

2012 : No. 1

Gerardus Martin Maria Laarakker

Vernon, BC

Called to the bar: November 14, 1997

Discipline hearing : July 14 and December 1, 2011

Panel : Leon Getz, QC, Chair, Nancy Merrill and Alan M. Ross

Report issued : September 21, 2011 (2011 LSBC 29) and January 10, 2012 (2012 LSBC 02)

Counsel : Carolyn Gulabsingh for the Law Society and Gerardus Martin Maria Laarakker appearing on his own behalf

Facts

In November 2009, Gerardus Martin Maria Laarakker was retained by a client regarding a demand letter that she had received from an out-of-province lawyer. The demand letter sought payment of \$521.97 as damages related to the client's teenage daughter, who had been caught shoplifting at a retail outlet. The demand letter stated that the retailer had a right to claim damages against the parent of a young person who had been caught shoplifting on the basis that the parent had failed to provide reasonable supervision.

The demand letter threatened that if the client did not pay the settlement amount, a civil suit may be filed against the client seeking an amount greater than the settlement amount.

After consulting with his client, Laarakker sent a letter to the out-of-province lawyer that contained discourteous and personal remarks.

Laarakker also posted a comment on an internet blog in response to two postings made by an individual who had received a similar demand letter. His blog posting contained discourteous and personal remarks about the out-of-province lawyer.

The out-of-province lawyer made a complaint to the Law Society about Laarakker's letter and blog posting.

Determination

Laarakker claimed that his letter to the out-of-province lawyer and his blog posting were justified because the actions of the other lawyer were blameworthy.

He felt a connection to his client, and he was personally offended by the steps that were being taken by the opposing lawyer. While these facts do not justify his actions, the panel acknowledged that they do speak to the reason that he took the steps that he did.

Laarakker submitted to the panel that he believed that he was allowed to do what he did in the face of a "rogue lawyer." He conceded that, if the out-of-province lawyer was found to have conducted himself professionally and ethically according to Law Society standards, then his actions in denouncing the other lawyer were wrong and he would apologize.

The panel found that Laarakker had committed professional misconduct by making discourteous remarks about another lawyer on an internet blog and in a letter directed to the other lawyer.

Disciplinary Action

Laarakker's professional conduct record was not an aggravating or mitigating factor. Further, Laarakker removed the blog posting as soon as he was asked to do so by the Law Society, and he issued a form of apology to the other lawyer.

The panel stated that, although incivility is not the most serious form of misconduct, it does reflect poorly on the legal profession.

The panel ordered that Laarakker pay:

1. a \$1,500 fine; and
2. \$3,000 in costs.