



# DISCIPLINE CASE *DIGEST*

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## **Case 98-06**

**NICHOLAS TRUSEWYCH**  
Winnipeg, Manitoba

**Called to the Bar**  
June 25, 1981

**Particulars of Charges**  
Professional Misconduct

- Failure to provide a contingency agreement and a copy of subsections 58 (4), (5) and (6) of The Law Society Act to the client
- Breach of trust accounting rules

**Date of Hearing**  
September 29, 1998

**Panel**  
Richard K. Deeley Q.C. (Chair)  
Dr. Claudia Wright  
Harry Gliner

## **Disposition**

- Reprimand
- Costs of \$1,200

**Counsel**  
C. Kristin Dangerfield for The Law Society of Manitoba  
Chrys W. Iwanchuk, Q.C. for the Member

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**Failure to Provide Contingency Agreement**

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## **Facts**

Mr. Trusewych appeared before the Discipline Committee on September 29, 1998 at which time he entered a guilty plea to both counts of professional misconduct.

The misconduct related to Mr. Trusewych's representation of a husband and wife in respect of injuries sustained by them in a motor vehicle accident. The clients agreed to enter into a contingent fee arrangement with Mr. Trusewych, whereby he was to receive 22% of monies recovered from Manitoba Public Insurance. Mr. Trusewych failed to provide to the clients a contingency agreement and a copy of subsections 58 (4), (5) and (6) of *The Law Society Act*, contrary to subsection 58 (2) of *The Law Society Act*.

In respect of the same matter, when the matter was settled Mr. Trusewych received a single lump sum settlement from Manitoba Public Insurance in respect of each of the client's matters. He deposited the settlement funds into his pooled trust account to the credit of the husband only. He failed to record separately on the trust ledger card maintained for the wife that portion of the funds which were attributable to the wife's recovery, contrary to Rule 128(2)(b) of *the Law Society Rules*.

## **Decision and Comments**

Mr. Trusewych entered a guilty plea to both charges of professional misconduct. As a result of Mr. Trusewych's plea the Committee found that each of the counts in the Citation was proven and that Mr. Trusewych was guilty of professional misconduct.

## **Penalty**

The Committee considered the fact that Mr. Trusewych had no prior record, his plea of guilty and the fact that he had acknowledged responsibility for his actions. In light of these factors the Committee accepted the joint submission of counsel and imposed a reprimand and ordered that Mr. Trusewych pay costs in the amount of \$1,200.00 within three months.

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