

THE LAW SOCIETY OF ALBERTA
HEARING COMMITTEE REPORT

IN THE MATTER OF the *Legal Profession Act*, and
IN THE MATTER OF a Hearing regarding the conduct of
Surinder Randhawa, a Member of the Law Society of Alberta

A. Jurisdiction and Preliminary Matters

1. A Hearing Committee of the Law Society of Alberta (“LSA”) held a hearing into the conduct of Surinder Randhawa beginning on November 5, 2013 and continuing on September 24, 2014. The Committee initially consisted of Douglas R. Mah, QC (Chair), Fred Fenwick, QC (Committee Member) and Amal Umar (Committee Member). Mr. Fenwick sat as a Committee Member on the first date, but was not available to sit on the second date. With the consent of counsel, the Hearing Committee completed the hearing on the second date with only the Chair and Ms. Umar as members. Hereinafter, references to the Hearing Committee or the Committee mean the Chair and Ms. Umar only.
2. The LSA was represented by Molly Naber-Sykes, QC on the first date and by Heather Spicer on the second date. Mr. Randhawa was represented throughout by Dennis McDermott, QC.
3. There was no objection by either counsel as to the composition of the Committee.
4. An Exhibit Binder consisting of five exhibits was admitted into evidence by consent. Those exhibits included the Letter of Appointment of the Hearing Committee, the Notice to Solicitor with Acknowledgement of Service, the Notice to Attend with Acknowledgement of Service and the Certificate of Status of the Member, thus establishing the jurisdiction of the Committee.
5. On the first date, Exhibit 6 was admitted into evidence by consent (letter dated November 4, 2013 from Dr. Jagan Aggarwal to whom it may concern). On the second date, Exhibit 7 (Statement of Facts and Admission of Guilt dated September 24, 2014), Exhibit 8 (Certificate dated September 22, 2014 issued by the LSA relating to the discipline record of Mr. Randhawa) and Exhibit 9 (Estimated Statement of Costs dated September 24, 2014) were admitted into evidence by consent.

6. The Certificate of Exercise of Discretion was entered as Exhibit 5. No request for a private hearing was received and, accordingly, the hearing proceeded in public.

B. Citations

7. The citations as recounted in the Notice to Solicitor (Exhibit 2) required the Committee to inquire into the following:

1. It is alleged that Surinder Randhawa conducted himself in such a manner as to bring discredit to the profession in his interaction with the complainant, D.H., and that such conduct is conduct deserving of sanction.
2. It is alleged that Surinder Randhawa conducted himself in such a manner as to bring discredit to the profession in threatening another person, namely K.G., and that such conduct is conduct deserving of sanction.
3. It is alleged that Surinder Randhawa misled or attempted to mislead the Law Society of Alberta, and that such conduct is conduct deserving of sanction.
4. It is alleged that Surinder Randhawa conducted himself in such a manner as to bring discredit to the profession in his interaction with D.H., and that such conduct is conduct deserving of sanction.
5. It is alleged that Surinder Randhawa misled or attempted to mislead the Law Society of Alberta, and that such conduct is conduct deserving of sanction.

C. Statement of Facts and Admission of Guilt

8. On the second date, a document entitled Statement of Facts and Admission of Guilt signed by Mr. Randhawa (Exhibit 7) was presented to the Committee. The Committee understands that Exhibit 7 was the product of discussion, negotiation and collaboration between the two counsel. Exhibit 7, if accepted by the Hearing Committee, was intended to provide the factual foundation upon which the Hearing Committee could make a determination of whether conduct deserving of sanction had been established in relation to the five citations.

9. The Statement of Facts and Admission of Guilt is appended to and forms part of this Hearing Committee Report.

10. During the course of the hearing, counsel agreed that the words “and obscene” should be removed from paragraph 19. Hence, paragraph 19 should be read as if those words do not appear. Nonetheless, counsel were also in agreement that the removal of the words did not detract from Mr. Randhawa’s admission that the conduct described in paragraph 19 constitutes conduct deserving of sanction.
11. After review of Exhibit 7 and submissions from counsel, the Hearing Committee was prepared to accept as fact the content of the paragraphs numbered 1 through 22 in Exhibit 7. The Committee determined that it would hear further submissions from counsel before determining whether the facts as set out in Exhibit 7 lead to the conclusion that Mr. Randhawa engaged in conduct deserving of sanction in respect of the five citations.

D. Further Submissions with Respect to Facts

12. Both counsel provided further submissions to supplement the Hearing Committee’s understanding of the facts set out in Exhibit 7.
13. The Hearing Committee understands that the April 15, 2011 incident (Citation 1) relates to a fistfight that occurred on that date between Mr. Randhawa and the complainant, Dalwinder Hayer, in the parking lot of a Calgary strip mall.
14. Citation 2 relates to incidents occurring on May 22, 2010 and May 29, 2010 at the strip mall. Both incidents are described as Mr. Randhawa entering the complainant Hayer’s office premises with objects in his hand. On May 22, 2010, the object was said to be a rock. On May 29, 2010, the object was said to be an axe. A third party was present in Mr. Hayer’s office, one K.G. It is said that on both occasions K.G., observing the objects that Mr. Randhawa was carrying and apparently brandishing, formed subjective fear that Mr. Randhawa might engage in violent conduct against him. Mr. Randhawa is accused of carrying the objects in a threatening manner, not with actually striking anyone or anything.
15. Citation 4 apparently also occurred in May 2010 while both Mr. Randhawa and Mr. Hayer were attending a legal conference in Halifax. Mr. Randhawa is said to have directed abusive language at Mr. Hayer within the hearing distance of others. The disagreement between counsel about what

was said was resolved on the basis that the words “and obscene” be removed from paragraph 19 of the Statement of Facts and Admission of Guilt.

16. Counsel for Mr. Randhawa advised that there was a history of bad blood between Mr. Randhawa and Mr. Hayer. It was suggested that Mr. Hayer may have harboured some professional jealousy. It also seems that Mr. Hayer may have insulted Mr. Randhawa and his family at one point.
17. Citation 3 relates to Mr. Randhawa’s statement in the LSA investigation into Citation 1 (the fight). The essence of Citation 3 is that Mr. Randhawa’s account is at odds with a surveillance video that captured the altercation between Mr. Randhawa and Mr. Hayer. However, the Hearing Committee was also told that the surveillance video only depicted a portion of the day’s events and some of the antecedent activity was missing from the fight video. When questioned about the meaning of the second sentence in paragraph 16 of the Statement of Facts and Admission of Guilt, Mr. Randhawa’s counsel indicated that a witness to the events, J.A., provided a version of the events that corroborated Mr. Randhawa’s account.
18. LSA counsel indicated that no evidence was being called in respect of Citation 5.

E. Decision as to Citations

19. Except for the two citations alleging that Mr. Randhawa misled the LSA, the citations herein relate to the interpersonal relations and animosity between Mr. Randhawa and Mr. Hayer. The behaviour attributed to Mr. Randhawa in these complaints must be measured against the standard set out in Chapter 3 of the *Code of Professional Conduct* as it read at the time:

Statement of Principle: a lawyer has a duty to uphold the standards and reputation of the profession and to assist in the advancement of its goals, organizations and institutions.

20. The associated Rule reads:

A lawyer must refrain from personal or professional conduct that brings discredit to the profession.

21. The relevant commentary reads as follows:

C.1 Because of a lawyer's quasi-official position in society (see Chapter 1, *Relationship of the Lawyer to Society and the Justice System*), the personal and professional behaviour of a lawyer may attract more attention than that of a non-lawyer and may directly or indirectly influence the public's perception of the justice system and the profession. It follows that a lawyer has a responsibility to avoid even the appearance of impropriety, and to act in a manner that encourages the confidence, respect and trust of society.

Behaviour considered to bring discredit to the profession would include incidents reflecting adversely on a lawyer's personal integrity (such as those involving fraud or dishonesty) as well as conduct that is demeaning to the profession or to the administration of justice generally (such as public abusiveness or offensiveness or counselling illegal acts). (see also the *Legal Profession Act*; Rules #1 and #3 of Chapter 1, *Relationship of the Lawyer to Society and the Justice System*; and Rule #2 of Chapter 15, *The Lawyer in Activities Other Than the Practice of Law*)

22. The conduct of Mr. Randhawa, as described in the Statement of Facts and Admission of Guilt, along with the submissions of counsel, lead the Hearing Committee to accept the admissions of guilt with respect to Citations 1, 2 and 4. More specific reasons are outlined below. In all cases, the excerpts quoted above provide the applicable standard.
23. For reasons that follow, the Hearing Committee does not accept Mr. Randhawa's admission of guilt with respect to Citation 3 and dismisses that citation. With respect to Citation 5, it was stated earlier by LSA counsel that no evidence is being offered in respect of that citation and, accordingly, it is also dismissed.

Citation 1

24. This citation deals with the fight in the plaza parking lot. The Hearing Committee realizes that there were two combatants and that it has not been positively established as to who started the fight. The fact is, however, that there was a physical altercation between two members of the

LSA, witnessed by at least one member of the public. Both were, apparently, willing participants in the fight and which of the two is more blameworthy, in the Committee's view, does not matter. Only Mr. Randhawa is before the Hearing Committee and, based on the evidence that has been presented and accepted, the Committee is prepared to say that Mr. Randhawa's participation in the fight is conduct deserving of sanction.

Citation 2

25. This citation relates to Mr. Randhawa taking a rock and then an axe into Mr. Hayer's office and inducing fear in K.G. The Hearing Committee is satisfied that bringing a rock and an axe into a business office and in an apparently threatening manner, such as to cause subjective fear in someone, constitutes conduct deserving of sanction.

Citation 3

26. The essence of this citation is that Mr. Randhawa's account of the fight is at odds with what is depicted in the surveillance video. However, it was conceded during the hearing that the video only contains a portion of the entire incident. The Agreed Statement of Facts and Admission of Guilt itself, at paragraph 16, adverts to a different version of what happened put forward by a third party witness that supposedly supports Mr. Rhandawa's version of the events. Consequently, the Committee cannot say that he deliberately misled the LSA during its investigation of the parking lot incident.

Citation 4

27. This is the Halifax incident where there was a public and apparently loud display of unpleasantness directed by Mr. Rhandawa at Mr. Hayer while both were attending a national conference. Abusive language was used. Attendees from other provinces must surely have been left with a negative impression of Alberta lawyers after witnessing such a performance. The Committee accepts the admission of guilt on this citation.

Citation 5

28. As indicated, the LSA decided not to pursue this citation.

F. Decision Regarding Sanction

29. The LSA and Mr. Randhawa put forward a joint submission on sanction.
30. It was submitted that the nature of the conduct in question is such that the most relevant factors are specific deterrence to Mr. Randhawa, general deterrence to other members of the profession and denunciation of the conduct.
31. It was indicated that the conduct gave rise to no lasting harm. No clients were impacted, nor was Mr. Randhawa's practice directly affected. While the conduct reflects on Mr. Randhawa's reputation, his files, transactions and trust accounts were not affected in any respect.
32. In this regard, it was submitted that the primary purpose of sanctioning is to ensure that the public is protected and the standing of the profession is upheld generally. The Hearing Committee was told that sanctioning is not intended to punish the offender or to exact retribution. In consequence, both parties agree that a reprimand is the appropriate sanction.
33. Counsel asked the Hearing Committee to have regard for the fact that the incidents were brought on because of personal animosity between two individuals. Even the two incidents involving K.G. did not come to the LSA's attention because of K.G.. Rather, the complaints were made by Mr. Hayer. Finally, counsel pointed out that Mr. Randhawa does have a discipline record (Exhibit 8). The history recounted in that record, while not insignificant, is different in kind and nature than the conduct that is the subject of these proceedings.
34. All of the citations for which the member was convicted arise in the context of a personal conflict with another individual. As LSA counsel has pointed out, there was no lasting harm or impact upon clients and no issue of integrity in these matters. Further, it was a series of incidents regarding civility and self-control, or perhaps the lack thereof. The Committee concludes that a reprimand is an appropriate way to achieve the principles of sanctioning described above.
35. Having regard to the joint submission, the Hearing Committee finds that a reprimand is the appropriate sanction. The Hearing Committee ordered that Mr. Randhawa be reprimanded and pay the actual costs of the hearing.

G. The Reprimand

36. The Chair delivered the following reprimand:

It is unfortunate that the process of the Law Society has been brought to bear. Ms. Umar and I don't know what your personal differences are with Mr. Hayer. Apparently there were some past insults that were possibly culturally based. There was some discussion about jealousies that may have created ill will. These things were mentioned, but we heard no real evidence. Whatever the reason, we reject as any sort of excuse or explanation such things as jealousy or past insults which cannot justify the behavior in question.

The fact is that Mr. Randhawa and Mr. Hayer are both mature adults and are both members of the profession. And surely there is another way to resolve your personal differences other than public displays of aggression.

There is some suggestion that Mr. Hayer is equally to blame. It does take two to make a fight, but we can't deal with Mr. Hayer today. Maybe when eventually a decision is written about this case and it's posted on the website, Mr. Hayer will take time to read the decision.

Adults within a civilized society do not resort to fighting or abusive language to make their point. Moreover as a Member of the legal profession, you're looked upon to set an example, not just of honesty and integrity and competence but also professionalism. We are supposed to be facilitators and consensus builders. We are not ruffians scrapping in a parking lot and calling each other down in public. No doubt, you are well-known and respected in the community you serve, but you have put a blot on your own reputation and that of our entire profession through your conduct in these incidents, which I should say for the most part were witnessed by members of the public or other members of our profession.

You have been a Member of the Bar of two countries, and you no doubt appreciate that all over the civilized world, ours is a profession of high standards and expectations. Your daughter has chosen to follow in your footsteps as a lawyer, and you are right to be proud of her; but I pose to you, I suppose, rhetorically, what kind of an example have you set for her and how is she to learn from you as a role model?

It is our hope that in your future dealings with Mr. Hayer or anyone, your conduct will be governed by civility and the high expectations that society and our community have placed on us.

H. Concluding Matters

37. Mr. Randhawa requested and was granted time to pay the actual costs of the hearing, once ascertained. He is granted three months from the date of being served with the final Statement of Costs.
38. Publication of a notice to the profession is not required in this case.
39. The Exhibits and this Report will be available for public inspection, including the provision of copies of exhibits for a reasonable copy fee, except that identifying information about persons other than Mr. Randhawa and Mr. Hayer will be redacted.

Dated this 13th day of November, 2014.

Douglas R. Mah, QC – Committee Chair

Amal Umar – Committee Member

Appendix: Agreed Statement of Facts and Admission of Guilt

IN THE MATTER OF THE LEGAL PROFESSION ACT
AND
IN THE MATTER OF A HEARING REGARDING THE CONDUCT
OF SURINDER RANDHAWA
A MEMBER OF THE LAW SOCIETY OF ALBERTA

STATEMENT OF FACTS AND ADMISSION OF GUILT

INTRODUCTION

1. Surinder Randhawa was admitted to the Law Society of Alberta (The “Law Society”) on March 20, 1989.
2. Mr. Randhawa actively practiced in the Province of Alberta from 1989 until he was suspended by disciplinary hearing penalty from July 26, 1996 for a period of two years. He was reinstated on January 9, 2002. Mr. Randhawa then actively practiced until he was suspended by disciplinary hearing penalty from October 1, 2005 for a period of 30 days. He was reinstated on November 4, 2005 and actively practiced until 2014.
3. On May 9, 2014, Mr. Randhawa was suspended by a Hearing Committee by way of an interim suspension. He has not practiced law since that date.
4. Mr. Randhawa’s practice of law is that of a general practitioner.
5. The Law Society of Alberta received complaints (collectively the “Complaints”) regarding Mr. Randhawa’s conduct in connection with his personal interactions.
6. On February 28, 2012, the Conduct Committee considered conduct which had been brought to the Law Society’s attention by Dalwinder Hayer (“Hayer”) and referred the following conduct arising from Mr. Randhawa’s interaction with him to hearing:
 1. It is alleged that he conducted himself in such a manner as to bring discredit to the profession in his interaction with a Complainant, and that such conduct is conduct deserving of sanction.
 2. It is alleged that he misled or attempted to mislead the Law Society of Alberta, and that such conduct is conduct deserving of sanction.
7. On February 28, 2012, the Conduct Committee considered conduct which had been brought to the Law Society’s attention by Hayer and referred the following conduct arising from Mr. Randhawa’s interaction with him to hearing:
 1. He conducted himself in such a manner as to bring discredit to the profession in threatening another person, namely K.G., and that such conduct is conduct deserving of sanction.

2. He conducted himself in such a manner as to bring discredit to the profession in his interaction with Hayer, and that such conduct is conduct deserving of sanction.
 3. It is alleged that he misled or attempted to mislead the Law Society of Alberta, and that such conduct is conduct deserving of sanction.
8. Mr. Randhawa's conduct with respect to citations 1 through 3 is the subject of a disciplinary proceeding (the "Hearing"). The Hearing was adjourned by the Hearing Committee on November 5, 2013.

BACKGROUND FACTS

9. Mr. Randhawa is a sole practitioner, employing one staff member, a paralegal.
10. Mr. Randhawa owns office space at a plaza.
11. Dalwinder Hayer is a member of the Law Society of Alberta. He is an owner of office space in the same plaza.
12. Hayer and Mr. Randhawa have known each other for approximately 27 years and have conducted business transactions with each other from time to time.
13. K.G. was a tenant of Hayer at the time in question.

FACTS

14. On April 15, 2011, Mr. Randhawa approached Hayer in the parking area of the plaza. There was a verbal confrontation, followed shortly after by a physical altercation.
15. Video surveillance of the area accurately depicts a portion of the event.
16. Mr. Randhawa, when responding to the Law Society with respect to Hayer's complaint, gave a detailed response which contradicted the Complainant's version of events, and contradicted the surveillance record of the event. Mr. Randhawa's version was provided to him by J.A., a witness who observed the verbal confrontation and the start of the physical altercation.
17. The City police were called at the time of the incident and Policemen attended at the plaza. Hayer was interviewed in person by the Police. Mr. Randhawa was interviewed by telephone. Mr. Randhawa was told by the police that if either of Mr. Randhawa or Hayer lodged a complaint with the Police then both men would be charged with assault. Neither was charged.
18. Mr. Randhawa suffered some injuries in the physical altercation. His eyeglasses were broken in the altercation.
19. In and around May of 2010, Mr. Randhawa is alleged by Hayer to have used abusive and obscene language describing Hayer to third parties. Hayer alleges that Mr. Randhawa had a verbal confrontation with Hayer. Mr. Randhawa acknowledges that there was a conversation between himself and Hayer which may have been perceived to be rude.

20. On May 22, 2010, Mr. Randhawa went to Hayer's office premises and was perceived by K.G. to have a rock in hand. K.G. felt threatened by it.
21. On May 29, 2010, Mr. Randhawa went to Hayer's office premises with an axe in hand and was perceived by K.G. to have threatened K.G.
22. K.G. did not file a complaint with The Law Society. Hayer filed a complaint on behalf of K.G.

I agree that if the descriptions set out above are proven by The Law Society, then I could be said to have brought discredit to the legal profession and that such conduct is deserving of sanction.

This Agreed Statement is dated the 24th day of September, 2014.

Witness

Surinder Randhawa