



The Law Society of Saskatchewan

MARILYN ADSIT

HEARING DATE: June 20, 2016

DECISION DATE: June 29, 2016

Law Society of Saskatchewan v. Adsit, 2016 SKLSS 7

**IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990*
AND IN THE MATTER OF MARILYN ADSIT,
A LAWYER OF NORTH BATTLEFORD, SASKATCHEWAN**

**DECISION OF THE HEARING COMMITTEE FOR THE
LAW SOCIETY OF SASKATCHEWAN**

1. The Hearing in this matter proceeded on June 20, 2016, by conference call with Hearing Committee members Judy McCuskee, Tim McLeod, and Perry Erhardt, Q.C. (Chair) present on the call. At the Hearing, Marilyn Adsit, the member, was represented by Merrilee Rasmussen, Q.C., and Timothy Huber represented the Law Society of Saskatchewan (LSS).
2. The Hearing was convened to consider a Formal Complaint set out by the Conduct Investigation Committee of the LSS against Ms. Adsit, which comprised of three separate counts. The LSS complaint alleged that Ms. Adsit is guilty of conduct unbecoming a lawyer in that she: (a) did attempt to imitate the signature of C.S., a fellow Member of the Law Society of Saskatchewan, as a witness and Commissioner of Oaths on an Affidavit prepared and signed by Marilyn Adsit in the context of her own family law matter; (b) did fail to discharge her responsibilities to the Court with honour and integrity by filing with the Court of Queen's Bench Family Law Division in Saskatoon, an Affidavit that had been improperly commissioned; and (c) did knowingly attempt to deceive the Law Society of Saskatchewan in her responses to inquiries pertaining to the complaint of K.V.
3. At the outset of the Hearing, both Ms. Rasmussen, Q.C. and Mr. Huber indicated that there were neither any objections to the composition of the Hearing Committee nor preliminary motions to be presented. The Hearing proceeded and Mr. Huber filed two documents, which were accepted by the Hearing Committee: namely, Notice of Hearing with proof of service - Exhibit P-1; Agreed Statement of Facts and Admissions – Exhibit P-2.

4. Ms. Adsit entered guilty pleas to each of the three counts set out in the Formal Complaint.

5. The Hearing Committee then entertained submissions on penalty from each of Mr. Huber and Ms. Rasmussen, Q.C.

6. Mr. Huber directed the Hearing Committee's attention to prior discipline decisions where a lawyer in Saskatchewan engaged in similar conduct to that carried out by the member and was suspended from practising for a period of 1 month (*Law Society of Saskatchewan v. Ferraton*, 2014 SKLSS 2), and where a lawyer in Ontario forged client signatures on affidavits filed in family law proceedings and received a 2 month suspension (*Law Society of Upper Canada v. Kimberley* [2009] L.S.D.D. No.10).

7. Ms. Rasmussen, Q.C. took no exception to Mr. Huber's submission and the summary of key facts as set out in the Agreed Statement of Facts and Admissions.

8. Both Mr. Huber and Ms. Rasmussen noted that the member obtained no personal gain by her actions and that no client was directly harmed. Both agreed and submitted that an appropriate penalty in the circumstances would be suspension of the member for a period of 1 month in respect of the first and second counts, a suspension of the member for a further period of 1 month in respect of the third count, and order of fixed costs against her.

9. Following submissions, the Hearing Committee reserved its decision in this matter.

10. The Agreed Statement of Facts and Admissions (a copy of which is attached to this decision) outlines the member's offending conduct, which arose in the context of her own family law proceedings and resulted in a false document being submitted to the Court. It seems trite, but important in every instance, to say that our courts and our system of justice rely on the veracity of documents prepared and submitted by members. It is inimical to the public interest when a member disregards such fundamental obligations and responsibilities entrusted to them.

11. The Hearing Committee notes that the improper conduct concerned the completion of the jurat of an affidavit, and counsel for the member advised that the evidence in the then unsworn affidavit before the court was not misleading. As such, neither the Court nor the public were misled by the evidence proper. While this can be considered as a mitigating factor toward punishment, it does not diminish the impact of the offending conduct.

12. Furthermore, for the member to aggravate the situation once confronted with the infraction by Law Society staff is especially troubling and is deserving of its own additional sanction. A profession that is invested with the authority to govern itself must demonstrate that its members conduct themselves to the highest standards. Misleading

the regulator is a hallmark of ungovernability and the member must accept that another occasion of similar conduct is likely to have much more dire consequences.

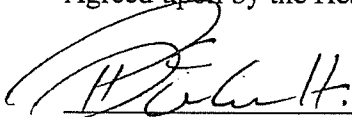
13. The Hearing Committee agrees that it has a duty to consider and accept a jointly recommended submission on sentencing unless it falls outside of the range of available sentencing options. The Hearing Committee notes *Law Society of Saskatchewan v. Wilson*, 2011 SKLSS 8, which cites and follows *Rault v. Law Society of Saskatchewan*, 2009 SKCA 81, in this regard.

14. The member does not have any prior findings of conduct unbecoming a lawyer on her record with the Law Society of Saskatchewan.

15. The Hearing Committee accepts Ms. Adsit's guilty pleas. It finds that her conduct was improper in the circumstances and an appropriate penalty must be assessed particularly as a matter of specific and general deterrence. In this matter, the Hearing Committee accepts the joint submission of Mr. Huber and Ms. Rasmussen, Q.C. and hereby orders that:

- a) Ms. Adsit be suspended for a period of 2 consecutive months commencing August 1, 2016; and
- b) Ms. Adsit pay costs in the amount of \$1,500.00 on or before April 1, 2017.

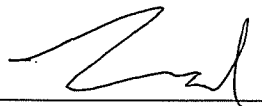
Agreed upon by the Hearing Committee this 29th day of June, 2016.



 Perry D. Erhardt, Q.C., Chair



 Judy McCuskee



 Tim McLeod

STATEMENT OF FACTS AND ADMISSIONS
OF MARILYN ADSIT

In relation to the Formal Complaint dated November 24, 2014, alleging the following:

THAT MARILYN ADSIT, of the City of North Battleford, in the Province of Saskatchewan is guilty of conduct unbecoming a lawyer in that she:

1. **did attempt to imitate the signature of C.S., a fellow Member of the Law Society of Saskatchewan, as witness and Commissioner of Oaths on an Affidavit prepared and signed by Marilyn Adsit in the context of her own family law matter;**
2. **did fail to discharge her responsibilities to the Court with honour and integrity by filing with the Court of Queen's Bench Family Law Division in Saskatoon, an Affidavit that had been improperly commissioned; and**
3. **did knowingly attempt to deceive the Law Society of Saskatchewan in her responses to inquiries pertaining to the complaint of K.V.**

JURISDICTION

16. Marilyn Adsit (hereinafter the "Member") is, and was at all times material to this proceeding, a practicing Member of the Law Society of Saskatchewan (hereinafter the "Law Society"), and accordingly is subject to the provisions of *The Legal Profession Act*, 1990 (hereinafter the "Act") as well as the *Rules of the Law Society of Saskatchewan* (the "Rules"). Attached at **Tab 1** is a Certificate of the Executive Director of the Law Society of Saskatchewan pursuant to section 83 of the Act confirming the Member's practicing status.

17. The Member is currently the subject of a Formal Complaint initiated by the Law Society dated November 24, 2014. The Formal Complaint is comprised of the three allegations noted above. The Formal Complaint was served upon the Member on November 27, 2014. Attached at **Tab 2** is a copy of the original Formal Complaint along with proof of service.

BACKGROUND OF COMPLAINT

18. The Law Society first became involved in this matter when a complaint was received from K.V., the Member's former spouse. The complaint from K.V. came in the context of a contemporaneous family law chambers proceeding between K.V. and the Member.

Allegations #1 and #2

19. K.V.'s complaint centers around an Affidavit dated September 18, 2014 [**Tab 3**] that the Member had provided him in relation to the chambers motion set for September 19, 2014. The Member filed that same Affidavit via fax with the Family Law Division of the Court of Queen's Bench in Saskatoon on the morning of September 19, 2014. The Court declined to read the Affidavit because it had been provided late. The matter was adjourned to September 24, 2014.

20. K.V.'s review of the Affidavit caused him to question the validity of the document, specifically the manner in which the document was commissioned by one C.S. K.V. noticed that the signatures of C.S. differed from one instance to the next (the Affidavit included several commissioned exhibits). K.V. was of the view that the

signatures of C.S. resembled the signature of the Member. K.V. contacted C.S. and asked C.S. if she had commissioned an Affidavit for the Member on September 18, 2014. C.S. advised K.V. that she had not commissioned any documents for the Member on September 18, 2014 and that she was not even in North Battleford on September 18, 2014.

21. The Law Society of Saskatchewan contacted C.S. on September 22, 2014 to confirm K.V.'s information. C.S. confirmed that she was not in North Battleford on September 18, 2014 and had not commissioned the Affidavit signed by the Member and had, in fact, not commissioned any documents for anyone between September 17, 2014 and September 21, 2014. C.S. indicated that she knew the Member but had not seen her in person for many months, perhaps up to a year. C.S. was asked to review the Affidavit signed by the Member and specifically the Commissioner for Oaths signatures that were purported to be her signatures. C.S. confirmed that none of the Commissioner for Oaths signatures for "C.S." on the Member's Affidavit were hers. C.S. noted differences in the way she signed her first name. C.S. provided writing samples to the Law Society demonstrating how she would typically commission a document [Tab 4] to illustrate the differences. C.S. also provided several other examples of her signature [Tab 5].

22. The Member imitated the signatures of C.S. as Commissioner for Oaths on her Affidavit of September 18, 2014.

23. Prior to the September 24, 2014 adjourn date, the Member had her Affidavit properly recommissioned. She filed the properly recommissioned Affidavit with the court during the September 24, 2014 appearance.

Allegation #3

24. After Complaints Counsel for the Law Society, Donna Sigmeth, Q.C. received the relevant information from C.S., she contacted the Member via phone on September 23, 2014 and confronted her in relation to the Affidavit dated September 18, 2014. Ms. Sigmeth asked the Member if she recently filed with the court in the context of her family matter an Affidavit commissioned by C.S. The Member confirmed that she had. Ms. Sigmeth asked the Member if she had copied the signatures of C.S. on her Affidavit dated September 18, 2014. The Member stated that she had not. The Member proceeded to mislead Ms. Sigmeth in relation to the circumstances surrounding the commissioning of the September 18, 2014 Affidavit including the location of where the Affidavit was commissioned, that she was charged \$40.00 for the service by a non-lawyer who was also named C.S. and that she had to prepare a new Affidavit (the one filed in court on September 24, 2014) because C.S. was not a lawyer. None of what the Member told Ms. Sigmeth about the Affidavit dated September 18, 2014 was true.

25. The Member knowingly misled Ms. Sigmeth in relation to the signature of C.S.

PRIOR RECORD

26. The Member has no prior findings of conduct unbecoming.