

*Threatening Criminal Proceedings*

**SUSAN MARIE ELIZABETH KURTZ**

Nelson, B.C.

Called to the Bar: December 10, 1993

In 1995 Ms. Kurtz acted for a woman who was seeking damages against a man she alleged to have sexually assaulted her repeatedly throughout her teenage years.

Prior to the commencement of an action, Ms. Kurtz wrote a letter to the solicitor for the opposing party to propose settlement. The letter contained the following paragraph:

We have *not* as yet filed the Writ. We believe filing the Writ will attract criminal prosecution.

The lawyer for the for opposing party responded with a faxed letter stating:

I do not follow why you fear that filing the Writ will bring about criminal proceedings. The Crown does not search the Registry looking for files to prosecute so far as I am aware. I can only assume that you are saying that your client intends to complain to the police if there is no settlement.

Ms. Kurtz responded as follows:

It is my client's position that filing the Writ would expose her privacy and therefore she would have no hesitation in filing the criminal complaint should filing the Writ become necessary.

In other words, my client is prepared to go the whole nine yards if we do not receive your offer to settle promptly.

The matter did settle. The lawyer for the opposing party made a complaint to the Law Society about Ms. Kurtz. In March, 1996 the Discipline Committee authorized a citation against her.

In May, 1997 Ms. Kurtz admitted to the Discipline Committee that, by writing her letters to opposing counsel, she violated Chapter 4, Rule 4 of the *Professional Conduct Handbook*, which reads:

2. A member shall not personally threaten, or advise a person to threaten, to:
  - (a) lay a criminal or quasi-criminal charge, or

(b) make a complaint to a regulatory authority,

for the collateral purpose of enforcing the payment of a civil claim  
or securing any other civil advantage for a client of the  
member.

The Discipline Committee rescinded the outstanding citation, accepted Ms. Kurtz's admission under Rule 468 and directed that the admission be endorsed on her professional conduct record.

*Discipline Digest — 1997: No. 2 July (Kurtz)*