

2020 LSBC 29
Decision issued: June 17, 2020
Citation issued: October 25, 2018

THE LAW SOCIETY OF BRITISH COLUMBIA

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

and a hearing concerning

SUMANDIP SINGH

RESPONDENT

**DECISION OF THE HEARING PANEL ON AN APPLICATION
TO ADJOURN THE HEARING**

Written materials: June 2, 2020

Panel: Ralston S. Alexander, QC, Chair
Paul Ruffell, Public representative

Discipline Counsel: Mandana Namazi
Counsel for the Respondent: Joven Narwal

- [1] The Respondent was found to have committed professional misconduct in a decision issued by this Hearing Panel as then constituted on January 8, 2020. The disciplinary action phase of the proceeding was subsequently set for June 25 and 26, 2020.
- [2] On June 2, 2020, the Panel was provided with an application delivered by Sumandip Singh (the “Respondent”). The application sought various orders as follows:
1. An order that the discipline hearing on sanction be adjourned pursuant to Rule 4-40;
 2. An order that the panel be reconstituted to include a current practising Benchler, pursuant to Rule 5-2; and

3. An order that the disciplinary hearing be held in person, pursuant to the principles of procedural fairness.

- [3] Any amendment to the constitution of the hearing panel is within the discretion of the President under the Law Society Rules (the “Rules”) and, in particular, Rule 5-2. Following the appointment of the former chair of the Panel as a judge of the Provincial Court of British Columbia, the President made an order continuing the hearing panel with the remaining members. On June 5, 2020, the President made an order dismissing the application of the Respondent to reconstitute the hearing panel and confirming his earlier determination. See *Law Society of BC v. Singh*, 2020 LSBC 25.
- [4] The jurisdiction to order an adjournment and to determine the procedure before the hearing panel is within the discretion of the hearing panel.
- [5] The Respondent submitted an affidavit in support of his application for an adjournment. He deposed that, since our decision on Facts and Determination, he had suffered some personal difficulties, including the death of his father and some financial setbacks, as his practice was impacted by the COVID-19 interruption to the economy.
- [6] The Respondent submits, in addition, that the events described have caused him to become depressed and he requires time to seek counselling for his depression and to marshal evidence of the impact of his depression on the discipline action phase of this hearing.
- [7] In addition, the Respondent seeks an order that the hearing be postponed until it can be heard in a live, face-to-face format, as opposed to the virtual hearing format that is currently in use by the Law Society pursuant to a Practice Direction issued following the restrictions on public assembly and the requirements for social distancing occasioned by COVID-19.
- [8] In support of that application, the Respondent argues that the evidence will not be effectively presented in a virtual hearing and that procedural fairness requires that the hearing be delayed until it can be heard in person. He submits that nuances of witness demeanour, tone of voice, facial expression and body language will be lost in a virtual hearing.
- [9] The Law Society does not object to an adjournment provided that certain conditions are imposed by the Panel as permitted by Rule 4-40(5). The Law Society argues that its mandate to regulate in the public interest requires that the hearing proceed with expedition and that no special circumstances have been

advanced by the Respondent to justify a variation from the virtual hearing format currently employed by the Law Society. It also notes that, if the virtual hearing is found to be ineffective once commenced, the Panel has the jurisdiction to adjourn and seek an alternative approach.

[10] The format of the hearing will be virtual unless, by the date that this matter is set for the hearing, the Law Society has returned to face-to-face hearings in the Law Society building. That is a matter that will be determined at the time of the commencement of the hearing, and the parties will be notified in advance when that decision has been taken.

[11] The Panel has considered the arguments of the parties and orders that the hearing on disciplinary action is adjourned and that the matter is to proceed as follows:

- a. that the parties provide their availability for a new hearing date to the hearing administrator no later than seven days following the issuance of this decision;
- b. that the parties make themselves available for a two-day hearing to commence no later than October 16, 2020;
- c. that the parties exchange lists of documents they intend to rely upon and will-says of any witnesses they intend to call at the hearing no later than 30 days before the newly-scheduled hearing date; and
- d. that the scheduled hearing date be peremptory on the Respondent.