

Calgary, Alberta (formerly of Comox, B.C.)
Called to the Bar: September 13, 1977

Discipline hearing panel: September 28, 1999
Ralston S. Alexander, Q.C., as a one-Bencher panel by consent

Gerald A. Cuttler, for the Law Society
Mr. Carten, on his own behalf

Discipline hearing report indexed as [1999] LSBC 40

Summary

Mr. Carten failed to report to the Law Society a judgment for costs against him in his own matrimonial proceeding within the time period specified by Law Society Rule 510. Mr. Carten also sought to impose a settlement condition on his spouse which required her to withdraw her complaint against him to the Law Society. Mr. Carten admitted that his conduct constituted professional misconduct. The Discipline Committee and the discipline hearing panel accepted Mr. Carten's admission and proposed disciplinary action, and ordered that he be reprimanded.

Facts

In his own matrimonial litigation, Mr. Carten was ordered to pay costs. He reported the judgment for costs to the Law Society, but after the time period prescribed by Law Society Rule 510. In the course of the matrimonial litigation, which was acrimonious, Mr. Carten also sought to impose a settlement condition on his spouse that required her to withdraw a complaint she had made against him to the Law Society.

Admission and disciplinary action

The hearing panel noted that the Discipline Committee had accepted Mr. Carten's explanation that he had been unclear about the applicability of Rule 510 in the circumstances. This conduct ranked at the less serious end of the scale of rule breaches, and Mr. Carten was in breach of the rule a relatively short period of time. Mr. Carten's attempt to have his spouse withdraw a complaint against him was in the course of a heated matrimonial proceeding, and Mr. Carten was too close to the matter to be appropriately objective in recognizing his own professional obligations.

Pursuant to Law Society Rule 4-22, Mr. Carten admitted that his conduct constituted professional misconduct. The Discipline Committee and discipline hearing panel accepted Mr. Carten's admission and his proposed disciplinary action, and accordingly ordered that he be reprimanded. There was no order for costs.

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