

**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 ROXANNE HANIFF-DARWENT
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Hearing Committee

Ryan Anderson – Chair
Daniel McDonald, QC – Lawyer Adjudicator
Dr. Alan Kennedy – Public Adjudicator

Appearances

Karl Seidenz – Counsel for the Law Society of Alberta (LSA)
Alain Hepner, QC – Counsel for Roxanne Haniff-Darwent

Hearing Date

November 20, 2019

Hearing Location

LSA office, at 754, 333 - 11 Avenue SW, Calgary, Alberta

HEARING COMMITTEE REPORT

Overview

1. Ms. Haniff-Darwent appeared before the Hearing Committee for two complaints that resulted in five citations, arising from her family law practice. Ms. Haniff-Darwent signed an admission of guilt to the five citations.
2. Ms. Haniff-Darwent's breaches to her clients and to the LSA are serious. There was a pattern of ignoring the problem or issues despite numerous attempts by her clients to get action or responses. She also ignored the LSA's inquiries into the matter.
3. During the period in which the complaints arose, Ms. Haniff-Darwent was still dealing with [...]. She was also struggling with other family matters. She comes from a community where her role as family matriarch adds significant responsibility and stress to her life. She has participated in counselling and worked with Practice Management from the LSA to her benefit.
4. The Hearing Committee considered her Statement of Admitted Facts, Exhibits, and Admissions of Guilt (the Admission) and accepted it as being in the appropriate form.

5. The Hearing Committee accepted the Joint Submission on sanction of Ms. Haniff-Darwent and the LSA.
6. The Hearing Committee ordered:
 - a) Ms. Haniff-Darwent be suspended for two weeks, from December 19, 2019 to January 1, 2020;
 - b) that she pays the hearing costs of \$8,163.75, payable in \$500.00 installments, beginning February 1, 2020; and
 - c) a Notice to the Profession be issued regarding the suspension.
7. There was no need for a custodian of her practice to be appointed, as the suspension is for a short duration over the holiday season.
8. The Hearing Committee provided an oral decision at the conclusion of the hearing, with reasons to follow. This report contains those reasons.

Preliminary Matters

9. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested.

Agreed Statement of Facts and Admission of Guilt

10. Ms. Haniff-Darwent appeared before the Hearing Committee for two complaints that resulted in five citations. Ms. Haniff-Darwent signed an Admission, setting out the background facts and citations, and admitted guilt to those citations.
11. In the Admission, Ms. Haniff-Darwent admitted guilt to the following:

Complaint 1

On June 29, 2017, the LSA received a complaint from C.S., a former client of Ms. Haniff-Darwent, alleging that she had not handled her family law matter correctly and that she had not responded to her communications.

Citations 1

It is alleged Roxanne E. Haniff-Darwent failed to progress her client's matters in a timely manner and that such conduct is deserving of sanction;

Citation 2

It is alleged Roxanne E. Haniff-Darwent failed to reply to her client's communications within a reasonable time and that such conduct is deserving of sanction; and

Citation 3

It is alleged Roxanne E. Haniff-Darwent failed to provide C.S. with her client file and that such conduct is deserving sanction.

Complaint 2

On October 17, 2017, the LSA received a complaint from E.M., a former client of Ms. Haniff-Darwent, alleging that she failed to provide his file materials to him.

On January 17, 2018, the LSA received a complaint from E.M.'s counsel alleging that Ms. Haniff-Darwent had failed to provide his file to her despite repeated requests.

Citation 4

It is alleged Roxanne E. Haniff-Darwent failed to provide E.M. with his client files in a timely manner and that such conduct is deserving of sanction; and

Citation 5

It is alleged Roxanne E. Haniff-Darwent failed to be cooperative and honest with the Law Society of Alberta and that such conduct is deserving of sanction.

12. For an admission of guilt to be acceptable, the admission must have the following elements:
 - a) the admissions must be made voluntarily and free of undue coercion;
 - b) the lawyer must unequivocally admit guilt to the essential elements of the citations;
 - c) the lawyer must understand the nature and consequences of the admission; and
 - d) the lawyer must understand that Hearing Committee is not bound by any submission advanced jointly by the lawyer and the LSA.
13. The Hearing Committee considered the above and found the Admission to be in an acceptable form. It was entered into the hearing record as an Exhibit. A redacted version of the Admission is attached as a schedule to this decision.
14. As the Admission was accepted, each admission is deemed to be a finding of this Hearing Committee that the conduct of the Ms. Haniff-Darwent is deserving of sanction.
15. Ms. Haniff-Darwent's breaches to her clients and to the LSA are serious. She failed to respond to her client to move matters forward. She did not respond to numerous phone calls, emails, and other requests for information from her client. When her client asked for their file, she failed to provide the file.

16. Her responses to the LSA investigation and requests for material demonstrated a similar pattern – she ignored them or did not respond. This is not a typical reaction to the governing body and creates concerns about governability and public protection for the LSA, as well as issues for her clients.
17. While the Admission did not explain why Ms. Haniff-Darwent acted this way, Mr. Hepner, her legal counsel, made submissions on some of the struggles she was facing during the time of the complaints. During this time, she was dealing with [...]. [...]. She was also struggling with other matters relating to her extended family that caused her much stress and emotional turmoil. She comes from a community where her role as family matriarch adds significant responsibility and sometimes stress to her life.
18. Her counsel advised that she has since participated in counselling, which had been helpful. Mr. Hepner and LSA counsel both confirmed she has worked with Practice Management from the LSA to her benefit.
19. Despite these circumstances, which the Hearing Committee acknowledges have been difficult for Ms. Haniff-Darwent, she still has a responsibility to her clients and to the LSA, which she failed to carry out. She made poor decisions that accumulated, and her reaction made things difficult for her clients and her governing body.

Joint Submission

20. Counsel for Ms. Haniff-Darwent and the LSA made a Joint Submission on sanction. The Joint Submission was as follows:
 - a) a 2-week suspension from December 19, 2019 to January 1, 2020;
 - b) Ms. Haniff-Darwent would pay costs of \$8,163.75, payable in \$500.00 installments beginning February 1, 2020; and
 - c) A notice of her suspension would be sent to the profession.
21. Counsel both submitted that there was no need for a custodian of her practice as the suspension would be for a short duration over the holiday season.
22. Joint submissions should not be lightly disregarded and should be accepted unless the Hearing Committee finds the joint submission to be unfit or unreasonable, contrary to public interest, or there are good and cogent reasons for rejecting it (*Law Society of Alberta v. Pearson*, 2011 ABLS 17). LSA counsel also cited the Supreme Court of Canada's decision in *R. v. Anthony-Cook*, [2016] 2 SCR 204, in relation to the deference owed to joint submissions on sanction.
23. In arguing that the proposed sanction fell within a reasonable range, LSA counsel cited the *Law Society of Alberta v. McCullough*, 2013 ABLS 3 (CanLII). In that case, the lawyer failed to serve the client in a conscientious, diligent and efficient manner. He

failed to respond to numerous reasonable requests for information; failed to respond to the client on a timely basis; failed to inform the client of the loss of her file; and failed to attend in court or to advance the client's lawsuit resulting in the dismissal of the lawsuit, with costs against the client, as no steps in the action had been taken for over five (5) years. The hearing committee in that case ordered a 30-day suspension and a \$1000.00 fine.

24. In Ms. Haniff-Darwent's case, LSA counsel noted that, unlike the lawyer in *McCullough*, Ms. Haniff-Darwent had no prior disciplinary record. Further, she showed significant remorse, has sought counselling and help to assist her in dealing with her personal circumstances, and has worked with Practice Management. The LSA submitted that there is a low risk of recurrence.
25. The Hearing Committee considered the Joint Submission and the facts in this matter. While the Hearing Committee takes Ms. Haniff-Darwent's breaches seriously, the Joint Submission was not unreasonable, contrary to public interest, and there were no cogent reasons for rejecting it.

Decision

26. For the reasons set out above, the Hearing Committee ordered:
 - a) Ms. Haniff-Darwent be suspended for two weeks, from December 19, 2019 to January 1, 2020;
 - b) that she pay the hearing costs of \$8,163.75, payable in \$500.00 installments, beginning February 1, 2020; and
 - c) a Notice to the Profession be issued regarding the suspension.
27. There shall be no notice to the Attorney General.
28. The exhibits, other hearing materials, and this report will be available for public inspection, including providing copies of exhibits for a reasonable copy fee, although redactions will be made to preserve personal information, client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Calgary, Alberta, January 30, 2020.

Ryan Anderson – Chair

Daniel McDonald, QC – Lawyer Adjudicator

Dr. Alan Kennedy – Public Adjudicator

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

- AND -

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF
ROXANNE HANIFF-DARWENT
A MEMBER OF THE LAW SOCIETY OF ALBERTA

HEARING FILE 20180160

**STATEMENT OF ADMITTED FACTS, EXHIBITS,
AND ADMISSIONS OF GUILT**

INTRODUCTION

1. This hearing arises out of two complaints comprising five citations.

BACKGROUND

2. I was admitted as a member of the Law Society of Alberta (the “**LSA**”) on October 10, 1997. My current status is “Active/Practising”.

FACTS AND ADMISSIONS

3. I admit as facts the statements contained in this statement of admitted facts.

ADMISSIONS OF GUILT

4. When I admit guilt to the conduct described herein, I agree that the conduct is “conduct deserving of sanction” as defined under section 49 of the *Legal Profession Act* (the “**Act**”).

NO DURESS AND INDEPENDENT LEGAL ADVICE

5. I have had the opportunity to consult with legal counsel and confirm that I have signed this statement voluntarily and without any compulsion or duress.

**THIS STATEMENT OF ADMITTED FACTS, EXHIBITS, AND ADMISSIONS OF GUILT IS
MADE THIS 26 DAY OF Sept. 2019.**

**“Roxanne Haniff-Darwent”
ROXANNE HANIFF-DARWENT**

COMPLAINT #1: C.S. (CO20171448)

Background

6. On June 29, 2017, the LSA received a complaint from C.S., a former client of mine, alleging that I had not handled her family law matter correctly and that I had not responded to her communications.

Exhibit 1 - Complaint (Jun 29, 2017) (w/o attachments)

7. The LSA conducted a review of the allegations, resulting in a referral to the Conduct Committee.
8. On June 19, 2018, a panel of the Conduct Committee directed that the following citations be dealt with by a Hearing Committee:
1. It is alleged Roxanne E. Haniff-Darwent failed to progress her client's matters in a timely manner and that such conduct is deserving of sanction;
 2. It is alleged Roxanne E. Haniff-Darwent failed to reply to her client's communications within a reasonable time and that such conduct is deserving of sanction; and
 3. It is alleged Roxanne E. Haniff-Darwent failed to provide C.S. with her client file and that such conduct is deserving of sanction.

Exhibit 2 - CCP Minutes

Retainer

9. On July 23, 2014, Legal Aid Alberta ("**Legal Aid**") appointed me to represent C.S. in her matrimonial proceedings.

Exhibit 3 - Legal Aid Certificate

10. Before my retainer, C.S. was represented by a non-Legal Aid lawyer to act on her behalf but ran out of money before the proceedings could be finalized.

Exhibit 9 - Matter Note (Jun 26, 2014)

11. As part of her agreement with Legal Aid, C.S. was to reimburse Legal Aid for some of my fees.

Exhibit 8 - Email (Mar 10, 2016)

Judicial Dispute Resolution (“JDR”)

12. On June [...], 2015, I attended a JDR with C.S. Her spouse appeared on his own behalf. That day, the parties reached an agreement that was formalized in an Order which I filed three months later on September 4, 2015 (the “**Order**”).

Exhibit 4 - Order (Sep 4, 2015)

13. The relevant terms of the Order were as follows:

- a. Her spouse was to provide his 2014 income tax information to C.S. so that his ongoing child support obligations for 2015 could be based on his 2014 income (*para. 7*);
- b. Her spouse was to pay ongoing child support for two children based on his 2014 income and the Child Support Guidelines for British Columbia. The amount of child support payable in 2015 was to be adjusted based on his 2014 income tax information (*para. 7*);
- c. The child support arrears were \$10,500.00 with additional adjustments to occur based on her spouse’s 2014 tax information (*para. 8*);
- d. Her spouse was to pay the child support arrears in monthly installments of \$200.00, which payments were in addition to his ongoing child support obligations (*para. 9*);
- e. Her spouse was to make the payments to the Maintenance Enforcement Program of BC (the “**MEP**”) (*para. 11*);
- f. C.S. could apply for a desk divorce without notice to her spouse (*para. 14*); and
- g. Her spouse was to pay costs of \$500.00 to me (*para. 15*).

Exhibit 4 - Order (Sep 4, 2015)

14. After the JDR, the following steps were required to conclude C.S.’s matter:

- a. Her spouse’s 2014 income tax information was to be obtained;
- b. Child support arrears and ongoing child support for 2015 were to be calculated based her spouse’s 2014 income tax information;
- c. An order reflecting the terms of the agreement reached at the JDR was to be prepared, filed, and provided to the MEP;
- d. A desk divorce application was to be prepared and filed on behalf of C.S.; and
- e. A divorce judgment was to be obtained.

15. After I filed the Order on September 4, 2015, I did nothing to move this matter forward for a period of almost three years, despite repeated requests from C.S., Legal Aid, and the Law Society.

Exhibit 5 - Procedure Card

16. Shortly after the JDR, Legal Aid paid me \$3,114.52 in fees.

Exhibit 6 - Legal Aid Fee Summary

17. I did not collect the \$500.00 in costs from C.S.'s spouse.

Pre-Complaint Communications

18. During the two-year period between the date of the JDR (June [...], 2015) and the date of submission of the complaint by C.S. (June 29, 2017),

- a. C.S. tried to communicate with me at least 25 times to request updates on her file, to which I responded with two voice messages in 2015 (June 18 and November 3) and one in 2016 (April 19), but never spoke with her personally; and
- b. Legal Aid attempted to communicate with me six times to request updates on her file, to which I did not respond.

Exhibit 7 - Emails from C.S. to Haniff-Darwent (May 2015-Mar 2017)

Exhibit 8 - Emails between C.S. and Legal Aid (Jul 2014 - Jan 2018)

Exhibit 9 - Legal Aid Matter Notes (Jun 2014 - Jun 2016)

Exhibit 10 - Legal Aid History of Communications (Jul 2014 - Jan 2018)

19. Particulars of the attempted communications during this two-year period are as follows:

- a. Between June [...], 2015, and July 24, 2015, C.S. left me several voice messages. I left her a voice message on June 18, 2015, but did not follow up to speak with her personally;

Exhibit 7 - Email (Jul 24, 2015)

- b. On July 24, 2015, C.S. emailed me requesting that I take steps to finalize her divorce and submit the Order to MEP, to which I did not respond. In fact, I had not yet drafted the Order by then;

Exhibit 7 - Email (Jul 24, 2015)

- c. Between July 24, 2015, and September 6, 2015, C.S. left me several voice messages about her marriage certificate, to which I did not respond;

Exhibit 8 - Email (Aug 8, 2015)

Exhibit 7 - Email (Sep 6, 2015)

- d. On August 18, 2015, I met with C.S. at the Courthouse to swear an Affidavit of Applicant. However, I had not told C.S. she needed a marriage certificate from the Province of British Columbia, and thus the meeting came to nothing;

Exhibit 12 - Response (Jan 15, 2018)

- e. On September 4, 2015, I filed the Order. However, I never sent a copy of it to C.S. despite her repeated requests that I do so;
Exhibit 4 - Order (Sep 4, 2015)
- f. On September 6, 2015, C.S. emailed me requesting a copy of her Marriage Certificate, which she needed for registration with the MEP, to which I did not respond;
Exhibit 7 - Email (Sep 6, 2015)
- g. On November 3, 2015, I left a message for C.S. but did not follow up to speak with her personally;
Exhibit 8 - Email (Jul 23, 2016)
- h. On December 15, 2015, I met with C.S. at her place of employment to have her swear an Affidavit of Applicant. However, I did not file the Affidavit and kept it and the original copy of the Marriage Certificate in my file;
Exhibit 12 - Response (Jan 15, 2018)
- i. Between January and April 2016, C.S. left me nine voice messages in which she explained that MEP was deducting all payments received from her spouse from the amounts owing, not just the \$200.00 payment that was set out in the Order. I did not return any of her messages;
Exhibit 8 - Email (Mar 8, 2016)
Exhibit 8 - Email (Apr 11, 2016)
- j. On April 19, 2016, I left a voice message for C.S. advising her that I would be travelling to Medicine Hat shortly, with no specific stated date. In fact, I did not travel to Medicine Hat, nor did I return any of the three follow-up voice messages that she left with me;
Exhibit 8 - Email (Jun 18, 2016)
Exhibit 8 - Email (Jul 23, 2016)
- k. On June 20, 2016, a representative from Legal Aid emailed me requesting my time records, to which I did not respond.
Exhibit 10 - Email (Jan 11, 2018)
- l. On July 11, 2016, C.S. left me a voice message asking for an update on her file, to which I did not respond;
Exhibit 8 - Email (Jul 14, 2016)
- m. On July 21, 2016, C.S. emailed me asking for an update and advising me of the problem with the MEP garnishment procedure, to which I did not respond;
Exhibit 7 - Email (Jul 21, 2016)
- n. On September 9, 2016, a representative from Legal Aid emailed me requesting my time records, to which I did not respond.
Exhibit 10 - Email (Jan 11, 2018)

- o. On September 15, 2016, a representative from Legal Aid emailed me to explain C.S.'s concerns and to ask me to get in touch with her.
Exhibit 8 - Email (Sep 15, 2016)
Exhibit 10 - Email (Jan 11, 2018)
- p. Shortly thereafter, I advised Legal Aid that I would complete the matter by the end of October 2016;
Exhibit 7 - Email (Sep 27, 2016)
Exhibit 8 - Email (Sep 27, 2016)
Exhibit 8 - Email (Oct 14, 2016)
- q. On September 27, 2016, C.S. emailed me to confirm that her matter would be concluded by the end of October 2016 and to provide me with information about her daughter and about the misallocation by MEP of the child support payments. I did not respond to her, nor did I take any steps to resolve her matter;
Exhibit 7 - Email (Sep 27, 2016)
- r. On November 17, 2016, C.S. emailed me about her matter, to which I did not respond.
Exhibit 7 - Email (Nov 17, 2016)
- s. On November 29, 2016, a representative from Legal Aid emailed me for a status update. I responded shortly thereafter that I would be traveling to Medicine Hat on December 13, 2016, to complete matter, which I did not do;
Exhibit 10 - Email (Jan 11, 2018)
Exhibit 8 - Email (Jan 13, 2017)
- t. In January 2017, a representative from Legal Aid contacted me asking for an update, to which I did not reply immediately;
Exhibit 8 - Email (Jan 19, 2017)
- u. On January 30, 2017, I advised Legal Aid that C.S.'s matter was ready to be finalized; that I had spoken to MEP; that I would mail the final documents; and that I would work with the Court clerks to get the matter finalized. However, I took none of these steps;
Exhibit 8 - Email (Jan 30, 2017)
- v. On March 28, 2017, C.S. emailed me demanding that return her file materials to her, to which I did not reply. Nor did I return the materials to her.
Exhibit 7 - Email (Mar 28, 2017)
- w. On March 29, 2017, a representative from Legal Aid contacted me by email for an update, to which I did not reply; and
Exhibit 10 - Email (Jan 11, 2018)
- x. On May 24, 2017, C.S. no longer qualified for Legal Aid assistance. Two days later, on May 26, 2017, a representative from Legal Aid contacted me by email for an update, to which I did not reply.
Exhibit 10 - Email (Jan 11, 2018)

Post-Complaint Communications

20. As noted, on June 29, 2017, C.S. submitted a complaint to the LSA.
Exhibit 1 - Complaint (Jun 29, 2017) (w/o attachments)

21. On October 11, 2017, Conduct Counsel for the LSA wrote to me and requested that I provide a response to the complaint by October 25, 2017. I was unable to provide my response by then and was granted an extension to do so by November 6, 2017. I then sought and obtained six additional extensions in which to provide my response.
Exhibit 11 - Correspondence (Oct 11, 2017 - Jan 12, 2018)

22. On October 16, 2017, a representative from Legal Aid contacted me to request my time records, to which I did not respond.
Exhibit 9 - Email (Jan 11, 2018)

23. On January 12, 2018, I provided a response to the complaint, a summary of which included

a. I admitted that I had not taken any steps in the matter since September 4, 2015:

At the outset, I wish to acknowledge that [CS] is justified in her complaint with respect to the manner in which I have handled her file. ***So I would like to apologise to [CS] for my lack of diligence on this file!***

I can advise that I have done a search at the Courthouse and note that no steps have been taken since September 4th, 2015.

[Emphasis in original]

b. I promised to finalize the matter without further costs to C.S.:

I have resolved notwithstanding my personal inhibitions to finalise this matter for [CS] without any further costs to her.

I anticipate filing an Application in Court to have the Divorce finalised with Notice to [spouse]. Additionally, given the fact that [CS]'s 2nd Affidavit of Applicant was sworn on December 15th, 2015 - I will obtain a Fiat so that the matter can proceed on the information that I have in my file.

...

Given my own lack of diligence on this file and my personal reticence to engage with [CS] due to my instinct for self-preservation, I can only ask that the Law Society afford me the opportunity to right the wrong for [CS].

- c. I stated that it was her spouse who was responsible for the delay in preparing the Order, when in fact I took no steps to obtain any information from him:

Initially, it was extremely difficult getting the required information from [spouse] to prepare the Order. The Order was prepared and filed and then [CS] was having difficulty with MEP with enforcing the Order.

- d. I stated that I had “fielded numerous, angry calls” from C.S. when in fact I simply deleted her voice messages while taking no action on them; and
- e. I blamed C.S. for my failure to take steps to finalize the proceedings:

As time went on, [CS]’s language became somewhat abusive. However, instead of me taking the bull by the horns and dealing with this file, responding to [CS]’s telephone calls, I think I became anxious and withdrew. I would hear [CS]’s voice and literally “shut down”. I acknowledge that this was simply not a productive way in dealing with this file.

Exhibit 12 - Letter (Jan 12, 2018)

24. On January 30, 2018, C.S. provided a reply to my response in which she outlined the steps that still needed to be done to finalize the proceedings.

Exhibit 13 - Email (January 30, 2018)

25. On February 14, 2018, one month after my initial response, I still had not done anything and emailed Conduct Counsel as follows:

Further to my voice message on this file, I thought that maybe a quick email may be easier. I will like to respond in writing to [CS] through the Law Society with respect to what she wants done with the wording of the Child Support Order. If I am correct and I do need to check my notes when I did finally speak to the MEP Officer what she was asking could not be done. For my own peace of mind, I need to take the time to check my notes from MEP and call them just to ensure that in completing this file, I’m doing it correctly.

Exhibit 14 - Email (Feb 14, 2018)

26. On February 26, 2018, I wrote to Conduct Counsel providing an update with the conversation that I had with MEP and with C.S.’s spouse and requested an additional week to complete the matter:

I wonder if I can get another week or so to get [spouse]’s information, confer with Maintenance Enforcement - Interjurisdictional Support Section in Alberta and they have an opportunity to confer with their counterparts in B.C., and be in a better position to confirm that I’m on the right path to finalise this

matter!

Exhibit 15 - Letter (Feb 26, 2018)

27. Conduct Counsel approved of the extension to complete the proceedings.
Exhibit 16 - Letter (Feb 26, 2018)

28. In March 2018, Legal Aid issued another certificate for C.S. Between March 8, 2018 and March 27, 2018, a senior lawyer with Legal Aid attempted to contact me four times to obtain a release of C.S.'s file materials to be provided to a new Legal Aid lawyer.
Exhibit 17 - Letter (Feb 26, 2018)

29. I did not send the file materials to Legal Aid.

30. On March 13, 2018, Conduct Counsel emailed me asking for an update.
Exhibit 18 - Email (Mar 13, 2018)

31. On March 14, 2018, I responded as follows:

By way of a quick response, I was out in Medicine Hat yesterday and took the opportunity to meet with a client after court in preparation for Trial starting next week, did not get back to Calgary until late last night. I do have the updated information on [C.S.]'s file except for [spouse]'s 2017 T-4 information. I am in Court this afternoon, and will be looking at [C.S.]'s file later this evening. I will provide you with a proper update later this evening.

Exhibit 19 - Email (Mar 14, 2018)

32. On April 9, 2018, I provided an update to Conduct Counsel, as follows:

By way of an update, please be advised that to date I have completed the calculations for 2015 & 2016. [Spouse] has not yet provided his 2017 T-4, the last time I spoke with him he advised that he did not get it as yet from his employer. I will be in contact this week to get this information. As soon as I receive that I will finalize the proposed Divorce Judgment to submit the documents for finalization. I am in Medicine Hat, Provincial Court tomorrow and will go over to Queen's Bench to confirm about getting a Fiat to file the documents.

Based on my estimate, I anticipate being in a position to finalize everything on this file by the end of the month.

Exhibit 20 - Email (Apr 9, 2018)

33. I did not follow through with the steps set out in my email.

34. On May 7, 2018, Conduct Counsel wrote to me to request an update, to which I did not reply.

Exhibit 21 - Letter (May 7, 2018)

35. On May 17, 2018, Conduct Counsel wrote to me to advise she would be completing a final review of the matter.
Exhibit 22 - Letter (May 17, 2018)
36. On May 23, 2018, a lawyer from Legal Aid who had been retained to complete the matter left me a voicemail and wrote to me requesting that I send her the file materials, to which I did not reply.
Exhibit 23 - Letter (May 23, 2018)
Exhibit 24 - Email (July 30, 2018)
37. On May 30, 2018, Conduct Counsel wrote to me to advise that the matter had been referred to the Conduct Committee.
Exhibit 25 - Letter (May 30, 2018)
38. On June 6, 2018, C.S. wrote Conduct Counsel to advise that her new lawyer had been trying to obtain her file from me and that I had failed to provide it.
Exhibit 26 - Email (Jun 6, 2018)
39. That day, Conduct Counsel emailed me to ask me to send the file materials to C.S.'s new lawyer, to which I did not respond:
- I was recently contacted by [CS] with a request that I assist her in obtaining her client file from you. In particular she requires her marriage certificate to complete her litigation matters. [CS] advised me that she has retained new counsel, Ms. [C], and she requests you provide her client file to Ms. [C]. This following is Ms. [C]'s contact information.
- ...
- Pursuant to the Commentary for section 3.5-1 of the Code of Conduct lawyers should promptly return a client's property to the client on request or at the conclusion of the lawyer's retainer.
Exhibit 27 - Email (Jun 6, 2018)
40. Citations were issued on June 19, 2018.
Exhibit 2 - Conduct Panel Minutes (Jun 19, 2018)
41. On June 27, 2018, new Legal Aid counsel wrote to me again demanding the file, to which I did not reply.
Exhibit 28 - Letter (Jun 27, 2018)
42. On July 18, 2019, C.S. emailed the LSA to advise that I had still not provided the file materials to her new lawyer.
Exhibit 29 - Letter (Jul 18, 2018)
43. On July 19, 2018, counsel for the LSA emailed me as follows, to which I did not respond:
- The Law Society has received an email from your former client [CS] advising that despite repeated requests, her lawyer has been unable to obtain her file materials from you. In particular, she

advises that she is missing a Marriage Certificate that is needed to finalize her matrimonial proceedings. I am also told that Ms. [C] has asked you to provide her with the files relating to Mr. [M].

The Law Society had understood that you had returned all of the materials to her or to Legal Aid. If that is the case, please advise and ignore the rest of this email.

If you have not yet returned the materials to her or to Legal Aid, please respond to me as soon as possible. If you are still in possession of the materials despite requests to return them, that is problematic because it is a continuation of the conduct that has been referred to a Hearing Committee.

I understand that you are meeting with [KK] next week (July 25) as part of a Practice Assessment follow up. Please provide her with all of [CS]'s materials at that time. Also, please provide her with the materials that you have on hand for Mr. [M], even though the file may not be complete.

Given that [CS] has been seeking return of these materials for some time now and has been unable to finalize her matrimonial proceedings because of your conduct and ongoing delay, which you have admitted, my instructions are to file a Court application pursuant to section 93 or 94 of the *Legal Profession Act* (attached) to seize those materials from your office should they not be in the Law Society's possession after your meeting with Ms. [KK]. There will be costs consequences associated with this as the Act contemplates the use of a Civil Enforcement Agency to obtain possession of the files. This is not a step that I want to take and the easiest way to deal with this issue is to turn over the materials to Ms. [KK], who will give them to me, and I will ensure that they are sent to [CS] and to Mr. [M].

Exhibit 30 - Email (Jul 19, 2018)

44. One week later, on July 26, 2018, I sent the materials to the new lawyer.

Exhibit 31 - Letter (Jul 26, 2018)

45. On July 26, 2018, I received the following email from the Law Society:

I understand from Ms. [KK] that you are going to provide her with a delivery receipt demonstrating that you couriered the [CS] file materials to Legal Aid Alberta. We will expect to receive the receipt by 4:00 p.m. today, namely, Thursday, July 26, 2018.

It is not clear to me why you decided to courier the [CS] materials to Legal Aid instead of providing them to Ms. [KK]. I understand from communications with [CS] that her new lawyer (who may or may not be on a Legal Aid certificate) has written to you directly

asking that you send the materials to him or her. Assuming that this information is correct, sending the materials to Legal Aid simply delays the provision of the materials to the person who needs it. Also, you were asked by the Law Society to do something, and you did something else altogether. Finally, you did not respond to my email last week. Please respond to my communications in a timely fashion.

Exhibit 32 - Email (Jul 26, 2018)

46. I responded later that day and provided proof of delivery.

Exhibit 33 - Email (Jul 26, 2018)

Admissions

Citation 1. Failure to Progress Matter

47. I admit that I did not take steps to progress C.S.'s matter in a timely manner, particulars of which are that for a period of almost three years (September 4, 2015 to July 26, 2018), I failed to take any substantive steps to progress C.S.'s legal proceedings, despite repeated promises to Legal Aid and to the LSA to do so, including:
- a. In September 2016, I advised Legal Aid that I would have the matter completed by the end of October 2016;
 - b. In November 2016, I advised Legal Aid that I would take steps to have the matter completed on December 13, 2016;
 - c. In January 2017, I advised Legal Aid that I would have the matter completed shortly;
 - d. In January 2018, I advised the LSA that I would take steps to have the completed shortly;
 - e. In February 2018, I advised the LSA that I would have the matter completed by March 2018;
 - f. In March 2018, I advised the LSA that I would be taking steps to complete the matter shortly; and
 - g. In April 2018, I advised the LSA that I would have the matter completed by the end of April 2018.

all of which is contrary to Rules 2.02(1) and 3.2-1 of the *Code of Conduct* in effect at the time.

Citation 2. Failure to Respond

48. I admit that I failed to respond my client's communications, particulars of which are:

- a. During a 3-year period (June 5, 2015 to July 26, 2018), C.S. tried to contact me at least 25 times by email and voicemail, to which I responded with two voice messages in 2015 and one voice message in 2016; and
- b. During a nine-month period (June 20, 2016 to March 29, 2017), I failed to respond to at least six messages from Legal Aid making inquiries about the status of C.S.'s matter,

all of which is contrary to Rules 2.02(1) and 3.2-1 of the *Code of Conduct* in effect at the time.

Citation 3. Failure to Provide Materials

49. I admit that I failed to provide C.S. or her new lawyer with her file materials in a timely manner, particulars of which include:
 - a. On March 28, 2017, I failed to respond to C.S.'s direct instructions to send the materials to her;
 - b. During a 4-month period (March 8, 2018 to July 26, 2018), I failed to provide the file materials to C.S.'s new lawyer despite four voice messages from a senior lawyer with Legal Aid, two letters and one voice message from her new lawyer, and one email from the LSA;
 - c. I finally took steps to send the C.S.'s file materials to her new lawyer only upon being warned by the LSA on July 19, 2018, that it intended to obtain a Court order to have a Civil Enforcement Agency seize the file materials from my office; and
 - d. I waited an additional week to deliver the materials after receiving the LSA's email of July 19, 2018,

all which is contrary to Rules 2.05(5) and 3.5-5 of the *Code of Conduct* in effect at the time.

COMPLAINT #2: E.M. (CO20172380)

Background

50. On October 17, 2017, the LSA received a complaint from E.M., a former client of mine, alleging that I failed to provide his file materials to him.

Exhibit 34 - Complaint (Oct 17, 2017)
51. On January 17, 2018, the LSA received a complaint from E.M.'s counsel alleging that I had failed to provide his file to her despite repeated requests.

Exhibit 35 - Complaint (Oct 17, 2017)

52. The LSA conducted a review of the allegations, resulting in a referral to the Conduct Committee.
53. On December 11, 2018, a panel of the Conduct Committee directed that the following citations be dealt with by a Hearing Committee:
 4. It is alleged Roxanne E. Haniff-Darwent failed to provide E.M. with his client files in a timely manner and that such conduct is deserving of sanction; and
 5. It is alleged Roxanne E. Haniff-Darwent failed to be cooperative and honest with the Law Society of Alberta and that such conduct is deserving of sanction.

Exhibit 36 - CCP Minutes

Events Prior to Request for File Materials

54. I was retained by E.M. in July 2015 to assist him with a matrimonial matter. I had previously represented him in an immigration matter in 2011.
55. On July 10, 2015, I filed a Statement of Claim for Divorce on behalf of E.M., who had told me that he intended to get married again in April 2016.

Exhibit 37 - Statement of Claim (Jul 10, 2015)
Exhibit 40 - Affidavit of Applicant, para. 11 (Mar 7, 2016)
56. Five months later, in December 2015, I took steps to send the Statement of Claim to a process server, who served it one month later, on January 27, 2016.

Exhibit 38 - Letter (Dec 2015)
Exhibit 39 - Affidavit of Service (Mar 7, 2016)
57. Five weeks later, I noted the Defendant in default and then took steps to apply for a Divorce Judgment. I received the Certificates of Divorce on April 15, 2016.

Exhibit 40 - Divorce Judgment Documents (Mar-Apr 2016)
58. During this process, E.M. provided me with instructions about the division of property.

Exhibit 41 - Letter (Undated)
59. On March 11, 2016, I filed a Statement of Claim for Division of Matrimonial Property.

Exhibit 42 - Statement of Claim (Mar 11, 2016)
60. I did not serve the Statement of Claim for Division of Matrimonial Property on the Defendant, which expired by operation of the *Rules of Court*, nor did I take any steps to move the matter forward.
61. Sixteen months later, on July 21, 2017, filed a second Statement of Claim for Division of Matrimonial Property, but did not serve it on the Defendant.

Exhibit 43 - Statement of Claim (Jul 21, 2017)

Requests for File Materials by E.M.

62. Shortly thereafter, E.M. wrote to me, noting that I had taken no action on his file and asked me to send him the file materials, or a copy thereof, so that he may retain somebody else to complete the matter:

[Spouse] will not get away with this, hence I have been begging you to compile [sic] with me the photo copies of my file, so that another lawyer will help get it done....

Exhibit 44 - Letter (Undated)

63. I did not respond to his letter, nor did I take steps to move his matter forward.

64. As noted, on October 17, 2017, E.M. complained about me to the LSA.

Exhibit 34 - Complaint (Oct 17, 2017)

65. On October 30, 2017, E.M. wrote to me asking for file materials or do something in his action, stating in part:

... All I am asking for, is my file - my file, you will be paid all that is due and much more. PLEASE, PLEASE, PLEASE I NEED MY FILE/PHOTO COPIES, SHE IS USING EVERYTHING CONCERNING THESE OUR PROPERTY INVESTMENT TO PUNISH ME AND THOSE MY CHILDREN, THEY ARE FEELING IT AND CALLING ON YOU TO DO SOMETHING FASTER AND ON TIMELY MANNER AS REQUIRED BY THE LAW.

ON GETTING THIS LETTER, PLEASE CALL ME FOR I DO NOT HAVE A PLACE I CAN CALL MY OWN/SLEEP.

What happened to my work permit? If is for my getting my driving licence.

(Caps in original; handwriting in italics)

Exhibit 45 - Letter (Oct 30, 2017)

66. I did not respond, nor did I take any steps to move his matter forward or provide him with his work permit.

Requests for File Materials by E.M.'s Lawyer

67. On November 17, 2017, I received a letter from J.D., E.M.'s new lawyer, along with a release from E.M., asking me to send her E.M.'s file materials. I did not respond to the letter, nor did I send the file materials.

Exhibit 46 - Letter (Nov 17, 2017)

68. J.D. followed up with several voice messages, to which I did not respond.

Exhibit 35 - Complaint (Jan 15, 2018)

Exhibit 49 - Letter (Jan 11, 2018)

69. On January 2, 2018, I wrote to J.D. to advise her that I would deliver the file materials the following day, which I did not do.
Exhibit 47 - Letter (January 2, 2018)
70. On January 4, 2018, I wrote to J.D. to advise that I would send the file materials the following day, which I did not do.
Exhibit 48 - Letter (January 4, 2018)
71. On January 11, 2018, I received a letter from J.D. asking me to deliver the file materials forthwith. I did not respond to J.D.'s letter nor did I deliver E.M.'s file materials to her.
Exhibit 49 - Letter (January 11, 2018)
72. As noted, on January 17, 2018, the LSA received a complaint from J.D.
Exhibit 35 - Complaint (Jan 17, 2018)
73. J.D. eventually withdrew and E.M.'s lawyer of record. E.M. then retained a new lawyer, P.L. for his matrimonial matter, and lawyer B.H. for an immigration matter.
Exhibit 52 - Emails (Feb 16, 2018)

Requests by LSA For Files and Response

74. On January 29, 2018, I spoke to Conduct Counsel for the LSA and advised that I would provide E.M.'s file materials to P.L. later that week.
Tab 51 - Email (Feb 2, 2018)
75. Shortly thereafter, I was contacted by P.L. who requested that I provide him with E.M.'s file materials.
Exhibit 50 - Letter (Feb 1, 2018)
76. On February 1, 2018, I wrote to P.L. and provided him with a copy of the filed, but unserved, Statement of Claim for Division of Matrimonial Property. I did not provide him with a copy of the entire or with materials from E.M.'s immigration file, which I promised to send "as soon as possible".
Exhibit 50 - Letter (Feb 1, 2018)
77. On February 2, 2018, Conduct Counsel for the Law Society sent me an email requesting confirmation that I had sent E.M.'s file to his new lawyer.
Exhibit 51 - Letter (Feb 1, 2018)
78. Shortly thereafter, I had a telephone conversation with Conduct Counsel and advised I had sent E.M.'s file materials to P.L. despite having only send the Statement of Claim.
Exhibit 52 - Email (Feb 16, 2018)
79. On February 16, 2018, E.M. emailed Conduct Counsel and advised that I had not sent his file materials (matrimonial and immigration) to his new lawyers.
Exhibit 52 - Email (Feb 16, 2018)

80. On February 22, 2018, E.M. followed up with an email to Conduct Counsel to advise that I still had not sent his file materials (matrimonial and immigration) to his new lawyers.
Exhibit 53 - Email (Feb 16, 2018)
81. On March 6, 2018, the LSA sent me a letter asking that I respond to E.M.'s allegations against me within 14 days. I did not respond by the deadline, nor did I request an extension until two weeks after the deadline had expired.
Exhibit 54 - Letter (Mar 6, 2018)
82. On April 9, 2018, I obtained an extension to respond by May 1, 2018, to the allegations.
Exhibit 55 - Email (Apr 10, 2018)
83. On April 18, 2018, I received an email from Conduct Counsel noting that P.L. had not yet received E.M.'s complete family law file, even though I had stated two months earlier that I had sent it. Conduct Counsel then asked me to provide E.M.'s complete file materials to the LSA.
Exhibit 56 - Email (Apr 18, 2018)
84. On April 19, 2018, I confirmed the following deadlines with Conduct Counsel
- a. I would deliver a copy of E.M.'s family law file to the LSA by April 20, 2018;
 - b. I would deliver E.M.'s family law file and his work permit to P.L. by April 20, 2018;
 - c. I would deliver a copy of E.M.'s immigration law file to the LSA by April 23, 2018;
 - d. I would provide a response to the complaints by May 1, 2018.
Exhibit 57 - Email (April 19, 2018)
85. On April 20, 2018, I faxed a copy E.M.'s family law file to the LSA. In my cover letter, I hinted at misconduct on the part E.M., the details of which I did not disclose:
- Throughout this process, my advice to [E.M.] was to settle this matter with his ex-wife, due to their personal circumstances. I advise of the personal ramifications for each party. Now that I complaint has been filed and a claim has been made, he has waived solicitor-client privileged communication. [E.M.] disclosed the truth to me after the separation and in all honesty, I am not sure what the trust is? [This will be address in my response to the Law Society]. However, I do not believe that [J.D.] or [P.L.] knows the trust about [E.M.] and [Spouse].
- ...
- I have undertaken to have [E.M.]'s immigration file to you on Monday, April 23rd, 2018.
Exhibit 58 - Letter w/o attachments (Apr 20, 2018)
86. I did not provide the immigration file to the LSA on April 23, 2018.

87. On April 26, 2018, Conduct Counsel followed up by email, requesting an update about E.M.'s immigration file, to which I did not respond.
Exhibit 59 - Email (April 26, 2018)
88. On May 7, 2018, Conduct Counsel wrote to me, noting my failures to comply with her requests and giving me until May 15, 2018, to provide her with a copy of the immigration file and to provide a response to the complaints. I did not respond to this letter.
Exhibit 60 - Letter (May 7, 2018)
89. On June 27, 2018, Conduct Counsel obtained the assistance of an Investigator with the LSA, who sent me an email asking for an update about the immigration law file.
Exhibit 61 - Emails (Jun 27-28, 2018)
90. On June 28, 2018, I responded to the Investigator by email, noting that I had not yet taken any steps to retrieve the immigration file materials. I promised to send the materials to Conduct Counsel by July 3, 2018. The investigator offered to pick up the materials when they were ready.
Exhibit 61 - Emails (Jun 27-28, 2018)
91. I did not deliver the materials as promised.
92. On July 11, 2018, the investigator followed up by email, to which I did not respond.
Exhibit 61 - Emails (Jun 27-28, 2018)
93. On August 30, 2018, Conduct Counsel wrote to me to ask for my response to the complaints, to which I did not respond.
Exhibit 62 - Letter (Aug 30, 2018)
94. On September 17, 2018, I emailed Conduct Counsel requesting an extension to September 19, 2018, to provide a response to the complaints, which was granted.
Exhibit 63 - Letter (Aug 30, 2018)
95. I never provided a response to the complaints.
96. In October 2018, I provided copies of immigration file materials to the LSA.

Admissions of Guilt

Citation 4. Failure to Provide File Materials

97. I admit that I failed to provide E.M. with his file materials in a timely manner, particulars of which are as follows:
- a. For a period of four (4) months (July 21, 2017 to November 17, 2017), I failed to respond to E.M.'s instructions to send his file materials to him;
 - b. For a period of 2½ months (November 17, 2017 to February 1, 2018), I failed to provide a copy of E.M.'s matrimonial files to his counsel, despite emails and

voice message requests, and two promises by me to do so;

- c. On February 1, 2018, I only provided a copy of the unserved Statement of Claim for Division of Matrimonial Property to E.M.'s new counsel, despite being asked for the entire file;
- d. For a period of three (3) months (January 29, 2018 to April 20, 2018), I failed to provide E.M.'s matrimonial file to the LSA despite four requests from the LSA to do so;
- e. For a period of ten (10) months, (January 29, 2018 to October 2018), I failed to provide a copy of E.M.'s immigration file to opposing counsel or to the LSA, despite numerous requests from the LSA to do so;

all which is contrary to Rule 3.5-5 of the *Code of Conduct*.

Citation 5. Failure to be Cooperative and Honest

98. I admit that I failed to be cooperative and honest with the LSA, particulars of which are:

a. Regarding my failure to be cooperative,

(1) I failed to comply with the following deadlines and requests from the LSA:

- i. A deadline of the week of January 29, 2018, to deliver the file materials;
- ii. A request by the LSA on February 2, 2018, to deliver the file materials;
- iii. A deadline of April 23, 2018, to deliver the immigration file materials;
- iv. A deadline of May 15, 2018, to deliver the immigration file materials;
- v. A deadline of July 3, 2018, to deliver the immigration file materials; and
- vi. A deadline of September 19, 2018, to deliver the immigration file materials.

(2) I failed to respond to the following communications from the LSA:

- i. A letter dated March 6, 2018, seeking a response to the complaints;
- ii. An email dated April 26, 2018, seeking an update from me;

- iii. A letter dated May 7, 2018, seeking a copy of the immigration file and a response to the complaints;
 - iv. An email dated July 11, 2018, from an investigator seeking an update about the immigration file;
 - v. A letter dated August 30, 2018, seeking a response to the complaints;
- (3) I failed to provide a response to the complaints against me, despite several promises to do so.
- b. Regarding my failure to be honest with the LSA,
- (1) On February 2, 2018, I advised Conduct Counsel that I had sent the entire file to E.M.'s lawyer when I had only sent a few pages; and
 - (2) On April 20, 2018, when I made unspecified allegations of misconduct on the part of my client, which I then failed to explain in a response;
- all of which contrary to Rule 7.1-1 of the *Code of Conduct*.