

**THE LAW SOCIETY OF BRITISH COLUMBIA**

**In the matter of the *Legal Profession Act*, SBC 1998, c. 9  
and a section 47 review concerning**

**DANIEL BRUCE GELLER**

**RESPONDENT**

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**DECISION OF THE PRESIDENT'S DESIGNATE  
ON AN APPLICATION TO DISMISS THE REVIEW**

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Written submissions: July 27, 2020  
President's Designate: Dean Lawton, QC  
Discipline Counsel: Mandana Namazi  
No-one appearing on behalf of the Respondent

**BACKGROUND**

- [1] The Law Society brings an application seeking an order that the Respondent's review on the record pursuant to s. 47 of the *Legal Profession Act* be dismissed under Law Society Rule 5-28(1) as a result of it being inactive, and no steps having been taken by the Respondent for more than six months. The notice of review was delivered by the Respondent on October 15, 2019.
- [2] The following determination and reasons are intended to be read as a continuation of the application brought by the Law Society in this matter by way of written submissions on May 7, 2020. At that time, I was not satisfied that the Respondent had been given adequate notice of the application to dismiss the review. I adjourned the application generally with leave of the Law Society on 14 days' notice to the Respondent following service of the application to bring the application before me once more. My written reasons on the original application are found at 2020 LSBC 22.

- [3] I recited the history of the citation and findings of the hearing panel in my earlier reasons and will not repeat them here.
- [4] The Law Society brings a renewed application dated July 22, 2020 for an order dismissing the s. 47 review by reason of it being inactive. As required under Rule 5-28, it is my obligation in the context of this application to determine whether no steps have been taken for six months or more to advance the review, whether it is in the public interest that the review be dismissed, and whether it is unfair to the Respondent to have the review dismissed.
- [5] The Law Society relies on the affidavit of Hannah Lucas, a paralegal in the discipline department of the Law Society. Ms. Lucas' affidavit, which was affirmed on July 22, 2020, exhibits a letter dated June 26, 2020 from Mandana Namazi, discipline counsel at the Law Society, delivered to the Respondent at his email address, which I am satisfied was correct, and to his mailing address, which I am also satisfied was correct. The June 26, 2020 letter from Ms. Namazi to the Respondent is brief and clear. It states the following:
- Please be advised that the Law Society is intending to bring an application to dismiss the section 47 review. Can you please advise if you intend to proceed with the review now that you have terminated your practice and are retired? The record should have been filed within 60 days of filing the notice of review.
- Please be advised that regardless of whether or not we hear from you, we will be bringing our application to dismiss the review 14 days after the date of this letter.
- [6] Ms. Lucas states at paragraph 6 of her affidavit that she is informed by Ms. Namazi that the Respondent did not reply to the June 26, 2020 letter I have quoted above. I am satisfied on the basis of the affidavit of Ms. Lucas that the Respondent has not replied to Ms. Namazi.
- [7] At paragraph 6 of her affidavit, Ms. Lucas states further that the Law Society has not received a record for the review from the Respondent pursuant to Rule 5-24.1. I observe that, as the party initiating the review, it is the Respondent's obligation under Rule 5-24.1(1) to prepare and deliver the record within 60 days of delivering the notice of review.
- [8] I am satisfied on the evidence provided by the Law Society that the Respondent has now had in excess of nine months to proceed with the review and that he has not

done so. In addition, he has not provided any explanation about why he has not advanced the review.

- [9] There is a public interest in seeing to the fair, expeditious and final resolution of disciplinary proceedings. I am satisfied in the circumstances of this case that it is in the public interest and not unfair to the Respondent that the review be dismissed.
- [10] The application of the Law Society is granted; the review is dismissed.