

good therapy as she focuses on her health. Two years ago she was diagnosed with the autoimmune disease Multiple Sclerosis and

although it was a tough first 12 months she is happy to report that she is now in remission and feeling great.

So good, in fact, that you know the Law School is in for exciting times ahead under her guidance. **B**

Ethics and Practice

Recent Disciplinary Decisions

By Jayne French, Ethics & Practice

A legal practitioner's name was recently struck from the Roll of Practitioners by the Supreme Court. The practitioner had failed to comply with a court order with respect to the payment of settlement funds from his trust account.

The practitioner acted for A, one of the parties in a litigated property settlement. The other party, B, was unrepresented. A court order was made that on the sale of the subject property, the proceeds would be placed into the practitioner's trust account, and a specific amount was to be withdrawn from that trust money by the practitioner and paid to B.

When the settlement money was placed into the practitioner's trust account, the practitioner breached the order by paying B an amount that was less than that required by the court.

The practitioner did not make an application to the court to amend the orders, and did not obtain B's consent to the reduced payment.

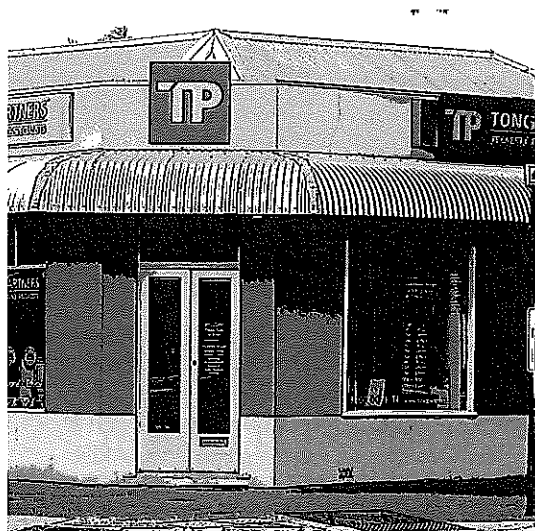
The Full Court of the Supreme Court made reference in its decision to three main areas of misconduct on the part of the practitioner:

1. By appropriating trust money without consent, the practitioner breached his fiduciary and statutory obligations. It was noted that the Act imposes strict obligations on practitioners dealing with trust money.
2. The practitioner knowingly making false and misleading statements to the unrepresented party, B, and pursued B for payments in circumstances where he knew the subject court order created no such obligation on the unrepresented opponent. The Supreme Court noted the Legal Practitioners Disciplinary Tribunal finding that the practitioner's wilful breach of the court order was, "... cavalier and disdainful towards the rights and entitlements of [B] and to the solicitor's obligations as an officer of the Court".

3. The practitioner attempted to mislead the Legal Practitioners' Conduct Board, in the course of its investigation of B's complaint, by engaging B in negotiations by which B would be paid a sum in exchange for B withdrawing the complaint. It was found that this conduct indicated, "a fundamental misunderstanding of his role as a practitioner".

In making the decision to strike the practitioner's name from the Roll, the Supreme Court stated the following:

"The practitioner's conduct demonstrates that he lacks the qualities of character and trustworthiness which are necessary attributes of a person entrusted with the responsibilities of a legal practitioner. ... the practitioner's conduct was a serious breach of trust, aggravated by the circumstance that the conduct was in direct non-compliance with a court order. The public are to be protected from such conduct." **B**



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