

Court of Appeal File No.: COA-25-CV-0462

**COURT OF APPEAL FOR ONTARIO**

B E T W E E N:

**LAW SOCIETY OF ONTARIO**

Appellant (Responding Party)

and

**A.A.**

Respondent (Moving Party)

**FACTUM OF THE APPELLANT/RESPONDING PARTY,  
LAW SOCIETY OF ONTARIO  
(PUBLIC)**

August 1, 2025

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## PART I - OVERVIEW AND NATURE OF THE CASE

1. The Law Society of Ontario (the “**LSO**”) opposes AA’s motion for anonymization, which seeks to continue an overbroad order that would permanently conceal his identity. The LSO takes no position on his motion as it relates to the identity of AA’s former spouse and children.
2. The underlying appeal arises from a “good character” licensing hearing before the Law Society Tribunal Hearing Division (the “**Tribunal**” and the “**Hearing Division**”, respectively). The Hearing Division found that AA was of “good character” despite having sexually abused three young children and having lied extensively about having done so.<sup>1</sup> This appeal follows an internal appeal before the Tribunal’s Appeal Division (the “**Appeal Division**”) and an application for judicial review before the Divisional Court, both of which upheld the decision at first instance.
3. In the proceedings below, AA successfully moved for orders anonymizing his name over the objection of the LSO. Notably, at first instance, the Hearing Division expressly declined to make its order permanent because the factors informing its decision shifted with time. Despite the passage of four years, AA advances this motion on essentially the same record as those earlier motions.
4. As judges of the Divisional Court and this Court have correctly observed, the Tribunal’s anonymization order does not extend “automatically” to the judicial review and appeal proceedings that follow it. Moreover, contrary to AA’s suggestion, the LSO did not “waive” AA’s onus to demonstrate that such an order is needed. The LSO challenged the anonymization orders throughout and to the present.

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<sup>1</sup>AA v. Law Society of Ontario, [2023 ONLSTH 99](#), (“**HD Decision**”), Responding Party Motion Record (“**RPMR**”) Tab 1

5. In any event, the open court principle cannot be waived by agreement, nor can an anonymization order be made solely on consent. The onus lies on AA to establish that an order is required to protect a serious risk to a public interest, that there are no lesser restrictive measures, and that the order sought favours the public interest on the balance. He has failed to do so on all accounts.

6. It is axiomatic that judicial proceedings are open to the public. The open court principle takes on particular importance in this case, given the proceeding in issue. Good character hearings give the public agency in selecting legal advisors and provide assurance that the LSO is regulating the profession in the public interest. These public policy objectives are obfuscated where a licensed applicant hides behind an anonymity order. Given the nature of the proceeding in particular, AA's stale-dated evidence is insufficient to justify the serious incursion on court openness that he seeks.

## **PART II - FACTS**

### **A. Tribunal Proceedings**

#### *i. Statutory Framework and Commencement of Proceedings*

7. The LSO's mandate is to regulate the legal profession in Ontario in the public interest. The *Law Society Act* (the "Act") provides that in carrying out its functions, the LSO has a duty to protect the public interest and a corresponding duty to uphold high standards of competence and professional conduct.<sup>2</sup> The LSO is required to establish and administer a licensing regime that ensures the entry-level competence of all licensees.<sup>3</sup> Subsection 27(2) of the Act requires that

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<sup>2</sup> Law Society Act, R.S.O. 1990, c.L.8 (the "Act"), [ss. 4.1, 4.2](#).

<sup>3</sup> *The Act*, [ss. 4.1, 4.2, 27, 62\(0.1\)](#).

candidates be “of good character” as a condition of licensure.<sup>4</sup> Where there are questions about a candidate’s good character, the matter will be referred to a “good character hearing.”<sup>5</sup>

8. AA first applied to be licensed by the LSO in 2012 but did not disclose any character concerns.<sup>6</sup> Shortly before his call to the bar in 2014, the LSO learned that he had sexually abused children.<sup>7</sup> AA withdrew from the licensing process after the resultant investigation concluded in a referral to a good character hearing.<sup>8</sup> On January 17, 2019, AA reapplied to be reinstated into the licensing process, and a second investigation ended with a referral to the Tribunal, giving rise to these proceedings.<sup>9</sup>

## *ii. Record Supporting Tribunal Anonymization Motion*

9. Prior to his licensing hearing, AA moved for an order to anonymize his name and the names of his children and former spouse. The LSO opposed the concealment of AA’s name as overbroad but agreed to the balance of his motion.

10. AA supported his request with affidavit evidence from himself and his former spouse, BB. AA’s children, then aged [REDACTED] and [REDACTED],<sup>10</sup> had yet to learn of their father’s misconduct, including that he had abused one of them. AA and BB contended that it would be harmful for the children to learn the truth about their father for the first time through his good character hearing.

11. The evidence in support of the risk of harm, adduced by AA and BB, was non-specific and

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<sup>4</sup> *The Act* s. 27(2).

<sup>5</sup> *The Act* ss. 27(4), 27(6).

<sup>6</sup> HD Decision, para. 15, RPMR Tab 1

<sup>7</sup> *AA v. Law Society of Ontario*, 2024 ONLSTA 6 (“AD Decision”), para. 7, pp. 28-29, RPMR Tab 2

<sup>8</sup> HD Decision, paras. 2 and 16, pp. 47 and 49, RPMR Tab 1; AD Decision, para. 2, p. 28, RPMR Tab 2

<sup>9</sup> *The Act*, s. 27(4)

<sup>10</sup> BB’s Affidavit of October 12, 2021, para. 3, Moving Party Motion Record (“MPMR”) Tab 7

based largely on belief and speculation: (i) AA attested to his “belief” in a risk of harm to his children if his name were published;<sup>11</sup> (ii) BB invoked her “belief” that disclosure would be harmful to her children and her anxiety about the impact of the good character hearing on both of them and her;<sup>12</sup> and (iii) BB also speculated that her children required protection “from the irreparable psychological impact that public hearing will have.”<sup>13</sup>

12. AA did not support his motion with qualified expert evidence and relied upon generalized assertions of harm he attributed to others. His affidavit:

- (a) Referenced hearsay statements from Dr. Paul Fedoroff and other unnamed professionals to suggest public disclosure would have a detrimental impact on his family. Dr. Fedoroff was not an expert in child psychiatry and had been retained by AA to provide a forensic risk assessment re pedophilia and risk of recidivism.<sup>14</sup>
- (b) Exhibited hearsay articles regarding the families of sexual offenders, including a June 28, 2015 newspaper that includes double-hearsay quotes attributed to Dr. Fedoroff.<sup>15</sup>
- (c) Invoked the efforts of a child protection agency to ensure his children did not “prematurely learn” of his misconduct without specifying the nature or the currency of the agency’s concerns.<sup>16</sup>

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<sup>11</sup> AA’s Affidavit of October 3, 2021, paras. 10 and 14, MPMR Tab 8

<sup>12</sup> BB’s Affidavit of October 12, 2021, paras. 10-16, MPMR Tab 7

<sup>13</sup> BB’s Affidavit of October 12, 2021, para. 20, MPMR Tab 7

<sup>14</sup> AA’s Affidavit of October 3, 2021, para. 17, MPMR Tab 8

<sup>15</sup> AA’s Affidavit of November 22, 2021, MPMR Tab 9; Ex. A to C to AA’s Affidavit of November 22, 2021, MPMR Tabs 9A to 9C,

<sup>16</sup> AA’s Affidavit of October 3, 2021, para. 9, MPMR Tab 8

- (d) Appended an unsworn opinion letter from a social worker,<sup>17</sup> Abdulai Bayraytay, who had not met the children and interviewed only AA. He opined that the children should be told when they are “older” and “with the assistance of appropriate professionals” but did not say how.

13. There was a dearth of evidence about what, if any, efforts were being made to prepare AA’s children to receive information about their father’s past. AA attested that he was waiting to tell them “at an appropriate time in the future”,<sup>18</sup> whereas BB expressed her belief that AA “should take this to his grave.”<sup>19</sup>

### *iii. Tribunal Anonymization Order and Decision*

14. Applying the principles of *Sherman Estate*, a single panelist of the Hearing Division granted an order requiring the respondent to be referred to as “AA” (the “**Tribunal Anonymization Order**”) in the proceeding.<sup>20</sup> The panelist was particularly concerned that AA’s children could suffer psychological harm if they learned of their father’s sexual abuse through public legal proceedings “prematurely” before they could be told privately.<sup>21</sup> The decision, based on evidence adduced in 2021, had particular regard to the special protection of privacy afforded to children, as three of AA’s children were minors at the time.<sup>22</sup>

15. The panelist declined to make the order permanent.<sup>23</sup> Instead, it was to remain in effect

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<sup>17</sup> AA’s Affidavit of October 3, 2021, para. 15, MPMR Tab 8; Report from Abdulai Bayraytay, Ex. A to AA’s Affidavit of October 3, 2021, MPMR Tab 8A

<sup>18</sup> *AA v. Law Society of Ontario*, 2022 ONLSTH 9 (“**Tribunal Anonymization Decision**”), paras. 12-13, p. 71, RPMR Tab 3; AA’s Affidavit of October 3, 2021, paras. 10 and 16, pp. 130-131, MPMR Tab 8

<sup>19</sup> BB’s Affidavit of October 12, 2021, para. 13, MPMR Tab 7

<sup>20</sup> Tribunal Anonymization Decision, para. 78, p. 84, RPMR Tab 3

<sup>21</sup> Tribunal Anonymization Decision, paras. 61, 66, 73, 75, pp. 80, 81 and 83, RPMR Tab 3

<sup>22</sup> Tribunal Anonymization Decision, paras. 40-55, pp. 76-79, RPMR Tab 3

<sup>23</sup> Tribunal Anonymization Decision, para. 77, RPMR Tab 3



until varied or cancelled on a motion based on a material change in circumstances, or by the panel presiding at the good character hearing.<sup>24</sup>

*iv. Hearing Division Licensing Decision*

16. By Order dated July 25, 2023, the Hearing Division found that AA was of good character and granted his application for a licence, subject to a practice restriction that he not meet with children unsupervised.<sup>25</sup> The Hearing Division did not disrupt the Tribunal Anonymization Order or address it in any way, even by noting its impact on the practice restriction.

*v. The LSO's Internal Appeal before the Appeal Division*

17. The LSO challenged the Hearing Division's decision to license AA in an appeal before the Appeal Division and obtained a stay in advance of the appeal.<sup>26</sup> Contrary to the assertion of AA,<sup>27</sup> at no time did the LSO waive its concern with the Tribunal Anonymization Order or otherwise suggest it should remain in place.

18. Nothing in the LSO's communications or conduct can reasonably be construed as a waiver to challenge anonymization. The LSO placed the Tribunal Anonymization Order in issue throughout the Appeal Division proceeding and repeatedly notified AA of its position that the order was incompatible with the decision to license him.<sup>28</sup> In particular, Discipline Counsel made clear at the outset of the hearing that "[w]hat is [a] subject [of] the appeal is the anonymization of the licensee to be if he gets in and the fact that the public is in danger because they won't know

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<sup>24</sup> Tribunal Anonymization Decision, [para. 78](#), RPMR Tab 3,

<sup>25</sup> HD Decision, [para. 81](#), p. 59, RPMR Tab 1

<sup>26</sup> *AA v. Law Society of Ontario*, [2024 ONLSTA 5](#), RPMR Tab 4

<sup>27</sup> Factum of AA (Moving Party) dated July 8, 2025 ("AA's Motion Factum"), para. 31

<sup>28</sup> Amended Notice of Appeal, MPMR Tab 14; Factum of LSO at AD, para. 67, RPMR Tab 5; November 3, 2023 email from LSO, Ex. A to AA's Affidavit of July 3, 2025, MPMR Tab 2A.

anything about this individual”.<sup>29</sup>

19. The Appeal Division dismissed the LSO’s internal appeal.

## **B. Application for Judicial Review**

### *i. Record Supporting Temporary Anonymization Motion*

20. The LSO commenced an application for judicial review of the Tribunal proceedings and obtained a stay that restricted AA from practising law. AA brought another motion for anonymization based on limited fresh evidence:<sup>30</sup> perfunctory affidavits from him and BB that continued to rely on their earlier evidence and asserted “no material change.”<sup>31</sup> In substance, AA relied on the affidavits filed in support of his Hearing Division motion,<sup>32</sup> then almost three years old.<sup>33</sup>

21. The “updated” record did not address the passage of time or the fact that the children, then ██████████ and ██████████,<sup>34</sup> had grown and matured in the interim.<sup>35</sup> On cross-examination in spring 2024, AA and BB admitted that no progress had been made towards preparing their children to be informed about their father, notwithstanding AA’s acknowledgment that the delay increased the chance they would learn from someone else.<sup>36</sup> Neither AA nor BB had consulted any mental health

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<sup>29</sup> AD transcript, p. 6, lines 21-25; p. 7, lines 1-6; p.43, lines 17-25; p. 44, lines 1-13; p. 176, lines 15-25, line 177, and lines 1-18, RPMR Tab 6

<sup>30</sup> *Law Society of Ontario v. A.A.*, [2024 ONSC 3102](#), (“**Divisional Court Temporary Anonymization Decision**”), [para. 13](#), RPMR Tab 7

<sup>31</sup> BB’s Affidavit of April 26, 2024, para. 2, MPMR Tab 5; AA’s Affidavit of May 6, 2024, para. 2, MPMR Tab 6

<sup>32</sup> AA did file an affidavit from BB dated April 26, 2024 that repeated her reliance on her earlier (2021) affidavit

<sup>33</sup> BB’s Affidavit of April 26, 2024, p. 147, MPMR Tab 5; BB’s Affidavit of October 12, 2021, p. 140, MPMR Tab 7; AA’s Affidavit of October 3, 2021, p. 128, MPMR Tab 8; AA’s Affidavit of November 22, 2021, p. 145, MPMR Tab 9

<sup>34</sup> BB’s Cross-Examination Transcript of May 8, 2024, p. 6, line 1, MPMR Tab 13,

<sup>35</sup> AA’s Cross-Examination Transcript of May 8, 2024, p. 27, line 1-10, MPMR Tab 12; BB’s Cross-Examination Transcript of May 8, 2024, p. 11, line 11-25, 37, MPMR Tab 13.

<sup>36</sup> AA’s Cross-Examination Transcript of May 8, 2024, p. 26, line 15 and p. 29, line 10, MPMR Tab 12

professionals about raising the matter.<sup>37</sup> BB admitted to having no intention of ever telling any of her children about AA's past sexual abuse.<sup>38</sup>

*ii. Divisional Court Motion and Merit Decisions*

22. The Divisional Court Motion Judge, Justice Davies, issued a decision on May 17, 2024. She rejected AA's position – resuscitated on this motion – that *Nahas v. Health Professions Appeal and Review Board* supported the conclusion that the Tribunal Anonymization Order must extend to related Court proceedings.<sup>39</sup> Rather, Her Honour interpreted *Nahas* to hold that an order is required in Divisional Court before information relevant to an appeal or application for judicial review can be sealed or anonymized, even if a similar order was made by the tribunal below.<sup>40</sup> Justice Davies held that AA was required to satisfy the *Sherman Estates* test afresh.<sup>41</sup>

23. Applying *Sherman Estate*, Justice Davies granted the order requested on a temporary basis (the “**Temporary Anonymization Order**”). Her Honour emphasized that the impact of anonymization on the open court principle would be different if the Divisional Court were to dismiss the application for judicial review<sup>42</sup>:

The impact of an anonymization order will be quite different, however, if AA is successful and is entitled to be licensed. The Law Society has an obligation to regulate in the public interest... **Part of the public interest necessarily involves notifying the public of misconduct by lawyer (and paralegal) licensees so the public can make an informed decision whether to hire a particular lawyer**

Subject to any further appeal, AA would then be entitled to be licensed. **The Law Society would then have a very strong**

<sup>37</sup> AA's Cross-Examination Transcript of May 8, 2024, p. 6, line 21 and p. 22, line 4, MPMR Tab 12; BB's Cross-examination Transcript of May 8, 2024, p. 19, line 8, MPMR Tab 13

<sup>38</sup> BB Cross-examination Transcript of May 8, 2024, p. 22, line 5, MPMR Tab 13

<sup>39</sup> AA's Motion Factum, para. 24; Divisional Court Temporary Anonymization Decision, [para. 9](#), RPMR Tab 7

<sup>40</sup> Divisional Court Temporary Anonymization Decision, [para. 12](#), RPMR Tab 7

<sup>41</sup> Divisional Court Temporary Anonymization Decision, [para. 13](#), RPMR Tab 7

<sup>42</sup> Divisional Court Temporary Anonymization Decision, [paras. 37-38](#), p. 66, RPMR Tab 7

interest, consistent with its statutory mandate, in having the anonymization order lifted so the public could make an informed decision...

24. On the main application, the Divisional Court addressed the issue of anonymization over its proceedings in summary fashion.<sup>43</sup> The Divisional Court extended Davies J.'s Temporary Anonymization Order on a permanent basis ("**Permanent Anonymization Order**") without engaging the *Sherman Estate* framework. It considered neither the impact of the open court principle nor the LSO's public interest mandate within the framework of *Sherman Estate*, and it did not consider the lack of current compelling evidence to support the order.<sup>44</sup>

25. In the result, the Divisional Court dismissed the LSO's application for judicial review.<sup>45</sup>

### C. Court of Appeal Proceedings

#### i. LSO Motion for Leave and AA's Request for Continued Anonymization

26. On November 25, 2024, the LSO successfully obtained a stay coincident with the filing of its motion for leave to appeal to this Court.<sup>46</sup> Since that time, the question of anonymization has been addressed through temporary orders whereby the parties agreed to preserve the *status quo* on a without prejudice basis until this motion could be heard.<sup>47</sup>

#### ii. Evidence Filed on this Motion

27. On this Motion, AA continues his strategy of relying predominantly on the record

<sup>43</sup> *Law Society of Ontario v. A.A.*, [2024 ONSC 5971](#) ("**JR Decision**"), [para. 40](#), p. 25, RPMR Tab 8

<sup>44</sup> JR Decision, paras. [9](#), and [37-39](#), pp. 24-25, RPMR Tab 8

<sup>45</sup> JR Decision, [para 8](#), RPMR Tab 8

<sup>46</sup> Endorsement of Justice Huscroft of the Court of Appeal on motion for a stay, November 27, 2024, RPMR Tab 9.

<sup>47</sup> Order of Justice Sossin dated January 10, 2025, RPMR Tab 10; Case Management Direction of Justice Sossin dated May 1, 2025, RPMR Tab 11; Case Management Direction of Justice Sossin dated May 13, 2025, RPMR Tab 12; Order of Justice Sossin dated July 9, 2025, RPMR Tab 13

assembled in 2021 to support the Tribunal Anonymization Order. As he did at Divisional Court, AA has filed perfunctory affidavits from him and BB adopting their earlier evidence and asserting the absence of any material change. These stale-dated records consist of, mainly: (i) the subjective concerns of AA and BB about potential risk of harm to their children;<sup>48</sup> (ii) continued reliance on the now four-year-old unqualified hearsay opinion of Mr. Bayraytay;<sup>49</sup> and (iii) continued attribution of a hearsay statement to the since-deceased Dr. Fedoroff without context or having proffered him as an expert on the matter.<sup>50</sup>

28. In addition, the record contains limited new information about AA's family current to July 2025:

- (a) AA has not acted on the suggestion in his earlier affidavit that he would consult with professionals about “when the time is right” to open up to his children.<sup>51</sup>
- (b) BB remains opposed to disclosing information about AA to their children at any time.<sup>52</sup>
- (c) AA and BB have not received inquiries from the public or the children about the matter since May 2024.<sup>53</sup>

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<sup>48</sup> AA's Affidavit of October 3, 2021, paras. 10 and 14, MPMR Tab 8; BB's Affidavit of October 12, 2021, paras. 10-16, and 20, MPMR Tab 7

<sup>49</sup> AA's Affidavit of October 3, 2021, para. 15, MPMR Tab 8; Report from Abdulai Bayraytay, Tab A to AA's Affidavit of October 3, 2021, MPMR Tab 8A

<sup>50</sup> AA's Affidavit of October 3, 2021, para. 17, MPMR Tab 8

<sup>51</sup> AA's Affidavit of July 3, 2025, para. 10, MPMR Tab 2

<sup>52</sup> AA's Affidavit of July 3, 2025, para. 4, MPMR Tab 2

<sup>53</sup> AA's Affidavit of July 3, 2025, paras. 5-7, MPMR Tab 2; BB's Affidavit of June 30, 2025, paras. 3-4, MPMR Tab 3

- (d) One of AA's children (who is now an adult) is receiving care related to anxiety and stress. AA speculates that disclosure may impact that child, as well as his other children.<sup>54</sup>

29. Moreover, AA has raised for the first time on this motion concern for his own well-being unrelated to potential harm to his children. He asserts that there have been hateful and negative comments posted online as a result of publicity about his child abuse<sup>55</sup> and self-reports that his mental health has been suffering.<sup>56</sup> Notably, the public has expressed concern that AA continues to be anonymized notwithstanding the LSO has determined he is of "good character" permitting him to practise law:

"Guy sexually assaults kids and then there's a publication ban because his kids might be allowed to find out...effectively gets to keep carrying on by abusing the system to protect kids...as an abuser of kids..."<sup>57</sup>

30. The evidence put forward by AA in support of his motion does not include current or qualified opinions from expert of other professionals on the potential risk that disclosure would pose to his children, all but one of which is now an adult. It lacks medical evidence to support or contextualize health issues he reports about himself or his child. Finally, there is no evidence to suggest that online trolling about him raises an objective safety concern.

### **PART III - ISSUES AND LAW**

31. The issues for this motion are as follows:

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<sup>54</sup> AA's Affidavit of July 3, 2025, para. 9, MPMR Tab 2

<sup>55</sup> AA's Affidavit of July 3, 2025, para. 14, MPMR Tab 2

<sup>56</sup> AA's Affidavit of July 3, 2025, para. 8, MPMR Tab 2

<sup>57</sup> Ex. B to AA's Affidavit of July 3, 2025, MPMR Tab 2B

- (i) What test applies where a party seeks an order departing from the open court principle and who bears the onus in meeting this test?
- (ii) Has the onus been discharged?

## PART IV - ARGUMENT

### A. AA Bears the Onus to Meet the *Sherman Estate* Test

32. The open court principle “is protected by the constitutionally entrenched right of freedom of expression” and “represents a central feature of a liberal democracy.”<sup>58</sup> It is uncontroversial that court and tribunal hearings are presumptively open and that the requesting party must meet a burden to obtain a discretionary order departing from it.<sup>59</sup> The threshold for closing a hearing is “a high bar” that “serves to maintain the strong presumption of open courts.”<sup>60</sup>

#### *i. AA’s Requested Anonymization Order is Not Presumed on Appeal*

33. Contrary to AA’s position,<sup>61</sup> a protective order granted by a subordinate body does not automatically or presumptively displace the open court principle on appeal. In fact, these very proceedings are governed by endorsements and interim orders extending the anonymization imposed below while requiring AA to move for a new order on notice to the media.<sup>62</sup>

34. The Divisional Court routinely recognizes that tribunal confidentiality orders do not extend

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<sup>58</sup> *Sherman Estate v. Donovan*, [2021 SCC 25](#) (CanLII), [2021] 2 SCR 75 (Sherman), [para 1](#), Responding Party Book of Authorities (“RPA”) Tab 1

<sup>59</sup> *Dagenais v. Canadian Broadcasting Corp.*, [1994 CanLII 39 \(SCC\)](#), [1994] 3 SCR 835 (Dagenais), [p. 878](#), RPA Tab 2

<sup>60</sup> *Sherman*, [para 3](#), RPA Tab 1

<sup>61</sup> AA’s Motion Factum, para. 23

<sup>62</sup> Order of Justice Sossin dated January 10, 2025, RPMR Tab 10; Case Management Direction of Justice Sossin dated May 1, 2025, RPMR Tab 11; Case Management Direction of Justice Sossin dated May 13, 2025, RPMR Tab 12; Order of Justice Sossin dated July 9, 2025, RPMR Tab 13

to appeals heard before it. Rather, when commencing a proceeding in court, r.14.06(1) of the *Rules of Civil Procedure* provides that originating processes “shall contain the title of the proceeding setting out the names of all of the parties”.<sup>63</sup> The rule cannot be dispensed absent a ruling employing the principles associated with the open court principle.<sup>64</sup>

35. In *G.-L. v OHIP (General Manager)*, a statutory appeal, the Divisional Court relied upon r. 14.06(1) to hold that “a party who wishes to proceed in this court under his/her initials must obtain an order of this court authorizing that procedure.”<sup>65</sup> The Divisional Court criticized the appellant for relying on a tribunal order to file an initialized Notice of Appeal.<sup>66</sup> In deciding AA’s motion at the outset of the application below, Justice Davies relied upon *G.-L.* to confirm that AA could **not** proceed anonymously at Divisional Court without an order.<sup>67</sup>

36. The authorities relied on by AA do not support his assertion that the Tribunal Anonymization Order extends to this Court or otherwise relieves him of the burden of establishing that such an order is a justified limit on the open court principle. None of the following are analogous to the matter before the Court:

- (a) *Nahas*<sup>68</sup> is not analogous. It involved a judicial review of a decision of the Health Profession Appeal and Review Board (the “**HPARB**”) which reviewed a complaint considered by the Inquiries, Complaints and Reports Committee (the “**ICRC**”). The investigative record reviewed by the ICRC included confidential health information

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<sup>63</sup> *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, [r. 14.06\(1\)](#)

<sup>64</sup> *Ahmad v. Peel Regional Police Services Board*, [2024 ONSC 2474](#), paras.69 and 73, RPA Tab 3

<sup>65</sup> *G.-L. v. OHIP (General Manager)*, [2014 ONSC 5392](#), paras. 6-8, RPA Tab 4; See also: *Doe v. Whitford*, [2024 ONSC 1224](#), paras. 6-10, RPA Tab 5

<sup>66</sup> *ibid*, [paras. 4-6](#), RPA Tab 4

<sup>67</sup> Divisional Court Anonymization Decision, paras. 8-13, RPMR Tab 14

<sup>68</sup> AA’s Motion Factum, para. 24



of a third party who was not a party before the HPARB.<sup>69</sup> In that case, the HPARB made an order directing that records which included the personal health information *of the third party* not be disclosed *to the parties*.<sup>70</sup> The complaint before the ICRC was not a public proceeding, and the HPARB's non-disclosure order effectively excluded materials from the record.

- (b) In *Doe*, relied on by AA,<sup>71</sup> the Court considered *Dagenais/Mentuck* and granted an anonymization order but refused the broader sealing sought by the applicant in that case. *Doe* also involved the judicial review of a decision of the ICRC. In that matter, the applicant was the victim of a sexual assault and her identity was subject to a publication ban in a discipline proceeding (which was not the subject of the application).
- (c) In *RAR*, relied on by AA,<sup>72</sup> the Court appears to continue a non-publication order that was made by the Discipline Committee. As apparent in the underlying discipline decision,<sup>73</sup> the Discipline Committee's order was made under s. 47 of the Health Professions Procedural Code which is non-discretionary when requested by a witness in a sexual misconduct case. The considerations in *Sherman Estate* apply to discretionary orders, not mandatory ones.<sup>74</sup>

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<sup>69</sup> *Nahas v. Health Professions Appeal and Review Board*, [2021 ONSC 6940](#) (CanLII), [para 2](#), RPA Tab 6

<sup>70</sup> Health Professions Procedural Code, Schedule 2 to the *Regulated Health Professions Act, 1991*, S.O., 1992, c. 180, [s.32\(3\)](#)

<sup>71</sup> AA's Motion Factum, para. 24

<sup>72</sup> AA's Motion Factum, para. 24

<sup>73</sup> *Ontario (College of Physicians and Surgeons of Ontario) v. Rosenberg*, [2003 CanLII 74530](#) (ON PSDT), RPA Tab 7

<sup>74</sup> *Toronto Star Newspapers Ltd. v. Canada*, [2010 SCC 21](#), [2010] 1 SCR 721, [para. 18](#), RPA Tab 8

(d) *Dr. Q.* relied on by AA<sup>75</sup> (and the Divisional Court) involved the appeal of a proceeding under the *Medical Practitioners Act*,<sup>76</sup> and it is not clear from that statute whether the inquiry proceeded in public. *Dr. Q.* notes that, under that regime and at that time, disclosure of the name of a doctor who has been disciplined by the College was a matter normally determined by the Council of the College of Physicians. In contrast, good character hearings before a Tribunal, decided under a different regime, are presumptively open to the public, with publication of the name of applicant an essential element of the public interest mandate.

***ii. The LSO has not “Waived” a Challenge to Anonymization, nor is Waiver Possible***

37. This Court should give no credence to AA’s argument that the LSO somehow “waived” its right to resist his motion. AA’s position relies upon a skewed procedural history and sidesteps the free-standing nature of his motion.

38. AA’s suggestion that the LSO failed to challenge the Tribunal Anonymization Order is belied by the record: the LSO raised anonymization in its Notice of Appeal before the Appeal Division and in its factum; it confirmed in an email (relied upon by AA) that anonymization was in issue on the appeal; and the LSO’s position was further clarified at the oral hearing.<sup>77</sup> AA did not rely on any position conveyed by the LSO to his detriment. Ironically, given his position here, AA did not raise the issue of waiver at the Divisional Court in response to the LSO’s appeal of the

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<sup>75</sup> AA’s Motion Factum, para. 27

<sup>76</sup> *Medical Practitioners Act*, RSBC 1996, c 285

<sup>77</sup> Amended Notice of Appeal, MPMR Tab 14; Factum of LSO at AD, para. 67, RPMR Tab 5; November 3, 2023 email from LSO, Ex. A to AA’s Affidavit of July 3, 2025, MPMR Tab 2A; AD transcript, p. 6, lines 21-25; p. 7 lines 1-6; p. 43, lines 17-25; p. 44, lines 1-13; and p. 176, lines 15-25, line 177, and lines 1-18, RPMR Tab 6

Tribunal Anonymization Order or resisted to the motion he argued anew.

39. Further, and in any event, the open court principle cannot be “waived”. Motions for confidentiality orders invoke the constitutionally guaranteed right to an open court, which cannot be the subject of a waiver or agreement. Courts may refuse a protective order even in the face of consent, and it is well established that the open court principle supersedes the parochial interests of parties to a litigation.<sup>78</sup>

**B. AA Has Not Met his Onus for Continued Anonymization under *Sherman Estate***

40. AA seeks a comprehensive and permanent order preventing the publication of not only his family’s identity, but of his own. He bears the onus of justifying the anonymization order, having regard to the criteria set out in *Sherman Estate*: (1) his identification as the applicant poses a serious risk to an important public interest; (2) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent it; and (3) as a matter of proportionality, the benefits of the order outweigh its negative effects.<sup>79</sup>

*i. No Basis to Find Serious Risk to an Important Public Interest*

41. AA’s evidence does not surmount the “high bar” required to displace the strong presumption of open courts at the first stage of the *Sherman Estate* analysis.<sup>80</sup> Risk of physical or psychological harm and privacy interests may in, some cases, justify infringement to the open court principle.<sup>81</sup> A party who seeks to rely on risk of harm must lead evidence that is “real and

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<sup>78</sup>*S.Y.L. v C.M.S.*, 2022 BCSC 572, paras. 123-130, RPA Tab 9; *L.C.F. v. G.F.*, 2016 ONSC 6732, para. 21, RPA Tab 10

<sup>79</sup>*Sherman*, para. 38, RPA Tab 1

<sup>80</sup>*Sherman*, para. 3, RPA, Tab 1

<sup>81</sup>*Ahmad*, para. 76, RPA Tab 3

substantial” and “well-grounded in the evidence.”<sup>82</sup> Reliance on privacy concerns requires proof that the information at issue is so sensitive that dissemination would risk an affront to the dignity of the affected person.<sup>83</sup> In neither case can the moving party rely on an unsubstantiated claim.<sup>84</sup>

*a. No Current or Compelling Evidence of Risk of Harm to AA’s Family*

42. At issue on this motion is whether publication of AA’s own name will likely result in psychological harm to his now mostly adult children such that there is a serious risk to an important public interest. AA characterizes that harm in specific terms: discovery by his children that he had abused one of them, along with two other young children.

43. It is not enough for AA to rely on his children’s relative youth as adults and a teenager. In *Sherman Estate*, the Supreme Court of Canada, in referencing its earlier decision of *A.B. v. Bragg Communications Inc.*,<sup>85</sup> remarked that “the fact that some of the affected individuals may be minors is ... insufficient to cross the seriousness threshold.”<sup>86</sup> Nor is it sufficient for him to raise concerns of distress or stigma arising purely from their kinship. Courts have repeatedly found the mere fact that publication could identify the relative of a serious offender does not alone justify a publication ban:

- (a) In *M.E.H. v. Williams*, this Court held that convincing evidence was needed for a non-publication order protecting the identity of the wife of a sexual predator and

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<sup>82</sup> *Sherman*, [paras. 102-103](#), RPA Tab 1; *R. v. Mentuck*, [2001 SCC 76, para. 34](#), RPA Tab 14; *Ahmad*, [para. 77](#), RPA Tab 3

<sup>83</sup> *Sherman*, [paras. 7 and 33-35](#), RPA Tab 1; *Ahmad*, [para. 78](#), RPA Tab 3

<sup>84</sup> *Sherman*, [para. 34](#), RPA Tab 1

<sup>85</sup> *A.B. v. Bragg Communications Inc.*, [2012 SCC 46](#), RPA Tab 11

<sup>86</sup> *Sherman*, [para. 92](#), RPA Tab 1

serial murderer, and that the affidavit of a treating psychiatrist alone was insufficient for that purpose.<sup>87</sup>

- (b) In *R. v. Hosannah*,<sup>88</sup> Justice Sproat declined to issue a publication ban over the names of parents who had murdered their child, which was requested to protect the interests of the surviving siblings. His Honour found that the risk of harm had to be grounded in more than “possibility and speculation” that publicity may add to the children’s distress.<sup>89</sup>
- (c) In *R. v. Jha*, which involved similar circumstances to *R. v. Hosannah*, above, Justice Baltman distinguished “the common sense proposition that publicity concerning serious criminal behavior within a family can be harmful to the surviving children” from the question of “whether there is a serious risk to that interest that can only be addressed by a publication ban”.<sup>90</sup> Her Honour declined to find that “ongoing publicity may cause ongoing distress to the surviving siblings” because “how much so is unsupported here by any evidence, and is therefore uncertain.”<sup>91</sup>

44. This Court should direct its inquiry to the evidence (or lack therefore) in support of AA’s specific assertion that his four children, three of whom are now adults, are likely to suffer harm by learning the truth about him. AA must point to real and substantial harm grounded in evidence. While logical inferences may be permissible, speculation is not. Any inference must be grounded

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<sup>87</sup> *M.E.H. v. Williams*, 2012 ONCA 35, paras. 3, 12, 34, 55, 57, and 62, RPA Tab 12

<sup>88</sup> *R. v. Hosannah*, 2015 ONSC 380, RPA Tab 13

<sup>89</sup> *ibid*, para. 25, RPA Tab 13

<sup>90</sup> *R. v. Jha*, 2015 ONSC 1064, paras. 14 and 15, RPA Tab 15

<sup>91</sup> *ibid*, para. 17, RPA Tab 15

in objective circumstantial facts that reasonably allow the finding to be made inferentially.<sup>92</sup>

45. The only contemporary evidence filed in support of this motion is the brief affidavit evidence of AA and his former spouse, BB. Both attest to their continued and subjective belief that their children would suffer non-specific harm if AA were to be associated with his conduct in a public forum.<sup>93</sup> AA asserts that his third child, an adult, is under the care of “a medical doctor/psychotherapist for anxiety and stress-related issues” but appends no medical documents to elaborate.<sup>94</sup> He expresses that he is “deeply concerned” that disclosure “could severely worsen that child’s condition and impact the wellbeing of all my children”, but, again, provides no evidence to substantiate his concern or quantify any risk.<sup>95</sup> AA and BB do not articulate how their children have matured or been affected by the passage of time since fall 2021, when the preponderance of the evidence they rely upon was assembled. Neither addresses the fact that all but one of the children are now adults.

46. AA resubmits stale-dated evidence originally affirmed in support of the Tribunal Anonymization Order. That record also included affidavits from AA and BB expressing the belief that disclosure could harm their children. BB’s October 12, 2021 affidavit alludes to “anxiety” experienced by her second child and the “emotional toll” of COVID-19 on her fourth child but does not include detail or medical documents.<sup>96</sup> Although AA references expert evidence in his factum,<sup>97</sup> that material is better characterized as brief hearsay statements and newspaper articles.<sup>98</sup>

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<sup>92</sup> *Sherman*, [para. 97](#), RPA Tab 1

<sup>93</sup> BB’s Affidavit of October 12, 2021, paras. 11-13, p. 142, MPMR Tab 7; AA’s Affidavit, of October 3, 2021, paras. 9-10, p. 130, MPMR Tab 8

<sup>94</sup> AA’s Affidavit of July 3, 2025, para. 9, MPMR Tab 2

<sup>95</sup> AA’s Affidavit of July 3, 2025, para. 9, MPMR Tab 2

<sup>96</sup> BB’s Affidavit of October 12, 2021, para. 3, MPMR Tab 7

<sup>97</sup> AA’s Motion Factum, para. 44

<sup>98</sup> AA’s Affidavit of October 3, 2021, paras. 8 and 17, MPMR Tab 8; AA’s Affidavit of November 22, 2021, MPMR Tab 9; Ex. A-C to AA’s Affidavit of November 22, 2021, MPMR Tabs 9A-C

The most substantive authority is a now four-year-old letter of a social worker, Mr. Bayraytay, who did not speak with AA's children or their treating practitioners. Mr. Bayraytay was never qualified as an expert, did not testify, and his letter was given "limited weight" by the Hearing Division.<sup>99</sup> His point-in-time opinion dated August 20, 2021 concluded, "[I]t would not be appropriate for [AA] to disclose his misconduct to his children *at this time*, while they are still in a transitional period in their lives."<sup>100</sup>

47. In *Sherman Estate*, the Supreme Court affirmed that "personal concerns of a litigant, including concerns about the very real emotional distress and embarrassment occasioned to litigants when justice is done in public, will not, standing alone satisfy the necessity of this branch of the test."<sup>101</sup> AA's October 3, 2021 affidavit articulates the risk of harm to his children in terms of learning "prematurely" of his misconduct.<sup>102</sup> He also attests to an intention to tell his children "when the time is right" after consultation with BB and "professionals".<sup>103</sup> Nevertheless, AA testified in 2024 and again in 2025 that he has sought no subsequent consultations about the potential impact of revealing to his children his history of sexual abuse.<sup>104</sup> BB is steadfast against disclosure but does not cite any independent authority in support for her strongly held belief.<sup>105</sup>

48. AA and BB have made a parenting decision to conceal AA's past indefinitely. In the face of his admitted wrongdoing and against the backdrop of LSO's continued opposition to his licensing and his anonymity, AA has yet to take even exploratory steps towards disclosure to his

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<sup>99</sup> Tribunal Anonymization Decision, [paras. 16](#) and [61](#), RPMR Tab 3

<sup>100</sup> Ex. A to AA's Affidavit of October 3, 2021, p. 65 [Emphasis added], MPMR Tab 8A

<sup>101</sup> *Sherman*, [para. 47](#) citing *Sierra Club*, para. 25, RPA Tab 1

<sup>102</sup> AA's Affidavit of October 3, 2021, paras. 9 and 13(b), MPMR Tab 8

<sup>103</sup> AA's Affidavit of October 3, 2021, para. 16, MPMR Tab 8

<sup>104</sup> AA's Cross-Examination Transcript of May 8, 2024, p. 21, lines 6-19, MPMR Tab 12; AA's Affidavit of July 3, 2025, para. 10, MPMR Tab 2

<sup>105</sup> BB's Affidavit of June 30, 2025, paras. 5-6, MPMR Tab 3

children, none of whom are of tender years. Even assuming that, their approach may have once been adopted based on some professional advice – which on assumption not in evidence – there is no evidence that this remains the case now that their children have reached (and in one case is approaching) adulthood. Absent that evidentiary grounding, there is no basis to conclude that the personal interest invoked by AA and BB transcends to a serious risk to the public interest.

49. AA relies on several decisions to suggest that risk of harm to children may be inferred by the disclosure of their parents’ names<sup>106</sup>. These cases do not stand for a general presumption and are distinguishable from the present case:

- (a) In *J.N. v. Canada (Citizenship and Immigration)*, the Federal Court issued an anonymization order that captured family members in the context of an *interim* stay. The Court held that the order “could be revisited should leave be granted and the matter proceed to judicial review.”<sup>107</sup>
  - (b) In *C.D. v. Provincial Health Services Authority*, the British Columbia Supreme Court issued a publication ban that included the petitioner’s transgender child. That matter proceeded together with a family law claim brought by the child, A.B., against their parents, and the publication ban covered both proceedings.<sup>108</sup>
  - (c) *R.R. v. Newfoundland* was an application to strike affidavits filed in support of an application for a publication ban and not the publication ban application itself.<sup>109</sup>
- The passage relied upon relates to the test for relevance of affidavit evidence.

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<sup>106</sup> AA’s Motion Factum, paras. 45-47

<sup>107</sup> *J.N. v. Canada (Citizenship and Immigration)*, [2021 FC 1231](#), para. 19, RPA Tab 19

<sup>108</sup> *C.D. v. Provincial Health Services Authority*, [2019 BCSC 603](#), para. 11, RPA Tab 20

<sup>109</sup> *R.R. v. Newfoundland and Labrador*, [2022 NLSC 44](#), para. 19, RPA Tab 21



- (d) *K.S.P. v. J.P.T., Kirby v. Woods, and G.S. and K.S. v. Metroland Media Group et al.*, all involve family law proceedings in which the anonymization of parties and their children’s names, while not automatic, are not uncommon<sup>110</sup> given that personal details relating to children are often the focus of the litigation.<sup>111</sup>

50. None of the cases relied upon by AA bears a factual resemblance to the present circumstances. AA – not his children – is the focus of his inherently public good character hearing, and his identity is integral to the process. As this Court held in *Kirby v. Woods*, “The greater the centrality of the information sought to be protected, the higher the interest in insuring that important and legally relevant information is open to the public.”<sup>112</sup>

*b. No Real and Substantial Evidence of Risk of Physical Harm to AA*

51. On this motion, and unlike the proceedings below, AA relies upon risk of harm to himself as justification to protect his identity. In support, he relies on an assortment of online posts.<sup>113</sup> It is not apparent when the posts were made (only some have partial dates), and there is no suggestion that any message has been acted upon or that AA has sought protection as a result.

52. While courts have recognized physical safety to be an important public interest that can justify restricting the open court principle, these exemptions are typically provided to victims, witnesses, and complainants.<sup>114</sup> In any event, online postings will generally not, on their own, amount to real and substantial evidence of a risk to physical harm:

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<sup>110</sup> *K.S.P. v. J.P.T.*, 2022 BCSC 1508, para. 38, RPA Tab 16

<sup>111</sup> *Ibid.*, paras. 36-38, RPA Tab 16

<sup>112</sup> *Kirby v. Woods*, 2025 ONCA 437, para. 24, RPA Tab 17; *Sherman*, para. 106, RPA Tab 1

<sup>113</sup> Ex. B to AA’s Affidavit of July 3, 2025, MPMR Tab 2B

<sup>114</sup> *Ahmad*, paras. 76 and 121, RPA Tab 3

- (a) In *Ahmad*, Justice Perell declined to grant a publication ban over the names of certain officers who had attracted online threats for killing a man in the line of duty in the context of an action based on the same incident. The officers testified that they had been traumatized by the events and the public’s reaction to it.<sup>115</sup> Nevertheless, the Court described the evidence of risk of harm as “weak and insufficient to justify an exemption to the open court principle”.<sup>116</sup>
- (b) Similarly, in *C.D. v. Provincial Health Services Authority*, a case relied upon by AA, Justice Marzari held, in the context of doctors who had been the subject of online incitements to violence, “[T]hat these types of online chatrooms and comments are often ugly, rude and even threatening, and that such evidence alone may not be enough to establish evidence of harm that meets the threshold requirement for a publication ban.”<sup>117</sup> Risk of harm was made out in that case because additional steps had been taken, beyond the posts, to contact the doctors directly for the purpose of intimidating them.<sup>118</sup>

53. AA had not provided well-grounded evidence to substantiate his assertion that he will be exposed to risk of physical harm if he is publicly identified.

***ii. Anonymity of AA’s Former Spouse and Children is a Reasonable Alternative***

54. As it has throughout the history of this proceeding, the LSO does not oppose an order limited to protecting the identities of AA’s former spouse and his children, as their identities are

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<sup>115</sup> *Ahmad*, [para. 26](#), RPA Tab 3

<sup>116</sup> *Ahmad*, [paras. 129-133](#), RPA Tab 3

<sup>117</sup> *C.D. v. PHSA*, [para. 46](#), RPA Tab 20

<sup>118</sup> *ibid*, [para. 47](#), RPA Tab 20

inconsequential to the good character analysis. If this Court concludes that AA has shown that openness poses a serious risk to an important public interest, then that risk can be met by these more limited infringements to the open court principle.

55. In *Schuetze v. Pyper*, a civil proceeding involving domestic violence, the defendant father sought a protective order over his own name on the premise of protecting his children's privacy interest. Notwithstanding that the father's parallel criminal trial had been public, there was no indication that the children had ever suffered any embarrassment or experienced unwanted attention as a result.<sup>119</sup> The Court made a tailored order that protected the children's identities but not that of the father. Justice Flemming was mindful of the role of the open court principle in that case, which she described as publicly identifying a party who had committed serious domestic violence, deterring his and similarly situated perpetrators, and protecting victims.<sup>120</sup>

56. Unlike AA, the identities of his children and his former spouse are incidental to the issues canvassed in this Appeal, and they did not feature prominently in the evidence on his good character hearing. As was the case in *Schuetze*, it is not a given that publicity of the father's name will result in stigma for his children. Nor does the LSO concede that disclosure of AA's identity will inevitably lead to their own identification or that their family surname is particularly uncommon. AA has not presented any reliable information on just how uncommon his surname is and such arguments have gained little traction where, as here, the applicant lives in a large municipality like Greater Toronto Area.<sup>121</sup>

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<sup>119</sup> *Schuetze v. Pyper*, [2021 BCSC 2599](#), paras. 20-21, RPA Tab 22

<sup>120</sup> *ibid*, para. 24, RPA Tab 22

<sup>121</sup> *R v. Hosannah*, [2015 ONSC 380](#), para. 35, RPA Tab 13

*iii. The Negative Effects of the Order Requested Outweigh any Benefit*

57. The open court principle is closely related to the administration of justice in any context,<sup>122</sup> but it has particular salience that of a good character hearing. All LSO adjudications are subject to the open court principle,<sup>123</sup> and the LSO has a statutory obligation to regulate the profession in the public interest and to act in a “timely, open and efficient manner”.<sup>124</sup> Conducting matters behind closed doors significantly undermines public confidence and leads to the spurious conclusion that the LSO is protecting its licensees, not the public.

58. Good character hearings are predicated on the public airing of prior misdeeds.<sup>125</sup> The requirement that licensees be of good character is expressly provided for by the Act and is “integral” to the LSO’s duty to protect the public interest.<sup>126</sup> It ensures that each licensee will adhere to the high ethical standards of the profession while allowing the public to be confident that any lawyer they retain will be a person of “unquestionable integrity, probity and trustworthiness”.<sup>127</sup> Good character hearings are presumptively open on the premise that the public is entitled to know why an applicant who engaged in serious misconduct is nevertheless entitled to be licensed.<sup>128</sup>

59. Publishing AA’s identity if he is licensed would have the salutary effect of advancing the administration of justice. Transparency exposes the LSO and its processes to public scrutiny while dispelling any suspicion that it is seeking to protect its own. Conversely, shielding AA’s identity

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<sup>122</sup> *A.P. v. L.K.*, [2019 ONSC 4010](#), para. 15, RPA Tab 23

<sup>123</sup> *Toronto Star v. AG Ontario*, [2018 ONSC 2586](#), para. 40, RPA Tab 24; *The Law Society of Upper Canada v. Xynnis*, [2014 ONSLAP 9](#), paras. 10-13, RPA Tab 25

<sup>124</sup> *The Act*, ss. 4.1 and 4.2

<sup>125</sup> *Shore v. Law Society of Upper Canada*, [2009 CanLII 18300](#) (ON SCDC), para. 72, RPA Tab 26

<sup>126</sup> *The Act*, s. 27(2)

<sup>127</sup> *The Law Society of Upper Canada v. Abbott*, [2017 ONCA 525](#), para 78, RPA Tab 27

<sup>128</sup> Tribunal Anonymization Decision, paras. 4-5, RPMR Tab 3; *the Act*, s. 27(4)

will have the opposite effect. The harm to public confidence in the LSO is palpable from the social media posts relied upon by AA, which include statements like, “The Law Society is a joke. They’ll always back their own”, and “How many abusers are hiding in the law society? [*sic*]”<sup>129</sup>

60. More tangibly, if AA is licensed as a lawyer, publication of his name will enable the public to make informed decisions about whether to retain him with the full knowledge of what he has done.<sup>130</sup> Potential clients should have agency over the decision of whom they entrust with their personal affairs, and to whom they disclose privileged and sensitive information. If AA is successful on appeal, he will be free to practise in the area of his choosing. The restriction preventing him from meeting with children alone does not bar him from subject matters involving children, such as family law. Whatever his practice area, forcing clients to blindly retain a lawyer with AA’s history will have a deleterious effect.

61. The negative impacts of such an order far outweigh any benefit derived from permitting AA to proceed anonymously.

## **PART V - ORDER REQUESTED**

62. The LSO requests an order:


- (a) Dismissing AA’s motion for an anonymization and publication ban applicable to these proceedings, insofar as it relates to the name of the Respondent, A.A. and to any information that would tend to identify him; and
- (b) Costs in favour of the LSO.

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<sup>129</sup> Ex. B to AA’s Affidavit of July 3, 2025, pp. 19 and 20, MPMR Tab 2B

<sup>130</sup> Temporary Anonymization Order, [paras. 37-38](#), p. 66, RPMR Tab 7

63. All of which is respectfully submitted this 1st day of August, 2025.



Counsel for LSO

Court of Appeal File No.: COA-25-CV-0462

**COURT OF APPEAL FOR ONTARIO**

B E T W E E N:

**LAW SOCIETY OF ONTARIO**

Appellant (Responding Party)

and

**A.A.**

Respondent (Moving Party)

**CERTIFICATE OF ESTIMATED TIME**

We estimate that 0.5 hours will be needed for our oral argument of the motion. An order under subrule 61.09(2) (original record and exhibits) is not required. The factum complies with subrule 5.1. There are 8,121 words in Parts I to V.

The person signing this certificate is satisfied as to the authenticity of every authority listed in Schedule "A".

**DATED AT Toronto, Ontario this 1<sup>st</sup> day of August, 2025**



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## SCHEDULE “A” – LIST OF AUTHORITIES

<b><u>Tab</u></b>	<b><u>Document</u></b>
1.	<i>Sherman Estate v. Donovan</i> , <a href="#">2021 SCC 25</a> , [2021] 2 SCR 75
2.	<i>Dagenais v. Canadian Broadcasting Corp.</i> , <a href="#">1994 CanLII 39</a> (SCC), [1994] 3 SCR 835
3.	<i>Ahmad v. Peel Regional Police Services Board</i> , <a href="#">2024 ONSC 2474</a>
4.	<i>G.-L. v. OHIP (General Manager)</i> , <a href="#">2014 ONSC 5392</a>
5.	<i>Doe v. Whitford</i> , <a href="#">2024 ONSC 1224</a>
6.	<i>Nahas v. Health Professions Appeal and Review Board</i> , <a href="#">2021 ONSC 6940</a>
7.	<i>Ontario (College of Physicians and Surgeons of Ontario) v. Rosenberg</i> , <a href="#">2003 CanLII 74530</a>
8.	<i>Toronto Star Newspapers Ltd. v. Canada</i> , <a href="#">2010 SCC 21</a> , [2010] 1 SCR 721
9.	<i>S.Y.L. v. C.M.S.</i> , <a href="#">2022 BCSC 572</a>
10.	<i>L.C.F. v. G.F.</i> , <a href="#">2016 ONSC 6732</a>
11.	<i>A.B. v. Bragg Communications Inc.</i> , <a href="#">2012 SCC 46</a> , [2012] 2 SCR 567
12.	<i>M.E.H. v. Williams</i> , <a href="#">2012 ONCA 35</a>
13.	<i>R. v. Hosannah</i> , <a href="#">2015 ONSC 380</a>
14.	<i>R. v. Mentuck</i> , <a href="#">2001 SCC 76</a> , [2001] 3 SCR 442
15.	<i>CR. v. Jha 2015</i> , <a href="#">2015 ONSC 1064</a>
16.	<i>K.S.P. v. J.T.P.</i> , <a href="#">2022 BCSC 1508</a>
17.	<i>Kirby v. Woods</i> , <a href="#">2025 ONCA 437</a>
18.	<i>G.S. and K.S. v Metroland Media Group et al</i> , <a href="#">2020 ONSC 5227</a>
19.	<i>J.N. v. Canada (Citizenship and Immigration)</i> , <a href="#">2021 FC 1231</a>
20.	<i>C.D. v Provincial Health Services Authority</i> , <a href="#">2019 BCSC 603</a>
21.	<i>R.R. v. Newfoundland and Labrador</i> , <a href="#">2022 NLSC 44</a>



22. *Schuetze v. Pyper*, [2021 BCSC 2599](#)
23. *A.P. v. L.K.*, [2019 ONSC 4010](#)
24. *Toronto Star v. AG Ontario*, [2018 ONSC 2586](#)
25. *The Law Society of Upper Canada v. Xynnis*, [2014 ONLSAP 9](#)
26. *Shore v. Law Society of Upper Canada*, [2009 CanLII 18300](#) (ON SCDC)
27. *The Law Society of Upper Canada v. Abbott*, [2017 ONCA 525](#)
28. *Dr. Q. v. College of Physicians and Surgeons of British Columbia*, [2003 SCC 19](#), [2003] 1 SCR 226

## SCHEDULE “B” – TEXT OF STATUTES, REGULATIONS & BY-LAWS

### *Law Society Act, R.S.O. 1990, c.L.8 ss. 4.1, 4.2, 27, 27(2), 27(4), 27(6), 62(0.1)*

#### **Function of the Society**

**4.1** It is a function of the Society to ensure that,

(a) all persons who practise law in Ontario or provide legal services in Ontario meet standards of learning, professional competence and professional conduct that are appropriate for the legal services they provide; and

(b) the standards of learning, professional competence and professional conduct for the provision of a particular legal service in a particular area of law apply equally to persons who practise law in Ontario and persons who provide legal services in Ontario. 2006, c. 21, Sched. C, s. 7.

#### **Principles to be applied by the Society**

**4.2** In carrying out its functions, duties and powers under this Act, the Society shall have regard to the following principles:

1. The Society has a duty to maintain and advance the cause of justice and the rule of law.
2. The Society has a duty to act so as to facilitate access to justice for the people of Ontario.
3. The Society has a duty to protect the public interest.
4. The Society has a duty to act in a timely, open and efficient manner.
5. Standards of learning, professional competence and professional conduct for licensees and restrictions on who may provide particular legal services should be proportionate to the significance of the regulatory objectives sought to be realized. 2006, c. 21, Sched. C, s. 7.

#### **Licensing**

##### **Classes of licence**

**27 (1)** The classes of licence that may be issued under this Act, the scope of activities authorized under each class of licence and any terms, conditions, limitations or restrictions imposed on each class of licence shall be as set out in the by-laws. 2006, c. 21, Sched. C, s. 23 (1).

##### **Good character requirement**

(2) It is a requirement for the issuance of every licence under this Act that the applicant be of good character. 2006, c. 21, Sched. C, s. 23 (1).

### **Duty to issue licence**

(3) If a person who applies to the Society for a class of licence in accordance with the by-laws meets the qualifications and other requirements set out in this Act and the by-laws for the issuance of that class of licence, the Society shall issue a licence of that class to the applicant. 2006, c. 21, Sched. C, s. 23 (1).

### **Refusal**

(4) An application for a licence may be refused only after a hearing by the Hearing Division, on referral of the matter by the Society to the Tribunal. 2013, c. 17, s. 6.

### **Parties**

(5) The parties to a hearing under subsection (4) are the applicant, the Society and any other person added as a party by the Hearing Division. 1998, c. 21, s. 14; 2013, c. 17, s. 26.

### **Subsequent applications**

(6) If an application for a licence is refused, another application may be made at any time based on fresh evidence or a material change in circumstances. 1998, c. 21, s. 14; 2006, c. 21, Sched. C, s. 23 (3).

(7) Repealed: 2006, c. 21, Sched. C, s. 23 (4).

### **Register**

**27.1** (1) The Society shall establish and maintain a register of persons who have been issued licences. 2006, c. 21, Sched. C, s. 24.

### **Contents of register**

(2) Subject to any by-law respecting the removal of information from the register, the register shall contain the following information:

1. The name of each licensee.
2. The class of licence issued to each licensee.
3. For each licensee, all terms, conditions, limitations and restrictions that are imposed on the licensee under this Act, other than terms, conditions, limitations and restrictions that are imposed by the by-laws on all licences of that class.
4. An indication of every suspension, revocation, abeyance or surrender of a licence.
5. Any other information required by the by-laws. 2006, c. 21, Sched. C, s. 24.

### **Availability to public**

(3) The Society shall make the register available for public inspection in accordance with the by-laws. 2006, c. 21, Sched. C, s. 24.

### **By-laws**

**62** (0.1) Convocation may make by-laws,

1. relating to the affairs of the Society;
2. providing procedures for the making, amendment and revocation of the by-laws;
3. governing honorary benchers, persons who are benchers by virtue of their office and honorary members, and prescribing their rights and privileges;

3.1 for the purposes of paragraph 5 of subsection 1 (8), prescribing persons or classes of persons who shall be deemed not to be practising law or providing legal services and the circumstances in which each such person or class of persons shall be deemed not to be practising law or providing legal services;

4. prescribing the classes of licence that may be issued under this Act, the scope of activities authorized under each class of licence and the terms, conditions, limitations or restrictions imposed on each class of licence;

4.1 governing the licensing of persons to practise law in Ontario as barristers and solicitors and the licensing of persons to provide legal services in Ontario, including prescribing the qualifications and other requirements for the various classes of licence and governing applications for a licence;

5. governing the handling of money and other property by licensees;

6. requiring and prescribing the financial records to be kept by licensees and providing for the exemption from such requirements of any class of licensees;

7. requiring and providing for the examination or audit of licensees' financial records and transactions and for the filing with the Society of reports with respect to such records and transactions;

8. requiring licensees to register an address with the Society and to notify the Society of any changes in the address;

9. requiring licensees or any class of licensees, or authorizing the Society to require licensees or any class of licensees, to provide the Society with information or to file certificates, reports or other documents with the Society, relating to the Society's functions under this Act;

10. authorizing and providing for the preparation, publication and distribution of a code of professional conduct and ethics;

11. authorizing and providing for the preparation, publication and distribution of guidelines for professional competence;

12. respecting the reporting and publication of the decisions of the courts;

13. prescribing offices of the Society, the holders of which may exercise a power or perform a duty under this Act, the regulations, the by-laws or the rules of practice and procedure, or the holders of which may be appointed by Convocation to exercise a power or perform a duty under this Act, the regulations, the by-laws or the rules of practice and procedure, and specifying the powers they may exercise or be appointed to exercise and the duties they may perform or be appointed to perform;

14. prescribing fees and levies relating to the functions of the Society, including fees for late compliance with any obligation, that must be paid to the Society by,

- i. licensees or any class of licensees,
- ii. applicants for a licence or any class of applicants for a licence,
- iii. limited liability partnerships that practise law or provide legal services, and applicants for a permit for a limited liability partnership to practise law or provide legal services,
- iv. professional corporations and applicants for a certificate of authorization for a corporation,
- v. persons who give legal advice respecting the law of a jurisdiction outside Canada, and applicants for a permit to give such advice,
- vi. persons authorized to practise law or provide legal services outside Ontario who are permitted to represent one or more other persons in a specific proceeding before an adjudicative body in Ontario, and applicants for such permission,
- vii. persons authorized to practise law or provide legal services in another province or territory of Canada who are permitted to engage in the occasional practice of law or provision of legal services in Ontario, and applicants for such permission,
- viii. partnerships, corporations and other organizations that practise law or provide legal services and that maintain one or more offices outside Ontario and one or more offices in Ontario, and applicants for a permit to engage in such practice of law or provision of legal services, and
- ix. persons, partnerships, corporations and other organizations that practise law or provide legal services and that also practise another profession or provide other services, and applicants for a permit to engage in such activities;

15. governing the payment and remission of fees and levies prescribed under paragraph 14 and exempting any class of persons from all or any part of any fee or levy;

16. providing for the payment to the Society by a licensee of the cost of an audit, investigation, review, search or seizure under Part II;

17. requiring the payment of interest on any amount owed to the Society by any person and prescribing the interest rate;

18. providing for and governing meetings of members of the Society, as set out in subsection 2 (2), or their representatives;

19. defining who is a student, prescribing classes of students and describing each class, and governing students, including,

i. governing the employment of students,

ii. making any provision of this Act, the regulations, the by-laws or the rules of practice and procedure apply to students with necessary modifications or subject to such modifications as may be specified by the by-laws, and

iii. specifying provisions of this Act, the regulations, the by-laws or the rules of practice and procedure that do not apply to students;

20. defining who is a clerk and governing the employment of clerks by persons licensed to practise law in Ontario as barristers and solicitors;

21. governing degrees in law;

22. providing and governing bursaries, scholarships, medals and prizes;

23. respecting legal education, including programs of pre-licensing education or training;

24. providing for and governing extension courses, continuing professional development and legal research, and prescribing continuing professional development requirements that must be met by licensees, subject to such exemptions as may be provided for by the by-laws;

25. prescribing, for the purposes of section 26.1, persons or classes of persons who are permitted to practise law in Ontario without being licensed to do so and persons or classes of persons who are permitted to provide legal services in Ontario without being licensed to do so, prescribing the circumstances in which persons who are not licensees are permitted to practise law or to provide legal services in Ontario, and prescribing the extent to which persons who are not licensees are permitted to practise law or to provide legal services in Ontario, including specifying the areas of law that such persons may practise or in which such persons may provide legal services and the legal services that such persons may provide;

26. prescribing oaths and affirmations for applicants for a licence or any class of applicants for a licence;

27. providing for and governing libraries;

27.1 governing the practice of law and the provision of legal services through a firm, including,

i. exercising, in respect of firms, any by-law making authority listed in this subsection respecting licensees, including, for greater certainty, under paragraph 14,

ii. for the purposes of subsection 61.1.2 (1),

A. providing that any or all of the provisions listed in that subsection apply with respect to firms or any class or classes of firms,

B. providing for modifications to the application of any or all of the provisions listed in that subsection with respect to firms or any class or classes of firms, including providing that a provision or portion of a provision does not apply with respect to firms or a class or classes of firms, or applies only in specified circumstances, or that different provisions listed in the subsection apply with respect to different classes of firms,

iii. respecting the determination of the directing mind or minds of an association of licensees for the purposes of section 61.1.3,

iv. requiring the registration of firms and governing the registration,

v. requiring firms to designate a member of the firm for the purpose of receiving information and documents from and providing information and documents to the Society on behalf of the firm or of one or more members of the firm, or for the purposes of any or all of subparagraphs vi to x, and governing the designations,

vi. requiring or authorizing specified reporting requirements or other specified requirements that are applicable to licensees who are members of a firm to be met by a designated member of the firm on behalf of some or all the licensees,

vii. requiring a designated member of a firm to appear before a person or entity specified by the by-laws respecting the conduct of the firm or of one or more members of the firm or any other matter specified by the by-laws, or authorizing a person or entity specified by the by-laws to require such an appearance,

viii. authorizing a person or entity specified by the by-laws to meet with a designated member of a firm or any other members of the firm specified by the by-laws to review the conduct of the firm or of one or more members of the firm or any other matter specified by the by-laws,

ix. requiring the designated member of a firm or any other member of the firm specified by the by-laws to comply with any requirements imposed on firms under the by-laws,

x. authorizing a person or entity specified by the by-laws to reprimand the firm, the designated member of the firm or any other member of the firm specified by the by-laws,

- xi. specifying circumstances in which the Society may publish a firm's failure to comply with a requirement under this Act and governing the publication;
28. governing the practice of law and the provision of legal services by limited liability partnerships, including requiring those partnerships to maintain a minimum amount of liability insurance for the purposes of clause 44.2 (b) of the *Partnerships Act*, requiring that those partnerships hold a permit to practise law or provide legal services, governing the issuance, renewal, suspension and revocation of such permits and governing the terms and conditions that may be imposed on such permits;
- 28.1 governing the practice of law and the provision of legal services through professional corporations, including, without limiting the generality of the foregoing, requiring the certification of those corporations, governing the issuance, renewal, surrender, suspension and revocation of certificates of authorization, governing the terms, conditions, limitations and restrictions that may be imposed on certificates and governing the names of those corporations and the notification of a change in the shareholders of those corporations;
29. providing for persons authorized to practise law or provide legal services outside Ontario to be permitted to represent one or more other persons in a specific proceeding before an adjudicative body in Ontario, subject to the approval of the adjudicative body, governing the granting of permission and the terms and conditions to which the permission may be subject, and making any provision of this Act, the regulations, the by-laws or the rules of practice and procedure apply to those persons with necessary modifications or subject to such modifications as may be specified by the by-laws;
30. providing for persons authorized to practise law or provide legal services in another province or territory of Canada to be permitted to engage in the occasional practice of law or provision of legal services in Ontario, governing the granting of permission and the terms and conditions to which the permission may be subject, and making any provision of this Act, the regulations, the by-laws or the rules of practice and procedure apply to those persons with necessary modifications or subject to such modifications as may be specified by the by-laws;
31. governing the practice of law and the provision of legal services by any partnership, corporation or other organization that maintains one or more offices outside Ontario and one or more offices in Ontario, including requiring that those partnerships, corporations and other organizations hold a permit to practise law or provide legal services, governing the issuance, renewal, suspension and revocation of such permits and governing the terms and conditions that may be imposed on such permits;
32. governing the practice of law and the provision of legal services by any person, partnership, corporation or other organization that also practises another profession or provides other services, including requiring that those persons, partnerships, corporations and other organizations hold a permit to engage in such activities, governing the issuance, renewal, suspension and revocation of such permits and governing the terms and conditions that may be imposed on such permits;
33. regulating the giving of legal advice respecting the law of a jurisdiction outside Canada, including requiring a permit issued by the Society, governing the issuance, renewal, suspension



and revocation of such permits and governing the terms and conditions that may be imposed on such permits;

34. providing for the establishment, maintenance and administration of a benevolent fund for licensees and the dependants of deceased licensees;

35. governing applications to surrender a licence under section 30 and the acceptance by the Society of such applications;

36. respecting the Compensation Fund;

37. governing applications to pay trust money to the Society under section 59.6 and the approval by the Society of such applications;

37.1 governing the making of claims under section 59.10 and the determination and payment by the Society of such claims;

38. governing the referral of complaints to the Complaints Resolution Commissioner and governing the performance of duties and the exercise of powers by the Commissioner;

39. designating offices held by employees of the Society to which the Complaints Resolution Commissioner may delegate powers or duties;

40. governing reviews under section 42, including,

i. prescribing, for the purpose of clause 42 (1) (a), circumstances in which the Society may conduct a review under section 42, and

ii. prescribing, for the purpose of subsection 42 (6), the time within which a licensee may accept a proposal for an order;

41. Repealed: 2006, c. 21, Sched. C, s. 95 (17).

42. governing the appointment of persons to conduct audits, investigations and reviews under Part II;

43. prescribing a period for the purposes of subsection 46 (1) and governing the payment of amounts owing for the purposes of subsection 46 (2);

44. prescribing a period for the purposes of subsection 47 (1) and governing the completion and filing of documents for the purposes of subsection 47 (2);

44.1 governing disclosure and circumstances for the purposes of clause 49.12 (2) (f), or of clause 49.12 (2) (j);

45. specifying a deadline for the purposes of subsection 49.28 (3), and providing for a process to extend a deadline for paying costs in the circumstances described in subsection 49.28 (4) and specifying that extended deadline;

46. providing for additional powers, duties and functions of the Tribunal, its chair and its members;

46.1 setting out eligibility requirements for the purposes of subsections 49.20.2 (1), 49.21 (3), 49.22.1 (2), 49.24.1 (2), 49.29 (3) and 49.30.1 (2);

46.2 governing the conduct of members of the Hearing Division and members of the Appeal Division who are assigned to hear and determine matters, including providing for a code of professional conduct for such members and providing for the code's enforcement, and governing the evaluation of such members;

47. governing the implementation of agreements with the responsible authorities in other jurisdictions relating to the practice of law or the provision of legal services;

48. prescribing forms and providing for their use;

49. governing the register that the Society is required to establish and maintain under section 27.1, including prescribing information that the register must contain in addition to the information required under section 27.1, governing the removal of information from the register and governing the Society's duty under section 27.1 to make the register available for public inspection;

50. governing the register that the Society is required to establish and maintain under section 61.0.2, including prescribing information that the register must contain, governing the removal of information from the register and governing the Society's duty under section 61.0.2 to make the register available for public inspection;

50.1 governing any register established under subsection 61.1.4 (2), including prescribing information that the register must contain, governing the removal of information from the register and governing the Society's duty under clause 61.1.4 (3) (b) to make the register available for public inspection;

51. prescribing requirements to be met by licensees with respect to indemnity for professional liability;

52. respecting anything that, under this Act, may or must be prescribed or done by the by-laws. 1998, c. 21, s. 29 (1); 2000, c. 42, Sched., s. 23; 2001, c. 8, s. 50; 2006, c. 21, Sched. C, ss. 95 (1-20); 2010, c. 16, Sched. 2, s. 4 (4); 2013, c. 17, s. 24 (1-3); 2020, c. 11, Sched. 13, s. 15 (1).

***Rules of Civil Procedure, r. 14.06(1)***

**Title of Proceeding**

**14.06** (1) Every originating process shall contain a title of the proceeding setting out the names of all the parties and the capacity in which they are made parties, if other than their personal capacity. R.R.O. 1990, Reg. 194, r. 14.06 (1).

(2) In an action, the title of the proceeding shall name the party commencing the action as the plaintiff and the opposite party as the defendant. R.R.O. 1990, Reg. 194, r. 14.06 (2); O. Reg. 131/04, s. 7.

(3) In an application, the title of the proceeding shall name the party commencing the application as the applicant and the opposite party, if any, as the respondent and the notice of application shall state the statutory provision or rule, if any, under which the application is made. R.R.O. 1990, Reg. 194, r. 14.06 (3).

***Exception***

(4) Subrules (1), (2) and (3) do not apply to a proceeding under Rule 74, 74.1 or 75. O. Reg. 484/94, s. 6; O. Reg. 111/21, s. 3.

## **Health Professions Procedural Code, Schedule 2, s.32(3)**

### **Record of decision to be reviewed**

**32** (1) If the Board is requested to review a decision, the Registrar shall give the Board, within fifteen days after the Board's request, a record of the investigation and the documents and things upon which the decision was based.

### **Disclosure**

(2) Before reviewing a decision, the Board shall disclose to the parties everything given to it by the Registrar under subsection (1).

### **Exceptions**

(3) The Board may refuse to disclose anything that may, in its opinion,

- (a) disclose matters involving public security;
- (b) undermine the integrity of the complaint investigation and review process;
- (c) disclose financial or personal or other matters of such a nature that the desirability of avoiding their disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that disclosure be made;
- (d) prejudice a person involved in a criminal proceeding or in a civil suit or proceeding; or
- (e) jeopardize the safety of any person. 1991, c. 18, Sched. 2, s. 32.

### **Conduct of review**

**33** (1) In a review, the Board shall consider either or both of,

- (a) the adequacy of the investigation conducted; or
- (b) the reasonableness of the decision.

### **Procedure**

(2) In conducting a review, the Board,

- (a) shall give the party requesting the review an opportunity to comment on the matters set out in clauses (1) (a) and (b) and the other party an opportunity to respond to those comments;
- (b) may require the College to send a representative;
- (c) may question the parties and the representative of the College;

(d) may permit the parties to make representations with respect to issues raised by any questions asked under clause (c); and

(e) shall not allow the parties or the representative of the College to question each other. 1991, c. 18, Sched. 2, s. 33.

**Health Professions Procedural Code, Schedule 2, s.47****Sexual misconduct witnesses**

**47** (1) A panel shall, on the request of a witness whose testimony is in relation to allegations of a member's misconduct of a sexual nature involving the witness, make an order that no person shall publish the identity of the witness or any information that could disclose the identity of the witness. 1991, c. 18, Sched. 2, s. 47.

**Interpretation**

(2) In subsection (1),

“allegations of a member's misconduct of a sexual nature” include, but are not limited to, allegations that the member sexually abused the witness when the witness was a patient of the member. 1993, c. 37, s. 13.

Appellant (Responding Party)

Respondent (Moving Party)

**COURT OF APPEAL FOR ONTARIO**

Proceeding commenced at Toronto

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