

# The Law Society of British Columbia



## **Interim Report of the Discipline Guidelines Task Force**

**For: The Benchers**

**Date: July 9, 2010**

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**Purpose of Report: Discussion and Decision**

**Prepared on behalf of: The Discipline Guidelines Task Force**

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## **Interim Report of the Discipline Guidelines Task Force**

### **Introduction**

In part, the Discipline Guidelines Task Force was struck to review the function and processes of the Discipline Committee and to make recommendations regarding guidance and information the Benchers can provide to the Discipline Committee members, to assist them in reaching appropriate and consistent dispositions in professional conduct matters. With this Interim Report the Discipline Guidelines Task Force proposes a three-part policy regarding abeyance requests, a type of matter the Discipline Committee sees frequently. **[Attachment 1]** Each of the three parts of the proposed abeyance policy are addressed in the course of this Report.

The second aspect of the Task Force's broad mandate is to review the Law Society's professional conduct investigation and discipline processes and to make recommendations for any *policy-level* improvements that might assist in reducing process timelines without sacrificing careful and thorough investigations or a discipline process that is observant of the legal requirements of fairness and natural justice.

Before proceeding with the second aspect of its mandate, the Task Force looks forward to having the benefit of any results that may be available from the Law Society's Core Process Review Project, which is focused on the operational level and the activities of Law Society staff, including staff in the Professional Conduct and Discipline Departments.

### **First Focus: Abeyances**

The first main focus of the Task Force's attention has been the abeyance issue. The following observations speak to the importance of the subject of abeyances in regard to the Law Society's regulatory responsibilities and in light of the Task Force's mandate:

- A statistical analysis conducted early in the life of the Task Force confirmed that most professional conduct investigation files ("complaint files") do not involve abeyances and are closed within 6 months of being opened. However, abeyances feature prominently in the group of investigations that are closed more than 1 year after their opening date.
- Statistics current to April 2010 revealed that less than 1% of all professional conduct investigations opened in the four year span from January 1, 2005 to December 31, 2008 still remained open. However, among the files from that group that did remain open, approximately 2/3 had spent some time in abeyances granted by the Discipline Committee.
- The Discipline Committee's decision to grant an abeyance has the practical effect of removing the matter from the normal timelines associated with completing and concluding investigations.
- A characteristic of all abeyance situations is that the lawyer subject to the Law Society's investigation is also involved in parallel proceedings, usually court

- proceedings, civil or criminal, but potentially parallel regulatory proceedings (eg. securities regulation proceedings). In some cases the parallel proceedings have the potential to attract a heightened level of media and public attention; the lawyer's conduct in question may achieve significant notoriety.
- There has been no previous abeyance policy direction from the level of the Benchers as a whole. Existing abeyance policy is Discipline Committee policy, deriving from a 2000 memorandum from staff, later supplemented with an informal directive from the Discipline Committee aimed at minimizing the attachments to staff's abeyance referral memoranda.

While each abeyance decision and the policy behind it is important, the Task Force was pleased to learn that the number of files in abeyance appears to have been reduced over the past two to three years. The number of files in abeyance at May 6, 2010 was 9. The improvement has been due to the informal direction of the Discipline Committee and the successful efforts of the Professional Conduct department. In part, the present set of recommendations reflects an attempt to express the principles and the sentiment behind the improvement already indicated in our file statistics. Another aspect of the task is the attempt to expand and fortify the list of potentially relevant considerations for the Discipline Committee to bring to bear in its evaluation of abeyance requests. In applying itself to this work, the Task Force has been guided by the view that only abeyances that are truly warranted should be granted.

## **Consultation**

In the course of supporting the work of the Task Force, staff have consulted with other law societies across the range of Canadian common law jurisdictions. While only two other law societies surveyed (the Law Society of Alberta and the Nova Scotia Barristers' Society) had *written* abeyance rules or policies they were willing to share, *all of the responding regulatory bodies* (including the Law Societies of Saskatchewan, Manitoba, and Upper Canada) indicated that they do grant abeyances in appropriate circumstances and that abeyance decisions are made either at the staff level or by the functional equivalents of our Discipline Committee. There appeared to be broad agreement across the country that in at least some circumstances abeyances were unavoidable.

In addition to the Task Force's members, attendees at the Task Force's meetings have included: Deborah Armour (Chief Legal Officer), Adam Whitcombe (Chief Information & Planning Officer), Michael Lucas (Manager – Policy & Legal Services), and Lance Cooke (DGTF Staff Liaison). Earlier drafts of the Abeyance Policy here presented were circulated with requests for comments to the Law Society's Director of Enforcement & Monitoring, Manager of Professional Conduct, Professional Conduct Staff Lawyers and Discipline Counsel.

The Task Force is grateful to all those who participated and contributed their time and comments.

## Discussion of the Proposed Abeyance Policy

The proposed Abeyance Policy is divided into three parts as follows:

### 1. Preamble

The purpose of the *Preamble* is to introduce and make clear exactly what the Task Force's recommendations are about. An abeyance is not a defined term, nor even a mentioned term, in the *Legal Profession Act* or the Law Society Rules.

Nonetheless, the notion of an abeyance has a previous Discipline Committee policy and a number of years of practical development behind it. As such, the intention of the *Preamble* is merely introductory, for the assistance of the reader.

### 2. General Principles

The recommendations of the Task Force come in two parts. The first part proposes the adoption of new policy by the Benchers to fill an existing void. The policy takes the form of four *General Principles*. These four principles have been chosen so as not to create problematic restrictions for the Discipline Committee, in its task of coming to appropriate dispositions of individual abeyance requests. However, the General Principles have been chosen to create a backdrop for the Discipline Committee's discussions that emphasizes the Law Society's responsibilities: the importance of a close observance of the public interest mandate, the importance of avoiding unnecessary delay, the importance of any required protections for the public during the period of any abeyance, and the importance that every abeyance be *justified*, in view of the circumstances of the parallel proceedings and the extent of the information that is available for the Discipline Committee's consideration.

#### a. General Principle 1

The first General Principle brings together a concern for the protection of the public interest in the administration of justice with the notion that the Law Society's investigation and discipline processes should proceed in a timely manner. The result is the assertion of the presumption against holding investigations in abeyance. While such a presumption may strike some as too strong, the Task Force believes the abeyance policy should make it clear that an abeyance is not a kind of 'default' or automatic result that will issue every time a lawyer under investigation is involved in a somewhat parallel proceeding. Further, the other two Canadian law societies that have written abeyance policies (Nova Scotia and Alberta) have both included express, unqualified presumptions against the granting of abeyances. In considering when and under what circumstances an abeyance ought to be granted, it is important to recognize that an abeyance involves the Law Society's suspending or delaying the immediate performance of its statutory obligation to investigate and deal with complaints.

**b. General Principle 2**

The second General Principle emphasizes that Law Society investigations should proceed as far as they reasonably can, before the Discipline Committee makes its decision about granting an abeyance. This stipulation aims to put the Discipline Committee in the best position in order to render its decision on an abeyance request. A relatively new idea included in the second General Principle is the suggestion that in some cases it may be appropriate to require the lawyer's response in the investigation but then to take steps to maintain the confidentiality of the lawyer's information. Such steps might include the abeyance of further disciplinary processes (eg. postponement of a subsequent disciplinary hearing) in which the lawyer's information might become available to interested third parties, to avoid unduly prejudicing the lawyer in a parallel proceeding or otherwise undermining the administration of justice.

**c. General Principle 3**

The third General Principle takes account of the fact that sometimes the protection of *the public interest* can require the taking of steps for the protection of *members of the public*. Abeyance arrangements always require undertakings from the requesting lawyers. In appropriate cases, these undertakings can be adapted to include effective means of protecting the public, such as practice conditions or other restrictions. The Task Force viewed the potential need to provide for the protection of members of the public as of such significance that its express inclusion in the General Principles was warranted.

**d. General Principle 4**

The fourth General Principle represents an attempt to describe circumstances and criteria that together amount to *necessary conditions* for the justification of an abeyance. The fourth Principle does not aspire to list *sufficient conditions*. The determination of sufficiency is left for the Discipline Committee, in light of its application of the relevant Proposed Guidelines. The point of the fourth Principle is rather that without some appropriate combination of these conditions, a proposed abeyance would not be justified. Sub-principle 4(b) requires at least some significant risk of harm to the administration of justice as part of the justification for an abeyance.

However, the fourth General Principle may be more flexible than it first appears. The occurrence of the words "reasonably," "reasonable," and "significant" create the potential for Sub-principles (a), (b), and (c) to work together with some amount of flexibility. A "reasonable" length of time may be longer, if the risk of harm to the administration of justice is more significant. Conversely, if the risk of harm justifying the abeyance is less

significant, we should not be willing to wait very long before receiving the lawyer's response. In any event, the Task Force was of the view that the justification for any abeyance requires a sufficient closeness between the basis for the Law Society's investigation and the basis for the parallel proceeding, a risk of harm to the administration of justice if no abeyance is granted, and a potential benefit to the administration of justice if an abeyance is granted.

### 3. Proposed Guidelines

The second part of the Task Force's recommendations, the *Proposed Guidelines*, takes the form of a list of potentially relevant considerations, for the Discipline Committee to take into account, where each may be applicable, in determining its response on individual abeyance requests. The list presented here expands significantly on the previous list of concerns that was adopted as Discipline Committee policy in 2000, and which as a matter of practice has been drawn to the Discipline Committee's attention by inclusion in Professional Conduct staff's abeyance request referral memoranda. In addition to expanding the number of potentially relevant considerations, the proposed list provides for a more specific and focused analysis of individual abeyance requests.

**The Task Force recommends that the Benchers forward the *Proposed Guidelines* to the Discipline Committee for its review and potential adoption.**

As the considerations in the *Proposed Guidelines* do not all take the form of statements of broad principle, and as it will be up to the Discipline Committee to use and apply the *Proposed Guidelines*, with that Committee's particular blend of experience and expertise, it seems most appropriate that the Discipline Committee consider and reach its own decision on its potential adoption of the *Proposed Guidelines*. The *Proposed Guidelines* are intended to reflect and capture the ground already gained by the Discipline Committee with the assistance of staff. The Discipline Committee is likely best positioned to appreciate the extent to which the *Proposed Guidelines* actually do reflect the considerations the Discipline Committee has been bringing to bear on the abeyance requests referred for its decision. In view of the nature of the *Proposed Guidelines* recommendation, in this Interim Report we are not providing a separate discussion of each point listed in the *Proposed Guidelines*.

For your reference, the Discipline Committee Minute of July 13, 2000, evidencing the existing policy, is provided as **Attachment 2** to this Interim Report.

**Attachments 3 and 4** are the precedent forms for the "usual undertakings" that have been required as part of an abeyance arrangement where the parallel proceedings are Criminal or Civil, respectively. However, it is important to remember that the undertakings required in a given case may just begin with the "usual undertakings" and may be supplemented with additional requirements, for example, for the protection of the public during the abeyance period.

## Second Focus: Disposition Guidance for the DC

As the Task Force moves beyond the Abeyance Policy issue, the next focus is to provide some useful guidance for Discipline Committee members facing the task of determining appropriate dispositions of professional conduct investigations. When an investigation is concluded and referred to the Discipline Committee, the Committee has a range of ‘disciplinary’ outcomes available. In the most serious cases, where sufficient proof is available, a *Citation* will be issued, a hearing will follow, and the hearing panel’s written decision and any resulting penalty will be published. In descending order of seriousness, the Committee’s other options include: a *Conduct Review*, a *Conduct Meeting*, a *Conduct Letter* from the Chair or, if it is determined that no disciplinary action is appropriate, *No Further Action*. In particular circumstances, the Discipline Committee may also be asked to consider whether to grant or extend an Abeyance, whether to refer a lawyer to the Practice Standards Committee, or whether the product of a professional conduct investigation should be placed on a former member’s personal file, to be dealt with in the event the person ever applies for reinstatement. In some cases where a Citation has been issued, the Discipline Committee may be asked to consider a request that the Citation be rescinded. In other Citation cases, the Committee may be asked whether it will approve a conditional admission and penalty proposal. Where the Committee has directed a Conduct Review, the resulting Report from the Conduct Review Subcommittee will come back to the Discipline Committee with a recommendation, usually for *No Further Action* but occasionally that the issuance of a *Citation* should be considered. It is truly a significant task to come to appropriate dispositions in such a broad range of matters, consistently, and where the individuality of the cases can tend to obscure applicable principles and the manner in which those principles should be applied. The task may have been all the more difficult given that to date Discipline Committee members have received very little in the way of guidance to assist in their general approach to the assessment of individual cases. With this demanding range of assessments in mind, the Task Force is in the process of considering what guidance can be provided that will be of practical assistance to Discipline Committee members and that will promote both the appropriateness and consistency of the Committee’s dispositions.

Issues on the Task Force’s horizon include the following:

### 1. Delineating potential outcomes:

- What factors make a lawyer’s conduct warrant a Conduct Review rather than a Conduct Meeting (and *vice versa*)? The same questions can be posed between each of the levels of disciplinary response. In approaching the delineation question at a ‘first principles’ level, related questions are: what are the goals, what is the purpose, and what is the anticipated effect (for each level of disciplinary response)?
- What factors make the issuance of a Citation an appropriate disposition? The decision to issue a Citation is unlike the other disciplinary responses in that it involves a ‘strength of evidence’ assessment regarding the Law Society’s ability

to prove the allegations in the Citation. Should the Discipline Committee use a *citation threshold* test, analogous to the Crown's charging standard? Currently the Committee does not have an express *citation threshold* policy. If there should be a recognized *citation threshold* to apply in appropriate cases, how exactly should it be expressed?

## 2. Principles of General Application:

- Should the Discipline Committee be thinking in terms of a principle of Progressive Discipline, where each successive referral for the same lawyer would result in a more serious level of discipline? Benchers may be concerned about taking a path of successive conduct reviews for the same lawyer and whether a second or third Conduct Review has any real prospect of beneficial effect. If a principle of Progressive Discipline should be applied in some cases, what factors would limit its application? For example: what if the subject lawyer's transgressions were completely unrelated and if the appearance was that a past disciplinary result did have a beneficial impact with respect to the specific type of transgression it addressed? For a quite different example: what if the next level of disciplinary response would be a Citation but the nature of the available evidence would make us doubtful about the results from a potential disciplinary hearing?
- From the Discipline Committee's perspective, what should be the significance of a lawyer's Professional Conduct Record, which includes indications of previous Citations and Conduct Reviews and which is available to hearing panels only at the penalty determination phase of the Citation proceeding. The Discipline Committee is aware of these past results in making its assessments and those assessments have a potential impact on the lawyer's future Professional Conduct Record. For example, a direction that the lawyer must attend a Conduct Review would place that matter on the lawyer's Professional Conduct Record; the alternative of a Conduct Meeting would not impact the lawyer's Professional Conduct Record at all.
- A similar question can be raised regarding the significance of a lawyer's Complaints Record. The Complaints Record contains a summary reference to each past complaint investigation opened regarding the same lawyer. It includes investigations previously referred to the Discipline Committee – but also investigations in which complaints were determined to be “not valid” or where the allegations were simply not serious enough to warrant a referral to the Discipline Committee. In some cases, a lawyer may have a Complaints Record with dozens of previous entries but with little or no Professional Conduct Record and with very few previous referrals to the Discipline Committee. In such situations, how should the Discipline Committee regard a lawyer's Complaints Record and what inferences, if any, may be drawn from it?

## **Concluding Remarks**

It is anticipated that additional issues will be identified and addressed in the course of the Task Force's deliberations over the coming months. This next phase of the Discipline Guidelines Task Force's work promises to be very challenging. The Task Force's aim is to produce some written guidance that will be of practical benefit for the Discipline Committee. The Task Force anticipates providing a further report to the Benchers in the current calendar year with as many recommendations as are settled at that time being included in the Report.

## Proposed Abeyance Policy

### *Preamble*

What is an “abeyance?” An “abeyance” is a term of art. As it has developed through Discipline Committee policy and practice, an abeyance does not refer to just any decision to wait for a period of time before moving to the next step in an investigation. Instead it describes a very specific kind of arrangement between the lawyer who requests it and the Discipline Committee who grants it. A lawyer subject to an investigation may make written request to the Discipline Committee to have the matter held in abeyance because of relevant proceedings pending or ongoing in another forum. To date, abeyances have been agreements wherein the lawyer subject to investigation provides the Law Society with protective undertakings, conditional upon the Law Society’s decision to grant the abeyance. The Law Society always retains the discretion to end an abeyance unilaterally at any point and to proceed immediately with its investigation.

On the Law Society’s part, usually an abeyance amounts to temporarily suspending the lawyer’s responsibility to provide a written response in the investigation. An abeyance could also amount to temporarily deferring any decision to authorize a citation or proceed with a hearing, and to taking reasonable steps to maintain the confidentiality of the lawyer’s response in the investigation in the interim.

An abeyance requires the lawyer’s agreement and undertaking not to raise any argument based on delay resulting from the abeyance and to keep the Law Society informed of any progress in the parallel proceeding. Sometimes abeyances require the lawyer’s undertaking not to enter into any confidentiality agreements that would exclude the Law Society’s knowledge of the terms of any settlement. The specific undertakings required of the lawyer can be tailored to fit the circumstances of each case and any specific concerns the Law Society may have, such as interim measures for the protection of the public. The undertakings can also secure in advance any specific consent or cooperation that may be of assistance in the investigation, for example, consent to the Law Society’s obtaining and reviewing the transcript from the lawyer’s examination for discovery.

If granted, an abeyance is in place until *the sooner* of a specified period of time (usually 6 or 12 months) or the conclusion of the parallel proceeding, but always subject to the Law Society’s right to terminate the abeyance early.

An abeyance may be extended or re-struck in new terms at any time, whether prior to or following the expiration of a previously prescribed abeyance period.

**I. *Abeyance Policy - General Principles***

**[Proposed for the Benchers' review and possible adoption]**

1. The protection of the public interest in the administration of justice requires that the Law Society's investigations and disciplinary proceedings be completed in a timely manner. There is therefore a presumption that such investigations and proceedings should not be held in abeyance.
2. Notwithstanding the presumption against abeyances, upon receiving a written request from the lawyer subject to investigation, in certain circumstances an abeyance may be warranted. It is important that all reasonably available and potentially useful avenues of investigation have been exhausted prior to agreeing to an abeyance request. In some instances, it may be preferable to first obtain the lawyer's response in the investigation and then to consider the abeyance of subsequent processes.
3. An investigation must proceed far enough that the Discipline Committee can determine whether interim conditions or practice restrictions should be required during the period of the abeyance, for the protection of the public, a third party or any of the lawyer's clients.
4. The granting of an abeyance will only be justified if:
  - (a) there is a contemporaneous parallel proceeding in another forum,
    - (i) in which there is a significant overlapping of the issues or factual matrix in question in the Law Society's investigation, and
    - (ii) from which relevant determinations or information may reasonably be expected to flow in a reasonable period of time;
  - (b) there is a significant risk that continuing the Law Society's investigation and discipline processes without abeyance will be inconsistent with the public interest in the administration of justice:
    - (i) by undermining due process or the administration of justice in the parallel proceeding,
    - (ii) by resulting in an abuse of the Law Society's processes, or
    - (iii) by unduly prejudicing the rights of the lawyer in the parallel proceeding; and
  - (c) the Law Society's investigation and ability to protect the public interest can reasonably be expected to benefit as a result of:

- (i) evidence becoming available in the course of the parallel proceeding;
- (ii) the determinations of the other forum;
- (iii) the cooperation and participation of the lawyer subject to investigation unrestrained by concern for effects on the parallel proceeding; or
- (iv) specific safeguards for the protection of the public that may be obtained by agreement as part of the terms of the abeyance.

## II. *Guidelines for Abeyance Decisions*

### **[Proposed to be referred to the Discipline Committee for its review and possible adoption]**

While each abeyance decision must be made on a case-by-case basis, in determining whether to grant, extend or re-strike an abeyance agreement the Discipline Committee should have regard to the following list of potentially relevant factors:

#### **General**

1. The presumption that Law Society investigations and proceedings should not be held in abeyance in the absence of compelling justification;
2. Whether all reasonably available and potentially useful avenues of investigation have been exhausted prior to consideration of the abeyance request;
3. Whether any step other than granting an abeyance would adequately address the lawyer's concern in making the request and enable the investigation to proceed more expeditiously.
4. Any measures required for the protection of the public;

#### **The Parallel Proceeding and the Other Forum**

5. Whether there is a reasonable expectation of timely progress toward the conclusion of the parallel proceeding;
6. The extent of the apparent overlap of the Law Society's concerns with the facts and issues in question in the parallel proceeding;
7. The expertise and powers of the other forum and the potential value and relevance of its determinations;
8. Whether the other forum is *the better forum* for the determination of any *identical issues* that may arise in the Law Society's investigation;
9. Whether the parallel proceeding is likely to be abandoned, settled without admissions, or concluded with no useful determinations or evidence becoming available for the Law Society's investigation;

#### **The Lawyer and Other Parties**

10. Whether the circumstances of the complainant or the lawyer impede his or her ability to fully participate in the Law Society's investigation or discipline proceeding before the conclusion of the parallel proceeding;

11. Whether holding the investigation in abeyance is likely to prejudice the lawyer, the complainant, a third party, the ultimate investigation, or any subsequent discipline proceeding;

12. Whether continuing without an abeyance would be likely to provide the complainant with access to information that would be privileged in the other forum;

### **The Abeyance Agreement**

13. Whether the lawyer has provided satisfactory undertakings to the Law Society, including any measures required for the protection of the public, such as practice restrictions, supervision or monitoring;

14. Whether the length of the proposed abeyance period is appropriate in light of the circumstances of the matter, the expectation of progress or the changing visibility of progress in the parallel proceeding, and the need for periodic review and re-assessment of further time in abeyance;

### **The Law Society's Investigation**

15. Whether the proposed abeyance is advantageous for the Law Society's investigation;

16. Whether and for how long the matter may already have been in abeyance;

17. Any proposals for further investigation that may be carried out during the proposed abeyance;

18. Whether further investigation is required to better inform the Discipline Committee's decision on the abeyance request;

19. The effect that the proposed abeyance would have on the Law Society's ability to complete its investigations and carry out its disciplinary processes in a timely manner that is attentive to the protection of the public interest;

And

20. Such other factors as may be relevant in the circumstances.

*current  
policy***MINUTES**COMMITTEE: **DISCIPLINE COMMITTEE**DATE: **JULY 13, 2000**PRESENT: Richard Margetts, Q.C. (Chair) [Except Item 3 (b)]  
Howard Berge, Q.C. (Vice-Chair) [Except Items 2 (a), (b) & 3 (b)]  
Bruce Woolley, Q.C. [Except Item 7 (h)]  
David Gibbons, Q.C.  
Anne Howard  
Robert Crawford, Q.C.  
Stephen MulhallABSENT: William Everett, Q.C.  
Deborah Lovett, Q.C.  
Wendy JohnSTAFF: Todd Follett  
Jessica Gossen  
Luisa Hlus  
Tim Holmes  
Kyong-ae Kim  
Ased Mohamed Said  
Margaret Currie  
Graeme Keirstead  
Jackie Morris  
Doug Munro**8. POLICY****(b) Memorandum re: Holding Complaints in Abeyance  
Pending the Outcome of Parallel Proceedings**

The Committee considered an opinion from staff discussing the matter of holding complaints in abeyance pending the outcome of parallel proceedings. The opinion set out the general approach in other jurisdictions, as well as illustrating the varied concerns that arise on a case by case basis, ultimately recommending that each request should be considered on its own facts and circumstances. **It was resolved** that the following list of factors is to be considered in the future when assessing whether or not to hold a matter in abeyance, which list ought to be included with future referrals to the Discipline Committee requesting that the investigation of a complaint be held in abeyance:

1. Whether or not a trial date has been set. If no date has been set at the time the request is made, it is likely that a considerable period of time will elapse before the trial of the matter is heard, which delay could make the investigation of the complaint more difficult down the road.

2. Whether or not there is any prejudice likely to be suffered by the lawyer about whom the complaint is made.
3. Whether or not there is any prejudice likely to be suffered by a third party, such as the client of the member.
4. Whether the motive in making the complaint is tactical.
5. Is the public interest served by delaying the investigation of the complaint at this time?
6. Has the member provided the 'usual' undertakings to the Law Society?

18-aug-00

Undertaking [Criminal Charges Pending]

**To: The Discipline Committee of the Law Society**

**Re: LSBC v. [Lawyer's name]; file # 200XXXXX**

I would like to request that the Law Society hold its investigation of the above complaint in abeyance pending the outcome of XXX (the criminal proceedings arising from charges under sections xxx of the *Criminal Code of Canada*). In the event the Law Society grants my request, I undertake as follows:

1. not to raise a defence to any Law Society proceedings based on any delay caused by my making this request;
2. to advise the Law Society as soon as the XXX has been concluded; and
3. not to enter into a Settlement Agreement [OR DISPOSITION / DISPOSITION OF CHARGES] that is confidential from the Law Society or would preclude the Law Society from reviewing the files or otherwise obtaining information with respect to this matter.

I understand that the Law Society may, if it deems it reasonably necessary, elect to continue the investigation at any time prior to the determination of the XXX and, if it so elects, I will cooperate with the investigation.

Dated the \_\_\_\_ day of \_\_\_\_\_, 200\_\_

\_\_\_\_\_  
XXX [Lawyer's name]

Undertaking [Parallel Civil Proceeding]

**To: The Discipline Committee of the Law Society**

**Re: Complainant v. Member; file # 200XXXXX**

I would like to request that the Law Society hold its investigation of the above complaint in abeyance pending the outcome of the Civil Proceeding in the Supreme Court of British Columbia, No. XXX, Y Registry, XXX Petitioners and YYY et al. Respondents. In the event the Law Society grants my request, I undertake as follows:

1. not to raise a defence to any Law Society proceedings based on any delay caused by my making this request;
2. to advise the Law Society as soon as I am aware that the above described Proceedings have been concluded; and
3. not to enter into a Settlement Agreement that is confidential from the Law Society or would preclude the Law Society from reviewing files or otherwise obtaining information with respect to this matter.

I understand that the Law Society may, if it deems it reasonably necessary, elect to continue the investigation at any time prior to the determination of the above described Proceedings and, if it so elects, I will cooperate with the investigation.

Dated the \_\_\_\_ day of \_\_\_\_\_, 200\_

\_\_\_\_\_  
XXX [Lawyer's name]