

March 20, 2024

Re: Subject: Caryma Fayez Sa'd

Complainant: Bernie Farber

Case No.: CAS – 135409 - D8P8R4

As discussed during our telephone conversation on March 19, 2024, I have completed my investigation of your complaint. For the reasons explained below, I have concluded that your complaint raised concerns that Ms Sa'd has,

- failed to act with honour and integrity
- engaged in harassing, and/or discriminatory conduct
- engaged in conduct that tends to bring discredit upon the legal profession.

However, I will be closing this investigation with Regulatory Guidance provided to Ms Sa'd to help avoid similar issues in the future.

Background

In this investigation the evidence revealed that the Lawyer first attended at and identified Jewish retail outlets in a plaza near your home. She then attended your home to serve a Notice on you. At your home she showed a picture of herself on your front lawn and at your front door. These images were all portrayed as tweets on Ms Sa'd's online account on X.

Explanation

The regulatory issues are substantiated by Ms Sa'd's posts on X.

- failed to act with honour and integrity
- engaged in harassing, and/or discriminatory conduct
- engaged in conduct that tends to bring discredit upon the legal profession.

Ms Sa'd's actions appear to be opportunistic as the service of a document could have been completed by a process server. However, she chose to share the process in a public forum.

As such, I find that she has 'failed to act with honour and integrity'. There was no need for her to proceed in this way. She should not have turned her issue with the Canadian Anti Hate Network into what appears to be a personal issue with you.

I also find that she has 'engaged in harassing, and/or discriminatory conduct'. While she stated in her post that she stopped at a random plaza, she clearly displayed the names of retail outlets in that plaza, Israels, Judaica Centre and Sobey's Kosher Market. She wanted to clearly identify the 'Jewishness' of this neighborhood and in turn that you are Jewish. This should never have been displayed by Ms Sa'd.

I also find that she has, 'engaged in conduct that tends to bring discredit upon the legal profession'. Any person who also knows that she is a lawyer, may perceive her actions as inappropriate by a lawyer in the legal profession.

Outcome

After considering all the material and information gathered in the investigation, I have concluded that the investigation identified concerns about Ms Sa'd's conduct and that she,

- failed to act with honour and integrity
- engaged in harassing, and/or discriminatory conduct
- engaged in conduct that tends to bring discredit upon the legal profession.

To address these concerns, I have provided Ms Sa'd with Regulatory Guidance. I have referred her to Rule 2.1-1, Rule 6.3.1-1 and Rule 7.3-1 of the *Rules of Professional Conduct*. I have copied the above noted rules into Appendix A at the end of this letter.

I have also explained to the Licensee how this situation could be avoided in the future. As the issues have now been addressed, the Law Society will be taking no further action.

Regulatory Guidance is a remedial response to your complaint, to remind the Licensee of their professional obligations and to assist them in complying with the *Rules of Professional Conduct*. It is not a disciplinary measure, and it is not the practice of the Law Society to make it public. As with all licensees, in the event of future complaints against the Licensee, the Law Society will review their entire regulatory history, including any Remedial Guidance provided, before determining the appropriate outcome.

Complaints Resolution Commissioner

You may request a review of the Law Society's investigation of your complaint or the outcome by the [Complaints Resolution Commissioner](#). A review request must be made to the Office of the Complaints Resolution Commissioner within 60 days of this letter's date.

Thank you for bringing your complaint to the attention of the Law Society, and for your assistance with my investigation. Your participation in the process has supported the Law Society with its mandate to protect the public interest.

Yours truly,

A handwritten signature in black ink, appearing to read "Stehouwer", is placed over a light yellow rectangular background.

Peter Stehouwer, Investigator

Appendix "A"

The Rules of Professional Conduct

Rule 2.1-1 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.

Commentary

[1] Integrity is the fundamental quality of any person who seeks to practise as a member of the legal profession. If a client has 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 Law Society may be justified in taking disciplinary action.

[4] Generally, however, the Law Society will not be concerned with the purely private or extra-professional activities of a lawyer that do not bring into question the lawyer's professional integrity.

[4.1] A lawyer has special responsibilities by virtue of the privileges afforded the legal profession and the important role it plays in a free and democratic society and in the administration of justice, including a special responsibility to recognize the diversity of the Ontario community, to protect the dignity of individuals, and to respect human rights laws in force in Ontario.

Rule 6.3.1-1 A lawyer has a special responsibility to respect the requirements of human rights laws in force in Ontario and, specifically, to honour the obligation not to discriminate on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences (as defined in the Ontario Human Rights Code), marital status, family status, or disability with respect to professional employment of other lawyers, articulated students, or any other person or in professional dealings with other licensees or any other person.

Commentary

[1] The Law Society acknowledges the diversity of the community of Ontario in which lawyers serve and expects them to respect the dignity and worth of all persons and to treat all persons equally without discrimination.

[2] This rule sets out the special role of the profession to recognize and protect the dignity of individuals and the diversity of the community in Ontario.

[3] Rule 6.3.1-1 will be interpreted according to the provisions of the Human Rights Code (Ontario) and related case law.

[4] The Human Rights Code (Ontario) defines a number of grounds of discrimination listed in rule 6.3.1-1. For example,

[5] Age is defined as an age that is eighteen years or more.

[Amended - January 2009]

[6] Disability is broadly defined in s. 10 of the Human Rights Code (Ontario) to include both physical and mental disabilities.

[Amended - January 2009]

[7] Family status is defined as the status of being in a parent-and-child relationship.

[8] Marital status is defined as the status of being married, single, widowed, divorced, or separated and includes the status of living with a person in a conjugal relationship outside marriage.

[Amended - January 2009]

[9] Record of offences is defined such that a prospective employer may not discriminate on the basis of a pardoned criminal offence (a pardon must have been granted under the Criminal Records Act (Canada) and not revoked) or provincial offences.

[10] The right to equal treatment without discrimination because of sex includes the right to equal treatment without discrimination because a woman is or may become pregnant.

[11] There is no statutory definition of discrimination. Supreme Court of Canada jurisprudence defines discrimination as including

(a) Differentiation on prohibited grounds that creates a disadvantage. Lawyers who refuse to hire employees of a particular race, sex, creed, sexual orientation, etc. would be differentiating on the basis of prohibited grounds.

[Amended - January 2009]

(b) Adverse effect discrimination. An action or policy that is not intended to be discriminatory can result in an adverse effect that is discriminatory. If the application of a seemingly "neutral" rule or policy creates an adverse effect on a group protected by rule 6.3.1-1, there is a duty to accommodate. For example, while a requirement that all articling students have a driver's licence to permit them to travel wherever their job requires may seem reasonable, that requirement should only be imposed if driving a vehicle is an essential requirement for the position. Such a requirement may have

the effect of excluding from employment persons with disabilities that prevent them from obtaining a licence.

[Amended - January 2009]

[12] Human rights law in Ontario includes as discrimination, conduct which, though not intended to discriminate, has an adverse impact on individuals or groups on the basis of the prohibited grounds. The Human Rights Code (Ontario) requires that the affected individuals or groups must be accommodated unless to do so would cause undue hardship.

[13] A lawyer should take reasonable steps to prevent or stop discrimination by any staff or agent who is subject to the lawyer's direction or control.

[14] Ontario human rights law excepts from discrimination special programs designed to relieve disadvantage for individuals or groups identified on the basis of the grounds noted in the Human Rights Code (Ontario).

[15] In addition to prohibiting discrimination, rule 6.3.1-1 prohibits harassment on the ground of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status, or disability. Harassment by superiors, colleagues, and co-workers is also prohibited.

[Amended - January 2009, January 2014]

[16] Harassment is defined as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome" on the basis of any ground set out in rule 6.3.1-1. This could include, for example, repeatedly subjecting a client or colleague to jokes based on race or creed.

Rule 7.3-1 A lawyer who engages in another profession, business, or occupation concurrently with the practice of law shall not allow such outside interest to jeopardize the lawyer's professional integrity, independence, or competence.

Commentary

[1] A lawyer must not carry on, manage or be involved in any outside interest in such a way that makes it difficult to distinguish in which capacity the lawyer is acting in a particular transaction, or that would give rise to a conflict of interest or duty to a client.

[2] When acting or dealing in respect of a transaction involving an outside interest, the lawyer should be mindful of potential conflicts and the applicable standards referred to in the conflicts rule and disclose any personal interest.