

2021 LSBC 05
Decision issued: February 4, 2021
Citation issued: November 5, 2019

THE LAW SOCIETY OF BRITISH COLUMBIA

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

and a hearing concerning

TEJINDER S. DHILLON

RESPONDENT

**DECISION OF THE PRESIDENT'S DESIGNATE ON AN
APPLICATION TO SET A HEARING DATE**

Written materials:	January 18, 2021
President's Designate:	Michael F. Welsh, QC
Discipline Counsel:	Kathleen M. Bradley
Appearing on his own behalf:	Tejinder S. Dhillon

- [1] This application under Rule 4-32 of the Law Society Rules, brought by discipline counsel on behalf of the Law Society, is to set a hearing date of one day somewhere between February 1, 2021 and April 30, 2021 for the Facts and Determination phase of the hearing of this long outstanding Citation.
- [2] The Respondent opposes, on the basis that:
- (a) he has never been properly served with a Notice to Admit in accordance with an agreement made with discipline counsel on mode of service; and
 - (b) he filed a petition in the Supreme Court of British Columbia on January 27, 2020 for a declaration that the Law Society has no jurisdiction over him in this matter, that the Law Society Rules respecting publication of a citation or a decision of the Law Society Tribunal are ultra vires, that it is procedurally unfair to continue this matter against a former member and

for an injunction to prevent publication of the Citation until the court rules on his petition.

- [3] The hearing of the petition was on January 15, 2021, and judgment has been reserved on all relief sought, including the injunction application sought, although the presiding judge has indicated that due to this outstanding Citation, it will be rendered in writing as soon as possible.
- [4] Given that this issue of publication is before the Court, the Executive Director of the Law Society has withheld publication of the Citation until a court decision is rendered.
- [5] I turn to each of the submissions against setting a hearing date.
- [6] The Respondent asserts that it was agreed with the assistant of discipline counsel that he would be served by having documents emailed to his gmail account. He rejected a proposal that he be sent “paper copies” due to the sheer number of documents and the “environmental costs and cumbersome nature of searching and storing them if needed”. He also rejected a proposal that they be uploaded to a secure online document management portal named Sync that has been established by a recent Rule amendment for service on members and former members, amongst others, in discipline matters. It is authorized by Rule 10-1(1)(c).
- [7] According to an affidavit of that assistant, the documents attached to the Notice to Admit fill two banker’s boxes and, even if compressed or reduced in size, the Notice to Admit would require some 40 emails to send fully to a gmail account.
- [8] Service was instead effected using the Respondent’s member portal, and he was sent instructions by email on how to access that portal.
- [9] While, as noted, the Rules allow for this mode of service, the Respondent submits it is invalid in the face of the agreement made on how he would be served.
- [10] With respect to this first basis on which the application is opposed, discipline counsel points out that the issue of whether a Notice to Admit is properly served is, under Rules 10-1 and 4-28, within the jurisdiction of a hearing panel to decide. Setting a hearing date does not, for that reason, prejudice the Respondent. He can argue lack of proper service in that forum. For that reason, I will not accede, as the Respondent seeks, to make any decisions on whether service was proper or how it should be done as a condition of setting a hearing date.

- [11] With the second basis for his opposition to set a hearing date, the Court has indicated that a decision will be made soon on his petition. I agree that no hearing date should be set that fails to provide a reasonable time frame for the decision.
- [12] However, as discipline counsel points out, the Law Society has a public interest mandate to see that discipline matters are resolved in a timely fashion. The *National Discipline Standards of the Federation of Law Societies of Canada*, to which the Law Society of British Columbia strives to adhere, sets time frames to resolution of disciplinary matters for the same reason. They set 12 months from authorization of a citation for almost all hearings to commence. It has now been over 14 months since this Citation was issued.
- [13] For this combination of reasons, I order that a hearing date be set for a one day hearing on an available date for the Law Society and the Respondent no earlier than March 1, 2021 and no later than May 30, 2021. If, by February 15, 2021, the parties cannot agree on a date within that time frame, either party may apply to me to set a specific date.