

In the Matter of the Human Rights Code, R.S.B.C. 1996, c. 210 (as amended)

And in the Matter of a Complaint Before
the British Columbia Human Rights Tribunal

BETWEEN:

[REDACTED]

COMPLAINANT

AND:

THE BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 5 (SOUTHEAST KOOTENAY)

RESPONDENT

Affidavit

I, Mary Westcott, Ph.D., R. Psych., of 1816 Crowchild Trail NW, Suite 620, in the City of Calgary, Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I am a registered psychologist in the Province of Alberta with the College of Alberta Psychologists. I am a Senior Psychologist and the Alberta Government Contracts Manager at Mandel and Associates, Ltd. In this role I provide psychological, vocational, psycho-educational, cognitive, and disability assessment services to adults living with a variety of mental health, developmental, learning, attention, social, intellectual, neurological, and/or mental challenges.
2. I have been retained by the Respondent to provide expert evidence in the above-noted British Columbia Human Rights Tribunal complaint filed by the Complainant, [REDACTED] (the "Complaint"). My involvement in this matter includes both the submission of written

reports and serving as a witness at the hearing currently scheduled from October 25, 2021 through November 5, 2021 (the "Hearing").

3. I have submitted the following reports in this matter:
 - a) September 15, 2010 Initial Report following my psychological assessment of the Complainant (the "September 15, 2010 Report");
 - b) August 25, 2021 Response to Dr. [REDACTED] July 25, 2021 Report (the "August 25, 2021 Response"); and
 - c) September 21, 2021 Reply to Dr. [REDACTED] September 8, 2021 Rebuttal Comments.

4. On February 4, 2021, a complaint was filed against me with the College of Alberta Psychologists (the "College") (the "First College Complaint"). The College complaint process is confidential, and therefore I am unable to disclose the materials in the complaint. However, I can generally state that it relates to the psychological assessment that formed the basis of the September 15, 2010 Report. This complaint remains pending before the College. **Dr. Westcott falsely swore that the 1st complaint was filed on February 4, 2021. The 1st complaint was filed on January 14, 2021, approximately three weeks earlier.**

5. On October 1, 2021, a second, 72-page complaint was filed against me with the College (the "Second College Complaint") by Ms. [REDACTED]. While I am unable to disclose the materials in the complaint, I can state that the second complaint raises allegations of unprofessional conduct related to my use of the September 15, 2010 Report at the Human Rights Tribunal hearing and additional allegations of unprofessional conduct relating to the August 25, 2021 Response. **Dr. Westcott falsely swore that the 2nd complaint was filed on October 1, 2021. The 2nd complaint was filed on September 27, 2021.**

6. The First College Complaint and the Second College Complaint (together, the "College Complaints") are substantively very similar to Dr. [REDACTED] and Dr. [REDACTED] reports in this Complaint proceeding, in which they critique the September 15, 2010 Assessment and Report and the August 25, 2021 Response.

Dr. Westcott falsely swore that "The First College Complaint and the Second College Complaint" were "substantively very similar" to Dr. L's and Dr. G's "reports in this Complaint proceedings." The 1st complaint was filed months before Dr. L and Dr. G filed their critiques of Dr. Westcott's "September 10, 2010 Assessment and Report and the August 25, 2021 Response."

7. My response to the Second College Complaint is due on Monday, November 1, 2021.
8. To respond to the Second College Complaint, I will need to prepare a written response to the College addressing each of the numerous allegations raised in the complaint.
9. I may require between 30 and 60 days to adequately respond to the Second College Complaint given my current caseload, the breadth of allegations and material in the complaint. It cites voluminous reference materials that must be reviewed, and raises numerous allegations of unprofessional conduct which will require an extensive commitment of time to adequately address.
10. Following submission of my response to the Second College Complaint, the College will conduct an investigation into the allegations. I will be required to prepare for and attend an investigation interview with an assigned investigator and may be required to prepare additional supplemental responses and materials pursuant to information arising from the interviews or if requested by the investigator. Following the conclusion of the investigation, I may be further required to prepare a response to the contents of the investigation report.
11. There are significant professional consequences that may arise relating to the Second College Complaint. Ms. [REDACTED] is seeking the revocation of my practice permit, which is the most serious penalty that may be issued by a professional regulatory body. Other potential penalties include practice restrictions or a suspension of a practice permit. As a result, responding fully and completely to the Second College Complaint is of the highest professional priority.
12. While I am hopeful the College Complaints will be dismissed by the College, the complexity of the complaints require a significant investment of professional and personal time to adequately defend.

13. After receiving and reviewing the Second College Complaint, I consulted with counsel, reviewed my ongoing professional obligations, considered the amount of time it will take to respond to the Second College Complaint and took into account the time I would need to devote to preparing for and attending the Hearing in this matter.
14. I have significant concern about my ability to prepare for the Hearing and assist the Respondent in its preparation for the Hearing given the complexity of the Second College Complaint and the time required to adequately prepare my response.
15. Given my experience in this matter, I estimate it will require 15 hours to prepare for the Hearing. This estimate includes:
 - a) reviewing the three reports I drafted and the data, materials and assessments on which I relied in forming my opinions;
 - b) reviewing Dr. [REDACTED] and Dr. [REDACTED] responses to my initial report, and the underlying data and materials on which each relied; and
 - c) meeting with Respondent to prepare for my testimony and for the cross examinations of the Complainant's experts.
16. I also have numerous ongoing obligations to my practice that also must occur in this time frame. In the next month, my additional obligations require approximately 40 hours of work per week.
17. My involvement during the Hearing will also require a considerable amount time, including:
 - a) Being available during the testimony of Dr. [REDACTED], Dr. [REDACTED] and Dr. [REDACTED] on October 26, 27 and 28, respectively, in order to provide assistance to the Respondent in preparation for cross-examination; and

b) Testifying on direct and cross examination during the week of November 1, 2021, which is the same time my response to the Second College Complaint is currently due.

18. Further, I have significant professional concerns about testifying in this matter. I will be testifying while the College Complaints remain pending against me and simultaneously with the submission of my response. I will be examined by the representative for the individual who filed these complaints against me. I also acknowledge the potential for further complaints based on my testimony.

19. Over the Thanksgiving holiday weekend, given all of the above, I concluded that the time required to respond to the Second College Complaint will interfere with my preparation for, assistance with and attendance at the Hearing.

20. I make this affidavit in support of the Respondent's Adjournment Application.

Sworn Before Me at CALGARY in the Province of Alberta, this 12th day of October, 2021.

J-S

Jaideep Singh
A Commissioner for taking Affidavits within Alberta

JAIDEEP SINGH

Barrister, Solicitor and Notary Public in and for the Province of Alberta

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Mary Westcott
Dr. Mary Westcott