

2019 LSBC 06
Decision issued: February 21, 2019
Citations issued: December 15, 2017,
June 19, 2019,
September 27, 2018 and
September 27, 2018

**SUMMARY OF DECISION OF THE PRESIDENT'S DESIGNATE
ON AN APPLICATION FOR JOINDER**

HOMAYOUN SEBASTIAN NEJAT

President's Designate: Sarah Westwood, QC

Discipline Counsel: Kathleen Bradley
Counsel for the Respondent: Michael Shirreff

On November 20, 2018, the Respondent brought an application, pursuant to Rule 4-22 of the Law Society Rules, that four citations be joined and heard in one hearing. On December 12, 2018, Bencher Sarah Westwood, acting as the President's Designate, granted the Respondent's application.

The parties agreed that it would be more efficient and less costly for the citations to be heard together. The Respondent further suggested that it would be prejudicial not to have the matters heard together, in that not doing so ran the risk of inconsistent outcomes across the four citations, which all shared a common issue.

The legal test that was applied is set out in *Robak Industries v. Gardner*, 2006 BCSC 1628. An analysis of this test indicated that joinder was warranted: although the citations relate to different alleged conduct and originate from different complainants, the underlying themes are similar, and there is a unifying issue throughout; there will be substantial savings, both in terms of experts' time and fees, as well as efficiency, in hearing the matters together; moreover, there is a risk that different panels might ascribe different weight to, or make differing findings regarding the unifying issue.

The President's Designate also determined that joining the citations is neither prejudicial nor unfair to the Respondent, and the public interest will be served by an expeditious and efficient disposition of the four citations in one hearing.