

# UNDERTAKING OF COUNSEL

## (Copy of Digital Audio Recording)

- ☐ In the Provincial Court of British Columbia
- ☐ In the Supreme Court of British Columbia

Court File Number:
Style of cause:
Court Location:
Date:

- 1) I, \_\_\_\_\_, acknowledge that:
- Print counsel's name
- a. I am a lawyer in good standing with the Law Society of British Columbia, or a visiting lawyer authorized to practice law in British Columbia pursuant to s. 15(1)(e) of the *Legal Profession Act*;
- b. the copy of the digital audio recording ("DARS") is being provided to me solely for the purpose of

describe the specific activity that release of the copy is intended to facilitate – e.g. "to review the evidence of the witness in the case of R. v. X; or in order to prepare the case including cross examination(s) in the proceeding Y. v. Z." etc.

and that

- c. any other use of the DARS is prohibited.

- 2) I undertake that I will not:
- a. copy, store or transfer the DARS or any portion of it to any device except as may be done by the software or operating system incidental to reviewing the contents, and such review shall only be carried out on computer equipment and peripheral devices belonging to my firm or employer, to me or to a person identified in paragraph 3 of this undertaking;
- b. upload the DARS or any portion of it to the Internet or otherwise make the DARS or any portion of it available through any medium save and except as permitted by the terms of this undertaking;
- c. distribute the DARS or any portion of it in any way save and except as permitted by the terms of this undertaking;
- d. use the DARS for the preparation of an official transcript of the proceedings; however, I may direct my administrative staff to prepare an unofficial transcript to be used for internal purposes. For the purpose of this undertaking, an official transcript is a transcript prepared by an authorized reporter pursuant to the *Official Reporters (Supreme Court) Regulation*, BC Reg 227/2021; and
- e. distribute or disseminate an unofficial transcript of the proceedings beyond the individuals authorized to access the DARS in this undertaking. For the purposes of this undertaking, distribution or dissemination does not include relying on an unofficial transcript prepared from the DARS to make submissions or including brief quotations from an unofficial transcript in written submissions, provided that its origin in an unofficial transcription is made clear to the Court;
- f. attach an unofficial transcript to an affidavit prepared for any court proceeding; or
- g. allow any of these things to be done by anyone else.

- 3) Except as otherwise provided by this undertaking, I undertake to not allow anyone to access the DARS except those individuals enumerated in this paragraph and that where such individuals are accessing the DARS, I will provide such individuals with a copy of this undertaking:
- a. other lawyers, articulated students or administrative staff members within my law firm, office or who are employed by my employer, and who are assisting me in this matter;
- b. \_\_\_\_\_ an expert witness. For the purpose of this undertaking, an expert witness is a person who has been retained by a party or ordered by the Court to provide opinion evidence in a proceeding; or
- Name
- c. \_\_\_\_\_ a witness (e.g., police witness or civilian witness who are listening to their own evidence).
- Name

- 4) I may, after providing a copy of this undertaking, allow in my presence or in the presence of an individual identified in paragraph 3(a),
- a. an accused in a criminal proceeding who is my client to listen to that portion of the DARS and to read an unofficial transcript of that portion of the proceedings for which the accused was present or was entitled to be present either in person or by some other means;
- b. a person who is a party in a civil proceeding (including a family proceeding) who is my client to listen to that portion of the DARS and to read an unofficial transcript of that portion of the proceedings for which my client was present or was entitled to be present either

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- in person or by some other means; and
- c. a witness in any proceeding to listen to and, to read an unofficial transcript of, the portion of the DARS which contains the witness' own evidence.

- 5) I may, after providing a copy of this undertaking, allow an expert witness to listen to that portion of the DARS and to read that portion of an unofficial transcript of the proceedings which relates to the opinion that the expert witness will be providing in the proceeding.
- 6) Other than as provided by paragraphs 3-5, I undertake that I will not provide the DARS or an unofficial transcript of the DARS to anyone without first obtaining a court order authorizing such dissemination.
- 7) When the DARS or an unofficial transcript is not being used for the purpose permitted by this undertaking, I undertake that I will keep the DARS and any unofficial transcript(s) in a secure place where neither can be accessed by persons other than those who are authorized to access the DARS or the unofficial transcript.
- 8) I undertake to delete and/or destroy the DARS on or before: \_\_\_\_\_  
insert here either the last currently scheduled court or chambers date for the proceeding, or another specified date
- 9) I undertake that if I require the DARS beyond the date specified, I will provide a new undertaking to the issuing registry prior to expiry of the date specified in this undertaking.

Law Society Number: \_\_\_\_\_

Business Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Dated: \_\_\_\_\_