



DISCIPLINE CASE *DIGEST*

Case 11- 02

Member:	Terry Peter Beley
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 30, 1977
Particulars of Charges:	Professional Misconduct (1 Count): <ul style="list-style-type: none">▪ Breach of Chapter 2 of the <i>Code of Professional Conduct</i> [quality of service]
Plea:	Guilty
Date of Hearing:	May 26, 2011
Panel:	<ul style="list-style-type: none">▪ Richard K. Deeley, Q.C. (Chair)▪ Dean I. Scaletta▪ Neil Cohen (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Darcia A.C. Senft for The Law Society of Manitoba▪ Stephen Vincent for the Member
Disposition:	<ul style="list-style-type: none">▪ Fine of \$1,500.00▪ Costs of \$2,500.00

Quality of Service

Facts

In the fall of 2003, Mr. Beley was retained to represent a client regarding an existing family division proceeding. Approximately three years later, he was served by opposing counsel with a notice of motion to dismiss his client's proceeding. He corresponded with opposing counsel in respect of the motion and participated in the court process, all without his client's knowledge. Mr. Beley appeared in court on March 13, 2007 in relation to the motion and agreed to file his client's responding affidavit by March 19, 2007. Mr. Beley failed to make his client aware of the motion until March 2007, did not advise his client of the court appearance on March 13, 2007 and did not advise that he had agreed to provide the client's responding affidavit by March 19, 2007. The responding affidavit was not sworn until May 8, 2007. It was filed in Queen's Bench on May 10, 2007.

On May 8, 2007 Mr. Beley had his client swear a second affidavit in support of her motion for financial disclosure. That motion was already deemed abandoned pursuant to the Queen's Bench Rules. Mr. Beley's client was not made aware of this. The affidavit in support of the motion for financial disclosure was never filed by Mr. Beley in Queen's Bench, notwithstanding his advice to the client that it had been.

Mr. Beley advised his client that he had not received recent communication from opposing counsel when in fact a number of written communications had been received from opposing counsel some of which dated back for some time. From October 2006 onward, Mr. Beley was unduly dilatory in responding to inquiries from his client regarding her domestic matter and in addressing legal issues on her behalf.

Plea

Mr. Beley entered a plea of guilty to the breach of Chapter 2 of the *Code of Professional Conduct* in that he failed to serve his client in a conscientious, diligent and efficient manner so as to provide a quality of service equal to that of a competent lawyer in a like situation.

Decision and Comments

The panel considered the submission and authorities presented. After hearing the submissions, the panel indicated it had a better understanding of the circumstances surrounding the charge and, in particular, the fact that Mr. Beley was the fifth lawyer acting for the client in a matter that involved a large volume of material. Nevertheless, the panel did not excuse the conduct in question and noted that all clients are entitled to the same level of service as required by the *Code of Professional Conduct*.

Penalty

The panel accepted the joint recommendation made by counsel for the Law Society and counsel for Mr. Beley and ordered that he be required to pay a fine in the amount of \$1,500.00 and that he pay costs to the Society in the amount of \$2,500.00 towards the investigation and prosecution of the matter.