



# DISCIPLINE CASE *DIGEST*

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Case 08-03

<b>Member:</b>	<b>Member A</b>
<b>Jurisdiction:</b>	Winnipeg, Manitoba
<b>Particulars of Charges:</b>	Professional Misconduct <ul style="list-style-type: none"><li>▪ Breach of Chapters 1 and 19 of the <i>Code of Professional Conduct</i> (in communications with the client, failing to observe a standard of conduct that reflects credit on the legal profession)</li></ul>
<b>Date of Hearing:</b>	October 11, 2007
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ Patricia L. Fraser (Chair)</li><li>▪ Garth Smorang, Q.C.</li><li>▪ Lori Ferguson Sain</li></ul>
<b>Disposition:</b>	Acquitted
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ C. Kristin Dangerfield for The Law Society of Manitoba</li><li>▪ Member Self-Represented</li></ul>

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## Failure to Conduct Self with Integrity

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### Facts

Lawyer A represented a client in a custody dispute. The client testified that on three separate occasions between April and July 2006, Member A communicated with him in a manner that was offensive and unprofessional. In particular, the client testified that on April 3, 2006, he had attended at the member's office to sign an affidavit. When the client requested a change, Lawyer A said "I'm sick of you and I'm sick of this case. Frankly, I'm sick of doing these affidavits for you." The client testified that Member A used foul language when speaking with the client.

On June 30, 2006, the client attended at the courthouse with Lawyer A. The client testified that after he responded to a question from the lawyer, the lawyer became very angry with him, saying "you better smarten up, or I'm going to quit." The client testified that the member called him a "loser" and used foul language.

The client testified that on July 17, 2006 he attended at Lawyer A's office to sign an affidavit. The lawyer had requested that he bring some information to the lawyer's office, which he was unable to locate. When he arrived, the lawyer said to him "I asked you to do one lousy thing and you can't even do that." The client testified that the lawyer used foul language.

**Plea**

Although the lawyer acknowledged the respective meetings, the lawyer denied having spoken to the client in the manner which was alleged.

**Decision and Comments**

The Panel was not satisfied that the Law Society had proven its case on a balance of probabilities. The Panel expressed concern about the credibility of the complainant and preferred the evidence of Lawyer A. The charge of professional misconduct was therefore dismissed.