



# MINUTES

## Benchers

Date:	Thursday, December 15, 2022	
Time:	12:30 p.m.	
Location:	Law Society Offices and via Videoconference	
Present:	Sacha Paul, President Grant Driedger, Past President Miriam Browne, Officer-at-Large Susan Boulter Mason Broadfoot Kyle Dear Serena Ehrmantraut Blair Filyk Sharyne Hamm Kameron Hutchinson Teresa Jaenen	Tehani Jainarine Dr. Richard Jochelson Leah Klassen Mathieu Lafreniere Kenneth Mandzuik Brian McLeod Christian Monnin Carmen Nedohin Joëlle Pastora Sala Gerri Wiebe
Regrets:	Wayne Onchulenko, Vice President Kelli Potter	Nikhilesh Verma
Guests:	Dean Scaletta	Erin Wilcott
Staff Present:	Leah Kosokowsky Rennie Stonyk Noelia Bernardo Pat Bourbonnais Natasha Brown Tana Christianson Eileen Derksen	Colleen Malone Deirdre O'Reilly Richard Porcher Sean Rivera Karen Sawatsky Alissa Schacter Darcia Senft

## 1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT

Mr. Paul, President, called the meeting to order at 12:40 p.m. and welcomed everyone to the meeting. Treaty territories 1, 2 and 10 were acknowledged with gratitude.

## 2.0 IN MEMORIAM

Benchers observed a moment of silence for Robert Bruce Lindey, Charles Edward Curtis, John Jesse Van Massenhoven and Brian Francis Squair, K.C.

## 3.0 CONSENT AGENDA

### 3.1 Minutes of November 10, 2022 Meeting

The minutes of the bencher meeting held on November 10, 2022 were considered.

Motion: That the minutes of the meeting of the benchers held on November 10, 2022 be approved as presented.

MOVED: Ms Boulter  
Seconded: Ms Wiebe  
Carried.

## 4.0 EXECUTIVE REPORTS

### 4.1 President's Report

Mr. Paul reported to benchers on his attendance at several internal and external committee meetings since the benchers had last met in November of 2022.

## **4.2 Chief Executive Officer's Report**

Benchers received for information Ms Kosokowsky's report dated December 8, 2022. Ms Kosokowsky reported to benchers on two programs delivered by the Continuing Professional Development Department in the past month which had been well received by the profession. She also advised that the Manitoba Law Foundation had recently approved a request made by the Faculty of Law for funding for the Access to Justice Coordinator position which will be housed at the Faculty's premises in the spring of 2023. Funding for the position has been approved for a three year term, effective April 1, 2023. The Foundation also extended funding for the Law Library Hub project to April of 2024.

Benchers were reminded that an anti-racism training session has been scheduled for their participation on the morning of February 9, 2023. Reading materials will be distributed in advance of the session.

## **4.3 Strategic Plan Progress Report - December 2022**

Ms Kosokowsky reviewed with benchers the Strategic Plan Progress Report for the period ending December 2022. A correction was noted at Page 1 of the report within Strategic Objective 1: Competence. Benchers were advised that work on the practice management resources on real estate had been completed in 2020 rather than 2022. Benchers were advised that since writing the report, all nine chapters of the practice resources on family law and child protection had been completed and posted on the Law Society's website.

# **5.0 DISCUSSION/DECISION**

## **5.1 Law Society Rule 5-27 and the Obligation to Comply with Domestic Trade Agreements**

Benchers considered a memorandum prepared by Ms Stonyk, dated December 6, 2022, which invited benchers to consider and approve the removal of Rule 5-27 as it is in breach of Section 4.1 of *The Fair Registration in Regulated Professions Act* which requires that all regulated professions comply with domestic trade agreements. Benchers were advised that this rule is also no longer in alignment with the objectives of the National Mobility Agreement.

Motion: That Law Society Rule 5-27 be deleted in its entirety.

MOVED: Mr. Monnin  
Seconded: Mr. Broadfoot  
Carried.

## **5.2 Proposed Code of Professional Conduct Amendments re: Discrimination, Harassment and Ex Parte Communications**

Benchers considered a memorandum prepared by Ms Senft, dated December 8, 2022, which invited benchers to consider the adoption of amendments to the Society's *Code of Professional Conduct* relating to discrimination, harassment and *ex parte* communications. Benchers were advised that these proposed amendments flowed from recommendations originating from the national Law Societies Equity Network to the Federation of Law Societies Standing Committee on the Model Code of Professional Conduct in 2019. Following an extensive consultation process with stakeholders, the Standing Committee had presented to Federation Council its final recommendations on proposed amendments to the Model Code and these were approved by Council in October of 2022. Benchers were reminded that as part of the consultation process, benchers had requested in September of 2021 that the Standing Committee consider their feedback regarding the Committee's proposed amendments to the commentaries of Rule 6.3-2(g), Rule 6.3-4 and Rule 5.2-1B(3). While the Committee had considered each of their recommendations, only the benchers' feedback with respect to Rule 6.3-4 (continued use of the wording "must not" rather than "is prohibited") had been incorporated within the final draft amendments.

In keeping with past practices of adopting a national harmonized approach to rules about professional conduct wherever possible, benchers were encouraged to incorporate these amendments within the Society's Code of Professional Conduct as presented.

Motion: That the amendments to the *Model Code of Professional Conduct* pertaining to Discrimination and Harassment (Rules 6.3-1, 6.3-2, 6.3-3 and 6.3-4) and *Ex Parte* Proceedings (Rules 5.1-2B and 5.1-2C) be incorporated within the Law Society's Code of Professional Conduct as presented.

MOVED: Mr. Mandzuik  
Seconded: Mr. Broadfoot  
Carried.

Benchers were advised that these amendments will return to them for approval in final form once the French translation of the amendments has been received.

## 6.0 MONITORING REPORTS

### 6.1 Operations and Administration

Benchers considered a monitoring report prepared by Ms Kosokowsky and Ms Stonyk, dated December 6, 2022, which provided a detailed report on the services provided by Law Society staff in the areas of operations and administration.

## 7.0 COMMITTEE REPORTS

### 7.1 Access to Justice Stakeholders Committee

Mr. Mandzuik reported to benchers on the work of the Access to Justice Stakeholders Committee, advising that the working group which is tasked with examining the use of intermediaries in rural and remote communities is scheduled to meet on January 25, 2023, and that the working group which is examining legal systems and technology in rural and remote communities will be meeting on February 24, 2023.

Benchers were advised that the Access to Justice Steering Committee will be considering matters related to transitioning the work of this committee from the Law Society to the Faculty of Law in preparation for the relocation of the Access to Justice Coordinator position to the Faculty's offices. The committee is scheduled to meet on January 23, 2023 to discuss matters related to this issue.

### 7.2 President's Special Committee on Regulating Legal Entities

Mr. Broadfoot reported on the first meeting of the 2022/2023 President's Special Committee on Regulating Legal Entities which took place on November 30, 2022. Benchers were advised that at this meeting the committee: (a) received background information on the work of previous iterations of this committee to date; (b) discussed the results of the extensive Law Society consultations which had taken place with the profession and community service organizations regarding the services which "limited practitioners" might provide to the public to address unmet legal needs and improve access to justice in Manitoba; (c) discussed the preliminary results of a public survey conducted by the Manitoba Law Foundation and the Prairie Research Association on unmet legal needs; and (d) received information on a lawyer survey being conducted by the Faculty of Law and the Access to Justice Coordinator on unmet client needs.

The committee also (a) received information on the status of the Society's sandbox pilot project and considered whether additional proactive steps ought to be taken at this time to encourage greater interest and participation in the project; and (b) discussed whether there was a need to formally recognize "legal clinics" as a category of legal service providers and also develop regulatory requirements for these clinics. At its next meeting, scheduled for February 22, 2023, the committee will consider whether formal rules are needed for law students who are providing services to the public at legal clinics and also for the lawyers who are supervising the students.

## **8.0 MISCELLANEOUS BUSINESS**

### **8.1 FLSC Council Report**

Benchers received for information a memorandum prepared by Ms Troup, dated December 7, 2022, which reported on the meeting of the Federation of Law Societies Council held virtually on December 5, 2022.

### **8.2 Competency Profile Project - Articling Students**

Benchers considered a memorandum prepared by Ms Kosokowsky, dated December 8, 2022, which reported on a project undertaken by the law societies of Alberta, Saskatchewan and Manitoba to establish a uniform set of competencies which students are required to attain through the articling process. Benchers were advised that the cost of the project is \$99,000, with Manitoba and Saskatchewan each absorbing 20% of the cost and Alberta covering the remaining 60% at this time. The Law Society of British Columbia has been invited to participate in this project.

### **8.3 National Study on Health and Wellness - Phase I: Targeted Recommendations**

Benchers considered a memorandum prepared by Ms Kosokowsky, dated December 13, 2022, which reported on the targeted recommendations recently released by the Université de Sherbrooke on Phase I of its National Wellness Study. Benchers were advised that while the Law Society has already completed a significant amount of work on many of the recommendations, there is still much work to be done. Staff will be conducting a closer review of the recommendations to first identify those which fall specifically within the purview of law societies (verses those which are more appropriately addressed by employers or other organizations) and then consider the steps which would need to be taken by the Law Society specifically to address those recommendations.

## 9.0 FOR INFORMATION

Benchers considered the materials provided for information.

There being no further business, Mr. Paul adjourned the meeting at 2:25 p.m.