



**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
GENERAL DIVISION**

Citation: *Cluney v. Association of Chartered Professional Accountants of
Newfoundland and Labrador*, 2026 NLSC 35

Date: March 25, 2026

Docket: 202501G0370

2026 NLSC 35 (CanLII)

BETWEEN:

JUDITH CLUNEY

APPELLANT

AND:

**ASSOCIATION OF CHARTERED
PROFESSIONAL ACCOUNTANTS OF
NEWFOUNDLAND AND LABRADOR**

RESPONDENT

Before: Justice Peter N. Browne

On Appeal From: A Decision of the Association of Chartered Professional Accountants of Newfoundland and Labrador dated the 12th day of May, 2023.

Place of Hearing: St. John's, Newfoundland and Labrador

Date of Hearing: December 11, 2025

Summary:

The Appellant, Judith Cluney (“Cluney”), appealed the decision of the Association of Chartered Professional Accountants of Newfoundland and

Labrador (CPANL) Adjudication Tribunal concerning the sanction flowing from the finding of guilt of professional misconduct in 202301G4136.

Held: The appeal is allowed in part. The CPANL suspended and subsequently revoked Cluney’s licence to practice for not complying with a sanction decision by the Adjudication Tribunal. Cluney argued that under section 39 of the *Act*, such action could only be taken by the Adjudication Tribunal following a hearing into her non-compliance and not independently by the CPANL. The Court agreed with Cluney that the Adjudication Tribunal, not the CPANL, had the statutory authority to suspend or revoke a licence and could not delegate this authority to the CPANL. Accordingly, it found the Adjudication Tribunal had erred in its interpretation of section 39.

However, when the Court reviewed the evidentiary record, it concluded that had the Adjudication Tribunal granted Cluney a hearing before suspending or revoking her license, then it would have had a sufficient evidentiary basis to do so; therefore a remedy was not necessary.

Appearances:

Cletus E. Flaherty Appearing on behalf of the Appellant

Augustine F. Bruce, K.C. Appearing on behalf of the Respondent

Authorities Cited:

CASES CONSIDERED: *Law Society of Saskatchewan v. Abrametz*, 2022 SCC 29; *Vey v. Newfoundland and Labrador Pharmacy Board*, 2022 NLCA 55; *Battcock v. Eastern Newfoundland Regional Appeal Board*, 2021 NLSC 164; *Mirolo v. College of Physicians and Surgeons of Newfoundland and Labrador*, 2021 NLSC 12; *Archean Resources Ltd. v. Newfoundland*, 2002 NFCA 43; *Re Rizzo & Rizzo Shoes Ltd.*, [1998] 1 S.C.R. 27; *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42; *Canada Trustco Mortgage Co. v. Canada*, 2005 SCC 54; *Williams v. Canada (Public Safety and Emergency Preparedness)*, 2017 FCA 252; *Canada v. Cheema*, 2018 FCA 45; *Hillier v. Canada (Attorney General)*, 2019 FCA 44; *Bell Express Vu Ltd. Partnership v. Rex*, 2002 SCC 42; *Canadian Oxy Chemicals Ltd. v. Canada (Attorney General)*, [1999] 1 S.C.R. 743; *Mobil Oil Canada Ltd. v. Canada-*

Newfoundland Offshore Petroleum Board, [1994] 1 S.C.R. 202; *MiningWatch Canada v. Canada (Fisheries and Oceans)*, 2010 SCC 2; *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65; *Stemijon Investments Ltd. v. Canada (Attorney General)*, 2011 FCA 299; *Robbins v. Canada (Attorney General)*, 2017 FCA 24; *Maple Lodge Farms v. Canada (C.F.I.A.)*, 2017 FCA 45; *Sharif v. Canada (Attorney General)*, 2018 FCA 205; *Gehlv. Canada (Attorney General)*, 2017 ONCA 319; *Renaud v. Quebec (Commission des affaires sociales)*, [1999] 3 S.C.R. 855; *ImmeublesPort Louis Ltée v. Lafontaine (Village)*, [1991] 1 S.C.R. 326; *Bernard v. Canada (Revenue Agency)*, 2015 FCA 263; *Association of Universities and Colleges of Canada v. Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22

STATUTES CONSIDERED: *Chartered Professional Accountants and Public Accountants Act*, SNL 2014, c. C-10.1

TEXTS CONSIDERED: E.A. Driedger, *Construction of Statutes*, 2nd ed. (Toronto and Vancouver: Butterworths & Co. (Canada) Ltd., 1983); Sullivan, Driedger, *Construction of Statutes*, 3rd ed. (Toronto: Butterworths, 1994)

REASONS FOR JUDGMENT

BROWNE, J.:

INTRODUCTION

[1] As the result of the finding of guilt referenced in Court file 202301G4136, the CPANL Adjudication Tribunal (the “Adjudication Tribunal”) subsequently imposed various sanctions on Judith Cluney (“Cluney”). These were detailed in its written decision of July 31, 2023 (the “Sanctions Decision”).

[2] The sanctions imposed were as follows:

- a written reprimand to be placed on Ms. Cluney's CPANL file;
- that Ms. Cluney provide CPANL with a list of her current clients within ten (10) days of the date of this Decision and Order;
- that a Monitor be appointed by CPANL for a period of twelve (12) months to perform periodic random review of her files, in documentary and electronic form as applicable, and to provide reports to CPANL;
- a summary of the Decision and Order of the Tribunal to be published and to be made available to the public including all of Ms. Cluney's current clients, to all members of CPANL and to all provincial and territorial accounting regulatory bodies; and
- a fine of \$2,500.00 along with costs in the amount of \$15,000.00.

[3] The Sanctions Decision also provided, *inter alia*, that if Cluney failed to comply with its terms, her membership in the Association of Chartered Professional Accountants of Newfoundland and Labrador ("CPANL") would be suspended until such time as she did comply. However, should Cluney fail to comply with the terms of the Sanctions Decision for more than 30 days following the suspension of her membership, her membership would be revoked.

[4] CPANL asserts Cluney did not comply with the terms of the Sanctions Decision so on January 8, 2025, it suspended her membership in accordance with the directive contained in the Sanctions Decision.

POSITION OF THE PARTIES

Cluney

[5] Cluney takes the position that the terms of the Sanctions Decision were ambiguous and that she fulfilled the obligations imposed upon her.

[6] She also argues that CPANL did not have the statutory authority under section 39 of the *Chartered Professional Accountants and Public Accountants Act*, SNL 2014, c. C-10.1 (the “*Act*”) to determine whether she had complied with the terms of the Sanctions Decision; therefore, it was not permitted to suspend or revoke her membership in the absence of a hearing and a further order from the Adjudication Tribunal.

CPANL

[7] CPANL disagrees with Cluney’s assertions, saying it made an application to the Adjudication Tribunal on March 27, 2024, under section 39 of the *Act*, for directions.

[8] On December 16, 2024, the Adjudication Tribunal issued a written decision stating, *inter alia*, that the terms of the Sanctions Decision of July 31, 2023, were not ambiguous, and that Cluney had failed to comply with its terms. Specifically, in the body of the Sanctions Decision, the Adjudication Tribunal directed the CPANL to take steps to enforce and suspend the Appellant’s membership should she not comply; (see Decision of the Adjudication Tribunal, dated December 16, 2024).

[9] Cluney filed a Notice of Appeal seeking to set aside the Adjudication Tribunal’s decision of December 16, 2024 and a *certiorari* quashing Cluney’s suspension and subsequent revocation.

ISSUES

Issue# 1: What is the appropriate standard of review to be applied?

Issue# 2: Was the CPANL required to make an application under section 39 of the *Act* before suspending Cluney’s membership?

Issue #3: Did the Appellant comply with the Sanctions Decision?

Issue #4: In view of my finding that the CPANL was required to proceed by way of application under section 39 of the *Act*, is Cluney entitled to any remedy?

RELEVANT LEGISLATION AND JURISPRUDENCE

Relevant Legislation

Chartered Professional Accountants and Public Accountants Act, S.N. 2014, c. C-10.1

Association established

3. (1) The Association of Chartered Professional Accountants of Newfoundland and Labrador is established as a corporation without share capital for the purposes of Part XXI of the *Corporations Act*.

(2) A person who is certified under this *Act* is a member of the association.

(3) The objects of the association are

- (a) to promote and increase the knowledge, skill, and proficiency of chartered professional accountants and public accountants;
- (b) to protect the integrity of the profession; and
- (c) to serve and protect the public interest in all matters relating to the conduct of chartered professional accountants and public accountants.

Powers of adjudication tribunal

36. (1) Upon the hearing of a complaint, an adjudication tribunal shall decide whether or not a respondent is guilty of conduct deserving of sanction

(3) Where an adjudication tribunal decides that a respondent is guilty, it may

- (a) reprimand the respondent;
- (b) order that the respondent be suspended for a fixed period that it considers appropriate, until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal;
- (c) allow or direct the respondent to surrender either or both of his or her certificate or licence issued under this *Act* to the board upon those conditions that may be considered appropriate and strike the respondents name from the register;
- ...
- (f) order that the registrar publish a summary of the decision including the information set out in subsection 37(4) and other information that the tribunal may specify; and
- (g) order that the respondent comply with one or more of the following:
- ...

(ix) permit periodic inspection of records relating to his or her practice, or

Failure to comply

39. (1) On application by the board to the disciplinary panel, an adjudication tribunal may make an order suspending the rights and privileges of a respondent where it determines that the respondent has failed to comply with a decision or an order under subsection 35(2) or 36(3).

(2) The parties to the application are the board and the respondent.

(3) An order of an adjudication tribunal under this section may suspend the rights and privileges of the respondent for a fixed period that the adjudication tribunal may consider appropriate, or until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal.

Interpretation Act, RSNL 1990 c. I-19

Rule of construction

16. Every *Act* and every regulation and every provision of an *Act* or regulation shall be considered remedial and shall receive the liberal construction and interpretation that best ensures the attainment of the objects of the *Act*, regulation, or provision according to its true meaning.

Relevant Jurisprudence

[10] The standard of review for procedural decisions of administrative decision-makers is correctness where the issue is a legal question, and palpable and overriding error where there is an error in applying the law to the facts; (see *Law Society of Saskatchewan v. Abrametz*, 2022 SCC 29).

[11] Where the issue on appeal is one of statutory interpretation then it is question of law (correctness); (see *Vey v. Newfoundland and Labrador Pharmacy Board*, 2022 NLCA 55, at paras. 11-12; *Battcock v. Eastern Newfoundland Regional Appeal Board*, 2021 NLSC 164, at para. 13; and *Mirolo v. College of Physicians and Surgeons of Newfoundland and Labrador*, 2021 NLSC 12).

ISSUE #1: What is the appropriate standard of review to be applied?**Analysis**

[12] As referenced in my decision in matter 202301G4136, section 43 of the *Act* invites the appellate standard of review because this is a statutory appeal. The standard of review on appeal for pure questions of law such as the interpretation of a statutory provision is correctness.

[13] Both parties agree that when it comes to interpreting the meaning of sections 36(3) and 39, or for that matter any relevant provision of the *Act*, a review of the Adjudication Tribunal's determination is subject to the standard of correctness.

ISSUE #2: Was the CPANL required to make an application under section 39 of the *Act* before suspending Cluney's membership?**Position of the Parties****Cluney**

[14] Cluney's legal counsel argues that there is only one correct interpretation of sections 36(3) and 39 of the *Act*, namely that his client's membership in the CPANL may only be suspended or revoked for non-compliance through the mechanism of a decision or order from the Adjudication Tribunal.

[15] This can only occur in the circumstance where the CPANL has filed an application pursuant to section 39 of the *Act* triggering the Adjudication Tribunal to decide on the evidence adduced that the member failed to comply with its previous order.

[16] Cluney says that the *Act* is clear that the only bodies with authority to suspend a member's membership are the Adjudication Tribunal or the Complaints Authorization Committee. The *Act* does not expressly or implicitly allow the CPANL to determine whether a member has failed to comply with a sanctions order, nor does the wording expressly or implicitly allow an Adjudication Tribunal to delegate its power to suspend or revoke membership of a registrant to the CPANL.

CPANL

[17] CPANL argues that the Adjudication Tribunal's interpretation of the relevant provisions of the *Act*, including section 39, was correct when it explicitly rejected the interpretation of section 39 Cluney sought to advance.

[18] Section 39 permits an Adjudication Tribunal to suspend a member in the event of non-compliance with a previous order of the Adjudication Tribunal. The Adjudication Tribunal correctly identified the "mischief" that section 39 is intended to remedy as being the continued practice by a member who has been found guilty of conduct deserving of sanction, and who has not complied with sanctions previously imposed as a result of that conduct; (see Decision of the Adjudication Tribunal, dated December 16, 2024, at para. 21).

Analysis (Issue #2)

[19] The wording of section 39 under the judicial microscope in this appeal is the meaning of the phrase "*an adjudication tribunal may make an order suspending the rights and privileges of a respondent where it (the adjudication tribunal) determines that the respondent has failed to comply with a decision or an order...*".

The Chronology of Events Following the Sanction Decision

[20] I will start my analysis of this issue by examining the relevant passages of the Sanction Decision that outlined Cluney’s status following her sanction hearing. In effect, Cluney was to be sanctioned primarily by way of reprimand, but secondarily, the continuation of her membership in the CPANL was contingent upon the completion of two conditions: (1) the provision of her current client list to CPANL within 10 days of the Order; and (2) that she be monitored by an individual appointed by the CPANL who would perform periodic random reviews of both her paper and electronic files and report to the CPANL; (see paras. 21-23 of the Sanction Decision).

[21] At paragraph 30, the Adjudication Tribunal held that “any failure to comply with any of the terms of the Decision and Order **will result in suspension**” until Cluney complied and that “failure to comply within 30 days of suspension **will result in revocation**” (emphasis mine).

[22] Later at the October 21, 2024 hearing which led to the Adjudication Tribunal’s Decision of December 16, 2024, the Decision Record shows that Cluney never did provide the CPANL with a list of her clients as ordered on July 31, 2023. It rejected the argument from Cluney’s counsel that the noun “client” was ambiguous because the Sanctions order only required her to provide her public accounting clients, of which she had none. I will address this matter further under Issue #3.

The Adjudication Tribunal Decision on interpretation of section 39 - December 16, 2024

[23] Cluney’s legal counsel argued before the Adjudication Tribunal that although the *Act* grants the Board a “policing function”, the wording in question under section 39 speaks to a “judicial function” which can only be exercised by the Adjudication Tribunal after there is evidence of non-compliance with one of its orders.

[24] Her legal counsel reiterated this position during the appeal hearing saying that the Adjudication Tribunal was incorrect in its view that section 39 (or any other provision) of the *Act* can be broadly interpreted to include granting the CPANL the power to determine non-compliance. Principles of fairness dictate that an adverse party, here the CPANL, should not be permitted to determine if the other party has not complied with the Adjudication Tribunal's Order.

[25] At paragraphs 21 to 25 of the Adjudication Tribunal's December 16, 2024 Reasons, it provided a response to Cluney's argument on this point. It held that it had already made an order for suspension under section 36 of the *Act* when it issued its Sanctions Decision. To require a further order under section 39 would be superfluous, as a suspension and revocation order was already in place. In effect, to require either party to obtain another order would be delating an already existing order. Cluney's counsel's interpretation would impede, rather than further, the legislative objects to protect the integrity of the profession and protection of the public.

[26] In this instance, the Adjudication Tribunal explained that the CPANL was merely enforcing the terms of its Sanctions Order; specifically, that Cluney would be permitted to continue practicing subject to the conditions and the timelines identified therein. Should she not, there was first to be a suspension and then following 30 days of non-compliance her membership was to be revoked. It held that the CPANL acted appropriately and within its mandate of protecting the public interest and was not required to make an application pursuant to section 39 of the *Act*.

The Correctness Analysis in the Context of the Interpretation of Statutory Provisions

[27] Both parties cite our Court of Appeal in *Archean Resources Ltd. v. Newfoundland*, 2002 NFCA 43 as the relevant jurisprudence this Court must apply when determining whether the Adjudication Tribunal's interpretation of section 39(2) was correct. At paragraphs 15 to 16 of *Archean*, Green, J.A. (as he then was) reconfirmed the use of the "modern rule" as adopted from E.A. Driedger,

Construction of Statutes, 2nd ed. (Toronto and Vancouver: Butterworths & Co. (Canada) Ltd., 1983), at p. 87; and Sullivan, Driedger, *Construction of Statutes*, 3rd ed. (Toronto: Butterworths, 1994), at p. 131, which states as follows:

Today there is only one principle or approach, namely, the words of an *Act* are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the *Act*, and the intention of Parliament.

[28] This formulation had also been previously adopted by the Supreme Court of Canada in *Re Rizzo & Rizzo Shoes Ltd.*, [1998] 1 S.C.R. 27; (see also *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42; and *Canada Trustco Mortgage Co. v. Canada*, 2005 SCC 54.)

[29] Any analysis of section 39 using the modern rule of statutory construction must consider sections 27 to 43 of the *Act* which set out the entire disciplinary process.

[30] At the root of the Court's consideration is whether subsections 36(3)(b) and (c) explicitly provide the Adjudication Tribunal with the power to impose a prospective period of suspension and/or revocation of membership following a finding that a member is guilty of conduct deserving of sanction.

[31] At paragraph 30 of the Sanction Decision, the Adjudication Tribunal outlined the prospective nature of its order saying that if Cluney failed to comply with any of its terms, then it **will result** in the suspension of her membership until she complied. The timeline for her ultimate compliance was 30 days from the time of suspension, following which **will result** in revocation.

[32] While there were several conditions set out in the Order, one key condition was outlined in paragraphs 22 and 25 of the Sanction Decision, namely that Cluney was to provide a list of her current clients within 10 days. The provision of a client list was critical to fulfilling another condition surrounding the public notification process. The Adjudication Tribunal identified three groups who were to receive a

summary of the Sanction Decision and Order, one of which being Cluney's current clients.

[33] *Re Rizzo & Rizzo Shoes Ltd.* is clear that I must examine the text, context and purpose of the legislation. I must avoid any result-oriented interpretations and interpretations based on invented purposes rather than purposes genuinely advanced by the legislation; (see *Williams v. Canada (Public Safety and Emergency Preparedness)*, 2017 FCA 252; *Canada v. Cheema*, 2018 FCA 45; *Hillier v. Canada (Attorney General)*, 2019 FCA 44).

Application of the Modern Rule to section 39 using the Correctness Standard

[34] Using the correctness standard, a court is entitled to redo the statutory interpretation analysis undertaken by the administrative body under appeal; (see *Vey v. Newfoundland and Labrador Pharmacy Board*, at paras. 11-12; *Battcock v. Eastern Newfoundland Regional Appeal Board*, at para. 13; and *Mirolo v. College of Physicians and Surgeons of Newfoundland and Labrador*).

[35] I will conduct such an analysis here relying upon the use of the modern rule of statutory interpretation.

[36] The text of section 39 begins with the sub-heading 'Failure to Comply'. The wording under 39(1) directs that there be an application process initiated by the CPANL in circumstances where it determines that a respondent has failed to comply with a previous decision or order under subsection 36(3).

[37] In the current appeal, the Sanction Order was issued under section 36(3). It contained two prospective conditions, one of which related to possible suspension and revocation should Cluney not comply with the direction that she provide her client list within 10 days. It is not disputed that Cluney did not comply. What is

disputed is whether the CPANL was required to bring a separate application before the Adjudication Tribunal to formally suspend Cluney.

[38] The wording contained in section 39(2) anticipates an *inter partes* hearing process in which a member would be entitled to lead evidence and argue the merits of any possible suspension or revocation arising from a previous order under 36(3). There is no wording contained in the *Act* that contemplates the use of an *ex parte* application by the CPANL to suspend or revoke for failure to comply, or the use of prospective order by the Adjudication Tribunal during a Sanction Hearing to mitigate against the potential of a hearing under section 39.

[39] I accept the position advanced by Cluney's counsel that given the seriousness associated with a suspension or revocation of a professional license to practice one's profession, such actions should only occur after an Adjudication Tribunal makes a determination on the evidence adduced by the CPANL that the member has, in fact, failed to comply with conditions outlined in a previous decision or order. Such an interpretation would be grammatical and harmonious with the scheme of the *Act*.

[40] I disagree with the CPANL's position that a further hearing was not necessary under section 39 because the Adjudication Tribunal was correct in stating in its December 16, 2024 written decision that the terms of the Sanctions Decision of July 31, 2023, were not ambiguous, and that Cluney had failed to comply. Specifically, in the body of the Sanctions Decision, the Adjudication Tribunal directed the CPANL to take steps to enforce and suspend the Appellant's membership should she not comply; (see: Decision of the Adjudication Tribunal, dated December 16, 2024).

[41] In my opinion section 39 says otherwise, and while a decision on sanction under section 36 (b) or (c) can contain prospective and compulsory conditions surrounding the continuation of membership, the actual determination of non-compliance and the issuance of any subsequent suspension or revocation of membership flowing therefrom rests with the Adjudication Tribunal under section 39 and cannot be delegated to the CPANL. I find the *Act* is clear in stating that the

Adjudication Tribunal is the body seized with the statutory authority to determine the eventuality of compliance or non-compliance by a member, and not the CPANL.

[42] Having determined that Cluney should have been the subject of a section 39 application, I must now turn my mind to the merits of whether there was evidence of non-compliance and, if not, if Cluney is entitled to any remedy.

ISSUE 3: Did the Appellant comply with the Sanctions Decision?

The Positions of the Parties

Cluney

[43] In the context of the facts surrounding Cluney's situation, the word "clients" as set out in the Sanctions Order should only refer to those clients to whom she provided public accounting services or those services that are provided by chartered professional accountants.

[44] In its subsequent decision of December 16, 2024, the Adjudication Tribunal determined the word "clients" meant any person to whom Cluney may have provided any service including bookkeeping services. This interpretation is at odds with section 2(f)(ii) of the *Act* which expressly excepts **"...a person who engages only in bookkeeping or cost accounting"** from the definition of public accounting. It appears that on its face, the Sanctions Order is ambiguous as it does not define what type of clients it refers to.

CPANL

[45] CPANL argues there is no legal basis to conclude that the Adjudication Tribunal made a palpable and overriding error when it concluded that Cluney failed to comply with the unambiguous requirements of the Sanctions Decision. The evidence did not support Cluney’s assertion that the Sanctions Decision, and in particular the word “clients”, was ambiguous; (see Adjudication Tribunal Decision, dated December 16, 2024, at para. 28).

[46] The word “clients” as set forth in the Sanctions Decision was clearly intended to refer to all clients. This is the only reasonable interpretation in the context of the legislative purpose of the *Act*. By adding any qualifiers to the word “clients”, Cluney sought to change the meaning of the Sanctions Order and thwart the objectives of maintaining the integrity of the profession and protecting the public; (see Decision of the Adjudication Tribunal, dated December 16, 2024, at para. 34).

Analysis (Issue #3)

[47] As I noted in Issue #1, the standard of review on appeal for questions of fact and of mixed fact and law is palpable and overriding error. Here, there is no ambiguity that the issue of compliance or non-compliance is one of fact or mixed fact and law. Following my conclusion on Issue #2, I will now examine the merits of Cluney’s argument on this point using the approach as if CPANL had made an application pursuant to section 39 prior to the suspension and subsequent revocation of Cluney’s membership.

[48] Cluney argues that the word “client” as referenced in the Sanction Decision is ambiguous in its meaning. As noted by CPANL in its materials, the concept of ambiguity has been considered by all levels of court in this country including the Supreme Court of Canada. In *Bell Express Vu Ltd. Partnership v. Rex*, 2002 SCC 42, the Supreme Court held that an ambiguity must be “real” in the sense that the words being considered must be “reasonably capable of more than one meaning”; (see para. 29). Words must be read according to their plain and ordinary meaning,

unless the context clearly indicates that a technical or specialized meaning was intended; (see para. 26).

[49] A Court must consider the “entire context” before one can determine if a word or phrase is reasonably capable of multiple interpretations. In *Canadian Oxy Chemicals Ltd. v. Canada (Attorney General)*, [1999] 1 S.C.R. 743, the Supreme Court adopted the test that a genuine ambiguity only arises between two or more plausible readings when a Court needs to resort to external interpretive aids, “including other principles of interpretation”; (see para. 14).

[50] CPANL asserts that interpretation proffered by Cluney is neither consistent with the plain meaning of the word “client” nor the objects of the *Act*. The meaning of the word is clear on its face and consistent with the purpose of the Sanctions Decision. In the context of the Adjudication Tribunal’s finding that Cluney was guilty of conduct deserving of sanction, in particular in failing to cooperate, the only logical conclusion is that the word “clients” ought to be interpreted as including all persons to whom Cluney was providing services.

[51] I accept CPANL’s position on this issue, as the Adjudication Tribunal specifically found that both “[Cluney’s] clients and the public are entitled to rely on her membership with the CPANL as giving her particular competence with respect to any accounting related service, not just those services that are restricted to public accounting”; (see Decision of the Adjudication Tribunal, dated December 16, 2024, at para. 31).

[52] I also note that the objects of the *Act* as stated in section 3(3) also favours an interpretation consistent with the plain and ordinary meaning of “clients”. Such an interpretation would protect the interests of as many possible individual members of the public who engaged Cluney’s services.

[53] This interpretation is also supported by ample evidence placed before the Adjudication Tribunal that Cluney did have clients as of July 31, 2023. Some of this evidence came from Cluney herself.

[54] For example, there is an email exchange between Cluney and Gregory White, CPA, CA, CGA on September 20 and 21, 2023 where Cluney sent an email to White with the subject line “Client List” and purported to provide him with a list of an undisclosed number of clients which she wished to refer to him; (see Affidavit of Judith Cluney, dated July 30, 2024, Exhibit “G”).

[55] In a subsequent email dated July 30, 2024, White confirmed he did not enter into discussions with Cluney in relation to providing compilation, tax and other business advisory services to her clients until September 20, 2023; (see Exhibit “I” of the Affidavit of Judith Cluney).

[56] Additionally, Exhibit “C” to Cluney’s Affidavit consists of an email from her to her client, Sarah Clancy, and White, dated November 29, 2023. This appears to be the first introduction of White to Sarah Clancy for the purpose of him providing services to Clancy in Cluney’s place. Later, in Exhibit “D” there is a text message exchange between Cluney and Sarah Clancy which appears to have taken place on January 8, 2024. The content of the text message from Sarah Clancy to Cluney states “When can we connect to clue up the taxes?”. A subsequent text from Clancy indicates she felt deceived by Cluney and makes it clear that she was of the view that her name ought to have been included in any list of clients Cluney was required to provide.

[57] In view of this evidence, I conclude there is no “real” ambiguity surrounding the use of the word client in the Sanction Decision. I make this conclusion based on my reading of the word as used in the context of the reasons provided. According to its plain and ordinary usage, there is nothing in the context of the decision that would indicate a technical or specialized meaning was intended such as public accounting clients only. The evidence supports the finding that Cluney failed to provide a client list as required under the Sanction Decision.

ISSUE #4 - In view of my finding that the CPANL was required to proceed by way of application under section 39 of the *Act*, is Cluney entitled to any remedy?

[58] The notion that the granting of a remedy by a Court is discretionary remains incontrovertible, and this case is no different. Whether the issues are procedural or substantive in nature, not all cases invite a remedy; (see *Mobil Oil Canada Ltd. v. Canada-Newfoundland Offshore Petroleum Board*, [1994] 1 S.C.R. 202 for the discretion to grant or not grant remedies in procedural cases; *MiningWatch Canada v. Canada (Fisheries and Oceans)*, 2010 SCC 2 for the discretion to grant or not grant remedies for substantive defects). These authorities were reaffirmed in paragraph 142 of *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65.

[59] When it is obvious to a reviewing Court that the quashing of the administrative tribunal's decision and returning it for reconsideration would inevitably result in the same outcome, then the successful party may not be entitled to a remedy; (see *Stemijon Investments Ltd. v. Canada (Attorney General)*, 2011 FCA 299; *Robbins v. Canada (Attorney General)*, 2017 FCA 24; *Maple Lodge Farms v. Canada (C.F.I.A.)*, 2017 FCA 45 (no practicality in quashing and sending back; there was no doubt the same result would inevitably follow); *Sharif v. Canada (Attorney General)*, 2018 FCA 205, at paras. 53-54; *Gehlv. Canada (Attorney General)*, 2017 ONCA 319, at paras. 54 and 88; *Renaud v. Quebec (Commission des affaires sociales)*, [1999] 3 S.C.R. 855 (no practicality in quashing and sending back; there was no doubt the same result would inevitably follow)).

[60] While this sort of disposition is rather exceptional, I, as the reviewing court, must be satisfied that the administrative decision-maker could not reasonably reach a different result if the matter were sent back because the administrator, not the reviewing court, is the merits-decider; (see *Immeubles Port Louis Ltée v. Lafontaine (Village)*, [1991] 1 S.C.R. 326, at p. 361; *Bernard v. Canada (Revenue Agency)*, 2015 FCA 263, at para. 23; *Association of Universities and Colleges of Canada v. Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22, at paras. 16-19).

[61] Given my conclusion concerning Issue #3, I find that if Cluney were to be the subject of a section 39 application, the Adjudicative Tribunal hearing the matter would inevitably come to the same conclusion as that was reached in its December 16, 2024 decision; namely that the evidence disclosed Cluney did not comply with the terms of the July 31, 2023 Sanction Decision.

DISPOSITION

[62] Accordingly, I am of the view that it is neither in the interest of the parties or the public in general to remit the matter back for reconsideration because I am satisfied on the evidence that Cluney failed to provide her client list as directed in the Sanction Decision, and that the Adjudication Tribunal on a section 39 application would reach the same conclusion as outlined in its December 16, 2024 Decision.

[63] It is on this basis I dismiss the appeal.

COSTS

[64] In light of the unique outcome of this appeal, there will be no order as to costs.

PETER N. BROWNE
Justice