

2022 LSBC 37
Hearing File No.: HE20210024
Decision Issued: October 20, 2022
Citation Issued: July 23, 2021

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL
HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

MARC ANDRE SCHEIRER
(aka MARC ANDRE ECKARDT)

RESPONDENT

DECISION OF THE MOTIONS ADJUDICATOR
ON AN APPLICATION TO ADJOURN

Written materials:	October 20, 2022
Motions Adjudicator:	Christopher McPherson, KC
Discipline Counsel:	Mandana Namazi
Appearing on his own behalf:	Marc Andre Scheirer

NATURE OF THE APPLICATION

[1] This is an application by the Law Society of British Columbia (the “LSBC”) to adjourn the hearing on Facts and Determination currently scheduled for December 5 to 7, 2022. The Respondent consents to the application.

- [2] While this is the second adjournment application, I am satisfied that, given the reason for the adjournment, the public interest is best satisfied by granting a relatively brief further adjournment.

FACTS

- [3] The citation was issued on July 23, 2021. It alleges that the Respondent was convicted of a sexual assault which took place on or about February 28, 2018. The Respondent was sentenced to a suspended sentence with probation for two years.
- [4] The Respondent appealed his conviction, and the Summary Conviction Appeal was heard from February 7 to 11, 2022.
- [5] In March, 2022 the hearing on Facts and Determination was scheduled for September 19 to 22, 2022, based on the parties' understanding that the decision on the appeal was likely to be released by June, 2022.
- [6] Subsequently, the parties learned that the decision would not be released before October, 2022. Accordingly, on July 25, 2022 an adjournment was granted to the dates currently set for the hearing.
- [7] Since that time, the parties have been advised that the decision is now not expected before October 30, 2022.
- [8] Given the expected date for the release of the decision, the Law Society would not be able to deliver a Notice of Admit within the deadlines set out in the Rules for the dates as currently scheduled.
- [9] The Respondent consents to this application.
- [10] The parties have provided the following available dates for the hearing on Facts and Determination:

January 16 – 18, 2023;

February 27 – 28, 2023; and

March 1-3; and 6 to 10, 2023.

ANALYSIS

- [11] Clearly, the outcome of the Summary Conviction Appeal is integral to the hearing on Facts and Determination. The Law Society intends to rely upon the findings of fact and conclusions in the criminal proceedings. The Facts and Determination hearing is not a venue to relitigate the findings made at the criminal trial.
- [12] I have considered the relevant factors as set out in *Law Society of BC v. Hart*, 2019 LSBC 39. I am satisfied that this adjournment will serve the public interest. All parties have acted reasonably and with dispatch. If the adjournment is not granted, the complainant would be forced to give evidence again, there would be a risk of contradictory decisions, and the interests of justice would not be served.
- [13] While it is preferable for citations to be heard quickly, given the situation here, the public interest is best served by waiting until the decision of the Summary Conviction Appeal.

CONCLUSION AND DECISION

- [14] In my view, the hearing on Facts and Determination must be adjourned.
- [15] While I considered setting the new date for the earliest available date, January 16 to 18, 2023, I am satisfied that, given the uncertainty surrounding exactly when the decision on the Summary Conviction Appeal will be released, the better course of action is to set the hearing for February 27 to March 1, 2023 to allow time for the parties to review the decision once released.