

2007 : No. 4 October

Pamela Suzanne Boles

Vancouver, BC

Called to the bar: November 17, 1989

Discipline hearing : November 29, 2006 and August 21, 2007

Panel : Kathryn Berge, QC, Chair, Karl Warner, QC and Brian Wallace, QC

Reports issued : May 29 (2007 LSBC 27) and October 1, 2007 (2007 LSBC 43)

Counsel : Jaia Rai for the Law Society and Jerome Ziskrout for Pamela Boles

Facts

Pamela Boles represented the plaintiff in a claim for injuries sustained in a motor vehicle accident. In the course of the case she obtained a chambers order. The order contained a term that had not been granted by the judge. When opposing counsel asked Boles how she obtained the additional term, Boles advised him that she had not requested the order but "the court gave it anyway."

Opposing counsel complained about Boles' conduct in January 2005. The Law Society sent a letter to Boles in February 2005, enclosing a copy of the letter from opposing counsel. Boles did not respond and failed to respond to subsequent letters sent February 23, March 10 and March 29, 2005. In addition, Boles did not respond directly to an April 5, 2005 phone message from the Law Society. On May 30, 2005 the Law Society advised Boles that the matter had now been referred to the Discipline Committee. Boles sent a letter on June 2, 2005 in response to the May 30 letter but did not provide a full substantive response to the complaint until the eve of the hearing in November 2006.

Boles admitted she filed a court order containing a term that had not been granted by the court. She explained that she had a busy chambers practice with multiple orders being entered at any given time. She said she relied on her experienced staff and on court registry staff to ensure the accuracy of orders.

She also admitted she misled opposing counsel when she told him the court had granted the additional term. She said that when she made the statement, she did not believe the issue was important, she did not have her file in front of her and assumed the order had been checked by her staff and court registry staff and was accurate.

In addition, Boles admitted she was wrong not to have made a full and substantive reply to the Law Society.

Verdict

The panel concluded Boles' conduct regarding the court order and her statement to opposing counsel was negligent but did not amount to professional misconduct or incompetence within the meaning of the *Legal Profession Act*. The evidence did not establish on a balance of probabilities that Boles entered the wrongly worded order or misled counsel intentionally.

The panel found that Boles' conduct in failing to respond to the Law Society constituted professional misconduct.

The panel noted that Boles has a discipline history reflecting poor document and file management and a cavalier, defensive, and self-serving attitude to both timeliness and care in communications with lawyers, the courts and the Law Society. They panel said that ensuring that members respond promptly and fully to the

Law Society is fundamental to the self-governance of the legal profession.

Boles admitted professional misconduct in failing to respond to the Law Society. The panel noted that Boles has taken some concrete steps toward rectifying the practice and personal patterns that contributed to this citation.

Penalty

The panel ordered that Boles:

1. be reprimanded;
2. pay a fine in the sum of \$17,500; and
3. pay costs of the hearing in the sum of \$17,000.