

LAW SOCIETY TRIBUNAL HEARING DIVISION

BETWEEN:

Law Society of Ontario

Applicant

and

Arkadii Barapp

Respondent

NOTICE OF APPLICATION – CONDUCT

TO THE RESPONDENT:

THE LAW SOCIETY OF ONTARIO applies under subsection 34(1) of the *Law Society Act*, RSO 1990, c L.8, for a determination of whether you have contravened subsection 33 by engaging in professional misconduct or conduct unbecoming a licensee, or both, and, if so, for an order under section 35 and under section 49.28. Details of the allegations are set out below.

This Notice of Application is served together with an Information Sheet that sets out the next steps in the proceeding.

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DETAILS OF THE ALLEGATIONS:

- (1) The Respondent has marketed, using websites and online advertisements, legal services contrary to the *Rules of Professional Conduct* ('the Rules'). The Respondent has promoted his practice, through his law firm, Barapp Law Firm Professional Corporation ('the Firm'), in a manner that is likely to mislead, confuse, or deceive; is not demonstrably true, accurate, and verifiable; and is not in the best interests of the public and consistent with a high standard of professionalism, contrary to subrule 4.2-1 of the *Rules*. In particular:
- (a) Since no later than January 2016, the Respondent has received client leads from a misleading and otherwise improper network of more than twenty websites which appear falsely to be websites for putative law firms independent of the Respondent and the Firm ('the Network'; website domain names listed at *Schedule A*, below), which websites were created by a service provider ('the Service Provider'), who is neither a lawyer nor a paralegal licensee in Ontario, and who is paid by a third party to provide this service for the Respondent's benefit and with the Respondent's knowledge, and:
- (i) To the extent the Service Provider operates the Network independently of the Respondent and the Firm, the Respondent has acted contrary to subrules 3.6-7 and 3.6-7.1 of the *Rules* since no later than January 2016, by accepting the referral of client matters from the Network in exchange for the third party payments to the Service Provider, where the Service Provider is neither a lawyer nor a paralegal licensee to whom the Respondent is permitted to pay referral fees; and
- (ii) To the extent the Respondent, either directly or through the Firm or others, exercises control over the Network by directing, assisting, or knowingly allowing the Service Provider to create, operate, update, and expand the Network on his behalf, the Respondent is professionally responsible for the Network and for the posting of the-misleading and otherwise improper information on the Network websites for his benefit.
- (b) Since no later than April 2016, the Respondent has published, or directed or allowed to be published on his own behalf or on behalf of the Firm, misleading and otherwise improper marketing claims on the Firm's own websites (website domain names listed at *Schedule B*, below), on Network websites (again, website domain names listed at *Schedule A*, below), and on third party websites, and in particular:

- (i) by claiming that the Firm is a qualitatively superior to other providers of legal services, including the claims 'Best Personal Injury Lawyers in Toronto', 'the GTA's premier law firm', and 'premier car accident lawyer in Toronto', 'one of the top personal injury law firms in the province', and 'best personal injury lawyer';
- (ii) by making inadequately-qualified claims about future success in client matters, including claims that the Firm will obtain 'maximum compensation', that the Firm 'will always negotiate the best settlement possible', that the Firm will obtain 'maximum compensation' for clients, and referring to amounts recovered without clear accompanying statements explaining that past results are not necessarily indicative of future results and litigation outcomes will vary according to the facts of individual cases;
- (iii) by asserting the Firm would act aggressively in its representation of clients, intimating that '[w]e understand [...] the aggressive tactics needed to win cases for our clients', and claiming the Firm 'will aggressively represent you';
- (iv) by claiming specialization, 'areas of expertise', and alluding to the Firm's putative 'experts' despite the fact that no Certified Specialist works at the Firm, including a claim they 'specialize in slip and fall accidents', the claim 'we specialize in providing employment labor [*sic*] law representation', and claiming a 'team of dedicated immigration law experts', which claims are also contrary to subrule 4.3-1 of the *Rules*;
- (v) by posting text of false client testimonials and reviews;
- (vi) by presenting videos as if they were client testimonials videos, and without clear disclosure alongside the videos that they were in reality no more than video recordings of actors delivering a script;
- (vii) by posting text and images on Facebook which repeated improper marketing claims described above, including an item which showed photographs of famous people, though labelled with false names, as though they were clients of the Firm;
- (viii) by posting videos and text on YouTube which repeated improper marketing claims described above, such as the claim 'Best Personal Injury Lawyer Toronto'; and

- (ix) by purchasing web advertising which repeated improper marketing claims described above, such as ‘Barapp Law Employment Lawyers – Aggressive Representation’.
- (2) In or around early 2017, when contacted by Lawyer A about the use by the Respondent, through a Network website, dmsinjurylaw.ca, of Lawyer A’s office address as though it was a law office for a putative law practice named DMS Personal Injury Lawyers, the Respondent misled, or attempted to mislead, Lawyer A, contrary to subrule 2.1-1 of the *Rules*:
 - (a) about the nature of the use of the address of Lawyer A’s office by the Respondent, the Firm, and the Network; and
 - (b) about the nature of the relationship between the Respondent, the Network, and the Service Provider.

Schedule A: Network website domain names

- abinjurylaw.ca
- abpclaw.ca
- aginjurylaw.ca
- aminjurylaw.ca
- apclaw.ca
- apinjurylaw.ca
- belkinlaw.ca
- berlaw.ca
- blflaw.ca
- blfonlaw.ca
- blpclaw.ca
- bpclaw.ca
- bpinjurylaw.ca
- dmsinjurylaw.ca
- dpcinjurylaw.ca
- ebinjurylaw.ca
- ebpclaw.ca
- efpclaw.ca
- expertinjurylawyer.ca
- gpclaw.ca
- kpcinjurylaw.ca
- kravitzlaw.ca
- lpclaw.ca
- mainjurylaw.ca
- makaronetslaw.ca
- mpclaw.ca
- pcinjurylaw.ca
- personalinjuryexpert.ca
- rpclaw.ca
- theinjuryexperts.ca
- wpclaw.ca

Schedule B: Firm website domain names

- barappemploymentlaw.com
- barappimmigrationlaw.com
- barapplaw.ca
- barapplaw.com
- barapplawfirm.ca
- barapplawfirm.com
- bpilaw.ca