

THE LAW SOCIETY OF BRITISH COLUMBIA

IN THE MATTER OF THE *LEGAL PROFESSION ACT*, SBC 1998, C. 9

AND

PREETKA BRAR

(a member of the Law Society of British Columbia)

RULE 3-7.1 CONSENT AGREEMENT

1. On February 1, 2023, the Chair of the Discipline Committee approved a proposal submitted by Preetka Brar (the “Lawyer”) under Rule 3-7.1 of the Law Society Rules (“Rules”).
2. Under the proposal, the Lawyer admitted that she committed the following misconduct:
 - i. On July 21, 2021, in the course of representing a client during examinations for discovery related to two files, she failed to maintain the integrity of the examination for discovery process by discussing her client’s evidence with him during breaks, contrary to rule 5.4-2 of the *Code of Professional Conduct for British Columbia*.
3. The Lawyer further admitted that this conduct amounts to professional misconduct.
4. Under the proposal, the Lawyer has agreed to pay a fine of \$10,000.
5. In making its decision, the Chair of the Discipline Committee considered an Agreed Statement of Facts dated January 30, 2023, and a letter to the Chair of the Discipline Committee. The Chair also considered that the Lawyer did not have a prior Professional Conduct Record.
6. This consent agreement will now form part of the Lawyer’s Professional Conduct Record.

7. Pursuant to Rule 3-7.1(5) of the Rules, and subject to Rule 3-7.2 of the Rules, the Law Society is bound by an effective consent agreement, and no further action may be taken on the complaint that gave rise to the agreement.
8. The admitted facts, set out in the Agreed Statement of Facts, have been anonymized and summarized below.

I. Summary of Facts

9. The Lawyer was called to the bar and became a member of the Law Society of British Columbia on March 12, 2008. Between March 2008 and June 2015, she practised law at several firms in the Lower Mainland of British Columbia.
10. Since June 2015, the Lawyer has practised law as a sole practitioner at Brar Law Corporation in Surrey, British Columbia. During the material time, the Lawyer practised primarily in the area of motor vehicle law.
11. The Lawyer speaks Punjabi.

Background Facts

12. In 2021, the Lawyer represented a client in two actions related to two separate motor vehicle accidents. Both actions proceeded as “Fast Track” litigation, pursuant to Rule 15-1 of the Supreme Court Civil Rules.
13. The client was the plaintiff in both actions. The client’s first language is Punjabi and he speaks little English.
14. In addition to the two actions, the client was involved in an accident during which he fell down some stairs. The three accidents occurred over a period of approximately eight (8) months. The workplace accident occurred in between the two (2) automobile accidents.
15. On July 21, 2021, the Lawyer attended examinations for discovery in both actions, with her client. Under the Fast Track litigation rules, each discovery was limited to two (2) hours in

length (four (4) hours total). The examinations for discovery were held by videoconference on the Zoom platform.

16. During the examinations for discovery, the Lawyer and her client were both seated in the conference room at the Lawyer's firm. Two opposing counsel attended the examinations for discovery as counsel for the respective defendants in the action, from a different location.
17. Neither opposing counsel understood or spoke Punjabi. The examinations for discovery were conducted with the assistance of a Punjabi language interpreter.
18. During one examination for discovery, there was confusion about which of the client's injuries were suffered in the three accidents that he was involved in. The client was confused by some of the questions, particularly concerning which of the three accidents they referred to. The interpreter was not always able to finish interpreting his answer before another question was asked. The Lawyer became concerned and frustrated by her client's inability to focus and explain himself, particularly given the limited time permitted before the examination needed to conclude.
19. During breaks, the Lawyer spoke to her client in Punjabi. The client appeared to be frustrated and confused and he complained to the Lawyer that he had a headache. The Lawyer attempted to focus the client on his claims, in the hope that the remaining time would be used more constructively.
20. After one break, opposing counsel told the Lawyer that she had heard the Lawyer speak with the client about headaches, and reminded the Lawyer that she could not speak with her client about his evidence during breaks. The Lawyer responded by advising that she had been checking to see if the volume was on, and that when she and her client were discussing headaches it was because her client had a headache at that moment.
21. The Lawyer admits that during breaks, she discussed the client's evidence with him in Punjabi. They discussed what the client was going to say about the accident, his injuries and symptoms after one accident in March, and a discussion he had with his physician.

22. The two actions were subsequently settled, without any suggestion that the client had feigned his injuries; that he was untruthful; or that the Lawyer's discussions with him about his evidence during the breaks resulted in him providing inaccurate evidence.

Mitigating Factors

23. At an early stage in the investigation, the Lawyer acknowledged that it was improper for her to have spoken to her client about his evidence during an examination for discovery, and that in doing so she failed to maintain the integrity of the examination for discovery process. The Lawyer expressed remorse and apologized for her misconduct.

24. While strictly speaking not a mitigating factor, in order to provide some context for what occurred, the Lawyer explained that it was an isolated incident that happened in a very frustrating and stressful situation. Her client was confused, there were issues with translation, and without directing any blame, issues with opposing counsel. In the moment, she exercised poor judgement.

25. The Lawyer has given assurances that her misconduct will not be repeated in the future. She no longer practises motor vehicle law (other than completing two remaining cases).

26. Subsequent to her misconduct, the Lawyer completed 12.5 credits of relevant continuing professional development courses and reviewed two practice resources, in order to assist her to better understand how to manage stressful situations and maintain professionalism during litigation. The Lawyer has and continues to work with a mentor in order to have a resource for support and guidance in her practice. She is a current member of the Canadian Immigration Lawyers Association and the Canadian Bar Association's Immigration subsection.

27. The Lawyer's previous and current mentor both provided personal letters of reference and support which attest to the Lawyer's otherwise good character.

28. As noted above, the Lawyer does not have a prior Professional Conduct Record.