



**The Law Society
of Manitoba**

INCORPORATED 1877 | INCORPORÉ EN 1877

MINUTES

Special Meeting of Benchers

Date: Monday, April 13, 2020

Time: 2:00 pm

Location: Via Video and Teleconference

Present:

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| Anita Southall, President | Paul Grower |
| Lynda Troup, Vice President | Ashley Joyce |
| Kathy Bueti, Past President | Patricia Kloepfer |
| Neil Cohen, Officer-at-Large | Christian Monnin |
| Dr. Amarjit Arneja | Wayne Onchulenko |
| Dr. Jonathan Black-Branch | Sacha Paul |
| Miriam Browne | Jason Poettcker |
| Susan Boulter | Jessica Saunders |
| Richard Buchwald | Vincent Sinclair |
| Kyle Dear | Gerrit Theule |
| Grant Driedger | Karen Webb |
| Jay Funke | Gerri Wiebe |

Guests: Assoc. Dean Bruce Curran

Regrets: Brian McLeod

Staff Present:

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| Kris Dangerfield | Richard Porcher |
| Leah Kosokowsky | Sean Rivera |
| Pat Bourbonnais | Darcia Senft |
| Joan Holmstrom | |

1.0 President's Welcome and Treaty Acknowledgement

Ms Southall, President, called the meeting to order at 2:15 pm.

2.0 Discussion/Decision

2.1 Measures to Address Articling Requirements in the Face of the COVID-19 Crisis

Benchers considered Ms Dangerfield's memorandum, dated April 8, 2020, which invited benchers to consider and approve a series of recommendations contained within the memorandum which had been drafted in response to concerns raised by both firms and students about their ability to meet certain articling requirements in light of the COVID-19 pandemic. Concerns expressed related specifically to requirements which affect the current cohort of articling students who are due to be called in 2020, the law students who are scheduled to begin their articling term in the Spring or Summer of 2020 (to be called in 2021), and whether to postpone the articling interviews which are currently scheduled for June 2020 (for the 2022 calls). Benchers were advised that the primary objective of the recommendations developed by staff was to provide sufficient flexibility to ensure that students are able to complete their articles and obtain their calls to the Bar in 2020 and 2021 as planned. The recommendations were also intended to provide flexibility to firms on the duration of terms of employment in an effort to encourage firms to continue to provide articling opportunities to students.

The recommendations considered by benchers were as follows:

- a) The CEO will adopt a policy under Rule 5-5(1) that for 2020 and 2021 calls, abridgements of up to 16 weeks will be granted upon request.
- b) The Mass Call scheduled for June 2020 will be postponed, and students seeking to be called to the Bar will be granted conditional calls administratively.
- c) Amendments will be made to the rules, as proposed within the memorandum, to support the ability to implement administrative calls.
- d) The CEO will retract the articling recruitment guidelines previously issued for 2020 and establish a new guideline setting a date and time and process for interviews to take place in the Fall of 2020.

Benchers discussed the recommendations which would provide the Chief Executive Officer with discretion to reduce the articling period from 52 weeks to a minimum of 36 weeks for the students who would be called in 2020 and 2021. It was noted that Saskatchewan had

reduced its articling period to eight months and that Alberta had set its articling term to a minimum of eight months and a maximum of 12 months. Benchers were advised that within the current group of articling students, all but three students will have completed 10 months of articling at the end of April and most will have 11 months. The Law Society will be encouraging firms to allow their students to complete their full articles, however, all students who are let go before June 2020 will have met the abridgement requirement and therefore remain eligible to obtain their calls.

Mr. Poettcker requested clarification on who could make the request for the abridgement of articles and whether the agreement of both parties was required for the request to be approved. He recommended that consideration be given to permitting abridgement requests on a case by case basis to circumvent the potential of firms laying off articling students for any reason other than due to the COVID crisis. He advised that students would be facing financial hardship if they are laid off before completing their articles and then have difficulty finding employment following their call.

Benchers were advised that it is anticipated that the students would make the request for abridgement at the time they submit their applications for call and that the requests received would be based on the mutual agreement of both parties. It was noted that while the Law Society is encouraging all firms to retain and continue to hire articling students, it would be difficult to prove that a firm has released a student for reasons other than financial hardship arising from the COVID crisis. It was noted that the survey results indicate that firms and students both believe firms have been able to continue to effectively supervise their current articling students and for this reason it is not anticipated that many firms will propose to terminate articling students prior to the completion of the 52 week articling period.

It was clarified that law firms are not only concerned about whether they would be able to afford to hire new articling students but also whether they would be able to provide a quality articling experience for the students who would be receiving their calls in 2021. Additionally, firms are also concerned about whether they would have to choose whether to hire a summer student or an articling student rather than both, and whether there would be work for these new employees.

Benchers were advised that in an effort to alleviate expenses for students, the Law Society could consider different options for payment of call fees.

Associate Dean Curran advised that the results of a survey conducted by the Faculty of Law of those firms participating in the recruitment and interview process scheduled for June 2020 indicated that some firms wished to defer the interview process until January 2021, while other firms indicated they would like to conduct interviews in June 2020 via videoconferencing. Given these results, he suggested that benchers consider providing firms with both options. Ms Dangerfield advised that based on the survey results obtained by the Law Society, the majority of firms indicated that they would be willing to defer conducting interviews until the Fall of 2020. It was noted that there was a variation in the

results of the two surveys because not all firms had responded to both surveys. Of the 15 firms which had responded to the Faculty of Law survey, nine of those firms had responded to both surveys indicating they would be willing to postpone interviews until the Fall. Benchers wondered whether any other jurisdictions were deferring their interview dates. Information currently available indicated that both Ontario and British Columbia were considering deferring interviews until the Fall of 2020 or early 2021.

It was suggested that the Law Society consider adopting a minimum monthly salary guideline to address the economic hardship students may be facing.

Benchers wondered if students would be permitted to complete more than just the first module of the PREP program without having obtained an articling position. Benchers were advised that for the 2020/2021 year alone, the CPLED Board may allow students to complete the entire PREP program without having an articling position. Benchers will be informed once a decision has been made by the Board.

Benchers recognized that while the proposed recommendations may not satisfy everyone, the flexibility built into the recommendations would provide sufficient accommodation for students to meet the criteria for call to the Bar in 2020 and 2021.

Motion: That the recommendations contained within the memorandum be approved as presented.

MOVED: Ms Troup
Seconded: Ms Webb

Ms Dangerfield suggested that benchers consider adding an additional recommendation which would provide that the changes to the articling policies be revisited before the end of 2021.

Mr. Poettcker requested that consideration be given to amending recommendation #1 to provide that a standard must be met for a request for an abridgement to be granted. He advised that this would provide a level of protection to the articling student that the law firm would only be permitted to end the articling agreement early due to the financial impact of the COVID-19 crisis. Benchers were advised that if a student was dissatisfied with the decision, the Law Society could review the matter with both parties and make a determination at that time based on the circumstances. It would, however, be difficult to prove that the law firm was ending the articling position for any reason other than due to circumstances arising from the COVID crisis. Benchers were advised that if issues of this nature arise, the Chief Executive Officer would consider and attempt to resolve each matter on a case by case basis. If there are numerous instances of this nature arising, the executive would be asked to consider whether this matter ought to be revisited by the benchers. Mr. Poettcker indicated that this approach would address his concerns.

Ms Southall called for the question.

Motion Carried.

Benchers were advised that a communication would immediately be circulated to the profession advising of the decisions made by benchers and that an FAQ section would be developed and added to the website. Benchers could expect to receive the rule changes flowing from these recommendations in the agenda materials for their April 23, 2020 meeting.

It was suggested that within the communications to the profession, the Law Society should encourage members to explore the employment subsidies and summer student grants which are currently being offered by the Federal Government.

There being no further business, Ms Southall adjourned the meeting at 4:20 pm.