2024 LSBC 15
Hearing File No.: HE20220023
Decision Issued: March 18, 2024
Citation Issued: June 6, 2022

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL

HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

BRETT ROBERT VINING

RESPONDENT

DECISION OF THE HEARING PANEL ON FACTS AND DETERMINATION

Hearing dates:	October 30, 31, November 1 and December 19, 2023
Panel:	Jennifer Chow, KC, Chair Thelma Siglos, Public representative Maia Tsurumi, Lawyer
Discipline Counsel:	Gagan Mann
Counsel for the Respondent:	George E. Beaubier

INTRODUCTION

[1] The Law Society issued a citation (the "Citation") against the Respondent on June 6, 2022. It seeks a finding of professional misconduct for discourteous, uncivil, offensive or demeaning statements made to an opposing party ("CK") contrary to the *Code of Professional Conduct of British Columbia* (the "*Code*") rules 2.2-1, 5.1-5, 7.2-1 and/or 7.2-4 and for harassment of CK contrary to rule 6.3-4 (now 6.3-2). The allegations relate to the Respondent's actions during his examination for discovery of CK in a family law matter.

[2] The Respondent represents CK's former spouse, PS. He denies he breached the *Code*. He says his examination of CK was consistent with standards of practice of family lawyers in British Columbia.

CITATION

[3] The allegations against the Respondent are as follows:

> 1. On or about September 16, 2020, during and after an examination for discovery you conducted of a female opposing party, CK, in a family law matter, you did one or both of the following:
>
> (a) made statements which were discourteous, uncivil, offensive, or demeaning, contrary to one or more of rules 2.2-1, 5.1-5, 7.2-1 and 7.2-4 of the *Code of Professional Conduct of British Columbia* (the "*Code*"); and
>
> (b) engaged in harassment by your inappropriate conduct or comments towards CK, that you knew or ought to have known were unwanted, and could have the effect of violating CK's dignity, contrary to rule 6.3-4 of the *Code*.
>
> This conduct constitutes professional misconduct, pursuant to section 38(4) of the *Legal Profession Act*.

ISSUE

[4] The Panel must determine whether the Respondent's behaviour at the examination for discovery was contrary to the *Code* provisions and whether it amounted to professional misconduct.

PRELIMINARY MATTERS

Preliminary orders

[5] On January 19, 2023, the parties consented to an order for counsel other than the Respondent to cross-examine CK. The order was made under Practice Direction 5.6 of the Law Society's Directions on Practice and Procedure. At the time the order was made, the Respondent was unrepresented. At the hearing, the Respondent's counsel conducted CK's cross-examination.

[6] Prior to the hearing, the Respondent told the Law Society he would call Trudi Brown, KC, as an expert witness at the hearing and rely on her affidavit made April 25, 2023. The Law Society objected.

[7] On July 28, 2023, the Respondent served the Law Society with an expert report from Ms. Brown dated May 23, 2023 ("Expert Report"). The Law Society objected to its admission.

[8] The Respondent brought an application for admission of Ms. Brown's affidavit and the Expert Report. On October 25, 2023, after reviewing the written submissions and materials submitted by the parties, the Panel made the following pre-hearing orders, with reasons to follow:

(a) the affidavit was inadmissible; and

(b) the expert report was admissible.

[9] Ms. Brown's affidavit was inadmissible because it was not based on personal knowledge of any facts involved in the Citation. Her affidavit was opinion evidence, which relied on statements made by the Respondent about the examination for discovery or on transcripts of the examination for discovery: see e.g. *L.M.U. v. R.L.U.*, 2004 BCSC 95 at paras. 40 to 41. The affidavit had conclusions on the very issues the Panel was required to determine. Also, Ms. Brown's opinions amounted to argument made on behalf of the Respondent: *Yewdale v. Insurance Corporation of British Columbia*, [1995] BCJ No 76 (BCSC) at para. 4.

[10] The Expert Report consisted of two-pages and responded to the question about whether the Respondent asking CK if she had been sexually abused as a child was relevant and appropriate in a family law examination for discovery.

[11] The case of *White Burgess Langille Inman v. Abbott and Haliburton Co.,* 2015 SCC 23, at para. 10, establishes threshold requirements for the admissibility of expert evidence. Expert opinion evidence must be: (a) logically relevant to a material issue and

necessary to assist the trier of fact; (b) not inadmissible under any other exclusionary rule; and (c) offered by a properly qualified expert. It must also be fair, objective and non-partisan.

[12] As none of the Panel members are practicing family law lawyers, we determined the Expert Report would be helpful. She spoke to the practice standards of family law lawyers in contested family law proceedings, which is logically relevant to whether the Respondent committed professional misconduct in asking his question. Ms. Brown has extensive experience in family law matters.

[13] At the outset of the hearing, the Law Society requested four orders:

(a) anonymization of CK's name in the panel's decision;

(b) permission for CK's support person to attend the hearing during CK's testimony;

(c) exclusion of any of the Respondent's witnesses from the hearing until they gave evidence;

(d) exclusion of two of the Respondent's witnesses, ("Psychologists"), and the letters prepared by them; and

(e) exclusion of documents forming part of the Respondent's client file in the family law proceeding.

[14] The Respondent consented to the first three orders and we granted them.

[15] We declined to make the other two orders excluding the evidence of the Respondent's witnesses and his client file.

[16] The Law Society said documents from the Respondent's file, including audio files, predating the conduct at issue were confidential and irrelevant to the issue of professional misconduct. Similarly, documents generated in the family law proceeding (e.g. an affidavit, court orders, correspondence, and a section 211 report) postdated the conduct by one and a half to two years, were confidential and irrelevant. Under section 211 of the *Family Law Act*, SBC 2011, c. 25, a court may order an assessment of the needs and views of a child in relation to custody and access and the ability and willingness of a party to satisfy the needs of a child. These reports are done by psychologists and colloquially called "section 211 reports."

[17] The Respondent explained he wanted to enter text messages and emails between CK and PS, as evidence of why he was canvassing parental alienation with CK at the

examination for discovery. He also considered the section 211 report relevant, because although it post-dated the alleged misconduct, it relates to parental alienation.

[18] Regarding the Law Society's application to exclude the Psychologists from the hearing and exclude their letters as evidence in the hearing, the Law Society said any potential evidence from the Psychologists was irrelevant to the issue before the Panel about the Respondent's alleged professional misconduct. The Psychologists were not being put forward as expert witnesses and they had no personal knowledge of events.

[19] The Respondent said the evidence (testimony and letters) from the Psychologists would be relevant to whether it was appropriate for the Respondent to ask CK if she was sexually abused as a child.

[20] We ruled that any documents to which a party objected at the time the other party tried to admit them into evidence, would be dealt with on a case-by-case basis during the hearing. The party tendering the evidence would have to satisfy the Panel there was a foundation for it. The same applied to the two Psychologists the Respondent wanted to call as witnesses.

[21] During the hearing, Respondent's counsel tried to put a passage from a section 211 report generated for the family law proceedings (the "211 Report") to CK. The Panel did not allow it. The opinion in the 211 Report was irrelevant to the proceedings and there was no need for CK to provide an opinion about someone else's opinion.

[22] Later at the hearing, Respondent's counsel attempted to enter a letter from one of the Psychologists into evidence through the Respondent, on the basis it was relevant to whether the Respondent's questions at the examination for discovery were professional misconduct. The Panel determined the letter was irrelevant and thus inadmissible. The same applied to any similar letter from the same or the other Psychologist.

[23] The affidavit sworn by PS two and a half years after the discovery ("PS' Affidavit") was not admitted into evidence. However, the exhibit to PS' Affidavit, that the Respondent wanted to rely on, was already in evidence through the Redacted Notice to Admit. A phone bill related to the exhibit to PS' Affidavit was not admitted as there was no dispute about whether a phone call was made.

[24] Finally, the Law Society objected to the Respondent's attempt to call a psychologist (Dr. M) as a witness. The Law Society said the evidence was not relevant and was an ancillary attack on CK's credibility. The Respondent said the evidence went to CK's credibility, as during her testimony she said Dr. M was critical of the Respondent.

[25] The Panel allowed Dr. M to testify only about what he said, or did not say, to CK about the Respondent.

Alleged vagueness of the citation

[26] The Respondent submits the Citation should be dismissed because it does not properly identify the conduct allegedly breaching rules 2.2-1, 5.1-5, 6.3-4, 7.2-1 and/or 7.2-4 of the *Code*.

[27] There is no merit to this submission. The Respondent cites no authority for his position that a citation is no different from a criminal information or indictment or a notice of civil claim. The Citation identifies the *Code* rules under consideration. The Respondent had ample opportunity to know the alleged facts underlying the allegation that the Respondent's conduct was contrary to the *Code* and amounted to professional misconduct. The parties agree the Redacted Notice to Admit was served on the Respondent on December 13, 2022. It reviews these facts, as does the Law Society's opening submissions. Further, the evidence led by the Respondent, including lay and expert witnesses, at the hearing indicates he knew the facts in issue. We also note there was more than a month after the first three days of the hearing and the final day when closing submissions were made. The Respondent had a fair opportunity to understand the case against him and prepare his submissions.

BACKGROUND

[28] The Respondent was called to the bar of British Columbia on May 14, 1976. He exclusively practices family law and has done so for about 48 years. His practice is balanced about evenly between female and male clients.

LAW

Onus of proof and test for professional misconduct

[29] The Law Society bears the onus of proving, on a balance of probabilities, the facts alleged in the Citation: see *Foo v. Law Society of BC*, 2017 BCCA 151, at para. 63. The Panel must determine, based on the proven facts, whether the Respondent has committed professional misconduct.

Applicable *Code* rules

[30] The Citation alleges the Respondent breached *Code* rules 2.2-1, 5.1-5, 6.3-4, 7.2-1 and/or 7.2-4 during his examination of CK and in a brief meeting after the examination concluded.

[31] Rules 2.2-1, 5.1-5, 7.2-1 and 7.2-4 all relate to a lawyer's responsibilities of courtesy, civility, good faith and integrity:

> 2.2-1 A lawyer has a duty to carry on the practice of law and discharge all responsibilities to clients, tribunals, the public and other members of the profession honourably and with integrity.
>
> 5.1-5 A lawyer must be courteous and civil and act in good faith to the tribunal and all persons with whom the lawyer has dealings.
>
> 7.2-1 A lawyer must be courteous and civil and act in good faith with all persons with whom the lawyer has dealings in the course of his or her practice.
>
> 7.2-4 A lawyer must not, in the course of a professional practice, send correspondence or otherwise communicate to a client, another lawyer or any other person in a manner that is abusive, offensive, or otherwise inconsistent with the proper tone of a professional communication from a lawyer.

[32] Rule 2.2-1 objectively considers the way a lawyer interacts with clients, tribunals, the public and other members of the profession, stating lawyers must do so honourably and with integrity: *McLeod v Law Society of British Columbia*, 2022 BCCA 280 at para 62. Generally, integrity deals with soundness of moral principle and character; to act honourably is to act in a way that is honest, fair and deserving of respect: *McLeod*, at para 62.

[33] Commentaries 1 to 3 to rule 2.2-1 say:

> [1] Integrity is the fundamental quality of any person who seeks to practise as a member of the legal profession. If clients have any doubt about their lawyer's trustworthiness, the essential element in the true lawyer-client relationship will be missing. If integrity is lacking, the lawyer's usefulness to the client and reputation within the profession will be destroyed, regardless of how competent the lawyer may be.
>
> [2] Public confidence in the administration of justice and in the legal profession may be eroded by a lawyer's irresponsible conduct. Accordingly, a lawyer's conduct should reflect favourably on the legal profession, inspire the confidence,

> respect and trust of clients and of the community, and avoid even the appearance of impropriety.
>
> [3] Dishonourable or questionable conduct on the part of a lawyer in either private life or professional practice will reflect adversely upon the integrity of the profession and the administration of justice. Whether within or outside the professional sphere, if the conduct is such that knowledge of it would be likely to impair a client's trust in the lawyer, the Society may be justified in taking disciplinary action.

[34] Integrity is fundamental to the proper performance of legal services: *Law Society of BC v. Power*, 2009 LSBC 23 at para. 61.

[35] Rules 5.1-5 and 7.2-1 require courtesy, civility and good faith with all persons with whom a lawyer has dealings.

[36] The relevant commentary for rule 7.2-1 is as follows:

> [2] Any ill feeling that may exist or be engendered between clients, particularly during litigation, should never be allowed to influence lawyers in their conduct and demeanour toward each other or the parties. The presence of personal animosity between lawyers involved in a matter may cause their judgment to be clouded by emotional factors and hinder the proper resolution of the matter. Personal remarks or personally abusive tactics interfere with the orderly administration of justice and have no place in our legal system.

[37] Rule 7.2-4 of the *Code* prohibits abusive and offensive communications and those that are otherwise inconsistent with the proper tone of a professional communication from a lawyer.

[38] Rule 6.3-4 applied at the time of the alleged misconduct at issue in this hearing. The rule prohibits harassment of any person. There is no commentary specific to that rule. The Law Society says we can rely on the commentary added to the *Code* in 2023. The Respondent says we are bound by any definition of rule 6.3-4 in place at the time of the alleged misconduct.

[39] We must apply the rules in place when the alleged misconduct occurred. Prior to 2023, principles of human rights laws and related case law applied when interpreting the rules in section 6.3: rule 6.3-1. Also, terms used in section 6.3 and defined in human rights legislation had the same meaning as in the human rights legislation: rule 6.3-2. Thus, we apply the meaning of "harassment" under human rights law when determining if the Respondent breached rule 6.3-4.

[40] Harassment is a pattern of unwelcome physical and/or verbal conduct, which, whether intentionally or not, demeans an employee and creates a "poisoned" work environment or other adverse consequences for the employee: see e.g. *Janzen* v. *Platy Enterprises Ltd.*, [1989] 1 SCR 1252. For example, in *Janzen* with respect to Ms. Janzen, the employer engaged in unwelcome conduct of a sexual nature for a time followed by a pattern of non-sexual unwelcome conduct, such as unjustified criticisms of the employee's work, a refusal to cooperate with the work and generally treating her in an unpleasant manner.

Assessing professional misconduct

Professional misconduct

[41] There is no statutory definition of professional misconduct. However, Tribunal decisions have held that the test for professional misconduct is whether the conduct is a marked departure from conduct expected of lawyers: *Law Society of BC v. Martin*, 2005 LSBC 16, at para. 171; see also e.g. *Law Society of BC v. Edwards*, 2020 LSBC 21, at paras. 44-46.

[42] *Martin* is an objective test accepted by many Tribunal panels and affirmed by a review panel in *Re: Lawyer 12*, 2011 LSBC 35.

[43] Determining whether a lawyer's behaviour warrants a finding of professional misconduct is context specific. Hearing panels must consider all of the circumstances surrounding the misconduct. This may include an assessment of the gravity of the misconduct, its duration, the number of breaches, the presence or absence of *mala fides* and the harm caused by the respondent's conduct.

Incivility and professional misconduct

[44] The Supreme Court in *Groia v. Law Society of Upper Canada*, 2018 SCC 27, considered whether incivility in the courtroom constituted professional misconduct. In *Groia* a lawyer made allegations of prosecutorial misconduct that impugned opposing counsel's integrity. The court held that incivility in the courtroom can be professional misconduct if good faith or a reasonable basis is lacking, because "[t]he consequences for the opposing lawyer's reputation are simply too severe to require anything less than a reasonable basis …": *Groia*, at para. 86.

[45] *Groia* recognizes the importance of civility to the legal profession and the corresponding need to target behaviour that detrimentally affects the administration of justice and the fairness of a particular proceeding: *Groia*, at paras. 62 to 69. But decision

makers must also be sensitive to the lawyer's duty of resolute advocacy - a duty of particular importance in the criminal context because of the client's constitutional right to make full answer and defence: *Groia*, at paras. 62, 70 to 76.

[46] *Groia* is, however, somewhat distinguishable from the matter before us, as it addresses incivility in the courtroom between lawyers. Mr. Groia believed the prosecutor had not properly met disclosure obligations and so he made repeated attacks on the professionalism of the prosecutor, alleging impropriety. He was frequently sarcastic and insulting in his attacks.

[47] The Panel agrees with the Law Society that *Groia* is not directly applicable here, except for its general statements about the importance of civility to the practice of law.

Credibility

[48] There was no contrasting testimony about what happened at the examination for discovery. The written transcripts and the oral recording of the discovery, which the Panel reviewed, establish what happened at the discovery and there is no need to make findings of witness credibility.

[49] With respect to the different witness versions about what happened at the meeting following the examination for discovery, as we explain below, we also did not have to make findings of witness credibility. Our analysis of whether the Respondent's conduct was professional misconduct did not require us to determine which version of what was said is correct, since the parties appeared to differ on the minute details of what happened, rather than what happened itself.

APPLICATION OF FACTS TO LAW

Overview

[50] The Citation alleges professional misconduct against the Respondent for alleged discourteous, uncivil, offensive or demeaning statements made to CK contrary to the *Code* rules 2.2-1, 5.1-5, 7.2-1 and/or 7.2-4 and for alleged harassment contrary to rule 6.3-4 (now 6.3-2).

[51] The allegations relate to the Respondent's actions during and after his examination for discovery of CK on September 16, 2020. The discovery was part of a high conflict family law proceeding. The Respondent represents CK's former spouse, PS.

[52] The Respondent says if we conclude his version is correct of what happened after the examination for discovery, then we must find there was no professional misconduct during the discovery and at the meeting after the discovery. As a result, much of the Respondent's submissions were focused on undermining CK's credibility.

[53] For the reasons below, we find the Respondent's conduct at the examination for discovery and at the meeting after was professional misconduct.

Alleged misconduct during the examination for discovery

[54] What was said during the examination for discovery is a matter of record. The Law Society objects to four segments of the discovery, where the Respondent asked CK if she:

(a) knew that at a previous trial the Respondent was involved in, a woman like CK who essentially had nothing good to say about her husband lost custody of her children;

(b) was unlikeable and had no friends;

(c) was a "cold bitch"; and

(d) was sexually abused as a child.

The Law Society read relevant portions of these passages from the examination for discovery to the Panel, which were included in the Redacted Notice to Admit, and played the audio recording from the discovery.

[55] At the hearing, the Law Society said the Respondent's questions: (1) were condescending and mean; (2) tried to intimidate CK; (3) made CK feel disgusted; (4) invaded CK's privacy; and (5) were irrelevant.

[56] In written submissions, the Law Society focuses on the "cold bitch" and sexual abuse questions. It says the Respondent had no reason to ask these questions, other than to intimidate and humiliate CK and in asking them, he was discourteous, uncivil, offensive and demeaning. It further says the sexual abuse question was degrading and inappropriate.

[57] The Law Society submits CK's evidence shows the Respondent's "cold bitch" and sexual abuse questions violated CK's dignity as a woman and thus harassed her.

[58] The Law Society also says the way the Respondent questioned CK throughout the examination for discovery was harassment. The cold bitch and sexual abuse questions could reasonably be expected to cause CK humiliation and offense, and further, the

Respondent abused his position of authority during the discovery and his entire pattern of conduct was mocking, belittling, insulting and embarrassing to CK. We include a summary and excerpts from the transcript of CK's examination for discovery as Appendix "A" to these reasons.

[59] The Respondent says he acted professionally in asking his questions. The discovery was in a high conflict family law proceeding and he had to ask tough, but fair, questions. He says a review of the entire examination transcript shows a difficult examination for discovery, but not one that was offside the *Code*. The transcript shows much of the discovery involved CK's background and financials and was not contentious.

[60] We agree with the Respondent we should not parse out individual parts of the discovery and consider them in isolation. Thus, our decision is based on assessment of the whole examination for discovery.

[61] For the following reasons, we find the Respondent's cumulative conduct during the examination for discovery was contrary to rules 2.2-1, 5.1-5, 7.2-1 and 7.2-4 and we then go on to find his conduct constitutes professional misconduct. In our determination, the Panel determined first, that the conduct was contrary to the *Code* provisions, and then second, that the conduct amounted to a marked departure of conduct expected of lawyers. The Panel has considered both questions, as not all failures to discharge professional duties will amount to professional misconduct. Both questions required the Panel to consider and analyze the relevant circumstances.

[62] Context is very important in deciding whether the Respondent's conduct was contrary to the *Code* and whether he committed professional misconduct. This was a high conflict family law matter. Discoveries are intrusive and adversarial, even in less contentious circumstances. Moreover, the Respondent has a duty of resolute advocacy to his client. However, this does not permit the Respondent to behave disrespectfully, discourteously, dishonourably, offensively, without integrity and or uncivilly.

[63] We find that the questions the Respondent asked during the discovery, as set out in Appendix "A", and his tone was contrary to the relevant rules of the *Code*.

[64] We find that the question to CK about a client without anything good to say about her husband who lost custody of her children was an attempt to intimidate and bully CK. We find that the Respondent was trying to threaten CK and to "set her up."

[65] CK felt the questions about her having no friends were intended to denigrate her. We find these questions irrelevant, mocking, belittling, and denigrating.

[66] We find asking CK if she was a "cold bitch" irrelevant, mocking, belittling and denigrating.

[67] In the Respondent's view, it was okay to ask CK if she was a cold bitch, especially as she admitted as much later in the discovery. CK had accused PS of saying bad things about her in the community so the Respondent thought it was fair to ask if what CK said was true.

[68] Even if CK admitted to being a "cold bitch," we see no relevance of this to the family law proceeding. It was a gratuitous and provoking question. This was not a defamation case where the truth of an insulting statement may be in issue.

[69] We find the Respondent's question about sexual abuse marginally relevant but very aggressive in tone, including his response to "HW," CK's lawyer, when HW objected.

[70] Although the Respondent could not remember if he had ever asked any other witness about sexual abuse, he says the question was necessary because he had decided CK was alienating PS from his children and this was the worst case of alienation he had ever seen. According to the Respondent, if a person has been sexually abused as a child it can lead to some very difficult behaviour in the spousal relationship like alienation. Therefore, sexual abuse can be relevant to whether alienation is occurring.

[71] Trudi L Brown appeared as a witness for the Respondent. She was qualified as an expert in family law and asked about the appropriateness of the Respondent's question about sexual abuse.

[72] Ms. Brown said the cause of alienation is not legally relevant if trying to establish alienation in court. But according to Ms. Brown, asking about sexual abuse in a discovery where alienation is in issue may have helped the Respondent represent his client. The Respondent had evidence from CK that she was seeking counselling for something that happened to her in her childhood and his client claimed CK was alienating the children. Ms. Brown's opinion is that for discovery purposes, this was grounds for asking CK about possible childhood sexual abuse. She testified that "[i]n an examination for discovery, a lawyer is trying to put all the little pieces together to prepare for a trial. Although you may never use some evidence at trial, it is very important to investigate every little bit so you can put your case together for trial."

[73] The Respondent's other reason for exploring the sexual abuse possibility was to inform his advice to PS about whether he should spend the thousands of dollars needed to order a section 211 report. In his view, to fulfill his duty to his client, he needed to find out what was going on with CK.

[74] Ms. Brown agreed section 211 reports are very expensive, so lawyers need to figure out whether there is reason to try to request one and this involves asking a lot of intrusive questions.

[75] HW has never asked a question about sexual abuse during a discovery in a family law matter and he testified that he considered the question irrelevant and inappropriate. He said counsel may want to establish alienation, but underlying causes of alienation are not relevant. He objected to the question at the discovery.

[76] We conclude from Ms. Brown's, the Respondent's and HW's evidence that a question about sexual abuse at a discovery when trying to establish alienation is unusual but, because of the broad exploratory nature of the process, may be marginally relevant.

[77] The audio recording indicates the Respondent was at times aggressive including when he was asking the sexual abuse question.

[78] The Respondent admits he raised his voice during the questions about counselling and sexual abuse but did so because HW was objecting to his questions. We find this does not excuse his aggressive conduct on such a sensitive subject. Ms. Brown said when it comes to past sexual trauma, one is supposed to ask questions in a non-aggressive way. While Ms. Brown did not perceive the Respondent as being aggressive in his question about sexual abuse, she did not listen to the audio recording.

[79] The Respondent says once CK said she had not been sexually abused, he did not pursue this line of questioning. However, we note HW had objected to the question and advised CK not to answer any more questions.

[80] In summary, the Respondent's conduct during the discovery was sometimes mocking and belittling. He also:

(a) made a comment that sounded like an attempt to intimidate CK;

(b) asked two irrelevant questions that were mocking, belittling and denigrating (questions about CK's lack of friends and whether she was a "cold bitch");

(c) was aggressive and argumentative with CK and her counsel when asking a marginally relevant question about sexual abuse, including ignoring counsel's objections for a time; and

(d) adopted an overall tone and approach that was demeaning to CK, including the way he addressed her counsel's objections.

[81] None of this conduct was required for the Respondent to resolutely represent PS's interests and fulfill his duty to his client as required by the *Code*: see e.g. rules 2.1-3(a) and 2.1-3(d).

[82] Lawyers must interact with the public honourably and with integrity: *Code*, rule 2.2-1. Integrity deals with soundness of moral principle and character; to act honourably is to act in a way that is honest, fair and deserving of respect: *McLeod*, at para. 62.

[83] The Respondent's conduct at the discovery did not show soundness of moral principle or character and was not deserving of respect. Mocking, belittling and denigrating behaviour is disrespectful and not morally sound.

[84] Rules 5.1-5 and 7.2-1 require courtesy, civility and good faith from a lawyer with all persons they deal with.

[85] Mocking, belittling and denigrating behaviour is discourteous and uncivil. Personal remarks or personally abusive tactics interfere with the orderly administration of justice and have no place in our legal system: rule 7.2-1, Commentary 2.

[86] Rule 7.2-4 prohibits abusive and offensive communications and conduct inconsistent with the proper tone of a lawyer's professional communication.

[87] The Respondent's examination was offensive and inconsistent with the proper tone of a professional communication from a lawyer.

[88] The Panel finds the Respondent's conduct during CK's examination for discovery to be a marked departure from conduct expected of lawyers. Thus, the Panel finds that the Respondent's conduct was a marked departure from the standard expected of lawyers and amounts to professional misconduct.

[89] The Respondent's misconduct was serious and occurred several times during the discovery. While there was no clear evidence of *mala fides*, the comment about the client who lost custody of her children because she had nothing good to say about her husband is disturbing as it was an attempt to intimidate and bully CK.

[90] As for the harm to CK, CK said she felt personally attacked and traumatized. We accept that is how she felt, but it is important to recognize that being examined as an opposing party in litigation is never an easy experience. It is stressful and often emotional, and in a high conflict family law matter a discovery at the best of times will often leave a witness feeling upset and attacked. Nevertheless, we conclude there was some harm to CK because of the Respondent's behaviour beyond the adverse impacts inherent in an examination.

[91] Integrity is fundamental to the proper performance of legal services: *Law Society of BC v. Power*, 2009 LSBC 23 at para. 61. A lawyer's conduct should reflect favourably on the legal profession, inspire the confidence, respect and trust of clients and of the community and avoid even the appearance of impropriety: rule 2.2-1, Commentary 2; see also rule 2.2-1, Commentary 3. The Respondent fell markedly short of this standard.

[92] Likewise, discourteous and uncivil personal remarks or personally abusive tactics interfere with the orderly administration of justice and have no place in our legal system. Incivility can be damaging to trial fairness and the administration of justice: *Groia* at para. 63; see also *McLeod v. Law Society of British Columbia*, 2021 BCCA 299 at para. 41.

[93] We find the same applies to offensive communications or those inconsistent with the proper tone of a professional communication from a lawyer. We find that the Respondent's conduct was a marked departure from conduct expected of lawyers as it reflects adversely on the integrity of the profession, harms the profession and the administration of justice.

[94] The Law Society referred us to disciplinary panel decisions where lawyers used discourteous or offensive language. We find the *Law Society of Alberta v. Lee*, 2009 ABLS 31 and *Nova Scotia Barristers' Society v. Robinson*, 2023 NSBS 1, analogous to the circumstances in this matter.

[95] In *Lee*, a lawyer acted for a client suing the government for sexual abuse suffered in a foster home. During the examination of the other side's witness ("Mr. B"), the lawyer raised his voice and said: "Well this man destroyed a woman's life, and if my emotions get a little bit too much of me, I apologize to Mr. B." Opposing counsel objected.

[96] The hearing panel found the comment was a direct personal attack upon the witness that crossed the line into behaviour harming the profession. The lawyer's emotions clearly were under poor control; however, this did not, and could not, justify a lawyer using such language with a witness. The conduct was deserving of sanction to correct the behaviour and to send a message to the public and the profession that such behaviour will not be tolerated: *Lee* at para. 156.

[97] In *Robinson*, the lawyer was accused of incivility. One allegation involved a case management conference where the lawyer tried to intimidate participants. He was aggressive and accusatory in his questions, scoffed at participant statements and was mocking in tone. The panel found he failed to be courteous and civil and act in good faith with opposing counsel contrary to Rule 7.2-1 of the Nova Scotia *Code of Professional Conduct*. The panel said, at para. 176:

> … As commentary [2] notes "Personal remarks or personally abusive tactics interfere with the orderly administration of justice and have no place in our legal system". Behaving in an intimidating or bullying fashion also represents a profound failure to uphold the standards and reputations of the legal profession. The reputation of the legal profession would only diminish if abusive conduct of the kind exhibited by the Member were found to meet the standards of the profession. If the intimidation and the bullying of participants in the justice system were recognized as an appropriate way to deal with other participants in the justice system, the adverse effect on the rational truth seeking functions of the justice system would be severe.

[98] We find the allegation about harassment contrary to rule 6.3-4 of the *Code* is appropriately assessed in the entire context of what occurred during the examination for discovery and immediately following it. Thus, our findings on this rule are set out below.

Alleged misconduct after the examination for discovery

[99] After the court reporter left, CK, HW, the Respondent and PS stayed to informally explore ways to arrange for the children to see their father and maybe have the family go to counselling. Not long into the meeting, CK walked out. The parties dispute what happened during this meeting.

[100] According to CK, the Respondent: (1) called her a "bitch," like his wife; (2) said if a big chested blonde had approached him, he would also have left his wife; and (3) said she was sexually abused. She then left the room saying she did "not need to take this anymore." She said after she left the meeting, HW spoke to the Respondent about what he said. She was shocked, angered, traumatized, hurt and disgusted someone could behave in this way. After she left the meeting, she "absolutely lost it," called her parents and tried to make an emergency appointment with her counsellor.

[101] We note various terms were used by the witnesses with respect to the comment about the "blonde": big chested, big breasted, big boobied and big titted. The Panel finds in this context they all mean the same thing.

[102] The Respondent says he did not refer to CK having been sexually abused or refer to his wife or CK as a "bitch." He said "we all have troubles in our marriage; no marriage is perfect. I come home and want sympathy from the wife and she nags me about things and when I call her on it, she might tell me I should go and find a big chested blonde I've always dreamed about" or something to that effect. He admitted in his interview with the Law Society that this was a sexualized comment.

[103] The Respondent also says HW did not object at this time to anything the Respondent said. After CK left the meeting, the Respondent, HW and PS carried on discussing how to get the children counselling and to see their father.

[104] In the Respondent's view, CK left the meeting because HW agreed with the Respondent that the family needed counselling and PS needed access to his children and not because she was offended.

[105] While HW does not remember the specific words spoken by the Respondent, he recalls some comment about a big chested blonde, a reference to the Respondent's wife in relation to this and some inference of infidelity or its likelihood. In cross-examination, HW did not remember the Respondent saying what CK says he did. He does not remember anything being said about sexual abuse and did not remember "bitch" being used at this time. He would have strongly intervened if the Respondent had called CK a bitch, so it is unlikely the Respondent did so.

[106] HW says the Respondent's tone was rather cavalier but amicable. He had the feeling the Respondent was trying to impress his client.

[107] The Law Society notes from HW's November 20, 2020 telephone interview by the Law Society investigator show HW told the investigator that at the post-discovery meeting the Respondent said CK reminded him of his wife, "a bitch." The transcript of this interview is in the Redacted Notice to Admit. The transcript was not admitted for the truth of its contents, but we can rely on it as evidence of what was said at the post-discovery meeting.

[108] After HW left the post-discovery meeting, he met CK who was very upset and crying and on the phone with her mother. Once off the phone, CK told HW he had not been aggressive enough in protecting her during the examination for discovery. As a result of her experience that day, CK lost confidence in HW because of what occurred at the examination for discovery and immediately after.

[109] PS's version of events agrees with the Respondent's. PS says the Respondent was trying to lighten the mood and make small talk. HW stayed after CK left and the three of them continued to discuss counselling and how PS could see his children.

[110] The Law Society says the Respondent's conduct after the examination for discovery violated CK's dignity as a woman and demeaned her.

[111] The Respondent says he was trying to lighten the mood by telling a personal anecdote about how all couples have their ups and downs, including him and his wife. He acknowledges this was a sexualized comment, but says it was at a low level of

misconduct. He was talking about his own life and making a joke about himself. He was not trying to offend CK. He saw no signs that CK was upset that day and could not handle a joke.

[112] Although the Law Society and the Respondent each focused on persuading us their version of events was what happened, we conclude we do not need to decide which version is correct. We find the comment the Respondent admits was a sexualized comment was contrary to rules 2.2-1, 5.1-5, 7.2-1 and 7.2-4 of the *Code* and amounted to professional misconduct.

[113] We find the Respondent's misconduct in relation to rules 5.1-5 and 7.2-1 was a marked departure of the standard of conduct expected of lawyers in BC. The Respondent's comments about his wife and the sexualized reference to another woman were discourteous, offensive, disrespectful and uncivil. Personal remarks or personally abusive tactics interfere with the orderly administration of justice and have no place in our legal system: rule 7.2-1, Commentary 2.

[114] This is not unlike the situation in *Law Society of BC v. Vining*, 2023 LSBC 35, where the hearing panel found the Respondent made comments that amounted to professional misconduct and were contrary to rule 2.1-2 of the *Code*. He told his client about a rumour he had heard about the sexual activity of a member of the judiciary and this showed a discourteous and disrespectful attitude towards the judiciary.

[115] Regarding rule 7.2-4, the Respondent's comments were inconsistent with the proper tone of a professional communication from a lawyer and offensive. Sexualized comments made to an opposing party and their counsel are inappropriate and offensive. Further, the Respondent's sexualized comment to an opposing party in a high conflict family law proceeding, made after examining the party for several hours, was a marked departure from conduct reasonably expected of lawyers.

[116] Rule 2.2-1 requires lawyers act with integrity and honourably. Integrity is the quality of having strong moral principles and being trustworthy: *McLeod* at para. 62; rule 2.2-1 Commentaries, 1 to 3. The Respondent's comment was reprehensible and dishonourable as, for the reasons given above in relation to rules 5.1-5, 7.2-1 and 7.2-4, they were improper, uncivil and offensive and thus he acted without integrity. As such it was a marked departure of the expected standard of conduct.

[117] The Respondent tried to minimize the gravity of his misconduct by saying he did not intend to offend CK, and in his view, she did not look upset after the discovery and so he had no indication she would not be able to take a joke. Regardless of the Respondent's intention, in considering the conduct on an objective basis, a sexualized comment made

to an opposing party in a legal setting is offensive. Offensive misconduct is serious misconduct.

[118] The Respondent also tried to minimize the harm to CK. He does not think he traumatized her or that she was particularly vulnerable. He says she never showed any signs she was upset and HW never said anything to him to indicate CK might be upset. We however accept CK's evidence that she was very upset by the Respondent's comment which we note came after what was, for her, a stressful and emotional discovery.

Harassment

[119] Finally, we find the Respondent's cumulative conduct at the examination for discovery and the meeting after was harassment under rule 6.3-4, which was professional misconduct.

[120] His conduct throughout the day at both the discovery and the meeting after was a pattern of unwelcome verbal conduct that demeaned CK. While the Respondent's conduct of the discovery was demeaning to CK, his sexualized comment at the meeting after the examination was especially demeaning. As noted above, the Respondent's misconduct caused harm to CK beyond the adverse impacts inherent in the discovery process. As harassment is a human rights violation, we conclude a finding of harassment is always a finding of professional misconduct.

DECISION AND ORDER

[121] The Panel finds the Respondent's conduct during and after CK's examination amount to a marked departure from the conduct expected of a lawyer and amounts to professional misconduct as alleged in paragraphs 1 (a) and (b) of the Citation.

[122] Accordingly, under to section 38(4)(b)(i) of the *Legal Profession Act*, the Panel finds the Respondent committed professional misconduct as alleged in the Citation.

APPENDIX "A"
Excerpts from CK's Examination for Discovery

Introduction

[1] The transcript of CK's Examination for Discovery is 241 pages. On review, the Panel finds that the transcript accurately reflects the audio recording of that examination. As it amounts to the best evidence before the Panel, we have included relevant excerpts from the transcript to provide context and the contested areas of questioning. However, the excerpts are not exhaustive and represent the Panel's focus on the evidence.

[2] The examination for discovery began with standard introductory questions such as CK's present and past residences, employment history, CK's family including her relationship with her parents and siblings. CK was then asked about how she met PS, PS' work history, his ownership in a landscaping company and the parties' respective assets such as vehicles and financial investments such as RRSPs and bank accounts. The tone was generally neutral during this questioning.

[3] After being questioned about various financial statements, the Respondent then asked CK about how she and PS met and other questions about their relationship. He asked about her employment promotion, future job prospects and how she managed the children's schooling while working. The focus then shifted to PS and CK's property purchases and house construction. The tone remained generally neutral during this questioning.

[4] The questioning up to this point while generally neutral, was fairly personal as would be expected in family law proceedings. However, the Panel finds that the Respondent's tone did sometimes, take on an edge on the sensitive topics of his client's relationship with a new partner and the children's relationship with their father. The tone also became more aggressive at times when the Respondent directed questions at CK's character.

Tone of questioning

[5] Based on a review of the audio recording and transcript of CK's examination for discovery, the Panel finds that the Respondent's tone became more aggressive at various times when he pursued certain questions such as those concerning CK being a "cold bitch", whether CK was sexually assaulted as a child and probing questions into CK's counselling.

[6] The Respondent inserted himself as a witness at various times during his questioning of CK. In doing so, he made the examination for discovery much more

personal between himself and CK than if he had focussed only on what CK or PS had said or done. Whether this is standard family law practice was not canvassed by the Respondent's expert witness. The result of the insertion of the Respondent's own personal view or experiences is that the Respondent was giving evidence and became a witness in CK's examination for discovery. Whether a conscious strategy or not, this strategy led to heightened tensions and made the questioning personal at times between the Respondent and CK. For example, at times, in addition to tone changes, the Respondent could be heard laughing while asking CK questions.

[7] For example, after eliciting CK's understanding of the phrase "gaslighting," the Respondent began giving evidence as part of his questioning:

> 675 Q So where did you pick up that expression?
>
> A Through counselling.
>
> 676 Q Counselling. Oh, that's where it comes from. Because I never heard that expression, you know, all the years – in 45 years I've done marital law, until the last 12 months. So it sounds like a favourite phrase nowadays to describe spousal relationships. Because I understand it comes from a novel from about 30 to 40 years ago. Do you understand that to be – do you understand that to be the case?
>
> A No.

[8] The tension between the Respondent and CK began to steadily increase over the course of his questioning on minute differences (Examination for Discovery transcript, lines 714 to 716).

[9] The Respondent's questions also focused on attacking CK's character. The Respondent continued inserting his own views or opinions in his line of questioning. CK testified that she found the following exchange and this particular line of questioning "threatening":

> 768 Q Okay. So there's some good things about your spouse?
>
> HW Is that a question?
>
> BV Yes.
>
> 769 Q Is [sic] there any other good things about your spouse?
>
> A No

770 Q Because, you know, I once had a trial, and after the woman was on the stand for two or three days, I said, ma'am, surely in 15 years there's something nice to say about your spouse, and she said to me, he provided the sperm for two lovely children.

A I would agree with that.

771 Q So you agree with that woman's assessment?

A Yes

772 Q Because you know what happened to her? She lost custody of her two kids, or her one kid, for that attitude. So you think the same thing about your spouse, that all he did was provide sperm for two children?

HW Don't --

773 Q Is that correct, ma'am?

A No

[10] The Respondent's questions became increasingly focused on putting CK on the defensive (Examination for Discovery Transcript, lines 778 to 779).

[11] The Respondent then began an aggressive and lengthy line of questioning on CK's character, focusing on whether CK had any friends:

781 Q Okay. Now you had trouble making friends; is that correct?

A No.

…

784 Apparently you didn't form any relationship with any friends during the time that you were with my client, except you went to some coffee club once in a while. Is that a fair assessment?

A I have lots of friends. Thank you.

785 Q You don't have as many friends as my client. Is that a fair comment?

A I would say I probably have more.

...

792 Q Okay. Well, who's your best friend?

A Who's my best friend?

793 Q Who's your best friend?

A I don't have a best friend.

794 Q You don't have a best friend?

A I have lots of friends.

795 Q Okay. Do you have a second or third best friend? Like, can you name me three people that you really get along with well and that you see regularly?

[12] After asking about second and third best friends, the Respondent continued his attack on CK's character:

812 Q Okay. How many people at the workplace do you see socially outside of work?

A Probably just one.

813 Q Just one person?

A Yes.

814 Q And there's how many people that work at that [place]?

A Don't know.

815 Q 50, 60, 70?

A More than that.

816 Q A hundred people?

A Possibly.

817 Q And so out of a hundred people, you've only made one friend at the store?

A I get along with everyone at work.

818 Q I didn't say that, ma'am. I just said how many friends that you see socially from the store, and you tell me only one person out of a hundred?

A No, that's incorrect.

[13] The Respondent then asked CK for a list of her friends and their phone numbers (Line 825, Examination for Discovery Transcript). HW objected to giving out those phone numbers based on privacy concerns. The Respondent refused to accept the objection. Rather than addressing the privacy concerns of third parties, the Respondent inserted his own personal views and gave evidence that something was wrong or being hidden if the phone numbers were not provided to him. CK testified that she found this line of questioning about whether she had any friends to be denigrating.

HW We'll have to ask their permission if we're entitled to give that out.

BV I don't think you need their permission. It's a public thing. I've asked specifically. She says that she has all these friends. My client denies that she has any good friends.

HW If it's public, then you're entitled to access—

BV Just a sec. But there's nothing – there's nothing wrong with giving me the phone number of these people. Or I'll take a work number, if that's better, whichever is easiest for the person. If these people aren't prepared to cooperate, then there's got to be something wrong here. It's very simple for me to phone them up and say, so what is your relationship with this lady.

HW That's a presumption.

BV They can say to me, I've never heard of this woman, what are you talking about, for all I know.

HW It's a presumption.

BV I know. But I don't see the problem in providing the phone number. Because I can tell you, you can certainly ask my client about all his friends, and he'll be happy to give phone numbers for everybody. So if we're not hiding anything, shouldn't be a problem.

HW Oh, okay.

[14] At various points, the Respondent's questions continued to focus directly on CK's character. For example, he attempted to have CK agree that she was the aggressor in the

family or an aggressive person, who criticized and berated PS in front of the children and said bad things about him in front of the children (Lines 900 to 910, Examination for Discovery transcript). CK disagreed with the Respondent on these points.

[15] After lunch, the Respondent questioned CK about the children's extracurricular activities. He then began focusing on the family dynamics in an aggressive tone without reference to any exhibits (Examination for Discovery Transcript, lines 1001 to1008; 1016; 1033 to36, 1041 to 1041; 1076 to 1079 1100 to 1106). The Respondent's questions on CK's character continued to take on a mocking tone. At various points in the questioning, the Respondent could be heard laughing on the audio recording.

[16] At the hearing, the Law Society played excerpts from the audio recording of CK's examination for discovery. One excerpt was the Respondent's questioning of CK about her friends suggesting she had no friends (set out above). Another excerpt was about the Respondent's comment that his other client who had nothing good to say about her husband lost custody of her children. Two other excerpts were played which will be discussed below. These excerpts demonstrate the tone of the examination for discovery had become much more aggressive with direct attacks on CK's character. The Panel noted that CK's demeanor appeared to reflect distress while listening to the excerpts.

Counselling and abuse questions

[17] The Respondent's questions about counselling took prominence in the evidence, testimony and submissions. At CK's examination for discovery, HW objected to the Respondent's line of questioning which the Respondent appeared to reject:

> 1115 Q Okay. So what has [M] recommended that you do to curb your feelings about this breakup?
>
> A We don't specifically talk about that. We talk about my childhood right now.
>
> 1116 Q Your childhood?
>
> HW This is confidential what --
>
> BV No, it's not confidential.
>
> HW Yes, it is.
>
> BV This is to do –
>
> HW Don't answer.

1117 Q Okay. I'm going to ask a specific question. I suspect – and I told my client this. I suspect with the kind of behaviour I see here that you exhibited to him that you did have problems as a child; is that correct?

HW Any discussions that are between you and your counsellor –

BV Q. No, no, no. There's nothing to do with the counselling. I'm withdrawing any questions about the counselling right now, because I have a theory that you were sexually abused as a child. Is that correct?

A No.

1118 Q Okay. Then what happened in your childhood to make you the way you are today?

A Why we're addressing my childhood is what in myself is broken that I would allow a man like this to treat me this way in my life and not – and dismiss all the red flags.

1119 Q Well, just a sec. I don't understand. He wasn't around during your childhood, so why would his – your relationship with him be relevant regarding your childhood?

A Because you're formed in childhood, things that happen in your –

HW We're going well beyond what's relevant here.

1120 Q Well, did you have a difficult childhood?

HW Don't answer. Don't answer any of this line of question.

BV Well, excuse me. What is your basis of objection?

HW Not –

BV I have a lady that I'm examining here that comes across that she's alienating –

HW You can bring an application to –

BV Oh I will. I will. You're going to get affidavits about this about the alienation that is taking place between mother and children to this man.

HW And I'm just simply putting the objection on the record.

BV And you're going to have to hear this, so I'd rather she answer it now than dealing with it later in court.

HW Don't answer.

1121 Q So you refuse to answer any questions about the problems that you have had with your psyche –

HW Any discussions –

BV -- in dealing with this relationship – quit interrupting, counsel. I'm putting a question to her.

1122 Q So you object to answering any questions about what's causing you to alienate these children towards their father; is that correct? Is that correct? I just want an answer, yes or no.

HW Don't answer.

BV Okay. That's your objection? You just say don't answer? What's your – what's your reason for your objection?

HW My objection – well first of all, you're putting the term alienate. We haven't determined whether she's alienated –

BV Well, have we not?

HW No.

BV She's not letting him see the children.

HW We haven't determined that –

BV I'll carry on then. We'll see when that determination –

A Where do you get I'm not letting him see the children?

…

1140 Q So you obviously had problems, didn't you, that you were explaining to your counsellor?

A Yes.

1141 Q Okay. And what were those problems?

A I'm not talking about anything I discuss in counselling.

[18] What is notable in the above excerpt is that at one point, the Respondent directed the objection to CK rather than counsel. It is clear from this passage that the Respondent was focused on a direct attack on CK's character, which overshadowed the requirement to respect counsel's objection.

Tone leading up to "cold bitch" question

[19] Leading up to this question, the Respondent had been cross-examining CK on her concerns about her children visiting with PS during the pandemic and the children's communications with her and PS. His questions demonstrated that he did not accept the COVID-19 lockdown as a legitimate concern raised by CK.

[20] He also increased his aggressive tone and made comments about CK trying to punish PS because of his infidelity and new relationship (Lines 1253 to 1254, Examination for Discovery Transcript). He attempted to arrange a parenting dinner through an examination for discovery, to which HW raised an objection. The Respondent then threatened a court application (Lines 1264 to 1269, Examination for Discovery Transcript). The Respondent questioned CK about the family dog and suggested in a mocking tone that PS received more access to the dog than the children (Lines 1361, 1363, Examination for Discovery Transcript).

[21] The Respondent asked further questions about what CK knew or thought about the children's relationship with PS. CK's answers to many of those questions were that the children themselves should be asked what they thought (Line 1392, Examination for Discovery Transcript). The Respondent did not accept CK's answers. He continued a mocking tone on questions relating to fish being given by PS to the children (Lines 1402 to 1405, 1413 to 14)

[22] After those questions, the questions relating to "cold bitch" occurred:

1428 Q …So here we are 10, 11 months later, it's all about you again.

A No. I had several people, including a relative of his, tell me the things he was saying about me. And hockey parents.

1429 Q You were hurt because of things that were being said about you?

A Yes.

1430 Q Was any of it untrue?

A Yes

1431 Q Like what?

A That I'm a cold bitch.

1432 Q Well, aren't you?

A No, I'm not.

1433 Q When it comes to your love life with him? When you wrote that other email, wasn't that being cold?

A Being cold to a person who has no respect for you, who doesn't share their life with you, yes. How do you have respect for a person who won't share their life and emotions with you.

[23] The Respondent then continued to ask questions suggesting that CK barricaded the children against PS during the COVID-19 lockdown, despite her explanations. He inserted his own experiences and views into the line of questioning and continued mocking CK (Lines 1449, 1466 1473 to 1486, X4D Transcript).

[24] The Respondent then asked questions relating to CK spending "ten minutes" on August 22 to deal with the trauma of infidelity (Lines 1499 to 1501, 1507 to 1512, Examination for Discovery Transcript). His tone was aggressive and mocking. After making disparaging remarks about the "ten minutes" of hurt, the Respondent had misunderstood CK's evidence and corrected himself on the record (Lines 1513 to 1514, Examination for Discovery Transcript).

[25] The last major area of aggressive questioning related to the couple's breakup (Lines 1587 to 1589, Examination for Discovery Transcript). After some cleanup questions relating to assets, the children, debts and document production, CK's examination for discovery formally adjourned at 4:07 p.m.