

THE LAW SOCIETY OF BRITISH COLUMBIA

IN THE MATTER OF THE *LEGAL PROFESSION ACT*, SBC 1998, C. 9

AND

JOANNA MUN-LING LEE

(a member of the Law Society of British Columbia)

RULE 3-7.1 CONSENT AGREEMENT SUMMARY

1. On December 20, 2023, the Chair of the Discipline Committee approved a consent agreement proposal submitted by Joanna Mun-Ling Lee (the “Lawyer”) under Rule 3-7.1 of the Law Society Rules (“Rules”).
2. Under the proposal, the Lawyer admitted she committed the following misconduct, and that it constitutes professional misconduct pursuant to s. 38(4) of the *Legal Profession Act*:

Between July 2021 and July 2022, in the course of representing herself in judicial review proceedings of Residential Tenancy Branch decisions, Supreme Court Dockets S212310 and S212686 (Victoria Registry), she acted in a manner that frustrated and/or misused the court process, including by doing one or more of the following:

- (a) filing two petitions for judicial review (the “Petitions”) that were nearly identical and doing one or more of the following, contrary to one or more of rules 2.1-2(a), 5.1-1 and 2.2-1 of the *Code of Professional Conduct for British Columbia* [the “Code”]:
 - (i) failing to provide full and frank disclosure about the first petition in the second petition, and
 - (ii) proceeding with the two Petitions despite a finding from Justice Stromberg-Stein of the British Columbia Court of Appeal that the Petitions were duplicative;
- (b) bringing *ex parte* proceedings for a temporary stay of an order of possession and doing one or more of the following, contrary to one or more of rules 2.1-4(c), 2.2-1, 5.1-1, and 7.2-1 of the *Code*:

- (i) failing to inform the court of all material facts during one or more *ex parte* proceedings; and
 - (ii) failing to give notice to the opposing party despite a reasonable request from the opposing party that she do so;
- (c) failing to sign orders in a timely manner, contrary to rule 5.1-2 of the *Code*; and
- (d) failing to disclose to the opposing party and/or the court in a timely manner that the Petitions had been scheduled for hearing, when she knew or ought to have known that the opposing party and/or the court believed that the Petitions had not been scheduled, contrary to one or both of rules 5.1-1 and 2.2-1 of the *Code*.
3. Under the proposal, the Lawyer agreed to be suspended from the practice of law for a period of four weeks, to take effect seven days after the consent agreement proposal is approved, but no later than January 15, 2024. The Lawyer has also given an undertaking to complete six hours of continuing legal education on civil litigation prior to May 30, 2024, with her program of study to be approved by the Law Society. This is in addition to the over 20 hours of continuing professional development courses the Lawyer has taken since December 2022 to improve her knowledge and skill in litigation.
4. In making its decision, the Chair of the Discipline Committee considered an Agreed Statement of Facts dated December 19, 2023, and a letter to the Chair of the Discipline Committee. The Chair also considered that prior to the current investigation, the Lawyer did not have a prior professional conduct record.
5. This consent agreement will now form part of the Lawyer's professional conduct record.
6. Pursuant to Rule 3-7.1(5) of the Rules, and subject to Rule 3-7.2 of the Rules, the Law Society is bound by an effective consent agreement, and no further action may be taken on the complaint that gave rise to the agreement.
7. The admitted facts set out in the Agreed Statement of Facts have been summarized below.

Summary of Facts

Member Background

8. The Lawyer was called and admitted as a member of the Law Society of British Columbia on October 7, 2013.
9. Since her call to the bar, the Lawyer has practised law at Wong & Doerksen in Victoria, British Columbia (the "Firm").

10. The Lawyer has been a sole practitioner at the Firm since January 1, 2021 and practises in the areas of real estate, corporate/commercial law, wills, estates and immigration law.

Residential Tenancy Dispute

11. Beginning June 1, 2015, the Lawyer rented a residential studio suite. The Lawyer's landlords are hereinafter referred to as the "Lessors".
12. On February 11, 2021, the Lawyer was served with a one-month Notice to End Tenancy for Cause (the "Notice") from the Lessors.
13. Following receipt of the Notice, on February 22, 2021, the Lawyer filed an Application for Dispute Resolution to dispute and cancel the Notice with the Residential Tenancy Branch (the "RTB").
14. The Lessors filed an Application for Dispute Resolution with the RTB, seeking an order of possession (the "Order of Possession").
15. On July 16, 2021, an arbitrator of the RTB gave a written decision (the "RTB Initial Decision") in which she denied the Lawyer's application for an order cancelling the Notice, and granted the Order of Possession.
16. In late July, 2021, the Lawyer filed an application with the RTB for Review Consideration of the RTB Initial Decision.
17. On August 30, 2021, the Lawyer received the Review Consideration decision from the RTB (the "RTB Review Decision") which upheld the RTB Initial Decision and dismissed the Lawyer's review application.

Judicial Review Petitions and Interim Stay Applications

18. On July 26, 2021, the Lawyer filed a petition for judicial review of the RTB Initial Decision and an application for a stay of the Order of Possession with the Supreme Court (the "First Petition").
19. On July 27, 2021, a temporary interim stay of the Order of Possession was granted. No notice of this application was provided to the Lessors.
20. On August 19, 2021, the Lawyer brought an application for an ongoing interim stay of the Order of Possession. The Lessors were represented by counsel, who were present. Justice Johnston dismissed the application ("Justice Johnston's Decision").
21. The Lawyer filed an appeal of Justice Johnston's Decision, and an application for a stay of the decision pending appeal.

22. On September 1, 2021, following the receipt of the RTB Review Decision, the Lawyer filed a petition for judicial review of the RTB Review Decision with the Supreme Court (the “Second Petition”).
23. The Second Petition was almost identical to the First Petition. It set out the same factual basis and sought substantially the same relief as the First Petition. The Second Petition was different from the First Petition insofar as it made reference to the RTB Review Decision.
24. The Lawyer has explained that she commenced the Second Petition to address the RTB Review Decision, which was not addressed in the First Petition.
25. The Lawyer did not disclose the existence of the First Petition in the Second Petition, and did not amend the First Petition to refer to the RTB Review Decision. Nor did she disclose that an application for a stay of the Order of Possession had already been dismissed by Justice Johnston.
26. The Lawyer failed to provide full and frank disclosure about the First Petition in the Second Petition and has explained that at the time, she did not appreciate that the proper procedure would have been to amend the First Petition to address the RTB Review Decision.
27. On September 1, 2021, the Lawyer filed an *ex parte* application on the Second Petition, seeking an interim stay of the Order of Possession. The application was heard by Justice Thompson who granted the Lawyer an “interim interim stay” (the “Temporary Interim Stay”) until September 14, 2021, and ordered the Lawyer serve the Lessors with her application for an interim stay and supporting materials.
28. The Lawyer did not disclose to Justice Thompson the existence of the First Petition, her unsuccessful application for an interim stay of the Order of Possession on the First Petition, or her outstanding appeal and interim stay application of Justice Johnston’s Decision. In addition, the Lawyer did not advise Justice Thompson that the Lessors were represented by counsel.
29. The Lawyer explained to the Law Society that she proceeded *ex parte* because she sincerely believed there was urgency due to the imminent eviction, and that prior to February 2021, the Lawyer had no experience in judicial reviews or *ex parte* applications.
30. On September 14, 2021, with the Lawyer and opposing counsel present, Justice MacIntosh adjourned the application, but did not make an order to extend the Temporary Interim Stay.
31. On September 16, 2021, opposing counsel wrote to the Lawyer advising that the Lessors intended to act upon a Writ of Possession (the “Letter”). In the Letter, opposing counsel requested the Lawyer give notice to their office of any further court applications and not

apply for further *ex parte* orders. Opposing counsel indicated they would do everything they could to cooperate and ensure matters were heard expeditiously.

32. On September 17, 2021 the Lawyer brought an *ex parte* application on the Second Petition to extend the Temporary Interim Stay because the Lawyer believed that Justice Macintosh overlooked extending the Temporary Interim Stay of the Order of Possession.
33. Justice Saunders agreed it was an oversight, and extended the Temporary Interim Stay until the Lawyer's interim stay application could be heard.
34. The Lawyer did not give notice to opposing counsel regarding the September 17, 2021 application. She agrees the Letter contained a reasonable request for notice, but explained that she does not recall reviewing the Letter before bringing the *ex parte* application on September 17, 2021.
35. In October 2021, a single justice of the Court of Appeal, Justice Stromberg-Stein, heard the Lawyer's interim stay application of Justice Johnston's Decision.
36. Justice Stromberg-Stein gave oral reasons dismissing the Lawyer's application for an interim stay, which were reported as *Lee v. Wedekind*, [2021 BCCA 372](#).
37. Justice Stromberg-Stein made the following findings:

[36] I agree with the [Lessors] that in light of Ms. Lee's duplicate active Petitions and multiple *ex-parte* orders, the request for a stay of a refusal to stay related to the same subject matter is frivolous and vexatious. It has great potential to cause delay, confusion, and procedural difficulty in the proceedings below. I would go even further and say it is an abuse of this Court's process. Ms. Lee has inappropriately attempted to manipulate the judicial process. In light of this, which has resulted in unnecessary time and costs spent for the [Lessors] (and the courts), the [Lessors] are entitled to special costs.
38. On October 15, 2021, Justice Smith heard the interim stay application on the Second Petition and dismissed it on the basis that the application was *res judicata* and the matter had been dealt with on the merits by Justice Johnston on August 19, 2021.
39. On October 21, 2021, the Lessors evicted the Lawyer from the residential studio suite.

Draft Orders

40. On August 25, 2021 and October 15, 2021, opposing counsel emailed the Lawyer, attaching draft orders from the First Petition and the Second Petition respectively, and asked the Lawyer to sign and return the orders, or advise if there were any errors.
41. The Lawyer did not reply to opposing counsel's correspondence regarding the orders, nor did she provide the signed draft orders.
42. As a result of this failure to respond, opposing counsel had to attend before a Supreme Court registrar to have court orders settled and entered.
43. On January 4, 2022, the draft orders were substantially endorsed.

Scheduling of Petitions

44. In January and February 2022, the Lawyer and opposing counsel corresponded about the scheduling of the petitions.
45. On February 5, 2022, the Lawyer advised opposing counsel that she would be setting down the hearings for June 2022.
46. On February 7, 2022, opposing counsel wrote to the Lawyer stating that "in the interest of efficiency and moving forward," they would acquiesce to her proposal to schedule the matters for June 2022. Opposing counsel further stated that both files must be set down for hearing at the same time as it would be inefficient to address the files separately, and provided their available dates for that month.
47. Despite Justice Stromberg-Stein's comments that the First Petition and the Second Petition were "duplicate active Petitions", the Lawyer did not take steps to amend or consolidate the First and Second Petitions (collectively, the "Petitions").
48. Without further consulting opposing counsel, in February 2022, the Lawyer filed notices of hearing on the First and Second Petition, and scheduled the hearings for July 25, 2022 and August 29, 2022 respectively.
49. On March 25, 2022, opposing counsel sent an email to the Lawyer stating that they had not received a notice of hearing from the Lawyer concerning the Petitions, and asked the Lawyer to schedule a hearing promptly, but only after consultation with them to assure their availability.
50. Despite the fact that the Lawyer had already scheduled both petitions, the Lawyer did not provide the notices of hearing to opposing counsel.

51. Instead, on April 10, 2022, the Lawyer responded via email and stated the following, failing to disclose that she had already scheduled the Petitions:

Further to your email of March 25, 2022, I will review the available dates for the hearings and I will contact you regarding this matter.

52. On June 2, 2022, having heard nothing further from the Lawyer, and still being under the belief that neither of the Petitions had been scheduled, opposing counsel filed a requisition to place both matters before a Supreme Court Master for scheduling.
53. On June 9, 2022, the parties appeared before Master Scarth to schedule the Petitions. The Lawyer requested an adjournment, but was refused. Only then did the Lawyer inform Master Scarth and opposing counsel, for the first time, that she had already scheduled the Petitions for hearing.
54. On June 9, 2022, Master Scarth ordered that the Petitions be heard together during the week of July 25, 2022, and granted leave to the Lessors to apply for special costs.

Outcome of Petitions

55. Justice Crerar heard the Petitions on July 27 and 28, 2022 and gave written reasons on October 24, 2022: *Lee v. Wedekind*, [2022 BCSC 1855](#). Both Petitions were dismissed.
56. In the decision, Justice Crerar described the Lawyer's conduct as follows:

[183] Since the Court of Appeal hearing in October 2021, as set out above, Ms Lee has doubled down on her delay tactics, despite the admonition and special costs levelled against her by the Court of Appeal. Despite that Court's clear condemnation of her duplicative two petitions, she persisted in maintaining both, necessitating a double set of unnecessarily voluminous and largely overlapping materials and petitions, and serving as a basis for her attempt to schedule two separate two-day hearings on identical facts. She sought to do an end-run around the order of Scarth M, by not filing her materials for the hearing of her two petitions. She has continued to seek adjournments at every step of the process. Apart from these earlier themes, at the actual hearing of this petition, she attempted to play out the clock in order to *de facto* obtain the adjournment that she had thrice sought and that had thrice been rejected. She abused the process of this Court by simply reading out her materials rather than making precise and concise arguments, as directed. She made statements to the Court, orally and in written submissions that, to be charitable, bordered on dishonest or are highly doubtful. She implied that Court staff were dishonest, in denying that she had been late to Court (on both hearing days) or that she had received a voicemail from the Registry confirming the hearing. She implied that Court staff were incompetent, where no errors were made. She made frivolous, inflammatory, damaging, and baseless allegations of

bias—which, as set out above, should never be made lightly—against adjudicators at every stage of the process. In her written submissions, she made meritless and irresponsible attacks on the professional reputation of two counsel for the respondents. She brought three inappropriate *ex parte* applications in which she did not provide full and frank disclosure to the presiding judges, including critical and material information about earlier orders and proceedings.

[184] The respondents are not corporate landlords, but ordinary people who own a strata unit that they rent. The RTB process is intended to be streamlined, to minimise consumption of time and money on both sides. Ms Lee’s behaviour throughout her tenancy and these proceedings has inflicted a 34-month ordeal on the respondents, and no doubt cost them tens of thousand of dollars in legal fees, strata fines, and other costs.

[185] These deliberate, calculated, manifold, and serial abuses of the court process by Ms Lee—a lawyer, an officer of the Court, and a member of the Law Society, who purports to conduct trials—speak strongly for a special costs order. Her prolonged and dilatory conduct of the litigation has been reprehensible, scandalous, and outrageous. Her continued and more profound abuses of the court process since the Court of Appeal special costs order and directions indicate that Ms Lee is ungovernable and contemptuous of administrative and judicial bodies that rule against her.

[186] These abuses were not mere indiscretions, but persisted at every stage of the proceedings before the RTB and the Court. Her actions not only warrant special costs, but necessitate special costs. The Court orders that Ms Lee pay the respondents special costs, for each petition.

57. The Lawyer explained to the Law Society that at the hearing before Justice Crerar, she was unable to access a prepared summary due to internet connectivity issues, became very nervous, and resorted to reading the filed materials to the court, rather than making “precise and concise arguments, as directed”.
58. Further, the Lawyer has no recollection of implying that Court staff were incompetent or dishonest, or no recollection of making any comments denigrating the Court staff in her submissions. The Lawyer advised the Law Society that she has the utmost respect for the Court staff and the hard work they do every day, and deeply regrets that Justice Crerar concluded otherwise.

The Lawyer’s Response

59. In an interview with Law Society staff, the Lawyer denied any deliberate or intentional attempts to abuse the court’s process, or mislead any court.

60. The Lawyer acknowledged it was a mistake to not retain independent counsel to represent her in the Petitions.
61. The Lawyer stated that she was overworked and overstretched from her law practice, and her failure to respond to communications from opposing counsel were oversights.
62. The Lawyer respectfully maintains that she did not deliberately manipulate the judicial process. She admits that she made mistakes, but says that her mistakes were not done deliberately.

Mitigating Factors

63. The Lawyer was under significant stress in both her personal life and her professional life, which impacted her conduct.
64. The Lawyer lived in the subject residence with her elderly and severely disabled mother and her elderly pet dog, who was extremely ill and required multiple surgeries. The possibility, and then the eventuality, of being evicted caused significant stress to Lawyer.
65. The Lawyer had a heavy workload in her law practice following the retirement of two senior partners and their assistants in late 2020 and early 2021. In addition, an associate lawyer hired to take over litigation work did not ultimately end up joining the firm, which meant the Lawyer became the only lawyer at a firm where there had previously been three lawyers.
66. The Lawyer has paid \$9,078.45 in special costs ordered against her by Justice Stromberg-Stein, and is in the process of paying \$42,840.61 in special costs ordered against her by Justice Crerar.
67. Since December 2022, the Lawyer has taken over 20 hours of continuing professional development courses to improve her litigation knowledge and skills.
68. Prior to this investigation, the Lawyer had no prior professional conduct record.
69. The Lawyer is remorseful and has apologized to the Law Society.
70. In approving the consent agreement proposal, the Chair of the Discipline Committee also considered that the proposed suspension was consistent with the outcome in prior, similar matters.