

**THE SOLICITORS (SCOTLAND) ACT 1980
THE SCOTTISH SOLICITORS' DISCIPLINE TRIBUNAL
(PROCEDURE RULES 2008)**

INTERLOCUTOR

in Complaint

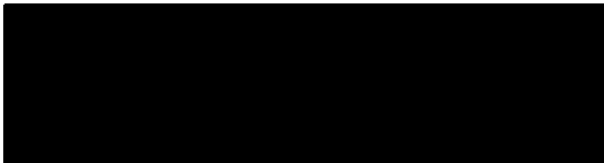
by

THE COUNCIL OF THE LAW SOCIETY OF
SCOTLAND, Atria One, 144 Morrison Street,
Edinburgh (hereinafter referred to as "the
Complainers")

against

SAAIMA KHALID, JKR Law Limited, 103
West Regent Street, Glasgow (hereinafter
referred to as "the Respondent")

By Video Conference, 17 March 2022. The Tribunal, having heard submissions from both parties in relation to the motion for the Complainers dated 3 March 2022, Grants the Complainers' motion for the Tribunal to issue the relevant notice in terms of Rule 50(2) of the Scottish Solicitors Discipline Tribunal Procedure Rules 2008 and Continues the Complaint to a virtual procedural hearing on 19 April 2022 at 10am.



Catherine Hart

Vice Chair

NOTE

This Complaint had been set down by the Tribunal for a virtual procedural hearing on 17 March 2022. The Complainers were represented by their Fiscal, James Campbell, Solicitor, Edinburgh. The Respondent was not present but was represented by her solicitor, Michael Foster, Glasgow.

Prior to the procedural hearing, the Fiscal had lodged a motion in terms of Rule 50 of the 2008 Rules. Mr Campbell explained to the Tribunal that by Interlocutor of 21 January 2022 the Tribunal had granted a previous motion of his, dated 23 November 2021, and had in terms of Rule 13 of the 2008 Rules directed the Respondent to produce certain documents. These documents were to be produced by 18 February 2022. That date passed and he had received no correspondence from the Respondent's agent. Accordingly, he had written to Mr Foster on 22 February 2022 asking for his client's position. No response had been received resulting in his motion of 3 March 2022. He invited the Tribunal to grant the first part of his motion and to issue a notice in terms of Rule 50(2) of the 2008 Rules giving the Respondent 21 days to comply with the direction or to provide representations as to why steps should not be taken under Rule 50(1). He invited the Tribunal to fix a further procedural hearing on a date allowing for the 21 days to expire and for further procedure. He confirmed that he had seen Mr Foster's correspondence with the Tribunal Office and submitted that if the Tribunal allowed the case to proceed in the way described, then this would allow the Respondent to circumvent the production of the documents and might allow her to advance a position that compliance with the direction would have prevented. He submitted that the only appropriate remedy in the circumstances was for the Tribunal to proceed in terms of Rule 50. He understood that Mr Foster was asking for sympathetic cooperation with regard to the Respondent's health issues but noted that neither he nor the Tribunal had been provided with any medical documentation to confirm these health issues and that even despite the Chair on the last calling of the case being perfectly clear on the requirements of medical vouching.

Mr Foster apologised for the Respondent's absence at the procedural hearing and confirmed that she could not face attending due to mental health issues. He had seen a letter from her GP but this was not vouched on soul and conscience. He explained that the Respondent had been prescribed a course of cognitive behavioural therapy which had not yet started due to the problems caused by the pandemic. The health issues of the Respondent had been exacerbated by other issues arising. The Law Society had withdrawn the Respondent's practising certificate in relation to other matters and had applied for the appointment of a Judicial Factor to the

Respondent's firm. Mr Foster confirmed that he had instructions that the Respondent accepted the averments of fact within the Complaint and accepted her liability for not being the sole shareholder in the firm due to a mistake by her accountants. He confirmed that he was trying to obtain properly vouched documentation to comply with the Tribunal's direction from the accountants who dealt with the transfer. He also indicated that he would try to obtain properly vouched medical evidence of the Respondent's state of health. He invited the Tribunal to refuse the first part of the Complainers' motion as a formal notice was not, in his submission, necessary. He invited the Tribunal to fix a further virtual procedural hearing to allow time for the documents to be produced. If necessary, the first part of the Complainers' motion could be continued to that procedural hearing.

The Fiscal responded that Mr Foster had indicated at each previous hearing that documents would be produced. The Complainers' first motion was dated 23 November 2021. Several months have passed and nothing had been produced. If the Tribunal was not minded to grant the first part of his motion today then he invited the Tribunal to continue the motion to the procedural hearing.

Mr Foster emphasised that it was the clear position of the Respondent that she would be accepting responsibility for what had occurred. He was concerned that service of a notice under Rule 50 upon the Respondent might cause a reaction that would set her back. In response to a question from the Chair, Mr Foster confirmed that if there was to be an adjournment, he would contact his client with regard to taking instructions to accept service of such a notice. The Chair asked if it were possible for contact to be made with the Judicial Factor to request copies of the documents. Mr Foster confirmed that the Judicial Factor had not, as of yet, been formally appointed but gave an assurance that he would contact whoever was in control of the documents to obtain copies of them.

The Tribunal adjourned to consider all submissions and during that adjournment, Mr Foster confirmed that he had instructions to accept service of a notice in terms of Rule 50(2) if such a notice was considered necessary.

The Tribunal gave very careful consideration to the submissions of both parties. It noted that the Fiscal's first motion was dated 23 November 2021 and that despite a direction being made by the Tribunal on 21 January 2022, no documentation had been forthcoming. The Tribunal also noted that despite the request of the Chair at the procedural hearing on 21 January 2022, no medical vouching had been produced. No progress had been made since the procedural hearing of October

2021. The Tribunal noted that Mr Foster was attempting to obtain the documents requested and that a notice in terms of Rule 50(2) would allow him further time in which to do that. In all the circumstances, the Tribunal considered that the appropriate and fair order was to issue a notice in terms of Rule 50(2) of the 2008 Rules and to fix a further virtual procedural hearing, the purpose of which would be to establish whether the direction had been complied with or, if not, for a clear explanation of why not. If the state of health of the Respondent continued to be an issue, the Tribunal expected medical evidence to support that. If the direction had not been complied with, the Tribunal expected submissions on what steps would be appropriate in terms of Rule 50(1). Mr Foster confirmed that he would accept service of the notice on behalf of the Respondent by way of email. The Tribunal fixed a Procedural Hearing for 19 April 2022 at 10am to proceed by way of virtual conference.



Catherine Hart
Vice Chair