

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 11652-2017

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

LESLEY DEE LAYTON

Respondent

Before:

Mrs J. Martineau (in the chair)

Mr P. Lewis

Mrs C. Valentine

Date of Hearing: 10 October 2017

Appearances

There were no appearances as the matter was dealt with on the papers.

JUDGMENT ON AN AGREED OUTCOME

Allegations

1. The allegations against the Respondent made by the Applicant were set out in a Rule 5 document dated 8 May 2017. The allegations were that:
 - 1.1. She created (or caused to be created) two witness statements onto which the signature of the witness, GH, had been copied from another document, and sought to represent that GH had personally signed those statements.

She thereby acted in breach of Principles 1, 2 and 6 of the SRA Principles 2011 (“Principles”), and failed to achieve Outcome 5.1 of SRA Code of Conduct 2011 (“the Code”).
 - 1.2. When the genuineness of the copied signatures on the two witness statements of GH was challenged, she sought to perpetuate her deception by falsely stating, both in correspondence to BLM, the solicitors for defendants in GH’s claim, and in her evidence to the court, that she had not copied or caused to be copied GH’s signature into the statements.

She thereby acted in breach of Principles 1, 2 and 6 of the Principles, and failed to achieve Outcomes 5.1 and 11.1 of the Code.
 - 1.3. She caused to be filed at court a claim form which advanced her client’s case on the basis of a fact, namely the date on which her client’s accident had occurred, which she did not believe to be true.

She thereby acted in breach of Principles 1, 2 and 6 of the Principles.
 - 1.4. She filed (or caused to be filed) at Court a claim form which purported to have been signed by the claimant, but which she knew had not been signed by the claimant.

She thereby acted in breach of Principles 1, 2 and 6 of the Principles, and failed to achieve Outcome 5.1 of the Code.
2. It was alleged that the Respondent’s conduct in respect of allegations 1.1 to 1.4 was dishonest, although dishonesty was not an essential ingredient of any of the allegations.

Documents

3. The Tribunal had before it the following documents:-
 - The Application and Rule 5 Statement dated 8 May 2017
 - The Respondent’s Answer dated 12 June 2017
 - Statement of Agreed Facts and Outcome

Factual Background

4. The Respondent was born in September 1981 and was admitted to the Roll of Solicitors on 2 January 2007. At all relevant times the Respondent was employed as a solicitor by Lance Mason Solicitors (“the Firm”) in Blackburn.

5. The allegations arose following two reports by the COLP of the Firm to the SRA regarding files on which the Respondent was the named fee earner.

Application for the matter to be resolved by way of Agreed Outcome

6. The parties invited the Tribunal to deal with the Allegations against the Respondent in accordance with the Statement of Agreed Facts and Outcome annexed to this Judgment. The parties submitted that the outcome proposed was consistent with the Tribunal's Guidance Note on Sanctions.

Findings of Fact and Law

7. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent's rights to a fair trial and to respect for her private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

8. In brief summary, it was alleged against the Respondent that:

- In respect of the matter of GH, the Respondent directed the creation of two witness statements onto which the signature of GH was copied from another document. Following discovery, the Respondent continued to maintain to opposing solicitors and the Court that the signatures had not been copied and were genuine.
- In respect of the matter of KF, the Respondent directed the creation of a claim form which contained an accident date which she knew to be untrue. She then directed that the second page of a claim form previously signed by her client be attached to the back of the claim form with the wrong date and that document be filed at court.

9. The Respondent admitted the following:

- 9.1 She caused to be created two witness statements onto which the signature of witness, GH, had been copied from another document, and sought to represent that GH had personally signed those statements.

She thereby acted in breach of Principles 1, 2 and 6 of the Principles, and failed to achieve Outcome 5.1 of the Code.

- 9.2 When the genuineness of the copied signatures on the two witness statements of GH was challenged, she sought to perpetuate the deception by falsely stating, both in correspondence to BLM, the solicitors for defendants in GH's claim, and in her evidence to the court, that she had not copied or caused to be copied GH's signature into the statements.

She thereby acted in breach of Principles 1, 2 and 6 of the Principles, and failed to achieve Outcomes 5.1 and 11.1 of the Code.

- 9.3 She caused to be filed at court a claim form which advanced her client's case on the basis of a fact, namely the date on which her client's accident had occurred, which she did not believe to be true.

She thereby acted in breach of Principles 1, 2 and 6 of the Principles.

- 9.4 She caused to be filed at Court a claim form which purported to have been signed by the claimant, but which she knew had not been signed by the claimant.

She thereby acted in breach of Principles 1, 2 and 6 of the Principles, and failed to achieve Outcome 5.1 of the Code.

10. That her conduct in respect of 9.1 to 9.4 above was dishonest.
11. The Tribunal reviewed all the material before it and was satisfied beyond reasonable doubt that the Respondent's admissions were properly made.
12. The Tribunal considered the Guidance Note on Sanction (December 2016). In doing so the Tribunal assessed the culpability and harm identified together with the aggravating and mitigating factors that existed.
13. The Tribunal noted the points advanced by the Respondent namely that she had made open and frank admissions and have always cooperated with the investigating body. Prior to these allegations, she had had a previously unblemished career history with no previous complaints. Also, the Respondent had always sought to uphold the rule of law and was thoroughly embarrassed that it came to this.
14. The Tribunal was satisfied that the appropriate sanction in all the circumstances was a strike-off. The Respondent had not presented, and the Tribunal was unable to identify, any exceptional circumstances that would enable a lesser sanction to be imposed.

Costs

15. The parties had agreed that the Respondent would pay the Applicant's costs fixed in the sum of £13,920 plus VAT. The Applicant's costs at the date of issue had been £9,145.00. The substantive hearing was due to commence on 13 October 2017. The Tribunal was satisfied that the sum sought was an appropriate and proportionate level of costs and ordered that the Respondent do pay costs, as agreed, fixed in the sum of £13,920.00 plus VAT.

Statement of Full Order

16. The Tribunal ORDERS that the Respondent, LESLEY DEE LAYTON, solicitor, be STRUCK OFF the Roll of Solicitors and it further Orders that she do pay the costs of and incidental to this application and enquiry fixed in the sum of £13,920.00 plus VAT.

Dated this 10th day of October 2017
On behalf of the Tribunal


J. Martineau
Chair

Judgment filed
with the Law Society
on 12 OCT 2017

SOLICITORS DISCIPLINARY TRIBUNAL

Case Number: 11652-2017

IN THE MATTER OF THE SOLICITORS ACT 1974 (AS AMENDED)

IN THE MATTER OF:

SOLICITORS REGULATION AUTHORITY

Applicant

and

LESLEY DEE LAYTON

Respondent

STATEMENT OF AGREED FACTS AND OUTCOME

1. By a Statement made by Katrina Wingfield on behalf of the Solicitors Regulatory Authority (SRA) pursuant to Rule 5 of the Solicitors (Disciplinary Proceedings) Rules 2007 dated 8 May 2017, the Solicitors Regulation Authority ("SRA") brought proceedings before the Tribunal making allegations of misconduct against the Respondent. The Tribunal gave directions on 11 May 2017 which were amended on 22 June 2017. The substantive hearing is listed for 3 days on 13, 16 and 17 October 2017.
2. The Respondent is willing to make admissions to the allegations against her in the Rule 5 Statement as set out at paragraph 5 below, and accepts a factual basis of the admitted allegations as set out in this document.
3. The allegations arose following two reports by the COLP of the Firm to the SRA regarding files on which the Respondent was the named fee earner. In brief summary, it is alleged against the Respondent that:
 - 3.1. In respect of the matter of GH, the Respondent directed the creation of two witness statements onto which the signature of GH was copied from another document. Following discovery, the Respondent continued to maintain to opposing solicitors and the Court that the signatures had not been copied and were genuine.
 - 3.2. In respect of the matter of KF, the Respondent directed the creation of a claim form which contained an accident date which she knew to be untrue. She then directed that the second page of a claim form previously signed by her client be attached to the back of the claim form with the wrong date and that document be filed at court.

4. The SRA is satisfied that the admissions and outcome satisfy the public interest having regard to the gravity of the matters alleged.

ADMISSIONS

5. The Respondent admits the following:
 - 1.1. She caused to be created two witness statements onto which the signature of witness, GH, had been copied from another document, and sought to represent that GH had personally signed those statements.
She thereby acted in breach of Principles 1, 2 and 6 of the SRA Principles 2011 ("Principles"), and failed to achieve Outcome 5.1 of SRA Code of Conduct 2011 ("the Code").
 - 1.2. When the genuineness of the copied signatures on the two witness statements of GH was challenged, she sought to perpetuate the deception by falsely stating, both in correspondence to BLM, the solicitors for defendants in GH's claim, and in her evidence to the court, that she had not copied or caused to be copied GH's signature into the statements.
She thereby acted in breach of Principles 1, 2 and 6 of the Principles, and failed to achieve Outcomes 5.1 and 11.1 of the Code.
 - 1.3. She caused to be filed at court a claim form which advanced her client's case on the basis of a fact, namely the date on which her client's accident had occurred, which she did not believe to be true.
She thereby acted in breach of Principles 1, 2 and 6 of the Principles.
 - 1.4. She caused to be filed at Court a claim form which purported to have been signed by the claimant, but which she knew had not been signed by the claimant.
She thereby acted in breach of Principles 1, 2 and 6 of the Principles, and failed to achieve Outcome 5.1 of the Code.
 - 1.5. That her conduct in respect of 1.1 to 1.4 above was dishonest.

AGREED FACTS

Matters relating to Client GH

6. In 2014, the firm was instructed to act for GH in connection with a personal injury claim. The case was being handled by the Respondent. The defendant was represented by BLM (a firm of solicitors).
7. The parties had been due to exchange witness evidence by 15 January 2015 but agreed to extend this deadline to 29 January 2015. The Respondent took witness statements from GH and her sister, and sent them out for signature.
8. The Respondent did not receive GH's signed witness statement in time to enable her to meet the 29 January 2015 deadline for exchange of witness evidence.
9. On 2 February 2015, by which time GH's signed statement had still not arrived, the Respondent:
 - 9.1. directed another employee of the Firm to copy GH's signature from the Part 18 replies onto a blank (unsigned) copy of GH's witness statement; and
 - 9.2. sent that statement to BLM under cover of a letter dated 27 January 2015.
10. On 4 February 2015, BLM sent a letter to the firm noting that:
 - 10.1. the statement of truth on GH's statement appeared to have been cut from another document and copied onto the statement which had been served; and
 - 10.2. the date of the statement of truth had been removed.The letter asked for confirmation of whether the statement of truth had been cut and copied onto the statement and whether the date had been removed.
11. On 9 February 2015, the Respondent caused to be created another signed statement of GH by directing another employee to copy GH's signature from the Part 18 replies onto a blank (unsigned) copy of GH's witness statement. That statement was emailed to BLM by the Respondent.
12. BLM emailed the Respondent on 9 February 2015 asking for the original statement to be sent in the post. The Respondent replied, saying that she would send the original statement out by post that evening. The Respondent then directed another individual to trace over the signatures which had been copied into those statements using ballpoint pen, in order to give the impression that they were original signatures. She then sent both copies to BLM.

13. BLM subsequently applied to strike out GH's claim. On 29 April 2015, the Respondent made a witness statement in which, amongst other things, she stated:

13.1. she had no explanation for Dr Giles' findings; and

13.2. that she had sent two slightly different statements, the difference being the statement of truth, to GH and GH signed and returned them to her. She then served version A on BLM and in error sent version B to BLM at a later date.

14. The strike-out application was heard on 30 April 2015 and GH's claim was struck out. The Respondent made a second witness statement dated 15 September 2015 for a later hearing in relation to costs. In that statement she stated that she maintained the position in her earlier statement, and that she:

14.1. had acted appropriately and honestly throughout the matter;

14.2. when, on 27 January 2015 she stated in an email to BLM that she had put GH's evidence in the DX that day, she had been "inaccurate" as the letter enclosing the evidence was in fact sent by post. However, to the best of her knowledge, the letter was sent to BLM that day (ie 27 January 2015);

14.3. at the time the firm did not have a standard precedent witness statement for claims of this kind, so she would produce witness statements by amending a precedent set up for road traffic accident (RTA) claims. This entailed deleting the contents of the precedent and producing a "*new statement independently, including the statement of truth*";

14.4. she had sent GH's statement to her on 29 December 2014 for review and signature, but GH did not return the statement so she (the Respondent) sent a second copy to GH on 12 January 2015. Prior to sending the second copy, she "*reviewed the witness statement and for a reason unknown to me now, I decided that I was not happy with the layout of the statement of truth and amended the same*";

14.5. to the best of her recollection, after she chased GH by email for her statements on 26 January 2015, the signed statements were received the following day, 27 January 2015;

14.6. the only amendments which she (the Respondent) made to the statements returned by GH was to date them both 23 January 2015, the date on which GH told the Respondent she had signed them;

14.7. she had not acted in any way improperly or dishonestly; if she had had difficulties with contacting GH and/or obtaining her signed statement she (the Respondent) would simply have requested an extension of the deadline for exchanging witness evidence. If such an extension was not agreed by BLM, she would have applied to the court for an extension; and

14.8. she sent to BLM what she thought were the original statements she had received from GH, and she could not explain Dr Giles' findings that the signatures were copies which had been traced over with ball point pen.

15. The Respondent admits that she acted dishonestly in respect of GH's matter in the following ways:

15.1. In causing to be created two versions of GH's witness statement into which the signatures had been copied from the Part 18 replies, seeking to represent that those statements had been signed by GH herself and denying when questioned by BLM and in statements to the court that there had been any wrongdoing, the Respondent acted dishonestly.

15.2. Through her own default, the Respondent was not in a position to exchange GH's witness evidence within the deadline (of which she had been aware). The Respondent's actions in causing to be created statements which she falsely represented had been signed by GH herself were to seek to avoid the consequences of her own default (ie her failure to ensure that she was in a position to exchange GH's statements in time).

15.3. As an experienced solicitor who regularly undertook litigation, the Respondent was aware of her general duties to be honest and not to mislead the court, and of her specific duty in this case not to attempt to mislead the court.

Matters relating to Client KF

16. In around April 2014, the firm started acting for KF in connection with a potential claim regarding a back injury which he was alleged to have suffered whilst working on a prison farm. The Respondent had conduct of the case.

17. The client could not recall the exact date on which the alleged injury was sustained, although he instructed the firm that the accident had been sometime in September 2012.

18. Following receipt of KF's medical records, the Respondent came to the view that the accident had occurred on 24 September 2012. This is illustrated by the fact that two sets of instructions to counsel (prepared by or under the supervision of the Respondent) and the signed witness statements of KF and IK referred to 24 September 2012 as being the accident date (although particulars of claim drafted by counsel, and an accompanying claim form, referred to the accident occurring "on or about" 24 September 2012).

19. On 22 June 2015, the Respondent sent a claim form and particulars of claim to KF for signature. The claim form referred, in the 'brief details of claim' box on page 1, to an accident "*on or about the 24th September 2012*"

20. On 14 July 2015, a colleague of the Respondent's called KF to chase for the return of the signed claim papers. On 28 July 2015, the Respondent sent a further copy of the claim form and particulars of claim to KF for signature, which suggests that they had not been returned by that date.

21. On or around 18 August 2015, the firm received a signed copy of the claim form from KF. On 18 August 2015, the Respondent wrote to KF, saying that although he had signed and returned the claim form, he had failed to do the same for the particulars of claim. Her letter enclosed a further copy of the particulars. On 15 September 2015, the Respondent again wrote to KF, enclosing a further copy of the particulars of claim, and asking him to sign and return them.
22. The limitation deadline was 23 September 2015 (ie three years after the accident). That date passed without the Respondent having (i) received signed particulars of claim from KF or (ii) issued proceedings.
23. On 29 September 2015, the Respondent sent a letter to the court enclosing a claim form (but not particulars of claim) and notice of funding. The claim form consisted of the signature (second) page of the claim form signed and returned by KF in August 2015 (which bore a 24 September 2012 accident date), and the first page from the claim form which the Respondent had directed the creation of on 29 September 2015 (which bore a 30 September 2012 accident date), which had not been signed by KF.
24. The Respondent admits that she acted dishonestly in respect of KF's matter in the following ways:
- 24.1. By causing to be filed at court a claim form which referred to an accident date which she did not believe to be correct and which purported to have been signed by the client when she knew it had not, the Respondent acted dishonestly.
- 24.2. Through her own default, the limitation deadline (as the Respondent believed it to be) for the claim had passed and by causing to be filed a claim form which referred to the accident having occurred on a later date, the Respondent sought to avoid the consequences of her own default in allowing the limitation deadline to pass (i.e. the claim being barred).
- 24.3. As an experienced solicitor who regularly undertook litigation, the Respondent would have been aware of her general duties to be honest and not to mislead the court, and of her specific duty in this case not to attempt to mislead the court by filing a claim form which advanced a fact which she did not believe to be true and which falsely purported to have been signed by the claimant.

MITIGATION

25. The following points are advanced by way of mitigation on behalf of the Respondent, but their inclusion in this document does not amount to adoption or endorsement of such points by the SRA:

- 25.1. I have made open and frank admissions and have always cooperated with the investigating body.
- 25.2. Further, prior to these allegations, I had had a previously unblemished career history with no previous complaints.
- 25.3. I had always sought to uphold the rule of law and I am thoroughly embarrassed that it came to this.

AGREED OUTCOME

26. The Respondent is an experienced practitioner, having been admitted to the Roll of Solicitors on 2 January 2007. Her actions amount to a serious breach of the Solicitor's Code of Conduct in two separate matters.
27. In respect of harm, the Respondent's actions in the case of GH led to strike out of GH's claim. GH was therefore denied the opportunity to seek damages. In respect of the case of KF, if the court had discovered the truth of matters there is a high likelihood KF's claim would also have been struck out. Not only were the Respondent's clients exposed to harm as a result of her actions, the Firm was also left vulnerable to civil action by third parties.
28. With reference to paragraph 19 of the 5th Edition of the Solicitors Disciplinary Tribunal Guidance Note on Sanctions (December 2016) ("Guidance Note on Sanctions") the seriousness of the misconduct is at the highest level. Dishonesty is proved and has continued over a period of time. The Respondent knew or ought reasonable to have known that the conduct complained of was in material breach of her obligations to protect the public and the reputation of the legal profession. None of the mitigating factors set out in paragraph 20 of the Guidance Note on Sanctions apply and a lesser sanction than striking off the Roll would be inappropriate.
29. The Respondent admits that she acted dishonestly as set out at paragraphs 15 and 24 above. In respect of GH's matter, that dishonesty was perpetuated over period of months. The dishonesty was of such gravity that public confidence in the profession would no doubt be undermined were the public to learn of what occurred.
30. The Respondent does not seek to contend that there are exceptional circumstances in this case which would justify the Tribunal in finding that it fell into the "*...small residual category where striking off will be a disproportionate penalty...*" identified by Mr. Justice Coulson in **Sharma** (*supra*).
31. The Respondent agrees to be struck from the Roll of Solicitors and to pay costs to the SRA of £13,920 plus VAT.

SIGNED: M H WHITING
MARK HOWARD WHITING
On behalf of the Solicitors Regulation Authority

SIGNED: L LAYTON
LESLEY LAYTON
Respondent

DATE: 05 October 2017