2022 LSBC 15
Hearing File No.: HE20210010
Citation #1 issued: June 3, 2021
Hearing File No. HE20210081
Citation #2 issued: December 13, 2021
Decision issued: May 13, 2022

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL

HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

WILLIAM CAREY LINDE

RESPONDENT

DECISION OF THE MOTIONS ADJUDICATOR

Hearing date:	May 12, 2022
Motions Adjudicator:	Lindsay R. LeBlanc
Discipline Counsel:	Morgan Camley, Lisa Low and Mélanie Power
Counsel for the Respondent: (as to part of the hearing)	Paul Jaffe
Appearing on his own behalf:	William Carey Linde

INTRODUCTION

[1] On May 12, 2022, two applications were before me:

(a) Respondent's application dated May 8, 2022 seeking answers from the Law Society pursuant to Rule 5-4.3(1) and an adjournment of the Facts and

Determination hearing scheduled to commence May 16, 2022 (the "F&D Hearing"); and

(b) Law Society's application seeking to have the F&D Hearing closed to the public and to extend the terms of my non-publication and anonymizing order of March 27, 2022.

[2] The applications were heard electronically via video. At the onset of the hearing, members of the public and media were in attendance. I made a ruling that the hearing would be closed to the public. Based on the material filed in support of the applications, I had determined that to facilitate wholesome submissions on the applications before me and to ensure the privacy rights and identity of minors was preserved during the hearing, a closed hearing was necessary. In making this determination, I also considered the prior sealing orders made in the Supreme Court of BC and the BC Court of Appeal. In making my order, I advised the parties that I was not pre-determining the Law Society's application and would hear submissions from the parties.

[3] In addition to the applications that were before me, I received submissions from the parties concerning the Respondent's outstanding application dated March 14, 2022, regarding alleged bias in a Discipline Committee meeting.

Respondent's application
Answers from the Law Society pursuant to Rule 5-4.3(1)

[4] With respect to the first part of the Respondent's application, I have reproduced the questions sought to be answered by the Respondent:

1. Provide the name of the complainant in investigation # 20180455.

   Did the complainant receive the report?
   Please provide the report.

   In what way does a member saying in a family trial "hell hath no fury like a woman scorned" warrant a complaint demanding justification from that member?

2. What is the LSBC position with respect to having my hearings in person?

3. Why did LSBC instruct counsel to prepare a draft order to, among other things, close my hearing to the public?

4. What is the LSBC's definition of ungovernable in relation to a member?

5. What is the process by which outside counsel is determined generally and Ms. Camley in particular, in my case?

6. Did Ms. Camley or anyone on her behalf request this file?

7. In how many citation hearings has Ms. Camley acted for the LSBC?

8. How many outside counsel are there in Greater Vancouver the LSBC could have asked to represent them in my case?

9. Bencher LeBlanc-requested of outside counsel draft what the LSBC would regard as an appropriate form of order to anonymize names that would arise within the hearing. Counsel provided the Respondent with such a draft. The draft sought, among other things, to close the hearing to the public and media. Did that specific application originate with counsel? If not, from whom?

10. Who at the LSBC gives instructions to outside counsel in my case?

11. Who does outside counsel look to for instructions in my case?

12. Who does outsider counsel Julia Lockhart take instructions from in complaint CO20220012?

13. Who within the LSBC instructed Staff Lawyer Shela Miyanji to pursue complaint 20210955?

14. What is the established protocol used by LSBC staff in determining whether a complaint is sufficiently de minimus to not warrant a letter to the member complained about? Would this protocol rebuff a complaint against counsel who might quote Shakespeare "The first thing we do is kill all the lawyers?"

[5] Rule 5-4.3 provides as follows:

> Preliminary questions
>
> **5-4.3** (1) Before a hearing begins, any party may apply for the determination of a question relevant to the hearing by filing with the Tribunal and delivering to the other party, written notice setting out the substance of the application and the grounds for it.
>
> (2) When an application is made under subrule (1), the Tribunal Chair must do one of the following as appears to the Tribunal Chair to be appropriate:
>
> (a) appoint a panel to determine the question;

(b) refer the question to a motions adjudicator;

(c) refer the question to the panel at the hearing of the application.

(3) A panel appointed under subrule (2)(a) is not seized of the application or any question pertaining to the application other than that referred under that provision.

[6] As a motion's adjudicator, I have jurisdiction to consider the request made by the Respondent.

[7] The Respondent submits that the requested information is necessary as he has had a difficult time determining who is representing the Law Society and wants to determine how Ms. Camley came to be the lawyer representing the Law Society. The Respondent submits that the answer to this question will assist him in bringing forward his allegations of bias.

[8] The Law Society submits that they have provided a response to question #2 and that they take no position with the F&D Hearing proceeding in person. With respect to the remainder of the questions, they say that the requests are either irrelevant or subject to privilege. Upon receipt of the request from the Respondent, the Law Society provided the following responses:

Second Letter	***LSBC Response***
1. Provide the name of the complainant in investigation #20180255. Did the complainant receive the report? Please provide the report. In what way does a member saying in a family trial "hell hath no fury like a woman scorned" warrant a complaint demanding justification from that member?	Information regarding investigation file #20180255 is irrelevant to Citation #1. Investigation File Number for Citation #1 is CO20190723. Information regarding investigation file #20180255 is irrelevant to Citation #2. Investigation File Number for Citation #2 is CO20210518. Further, this. request is repetitive of the request that was made at paragraph 3(e) of the First Notice of Motion and denied.
2. What is the LSBC position with respect to having [the Respondent's] hearings in	Counsel for the Law Society indicated on May 3, 2022, that it took no position as to whether the matter

	person?	proceeds in person, and reminded the Respondent of the Tribunal Practice Direction dated July 13, 2021, re In-person, videoconference and other forms of hearings. (Affidavit #3 of Bianca Gatchallan Ex. D)
3.	Why did LSBC instruct counsel to prepare a draft order to, among other things, close [the Respondent's] hearings to the public?	Litigation strategy and decisions, and instructions to counsel are privileged.
4.	What is the LSBC's definition of ungovernable in relation to a member?	This request is irrelevant to the determination of Citation #1 and Citation #2.
5.	What is the process by which outside counsel is determined generally and Ms Camley in particular in [the Respondent's] case?	This request is irrelevant to the determination of Citation #1 and Citation #2. Further, litigation strategy and decisions are privileged.
6.	Did Ms Camley or anyone on her behalf request this file?	This request is irrelevant to the determination of Citation #1 and Citation #2. Further, communications with counsel are privileged.
7.	In how many citation hearings has Ms Camley acted for the LSBC?	This request is irrelevant to the determination of Citation #1 and Citation #2.
8.	How many outside counsel are there in Greater Vancouver the LSBC could have asked to represent them in [the Respondent's] case?	This request is irrelevant to the determination of Citation #1 and Citation #2.
9.	Bencher LeBlanc requested of outside counsel draft what the LSBC would regard as an appropriate form of order to anonymize names that would arise within the hearing. Counsel provided the Respondent with such a draft. The draft sought, among other things, to close the	This request is irrelevant to the determination of Citation #1 and Citation #2.

	hearing to the public and media. Did that specific application originate with counsel? If not, from whom?	
10.	Who at the LSBC gives Instructions to outside counsel in [the Respondent's] case?	This request is irrelevant to the determination of Citation #1 and Citation #2. Further, litigation strategy and decisions, and communications with counsel are privileged.
11.	Who does outside counsel look to for instructions in [the Respondent's] case?	This request is irrelevant to the determination of Citation #1 and Citation #2. Further, litigation strategy and decisions, and communications with counsel are privileged.
12.	Who does outside counsel Julia Lockhart take instructions from in complaint CO20220012?	This request is irrelevant to the determination of Citation #1 and Citation #2. Further, litigation strategy and decisions, and communications with counsel are privileged.
13.	Who within the LSBC instructed Staff Lawyer Shela Miyanji to pursue complaint 20210955?	This request is irrelevant to the determination of Citation #1 and Citation #2. Further, litigation strategy and decisions, and communications with counsel are privileged.
14.	What is the established protocol used by LSBC staff in determining whether a complaint is sufficiently de minimus to not warrant a letter to the member complained about? Would this protocol rebuff a complaint against counsel who might quote Shakespeare "The first thing we do is kill all the lawyers?"	This request is irrelevant to the determination of Citation #1 and Citation #2.

[9] The Rule relied on by the Respondent in bringing this application provides that the request must be relevant to the hearing.

[10] The Respondent submitted the answers were relevant to determining who was acting for the Law Society. On all evidence before me, including correspondence, applications and emails involving the Law Society and the Respondent, counsel for the Law Society have identified themselves. I do not accept that the Respondent has been unaware of who is acting as legal counsel on behalf of the Law Society.

[11] The Respondent seeks to discover how the Law Society retained Ms. Camley. The question of how legal counsel is retained and the reasoning behind it is subject to privilege. Furthermore, this information is not relevant to the issues that will be considered in the F&D Hearing.

[12] I find that the questions presented by the Respondent are either protected by privilege or not relevant to the issues that will be engaged in the F&D Hearing and the Law Society's response was appropriate.

Adjournment application

[13] The Respondent seeks an adjournment of the F&D Hearing scheduled for May 16, 2022.

[14] The F&D Hearing Date was set by me on March 17, 2022, with the consent of the Respondent.

[15] The Respondent submits that he requires an adjournment to review documents provided to him pursuant to a Freedom of Information request which will assist him in his bias application. The Respondent has received the documents and indicated that in his view there are documents missing. Based on this comment, I find that the Respondent has had an opportunity to review the documents although perhaps not as thoroughly as he may wish.

[16] The Law Society opposes the adjournment and submits the adjournment is not appropriate for the following reasons:

(a) the Respondent is seeking an adjournment in order to prepare an argument in a bias allegation that he has failed to diligently pursue and for which he is delinquent in filing his argument;

(b) the Respondent has not acted in good faith, as he failed to file an argument in his bias allegation and is now seeking to cure that delinquency with this adjournment;

(c) the Law Society responded to the Respondent's document and information demands within the legislative timelines;

(d) the Respondent has not shown any harm that he will suffer if the adjournment is not granted; further, any harm he does in fact suffer is as a result of his delinquency in filing his submissions in the bias allegation application, as he was directed; and

(e) adjournments are inherently costly, and the Law Society has expended resources in preparing for the hearing to proceed on May 16, 2022.

[17] I was directed to *Law Society of BC v. Coutlee,* 2018 LSBC 33, *Law Society of BC v. Welder*, 2014 LSBC 53 and *Law Society of BC v. Spears*, 2017 LSBC 29 for the following factors to be considered on an adjournment application:

(a) the purpose of the adjournment …;

(b) has the participant seeking the adjournment acting in good faith and reasonably in attempting to avoid the necessity of an adjournment;

(c) the position of the other participants and the reasonableness of their actions;

(d) the seriousness of the harm resulting if the adjournment is not granted;

(e) the seriousness of the harm resulting if the adjournment is granted;

(f) is there any way to compensate for any harm identified;

(g) how many adjournments has the participant seeking the adjournment been granted in the past.

[18] The Respondent has not identified any prejudice to him other than stating he requires more time to review the documents provided. In my earlier decision (2022 LSBC 12), I found at paras. 12–17 that this material was not relevant to the two citations. The Respondent's submissions do not support a reconsideration of my decision. The Respondent has sought this information to advance a claim against the Law Society which is unrelated to issues present in the two Citations.

[19] The parties are prepared to proceed with the F&D Hearing and I decline the adjournment. I find that it would not be in the public's interest to have the F&D Hearing adjourned.

RESPONDENT'S OUTSTANDING BIAS APPLICATION

[20] On March 14, 2022, the Respondent brought forward an application alleging bias and seeking various orders. At the same time, the Respondent's application for document production which he sought to have considered before the bias application was heard.

[21] At the hearing conducted on March 17, 2022, I advised the parties that I would consider the Respondent's two applications in a timely manner to facilitate decisions prior to the F&D Hearing and allowed the Respondent to have one application heard prior to the alleged bias application.

[22] On April 6, 2022, I ordered that the Respondent's application concerning bias would proceed by written submissions, and I would receive the Respondent's submissions on or before April 14, 2022 (2022 LSBC 12 at para. 17).

[23] The Respondent did not provide written submissions within the timeline imposed and did not seek additional time. Instead, the Respondent intends to bring the application at the beginning of the F&D Hearing.

[24] The Respondent submitted that the reason for not providing submissions was that he was attempting to appeal my order and during the process the timeline had passed. No other reasons were provided.

[25] The Law Society says it is an abuse of process for the Respondent to proceed in this manner and no justifiable reason has been provided for not complying with the timelines prescribed by my order.

[26] I agree that the Respondent has not provided a justifiable reason for not complying with my order. As there is no time remaining to have the Respondent's application considered on written submissions prior to the F&D Hearing, I order that the Respondent's application concerning bias has been abandoned.

LAW SOCIETY'S APPLICATION

[27] The Law Society applies to have the F&D Hearing closed to the public and to extend the terms of my non-publication and anonymizing order of March 27, 2022, pursuant to Rule 5-8(1) to (5) inclusive of the Law Society Rules.

[28] Rule 5-8(1) of the Law Society Rules provide that every hearing is open to the public in the absence of an order to the contrary. This means that members of the

public can attend hearings, and obtain filed documents, exhibits and transcripts upon request subject to the constraints of Rule 5-9(3).

[29] The authority to make an order that specific information not be disclosed in order to "protect the interests of any person" is found in Rule 5-8(1.1) and Rule 5-8(2) of the Law Society Rules.

[30] In making any order that seeks limits on the openness of the hearing, the burden rests on the party seeking to impose the limit (*A.B. v. Bragg Communications Inc.*, [2012] 2 SCR. 567 at para. 11).

[31] The two citations to be considered at the F&D Hearing relate to the Respondent allegedly breaching various terms of publication bans and anonymization and protection orders and/or facilitating others to breach terms of those same orders that were put in place by the Supreme Court of BC and the BC Court of Appeal to protect the identity of transgendered minor children.

[32] The Respondent does not oppose, and I advised the parties at the hearing, that I would be making the following orders:

A. Any ruling or publication on this matter shall be redacted for confidential and privileged information, which includes anonymizing names or redacting information including but not limited to (the "Confidential Information"):

(a) The name of the Respondent's former client in proceeding *A.B. v. C.D. and E.F.*, BCSC, Vancouver Registry No. E190334 and No. CA46229 and *A.B. v. C.D. and E.F.*, BC Court of Appeal, Vancouver Registry No. CA46229 ("**C.D.**");

(b) The name of C.D.'s child ("**A.B.**");

(c) The name of A.B.'s mother ("**E.F.**");

(d) The name of the doctor(s) that provided treatment to A.B.;

(e) The name of the Respondent's former client in proceeding *A.M. v. Dr. F.*, Vancouver Registry No. 2011599 ("**A.M.**");

(f) The name of A.M.'s child ("**Y.Z.**");

(g) The name of Y.Z.'s father ("**W.X.**");

(h) the name of the doctor(s) that provided treatment to Y.Z.;

(i) any information that could disclose the identity of A.B., C.D., or E.F.;

(j) any information that could disclose the identity of Y.Z., A.M. or W.X.;

(k) any information or documentation relating to either A.B.'s or Y.Z.'s gender identity, physical and mental health, medical status or treatments;

(l) the names of the interviewers and reporters to whom the Respondent disclosed any of the information set out in paragraphs (a) to (k) inclusive, and names of the news outlet the aforementioned individuals or reporters worked for or online publications the individuals are associated with to, and the title of the online publications; and

(m) any reference to the exact words of interviews given by the Respondent to the individuals or reporters and media outlets that disclosed any of the information set out in paragraphs (a) to (k) inclusive.

B. All parties are prohibited from publishing online or providing information to be published online copies of any documents filed in this proceeding that contains any of the Confidential Information.

C. All parties are prohibited from publishing online or permitting to be published online copies of correspondence between the named parties and correspondence received from the Law Society Tribunal.

D. The Respondent shall remove from his website, https://divorce-for-men.com/ and any other website that the Respondent has control over, any documents that contain the Confidential Information, including:

(a) The Schedules attached to Citation #1 authorized May 27, 2021.

[33] The Respondent opposes the granting of the following relief sought by the Law Society:

A. All documents and materials filed up to and including the date of this Order and thereafter shall be permanently sealed, subject to a further order of the Law Society Tribunal.

B. The hearing of Citation #1 and Citation #2 shall be closed to the public.

C. Removal from the Respondent's website of a draft proposed Non-Disclosure Order.

[34] Both parties referred me to *Sherman Estate v. Donovan*, 2021 SCC 25, in support of their respective positions and in particular the following passages:

> [30] Court openness is protected by the constitutional guarantee of freedom of expression and is essential to the proper functioning of our democracy (*Canadian Broadcasting Corp. v. New Brunswick (Attorney General)*, [1996] 3 S.C.R. 480, at para. 23; *Vancouver Sun (Re)*, 2004 SCC 43, [2004] 2 S.C.R. 332, at paras. 23-26). Reporting on court proceedings by a free press is often said to be inseparable from the principle of open justice. "In reporting what has been said and done at a public trial, the media serve as the eyes and ears of a wider public which would be absolutely entitled to attend but for purely practical reasons cannot do so" (*Khuja v. Times Newspapers Limited*, [2017] UKSC 49, [2019] A.C. 161, at para. 16, citing *Edmonton Journal v. Alberta (Attorney General)*, [1989] 2 S.C.R. 1326, at pp. 1326-39, per Cory J.). Limits on openness in service of other public interests have been recognized, but sparingly and always with an eye to preserving a strong presumption that justice should proceed in public view (*Dagenais v. Canadian Broadcasting Corp.*, [1994] 3 S.C.R. 835, at p. 878; R. v. Mentuck, 2001 SCC 76, [2001] 3 S.C.R. 442, at paras. 32-39; *Sierra Club*, at para. 56). The test for discretionary limits on court openness is directed at maintaining this presumption while offering sufficient flexibility for courts to protect these other public interests where they arise (*Mentuck*, at para. 33). The parties agree that this is the appropriate framework of analysis for resolving this appeal.
>
> …
>
> [38] The test for discretionary limits on presumptive court openness has been expressed as a two-step inquiry involving the necessity and proportionality of the proposed order (*Sierra Club*, at para. 53). Upon examination, however, this test rests upon three core prerequisites that a person seeking such a limit must show. Recasting the test around these three prerequisites, without altering its essence, helps to clarify the burden on an applicant seeking an exception to the open court principle. In order to succeed, the person asking a court to exercise discretion in a way that limits the open court presumption must establish that:
>
> (1) court openness poses a serious risk to an important public interest;
>
> (2) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and,

(3) as a matter of proportionality, the benefits of the order outweigh its negative effects.

Only where all three of these prerequisites have been met can a discretionary limit on openness — for example, a sealing order, a publication ban, an order excluding the public from a hearing, or a redaction order — properly be ordered. This test applies to all discretionary limits on court openness, subject only to valid legislative enactments (*Toronto Star Newspapers Ltd. v. Ontario*, 2005 SCC 41, [2005] 2 S.C.R. 188, at paras. 7 and 22).

[39] The discretion is structured and controlled in this way to protect the open court principle, which is understood to be constitutionalized under the right to freedom of expression at s. 2(b) of the Charter (*New Brunswick*, at para. 23). Sustained by freedom of expression, the open court principle is one of the foundations of a free press given that access to courts is fundamental to newsgathering. This Court has often highlighted the importance of open judicial proceedings to maintaining the independence and impartiality of the courts, public confidence and understanding of their work and ultimately the legitimacy of the process (see, e.g., *Vancouver Sun*, at paras. 23-26). In *New Brunswick*, La Forest J. explained the presumption in favour of court openness had become "'one of the hallmarks of a democratic society'" (citing *Re Southam Inc. and The Queen (No.1)* (1983), 41 O.R. (2d) 113 (C.A.), at p. 119), that "acts as a guarantee that justice is administered in a non-arbitrary manner, according to the rule of law . . . thereby fostering public confidence in the integrity of the court system and understanding of the administration of justice" (para. 22). The centrality of this principle to the court system underlies the strong presumption — albeit one that is rebuttable — in favour of court openness (para. 40; *Mentuck*, at para. 39).

…

[62] Second, I recall that in order to pass the first stage of the analysis one must not simply invoke an important interest, but must also overcome the presumption of openness by showing a serious risk to this interest. The burden of showing a risk to such an interest on the facts of a given case constitutes the true initial threshold on the person seeking to restrict openness. It is never sufficient to plead a recognized important public interest on its own. The demonstration of a serious risk to this interest is still required. What is important is that the interest be accurately defined to capture only those aspects of privacy that engage legitimate public objectives such that showing

a serious risk to that interest remains a high bar. In this way, courts can effectively maintain the guarantee of presumptive openness.

…

[71] Violations of privacy that cause a loss of control over fundamental personal information about oneself are damaging to dignity because they erode one's ability to present aspects of oneself to others in a selective manner (D. Matheson, "Dignity and Selective Self-Presentation", in I. Kerr, V. Steeves and C. Lucock, eds., *Lessons from the Identity Trail: Anonymity, Privacy and Identity in a Networked Society* (2009), 319, at pp. 327-28; L. M. Austin, "Re-reading Westin" (2019), 20 Theor. Inq. L. 53, at pp. 66-68; Eltis (2016), at p. 13). Dignity, used in this context, is a social concept that involves presenting core aspects of oneself to others in a considered and controlled manner (see generally Matheson, at pp. 327-28; Austin, at pp. 66-68). Dignity is eroded where individuals lose control over this core identity-giving information about themselves, because a highly sensitive aspect of who they are that they did not consciously decide to share is now available to others and may shape how they are seen in public. This was even alluded to by La Forest J., dissenting but not on this point, in *Dagg*, where he referred to privacy as "[a]n expression of an individual's unique personality or personhood" (para. 65).

[72] Where dignity is impaired, the impact on the individual is not theoretical but could engender real human consequences, including psychological distress (see generally *Bragg*, at para. 23). La Forest J., concurring, observed in *Dyment* that privacy is essential to the well-being of individuals (p. 427). Viewed in this way, a privacy interest, where it shields the core information associated with dignity necessary to individual well-being, begins to look much like the physical safety interest also raised in this case, the important and public nature of which is neither debated, nor, in my view, seriously debatable. The administration of justice suffers when the operation of courts threatens physical well-being because a responsible court system is attuned to the physical harm it inflicts on individuals and works to avoid such effects. Similarly, in my view, a responsible court must be attuned and responsive to the harm it causes to other core elements of individual well-being, including individual dignity. This parallel helps to understand dignity as a more limited dimension of privacy relevant as an important public interest in the open court context.

…

> [75] If the interest is ultimately about safeguarding a person's dignity, that interest will be undermined when the information reveals something sensitive about them as an individual, as opposed to generic information that reveals little if anything about who they are as a person. Therefore the information that will be revealed by court openness must consist of intimate or personal details about an individual — what this Court has described in its jurisprudence on s. 8 of the *Charter* as the "biographical core" — if a serious risk to an important public interest is to be recognized in this context (*R. v. Plant*, [1993] 3 S.C.R. 281, at p. 293; *R. v. Tessling*, 2004 SCC 67, [2004] 3 S.C.R. 432, at para. 60; *R. v. Cole*, 2012 SCC 53, [2012] 3 S.C.R. 34, at para. 46). Dignity transcends personal inconvenience by reason of the highly sensitive nature of the information that might be revealed. This Court in *Cole* drew a similar line between the sensitivity of personal information and the public interest in protecting that information in reference to the biographical core. It held that "reasonable and informed Canadians" would be more willing to recognize the existence of a privacy interest where the relevant information cuts to the "biographical core" or, "[p]ut another way, the more personal and confidential the information" (para. 46). The presumption of openness means that mere discomfort associated with lesser intrusions of privacy will generally be tolerated. But there is a public interest in ensuring that openness does not unduly entail the dissemination of this core information that threatens dignity — even if it is "personal" to the affected person.

[35] The parties agree that the privacy interests at issue are those concerning the identity of transgendered minor children.

[36] The Law Society submits that sealing the Tribunal file and closing the F&D Hearing to the public is necessary as the Law Society, to meet its case, must present in evidence unredacted versions of the confidential information allegedly disclosed by the Respondent, and articulate how and when the Respondent breached one or more Rules of the *Code of Professional Conduct*. Absent these orders, the Law Society says that it will be prejudiced in meeting its case, or that there is a serious risk of further breaches of confidentiality.

[37] The Law Society further submits that the salutary effects of protecting the public's interest in protecting confidential information of a third party youth, and the integrity of the Law Society's discipline proceedings, outweigh the deleterious effects of the non-disclosure orders sought, which in this context includes the public interest in open and accessible court proceedings.

[38] The Law Society referred me to two examples where a hearing panel granted a non-disclosure and sealing order:

(a) In *Law Society of BC v. Holland*, 2015 LSBC 36, the hearing panel granted the orders for the purpose of preventing third party access to solicitor-client confidential information. The orders resulted in exhibits being redacted or anonymized before disclosure to members of the public. The hearing panel recognized the importance of openness and transparency in building confidence in the disciplinary proceedings. However, at para. 19, the hearing panel stated:

> It is important that clients not lose the protection of solicitor-client confidentiality simply because the Law Society has relied on documents containing confidential information for the legitimate purpose of bringing disciplinary proceedings against a lawyer or former lawyer. […]

(b) In *Law Society of BC v. McTavish*, 2018 LSBC 2, at para. 86, the hearing panel held that the interest of the complainant and other third parties in maintaining the confidentiality of the information given in evidence outweighed the interests of a member of the public in obtaining that information. See also *Law Society of BC v. Crickmore*, 2016 LSBC 16; *Markovitz (Re)*, 2021 LSBC 22 at para. 34.

[39] The Respondent submits that the Law Society has not met its high burden of establishing that a sealing order and an order excluding the public is necessary. The Respondent submits that protecting the privacy interests of the third parties can be addressed by redacting materials and/or excluding the public from portions of the F&D Hearing.

[40] I have carefully considered the Respondent's submission that alternative measures will prevent the risk and that an order be made that allows some public attendance or access to the materials.

[41] The nature of the Citations that will be subject of the F&D Hearing are unique in that they relate in their entirety to allegations concerning the alleged dissemination of confidential information and protecting the identity of transgendered minors. I am unable to find an alternative, as suggested by the Respondent, that will not pose a serious risk to the privacy interests of the third parties. Most, if not all, of the F&D Hearing will relate to the alleged breach of the privacy interest. Documents, information, and testimony will go to the core of the confidential information sought to be protected.

[42] This is an example where the privacy interest sought to be protected goes to the "biographical core" of the individual and affords more protection. As a matter of proportionality, the benefits of the orders sought by the Law Society outweigh any negative effects.

[43] The Respondent further submits that the Law Society seeks these orders not to protect any privacy interests but to exclude the public from the process due to bias the Respondent alleges against the Law Society. With respect to this argument, the Respondent has not supplied me with any evidence to support this claim.

[44] Lastly, the Respondent submits that the Supreme Court of BC and BC Court of Appeal orders are sufficient to protect the privacy interests of third parties and no further order is required. The Law Society Tribunal is separate from the Supreme Court of BC and BC Court of Appeal and has jurisdiction over lawyers in British Columbia. The prior orders do not pertain to the Tribunal process, and I find that an order is necessary to protect the confidential information within the Law Society Tribunal file and to exclude the public from the F&D Hearing.

[45] In making this order, I find that the Law Society has met its burden of establishing the three prerequisites necessary for the proposed order.

[46] The Respondent takes issue with removing the proposed draft order from his website. The proposed draft order does not contain confidential information and as such, I will not be making an order that it be removed. While I am not making any order to remove the material, I ask the Respondent to consider the appropriateness of including the draft order on his website as it has the potential to mislead the public.

SUMMARY OF ORDERS MADE

[47] The Respondent's May 8, 2022, application for document production and responses to questions pursuant to Rule 5-4.3(1) is dismissed.

[48] The Respondent's March 14, 2022, application concerning alleged bias is abandoned.

[49] The application for an adjournment is denied. The hearing of Citation #1 and Citation #2 will be heard starting on May 16, 2022 and will be held in-person at the offices of the Law Society of BC.

[50] I grant the relief sought by the Law Society and amend my March 27, 2022 order on the following terms:

1. Any ruling or publication on this matter shall be redacted for confidential and privileged information, which includes anonymizing names or redacting information including but not limited to (the "Confidential Information"):

    (a) The name of the Respondent's former client in proceeding *A.B. v. C.D. and E.F.*, BCSC, Vancouver Registry No. E190334 and No. CA46229 and *A.B. v. C.D. and E.F.*, BC Court of Appeal, Vancouver Registry No. CA46229 ("**C.D.**");

    (b) The name of C.D.'s child ("**A.B.**");

    (c) The name A.B.'s mother ("**E.F.**");

    (d) The name of the doctor(s) that provided treatment to A.B.;

    (e) The name of the Respondent's former client in proceeding *A.M. v. Dr. F.*, Vancouver Registry No. 2011599 ("**A.M.**");

    (f) The name of A.M.'s child ("**Y.Z.**");

    (g) The name of Y.Z.'s father ("**W.X.**");

    (h) the name of the doctor(s) that provided treatment to Y.Z.;

    (i) any information that could disclose the identity of A.B., C.D., or E.F.;

    (j) any information that could disclose the identity of Y.Z., A.M. or W.X.;

    (k) any information or documentation relating to either A.B.'s or Y.Z.'s gender identity, physical and mental health, medical status or treatments;

    (l) the names of the interviewers and reporters to whom the Respondent disclosed any of the information set out in paragraphs (a) to (k) inclusive, and names of the news outlet the aforementioned individuals or reporters worked for or online publications the individuals are associated with to, and the title of the online publications; and

    (m) any reference to the exact words of interviews given by the Respondent to the individuals or reporters and media outlets that disclosed any of the information set out in paragraphs (a) to (k) inclusive.

2. All documents and materials filed up to and including the date of this Order and thereafter shall be permanently sealed, subject to a further order of the Law Society Tribunal.

3. The hearing of Citation #1 and Citation #2 shall be closed to the public.

4. All parties are prohibited from publishing online or providing information to be published online copies of any documents filed in this proceeding that contains any of the Confidential Information.

5. All parties are prohibited from publishing online or permitting to be published online copies of correspondence between the named parties and correspondence received from the Law Society Tribunal.

6. The Respondent shall remove from his website, https://divorce-for-men.com/ and any other website that the Respondent has control over, any documents that contain the Confidential Information, including, the Schedules attached to Citation issued May 27, 2022.