

2020 LSBC 16
Decision issued: April 1, 2020
Citation issued: May 15, 2018

THE LAW SOCIETY OF BRITISH COLUMBIA

In the matter of the *Legal Profession Act*, SBC 1998, c. 9

and a hearing concerning

VALORIE FRANCES HEMMINGER LONG

RESPONDENT

**DECISION OF THE PRESIDENT
ON AN APPLICATION FOR ADJOURNMENT**

Written materials: March 25, 2020

President: Craig Ferris, QC

Discipline Counsel: Angela Westmacott, QC
Counsel for the Respondent: Richard Gibbs, QC

- [1] I have reviewed the Respondent's application to adjourn this matter, which is currently set for three days starting April 20, to either the week of September 14 or the week of September 21, 2020
- [2] Neither the application nor the response from the Law Society addresses the public interest in the timely adjudication of citations issued against Law Society members. As a Tribunal, we have a public duty to continue to function as best we can during the current COVID-19 public health emergency. We cannot shut our doors and allow these issues to remain outstanding. Hearings by video or telephone conference may have imperfections, but at times such as these, we cannot simply accept general misconceptions about the usefulness of these technologies.

- [3] The courts of many jurisdictions are continuing to serve the public through this emergency by the use of these technologies, and the Law Society of British Columbia Tribunal ought to be no different.
- [4] There are widely accepted protocols arising from arbitration law that allow for the handling of documents in document intensive cross-examination to be conducted by video. These protocols allow cross-examination to be conducted fairly through these means. I see no evidence that these matters were considered before this application was brought.
- [5] I am very troubled by this application. In most cases, I would expect counsel to commence the hearing and allow the hearing panel to conclude whether it could be conducted fairly or not in the current circumstances, using the available technology.
- [6] I have sat on the razor's edge considering how to decide this application. On balance, I am going to adjourn this hearing to the week of September 14, 2020 for five days. If public health restrictions remain at that time, this hearing will go ahead as scheduled, and any further submissions on the use of technology and its impact on the fairness of the process will be brought to the attention of the panel.
- [7] I am hopeful that counsel representing respondent lawyers and counsel representing the Law Society will be made aware of these reasons. I will expect, in future, any application similar to this will set out specific reasons why technology is not sufficient as opposed to general assertions such as "it is document intensive."
- [8] Otherwise, I consider these types of applications may be better suited to be determined by the hearing panel who can hear evidence and determine whether they can conduct the hearing fairly. To be very clear, this is not a matter of consent of the parties to the conduct of a hearing using available technologies, it is a question for the hearing panel as to whether the hearing can be conducted fairly with the use of these technologies.