

CITATION: McDonald v. Law Society of Ontario, 2025 ONSC 5143
DIVISIONAL COURT FILE NO.: 287/25
DATE: 20250919

**SUPERIOR COURT OF JUSTICE – ONTARIO
DIVISIONAL COURT**

RE: John William McDonald, Appellant

AND:

Law Society of Ontario, Respondent

BEFORE: Justices Backhouse, Nakatsuru, and O’Brien

COUNSEL: *John William McDonald*, Self-Represented

Rhoda Cookhorn, Counsel for the Respondent

HEARD: September 8, 2025 in Toronto

ENDORSEMENT

[1] The appellant Mr. McDonald was the subject of two investigations brought by the Law Society of Ontario. Both investigations related in part to his conduct in a case in Prince Edward Island, which resulted in a decision of the Prince Edward Island Court of Appeal that commented on his conduct. The second investigation also related to civil litigation in Ontario. During the investigations, the Law Society asked Mr. McDonald to provide information and documents. The Law Society was of the view that Mr. McDonald failed to provide substantive and complete responses to its requests. It therefore started an application before the Law Society Tribunal alleging that he failed to cooperate.

[2] The Tribunal’s Hearing Division found Mr. McDonald had failed to cooperate by “failing to respond as required in a fulsome, forthright and prompt manner by January 2024 or even prior to March 5, 2024,” which was the date of the Law Society application: *Law Society of Ontario v. McDonald*, 2024 ONLSTH 80, at para. 52. It found that while Mr. McDonald often replied quickly to the investigator, his submissions were inadequate. The dates are important because Mr. McDonald ultimately complied after the issuance of the notice of application. The allegations of non-compliance related to the period July 2023 to January 2024. The Hearing Division’s decision deals only with the period of non-compliance and the failure to cooperate. It was not intended to and does not deal with the merits of the investigations.

[3] Mr. McDonald appealed the Hearing Division’s decision to the Tribunal’s Appeal Division. A panel of three adjudicators dismissed the appeal. The panel found the Hearing Division did not err in finding Mr. McDonald failed to cooperate. It concluded there was no palpable and

overriding error in the Hearing Division’s analysis and in its finding that Mr. McDonald failed to fully respond adequately to the investigator’s requests before March 2024.

[4] Mr. McDonald’s submissions in this court largely repeat the submissions already addressed by the Appeal Division. He submits the Appeal Division erred in upholding the Hearing Division’s conclusions on the following issues: (1) that he failed to cooperate with the investigations; (2) in dismissing his fresh evidence motion; (3) in dismissing his arguments regarding bad faith, negligent investigation, and investigative delay; and (4) in dismissing his disclosure motion, which sought disclosure of the transcript from the PEI Court of Appeal.

[5] The Appeal Division provided comprehensive reasons addressing Mr. McDonald’s submissions (reported at *Law Society of Ontario v. McDonald*, 2025 ONLSTA 10). The appeal is dismissed substantially for the reasons provided by the Appeal Division with the following comments:

[6] Mr. McDonald argued the underlying decisions made factual errors in concluding he failed to cooperate. However, Mr. McDonald admitted he did not provide documents requested by the Law Society until March 2024, which is outside the time period the Law Society was concerned with. We also underscore the finding of the Hearing Division, upheld by the Appeal Division, that while the correspondence between the parties was “well-papered” (Hearing Division Reasons, at para. 64; Appeal Division Reasons, at para. 21), which is to say Mr. McDonald was often responsive, his responses were neither substantive nor complete. It is not enough to respond promptly to the investigator; the responses must also provide the information and/or documents the Law Society has requested. Mr. McDonald did not point this court to any evidence that demonstrated the Appeal Division made a palpable and overriding error in upholding the Hearing Division’s conclusion that he failed to cooperate.

[7] Mr. McDonald relied in this court on two documents authored by Law Society investigators in support of his position he cooperated. The first document is undated, but Mr. McDonald advises it was provided on November 25, 2024. It is a communication from a Law Society investigator advising Mr. McDonald that the Law Society was closing its file with respect to its investigation but providing regulatory guidance regarding maintaining books and records. Mr. McDonald advises the second document was issued on December 5, 2024. It also communicated that the Law Society was closing the investigation into Mr. McDonald’s practice and provided regulatory guidance. Both documents conclude with the comment: “Thank you for your co-operation during the course of our investigation.”

[8] There was no error in the Appeal Division’s decision to refuse to admit these documents, which arose after the Hearing Division’s decision, as fresh evidence. The documents are not relevant to the allegations before the Tribunal. The Tribunal was required to determine whether Mr. McDonald had failed to cooperate during the period July 2023 to January 2024. These documents closed the investigations many months later. To the extent the standard sentences at the end of the documents reflected a view about Mr. McDonald’s cooperation, the issue before the Tribunal was not whether Mr. McDonald ultimately complied with the investigations, but whether

he cooperated during the period ending in January 2024. There is no basis to interfere in the Appeal Division's conclusion that the documents were irrelevant to that task.

[9] Mr. McDonald also made allegations in this court about the Law Society's conduct -- for example, in failing to respond to his request for the transcript from the PEI Court of Appeal. We reiterate and uphold the findings of the Appeal Division that (1) the Law Society's actions are irrelevant to the question of Mr. McDonald's failure to cooperate and (2) Mr. McDonald's conduct during the case in PEI is unrelated to the issues on this appeal, which are concerned solely with his failure to cooperate.

[10] The appeal is dismissed. Mr. McDonald accepts that the costs claimed by the Law Society are reasonable. He therefore shall pay costs to the Law Society in the amount of \$6,000 all-inclusive.

Backhouse J.

Nakatsuru J.

O'Brien J.

Released: September 19, 2025