

Vancouver, B.C.

Called to the Bar September 11, 1978

Discipline Hearing Panel: March 9, 1993

W.M. Trotter, Q.C., Chair, K.W. Antifae, Q.C. and N.A. MacDonald

J. Whittow, for the Law Society

R. Sugden, Q.C., for the member

Summary

The member signed the Certificate of Solicitor in a petition for divorce indicating that he had complied with section 9 of the *Divorce Act* by discussing reconciliation and mediation with the client when he had not.

Facts

In 1991 an associate lawyer in the member's firm began acting for the petitioner in a divorce proceeding.

The associate complied with section 9 of the *Divorce Act* by discussing with the petitioner the possibilities of reconciliation and mediation with her spouse. Though the member had never met or spoken with the petitioner, it was he who signed the Certificate of Solicitor on the divorce petition indicating that he had complied with the requirements of section 9.

The member explained that the secretary who had prepared the petition had completed the last page to indicate that the member was the solicitor. The petition was left on the member's desk with a stack of other pleadings to be signed and filed. The petition had been marked with a post-it note on the final page for the member's signature. The member assumed that the secretary who had prepared the petition had ensured that the member, whose name appeared on the document, was the lawyer who had spoken to the client. He therefore signed his name without checking any further.

Decision

The member admitted that his conduct constitutes professional misconduct.

Penalty

The hearing panel accepted the member's proposed disciplinary action and ordered that he:

1. pay a fine of \$2,000; and
2. pay \$800 as costs of the discipline proceedings.