

\$50,000 Punitive Damages Award Against Law Firm Upheld

November 26th, 2008

Reasons for judgment were released today dealing with a fee dispute between a personal injury plaintiff and his lawfirm.

The Plaintiff was involved in a serious motor vehicle collision in 1995. The Plaintiff hired a lawyer and ultimately a \$860,000 settlement was reached.

A fee dispute arose after this settlement and litigation ensued. At trial the Plaintiff's were granted judgment in the sum of \$300,404.17 against the law firm. This award included a punitive damages award of \$50,000 finding that the law firm acted in a '*malicious, oppressive and high-handed*' manner to their client.

The lawfirm appealed for various grounds. In a split decision, the BC Court of Appeal dismissed the major grounds of appeal but did reduce the over-all judgment by \$27,413.58.

The award of punitive damages was based on a finding that '*the totality of the actions and conduct of the appellant (lawfirm) in its abuse of power in its relationship with its clients, as well as in its approach to the litigation, established the need for an award of punitive damages to express the court's disapproval of such conduct and to serve as a general deterrent*'

The court summarized the actions of the lawfirm as follows:

[99] *I think that any legal professional would find the conduct of the appellant in this matter to be most disquieting. The appellant took substantial legal fees after deceiving the respondents and without addressing the position of conflict it was in. It placed its own interests ahead of those of its unsophisticated clients. The appellant provided inadequate supervision of Mr. Shaw with full knowledge of the requirements of the Law Society. Instead of denouncing the obviously reprehensible conduct of Mr. Shaw and setting matters right, it sought to take the benefit of that conduct. The appellant is vicariously liable for the conduct of Mr. Shaw and is directly liable for its own failure to take remedial action when such action was obviously called for.*

The BC Court of Appeal did not disturb the trial judge's award of \$50,000 in punitive damages.

This case is worth reviewing in its entirety for anyone interested in the law dealing with contingency fee agreements and the duties of lawyers to their clients in British Columbia.