

**IN THE INDEPENDENT
LEGAL SERVICES COMMISSION**

NO. 005/2011

BETWEEN: CHIEF REGISTRAR

Applicant

A N D: ALENA KOROI

Respondent

Applicant : Mr A. Chand
Respondent : In Person

Date of Hearing : 8th March 2012
Date of Ruling : 14th March 2012

SENTENCE

1. On the 1st December 2011, the Respondent was found guilty of Unsatisfactory Professional Conduct following a hearing into a charge laid by the Applicant. The charge read as follows:

Count 1

Unsatisfactory Professional Conduct: Contrary to Section 83 (1) (a) of the Legal Practitioners Decree 2009

Particulars

Alena Koroï a legal practitioner, on the 9th of July 2010, appeared on behalf of the plaintiff in the Suva High Court in the matter between Board of Reproductive & Family Health v Dr. Sakeo Varea HBC 296/08 which matter was presided over by the Honorable Justice Hettiarachchi, showed discourtesy to the Court by unduly raising her voice at the Honorable Judge while the proceedings were underway and upon being directed by the Honorable Judge to calm down, persisted in her discourtesy by refusing to lower her voice, which conduct was contrary to Rule 3.2 (i) of the Rules of Professional Conduct and Practice of the Legal Practitioners Decree 2009.

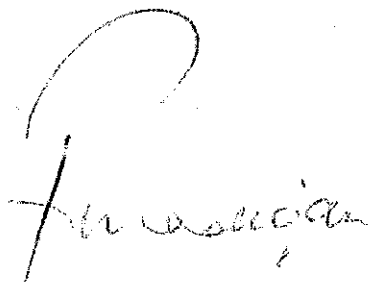
2. The then Commissioner in an extempore judgment delivered on the 1st of December 2011 found that the allegation had been established.
3. The brief facts of the case are that on the 9th of July 2010, the Respondent was before the Honourable Mr Justice Hettiarachchi and after a ruling on costs was not in her client's favour the Respondent started shouting in court, pointing her finger both at the judge and at counsel to the Defendant. She continued shouting even after the judge had retired from the bench.
4. The Commissioner directed on the 1st of December 2011 that her behaviour be monitored and he adjourned sentence pending review.
5. The Respondent mitigated before me on the 8th of March 2012. She submitted that her legal practice is in great difficulties. She has few clients and earns very little income if any. She has identified one practitioner friend who is able to mentor her and supervise her.
6. Mr Chand for the applicant advises the Commission that there have been no more formal complaints of loss of temper, but that there have been instances when the Respondent had become "tempestuous" in the Registry of the Legal Practitioners Unit.
7. Ms Koroi is not here to be sentenced on any irascibility but for the unprofessional outburst in court. The former Commissioner in his judgment in this matter referred to *New South Wales Bar Associates v di Savero [2000] NSWADT 194* where it was said: (paragraph 180)
"In our opinion, rudeness and arrogance by a barrister directed to a judge, whilst it may not be sufficient to ground a charge of contempt of court, may be sufficient to ground a complaint for unsatisfactory professional conduct."
8. And so such a finding was made against the Respondent.
9. A practitioner is an officer of the court, and rude and arrogant behaviour in court not only demeans the practitioner but goes against the dignity of the court. Courts and the judicial system cannot function unless this dignity is upheld and proceedings are conducted in a calm and authoritative manner.
10. Ms Koroi has written an apology to the judge but it would appear that this was on the order of the Commission and not a remorseful action at the behest of the Respondent.
11. Ms Koroi tells me that she "snapped" under extreme workload and preparation pressure on the day in question. Pressure of work can never be an excuse for rudeness to the court and every practitioner, debutant or experienced must appear in court in the

expectation that he/she will not win every point raised, or ever the case itself.

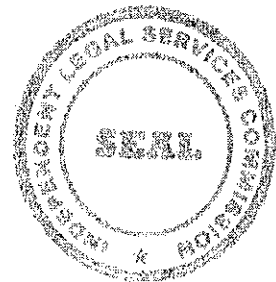
12. This departure from professional standards, while serious, is not so serious as to warrant suspension of practice. Had she have been more financially secure the Commission could have handed down an order to pay a substantial fine, however in the circumstances, it is ordered as follows:

ORDERS

1. The Respondent is publicly reprimanded.
2. She is given a warning in the strongest possible terms that any future proof of loss of temper will be viewed with the utmost severity.
3. The Respondent is to spend 12 months of practice under the supervision of Mr Niko Nawaikula, solicitor, who has agreed to so mentor the Respondent.
4. The Respondent be permitted to practice for the year 2012 but the issue of a practicing certificate for 2013 be conditional provided that a report is submitted to the Chief Registrar by the said Mr Nawaikula of satisfactory and unexcitable performance in the year 2012.



**JUSTICE PAUL MADIGAN
COMMISSIONER**



14 MARCH 2012