

Joseph Groia Responds to the Law Society of Upper Canada

I am very disappointed that the Law Society has chosen to launch this ill advised prosecution arising out of events that occurred nine years ago during Stage I of the Bre-X trial, especially when the trial judge, Mr. Justice Peter Hryn, made no adverse comments about how I conducted myself. Indeed, at the end of the case, he personally thanked all counsel for their work done during the trial which was, he noted, “above the industry standard”.

On the application by the OSC to the Superior Court and its further appeal to the Court of Appeal, 100% of my efforts were focused on successfully defending the attempt by the OSC to remove the trial judge after 70 days of trial. That was where the interests of my client, John Felderhof, lay. Thus, the comments about my conduct made by Justice Campbell and the Court of Appeal that are now relied upon by the Law Society were made in a case to which I was not a party and in which I took no steps to defend my conduct. Even then Justice Campbell noted that there was no “monopoly over incivility or rhetorical excess” in Stage I of the Bre-X trial.

While I very much regret, and have apologized for, any damage to the profession that arose from the way these courts chose to interpret my actions during Stage I of the Bre-X trial, I firmly believe that my conduct was entirely justified by the way that the OSC and its Stage I prosecutor conducted the case against Mr. Felderhof, who was ultimately acquitted of all charges. When the OSC changed prosecutors for Stage II of the trial, the balance of the case proceeded without incident.

I intend to vigorously defend myself against these charges, and will do my best to expose the tactics adopted by the OSC and its Stage I prosecutors when their trial strategy was failing. My defence, in part, will be to show that whatever may be the limits on the Law Society’s jurisdiction to take proceedings that will inevitably inhibit the ability of defence counsel to vigorously defend their clients against the possibility of a wrongful conviction and prosecutorial misconduct, my trial conduct did not constitute professional misconduct as a lawyer.

I believe and hope that other counsel will join me in saying that, in similar circumstances, the regulation of the conduct of counsel during a trial is best left solely to the trial judge who, as has been noted, takes the temperature of a trial everyday.

Joseph Groia
November 19, 2009
Toronto, Canada
Tel: 416 – 203-4472
jgroia@groiaco.com