

DECISION OF ADJUDICATOR
IN THE MATTER OF AN ADJUDICATION
PURSUANT TO SECTION 2-75 and 4-6 OF
THE SASKATCHEWAN EMPLOYMENT ACT

Wage Assessment No. 9121(C)
LRB File No. 125-18



COMPLAINANT:

Jim Pravda
Represented by Shelley Stretch
Employment Standards Officer

RESPONDENT:

A.V. Shuttle Cab Ltd.
Represented by Vasil Arnaut (Director)
and Agent Dean Mattison

DATE OF HEARING:

July 13, 2018 @ 10:00 a.m.

PLACE OF HEARING:

Room 9.1
9th Floor
Sturdy Stone Building
122 3rd Avenue N
Saskatoon, Saskatchewan

1. INTRODUCTION

On April 18, 2018 Wage Assessment 9121(C) was issued by Ministry representative Shelley Stretch, on behalf of Mr. Jim Pravda to A.V. Shuttle Cab Ltd., 208-19th Street West Saskatoon Sask. The assessment was in the amount of \$16,355.12. The assessment was served on May 9, 2018.

The Ministry received an appeal on May 24, 2018 from Mr. D. Mattison on behalf of A.V. Shuttle Cab Ltd. and Vasil Arnaut.

On June 12, 2018 I was appointed to adjudicate this appeal and after concluding the appeal met the Act's timelines and after consultation with the parties, July 13, 2018 was set for the hearing.

Present at the hearing were Shelley Stretch, Jim Pravda, Vasil Arnaut, Dean Mattison and Kelly Rapko.

Introductions were made and I advised the parties of my role, expectations and time frame for my decision.

II. PRELIMINARY OBJECTIONS

1. Mr. Kelly Rapko represents Mr. David Gersher, current owner of A.V. Shuttle Cab Saskatoon. Mr. Gersher purchased the company from Mr. Arnaut in April of 2017. This purchase caused confusion as to whom the responsibility for this Wage Assessment belonged.

Mr. Rapko is attending to ascertain, what if any, responsibilities his company might have. I have been assured by Ms Stretch that the time frame for Wage Assessment 9121(C) occurred prior to the sale and therefore Mr. Rapko's company has no liability. Upon being advised of this fact Mr. Rapko left the hearing.

2. Ms Stretch requested permission to raise an objection regarding Mr. Mattison's standing at the hearing. Mr. Mattison had no objection so I granted permission.

Ms Stretch then tabled two documents. The first being a decision from the Queen's Bench of Saskatchewan (Citation: 2015 SKQB 323) dated October 10, 2013. The second document entitled "Authorization to Release Information and Appointment of a Representative/Agent". This document is dated May 11, 2018 and is signed by Mr. Vasil Arnaut.

Ms Stretch drew our attention to page 18 of the Q.B. document, specifically paragraph 42 which states ... "Mr. Mattison is hereby enjoined from:

(b) Advising, doing or performing for a fee or reward, either directly or indirectly, in matters pertaining to the law of Saskatchewan or any jurisdiction outside Saskatchewan... ."

Ms Stretch further pointed out on page 20 under part (i) that Mr. Mattison also could not perform under the "guise of agency."

She referenced that the second document referred to "Agent" in three places.

Mr. Mattison advised that the Law of Society in Saskatchewan has been after him for some time and that this has dragged on and on. He also advised that he has represented many non-judicial decision-making bodies and that appearing here would be no different.

Ms Stretch then advised that she had spoke to the Ministries legal counsel this morning and that she was available if I wanted to speak to her. Ms Stretch further advised that Complaints Counsel for the Saskatchewan Law Society was also available if I deemed it necessary to gather further information.

Ms Stretch requested that I rule that Mr. Mattison cannot represent A.V. Shuttle Cab Ltd. and that he, Mr. Mattison leave the hearing.

I asked Ms Stretch to get the Ministries legal counsel on the speaker phone.

Ms Leeann Schienbien was reached and she advised that for Mr. Mattison to have violated the injunction, he would have to be receiving a "fee or reward" and that I should ask both Mr. Mattison and Mr. Arnaut "under oath" if Mr. Mattison was being paid for his services.

I suggested to Ms Schienbien that in paragraph 42(b) the word "or" allowed for the injunction to be violated if Mr. Mattison either performed "advising or doing". She did not agree.

Following that telephone conversation, I arranged for a telephone conversation with the Saskatchewan Law Society's Complaints Counsel Ms Valerie Payne (again on speaker phone).

Ms Payne specifically advised me that Mr. Mattison would violate the Q.B. Injunction by "advising or doing or performing for a fee or acting as an agent".

Upon completion of that call, I advised Mr. Mattison that it my decision that he has violated the Q.B. Injunction by participating as the Agent for A.V. Shuttle Cab Ltd. in this Wage Assessment Appeal.

Therefore Mr. Arnaut either had to proceed today without representation or I would adjourn the hearing for a time sufficient for him to prepare himself or get another representative.

Mr. Mattison did not object to my decision and Mr. Arnaut requested thirty (30) days to get reorganized.

I gave Mr. Arnaut until 5:00 p.m. on August 30, 2018, at which time I will be contacting the parties to schedule resumption of this hearing.

Dated at Regina, in the Province of Saskatchewan, this 20th of July, 2018.



Ralph Ermel
Adjudicator

Attachments:

Queen's Bench of Saskatchewan (Citation: 2015 SKQB 323)

Authorization to Release Information and Appointment of a Representative/Agent

The Parties are hereby notified of their right to appeal this decision pursuant to Sections 4-8, 4-9 and 4-10 of *The Saskatchewan Employment Act* (the "Act").

The information below has been modified and is applicable only to Part II and Part IV of the Act. To view the entire sections of the legislation, the Act can be accessed at www.saskatchewan.ca.

Right to appeal adjudicator's decision to board

4-8(1) An employer, employee or corporate director who is directly affected by a decision of an adjudicator on an appeal or hearing pursuant to Part II may appeal the decision to the board on a question of law.

- (3) A person who intends to appeal pursuant to this section shall:
- (a) file a notice of appeal with the board within 15 business days after the date of service of the decision of the adjudicator; and
 - (b) serve the notice of appeal on all persons mentioned in clause 4-4(1)(b) who received the notice setting the appeal or hearing.
- (4) The record of an appeal is to consist of the following:
- (a) in the case of an appeal pursuant to Part II, the wage assessment or the notice of hearing;
 - (c) the notice of appeal filed with the director of employment standards pursuant to Part II;
 - (d) any exhibits filed before the adjudicator;
 - (e) the written decision of the adjudicator;
 - (f) the notice of appeal to the board;
 - (g) any other material that the board may require to properly consider the appeal.
- (5) The commencement of an appeal pursuant to this section does not stay the effect of the decision or order being appealed unless the board orders otherwise.
- (6) The board may:
- (a) affirm, amend or cancel the decision or order of the adjudicator; or
 - (b) remit the matter back to the adjudicator for amendment of the adjudicator's decision or order with any directions that the board

Appeal to Court of Appeal

- 4-9(1)** With leave of a judge of the Court of Appeal, an appeal may be made to the Court of Appeal from a decision of the board pursuant to section 4-8 on a question of law.
- (2) A person, including the director of employment standards, intending to make an appeal to the Court of Appeal shall apply for leave to appeal within 15 business days after the date of service of the decision of the board.
- (3) Unless a judge of the Court of Appeal orders otherwise, an appeal to the Court of Appeal does not stay the effect of the decision being appealed.

Right of director to appeal

4-10 The director of employment standards has the right:

- (a) to appear and make representations on:
- (i) any appeal or hearing heard by an adjudicator; and
 - (ii) any appeal of an adjudicator's decision before the board or the Court of Appeal; and
- (b) to appeal any decision of an adjudicator or the board.

QUEEN'S BENCH FOR SASKATCHEWAN

Citation: 2015 SKQB 323

Date: 2015 10 13
Docket: QBG 963 of 2015
Judicial Centre: Regina

BETWEEN:

LAW SOCIETY OF SASKATCHEWAN

APPLICANT

- and -

HAROLD DEAN MATTISON

RESPONDENT

Counsel:

Timothy Huber
John Kwok

for the applicant
for the respondent

FIAT
OCTOBER 13, 2015

LAYH J.

BACKGROUND

[1] The Law Society of Saskatchewan applies for an injunction to restrain Harold Dean Mattison from practising law on the grounds that he is acting or is likely to act in contravention of *The Legal Profession Act, 1990*, SS 1990-91, c. L-10.1 [Act] or the *Rules of the Law Society of Saskatchewan*.

[2] Mr. Mattison graduated from the College of Law at the University of Saskatchewan in 1976 and, after being admitted to the Bar, practised law in Saskatchewan for several years.

[3] Mr. Mattison's discipline history with the Law Society dates to a sentence from the Discipline Committee of the Law Society on January 28, 1998 when he was suspended from practising law for three months and assessed costs of \$3,155.00.

[4] Subsequently, during the Law Society's investigation for allegations of conduct unbecoming, Mr. Mattison entered an undertaking not to practice law on March 31, 2005. On May 26, 2006, the Discipline Committee imposed certain penalties against Mr. Mattison, including a \$2,000.00 fine and costs of \$1,959.72.

[5] In 2009, Mr. Mattison applied to be reinstated as an active member of the Law Society. After a hearing to consider his application, the Law Society ruled on December 1, 2009 that he could practice law as an employee of, and supervised by, an approved member of the Law Society. Mr. Mattison was disallowed signing authority respecting any trust account. These conditions were to continue to apply until the chair of the discipline committee, in his or her sole discretion, chose to remove them. Mr. Mattison never sought a removal or alteration of these conditions and they continue to apply.

[6] After his reinstatement in 2009, Mr. Mattison worked under the supervision of Roderick Gall, an approved member of the Law Society. Mr. Mattison changed his status to "inactive" at the end of 2012, to take effect on

January 1, 2013. His arrangement with Mr. Gall ended on or about January 3, 2013. From this point, Mr. Mattison was no longer entitled to practice law on two counts: “inactive” members of the Law Society are not entitled to practice law and Mr. Mattison had received no dispensation from the Law Society to practice without supervision.

[7] By January 1, 2013, Mr. Mattison was in violation of the Rules of The Law Society of Saskatchewan. Had he not changed his status to “inactive,” Valerie Payne, complaints counsel for the Law Society, in a sworn affidavit, states that Mr. Mattison would have been placed on administrative suspension pending compliance with the Rules. Mr. Mattison remains non-compliant with the *Rules of the Law Society of Saskatchewan*.

[8] By the fall of 2013, the Law Society received a number of complaints that Mr. Mattison was practicing as a lawyer. The Law Society placed Mr. Mattison on interim discipline suspension on December 11, 2013. Mr. Mattison has not sought a review of the Law Society’s interim discipline suspension.

[9] Counsel for the Law Society and for Mr. Mattison agree that the Law Society has not issued an annual practice certificate to Mr. Mattison for 2013 or any year since.

ISSUES

[10] The sole issue in this application is whether, pursuant to s. 82 of the *Act*, the court should enjoin Mr. Mattison from doing any act or thing that

contravenes the *Act* or the Rules. Section 82 (quoted at para. 13) invites the broad issue stated above to be separated into the following inquiries:

- (a) Is Mr. Mattison a person subject to an injunction under s.82 of the *Act*?
- (b) If “Yes,” is Mr. Mattison “acting” or “likely to act” in contravention of the *Act*?
- (c) If “Yes,” should the court grant the injunction?

ANALYSIS

Does the Scope of Injunctive Relief under the *Act* Include Mr. Mattison?

[11] First, I must determine whether Mr. Mattison is a person against whom injunctive relief lies. Not uncommonly, persons without formal legal training or without ever having been admitted to a law society attempt to provide legal services to the public. In these instances the legal profession-governing legislation of the jurisdiction rather readily includes such persons within the ambit of injunctive censure. For example, in *Law Society of Upper Canada v Chiarelli*, 2013 ONSC 1428, 115 OR (3d) 53 [*Chiarelli*], aff’d 2014 ONCA 391, 120 OR (3d) 561 [*Chiarelli CA*], leave to appeal refused [2014] SCCA No. 326 (QL), Mr. Chiarelli was neither a lawyer nor licensed paralegal; he was “in the property management business.” In *The Law Society of British Columbia v Targosz*, 2010 BCSC 969, Ms. Targosz had never been a member of the Law Society of British Columbia, although she was authorized to practise law in her native Poland. In *Law Society of Upper Canada v Augier* 2013 ONSC 451 [*Augier*], Mr. Augier was the pastor of Abba Uno Church and

maintained that in his impugned practice he was “simply ministering to his flock” and that his actions were directed towards the spiritual health of members of his congregation.

[12] Mr. Mattison presents a different situation: he holds a law degree, has been admitted as a member of the Law Society of Saskatchewan and has never been disbarred from the practice of law. So, the first issue the court must address is whether Mr. Mattison is a person potentially subject to an injunction under s. 82 of the *Act*.

[13] Section 82 contemplates an injunction against any person who either contravenes the *Act* or the Rules of the Law Society. It states:

82(1) Where it appears that a person is acting or is likely to act in contravention of this Act or the rules, the society may apply to the court for an injunction enjoining any person from doing any act or thing that contravenes this Act or the rules, notwithstanding any penalty that may be provided by this Act with respect to that contravention.

(2) On an application pursuant to subsection (1), the court may grant an injunction, interim injunction or any other relief that it considers just.

[14] The Law Society is specifically seeking an injunction against Mr. Mattison, enjoining him from conduct which contravenes or is likely to contravene the *Act*, rather than the Rules. The Law Society points to two sections of the *Act*, s. 30 and s. 32, which, it alleges, casts a net broad enough to include Mr. Mattison as a person against whom an injunction may be ordered. Respectively, these sections state:

30(1) No person, other than a member who holds a certificate, shall:

- (a) practise at the bar of any court of civil or criminal jurisdiction in Saskatchewan;
- (b) advise, do or perform any work or service for fee or reward, either directly or indirectly, in matters pertaining to the law of Saskatchewan or of any jurisdiction outside Saskatchewan;
- (c) sue out any writ or process; or
- (d) commence, carry on or defend any action or proceeding in any court.

(2) A person, other than a member who holds a certificate, who commences, prosecutes or defends an action or proceeding in a court of civil or criminal jurisdiction or acts as counsel or lawyer in an action or proceeding is:

- (a) incapable of recovering any fee, reward or disbursement on that account; and
- (b) deemed to be guilty of a contempt of the court in which the proceeding has been commenced, carried on, defended or prosecuted, and may be proceeded against for contempt before the Court of Appeal or a judge of the court sitting in chambers.

...

32(1) No person, other than a member who holds a certificate or a person who is authorized to practise in accordance with rules made pursuant to clause 10(i), shall:

- (a) pretend or hold himself or herself out to be a lawyer or a barrister and solicitor; or
- (b) take, assume or use any name, title, addition or description other than one that the person actually possesses and is legally entitled to or that implies or is calculated to lead people to infer that the person is a lawyer or member or is recognized by law as a lawyer qualified and entitled to practise law or do business as

a lawyer in Saskatchewan, or in any way publish or advertise himself or herself as such.

(2) No person who is not a member in good standing shall use the designations "barrister", "solicitor", "barrister and solicitor", "lawyer" or "attorney".

[15] Mr. Mattison is entitled to do those things in ss. 30(1) and (2), which are otherwise prohibited acts respecting any other person, only if

- (a) he is a member of the Law Society; and
- (b) holds a certificate.

[16] Mr. Mattison is entitled to do those things in s. 32(1) which are otherwise prohibited acts respecting any other person, only if:

- (a) he is:
 - (i) a member of the Law Society; and
 - (ii) holds a certificate; or
- (b) he is a person authorized to practise in accordance with the Rules made pursuant to ss. 10(i) of the *Act*.

[17] Finally, Mr. Mattison is entitled under s. 32(2) to use the designations "barrister", "solicitor", "lawyer" or "attorney" which are otherwise prohibited designations respecting any other person, only if he is a member of the Law Society "in good standing."

[18] A necessary and preliminary determination under both ss. 30 and 32 is whether Mr. Mattison is a member of the Law Society or whether he holds a certificate. By admission of counsel, Mr. Mattison does not hold an annual practice certificate. Accordingly, without determining whether he is a “member” of the Law Society, he cannot do those things enumerated under s. 30 of the *Act* because he does not hold a certificate.

[19] Notwithstanding his lack of a certificate, Mr. Mattison might under ss. 32(1)(a) and (b) of the *Act* be entitled to hold himself out to be a lawyer or barrister and solicitor so long as he is “authorized to practise in accordance with rules made pursuant to clause 10(i) [of the *Act*.]” Section 10(i) states:

10 The benchers may make rules for the governing of the society... and for the carrying out of this Act, for the following purposes:

(i) providing for lawyers who are not members to practise law in specified situations, fixing fees payable by those lawyers and prescribing any terms and conditions or imposing any requirements on those lawyers that the benchers consider appropriate;

[20] Neither counsel for Mr. Mattison nor the Law Society suggests that Mr. Mattison garners any privileges under rules promulgated under the authority of ss. 10(i). Accordingly, without a certificate and without coming within a rule created by the Benchers under ss. 10(i) of the *Act*, Mr. Mattison is prohibited under ss. 32(1)(a) from “holding himself ... out to be a lawyer or a barrister and solicitor.” Nor, under ss. 32(1)(b), can he “use any name ... or description ... that implies or is calculated to lead people to infer that [he] is a

lawyer or member or is recognized by law as a lawyer qualified and entitled to practise law ...”

[21] Finally, under s. 32(2) of the *Act*, Mr. Mattison is prohibited from using the nomenclature of “barrister,” “solicitor,” “lawyer” or “attorney” unless he is a member in “good standing. The Rules define “good standing” in s. 1.(3) as follows:

1. In these Rules:

...

(3) A member of the Society who is suspended or disqualified under the *Act* or these Rules is not, while suspended or disqualified, in good standing.

[22] Accordingly, since Mr. Mattison is under interim suspension, he is not a member in good standing and is, therefore, precluded from using the professional descriptions found in s. 32(2).

[23] So, in conclusion of the first issue, the court finds that Mr. Mattison is a person subject to the injunctive powers given to the court under s. 82 since he is a “person” whose conduct is subject to the prohibitions described in s. 30 and s. 32.

Does it appear that Mr. Mattison is acting or is likely to act in contravention of the *Act*?

[24] The threshold for justifying an application seeking an injunction under the *Act* is neither onerous nor complicated. The Law Society may apply where it appears that a person is acting or is likely to act in contravention of the *Act* or Rules. Parsed to its most minimal requirements, an injunction under

s. 82(1) may lie where it merely appears that a person is likely to contravene the *Act*. No proof of actual contravention is necessary.

[25] I have little hesitation in finding that Mr. Mattison is likely to act in contravention of the *Act*. Affidavits sworn by members of the public – Andrew Wagner, Saman Gul Khattak, Bradley R. Hunter Q.C. and Karen Shirley – as well as Valerie Payne, complaints counsel for the Law Society, show past conduct that portends future and likely contraventions of the *Act*. Any one of these affidavits sets out facts which trigger the threshold set out in the *Act*.

[26] For example, Mr. Wagner, a business person, states that he met Mr. Mattison in July 2014 after being introduced to him by a business associate. Mr. Mattison attended Mr. Wagner's home where Mr. Wagner asked Mr. Mattison to represent his company to initiate a claim to recover damages concerning a house that Mr. Wagner was building. Mr. Mattison asked for a \$500.00 retainer which Mr. Wagner paid *via* cheque and which Mr. Mattison cashed. Mr. Mattison advised Mr. Wagner that he was a "retired lawyer." Mr. Mattison prepared and provided to Mr. Wagner a statement of claim, included as an exhibit to Mr. Wagner's affidavit. In September, Mr. Wagner's sister-in-law, a Saskatoon lawyer, told Mr. Wagner that Mr. Mattison was not entitled to practise law. In October, Mr. Wagner told Mr. Mattison that he wished to discontinue the action.

[27] Mr. Mattison now responds to Mr. Wagner's affidavit by stating the \$500.00 cheque essentially covered disbursements such as photocopying, emails, secretary costs, and small claim court costs. Justifying a \$500.00

disbursement to prepare a claim in small claims court is difficult; justifying a \$500.00 disbursement as not offending the *Act* is impossible. Subsection 30(2)(a) specifically disallows a person without a certificate from "...recovering any fee, reward or disbursement" on an account.

[28] Karen Shirley, a field officer for the Canada Revenue Agency, provides another example of Mr. Mattison acting in contravention of the *Act*. Ms. Shirley states she received a phone call from Mr. Mattison inquiring about a taxpayer. When Ms. Shirley told Mr. Mattison that he was not a person authorized on the account, he persisted. She then asked Mr. Mattison, "Are you a lawyer?" to which he responded, "Yes, I am a defence attorney." Ms. Shirley then provided Mr. Mattison with general comments about the Canada Revenue Agency's procedure and ended the call. Mr. Mattison counters Ms. Shirley's statement by stating, "...I would have never indicated to her that I was a defence lawyer."

[29] I have reviewed Mr. Mattison's affidavit and make the following observations. First, although his affidavit offers evidence qualifying or contradicting opposing affidavits, the *Act* contemplates a summary hearing by way of application under s. 82. Accordingly, I adopt the position that the presence of disputed facts does not preclude a summary hearing as was found in *College of Opticians of Ontario v City Optical Inc.*, 2009 CanLII 26920 (Ont Sup Ct) at para 17:

[17] The fact that there are disputed material facts does not preclude a summary hearing because the College is *prima facie* entitled to proceed by way of application: *College of Opticians of Ontario v. John Doe 1 (c.o.b. Great Glasses)* [2006] O.J. No. 5113 (Sup.Ct.J.), at para. 21. ...

[30] Second, Mr. Mattison attempts to justify his conduct by stating that various deponents, including Mr. Wagner, Mr. Hunter and Mr. Khattak, knew of his status. However, Mr. Mattison cannot bring his conduct within s. 30 of the *Act* by suggesting that the prohibited acts under s. 30 are ameliorated so long as the complainant knows of his status.

[31] Finally, I find much of what Mr. Mattison offers in his affidavit is speculative, opinion or argumentative. He states at para. 38 that he believes "...that Mr. Wagner was involuntarily brought into this matter;" at para. 42, "...Mr. Gul [Mr. Khattak] proved to be a very uncooperative witness [during prior proceedings] who lacked credibility;" at para. 41, "Mr. Gul [Khattak] has used me as a 'scapegoat' and his Affidavit is largely fictional;" at para. 52, "Mr. Geramo [referred to in Ms. Payne's affidavit] falls into the same category as Mr. Gul."

[32] The Law Society does not have to prove that Mr. Mattison is acting contrary to the *Act*, only that he is likely to act contrary to the *Act*. Much of Mr. Mattison's extensive discipline record, before Discipline Committees of the Law Society and the several affidavits filed in this application, inform the court what is likely to happen in the future. Valerie Payne has attached as exhibits to her affidavit seven items of correspondence advising Mr. Mattison during 2013 and 2014 of his status before the Law Society and his inability to practise law. I am satisfied that the evidence before me provides the requisite proof that Mr. Mattison is likely to act in contravention of the *Act*. His past conduct informs what he is likely to do in the future.

Should this Court grant an Injunction?

[33] Having found that Mr. Mattison is likely to act in contravention of the *Act*, the court may order an injunction to enjoin Mr. Mattison from contravening the *Act*. As an initial point, I am mindful that the injunctive relief under s. 82 of the *Act* is statutory in origin and not primarily driven by principles of equity. In *Canada v IPSCO Recycling Inc.*, 2003 FC 1518 at para 51, [2004] 2 FCR 530 [IPSCO], the court commented on the difference between an injunction provided by statute or by principles of equity:

51 On the basis of the authorities cited by the parties I am satisfied that where a statute provides a remedy by way of injunction, different considerations govern the exercise of the court's discretion than apply when an Attorney General sues at common law to enforce public rights. The following general principles apply when an injunction is authorized by statute:

i) The court's discretion is more fettered. The factors considered by a court when considering equitable relief will have a more limited application. See: *Prince Edward Island (Minister of Communications and Cultural Affairs) v. Island Farm and Fish Meat Ltd.*, [1989] P.E.I.J. No. 32 (P.E.I.S.C.); *Maple Ridge (District) v. Thornhill Aggregates Ltd.* (1998), 162 D.L.R. (4th) 203 (B.C.C.A.).

ii) Specifically, an applicant will not have to prove that damages are inadequate or that irreparable harm will result if the injunction is refused. See: *Shaughnessy Heights Property Owners' Association v. North Up* (1958) 12 D.L.R. (2d) 760 (B.C.S.C.); *Manitoba Dental Association v. Byman and Halstead* (1967) 34 D.L.R. (2d) 602 (Man. C.A.); *Canada (Canadian Transportation Accident Investigation and Safety Board) v. Canadian Press*, [2000] N.S.J. No. 139 (N.S.S.C.).

iii) There is no need for other enforcement remedies to have been pursued. See: *Saskatchewan (Minister for*

Environmental Assessment Act) v. *Redberry Development Corporation*, [1987] 4 W.W.R. 654 (Sask. Q.B.) obviates the need

iv) The Court retains a discretion as to whether to grant injunctive relief. Hardship from the imposition and enforcement of an injunction will generally not outweigh the public interest in having the law obeyed. However, an injunction will not issue where it would be of questionable utility or inequitable. See: *Saskatchewan (Minister of Environmental Assessment Act) v. Redberry*, *supra*; *Maple Ridge (District) v. Thornhill Aggregates Ltd.*, *supra*; *Capital Regional District v. Smith* (1998), 168 D.L.R. (4th) 52 B.C.C.A.

v) It remains more difficult to obtain a mandatory injunction. See: *Canada (Canadian Transportation Accident Investigation and Safety Board) v. Canadian Press*, *supra*.

[34] *IPSCO* holds that a statutory right to seek injunctive relief obviates the court's need to find irreparable harm, inadequacy of damages, or a strong *prima facie* case – pre-conditions commonly required to ground injunctive relief – but still reserves to the court a significant measure of discretion to determine whether the injunction's hardship outweighs the public's interest in having the statute obeyed. Section 82(2) invites the court's discretionary power even in the face of likely contraventions of the *Act* or the Rules: "the court may grant an injunction, interim injunction or any other relief that it considers just."

[35] In the context of the legal profession, the direction provided in *IPSCO* has been adopted in *Chiarelli* at para 25, where the Superior Court stated:

25 In my view, the public interest in preventing the unauthorized practice of law so as to protect the public is the

most important factor for a court to consider. Section 4.2 of the *Law Society Act* provides the Legislature's guidance as to the principles to be applied by the Law Society:

4.2 In carrying out its functions, duties and powers under this Act, the Society shall have regard to the following principles:

1. The Society has a duty to maintain and advance the cause of justice and the rule of law.
2. The Society has a duty to act so as to facilitate access to justice for the people of Ontario.
3. The Society has a duty to protect the public interest.
4. The Society has a duty to act in a timely, open and efficient manner.
5. Standards of learning, professional competence and professional conduct for licensees and restrictions on who may provide particular legal services should be proportionate to the significance of the regulatory objectives sought to be realized.

[36] The decision in *Law Society of British Columbia v Bonnar*, 2010 BCSC 969, also adopted the direction stated in *IPSCO*. At paras 40-42 the court stated:

40 With respect to the relief sought by the Law Society, the statutory test is prescribed by s. 85(6) of the Legal Profession Act. In *Law Society of British Columbia v. Grimwood* (24 February 2005), Vancouver L032736 (S.C.) at para. 9, Stewart J., after citing that section, observed:

Note how little the Law Society need establish to obtain an injunction ordering someone not to do that which they are not permitted to do as a matter of law, in any event.

41 The Law Society need only establish that there is "reason to believe" that there has been or will be a

contravention of the Legal Profession Act. The court must have reasonable grounds for such a belief. This must be assessed objectively and must be supported by the evidence. It requires more than mere suspicion but less than proof on a balance of probabilities: *Mugesera v. Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40 at para. 114.

42 The threshold for making out a case for an injunction is thus a low one. As the Court observed in *Grimwood*: the injunction merely operates to prohibit breaches of the statute, which is impermissible conduct in any event. Regarding the latter, s. 3 of the *Legal Profession Act* stipulates that the Law Society's paramount object and duty is to uphold and protect the public interest in the administration of justice and, in so doing, to regulate the practice of law.

[37] These comments are also *apropos* a judicial interpretation of s. 82 of the *Act* and accord with the Law Society's broad obligation to protect the public and promote the integrity of the legal profession. Section 3 of the *Act* statutorily mandates the duty of the Law Society:

3.1 In the exercise of its powers and the discharge of its responsibilities, it is the duty of the society, at all times:

- (a) to act in the public interest;
- (b) to regulate the profession and to govern the members in accordance with this Act and the rule; and
- (c) to protect the public by assuring the integrity, knowledge, skill, proficiency and competence of members.

[38] Seeking this injunction is part of the Law Society's statutory obligation to protect the public as well as to regulate its members. The court in *Augier* at para 9 emphatically stated this goal:

9 The Law Society has an important role in protecting the public from the activities of unlicensed and unregulated persons holding themselves out to be lawyers and paralegals.

The Respondent, for example, is not required to carry professional liability insurance, keep books and records for inspection by the Law Society, or maintain a trust account for client funds that can be audited by the Law Society. Indeed, the Law Society would have no right or ability to carry out a spot audit or any other kind of check in relation to the activities of the Respondent, as it would for a licensed legal professional. That is why the Law Society has a duty to seek remedies against unauthorized persons practicing law or holding themselves out as legal professionals.

[39] Not only do non-authorized persons who practice law have no obligation to keep books and records for Law Society inspection, there exists no mechanisms for public complaints nor an obligation to participate in mandatory continuing legal education programs.

[40] I find that the public's interest is paramount in this application. Moreover, I find little hardship occasions Mr. Mattison if he is enjoined from doing what the statute already prohibits. A legally trained person should readily appreciate the necessity to comply with explicit statutory provisions.

[41] I am mindful, too, of the statement of the Ontario Court of Appeal in *Chiarelli CA* that, contemplating that the Law Society might well seek an order for contempt of court, the terms of the injunction should not necessarily follow, word for word, the phrasing of the statute, but provide more specificity. The court stated:

[34] It is preferable that a statutory injunction not simply repeat the language of the statute relied upon. This is for the practical reason that such an injunction may be difficult to enforce by way of a contempt proceeding if the terms of the order are not sufficiently specific and clear: Robert J. Sharpe, *Injunctions and Specific Performance*, loose-leaf (Toronto: Thomson Reuters, 2013), at paras. 3.265, 6.10.

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[42] In this application, the Law Society has suggested the terms of an injunction which I have altered to provide more specificity. Accordingly, pursuant to s. 82(1) of the *Act*, Mr. Mattison is hereby enjoined from:

(a) Practising at the bar of any court of civil or criminal jurisdiction in Saskatchewan;

(b) Advising, doing, or performing for a fee or reward, either directly or indirectly, in matters pertaining to the law of Saskatchewan or of any jurisdiction outside Saskatchewan, namely:

(i) on the drafting of affidavits, statements of claim, statements of defence, counterclaims, notices to produce documents, notices of application or any other court forms or documents in civil proceedings;

(ii) on the meaning and applicability of provisions of any statute of any Canadian jurisdiction;

(iii) as to matters of legal procedure;

(iv) on the correctness or the application of case law;

(v) representing persons for purposes of negotiating the resolution of legal issues;

(vi) appearing in court as an advisor to, or advocate for, any party to a legal proceeding;

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- (vii) acting as an advocate for any person or party in respect of any matter pertaining to the law, whether ~~in~~ in writing or in person; and
- (viii) writing to any lawyer, court official, or other person involved in the justice system, on behalf of another individual, about any matter pertaining to the law;
- (c) Suing out any writ or process;
- (d) Commencing, carrying on, or defending any action or proceeding in any court of civil or criminal jurisdiction;
- (e) Pretending or holding himself out to be a lawyer, an attorney at law, a barrister, or a solicitor;
- (f) Taking, assuming, or using any name, title addition or description other than one that he actually possesses and is legally entitled to, or that implies or is calculated to lead people to infer that he is a lawyer, an attorney at law, a barrister, or a solicitor, or that he is a lawyer or member or is recognized by law as a lawyer qualified to practise law or do business as a lawyer in Saskatchewan or any jurisdiction;
- (g) Publishing or advertising himself as a lawyer, an attorney at law, a barrister, or a solicitor in or on any print or broadcast media or electronic media, including websites and social media;

- (h) Using the designations of "barrister", "solicitor", "barrister and solicitor", "lawyer", "legal practitioner", "attorney-at-law" or "attorney"; and
- (i) Doing any of the above in the guise of agency.

[43] The Law Society shall have costs of this application on a party and party basis, payable forthwith.

J.
D. H. LAYH

AUTHORIZATION TO RELEASE INFORMATION AND APPOINTMENT OF A
REPRESENTATIVE / AGENT
(PERSONAL)

DATE: MAY 11, 2018

TO: LABOUR RELATIONS & WORKPLACE SAFETY

EMPLOYMENT STANDARDS

122 3RD AVENUE NORTH

SASKATOON, SK.

ATTENTION: MS. SHELLEY STRETCH

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Q.B.

Dear Sir/Madam:

This will constitute your written authority to release any and all information regarding the Undersigned, to the following duly appointed representative/agent for and on my behalf to represent the Undersigned at any and all proceedings requiring the submission of written and/or oral presentations, namely:

Mr. Dean Mattison

#104-1640 TOYLUYO DRIVE NORTH

SASKATOON, SK. S7L 1B1

CELL: 306-291-2692

And for so doing, this shall be your sufficient warrant and authority.

The Undersigned recognizes that Dean Mattison is not a practicing lawyer or member of the Law Society of Saskatchewan but is being appointed as a representative / agent only.

Individual's Name: VASILE ARNANT

Signature: 