

2006 : No. 05 November-December

Maneesh Saini

Chilliwack, BC

Called to the bar: May 23, 1997

Discipline hearing : August 2, 2006

Panel : Bruce A. LeRose, Q.C., Chair, Ken Dobell, Leon Getz, Q.C.

Report issued : September 18, 2006 (indexed as 2006 LSBC 35)

Counsel : James A. Doyle for the Law Society; Garth McAlister for Ms. Saini

Facts

Ms. Saini acted for an executor named in the last will and testament of GD. GD died in March 2005 and was survived by his brother, TN, and by his nephew, JN. When TN and JN were unable to find GD's will, JN retained Lawyer B of Law Firm B.

Following an exchange of preliminary correspondence, Lawyer B wrote to Ms. Saini on April 15, 2005. The letter confirmed that Law Firm B represented both TN and JN, and advised, " If we do not receive a copy of the Will by April 23, 2005, we intend to prepare a Citation pursuant to the Rules." Ms. Saini did not provide Lawyer B with a copy of GD's will.

On April 29, 2005, Lawyer B filed and effected personal service of a Citation to Bring in a Will, by which Ms. Saini was ordered to turn over to the Chilliwack Registrar any testamentary documents of GD in her possession or control, within 14 days of service. The citation alternatively directed Ms. Saini to file an explanatory affidavit with the Registrar within the same time, setting out her knowledge of any testamentary documents signed by GD. Ms. Saini produced neither the original nor a true copy of GD's will to the Registrar. Nor did she file an explanatory affidavit.

As Ms. Saini subsequently explained in a letter to the Law Society, at the time she was served with the citation, Ms. Saini had the original will in her possession and intended to attach it as an exhibit to the executor's affidavit to be filed in support of the pending probate application. Ms. Saini's letter also explained that because she had been " pressed for time" and because she believed that the probate application was " almost ready" at the time of service of the citation, she had chosen to include the original will with the probate package, " instead of researching the mechanics for completing the probate application without it."

The discipline hearing panel noted the difficulty of Ms. Saini's personal circumstances, and recognized her effort to reduce the impact of those circumstances on her legal practice. From about 2002 until late 2005, Ms. Saini worked as a sole practitioner. During that period, Ms. Saini's mixed practice was the sole source of financial support for herself and four other adult family members, for whom she also provided extensive household care.

Having acknowledged the need to manage her workload more carefully and to restrict the scope of her practice, Ms. Saini has removed her name from the lawyer referral list for family law and most types of litigation, and she has reduced her volunteer and community commitments.

Admission and penalty

Ms. Saini admitted that in failing to comply with the Citation to Bring in a Will filed and served on April 29,

2005, she failed to comply with an Order of the Supreme Court of BC. She further admitted that such failure amounted to professional misconduct.

Under Rule 4-22, the Discipline Committee and the discipline hearing panel took into account Ms. Saini's personal circumstances, accepted her admission and accepted her proposed penalty. The hearing panel accordingly ordered that Ms. Saini:

1. be reprimanded;
2. pay a fine in the amount of \$2,500; and
3. pay costs in the amount of \$2,500, both fine and costs to be paid on a quarterly basis over two years.