

THE LAW SOCIETY OF BRITISH COLUMBIA
In the matter of the *Legal Profession Act*, SBC 1998, c. 9
and an application under Rule 2-63.01 concerning
KEVIN JAMES ANDERSON
APPLICANT

**DECISION OF THE HEARING PANEL
ON PRELIMINARY DETERMINATION**

Submissions heard: May 26, 2015

Panel: Gregory Petrisor, Chair
William Everett, QC, Lawyer
Thelma Siglos, Public representative

Counsel for the Law Society: Jean P. Whittow, QC
Appearing on his own behalf: Kevin Anderson

- [1] A hearing has been ordered into the application of the Applicant for call and admission as a lawyer in British Columbia. The Applicant has applied for orders from this Panel:
- (a) that two witnesses, who swore affidavits in connection with allegations against the Applicant for engaging in unauthorized practice, be prohibited from attending at the hearing; and
 - (b) that the medical professionals who have rendered opinions in relation to the Applicant's fitness to practise convene a conference call and render one collective opinion regarding the Applicant's fitness to practise.

- [2] We received written submissions from the Applicant and counsel for the Law Society, and heard oral submissions on May 26. We reserved our decision, and advised we would provide it and our reasons to follow. This is our decision and reasons.
- [3] The Applicant argues that the two proposed witnesses swore false affidavits and are not credible. He argues he has been prejudiced by signing a consent order as a result of the unauthorized practice proceedings previously brought against him. He says he signed the consent order on the understanding that it would have no effect on his application for admission to the Law Society.
- [4] The Applicant further argues that the hearing would be much more efficient if the medical professionals who have rendered opinions in this matter could come up with one collective opinion regarding the Applicant's fitness to practise. He argues that the consideration of conflicting medical opinions by this Panel would amount to people without professional medical qualifications making medical decisions.
- [5] Counsel for the Law Society argues that the allegations that the Applicant engaged in unauthorized practice are relevant. She submitted that the Applicant has received disclosure of the affidavits filed and will have full opportunity to cross-examine the witnesses whose credibility he challenges. She argues there is no legal basis to prevent a party from calling a witness whose evidence is expected to be relevant and admissible.
- [6] Counsel for the Law Society further argues that the Applicant is seeking a determination of his medical fitness by the medical experts who have provided opinions in relation to this matter, and that would be an inappropriate delegation of the Hearing Panel's authority.
- [7] The Applicant's application for an order prohibiting witnesses from attending at the hearing is dismissed. Allegations that the Applicant engaged in the unauthorized practice of law are relevant to an assessment of his fitness and character. The Applicant has been made aware of the issue, and will have the opportunity to cross-examine all witnesses called to testify by the Law Society. The credibility of each witness will be assessed by the Panel at the hearing. That is the normal and proper course for a hearing, and provides procedural fairness to the Applicant.
- [8] The Applicant's application for an order requiring the medical experts who have rendered opinions in this matter to determine the issue of the Applicant's medical fitness is dismissed. We do not have the authority to compel any action by the medical experts. The qualifications and opinion of each expert will be canvassed at the hearing, and the Hearing Panel will decide whether the Applicant has

established that he is fit in light of all of the evidence, including the medical evidence.