

2024 LSBC 09
Hearing File No.: HE20220038
Decision Issued: February 23, 2024
Citation Issued: December 13, 2022

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL
HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

LEONARD HIL MARIOTT

RESPONDENT

**DECISION OF THE MOTIONS ADJUDICATOR
ON AN APPLICATION FOR ADJOURNMENT**

| | |
|------------------------------|-------------------------|
| Written materials: | February 22, 2024 |
| Motions Adjudicator: | Kimberly Henders Miller |
| Discipline Counsel: | Ilana Teicher |
| Appearing on his own behalf: | Leonard H. Mariott |

[1] This is a joint application pursuant to Rule 5-5.2 for the adjournment of a facts and determination hearing (the “Hearing”) of a citation issued against the Respondent. The Hearing is currently scheduled for March 5 to 7, 2024, which is in less than two weeks from the date of application. The parties have proceeded in writing on this application. There have been no previous adjournments of the Hearing and the scheduled dates were not preemptory.

[2] Over the course of the proceedings, the Respondent has twice retained counsel. Both times, that counsel has removed themselves as counsel of record, one quite recently. The Respondent is currently taking steps to retain new counsel and expects to do so shortly. He wishes to review his Notice to Admit with his new counsel prior to providing it to the Law Society. The Respondent's Response to the Law Society's Notice to Admit was received by Law Society counsel after the current hearing dates were scheduled. It is now apparent that there are a number of disputed issues, and that the Respondent is pursuing or intends to pursue requests, motions and applications that are likely to add complexity to the matter.

[3] The Law Society has determined that two of its witnesses are not available on the currently scheduled hearing dates. In addition, in contacting witnesses, it was discovered that a witness may be in possession of further relevant evidence.

[4] The parties are in agreement that the Hearing will take five days, and not the three currently scheduled. Both parties have indicated that they are available for dates in June of this year, subject to the availability of new counsel for the Respondent.

[5] The granting of an adjournment is a discretionary matter. The interests that are being balanced are the need to safeguard rights to procedural fairness versus the public protection goal of holding timely and efficient hearings. *Law Society of BC v. Welder*, 2014 LSBC 53, and *Law Society of BC v. Hart*, 2019 LSBC 39, set out the test for granting an adjournment with reference to a number of factors that may be considered.

[6] Both parties have acted in good faith. However, in the circumstances of this case, neither party is prepared to proceed. The Respondent needs to complete a retainer with new counsel and that new counsel needs to review the file. There is potential evidence still being obtained by both parties. The currently scheduled time is insufficient.

[7] I agree with the parties' position that an adjournment of this matter is necessary and appropriate.

[8] I make the following orders:

- (a) that the Hearing currently scheduled for March 5 to 7, 2024 be adjourned to a new date to be set;
- (b) that the Hearing be scheduled to start no later than June 24, 2024, subject to the availability of the hearing panel and the availability of the Respondent's new counsel;
- (c) that the Respondent provide to the Law Society his Notice to Admit by no later than March 15, 2024; and

- (d) that a Pre-hearing Conference be set no later than March 21, 2024 to confirm compliance with the orders set out in this decision.