Gichuru v. Law Society of British Columbia
IN THE MATTER OF the Human Rights Code, R.S.B.C. 1996, c. 210
(as amended)
AND IN THE MATTER OF a complaint before the British Columbia
Human Rights Tribunal
Between
Peter Mokua Gichuru, Complainant, and
The Law Society of British Columbia, Respondent
[2011] B.C.H.R.T.D. No. 185; 2011 BCHRT 185; 73 C.H.R.R. D/54; File Nos. 1645
British Columbia Human Rights Tribunal; Panel: Tonie Beharrell, Member; Heard: October 18-22 and 25-28, 2010; Decision: July 15, 2011.

REASONS FOR DECISION

I INTRODUCTION

1 Peter Mokua Gichuru filed a complaint in which he alleged that the Law Society of British Columbia (the "Law Society"), discriminated against him with respect to employment, and with respect to membership in an occupational association, contrary to ss. 13 and 14 of the Human Rights Code. The parties agreed to divide the hearing into two stages, which I will refer to as the liability hearing, and the remedy hearing.

2 In Gichuru v. The Law Society of British Columbia (No. 4), 2009 BCHRT 360 ("Gichuru No. 4"), the Tribunal found that the Law Society had discriminated against Mr. Gichuru with respect to membership in an occupational association, on the basis of mental disability, contrary to s. 14 of the Human Rights Code.

3 In particular, the Tribunal found the following question, asked by the Law Society in applications for temporary articles and articles, was systemically discriminatory:
Have you ever been treated for schizophrenia, paranoia, or a mood disorder described as a major affective illness, bipolar mood disorder, or manic depressive illness? (the "Question")

4 Further, the Tribunal found that the actions of the Law Society in relation to Mr. Gichuru's applications to it were discriminatory. Thus, the Tribunal found that the Law Society contravened the Code in two ways. First, systemically, by asking the Question and adopting a process in relation to it that had a discriminatory effect, that was not justified by the Law Society. Second, individually, in discriminating against Mr. Gichuru on the basis of mental disability, while dealing with his applications for admission to the Law Society: Gichuru No. 4, para. 639.

[detailed descriptions of Mr. Gichuru's often short-term articling and employment arrangements at a series of legal institutions, including the Ministry of Attorney General; Howard Smith and Company; Galambos & Company; Ash O'Donnell Hibbert; the Workers Compensation Appeal Tribunal.]

10. Employment at Macaulay McColl: July 1, 2007 to December 2008

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87 Mr. Gichuru testified that he obtained a lot of good experience during his first six months at Macaulay McColl. He did examinations for discovery, communications with clients and adjustors, and got on really well with most of the other lawyers.

88 In December 2007, the firm decided to hire on one of its articling students, and Mr. Burgoyne advised Mr. Gichuru that the firm felt that it couldn't guarantee him enough work to keep him on full-time. There was also a shortage of office space. The parties agreed that Mr. Gichuru would continue on a contract basis, paid by the hour. Mr. Gichuru testified that at this time, there was a four-week hearing scheduled in this complaint in October 2008. At the same time, it began to appear that Mr. Gichuru may not have legal representation for that hearing. As a result, he was facing uncertainty about legal representation, coupled with a certainty that he would have to take off at least four weeks in October 2008. As a result, the contract agreement seemed like a good option for him, that potentially provided enough flexibility to be able to take the time off to attend the hearing.

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90 In the first few months of 2008, Mr. Gichuru worked in a contract position for Mr. Burgoyne on ICBC defence files and plaintiff personal injury files. There was no discussion about what his actual hours would be, but they were part-time. Mr. Gichuru testified that, without the distractions of the complaints, he could have worked more hours. He testified that the amount of flexibility he had, and the pay, made it a very good job for him to have at this time.

91 Mr. Gichuru and Mr. Burgoyne both testified that there continued to be logistical issues with office space. Mr. Gichuru testified that he was also becoming increasingly preoccupied with this complaint and trying to prepare for the hearing. He testified that, as a result of the combination of these things, he was not able to focus on his work. In addition, in July or August 2008 he advised Mr. Burgoyne that he was not available to work on a file in October 2008. Mr. Burgoyne seemed to be surprised by that, although Mr. Gichuru testified that he had told him at one point about the hearing.

92 In October 2008, Mr. Gichuru attended the three weeks of hearing on the liability phase, and then returned to work for Macaulay McColl. He testified that he had a bad experience on a small claims file on which a hearing resumed in November. He was quite upset, as he attributed the problem to not being completely focused on his legal work.

93 Shortly after that, in mid-November 2008, he left the country for a month to attend his mother's 70th birthday. He testified that, at this point, it was unclear what his future was at Macaulay McColl. He felt that he wasn't able to focus completely on his client work, the firm didn't have enough physical space for him, it wasn't feasible for him to work from home, and he didn't have any active files that he had primary responsibility for.

94 In addition, there had been no decision made on the liability phase of the hearing, but Mr. Gichuru felt that such a decision would be rendered in January or February 2009, and that the remedy phase of the hearing would be held in May 2009. He testified that he thought that it would be wise to take some time off and focus on getting this complaint over with. Mr. Gichuru testified that he approached Mr. Burgoyne in early January 2009, and said that it would probably be best if he stopped working there. The parties made a mutual decision that Mr. Gichuru stop working there.

95 Mr. Burgoyne's evidence about the end of Mr. Gichuru's working relationship with Macaulay McColl was consistent with Mr. Gichuru's. He testified that there was a shortage of office space, that this put Mr. Gichuru in a difficult position of having to juggle when and where he was going to work, and that he did have other obligations outside of his work with Macaulay McColl - notably his complaint against the Law Society. Further, the firm's need for Mr. Gichuru's services tapered off a bit, and the parties reached a point where they sat down and agreed that it would be a good time to terminate the relationship.

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12. Impact

111 Mr. Gichuru testified that the Law Society's actions came at a time when he was in the very early stages of his career, and therefore that the impact of its actions have been very significant. He testified that he went from an individual who was on track for a successful law career to one who was reduced to taking temporary and contract positions, at organizations like WCAT.

112 In comparison, Mr. Gichuru provided print outs from the lawyer search function of the Law Society's website, with respect to the lawyers who had been employed at Galambos & Company at the same time as himself. Those print outs indicated that lawyers previously employed at that firm are now in a wide range of employment situations including: sole practitioner; lawyer in small firm or medium-sized firms in Abbotsford, Surrey, New Westminster and Vancouver; employed with the Continuing Legal Education Society; lawyer in a large downtown Vancouver firm; and not currently practising in British Columbia. Mr. Gichuru also stated at one point in his testimony that he believed that the individual who was no longer listed on the Law Society's website worked, for a time, as an adjudicator at the WCB Review Board.

113 Mr. Gichuru pointed in particular to the individual who was articling at Galambos & Company during his employment there, noting that this individual is currently practising at a large downtown law firm, and that this is the closest comparator to the type of employment he would have expected to have, but for the Law Society's discrimination.

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16. Issue of Taking Notice

146 Mr. Gichuru seeks to have the Tribunal take judicial notice of three propositions:
a) There is a significant stigma and discrimination associated with a diagnosis of mental illness within the legal profession, both as it relates to interactions with other lawyers, and with clients ("stigma");
b) There is a high prevalence of depression in the legal profession ("prevalence"); and
c) There is a significant level of racial discrimination within the legal profession ("discrimination").

147 In Gichuru v. Law Society of British Columbia (No. 7), 2010 BCHRT 252 ("Gichuru No. 7"), the Tribunal held that Mr. Gichuru could rely on a number of documents to assist in establishing these propositions: paras. 36-38, and 46.

148 I will review these documents, and the other evidence before me on these issues, below. I will then consider whether I should take notice of the propositions urged by Mr. Gichuru.

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B. Racial Discrimination in the legal profession

188 With respect to the third proposition urged by Mr. Gichuru, that there is a significant level of racial discrimination within the legal profession, the Tribunal found in Gichuru No. 7 that the proposition could be relevant to the issue of mitigation. In this regard, the Tribunal stated:
In this case, given the Law Society's potential mitigation arguments, I find that the information is arguably relevant. The Law Society indicated that it may argue, at the end of the day, that Mr. Gichuru failed to mitigate his loss, and that this failure is evidenced by a somewhat patchy employment record. To the extent that Mr. Gichuru is arguing that his employment history or mitigation efforts can be explained, in part, by underlying racial discrimination in the legal profession, the publications on which

he proposes to rely are arguably relevant. (para. 43)

1. Documents

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190 With respect to the impact of racial discrimination in society generally, Mr. Gichuru submits a 2003 Statistics Canada publication: Ethnic Diversity Survey: portrait of a multicultural society. In this publication, Statistics Canada reports that Blacks were more likely to report feeling that they had been discriminated against or treated unfairly by others because of their ethno-cultural characteristics. Nearly one-third of Blacks said that they had had these experiences sometime or often in the past five years. Another 17% of Blacks reported that these experiences had occurred rarely. (p. 18) Race or colour (as opposed to ethnicity, culture, language or religion) was the most common reason for perceived discrimination or unfair treatment (p. 21), and the discrimination or unfair treatment was most likely to have occurred in the workplace (p. 21).

191 Mr. Gichuru also relies on a Catalyst report entitled: Career Advancement in Corporate Canada: A Focus on Visible Minorities. The first part of that report, "Survey Findings", was released in June 2007. These findings included the following:

a) Despite the educational attainment of visible minorities, their labour force representation rates are lower than the national average;

b) Advancement for visible minorities appears to have stalled; the proportion of visible minorities in senior management positions is at about 3%;

c) Visible minorities were less satisfied with their progress toward overall career goals; and
d) Almost half of visible minority respondents felt that they were held to a higher performance standard than their peers.

192 A further aspect of the report, "Critical Relationships" was released in November 2007. That report used focus groups to provide further information to the initial survey findings, and exploring what was seen as an important aspect of career advancement: the development of critical relationships. The study found that visible minorities often feel excluded from information-networking opportunities that can lead to such relationships.

193 An additional aspect of the report, "Workplace Fit and Stereotyping" was released in June 2008, and was focused on how well visible minorities felt they fit into the work environment, whether and how they perceived being stereotyped by others in the workplace, and how they felt others perceived them as potential leaders.

194 With respect to the legal profession specifically, Mr. Gichuru relies on a report produced by the Canadian Bar Association Working Group on Racial Equality in the Legal Profession in February 1999, entitled Racial Equality in the Canadian Legal Profession. The report outlines how students from racialized communities face additional hurdles at each stage of the legal profession: from finding articles, to the level of work provided during their articles, to being hired back, to opportunities for advancement, based on both overt and systemic forms of discrimination. In February 2000, this report was approved unanimously by the Council of the Canadian Bar Association.

195 Attached to the Report is a further document, entitled Virtual Justice: Systemic Racism and the Canadian Legal Profession, authored by Joanne St. Lewis, co-chair of the Working Group. This document was not prepared in conjunction with the other members of the Working Group but is based on

a review of all reports, literature and submissions received by the Working Group. At p. 76, the author makes the following statement:

The flexibility of the criteria used by law firms makes it difficult to identify all the barriers in the hiring process. Concepts such as “fit” vary dramatically from firm to firm and can hide conscious or unconscious discrimination in the hiring process. There is a need to examine these concepts to ensure that they focus on competence. “Fit” is often a reflection of personal or cultural assessments based upon perceptions of shared values and experiences with candidates rather than a comparison of skills. This seemingly natural decision making process results in unfair barriers.

196 Further, Mr. Gichuru relies on the Canadian Bar Association, Submission to the UN Rapporteur on Racism, dated September 23, 2003. In that report, the CBA relied on its 1999 report of the working group on racial equality in the legal profession. The CBA emphasized that:
When we talk of racism in the legal profession, we are talking about racism by impact. Rarely, if at all, will you find overt expressions of racism or overt racist policies preventing access to justice or to the legal profession. But the difference between the racial composition of Canada and the racial composition of the legal profession is marked. And it is vertical. The higher one goes in the legal hierarchy, the greater the difference.

197 The Final Report on Equity and Diversity in Alberta’s Legal Profession was completed for the Joint Committee on Equality, Equity and Diversity of the Law Society of Alberta in January 2004. It is described as a broad study on bias and equity in Alberta’s legal profession, motivated by concerns that discrimination and bias may be continuing to act as barriers to practice and professional advancement for some groups of lawyers. The report indicates that past research has revealed bias and discrimination against lawyers of colour and Aboriginal lawyers. The report states that, for the most part, overt discrimination and racism have been replaced by more subtle forms of discrimination. This discrimination is reported to exist at all levels of the profession: visible minority law students have much less success in finding articles, are less likely to be hired after articles, and discrimination continues after lawyers are hired.

198 Diversity and Change: The Contemporary Legal Profession in Ontario, is a report to the Law Society of Upper Canada issued in September 2004. It is based on a social survey of the Ontario legal profession conducted in the spring of 2003, and was part of a larger program of research investigating equity and diversity in the legal profession. In the literature review portion of the report, the authors outline the following:

a) Discrimination against lawyers from racialized communities often manifests itself in subtle and systemic ways;
b) Students from racialized communities have fewer opportunities to secure articling positions and first jobs; and
c) Students from racialized communities are at a considerable disadvantage in a job market that often depends on “word-of-mouth” and connections.

199 The report also outlines the results of the 2003 survey, noting, among other things, that lawyers of racialized communities are more likely to report earnings in the lower income brackets, and are most highly represented in the very lowest income levels. Lawyers of racialized communities are less well-represented among the more prestigious and remunerative fields of law, and among senior positions.

200 A further report to the Law Society of Upper Canada, The Changing Face of the Ontario Legal Profession, 1971-2001, authored by Michael Ornstein and issued in October 2004, presents systematic evidence on the number, status and pay of Aboriginal, visible minority and women lawyers in Ontario,

based mainly on the 2001 Canadian Census. The report indicates that visible minorities are under-represented in the legal profession, relative to their percentage of the general population in Ontario. Further, the median income of visible minority lawyers was lower than that of white lawyers.

201 The Articling Consultation, a Report to the Law Society of Upper Canada in February 2007, by the Strategic Counsel, reports on the findings of a consultation among students who were currently seeking articles or have withdrawn from the search for articles. One of the findings of this consultation was that members of racialized communities faced challenges that others did not. Although there were no reports of overt racism, or inappropriate questions being asked, several participants had inferred from their experiences and what they knew of the process that their racialized status impeded their job search.

202 In Racialization and Gender of Lawyers in Ontario, A Report for the Law Society of Upper Canada dated April 2010, Michael Ornstein provides a statistical portrait of Aboriginal, visible minority and women lawyers in Ontario. He finds that, despite increasing representation in the legal profession, women and racialized persons continue to encounter barriers within the profession: they are more likely to be associates than to be partners, they are more likely to work in government, and they earn less than their White male counterparts. At p. 36, the authors state:
These findings suggest the systemic exclusion of racialized lawyers from higher paying positions. Such exclusion need not involve explicit barriers. Instead inequity is the result of a complex filtering system beginning in law school and working through the many incremental steps in a lawyer's career. Each step involves both voluntary choices and inequitable, though often seemingly neutral, practices that steer Aboriginal and visible minority lawyers and women into less remunerative roles.

2. Testimony

203 Mr. Gichuru also gave evidence on the issue of racial discrimination, and called evidence in this regard from several of his witnesses.

204 Mr. Gichuru testified that he is a person of mixed race. His mother is white, his father was black. They married at a time when such relationships were uncommon and looked down upon.

205 Mr. Gichuru gave some evidence about his views on racial discrimination. He testified that in his view, everyone operates on the basis of stereotypes to a greater or lesser degree. The more people deny it, the more it is self-evident that we operate on the basis of stereotypes. He testified that racial discrimination is all around us, it affects everything that happens in the way we relate to people of different races. Mr. Gichuru testified that very few white Canadians have overtly racist views, but that there is a patronizing attitude towards minorities in general and Blacks in particular: people always want to help, but they don't want to be told that they are wrong or what to do.

206 Mr. Gichuru testified that you cannot have a meeting of Black professionals without the main topic being discrimination. At the time he filed the complaint in 2004, every Black lawyer he knew of in the Lower Mainland was self-employed. This is slowly starting to change.

207 Mr. Gichuru testified that he is not claiming that Ms. Polsky Shamash or anybody else at WCAT was racist or motivated by racial animus. In fact, he testified that he was 99% sure that Ms. Polsky Shamash is not a racist, and this was not the point of his human rights complaint.

208 Mr. Gichuru testified that he has been before eight judges on the Court of Appeal, all of who are white; and before several B.C. Supreme Court justices, all of whom were white.

209 Mr. Gichuru called Mr. Frempong as a witness. Mr. Frempong is a lawyer practising at Ash

O'Donnell Hibbert, and was called to the Bar in 2006. He testified that he was born in Ghana, West Africa, and immigrated to Canada in 2000. He obtained his first degree in law in Ghana, graduating in 1994. He then moved to England for six years and started further legal education in England. He did not complete that education, but moved to Canada in 2000. In 2001, he applied and was accepted into law at UBC. Because of his first law degree he received advanced standing, and was only required to complete two years of law school.

210 Mr. Frempong testified that he also worked full-time throughout his law schooling at UBC. He graduated from UBC in 2003. He applied for articles, but had difficulty obtaining them. He testified that he applied to a variety of law firms, mostly medium and small, between 30 and 50 in total. Most of the responses indicated that they had no articling positions available. He only received one interview, and was not the successful applicant. Throughout this time he maintained the employment he had during law school.

211 During his search for articles, he approached the firm of Ash O'Donnell Hibbert. He was referred to this firm by a friend who knew Mr. Hibbert, who is also Black. He contacted Mr. Hibbert in early 2004. In June, 2004, he was invited to meet with Mr. Hibbert and his partners. They advised Mr. Frempong that there had recently been substantial cuts in legal aid funding, which was a large source of work for the firm, and they told him that they did not have the funds required to hire an articling student. Mr. Frempong thought about this, and proposed a situation where he would article on a part-time basis, continue working with his other employer on a full-time basis, and not be paid for his articling work.

212 The firm determined that they were prepared to help Mr. Frempong, realizing that perhaps if they did not, he would not be able to find another position. Mr. Frempong testified that two of the partners in the firm were Black, and they recognized the difficulty they had in getting articling, so they identified with other Black students who also weren't getting articling and wished to help as many as possible, although they had limited financial means. Mr. Frempong applied to the Law Society, which eventually approved his articling arrangement. Mr. Frempong commenced his articles with Ash O'Donnell Hibbert just as Mr. Gichuru was completing his.

213 Mr. Frempong testified that, from his discussions with Ash O'Donnell Hibbert, he learned that they had helped students in the past, the majority of whom were Black, and were not able to find articling. This included Mr. Gichuru. After Mr. Frempong completed his articles, they hired another Black law student who had difficulty finding articles. In her case, the firm agreed to give her what Mr. Frempong characterized as a stipend, not a full salary.

214 Mr. Frempong testified that he identified as an African Canadian and as a Black Canadian, and that this is also how people perceive him. He testified that, while he had difficulty finding articles, he was not able to pinpoint the reason why he had this difficulty. His marks, which were average, although impacted by his full-time employment during law school, were likely one reason. He testified that nothing happened at the interview or with respect to his applications that would lead him to confidently say that his difficulties were based on some discrimination. However, if he had to make a list of the possible reasons why he had difficulty obtaining articles, his race would be on the list, although not at the top of the list. He testified that, as a Black person in this part of the world, he (and others) live with a constant feeling that he could be discriminated against at any point. That feeling is always there. But he can't specifically attribute his difficulties in finding articling to that.

215 Mr. Frempong was asked about his familiarity with the careers of other Black lawyers and law students. He testified that he has met a number of Black lawyers, including those he met at Ash O'Donnell Hibbert, and they expressed to him that they had difficulty getting articles.

216 In his examination of Ms. Polsky Shamash, Mr. Gichuru asked her if she was aware of the stereotypes of Black persons in North America. She responded that she was aware there were stereotypes, but that she was not in a position to say what they were. When pressed, she indicated that in the U.S. perhaps more than in Canada there were stereotypes involving poor, single parent families, maybe not terribly well-educated, perhaps involved in criminal activity. She noted that she was going from television shows. Mr. Gichuru then asked her whether she was aware of any stereotypes about Black professionals, and she indicated that she was not.

217 Mr. Gichuru asked Ms. Polsky Shamash whether she was aware of the difficulties faced by Black people in the legal profession, and she indicated that she was not.

218 As noted above, Mr. Gichuru called Alan Treleaven, the Law Society's Director of Education and Practice, as his own witness. In the course of his examination of Mr. Treleaven, Mr. Gichuru asked whether the Law Society had done any research on the experience of Black lawyers in the profession. Mr. Treleaven answered that, to his knowledge, there has been no research done specifically in British Columbia, but there has been research done in Nova Scotia, as well as in Ontario. Mr. Treleaven noted that the Black population in Nova Scotia has clearly been a heavily-disadvantaged group. With respect to the applicability of the studies to British Columbia, Mr. Treleaven testified that the Law Society has an Equity and Diversity Committee whose mandate it is specifically to look at questions of this nature, and that they recognize that there is a problem. He testified that he was not aware of specific statistics, and noted that Black lawyers would form a larger percentage of the lawyer population in Ontario and Nova Scotia than in British Columbia.

3. Conclusion

219 I think it is fair to take notice that there remains a significant level of racial discrimination within Canadian society as a whole. Further, given the extent of the research and writing on this issue by Law Societies across Canada, and by the Canadian Bar Association, it is fair to take notice that there remains a significant level of racial discrimination within the legal profession. As highlighted in a number of the reports relied on by Mr. Gichuru, discrimination of this nature can be distinguished from outright racism and is much more likely to be subtle and systemic, premised on the notion of "fit" or appropriateness. This reality makes it more difficult for the issues to be addressed in the context of a human rights complaint, a reality which has frequently been recognized by the Tribunal: see, for example, Pinazo v. Neverblue Media Inc., 2007 BCHRT 4, paras. 20-22; Monsson v. Nacel Properties Ltd., 2006 BCHRT 543, paras. 28-30.

220 However, I find that taking notice of this proposition does not assist Mr. Gichuru. As I will discuss in more detail below, there is nothing in the evidence before me which would link this proposition with Mr. Gichuru's experience in a manner that is relevant to the decision on remedy.

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A. Injury to Dignity, Feelings and Self-Respect

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338 Mr. Gichuru also cites the stigma associated with a label of mental illness, and the interaction of that stigma with racial discrimination against Black lawyers. He describes himself as a "tree growing in the shade" as a result of his race, and states that the Law Society's actions therefore had a more significant impact on him than they may have on a Caucasian lawyer.

339 In this regard, as noted above, I accept that there is a significant stigma that attaches to a label of mental illness. Further, I accept that Black legal professionals often face additional challenges achieving

success in the legal profession. There is nothing in the evidence, however, that would link these factors to Mr. Gichuru's experience.

340 First, Mr. Gichuru has put forward an expert report that relies on "average income" of a male BC lawyer of his year of call. The Law Society did not question the appropriateness of using that average, although it did argue that there were other factors that militated against a finding of remedy based on the figures put forward. Thus, no one is arguing that Mr. Gichuru's damages should be lower because, as a Black lawyer, he would likely earn less than the average. As noted by Mr. Gichuru, such an argument would be extremely distasteful and inappropriate in the context of a human rights decision.

341 Second, to the extent that Mr. Gichuru is arguing that his difficulty in finding work after his call to the Bar, although primarily caused by the Law Society's actions, was compounded by the fact that he is Black, or by the stigma attaching to a diagnosis of mental illness, I consider below whether it is appropriate to award Mr. Gichuru compensation for the period of time between his call to the Bar and the time that he obtained his position with WCAT. I come to this decision independent of the issue of the impact of racial discrimination in the profession in general or on Mr. Gichuru in particular.

342 Third, as it applies to Mr. Gichuru's career path post-dating his employment with WCAT, the evidence before me indicates that, when Mr. Gichuru seriously pursued employment in the legal profession, he found it. Mr. Gichuru's employment with WCAT ended in September 2006. His evidence indicated that he did not pursue alternate employment with any degree of vigour until March or April of 2007. He found well-remunerated employment starting July 1. This evidence illustrates that there was no permanent impairment to Mr. Gichuru's earning capacity in 2007, and suggests that any impairment in his earning capacity which he may now be experiencing is related to his personal choices and not to the actions of the Law Society found to constitute discrimination in Gichuru No. 4.

343 Fourth, as it applies to Mr. Gichuru's career path post-dating his employment with Macaulay McColl, I find that the Law Society's actions did not cause any financial loss, as Mr. Gichuru has chosen not to seriously pursue employment in the legal profession, as outlined above. Therefore, whatever the impact of racial discrimination, or any stigma relating to a diagnosis of mental illness, it cannot be laid at the feet of the Law Society in this regard. In particular, I reject Mr. Gichuru's argument that the Committee process broadcast his diagnosis of mental illness throughout the legal profession. Although the information in question was available to all members of the Committee, there is no evidence that the information was publicized outside of the Committee process by the Law Society.

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