



# DISCIPLINE CASE *DIGEST*

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## **Case 00-07**

**PAUL JASON McMULLAN**  
Winnipeg, Manitoba

**Called to the Bar**  
June 26, 1996

**Particulars of Charges**  
Professional Misconduct (4 counts)

- failure to serve client in a conscientious, diligent and efficient manner;
- misleading client;
- misleading the Complaints Investigation Committee of The Law Society of Manitoba (x2)

**Date of Hearing**  
January 10, 2001

**Panel**  
R.A. Dewar, Q.C. (Chair)  
C.G. Wright  
C.V. Kopynsky, Q.C.

## **Disposition**

- reprimand;
- costs of \$1,000.00

**Counsel**  
C.K. Dangerfield for The Law Society of Manitoba  
Member Unrepresented

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**Misleading the Society / Client**

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## **Facts**

Mr. McMullan was retained in November 1998 to represent a group of clients and to commence an action on their behalf. In January 1999, Mr. McMullan advised the clients that a Statement of Claim had been filed and that he was waiting for the expiry of the twenty day period for filing a Statement of Defence in order to note Default Judgment against the defendant. After making further inquiries, the clients were advised by Mr. McMullan in late May 1999 that the Statement of Claim had not in fact been filed and that the failure to file the Statement of Claim was due to a person other than Mr. McMullan not having filed the claim. That statement was incorrect. He further advised that he would personally take the Statement of Claim to be filed. Mr. McMullan did not do so.

In response to an inquiry from the Society, Mr. McMullan advised the Society that he had left the Statement of Claim with a process server to be filed and served in February or March, 1999. In fact, he had not done so.

In December, 1998, Mr. McMullan transferred an amount from his trust account to his general account on account of fees and disbursements. He did not prepare and deliver to his client a statement of account at that time. Upon the termination of his retainer in July 1999, the funds were re-deposited back into trust to the credit of the client. When questioned by the Law Society about these transactions and the absence of a statement of account, Mr. McMullan fabricated a statement of account which he produced to The Law Society of Manitoba.

## **Decision and Comments**

Based on his admission to the charges, Mr. McMullan was found guilty of professional misconduct resulting from his failure to serve his client in a conscientious, diligent and efficient manner by failing to file the Statement of Claim, misleading his clients and misleading the Complaints Investigation Committee of The Law Society of Manitoba.

## **Penalty**

The Committee accepted the joint recommendation of counsel for the Law Society and Mr. McMullan. The Committee imposed a reprimand and ordered that Mr. McMullan pay costs in the amount of \$1,000.00 forthwith.

The Committee noted that but for the fact that Mr. McMullan's conduct in this case was considered by a Practice Review Committee to be an aberration, the offence of fabricating the Statement of Account would warrant a more serious disposition than that which had been agreed to.

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