



**The Law Society
of Manitoba**

INCORPORATED 1877 | INCORPORÉ EN 1877

Minutes

Benchers

Date: Thursday, October 31, 2019

Time: 12:30 pm

Location: Law Society Offices, 200 - 260 St. Mary Avenue, Winnipeg, Manitoba

Present:	Anita Southall, President Lynda Troup, Vice President Kathy Bueti, Past President Susan Boulter Richard Buchwald Kyle Dear Grant Driedger Jay Funke Paul Grower	Patricia Kloepfer Brian McLeod Christian Monnin Wayne Onchulenko Sacha Paul Jason Poettcker Gerrit Theule Karen Webb Gerri Wiebe
Teleconference:	Dr. Amarjit Arneja	Ashley Joyce
Guests:	Dr. Kara Mitchelmore David Swayze - Teleconference	Erin Wilcott
Regrets:	Neil Cohen, Officer-at-Large Dr. Jonathan Black-Branch Miriam Browne	Jessica Saunders Vincent Sinclair
Staff Present:	Kris Dangerfield Leah Kosokowsky Pat Bourbonnais Tana Christianson Eileen Derksen Joan Holmstrom Kathy Levacque	Colleen Malone Deirdre O'Reilly Sean Rivera Alissa Schacter Darcia Senft Simon Young

1.0 President's Welcome and Treaty Acknowledgement

Ms Southall, President, called the meeting to order at 12:30 pm. Treaty 1 Territory, the ancestral and traditional lands of the Anishinaabeg, Cree and Dakota First Nations and the homeland of the Metis, was acknowledged. Dr. Mitchelmore and Mr. Poettcker were welcomed to the meeting.

2.0 In Memoriam

Benchers observed a moment of silence for Leonard James Thornborough, Q.C.

3.0 Consent Agenda

3.1 Minutes of September 6, 2019 Meeting

The minutes of the meeting held on September 6, 2019 were approved as presented.

3.2 Rule Amendments - Designated Members

The Rule amendments pertaining to Designated Members (Rule 2-77) were approved in both the English and French versions.

3.3 Rule Amendments - Lawyer Mobility and Quorum

The Rule amendments pertaining to Lawyer Mobility [Rule 5-27.1(1)] and Quorum [Rule 5-70(3)] were approved in both the English and French versions.

3.4 Committee Appointments

Benchers approved the proposed composition of the Nominating Committee [namely, Ms Bueti (Chairperson), Ms Southall, Ms Troup, Mr. Joyce, Ms Kloepfer, Mr. McLeod and Mr. Monnin] and also the recommendation that a representative of the Manitoba Bar Association be added to the President's Special Committee on Health and Wellness.

3.5 Manitoba Law Libraries Banking Resolution

Benchers approved a banking resolution which provided that the Law Society would be responsible for payment of any credit card debt owed to Assiniboine Credit Union by the Manitoba Law Libraries Inc. in the event of defalcation by the Libraries.

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

MOVED: Ms Bueti
 Seconded: Mr. Paul
 Carried.

4.0 Executive Reports

4.1 President's Report

Ms Southall reported to benchers on her attendance at the events which had been organized for the judges of the Supreme Court of Canada while they were in Winnipeg during the week of September 23, 2019. She also reported on her attendance at the Annual Business Meeting and Conference of the Federation of Law Societies of Canada held in St. John's, Newfoundland on October 16 to 19, 2019 and her participation in a meeting of the Richard J. Scott Award Selection Committee held on October 10, 2019.

4.2 Chief Executive Officer's Report

Benchers received for information Ms Dangerfield's report dated October 23, 2019. Ms Dangerfield provided an update on the Law Library Hub, indicating that: (a) the stakeholders would be meeting to discuss a proposal which had been received for the development and roll out of the Hub project; and (b) she would be requesting that the Manitoba Law Foundation allocate the unused portion of the grant for the Hub project for operating costs in 2020. She also confirmed receipt of the new license and services agreements for the Great Library which had been received from the Province of Manitoba in draft form. The license agreement proposes a three year occupancy term. The services agreement proposes the sharing of resources and delivery of services to the judiciary on a fee for service basis.

Dr. Arneja was excused from the meeting at 1:15 pm.

4.3 Strategic Plan Update

Benchers received for information the October 2019 update on the Strategic Plan.

5.0 Discussion/Decision

5.1 Draft Rule Amendments - Financial Accountability and Client Identification and Verification

Benchers considered Ms Kosokowsky's memorandum, dated October 9, 2019, which invited benchers to consider the draft rule amendments relating to Financial Accountability and Client Identification and Verification. Benchers were reminded that these rule amendments flowed from the decision made by benchers at their May 23, 2019 meeting to adopt the model rules prepared by the Federation of Law Societies' Anti-Money Laundering Working Group on receipt of cash and client identification and verification and deposit of client trust funds. Benchers had further directed at that time that the rule amendments should come into effect January 1, 2020, which was consistent with most other Canadian law societies.

Ms Kosokowsky reported that she had received advice from two benchers regarding a few minor housekeeping corrections which would be made to the draft Rules before they were sent for translation. Another bencher raised specific concerns with respect to Rule 5-117(1) and Rule 5-118. With respect to Rule 5-117(1), the bencher suggested that it would be helpful to clarify within the rule that the duty of a lawyer to know their client would not extend beyond what is prescribed within the *Code of Professional Conduct*.

Motion: That draft Rule 5-117(1) be amended to clearly state that a lawyer's obligation to know their client will be guided by the existing provisions articulated within the *Code of Professional Conduct*.

MOVED: Mr. Grower
Seconded: Mr. Buchwald
Carried.

With respect to Rule 5-118, a question was raised regarding the necessity to obtain from clients information relating to their place of employment if that information is not relevant to the services which the lawyer has been retained to provide. Benchers were advised that the Working Group had recommended that this rule be amended in this manner to satisfy the concern of FINTRAC that lawyers in Canada had not been collecting sufficient information to determine the identities of their clients.

Benchers were reminded of the importance of all Canadian law societies taking a unified approach in the adoption of these amendments and the need to refrain from altering the recommended amendments unless absolutely necessary.

Motion: That the proposed amendments to the rules pertaining to financial accountability and client identification and verification be approved in principle, subject to the minor

housekeeping amendments noted by Ms Kosokowsky and the approved amendment to Rule 5-117(1).

MOVED: Mr. McLeod
Seconded: Ms Bueti
Carried.

Benchers were advised that the rule amendments would be presented for final approval in both the English and French versions at the December 19, 2019 meeting of benchers.

6.0 Committee Reports

6.1 Complaints Investigation Committee

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

6.2 Discipline Committee

Benchers received for information the reports of the Discipline Committee.

6.3 Equity Committee

Ms Schacter reported to benchers on the meeting of the Equity Committee held on October 17, 2019. At that meeting the Committee discussed the questions which will be used in a survey of the profession to collect data on part-time practising fees. The Committee will review the results of the survey and report to benchers with recommendations in due course. The Committee also discussed the results of the articling student survey (conducted in May and June of 2019) which revealed concerning data pertaining to harassment and discrimination. At its next meeting, the Committee will discuss the steps which have already been taken by the Law Society to address this problem and consider additional measures which might also be taken.

7.0 Monitoring Reports

7.1 Professional Liability Claims Fund

Benchers considered a report prepared by Ms Dangerfield and Ms Christianson, dated October 23, 2019, which provided a detailed narrative on the operations of the Insurance Department and the operations of the Canadian Lawyers Insurance Association (CLIA).

8.0 Miscellaneous Business

8.1 Report of Federation Council Member

Mr. Swayze reported to benchers on the meeting of Council which had been held in St. John's, Newfoundland on October 19, 2019 in conjunction with the Federation's Annual Business Meeting and Conference. Mr. Swayze advised that the annual election of executive officers had taken place at this meeting. Benchers received an update on the work of the Anti-Money Laundering Working Group, the TRC Calls to Action Advisory Committee, the Standing Committee on the Model Code, and the CLE Program Review Advisory Group. Mr. Swayze noted that CanLII's acquisition of Lexum has proven to be a solid investment, both from a financial perspective and in terms of the vast amount of free legal research resources it has collected and made available for use by the profession and the public.

8.2 *In Camera* Discussion

Ms Southall advised that she wished to meet with benchers *in camera* to provide an update on matters discussed at the September, 2019 meeting. All staff and guests were excused from this portion of the meeting, with the exception of Ms Bourbonnais. Mr. Swayze excused himself from the remainder of the meeting at this time.

Motion: That the meeting proceed *in camera*.

MOVED: Ms Bueti
Seconded: Mr. Onchulenko
Carried.

Ms Southall provided benchers with a status report on the steps which had been taken on matters discussed since the September, 2019 meeting.

Motion: That the meeting proceed *out of camera*.

MOVED: Ms Wiebe
Seconded: Ms Bueti
Carried.

9.0 Guest Presentation

9.1 CPLED 2.0 Update

Benchers considered Ms Dangerfield's memorandum, dated October 23, 2019, which provided a status report on the development of the Practice Readiness Education Program (PREP). Dr. Mitchelmore, Chief Executive Officer of the Canadian Centre for Professional

Legal Education, provided a presentation on each of the four phases of the Program which are to be completed by students through a combination of online and face-to-face instruction.

Mr. Joyce excused himself from the meeting at 2:45 pm. Ms Wiebe and Mr. Buchwald excused themselves from the meeting at 3:25 pm. Ms Webb and Mr. Funke were excused from the meeting at 3:40 pm.

10.0 For Information

Benchers considered the materials provided for information.

There being no further business, Ms Southall adjourned the meeting at 3:50 pm.