

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS Our Reference: PCPA 2014/0323
(Attn Catherine Mitchell)

Private and Confidential

Mr & Mrs Afham Ismail
47B Colchester Avenue
Manor Park
London
E12 5LF

24 October 2014

Dear Mr & Mrs Ismail

Complaint about Mr Christopher Snell

The Bar Standards Board (BSB) has now had an opportunity to consider your complaint about Mr Christopher Snell and I am writing to let you know the outcome.

Before I give you our decision, however, I think it would be helpful if I briefly set out again the BSB's role and its powers.

The BSB is responsible for maintaining standards at the Bar by ensuring that barristers comply with the BSB Handbook.

We are a public interest regulator operating a risk-based approach to regulation and act in the public interest rather than the interests of those we regulate or in the private interests of individual complainants. We focus our enforcement action on the issues that pose the greatest risks to the regulatory objectives set out in the Legal Services Act 2007. We will consider the nature of any alleged regulatory breach and consider the level of risk posed to the public interest and to consumers of legal services in particular to determine what action we should take. We cannot adjudicate on questions of law, give legal advice, nor are we able to require a barrister to provide any kind of redress (such as compensation, reduction of fees or an apology) to a complainant or to any other person.

I am authorised under the complaints regulations to consider your complaint and determine whether your complaint should be investigated. I have carefully considered your complaint together with the papers you have sent us to support it. I have also taken advice on your complaint from a barrister member of the Professional Conduct Committee. On the basis of this assessment, I have decided that your complaint should not be pursued. The reasons for this decision are set out below.

You complained about Mr Snell's behaviour when he represented the claimants at a hearing of a possession claim against you in Bow County Court on 11th September 2014. Your complaint can be summarized in five points as follows:

- (1) Mr Snell deliberately misled the Court;
- (2) Mr Snell has discriminated against you on the grounds of your race, religion and Mr Ismail's disability;

- (3) Mr Snell took advantage of the fact that he was more knowledgeable on the subject than the Judge;
- (4) Mr Snell failed to submit a skeleton argument in advance of the hearing; and
- (5) Mr Snell interrupted your submissions.

Taking these numbered points in turn:

(1) The first allegation, misleading the Court, is a serious matter. If proved, it would certainly amount to professional misconduct. The basis of the allegation is that you believe Mr Snell should have accepted that the wrong claimants had been named in the pleadings. The pleadings show that the property in dispute was a house at 47b Colchester Avenue, Manor Park, London E12 5LF where you live. The claimants were Ismail Natha, Mehrun Natha and Shaida Natha who are the registered proprietors. In accordance with an agreement between Newham Borough Council and RHP Property Services a licence, not a tenancy, was granted to you. The basis of the claim for possession was "trespass", i.e. the licence had been terminated and you, the defendants, no longer had any legal right to remain in the house. It is not surprising that you should object to being accused of trespass, and you might be surprised that the registered owners were the claimants, when you yourselves had had no dealings with the owners, and had dealt only with RHP Property Services or Newham Council. However, in telling the Court who the claimants were, Mr Snell did not mislead the Court. The claimants were correctly identified in the pleadings, namely the legal owners of the property, but in practice RHP Property Services, or Newham Council would be conducting the proceedings. I therefore do not consider this part of your complaint shows a potential breach of the Handbook.

(2) The second allegation, discrimination against you on grounds of race, religion and Mr Ismail's disability, is based on Mr Snell's alleged body language and words. You allege: *"He has discriminated against us by his body language and by referring us as "These people". He did not introduce himself outside the court as we were unaware that he was representing the claimants. Mr Snell however stared at us in an impolite, rude and intimidating manner outside the courtroom without approaching us to introduce himself. He was intimidating us by speaking to all the court staffs and sitting next to them. His body language and behaviour were discriminative to us."* In providing additional details, you have written that Mr Snell *"... has treated Mr Ismail differently by referring to him as "Those people ...". He looked at him differently and ironically smiled when Mr Ismail was talking. Mr Ismail was with a clutch [crutch?] and he has depression and epilepsy. He accused Mr Ismail of having rent arrears of £17,000 without evidence and this is untrue. He uses Mr Ismail's vulnerability."*

Although, at its highest, this part of your complaint might demonstrate that Mr Snell could have behaved towards you in a more friendly way than he did, there is no material in this allegation which could amount to wrongful discrimination of any kind. There is no evidence that you have suffered as a result. Again I do not consider this part of your complaint shows a potential breach of the Handbook.

(3) The third allegation, that Mr Snell took advantage of the fact that he knew the law better than the Judge, would only be capable of amounting to professional misconduct if there was some evidence that Mr Snell had

mised the Court. However, there is no indication that you have appealed against the decision, which was in favour of Mr Snell's clients. If the Judge acted on advice given to him by Mr Snell, then that advice appears to have been correct and not misleading. Apart from the fact that the Judge decided against you, there is no evidence to support the allegation that Mr Snell took advantage of the fact that he knew the law better than the Judge. Again I do not consider this part of your complaint shows a potential breach of the Handbook.

(4) The fourth allegation is that Mr Snell did not submit a skeleton argument in advance of the hearing. This is not unusual, particularly in comparatively short, straightforward cases. It often happens that a barrister does not submit a skeleton argument even in more complicated cases, because he has not received instructions in sufficient time before the hearing. The mere failure to submit a skeleton argument cannot amount to professional misconduct. Again I do not consider this part of your complaint shows a potential breach of the Handbook.

(5) The fifth allegation is that Mr Snell interrupted your submissions. You say: *"He interrupted Mrs Ismail's submissions and interfered with it. He distracted the judge's and Mrs Ismail's focus on the matter. He knew that the judge is his junior and his legal privileges will assist him. He is aware of the institutional racism campaign against and was confident."* It is not realistic to suppose that a District Judge (an experienced solicitor) could feel subservient or junior to a relatively inexperienced junior barrister. If Mr Snell acted impolitely towards you, he could expect a rebuke from the Judge. There is no indication that Mr Snell was rebuked. Interrupting is sometimes necessary and appropriate, and there is nothing in any of the material supplied to suggest that you suffered any disadvantage as a result of Mr Snell's interruption. Again I do not consider this part of your complaint shows a potential breach of the Handbook.

In your e-mail to me dated 21st October, you have provided a copy of letter dated 16th October 2014 sent to you by Rainer Hughes. You have said that this letter is evidence of Mr Snell's misconduct and that he has misled the Court and that *"as you can deduce from the above, Mr Snell said in the court that we have £17,000 arrears of rent, the judge then gave him repossession. He misled the court and breach the trust of the public"*

I have noted from the letter that you have provided states *"Our client's claim for possession was not based on arrears, and we do not have a statement of arrears to provide to you"*. The letter does not state that there are no arrears.

I should explain that a barrister for one side in litigation has no responsibility for the interests of other parties. On the contrary, our *adversarial system of justice* (where disputes often produce a winner and a loser) means that:

1. You can be expected to say or do things which go against the interests of other parties, and
2. The other parties' legal representatives can be expected to say or do things which go against your interests.

Just as the other parties involved in the legal proceedings may disagree with your submissions/evidence, you may disagree with the submissions or evidence presented

by the barrister representing the other party. You have a right to challenge the evidence in the proceedings. The judge can then decide whose evidence to prefer.

We are not an alternative to the court process or an avenue to challenge judicial decisions. If you consider that the Court has made an incorrect decision then I would respectfully suggest that you seek independent legal advice on what legal remedies may be open to you.

You have not provided any evidence to substantiate the allegations that you have made against Mr Snell and accordingly I do not consider that your complaint is suitable for regulatory action because it lacks substance.

Your complaint has formally been recorded as a dismissal. I appreciate that you may be disappointed with this decision but I hope you can understand that the BSB cannot pursue complaints further unless we are satisfied that may have been a potential breach of the Handbook that would justify further action by us.

Details of your complaint have been recorded and may be taken into account by us in the future should we receive any similar complaints against the barrister you have complained about.

Under our Rules there is no formal mechanism for you to appeal this decision. However we may be prepared to reopen or reconsider your complaint where new evidence becomes available that is relevant to the decision to dismiss or where there is some other good reason.

Yours sincerely



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