Order very shortly;

- I had spoken to AZ in early June of 2012 regarding a court date for the landlord/tenant matter but, since we had not received the Transfer Order, there was no court date scheduled;
- After that, there had been no activity on the file until I had received the call from the Law Society. I located the file, which had been misfiled, but which contained all of GB's correspondence;
- I would be preparing a comprehensive letter for GB, which would be finalized once I had received the Transfer Order and a hearing date had been set.
- I apologized for the delay and I acknowledge that I did not give any explanation for the delay nor did I address my failure to respond to either AZ GB.

14. I contacted opposing counsel, who advised that he would contact his clients and forward a proposed form of Consent Order to transfer the matter to the Provincial Court, Civil Division and forwarded a email to confirming same on November 13, 2013. A copy of this confirming email was forwarded to GB on that date. Follow up emails were forwarded to opposing counsel on December 11, 2013 and February 11, 2014, without reply.
15. After receiving no further communication from me, GB then faxed me on November 19, 2013 to request that I provide to him complete copies of both AZ's files by the end of November.
16. After I failed to send GB the documents he had requested, the complaint was referred to the formal process of the Law Society in early 2014. In its request for a response at the formal level, the Law Society also asked me to explain the cause of the delay in advancing AZ's matter after June 2012 and to advise what steps had been taken to ensure that my staff brought all communications to my attention.
17. In my second response to the Law Society, on February 10, 2014, I provided the following information:
  - I attributed the delay to the misfiling of the file. I said our computer system had malfunctioned in late 2013 and early 2014 which had resulted in the corruption of the firm's practice management database;
  - I said that I now had a designated place where new correspondence and telephone messages were to be placed for my attention; and
  - I said that I had forwarded "copies of the file materials" to GB. I corresponded with GB on February 10, 2014.
18. In late March 2014, I understand that GB advised the Law Society that he had not received any documents from me, but he disclosed that he received an email from AZ indicating that I was now working directly with AZ on the files. According to AZ's email, she had

spoken to me on February 28, 2014, and that I was to give GB a written summary of my plan of action and I was to email AZ when a court date had been set. In the email, AZ also recounted her many attempts to reach me since June 2012 and said that she had in fact provided prompt and complete comments on the tenant's affidavit back in March 2012. I have since been able to recover an email from April 2, 2012 from AZ with comments regarding the Affidavit. I do acknowledge that I saw the comments.

19. On July 10, 2014, AZ advised the Law Society that she had heard nothing from me since the telephone conversation on February 28, 2014. I acknowledge the same.
20. On July 28, 2014, the Law Society wrote to me to request my explanation for:
  - The conflict between my advice to the Law Society that I had sent GB the file materials and GB's advice to the Law Society that I had not; and
  - My failure to communicate with AZ since February 28, 2014.
21. I admit that I never did reply to the July 2014 letter nor the follow-up letter sent to me on August 15, 2014.

#### ADMISSIONS OF FACT AND GUILT

22. I admit that I failed to serve my client and that such conduct is conduct deserving of sanction.
23. I admit that I failed to respond to another lawyer on a timely basis and that such conduct is conduct deserving of sanction.
24. I admit that I failed to respond promptly or completely to the Law Society and that such conduct is conduct deserving of sanction.
25. I admit that I failed to be candid with the Law Society and that such conduct is conduct deserving of sanction.
26. For the purposes of Section 60 of the Legal Profession Act, I admit my guilt to Citation 1, 2, 3 and 4, directed on December 15, 2014.
27. I admit as facts the statements in this Statement of Admitted Facts and Admission of Guilt for the purposes of these proceedings.
28. I acknowledge that I have had the opportunity to consult legal counsel and provide this Statement of Admitted Facts and Admission of Guilt on a voluntary basis.



THIS AGREED STATEMENT OF FACTS AND ADMISSION OF GUILT IS MADE THIS 27th DAY OF April, 2017.

“Donna Hallett”

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DONNA HALLETT