



DISCIPLINE CASE *DIGEST*

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

Case 97-11

TERRENCE R. McDowell
Winnipeg, Manitoba

Called to the Bar
September 15, 1967

Particulars of Charges
Professional Misconduct

- Failure to inform client of error or omission

Date of Hearing
February 19, 1998

Panel
L.D. Wasel, (Chair)
B. Christianson, Q.C.
V.E. Rachelis

Disposition

- Fine of \$500.00
- Costs of \$500.00

Counsel
J.R. Gallagher for The Law Society of Manitoba
F.L. Cvitkovitch, Q.C. for the Member

Failure to Inform Client of Error or Omission

Facts

Mr. McDowell was retained by a client in February, 1993 to pursue a claim against Manitoba Public Insurance. As of the limitation date of February 1, 1995 the claim had not been settled and Mr. McDowell failed to file a Statement of Claim on behalf of his client.

On February 20, 1995, Manitoba Public Insurance wrote to Mr. McDowell advising that as no Statement of Claim had been filed, their file was being closed. Mr. McDowell failed in his duty to contact his client to advise that an error or omission had occurred on his part. The client contacted Mr. McDowell occasionally as to the status of the claim but Mr. McDowell was not frank and did not inform the client that he had missed the limitation date for filing a Statement of Claim. The client contacted Manitoba Public Insurance directly in early 1997 and discovered the error.

Mr. McDowell admitted that the limitation period had been missed due to an oversight on his part, however, he did not provide a satisfactory explanation as to why he had not notified his client of the fact.

Decision and Comments

Mr. McDowell entered a plea of guilty to the charge of professional misconduct. The Committee considered the fact that Mr. McDowell had cooperated with the Society in its investigation and had also entered a plea of guilty to the charge. The Committee emphasized that the misconduct occurred after Mr. McDowell was notified of the error or omission in that he failed to promptly disclose the error or omission to his client and that he compounded his misconduct by his continued silence on the issue for a period of two years.

Penalty

The Committee found Mr. McDowell guilty of professional misconduct and imposed a fine of \$500.00 and also ordered that he pay costs in the amount of \$500.00 within six months.

[Top of page](#)
[Index](#)