



**The Law Society
of Manitoba**

INCORPORATED 1877 | INCORPORÉ EN 1877

MINUTES

Benchers

Date: Thursday, May 28, 2020

Time: 12:30 pm

Location: Via Video and Teleconference

Present:

Anita Southall, President	Patricia Kloepfer
Lynda Troup, Vice President	Kenneth Mandzuik
Kathy Bueti, Past President	Brian McLeod
Neil Cohen, Officer-at-Large	Christian Monnin
Dr. Amarjit Arneja	Wayne Onchulenko
Dr. Jonathan Black-Branch	Sacha Paul
Susan Boulter	Jason Poettcker
Broadfoot, Mason	Jessica Saunders
Miriam Browne	Vincent Sinclair
Grant Driedger	Gerrit Theule
Paul Grower	Karen Webb
Ashley Joyce	Gerri Wiebe
Anthony Kavanagh	

Guests:

Richard Buchwald	Erin Wilcott
David Swayze	

Staff Present:

Kris Dangerfield	Joan Holmstrom
Leah Kosokowsky	Colleen Malone
Noelia Bernardo	Sean Rivera
Pat Bourbonnais	Alissa Schacter
Tana Christianson	Darcia Senft
Eileen Derksen	

1.0 President's Welcome and Treaty Acknowledgement

Ms Southall, President, called the meeting to order at 12:35 pm. Treaty Territories 1, 2 and 5 were acknowledged. Newly elected benchers, Mason Broadfoot, Anthony Kavanagh and Kenneth Mandzuik, were welcomed to the meeting.

2.0 In Memoriam

Benchers observed a moment of silence for Dennis Hugh Ringstrom, the Honourable Guy Joseph Kroft, David Patrick Negus and Michael John Law.

3.0 Consent Agenda

3.1 Minutes of April 23, 2020 Meeting

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

MOVED: Mr. Paul
Seconded: Ms Boulter
Carried.

4.0 Executive Reports

4.1 President's Report

Benchers received for information Ms Southall's report dated May 26, 2020.

4.2 Chief Executive Officer's Report

Benchers received for information Ms Dangerfield's report dated May 15, 2020. Ms Dangerfield confirmed that the Law Society had been named as one of several defendants in a civil litigation proceeding which has been filed by a complainant. As Director of the Professional Liability Claims Fund, Ms Christianson will be overseeing the matter.

Ms Dangerfield reported on her attendance, along with Ms Christianson, at the CLIA Annual General Meeting and Subscribers' Meeting which had been held via videoconference on May 13, 2020. Benchers were advised that the Law Society will be required to pay a surcharge of

\$1.2 million resulting from a retroactive assessment of reserves required to cover claims arising from the large number of misappropriations which were discovered in 2019. Payment of the surcharge will be spread over five years.

Benchers were advised that there were six members who had not yet paid their practising fees for the 2020/2021 fiscal period commencing April 1, 2020. Each of these members would be administratively suspended if their fee payments were not received by June 1, 2020, or alternative arrangements made for payment.

5.0 Nominating Committee Report

5.1 Report to Benchers

Ms Bueti presented to benchers the Report of the Nominating Committee dated May 26, 2020.

5.2 Appointment of Benchers

Ms Bueti reviewed with benchers the following recommendations contained within the Report of the Nominating Committee:

1. That Jessica Saunders, Anu Osborne, Joelle Pastora Sala and Kelli Potter be appointed practising benchers;
2. That Susan Boulter, Miriam Browne, Patricia Kloepfer, Brian McLeod, Tehani Jainarine and Anna Maria Magnifico be recommended for appointment as lay benchers;
3. That Susan Boulter be appointed to replace Neil Cohen as Officer-at-Large; and
4. That Mr. Cohen continue to serve as a public representative when his term as lay bencher has concluded.

Benchers were advised that Dr. Arneja had not sought reappointment as a lay bencher because he was no longer resident in Manitoba and that Mr. Cohen had also chosen to not apply for reappointment after six years of service.

Motion: That the recommendations for appointment as practising bencher, lay bencher, Officer-at-Large and public representative be approved as presented.

MOVED: Mr. Sinclair
Seconded: Mr. Paul
Carried.

5.3 Approval of Nominating Committee Report

Ms Bueti referred benchers to the Report of the Nominating Committee, dated May 26, 2020, which set out the recommendations 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 Bueti advised that the report should be amended by removing Mr. Hirsch from the Discipline Committee as he had been assigned to the Complaints Investigation Committee.

Motion: That the Report of the Nominating Committee, dated May 26, 2020, be approved as presented, subject to the removal of Mr. Hirsch from the Discipline Committee.

MOVED: Ms Wiebe
Seconded: Mr. Onchulenko
Carried.

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

5.4 Awarding of Life Bencher Status to President Anita Southall

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

MOVED: Mr. Driedger
Seconded: Ms Wiebe
Carried.

Benchers were advised that Ms Southall would be presented with a gift and life bencher certificate once benchers were again able to meet in person.

5.5 Thank You to Past President Kathy Bueti

Ms Bueti 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. Benchers were advised that Ms Bueti would also be presented with a gift at a future meeting when benchers were able to meet in person.

5.6 Awarding of Life Bencher Status to Richard Buchwald

Motion: That, having served four two-year terms as a bencher, Mr. Buchwald be appointed a life bencher of the Law Society.

MOVED: Mr. Driedger
Seconded: Ms Boulter
Carried.

Benchers were advised that Mr. Buchwald would be presented with a gift and life bencher certificate in due course.

Ms Troup also thanked Ms Dear, Mr. Theule and Ms Webb for the contributions they had each made to the Law Society during their tenure as benchers.

6.0 Discussion/Decision

6.1 Rule Amendments - Part 5, Division 1 - Admissions

Benchers considered Ms Kosokowsky's memorandum dated May 20, 2020.

Motion: That the amendments to Part 5 - Division 1 be approved in final form in both English and French as presented.

MOVED: Mr. McLeod
Seconded: Ms Southall
Carried.

Ms Kloepfer joined the meeting at 1:35 pm.

6.2 Report of the President's Special Committee on Health and Wellness

Benchers considered the memorandum of the President's Special Committee on Health and Wellness dated May 19, 2020. Benchers were reminded that the mandate of this committee was to consider the development of a framework and mandate for the creation of a diversion program outside of the complaints/discipline stream for members whose legal practices are being negatively affected by mental health or addiction issues which they may be experiencing.

The memorandum outlined a series of recommendations for endorsement by benchers which were as follows:

1. That the Health and Wellness Committee continues its work for at least one more year.
2. That benchers direct the Society to examine the language used in all admissions related documents and remove stigmatizing language.
3. That Law Society staff develop and bring to benchers a comprehensive plan for the implementation of a Diversion Program that will include an analysis of the costs of the various components of development and delivery, including staffing, consultations, assessments and treatment.
4. That benchers direct the Law Society to create the infrastructure to implement a formal diversion program in keeping with the objectives and principles set out within the report.
5. That the Law Society provides through its CPD Department and website additional programming and access to existing resources related to health and wellness.
6. That the Health and Wellness Committee continue to explore opportunities to partner with other organizations to provide enhanced resources to the legal profession.

Benchers considered and discussed each of the recommendations.

Motion: That the recommendations as contained within the report of the President's Special Committee on Health and Wellness be approved as presented.

MOVED: Ms Wiebe
Seconded: Mr. Theule
Carried.

6.3 Report of the President's Special Committee on Regulating Legal Entities

Benchers considered the memorandum of the President's Special Committee on Regulating Legal Entities dated May 8, 2020. Benchers were reminded that the mandate of this committee was to continue the work of the President's Special Committee on the Delivery of Legal Services by developing regulatory frameworks and policies for the delivery of legal services: (a) by "permitted legal service providers"; (b) through Civil Society Organizations ("CSO"); and (c) through alternative business structures ("ABS") other than CSOs.

The memorandum included a series of recommendations for endorsement by benchers which were as follows:

1. That the Law Society continue its work on exploring the expansion of exemptions from the unauthorized practice provisions under *The Legal Profession Act* by identifying those activities that are low risk to the public and provide increased access to justice.
2. That the framework for the provision of legal services through Civil Society Organization should encompass the following principles:
 - (a) Insurance coverage will be available for lawyers providing services through a CSO at no cost or low cost;
 - (b) In-house counsel at charities and not-for-profits should be permitted to provide legal services to clients of registered CSOs, subject to conflict issues;
 - (c) CSOs should be prohibited from referring clients to lawyers in exchange for donations, payments or other consideration;
 - (d) A lawyer providing services through a CSO should not be prohibited from having a trust account, subject to meeting any Law Society requirements;
 - (e) Benchers approve in principle the proposed registration process as set out within the memorandum, including the required conditions contained in the draft application form; and
 - (f) The proposed amendments to the *Code of Professional Conduct* as contained within the memorandum be approved in principle.
3. That the Law Society focus its efforts on introducing CSOs as a first step towards advancing ABSs. Although further exploration of ABSs does not appear warranted at this time, the Law Society should continue to monitor and assess developments in this area.
4. That the Law Society begin the consultation process with stakeholders in the area of family law.

Benchers reviewed each of these recommendations.

Motion: That the recommendations as contained within the report of the President's Special Committee on Regulating Legal Entities be approved as presented.

MOVED: Ms Boulter
Seconded: Mr. Grower
Carried.

7.0 Committee Reports

7.1 Complaints Investigation Committee

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

7.2 Discipline Committee

Benchers received for information the report of the Discipline Committee.

8.0 Miscellaneous Business

8.1 Insurance Levy

Ms Dangerfield reminded benchers that when setting the practising fee for the 2020/2021 fiscal year in February, they were advised that it was anticipated the insurance levy would increase significantly due to the number of large claims which had occurred in 2019. Taking into consideration the financial challenges being experienced by many members of the profession as a result of COVID-19 and with a draw down of reserves in the Insurance Fund, the Law Society actuaries recommended the insurance levy remain set at \$1,650, but that each member also receive a COVID relief credit of \$150. The insurance levy payable by each member would, therefore, be \$1,500 plus \$45 for cyber insurance coverage. Benchers were advised that members would also be given the option of paying the levy in three equal instalments, rather than two, and that the administrative fee for payment by instalment would be reduced from \$100 to \$75 and spread equally over the three instalments. The profession will receive notice of the levy on June 1, 2020.

9.0 Monitoring Reports

9.1 Investment Compliance

Benchers considered Ms Dangerfield's report, dated May 19, 2020, which confirmed that investments in both the Reserve Fund and the Office Staff Pension Fund were in compliance with investment guidelines as at March 31, 2020.

10.0 For Information

Benchers considered the materials provided for information.

There being no further business, Ms Troup adjourned the meeting at 2:25 pm.