



# MINUTES

## Benchers

Date: Thursday, May 20, 2021

Time: 12:30 pm

Location: Via Videoconferencing and Teleconferencing

Present:	Lynda Troup, President Grant Driedger, Vice President Anita Southall, Past President Susan Boulter, Officer-at-Large Acting Dean David Asper, Q.C. Mason Broadfoot Miriam Browne Tehani Jainarine Ashley Joyce Anthony Kavanagh Patricia Kloepfer Anna Maria Magnifico	Kenneth Mandzuik Brian McLeod Christian Monnin Wayne Onchulenko Anu Osborne Joëlle Pastora Sala Sacha Paul Kelli Potter Vincent Sinclair Gerri Wiebe Christine Williams
Regrets:	Paul Grower	Jessica Saunders
Guests:	Kyle Dear	Erin Wilcott
Staff Present:	Leah Kosokowsky Sandra Alleyne Noelia Bernardo Pat Bourbonnais Natasha Brown Tana Christianson Eileen Derksen Joan Holmstrom Ayli Klein	Rocky Kravetsky Colleen Malone Clayton McKnight Deirdre O'Reilly Sean Rivera Alissa Schacter Darcia Senft Rhiannon Swan

## **1.0 President's Welcome and Treaty Acknowledgement**

Ms Troup, President, called the meeting to order at 12:35 pm and welcomed everyone to the meeting. Treaty territories 1, 2 and 5 were acknowledged with gratitude.

## **2.0 In Memoriam**

Benchers observed a moment of silence for Holman Kristinn Olson and Graham Edward Robson.

## **3.0 Consent Agenda**

### **3.1 Minutes of April 15, 2021 Meeting**

The minutes of the meeting held on April 15, 2021 were approved as presented.

### **3.2 Report of the Complaints Investigation Committee**

Benchers received for information the report of the Complaints Investigation Committee.

Motion: That the Consent Agenda items be approved as presented.

MOVED: Mr. Onchulenko  
Seconded: Mr. Monnin  
Carried.

## **4.0 Executive Reports**

### **4.1 President's Report**

Benchers received for information Ms Troup's report dated May 10, 2021.

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

Benchers received for information Ms Kosokowsky's report dated May 13, 2021. Ms Kosokowsky reported on her attendance with Ms Christianson at the Annual General

Meeting and Subscribers' Meeting of the Canadian Lawyers Insurance Association held on May 11, 2021. Benchers were advised that due to an increase in the number of subscribers and a reduction in claims, claim expenses and operating expenses, subscribers will benefit from a reduction in the annual CLIA assessment from \$482 per member in 2020 to \$96 in 2021. This savings will have a significant impact on the insurance levy which members of the Law Society will be required to pay for the 2021-2022 coverage period.

Ms Kosokowsky provided an oral report on the results of the Capstone assessment of the 765 students who participated in the first offering of the full PREP program. Benchers received a statistical breakdown of the results for the 114 students from Manitoba who had participated in the program. Benchers were advised that the 15 students who had failed (12) or partially failed (3) the Capstone assessment will have the opportunity to be re-assessed in June of 2021.

Benchers were advised that Dr. Richard Jochelson will take office as the new Dean of the University of Manitoba, Faculty of Law effective July 1, 2021 and will attend the June meeting of the benchers. Accordingly, this was the final meeting Mr. Asper would be attending in his role as Faculty Bencher.

#### **4.3 Strategic Planning**

Benchers received an oral update from Ms Kosokowsky on the status of initiatives which have been undertaken in each of the four strategic objectives identified within the current Strategic Plan.

## **5.0 Report of the Nominating Committee**

### **5.1 Approval of Nominating Committee Report**

Ms Southall referred benchers to the Report of the Nominating Committee, dated April 29, 2021, which set out the recommendations of the committee with respect to the membership of all standing and special committees, as well as recommendations for the appointment of representatives to serve on external boards and committees. Ms Southall noted one proposed amendment to the report, indicating that the Nominating Committee was recommending that the membership of the Equity Committee should be expanded to include a representative from the LGBT2Q+ community. Benchers were advised that the Nominating Committee had not yet identified a candidate to fill this position but would provide a recommendation in due course for approval by benchers.

Motion: That the Report of the Nominating Committee be approved as presented, subject to the appointment of an additional member to the Equity Committee from the LGBT2Q+ community as recommended by the Nominating Committee.

MOVED: Ms Southall  
Seconded: Ms Boulter  
Carried.

## **5.2 Awarding of Life Bencher Status to President Lynda Troup**

Mr. Driedger thanked Ms Troup for the contributions she had made to the Law Society during her tenure as President of the Law Society of Manitoba.

Motion: That, having completed her term as President, Ms Troup be appointed a life bencher of the Law Society of Manitoba.

MOVED: Mr. Paul  
Seconded: Ms Wiebe  
Carried.

Mr. Driedger assumed the role of President of the Law Society and chaired the balance of the meeting. Mr. Paul assumed the role of Vice-President.

## **5.3 Thank You to Past President Anita Southall**

Ms Southall was recognized for the many contributions she had made to the Law Society during her tenure as a bencher and executive officer of the Law Society.

Ms Dear was affirmed as an active bencher in the Winnipeg Electoral District following Ms Troup's appointment as a Life Bencher.

# **6.0 Miscellaneous Business**

## **5.1 2021 Bencher Survey Evaluation**

Bencher considered Ms Kosokowsky's memorandum, dated May 12, 2021, which provided a detailed report on the results of the recent bencher survey. Bencher were invited to provide direction on three issues arising from the survey results. The following are the questions posed to benchers and the direction provided in response:

1. In addition to the half day orientation benchers receive, are you in favour of the Law Society taking any particular steps to improve the orientation of new benchers, such

as an annual orientation refresher, assignment of mentors to new benchers, or consistent committee orientation?

Benchers expressed support for an orientation refresher for new benchers after year one, although it was suggested that all benchers would benefit from receiving some form of annual orientation. Benchers also recommended that an annual orientation be provided to all committee members when each committee meets for the first time.

2. Taking into consideration the election and appointment cycle of benchers, how frequently would you like to have a bencher survey conducted, annually, bi-annually or other?

Benchers agreed that a bi-annual survey should be conducted in non-election years.

3. Do you wish to proceed with the strategic planning session in September, whether that be in person or online.

The majority of benchers confirmed support for proceeding in September with the strategic planning session. Benchers were advised that if they are unable to meet in Clear Lake as planned due to pandemic restrictions, the session will proceed via videoconference.

## **6.2 Insurance Levy**

Ms Kosokowsky advised that she was not yet in a position to report to benchers on the setting of the insurance levy for the 2021-2022 practising year because the Society's actuaries had not yet provide their final recommendations on the setting of the levy. Benchers were reminded that the Governance Policies require that the levy not be less than the fee recommended by the actuaries.

## **6.3 Update on Reimbursement Fund Payments**

Benchers received for information Ms Christianson memorandum, dated May 12, 2021, which provided a detailed overview of the operations and financial status of the Reimbursement Fund.

## **7.0 Monitoring Reports**

### **7.1 Complaints Resolution Department and Discipline Department**

Benchers considered a monitoring report on the operations of the Complaints Resolution Department and the Discipline Department dated May 13, 2021. The monitoring report invited benchers to consider and provide direction on a number of procedural issues which have come to light since benchers had last considered the work of these two departments. The following is a summary of the matters considered by benchers and the direction provided in response:

1. In principle, do you agree with the CEO having authority to receive undertakings from bankrupt matters and relieving members from their undertaking?

Benchers agreed that it would be appropriate for the chief executive officer to be granted the authority to receive and relieve members of undertakings which relate to bankruptcy matters, provided the matter does not warrant further action by the Complaints Investigation Committee. Benchers directed that the rules be amended accordingly.

2. Are you of the view that complaints against volunteer committee members ought to be referred to independent counsel and considered by the Complaints Investigation Committee or should the wording be clarified to permit staff lawyers to conduct investigations of complaints against volunteer committee members (with the exception of members of the Complaints Investigation Committee)?

Benchers recognized that there may be instances where it is necessary for a complaint to be reviewed by outside counsel. However, given the time and cost involved in this process, they agreed that it would be appropriate for the investigation of complaints involving volunteer committee members to be conducted by staff. It was clarified that this authority would not extend to members of the Complaints Investigation Committee and that staff would continue to use their discretion in referring matters to outside counsel.

Benchers were advised that an amendment to the Bencher Code of Conduct would be presented for their approval in due course which confirms this decision.

3. Do you agree with the approach adopted for "no merit" complaints or are you of the view that all matters concerning benchers (and perhaps non-bencher committee members) and staff lawyers should be referred to independent counsel?

Given that that the Complaints Review Commissioner has the authority to review all "no merit" decisions made by staff and that complainants are advised of their right to request that such a review be conducted, benchers agreed that it would be appropriate for staff to

continue to address "no merit" complaints involving benchers, volunteer committee members and staff. Again, staff would continue to use their discretion in referring matters to outside counsel in appropriate circumstances.

4. Do you approve of the discipline rules being amended to allow for a hearing panel of three to carry on with two members in the event that the third panel member is unable to complete the hearing? Do you agree that a new panel can be convened with the consent of the parties?

Recognizing the importance of discipline hearings being concluded in a timely manner, benchers agreed that in circumstances where a member of a hearing panel is unable to complete their duties as a panel member, the rules should allow for the hearing to proceed with the two remaining panel members. However, depending on the stage at which a panel member is lost in the hearing process, it may be preferable for a new hearing panel to be convened with the consent of the parties.

Benchers directed that draft rule amendments which reflect this direction be provided for their consideration in due course.

5. Do you support the Law Society investing in the Law Society of Alberta discipline training program? If you support this endeavour, we will include it in next year's budget.

Benchers expressed support for investing in the Law Society of Alberta's discipline training program and directed that the Law Society begin with the initial purchase of modules 3 to 8 in the 2022/2023 fiscal year. Benchers agreed that a decision on the purchase of any additional modules should be deferred until the Law Society has had an opportunity to consider whether those resources are needed given that the Law Society is also developing its own programs and resources on some of the same topics.

As this was Mr. Asper's final meeting in his role as Acting Dean of the Faculty of Law, he was recognized by Mr. Driedger for the contributions he had made to the Law Society in his role as Faculty Bencher.

## **8.0 For Information**

Benchers considered the materials provided for information.

There being no further business, Mr. Driedger adjourned the meeting at 2:20 pm.