

Richard Craig Nielsen

Vancouver, BC

Called to the bar: September 5, 2001

Discipline hearing : May 15, 2007

Panel : Joost Blom, QC, Chair, Thelma O'Grady and Kathryn Berge, QC

Report issued : June 29, 2007 (2007 LSBC 35)

Counsel : Jaia Rai for the Law Society and Garth McAlister for Richard Craig Nielsen

Facts

In 2004, Richard Craig Nielsen represented TS while Lawyer P represented GD, TS's ex-wife, in matrimonial proceedings. Through the summer and fall of 2004 Nielsen corresponded frequently by email with Lawyer P as they negotiated a draft consent order for custody of and access to their clients' son. Nielsen and Lawyer P exchanged five different versions of the draft order, including, excluding and varying provisions for joint custody, additional access and permission for a visit to India.

On November 9, 2004 Nielsen submitted a draft consent order with supporting affidavits of TS and GD to the BC Provincial Court for entry. Prior to submitting the TS affidavit, he altered the exhibit setting out the draft order being consented to by removing one page and substituting another without the access and joint custody provisions contained in the original exhibit.

Admission and Penalty

Nielsen admitted that he altered the documents without his client's consent and submitted them to the court as though they were genuine and that his actions constituted professional misconduct.

Nielsen stated his law practice had been very disorganized at the time of his misconduct. He had a day job witnessing mortgages, and worked on other files in the evening from his home. In this case, Nielsen did not have hard copies of earlier versions of TS's affidavit in his file, and he had not recorded new instructions from his client. In preparing to file the affidavit, Nielsen realized the exhibit and draft order being filed were inconsistent. He thought he was correcting a problem by making the exhibit consistent with the draft order.

Nielsen further stated he did not make the changes to his client's affidavit with any intention to mislead the court, or for any personal gain. Nielsen advised the panel that since the incident, he has put into practice the Law Society's law office management advice. He no longer acts as a signing officer during the day, limits the number and types of cases he handles, and has developed mentoring relationships with senior legal aid lawyers.

The panel accepted Nielsen's conditional admission and penalty proposed under Rule 4-22. Accordingly, the panel ordered that:

1. he be reprimanded;
2. he pay a fine of \$10,000 and costs of \$5,000, both within two years; and
3. his admission be recorded on his professional conduct record.

