



# DISCIPLINE CASE *DIGEST*

[Discipline Case Digest Index](#) ❖ [Law Society Home Page](#)

## Case 06-03

**JOHN LORING PATRICK SINCLAIR**  
Winnipeg, Manitoba

**Called to the Bar**  
June 7, 1965

**Particulars of Charges**  
Professional Misconduct (5 counts)

- Breach of c. 2 of the Code [failure to serve client in a conscientious, diligent and efficient manner] (x3)
- Breach of c. 1 of the Code [failure to act with integrity]
- Breach of c. 3 of the Code [failure to inform client promptly of facts following dismissal of claim for delay; failure to refer client for independent legal advice; and failure to give prompt notice of a potential claim to insurer until required to do so by the Complaints Investigation Committee]

**Date of Hearing**  
April 18, 2006

**Panel**  
Brian A. Pauls (Chair)  
Herbert J. Peters  
Gary R. Gilmour

## Disposition

- Fine of \$3,000.00;
- Ordered to practise under supervision for 18 months;
- Ordered to take the Time Management course offered by the Society;
- Costs of \$4,000.00

**Counsel**  
C. Kristin Dangerfield for The Law Society of Manitoba  
Gavin M. Wood for the Member

---

## Failure to Serve Client / Act with Integrity

---

### Facts

In October 2002, Mr. Sinclair was retained by a client to seek the variation of a maintenance order. Mr. Sinclair failed to pursue his client's case in a timely manner in that he did not obtain copies of his client's Divorce Corollary Relief Judgment until March 2003. The application was unopposed, however, he failed to prepare and send the form of Order to his client's former spouse for signature prior to a hearing date scheduled for April, 2003. The Application was adjourned to file a Consent Order, although Mr. Sinclair did not prepare and send the documentation to his client's former spouse until June, 2003, nor did he respond to telephone calls or correspondence from his client. In August 2003, he filed the Consent Order executed by the former spouse, however, it was rejected by the Court as there was no Affidavit of Execution. Mr. Sinclair failed to advise his client of that fact until October, 2003. Shortly thereafter, he received a signed Affidavit of Execution, although Mr. Sinclair failed to file the Consent Order until November, 2003. As of January, 2004, Mr. Sinclair had not informed his client as to the status of the matter.

In another matter, Mr. Sinclair was retained in October, 2001 to assist a client in separating from and divorcing his wife. Mr. Sinclair failed to pursue his client's case in a timely manner in that he did not prepare a Petition for Divorce for his client's signature until March, 2002. Mr. Sinclair took no steps to proceed with the matter between March, 2002 and March, 2003 at which time he wrote to his client requesting he again attend at his office to sign a new Petition for Divorce. The client telephoned Mr. Sinclair on two occasions to advise that his wife would be travelling to Winnipeg. Mr. Sinclair advised that he would have service of the Petition for Divorce effected on her at that time. The client telephoned Mr. Sinclair on four more occasions to specifically advise as to the location at which his wife could be served. Mr. Sinclair did not respond to messages from his client and failed to file the Petition for Divorce. He was therefore unable to effect service on his client's wife when she was present in Winnipeg.

In another matter, Mr. Sinclair was retained in November, 1998 to represent his client with respect to a medical malpractice claim against a hospital and a physician. A Statement of Claim was issued in February, 2000 but thereafter he failed to pursue his client's case in a timely manner in that he neither served the defendant physician with the Statement of Claim nor obtained an order for substitutional service. He also failed to respond to three letters from opposing counsel requesting that he proceed with the litigation and did not convene an examination for discovery of a representative of the defendant hospital. When the claim was dismissed for delay in September, 2004, he failed to advise his client or to respond to messages from his client as to the status of the matter.

While acting for the same client, following the dismissal of the claim in September, 2004,

Mr. Sinclair failed to inform his client promptly that his action had been dismissed for delay, failed to recommend that his client obtain independent legal advice with respect to his rights arising from the dismissal of the claim, and failed to give prompt notice of a potential claim to his insurer until he was required to do so by the Complaints Investigation Department of the Society in the course of its investigation of his client's complaint.

Mr. Sinclair engaged a management company to make remittances on behalf of his law practice to Canadian Customs & Revenue Agency (CCRA). As of September, 2004, the management company had failed to remit to CCRA on behalf of Mr. Sinclair's law practice employee source deductions for income tax, Canada Pension, and employment insurance.

### **Plea**

Mr. Sinclair entered a plea of guilty to the charges.

### **Decision and Comments**

The panel found Mr. Sinclair guilty of professional misconduct based on his admission to the charges.

### **Penalty**

The panel accepted a joint recommendation made by the Society and counsel for Mr. Sinclair and ordered that:

- a. Mr. Sinclair pay a fine in the amount of \$3,000.00;
- b. Mr. Sinclair practise under the supervision of another member for a period of 18 months;
- c. Mr. Sinclair take, at his own expense, and successfully complete, the Time Management course offered by the Society;
- d. Mr. Sinclair pay costs to the Society in the amount of \$4,000.00 as a contribution towards the costs associated with the investigation, prosecution and hearing of the matter.

[Top of page](#)

[Index](#)