



AGENDA

Benchers

Date: Thursday, February 9, 2023

Time: 12:30 p.m.

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

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT					
	The President will welcome benchers, guests and staff to the meeting.				
2.0 IN MEMORIAM					
	<p>David Lawrence Fraser, who passed away on December 8, 2022 at the age of 89. Mr. Fraser received his call to the Bar on September 30, 1959. He practised as an associate with two Winnipeg law firms and also as inhouse counsel with the Winnipeg Land Titles Office before joining Tupper & Adams in 1963. In 1985 he joined James Richardson & Sons Ltd. as inhouse counsel and remained with this company until his retirement in 1996.</p> <p>Chrysostomos Pappas, K.C., who passed away on December 11, 2022 at the age of 79. Mr. Pappas received his call to the Bar on June 26, 1968. He practised with D'Arcy & Deacon for 21 years before joining Thompson Dorfman Sweatman LLP in 1989. Mr. Pappas practised with TDS</p>				

up to the date of his death. He served as a bencher of the Law Society from 1974 to 1984 and in 2019 was recognized by the Law Society for having practised law for 50 years. Mr. Pappas was appointed Kings Counsel in 1989.

Allan Farrell Weinschenker, who passed away on December 23, 2022 at the age of 63. Mr. Weinschenker received his call to the Bar on June 28, 1984. He practised as a sole practitioner for six years before joining Gutnik Law Office where he practised until leaving practice in 1997.

Ronald Edward Dearman, who passed away on January 1, 2023 at the age of 64. Mr. Dearman received his call to the Bar on June 27, 1985. He practised as a sole practitioner in Flin Flon, Manitoba for eight years. In 1993 he moved his practice to Thompson, where he practised with Mayer Dearman & Pellizzaro up to the date of his death.

Sidney Gold Soronow, who passed away on January 28, 2023 at the age of 75. Mr. Soronow received his call to the Bar on June 28, 1972. Over the course of his 50 years of practice, he practised as an associate or partner with several Winnipeg firms. At the time of his death he was practising as a sole practitioner.

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
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3.0 CONSENT AGENDA

The Consent Agenda matters are proposed to be dealt with by unanimous consent and without debate. Benchers may seek clarification or ask questions without removing a matter from the consent agenda. Any bencher may request that a consent agenda item be moved to the regular agenda by notifying the President or Chief Executive Officer prior to the meeting.

3.1	Minutes of December 15, 2022 Meeting	5		Attached	Approval
3.2	Report of the Complaints Investigation Committee			Attached	Information
3.3	Reports of the Discipline Committee			Attached	Information
3.4	<i>Code of Professional Conduct</i> Amendments - Language Rights			Attached	Approval

4.0 EXECUTIVE REPORTS

4.1	President's Report	10	Sacha Paul		Briefing
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ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
4.2	CEO Report	10	Leah Kosokowsky	Attached	Briefing
4.3	Strategic Plan Progress Report - February 2023	5	Leah Kosokowsky	Attached	Briefing
5.0 DISCUSSION/DECISION					
5.1	<i>Code of Professional Conduct</i> Amendments - Harassment, Discrimination and <i>Ex Parte</i> Proceedings	10	Darcia Senft	Pending	Discussion/ Decision
6.0 MISCELLANEOUS BUSINESS					
6.1	Appointment of Nominating Committee	5	Leah Kosokowsky	Attached	Discussion/ Decision
6.2	Independent Chair of Discipline	5	Leah Kosokowsky	Attached	Discussion/ Decision
6.3	Bencher Vacancies	15	Leah Kosokowsky	Attached	Discussion/ Decision
6.4	By-Election Officers	5	Rennie Stonyk	Attached	Discussion/ Decision
6.5	2023-2024 Bencher Expense Budget	5	Sacha Paul	Attached	Discussion/ Decision
6.6	2023-2024 Budget	10	Leah Kosokowsky	Attached	Briefing
6.7	Government Relations - Meeting with Minister of Justice	10	Sacha Paul	Attached	Briefing
7.0 COMMITTEE REPORTS					
7.1	Admissions and Education Committee	10	Kyle Dear		Briefing
7.2	Indigenous Advisory Committee	10	Alissa Schacter		Briefing

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
8.0 MONITORING REPORTS					
8.1	Professional Education and Competence	10	Leah Kosokowsky Eileen Derksen	Attached	Briefing
8.2	Reimbursement Fund - Paul Hesse Defalcation - In Camera	15	Leah Kosokowsky Tana Christianson	Attached	Briefing
9.0 FOR INFORMATION					
9.1	Lawyers for Literacy Event - Saturday, March 11, 2023			Attached	Information
9.2	CPLED Report - January 2023			Attached	Information
9.3	Media Reports			Attached	Information



REPORT OF THE COMPLAINTS INVESTIGATION COMMITTEE

Benchers Meeting of February 9, 2023

In its last report to the benchers, the Complaints Investigation Committee provided an update on its activities up to, and including, November 1, 2022.

Between November 2, 2022, and February 2, 2023, the Committee held two meetings:

- December 14, 2022 – a regular meeting to consider 3 complaints about 3 members; and
- February 1, 2023 – regular meeting to consider 2 complaints about 2 members including a personal appearance by Member #1.

The Committee's meeting on February 1, 2023, marks the first full in-person meeting of the Committee that has taken place since pandemic restrictions were implemented in March of 2020.

MEMBER #1 | INTERIM SUSPENSION

The Committee authorized numerous charges of professional misconduct against Member #1 and ordered a practice review at a meeting in August of 2022. The Committee considered the report of practice reviewer on December 14, 2022, and directed that the Law Society staff request a signed undertaking from the member on terms addressing concerns about the member's ability to competently practice law. Absent the undertaking, the Committee required that the member personally appear before it on February 1, 2023, to respond to public protection concerns.

The undertaking was not given by the member.

On February 1, 2023, the member appeared in person before the Committee.

After hearing from the member and considering the submissions made and information provided, the Committee resolved to interim suspend the member effective on February 9, 2023, at 5:00 p.m. unless the member has provided the undertaking sought before the suspension takes effect.

MEMBER #2 | CHARGES | INTEGRITY & COURTESY, GOOD FAITH AND CIVILITY

On December 14, 2022, the Committee authorized 2 charges of professional misconduct against Member #2 for:

- failing to carry on the practice of law honourably and with integrity; and
- for failing to be courteous and civil and act in good faith.

MEMBER #3 | CHARGE | INTEGRITY

On December 14, 2022, the Committee considered new information and concerns about Member #3 in relation to a complaint that it had previously considered. In addition to the charges of professional misconduct previously authorized, the Committee authorized a further charge against the member for failing to carry on the practice of law honourably and with integrity.

MEMBER #4 | PRACTICE REVIEW

At its meeting on February 1, 2023, the Committee considered a complaint about Member #4 and resolved to order a practice review having regard to concerns about whether the member is practicing law incompetently.



REPORT of the Discipline Committee

Member:	Tyler David Warren
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	February 16, 2005
Particulars of Charges:	Professional Misconduct (3 Charges): <ul style="list-style-type: none">▪ Breach of Rule 2.1-1 of the <i>Code</i> [integrity]▪ Breach of Rule 7.2-11 of the <i>Code</i> [breach of Undertaking to the Law Society]▪ Breach of Rule 5-118(1)(a) of the <i>Rules</i> [failure to obtain and record client identification]
Plea:	Guilty (Consequences Contested)
Date of Hearing:	October 3, 2022
Panel:	<ul style="list-style-type: none">▪ Douglas Bedford (Chair)▪ Karlee Blatz▪ Neil Cohen (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Ayli Klein for the Law Society of Manitoba▪ Member Self Represented
Dates of Decisions:	October 3, 2022 (Oral Decision) December 9, 2022 (Reasons for Decision)
Consequences:	<ul style="list-style-type: none">▪ Fine of \$5,000.00▪ Costs of \$4,000.00



REPORT of the Discipline Committee

Member:	James Charles Prober
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 29, 1970
Particulars of Charge:	Professional Misconduct (1 Charge): <ul style="list-style-type: none">▪ Breach of Rule 7.2-1 of the <i>Code</i> [failure to be courteous and civil]
Plea:	Guilty
Date of Hearing:	November 28, 2022
Panel:	<ul style="list-style-type: none">▪ Katherine Bueti (Chair)▪ Douglas Bedford▪ Maureen Morrison (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Ayli Klein for the Law Society of Manitoba▪ J. Richard Wolson, K.C. for the Member
Dates of Decisions:	November 28, 2022 (Oral Decision) December 15, 2022 (Reasons for Decision)
Consequences:	<ul style="list-style-type: none">▪ Reprimand▪ Costs of \$4,000.00



REPORT of the Discipline Committee

Member:	Jeffrey Mark Rabb
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 23, 1983
Particulars of Charge:	Conduct Unbecoming a Lawyer (1 Charge): <ul style="list-style-type: none">▪ Breach of Rule 2.1-1 of the <i>Code</i> [conduct unbecoming a lawyer [integrity]]
Plea:	Guilty (Consequences Contested)
Date of Hearing:	December 12, 2022
Panel:	<ul style="list-style-type: none">▪ Dean Scaletta (Chair)▪ Wendy Stewart▪ Sandra Oakley (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Ayli Klein for the Law Society of Manitoba▪ J. Richard Wolson, K.C. for the Member
Date of Decision:	January 23, 2023 (Reasons for Decision)
Consequences:	<ul style="list-style-type: none">▪ Mr. Rabb be permitted to resign his membership in the Society, subject to his providing to the Society, within 30 days after service of these Reasons on his counsel, a written undertaking (in a form acceptable to the Society) that he will never again apply for membership in the Society or in any other law society▪ If Mr. Rabb does not provide this undertaking within the stipulated time (or within such further additional time as the Society may consent to), then he is to be disbarred and struck from the Rolls of the Society▪ Costs of \$4,525.00



MEMORANDUM

To: Benchers
From: Darcia Senft
Date: January 31, 2023
Re: ***Code of Professional Conduct Amendments***
- Language Rights

INTRODUCTION

At your meeting on November 10, 2022, you approved of amendments to Commentary 2 and Commentary 3 of Rule 3.2-2B of the *Code of Professional Conduct* relating to language rights, following a request from and consultations with L'Association des juristes d'expression française du Manitoba (AJEFM),

TRANSLATIONS

The referenced commentaries which you previously approved in English, have now been translated and are being provided to you in both French and English for your final approval, at set out in **Appendix A**.

NEXT STEPS

We will apprise the Federation of Law Societies of the Manitoba *Code* amendments and include a recommendation that the Standing Committee on the Model Code of Conduct consider the advisability of making a similar amendment to the *Model Code*, at Commentary 2, in relation to the *Divorce Act* provision.

Also, it was agreed previously that there would be mutual benefit in having the AJEFM cooperate with the Law Society to develop tools aimed at making legal professionals more familiar with access to justice in French and more aware of the practical requirements stemming from their ethical duties in respect of language rights. We will now begin work on the following activities identified as appropriate for collaborative work:

- A Practice Direction fleshing out the content of Rules 3.2-2A and 3.3-2B;
- An article in the Law Society's monthly *Communiqué*;

- A Continuing Professional Development activity primarily tailored for an audience of lawyers who are unable to provide their professional services in French.

Atc.

CODE AMENDMENTS - ENGLISH

Language Rights

3.2-2A A lawyer must, when appropriate, advise a client of the client's language rights, including the right to proceed in the official language of the client's choice.

3.2-2B Where a client wishes to retain a lawyer for representation in the official language of the client's choice, the lawyer must not undertake the matter unless the lawyer is competent to provide the required services in that language.

Commentary

[2] The choice of official language is that of the client not the lawyer. The lawyer should be aware of relevant statutory and Constitutional law relating to language rights including the Canadian Charter of Rights and Freedoms, s. 19(1), and Part XVII of the Criminal Code and section 23.2 of the Divorce Act regarding language rights in courts under federal jurisdiction and in criminal and divorce proceedings. The lawyer should also be aware that provincial or territorial legislation may provide additional language rights, including in relation to aboriginal languages. With regard to Manitoba in particular, section 23 of the Manitoba Act, 1870 sets out constitutional guarantees to ensure full and equal access to the Legislature, the laws and the courts in either French or English or both official languages.

[3] A lawyer should, when appropriate, inform the client of the client's language rights relating to a client's matter, including where applicable:

- a) subsection 19(1) of the *Canadian Charter of Rights and Freedoms* which provides for the right to use English or French in, or in any pleading in or process issuing from, any court established by Parliament;
- b) Part XVII of the *Criminal Code* (Language of Accused) which primarily provides for the right of an accused whose language is one of the official languages of Canada to be tried before a judge or a judge and jury, if applicable, who speak the official language of the accused or, if the circumstances warrant, both official languages;
- c) subsection 23.2 of the *Divorce Act* which recognizes the right of any person to use either English or French, or both official languages, in a proceeding conducted under that Act;
- d) section 23 of the *Manitoba Act, 1870* which provides for the right to use English or French in, or in any pleading or process issuing from, any court of Canada or any

courts of the Province of Manitoba and which requires provincial legislation to be enacted in both English and French.

[4] When a lawyer considers whether to provide the required services in the official language chosen by the client, the lawyer should carefully consider whether it is possible to render those services in a competent manner as required by Rule 3.1-2 and related Commentary.

Droits linguistiques

3.2-2A L'avocat est tenu, s'il y a lieu, d'informer son client de ses droits linguistiques, notamment de celui de faire valoir ses droits dans la langue officielle de son choix.

3.2-2B Lorsqu'un client souhaite retenir les services d'un avocat pour le représenter dans la langue officielle qu'il a choisie, il est interdit à l'avocat d'accepter le mandat s'il ne possède pas les compétences linguistiques nécessaires.

Commentaire

[1] L'avocat est tenu d'aviser son client de ses droits linguistiques le plus tôt possible.

[2] Le choix de la langue officielle est celui du client, et non de l'avocat. L'avocat est tenu de connaître la législation et le droit constitutionnel en matière de droits linguistiques, notamment le paragraphe 19(1) de la *Charte canadienne des droits et libertés*, la partie XVII du *Code criminel* et l'article 23.2 de la *Loi sur le divorce* concernant les droits linguistiques devant les tribunaux relevant de la compétence fédérale et dans les instances en matière criminelle et en matière de divorce. Il doit également savoir que les lois provinciales ou territoriales peuvent prévoir d'autres droits linguistiques, notamment des droits relatifs aux langues autochtones. Dans le cas du Manitoba en particulier, l'article 23 de la *Loi de 1870 sur le Manitoba* énonce des garanties constitutionnelles visant à assurer l'accès égal aux corps législatifs, aux lois et aux tribunaux en français ou en anglais, ou dans les deux langues officielles.

[3] L'avocat est tenu, s'il y a lieu, d'aviser le client de ses droits linguistiques dans un dossier qui le concerne, notamment les droits énoncés dans les dispositions suivantes, dans la mesure où elles s'appliquent :

- a) le paragraphe 19(1) de la *Charte canadienne des droits et libertés*, qui prévoit le droit d'employer le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux établis par le Parlement et dans tous les actes de procédure qui en découlent;
- b) la partie XVII du *Code criminel* (Langue de l'accusé), qui prévoit au premier chef le droit d'un accusé dont la langue est l'une des langues officielles du Canada de subir son procès devant un juge seul ou un juge et un jury, selon le cas, qui parlent la langue officielle de l'accusé ou, si les circonstances le justifient, qui parlent les deux langues officielles;
- c) l'article 23.2 de la *Loi sur le divorce*, qui reconnaît à toute personne le droit d'employer le français ou l'anglais, ou les deux langues officielles, dans le cadre de toute instance instruite sous le régime de cette loi;

d) l'article 23 de la *Loi de 1870 sur le Manitoba*, qui prévoit le droit d'employer le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux du Canada ou ceux de la province du Manitoba et dans tous les actes de procédure en découlant, et qui exige l'adoption de la législation provinciale à la fois en français et en anglais.

[4] Pour décider s'il fournira les services nécessaires dans la langue officielle choisie par son client, l'avocat doit sérieusement évaluer s'il peut les fournir d'une façon compétente comme l'exige l'article 3.1-2 et le commentaire qui l'accompagne.



Centre de traduction et de documentation juridiques
Centre for Legal Translation and Documentation

CERTIFICATE OF TRANSLATION ACCURACY

I, Lyne Jolette, being a member of the Ordre des traducteurs, terminologues et interprètes agréés du Québec (OTTIAQ) hereby certify that I am fluent in the English and the French languages and that the translation in the here-attached document titled *Code Amendments – Language Rights – Bilingual* is accurate.

A handwritten signature in black ink, appearing to read 'Lyne Jolette', is written over a horizontal line.

Lyne Jolette
Certified translator
Translator-Editor

January 5th 2023
Date



CEO REPORT

To: **Benchers**
From: **Leah Kosokowsky**
Date: **January 30, 2023**

1. Following the winter break, Rennie and I headed off to Vancouver to meet with the CEOs and senior staff of the four western law societies. It was a productive meeting, not only with valuable information sharing but also where we identified a number of areas upon which we can collaborate in tangible ways. I returned with 15 separate action items.
2. I can now confirm that the Law Society of British Columbia has agreed to participate in the project where all four western law societies will create a competence profile for articling. While this will increase the cost of the project, it will be shared among four regulators. Over the next short while, an advisory group will be established. Rennie Stonyk and Joan Holmstrom will participate for Manitoba. The advisory group will establish a task force to do the heavy lifting on the project. We anticipate that the Admissions and Education Committee will become involved. It is early stages and we will report back in a more detailed way.
3. A number of us attended the MBA's Midwinter Conference at which they hold their annual awards ceremony. We were very proud to see that Sacha Paul, Sharyne Hamm and their colleague, Miranda Grayson received the public interest pro bono award.
4. On the Saturday morning following the conference, Sacha and I attended the Manitoba Bar Council meeting where Sacha updated the council members and guests on what we have been up to over the last year and what we have on our plate in 2022-2023.
5. Elsewhere in this agenda, we have updated you on our meeting with the Minister of Justice. Law Society staff are also working together with the Province on several fronts. Tana Christianson and Kate Craton have been corresponding with the folks over at Justice Manitoba – Legal Services regarding an apparent anomaly in the new *Limitations of Actions Act*. Darcia Senft and Natasha Brown have been meeting with those in the Family Law Resolution Service regarding the sandbox and Alissa Schacter has been meeting with representatives from the Crown and from Legal Aid regarding the lawyer shortages in the north.
6. I was fortunate to have a one-on-one meeting with Dean Jochelson in which we discussed the many issues and opportunities that we have in common and brainstormed on

opportunities to address them, including making greater use of law students to fill the access to justice gaps.

7. The Law Society has been the subject of a complaint to the Manitoba Human Rights Commission from an individual who, despite having received a number of articling positions offered to them, has had some difficulties finding an employer that will accommodate their needs. Rocky and I are providing a response.
8. We are continuing to follow a development in Alberta in relation to their requirement that all lawyers complete The Path. The deadline to complete the program expired a short while ago and the Law Society was pleased to report that about 25 out of approximately 10,000 practising lawyers were suspended for failing to do so. However, a group of 50 lawyers recently filed a petition for the Law Society to repeal the rule that mandates specific education programs. A special meeting is being held on February 6, 2023 to vote on the petition. You will recall that a challenge to the Law Society of Manitoba's mandatory education rules was unsuccessfully challenged in the Supreme Court of Canada in *Green v. Law Society of Manitoba* 2017 SCC 20.
9. We are also following closely the move in British Columbia toward a single legal regulator. We understand that the introduction of the Bill will coincide with the bencher election in the fall of 2023 and may result in lawyers running for election on an anti-single regulator platform.

Strategic Plan 2022 – 2025

Progress Report

February 2023



STRATEGIC OBJECTIVE 1: COMPETENCE

Regulate proactively to protect the public interest by ensuring that legal services are delivered by competent and ethical lawyers.

- Proactively support lawyers and law firms to mitigate risk
- Proactively ensure that lawyers are fit to practice by addressing capacity and well-being
- Proactively support, assess and address the competence of lawyers at stages of practice when it is most needed
- Proactively engage with articling students to provide support and resources as appropriate

Progress:

Spring 2022	Practice management resources completed and posted on website related to file closing, withdrawal of legal services, absences and contingency planning; billing disbursements, retainers, retirement trust accounting
Spring 2022	Practice area fundamentals revised, updated and posted on website related to criminal law, civil procedure (partial), corporate commercial, real estate wills and estates
March 2022	Health Recovery Program framework, and consent form and agreement templates completed
May 2022	Health Recovery Program rule amendments presented to benchers for approval
June 2022	Health Recovery Program Coordinator position established
2021-2022	Peer Support Program - Law(yer) Strong - established with ongoing awareness initiatives
June 2022	Northern Bar CPD program - LSM resources and supports

August 2022	Central Bar CPD program - LSM resources and supports
September 2022	Translated Rule Amendments (Final) approved - Health Recovery Program
September 2022	Draft e-learning modules completed - file closing, retention & storage; planning for absences and contingencies; retainers; retirement: winding up a practice; and withdrawal of legal services
October 2022	Second annual wellness edition of <i>Communiqué</i> published
November 2022	Practice Management Workbook complete and posted
November 2022	Health Recovery Program launched
November 2022	New and updated family law and child protection fundamentals
December 2022	New and updated practice fundamentals posted for wills and estates
March 2023	<i>Life Beyond Law</i> CPD series, 2 nd session March 3: <i>Financial Fitness for a wHealthy Retirement</i>

STRATEGIC OBJECTIVE 2: ACCESS TO JUSTICE

Advance, promote and facilitate increased access to justice for all Manitobans.

- Engage with Manitobans in northern and rural communities, members of Indigenous communities and others who are members of vulnerable and historically disadvantaged groups about unmet legal needs and opportunities to address those needs
- Explore opportunities to remove regulatory barriers to the delivery of legal services in new ways
- Promote and facilitate collaboration about access issues with the courts and other justice system stakeholders to increase access to justice
- Explore opportunities for the Law Society to increase the number of lawyers who practice law in remote/rural communities and improve retention

Progress:

February 2022	Conduct engagement sessions with community organizations
April 2022	Review, analyze and summarize consultations
May 2022	Follow-up communications and surveys delivered to organizations

April 2022	Amendments to the Legal Profession Act allowing for the regulation of limited practitioners proclaimed
April 2022	Benchers approve of proposed structure for “regulatory sandbox”
May 2022	Benchers review Forgivable Loan Program
Summer 2022	Collaboration with Manitoba Law Foundation on survey of Manitobans
August 2022	Collaboration with University of Manitoba Faculty of Law - distribute Access to Justice Survey
October 2022	Presentation at National Access to Justice Week - people-centred data collection
November 2022	Results of survey and consultation received by Entity Regulation Committee
November 2022	Regulatory Sandbox launched
November 2022	Request to extend and expand Hub services to Manitoba Law Foundation
December 2022	Manitoba Law Foundation approves of continuing Hub services through April 1, 2024.
December 2022	Manitoba Law Foundation approves of the Faculty of Law's request to fund the Access to Justice Coordinator from April 1, 2023 through April 1, 2026. Transition work is ongoing.
January 2023	Hub resumes operations and expands services to civil matters in addition to family law with supervision being provided by Leah Klassen and Sadira Garfinkel
January 2023	Law Society receives sandbox application
January 2023	Law Society's Access to Justice Stakeholders Committee Working Group on Rural and Remote Communities - intermediaries met on January 25, 2023

STRATEGIC OBJECTIVE 3: EQUITY, DIVERSITY AND INCLUSION

Promote and improve equity, diversity and inclusion within the legal profession in the regulation of the legal profession and in the delivery of legal services.

- Engage and inspire Indigenous youth in Manitoba to become lawyers
- Remove inequitable barriers to admission into the legal profession for Indigenous people and other equity-seeking individuals
- Consider imposing mandatory continuing legal education relating to cultural competency as a regulatory requirement for lawyers
- Promote, support and facilitate equity, diversity and inclusion within law firms

Progress:

January 2022	Post inclusivity statement on website regarding the admissions process and the good character requirements
March 2022	Benchers resolve to require all Manitoba practising lawyers to complete one-time Indigenous intercultural awareness and competency training
June 2022	Benchers consider proposed amendments to Code of Professional Conduct re: French speaking clients and legal services
June 2022	Host SOGIC reception with MBA
September 2022	<i>The Path Forward: Conversations Around Reconciliation</i> . Joint program with MBA and Law School
September 2022	Anti-racism training for Law Society staff
December 2022	Collaboration proposed with University of Manitoba, Public Prosecutions and Legal Aid to attract and retain lawyers to northern communities
December 2022	Collaboration underway with University of Manitoba to attract Indigenous youth to law
February 2023	Anti-racism training for benchers
February 2023	Plans underway to host Building Connections Networking Event for Indigenous law and articling students in March 2023

STRATEGIC OBJECTIVE 4: STAKEHOLDER CONFIDENCE

Build public and shareholder confidence in the Law Society as the regulator of the legal profession.

- Engage with members of the public who are from vulnerable and historically disadvantaged groups
- Increase and improve engagement of the Law Society with members of the Northern Bar and members practising in other rural communities
- Build members' confidence and competence by connecting them to Law Society resources and supports

Progress:

Spring 2022	Engage with access to justice coordinator to identify organizations and leaders
June 2022	Northern Bar communication - implementation of survey and mentorship supports
December 2022	Outreach to profession regarding website resources to support competence



MEMORANDUM

To: Benchers
From: Leah Kosokowsky
Date: January 30, 2023
Re: Appointment of Nominating Committee and
Suspension of Law Society Rules 2-54 and 2-55

APPOINTMENT OF NOMINATING COMMITTEE

Pursuant to Law Society Rule 2-50, no later than the month of March each year, the benchers must appoint a Nominating Committee. Given that this is not an election year, with one exception, the committee is to propose candidates for the positions of president and vice-president as well as to recommend committee appointments.

According to Rule 2-51, the committee members are to be comprised of the president, the vice-president, the immediate past president and four benchers consisting of two lawyer benchers, at least one of whom maintains their principal office outside of the City of Winnipeg Electoral District, and two lay benchers.

In accordance with Rule 2-51, the Executive Officers who will sit on the Nominating Committee are Grant Driedger (Chair), Sacha Paul and Wayne Onchulenko. In addition to these three individuals, the Executive Officers recommend that you nominate Leah Klassen, Mathieu Lafreniere, Susan Boulter and Teresa Jaenen to round out the committee.

Each of these individuals has agreed to sit if appointed.

SUSPENSION OF APPLICATION OF A PORTION OF RULES 2-54 AND 2-55

Rule 2-54 requires that at a meeting of the benchers to be held in April in each year, the Nominating Committee must propose the name of at least one lawyer bencher candidate for the position of president and the names of at least two lawyer bencher candidates for the position of vice-president. It allows for the nominations of additional candidates at the April meeting.

Rule 2-55 addresses the election process for the president and vice-president. It also makes specific reference to the entitlement to vote by being present at the April meeting.

This year, there is no bencher meeting scheduled in the month of April. Instead, the next two bencher meetings are scheduled for March 23, 2023 and May 18, 2023. We propose that the election

for the executive positions occur at the March 23, 2023 meeting with the officers taking office at the May 18, 2023 meeting. Had there been a meeting in April, the officers would have taken office at the May 18 bencher meeting in any event.

In order to do so, the benchers would need to suspend the application of Rule 2-54 and Rule 2-55 only to the extent that they require the nomination and election to take place at a meeting held in the month of April.

Rule 2-55 also provides that the benchers in attendance at the meeting can vote for the president and vice-president. Historically, the benchers have resolved to suspend the application of the rule to allow for the counting of absentee ballots. If you decide to proceed in that fashion, a motion will be required.



MEMORANDUM

To: Benchers
From: Leah Kosokowsky
Date: January 30, 2023
Re: Independent Chair of Discipline

In 2014, the benchers established the position of Independent Chair of Discipline to oversee and direct the work of the Discipline Committee. The intent of establishing this position was to create greater separation between the adjudicative disciplinary processes and the Law Society's governance responsibilities. In accordance with the direction of the benchers, the Independent Chair runs the monthly set down docket, adjudicates preliminary motions and monitors the work of the committee to ensure that decisions issue in a timely manner. He also appoints hearing panels, is responsible for ongoing adjudicator training and, in exceptional circumstances, sits on hearing panels. Following the recommendation of the Independent Chair, the benchers amended the discipline proceedings rules in 2022 to improve the processes and timeliness of matters proceeding to hearing.

We have been very fortunate to have the former Chief Justice of Manitoba, the Honourable Richard J. Scott, OC, OM sit as our inaugural Independent Chair of Discipline. He runs an effective and efficient docket. He has the respect of all counsel who appear before him and, as a result, he has been instrumental in streamlining, if not resolving, challenging disciplinary issues. Mr. Scott has directed the annual training of the Discipline Committee and has presided over difficult hearings. Under his guidance, the Society has a well established, fair, effective and efficient disciplinary hearing tribunal.

I am very sad to report that Mr. Scott has announced that he is retiring at the end of June 2023, after many years of dedication to the work of the Law Society. Accordingly, with his assistance, we have been undertaking a search for his replacement. Law Society Rule 5-93(4) provides that the benchers shall appoint a chairperson of the committee who must be a member of the Society and who is not a bencher, officer or employee of the Society.

Heather Leonoff, K.C., is a former bencher, a life bencher, and a long-standing member of the Discipline Committee. She is called upon frequently to assist with the annual training of the committee and she willingly shares her knowledge and expertise with our adjudicators. Ms Leonoff also commits to chairing at least one of the Society's more challenging discipline hearings annually. She is committed to ensuring that every member who appears before her receives a fair hearing.

As you will see from the attached C.V., Ms Leonoff served as the Director of the Constitutional Law Branch for Justice Manitoba until her retirement at the end of December 2022. She has appeared before all levels of court and also assists Manitoba counsel to prepare for Supreme Court of Canada hearings through her work with the Supreme Court Advocacy Institute.

Mr. Scott and the Executive recommend the appointment of Ms Leonoff as the Society's Independent Chair of Discipline effective July 1, 2023. Ms Leonoff has agreed to act if so appointed.

As you will recall, Tony Kavanagh resigned as a bencher and committee member in December 2022. Until his resignation, Mr. Kavanagh was the Vice-Chair of Discipline. If you are inclined to appoint her to serve as the Independent Chair in July, we also recommend that you immediately appoint Ms Leonoff as the Vice-Chair of the Discipline Committee. This will give her an opportunity to support Mr. Scott in his work and to orient herself to the role.

Atc.



MEMORANDUM

To: Benchers
From: Leah Kosokowsky
Date: January 26, 2023
Re: Bencher Vacancies

At the December bencher meeting, I advised you that Tony Kavanagh had resigned as a bencher shortly before the meeting. I indicated that the Executive Officers would review the matter and return to you with a recommendation regarding a process to replace Tony. We will have another vacancy in May when Sacha Paul will become the Past President and will need to be replaced. Tony was an elected bencher in the City of Winnipeg Electoral District and Sacha is an appointed bencher from the Eastern Electoral District.

Section 4(4) of *The Legal Profession Act* provides that so long as there is a quorum at a benchers' meeting (seven benchers), the benchers can exercise their powers despite any vacancies among the benchers. So, we can continue to do our work regardless of when these positions are filled.

Law Society Rule 2-62 provides that where a vacancy results:

- (c) in the case of an elected bencher, the remaining benchers must, with all convenient speed, appoint a practising lawyer who maintains his or her principal office in the electoral district where the vacancy occurred to fill the vacancy; and
- (d) in the case of an appointed practising bencher, the remaining benchers must, with all convenient speed, appoint a practising lawyer to fill the vacancy.

ELECTED BENCHER – WINNIPEG ELECTORAL DISTRICT

In the past, the benchers have done a variety of things to fill vacant bencher positions. In some years a by-election (or more precisely a referendum following which the benchers appoint the candidate with the most votes) has been held. More typically, that has been done in circumstances where there was no runner-up in the prior bencher election (i.e. there was an acclamation). However, it has occurred in other circumstances where considerable time had passed since the last election or the next unsuccessful candidate had not garnered a large percentage of the vote.

In the case of the 2022 bencher election, there were fourteen candidates. As you will note from the attached results, the first unsuccessful candidate received 219 votes with the next individual falling

immediately behind with 218 votes. There were 3,781 votes cast in the City of Winnipeg Electoral District. While there remain four candidates that follow, they received a very small number of the overall votes.

In the circumstances, the Executive is recommending that you consider holding a referendum in Winnipeg. You would then be asked to approve the successful candidate at your May meeting.

APPOINTED PRACTISING BENCHER

As you know, the benchers employ a skills matrix to appoint both practising and lay benchers. The skills matrix was adopted to ensure that candidates selected brought a variety of perspectives, skills, knowledge and competencies to the table. That has proved to be an enormously effective means of strengthening the effectiveness of the bencher table.

There are four appointed practising bencher positions. One position is to be from outside of Winnipeg and one from Winnipeg. The other two can be drawn from any region of the province. In addition to Sacha, our current appointed practising lawyer benchers are Kelli Potter (Brandon), Serena Ehrmentraut (Winnipeg) and Joëlle Pastora Sala (Winnipeg).

In the spring of 2022, the Nominating Committee considered applications from 20 candidates for appointment to the position of practising lawyer bencher. The Executive is recommending that you authorize this year's Nominating Committee to review that list and, guided by the skills matrix, either make a recommendation to the benchers for an appointment from that list or invite new applications from which they will make a recommendation to you at the May bencher meeting.

Atc.

2022 BENCHER ELECTION RESULTS

TO: THE BENCHERS OF THE LAW SOCIETY OF MANITOBA

I, **Sacha Paul**, Vice President of the Law Society of Manitoba, hereby declare the result and certify the following to be the result of the election of the Elected Benchers of The Law Society of Manitoba, held on the 4th day of May, 2022.

CITY OF WINNIPEG ELECTORAL DISTRICT

Gerri Wiebe	402	Elected
Kyle Dear	386	Elected
Christian Monnin	369	Elected
Anthony Kavanagh	366	Elected
Wayne Onchulenko	366	Elected
Ken Mandzuik	329	Elected
Sharyne Hamm	318	Elected
Leah Klassen	257	Elected
Alison McCullough-Butchart	219	
John Ham	218	
Ashley Lynn Pledger	182	
Chris Lange	157	
David Davis	126	
Jeffrey King	86	

DAUPHIN-CENTRAL ELECTORAL DISTRICT

Broadfoot, Mason

Acclamation

EASTERN ELECTORAL DISTRICT

Mathieu LaFreniere

Acclamation

WESTERN ELECTORAL DISTRICT

Blair Filyk	30	Elected
Kelli Potter	12	

NORTHERN ELECTORAL DISTRICT

Kameron Lee Hutchinson	15	Elected
Simon Jack	11	

There were 2212 names on the voting list. The number of ballots cast was 868 of which none was rejected.

Respectfully submitted,

Sacha Paul
Vice President





MEMORANDUM

To: **Benchers**

From: **Rennie Stonyk**

Date: **January 27, 2023**

Re: **By-Election Officers**

If you direct the Society to hold a referendum in order to assist in appointing a bencher to fill the vacancy in the Winnipeg Electoral District arising from Tony Kavanagh's resignation, then a by-election can take place in early May 2023. In regular elections, the Rules provide for the following:

1. the current Vice President (Wayne Onchulenko) would be the Chief Electoral Officer; and
2. the benchers would appoint two scrutineers and a substitute for the Vice President in the event that he is unavailable to act.

While the Rules governing regular bencher elections do not strictly apply to by-elections, the above actions are recommended to ensure a transparent, fair and orderly referendum process.

Historically, the scrutineers have been the Chief Executive Officer and the Chief Financial Officer and the substitute for the Vice President has been the President.

The Executive Officers recommend that you appoint Leah Kosokowsky and Colleen Malone as scrutineers for the by-election and that you appoint Sacha Paul as the substitute Chief Electoral Officer.

RLS



MEMORANDUM

To: Benchers
From: Leah Kosokowsky
Date: February 1, 2023
Re: 2023-2024 Bencher Expense Budget

Attached for your approval is the bencher expense budget for the 2023-2024 year.

Building upon the efficiencies and effectiveness learned during the pandemic, we are continuing to hold most committee meetings over the Zoom platform, although the bencher meetings have returned to the in-person format, with the option to attend over Zoom if the need arises. For the time being, we continue to provide lunch in pre-packaged containers to avoid multiple touches associated with buffet-style meals.

We have budgeted \$5,000 for an "other reception". This represents the Society's cost of the joint MBA/Bencher holiday reception held in December along with a small contingency should another reception arise.

The Honoraria in the budget is for the honoraria provided to lay benchers and public representatives for attendance at meetings, including the public representatives on the Indigenous Advisory Committee.

The budget no longer includes a line for publishing in local papers the election of the president and vice-president, due to the many opportunities to publish these announcements on social media and the high cost of a newspaper announcement.

In the current year, the Society purchased an on-line adjudicator training program for the training of the Discipline Committee members as well as our other appeal committees. The Society is also providing anti-racism training on the morning of the February bencher meeting. Historically, we have offered a training or education session at the September bencher meeting/retreat and although a specific speaker has not yet been identified, we have budgeted \$5,000 for this purpose.

The General Consulting expense of \$10,200 is for the payment to Standpoint to host and manage the platform for the law firm regulation self-assessment and toolkit. We have committed to this annual payment for a total of three years.

Travel costs are set at \$20,000 for bencher/committee members and \$20,000 for the president and vice-president travel.

Atc.

Law Society of Manitoba
 Bencher Expense Budget
 April 1, 2023 to March 31, 2024

FINAL

	Projected April 1, 2022 to March 31, 2023	Budget April 1, 2022 to March 31, 2023	Budget April 1, 2023 to March 31, 2024
Allowances - Pres/Vice	\$ 75,000	\$ 77,500	\$ 77,500
Committee meetings catering	\$ 1,809	\$ 3,000	\$ 3,000
Meetings catering	\$ 4,476	\$ 12,000	\$ 7,000
Other receptions catering/functions	\$ 6,524	\$ 5,000	\$ 5,000
President reception	\$ 10,199	\$ 10,000	\$ 11,000
Gifts	\$ 1,128	\$ 1,000	\$ 1,000
Honoraria	\$ 15,200	\$ 30,000	\$ 16,600
Miscellaneous	\$ 39	\$ 1,000	\$ 500
Notifications	\$ -	\$ 5,000	\$ -
Course/conference fee	\$ 13,000	\$ 11,000	\$ 5,000
General consulting	\$ 10,198	\$ -	\$ 10,200
Speaker fee	\$ -	\$ 1,000	\$ 1,000
Rent space	\$ 708	\$ 1,000	\$ 1,000
CPP	\$ 4,260	\$ 4,020	\$ 4,200
MB payroll tax	\$ 1,613	\$ 1,670	\$ 1,670
Bencher/committee travel	\$ 11,822	\$ 29,600	\$ 20,000
President/Vice travel	\$ 9,817	\$ 30,500	\$ 20,000
Presenter travel	\$ -	\$ 1,000	\$ 1,000
Total expenses	\$ 165,793	\$ 224,290	\$ 185,670



MEMORANDUM

To: Benchers
From: Leah Kosokowsky
Date: January 30, 2023
Re: 2023 – 2024 Budget

INTRODUCTION

Attached to this memo you will find the Law Society of Manitoba budget for the period April 1, 2023 to March 31, 2024. In accordance with the Governance Policies, the Chief Executive Officer is to present to you a budget that is within the twelve Executive Limitations that have been established by the benchers. Although it is not necessary for you to formally approve the budget, it is important for you to be satisfied that the budget falls within those Executive Limitations.

FOUR FUNDS

As you are aware, the Law Society operates under the umbrella of four separate purpose funds:

1. The General Fund (GF) – The purpose of this Fund is to account for the general operations of the Society, including accounting, admissions and membership, benchers, complaints resolution, discipline, information technology and general administration.
2. The Reimbursement Fund (RF) – This Fund exists for the benefit of clients who suffer losses from the theft of their assets (usually money) by lawyers. The operations of the Audit Department are recorded within this Fund.
3. The Professional Liability Claims Fund (PLCF) – This fund provides insurance coverage to all practising Manitoba lawyers.
4. The Education and Competence Fund (ECF) – The purpose of this Fund is to support lawyers by providing the knowledge and skills for them to remain competent to serve the public.

EXECUTIVE LIMITATIONS

The Executive Limitations relating to the budget initially were adopted in December 1995, and most recently amended in February 2018. They require that the Chief Executive Officer prepare a budget that meets the following criteria.

1. The budget contains sufficient information and credible projections.

2. It attributes costs associated with each fund.
3. The planned expenditures do not exceed the anticipated revenue or available equity in each of the funds.
4. It includes a budget related to bencher activity.
5. The budget restricts the combined increase in the General Fund and the Education and Competence Fund levy to 10% or less in any year and 33 1/3% or less over five years.
6. For the General Fund, the ending reserve must be at least 20% of the budgeted expenditures.
7. In the General Fund, for any fee or other assessment over \$100 (other than practising), the annual increase is not more than 25% in any year.
8. For the Reimbursement Fund, the ending reserve must be more than the aggregate group deductible as set under the Society's Trust Protection Indemnification Policy, which is currently \$500,000.
9. The Reimbursement Fund provides for insurance to at least \$10,000,000 limit of liability.
10. In the Professional Liability Claims Fund, the fee set is at least the amount recommended by our actuary.
11. In the Professional Liability Claims Fund, the assessment is dependent upon the claims experience of the Program as a whole and the claims history of the individual lawyer.
12. For the Education and Competence Fund, the ending reserve is at least 20% of the budgeted expenses for the year.

The budget presented to you meets each of these Executive Limitations.

INCOME

The most significant sources of income for the Society are the statutory grants received from the Manitoba Law Foundation, investment income and the annual practising fees and insurance levy charged to our members.

Pursuant to s. 90(1) of *The Legal Profession Act*, the Society receives an annual grant from the Manitoba Law Foundation in the amount of 16.67% of the interest earned on lawyers' pooled trust accounts. Also pursuant to s. 90(1), this revenue must be allocated to the RF and ECF, in equal amounts.

Interest earned can be quite variable. Benchers will recall that three years ago, the grant received exceed \$1.3 million while the grant received in each of the past two years was closer to \$400,000 annually. The upcoming year is definitely a good news story as the grant for the 2023-2024 fiscal year is projected to be \$2,667,200.

Budgeting for the expected level of investment income is always a challenge. This year the budget includes a total of \$940,000 RBC investment income, of which 98.16% is recorded in the PLCF and the remainder in the RF, in accordance with the advice received from our external auditors. Although this is a significant source of income, it does not generate cash flow to be used for operations as any growth remains or is reinvested in the investment portfolio.

The amount of the practising fee is determined during the budgeting process. The fees must be sufficient to cover the anticipated costs in each of the funds, with the goal to not increase the practising fees charged to our members if at all possible. This year, due to the grant from the Manitoba Law Foundation, we are pleased to announce an overall reduction of \$185 in the practising fees charged to each member. While the GF allocation increases by \$15 per member, the amount allocated to both the RF and the ECF decreases by \$100 in each fund per member. For budget purposes, the insurance levy remains the same as last year as it is not set until an actuarial review is conducted in the spring.

EXPENSES

The major expenses incurred by the Society for the 2023-2024 year are:

- salaries and benefits;
- insurance premiums, which include lawyers trust protection, the retroactive assessment by CLIA, cyber and mandatory insurance;
- insurance claim payments for both damage and defence costs;
- rent of 260 St. Mary Avenue; and
- various grants/subsidies/initiatives, the most notable of which are to the Manitoba Law Library, to Law(yer) Strong and the subsidy for articling students' CPLED tuition.

Salaries

In this budget, we have provided for a 4% increase in salaries/benefits for the year. Salary increases are effective April 1st, and therefore the allocation of the increase to specific staff and ultimately to each fund will not be known with certainty until March 2023. The Society offers its staff a generous benefits package in which premiums are paid for coverage for life insurance, AD&D, long-term disability, travel insurance and employee assistance. The Society is self-insured or funded for short term disability, extended health and dental coverage. At a previous meeting, we provided a report regarding the details of the staff's defined benefit pension plan.

As we have mentioned from time to time, the most important asset of the Society is our staff. While last year we saw some significant staffing changes, this year has remained more constant. Noah Scatliff has been our student since the summer of 2022. He continues to work with us one day per

week until he leaves us for another position in the spring. We wish him the very best. Corinne Penner and Kelly Southall are both on maternity leave, working hard at being a “mommy”. Corinne will be returning in April and Kelly in October. Picking up their duties were Lori Arnold and Malavika Madhavan and Lori will continue to provide support over the next many months. Finally, Natasha Brown, our Access to Justice Coordinator will be moving to the University of Manitoba at the end of March 2023 to continue her important work from Robson Hall.

Office Lease

We continue to enjoy our premises at 260 St. Mary Avenue. The lease began in February 2018, with a term of 10.5 years. As of July 31, 2023, 5.5 years will have passed and as of August 1, 2023, we start the final five years of the contract and a basic rent increase of \$2 per square foot. The Society does have two options to review for a term of 5 years each.

CPLED Subsidy

The Society continues to provide a \$2,600 subsidy to the tuition cost for each CPLED student who articulates in Manitoba. As previously noted, the four western law societies are collaborating on a competency profile for articling and we remain optimistic that this collaboration may lead to CPLED expanding to other Canadian jurisdictions, with increased revenue and a corresponding reduction in the need for a subsidy.

Professional Liability Claims fund

The manner in which the insurance levy is set and timing thereof both affect the ability to accurately budget in the insurance fund at this early date. The insurance levy is determined by an extensive review conducted by an external actuary in the month of May, long after the firming up of this budget. As noted in Executive Limitation #9, the fee charged can not be less than the amount recommended based on this actuarial review. In addition, CLIA (the Canadian Lawyers Insurance Association) sets the amount of the mandatory and cyber insurance in May and, of course it is challenging to predict the number and amount of reimbursement and negligence claims that will be made over the next year. Tana Christianson has years of experience and expertise which we rely upon to provide a “best guess”, but it is just that.

Initiatives and Grants

At the direction of the benchers, the Society continues its support of the Great Library. This budget keeps the annual support at \$525,000. Thanks to the great work of Karen Sawatzky and her staff, the library continues to provide valuable and cost-effective service to all members.

The Society also continues to support initiatives to support the mental health and well-being of its members and staff. One such initiative is Law(yer) Strong, the fledgling peer support organization, intended to enhance the immediate and long-term well-being of Manitoba’s legal community. Given the unanticipated size of the statutory grant, the Society is able to provide financial support of \$143,700 for the upcoming year to assist with their much needed start up costs.

Also included in the budget is an increase to CLEA's Law Phone-In and Lawyer Referral program, the development costs of The Path, the Health Recovery (diversion) Program, Blue Cross EAP, and a host of other initiatives to support and improve the competence and well-being of the profession.

SUMMARY

With the decrease in practising fees of \$185 per member, we have budgeted for the following surplus/(deficits):

General Fund (GF)	\$ 7,602
Reimbursement Fund (RF)	491,072
Professional Liability Claims Fund (PLCF)	(62,965)
Education and Competence Fund (ECF)	<u>768,335</u>
Total net income	<u>\$1,204,044</u>

It is unusual for the Society to budget for such a large net income. In fact, last year we budgeted for a loss of \$174,388. This surplus is due to the statutory grant from the Manitoba Law Foundation and the interest generated on the lawyers' trust accounts.

To address the unexpected magnitude of the surplus, we have budgeted for some expenses and are developing a plan for others.

First, we are very pleased to reduce practising fees by \$185 per member. While it is tempting to reduce them further, it is prudent to provide for a modest decrease so as to remain in compliance with Executive Limitation #5 in next year's budget. This executive limitation restricts the combined increase in the General Fund and the Education and Competence Fund levy to 10% or less in any year and 33 1/3% or less over five years.

It also is prudent to hold some funds in reserve for the 2024-2025 year in the event of a downward trend in interest rates and a corresponding reduction in the statutory grant, although, as a not-for-profit agency, our auditors recommend against carrying a significant surplus.

Finally, there are projects or initiatives that we may undertake to further our aim of a public well-served by a competent, honourable and independent legal profession. Some of these are projects for which we have not had adequate resources in the past few years. For example, there may be an opportunity to expand upon the on-line training program for Law Society adjudicators or to invest in training for articling principals, to name just two possibilities. We will also explore the hiring of a student to support our Equity Officer in the many Indigenous-related initiatives that are on her plate, such as conducting research to provide a road map for Indigenous students considering a career in law.

This is my third budget since taking on the responsibilities of CEO and the first budget where I was not budgeting for an overall deficit. Preparing a budget when excess cash is available is a much easier and enjoyable task than when money is tight. I am comfortable that this budget reflects how we expect this year to proceed but, as always, I look forward to what the upcoming year may bring.

Atc.

Law Society of Manitoba
 General Fund (GF) Budget
 April 1, 2023 to March 31, 2024

FINAL

Projected April 1, 2022 to March 31, 2023	Budget April 1, 2022 to March 31, 2023	Budget April 1, 2023 to March 31, 2024
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Income

Administration fees

Admin fee, MB Library	\$ 20,000	\$ 20,000	\$ 20,000
Instalment payment fee	\$ 56,710	\$ 50,000	\$ 56,000
Late payment penalty	\$ 7,130	\$ 8,000	\$ 7,500
Refund fee	\$ 21,100	\$ 15,500	\$ 20,000

Total administration fees	\$ 104,940	\$ 93,500	\$ 103,500
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Annual Fee

Non-practising	\$ 31,200	\$ 30,000	\$ 31,000
Practising	\$ 4,748,681	\$ 4,579,500	\$ 4,826,250

Total annual fee	\$ 4,779,881	\$ 4,609,500	\$ 4,857,250
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Application fees

Application fee, other	\$ 600	\$ 1,500	\$ 1,000
Application to article	\$ 11,000	\$ 13,000	\$ 13,000
Exemption from articling	\$ 2,800	\$ 1,400	\$ 2,800
Law student registration	\$ 2,600	\$ 3,400	\$ 3,000
Resumption of active practise	\$ 9,300	\$ 7,800	\$ 9,000
Transfer to MB Bar	\$ 8,700	\$ 6,000	\$ 7,500

Total application fees	\$ 35,000	\$ 33,100	\$ 36,300
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Call fee

PREP	\$ 78,400	\$ 72,000	\$ 66,000
Transfers	\$ 14,700	\$ 13,200	\$ 14,400

Total call fee	\$ 93,100	\$ 85,200	\$ 80,400
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Contribution, leasehold allowance

Capital items	\$ 72,901	\$ 72,900	\$ 72,900
Expense items	\$ 15,277	\$ 13,080	\$ 13,080

Total contribution, leasehold	\$ 88,178	\$ 85,980	\$ 85,980
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Costs recovered - discipline

\$ 93,996	\$ 45,000	\$ 90,000
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Grants

Employment	\$ -	\$ 3,500	\$ 3,500
MB Law Foundation Access	\$ 130,766	\$ 130,760	\$ -
Retrain MB	\$ -	\$ 3,000	\$ -

Total grants	\$ 130,766	\$ 137,260	\$ 3,500
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Interest income

\$ 94,719	\$ 25,000	\$ 40,000
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Law Society of Manitoba
 General Fund (GF) Budget
 April 1, 2023 to March 31, 2024

FINAL

	Projected April 1, 2022 to March 31, 2023	Budget April 1, 2022 to March 31, 2023	Budget April 1, 2023 to March 31, 2024
Other income			
Certificate of standing	\$ 9,200	\$ 10,000	\$ 10,000
Fast track	\$ 28,580	\$ 27,500	\$ 28,125
Law corporation fees	\$ 87,050	\$ 88,500	\$ 88,500
Locker rental	\$ 10,000	\$ 10,500	\$ 10,500
Miscellaneous	\$ 595	\$ 1,000	\$ 1,000
Section 51	\$ 42,923	\$ 42,923	\$ 74,909
Total other income	\$ 178,348	\$ 180,423	\$ 213,034
Total Income	\$ 5,598,928	\$ 5,294,963	\$ 5,509,964
Expense			
Allowances - Pres/Vice	\$ 75,000	\$ 77,500	\$ 77,500
Building operation/maintenance			
Building insurance	\$ 17,788	\$ 16,000	\$ 18,000
Janitorial services	\$ 24,558	\$ 25,800	\$ 26,080
Janitorial supplies	\$ 1,049	\$ 1,200	\$ 1,200
Maintenance	\$ 6,272	\$ 5,000	\$ 6,500
Total building operation/maintenance	\$ 49,667	\$ 48,000	\$ 51,780
Catering/functions			
Call ceremony	\$ 16,576	\$ 12,000	\$ 20,000
Coffee/water/pop/milk	\$ 4,604	\$ 4,000	\$ 5,000
Committee meetings	\$ 1,809	\$ 3,000	\$ 3,000
Meetings	\$ 5,076	\$ 14,300	\$ 10,000
Other receptions	\$ 10,944	\$ 15,000	\$ 18,500
President's reception	\$ 10,199	\$ 10,000	\$ 11,000
Staff functions	\$ 7,660	\$ 7,500	\$ 13,300
Total catering/functions	\$ 56,868	\$ 65,800	\$ 80,800
Counsel -prosecution & investigation	\$ 788	\$ 3,000	\$ 3,000
Custodial expenses			
Custodian fees	\$ 42,640	\$ 51,160	\$ 50,000
File storage costs	\$ 9,371	\$ 10,800	\$ 10,800
Total custodial expenses	\$ 52,011	\$ 61,960	\$ 60,800
Depreciation expense			
Hardware	\$ 5,297	\$ 5,300	\$ -
Furniture/equipment	\$ 7,477	\$ 7,500	\$ 3,360
Leasehold improvement	\$ 65,444	\$ 65,460	\$ 65,460
Software	\$ 4,300	\$ -	\$ 17,000
Total depreciation expense	\$ 82,518	\$ 78,260	\$ 85,820

Law Society of Manitoba
 General Fund (GF) Budget
 April 1, 2023 to March 31, 2024

FINAL

	Projected April 1, 2022 to March 31, 2023	Budget April 1, 2022 to March 31, 2023	Budget April 1, 2023 to March 31, 2024
Grants/prizes			
CANLII	\$ 93,251	\$ 91,000	\$ 94,000
CLEA	\$ 67,000	\$ 67,000	\$ 80,000
FLSC annual levy	\$ 55,627	\$ 55,000	\$ 58,000
Forgiveable loan	\$ 17,450	\$ 18,000	\$ -
Gifts	\$ 2,981	\$ 4,000	\$ 6,000
MB Law Library	\$ 525,000	\$ 525,000	\$ 525,000
Misc grants/donations	\$ 1,600	\$ 2,500	\$ 2,500
PREP subsidy	\$ 282,100	\$ 312,000	\$ 260,000
Prizes	\$ 4,500	\$ 4,500	\$ 4,500
Staff recognition	\$ -	\$ 2,500	\$ 1,000
Total grants/prizes	\$ 1,049,509	\$ 1,081,500	\$ 1,031,000
Honoraria	\$ 22,500	\$ 30,000	\$ 26,000
Initiatives			
Access to justice	\$ 2,469	\$ 144,275	\$ -
Outreach to high schools	\$ -	\$ 500	\$ -
Outreach to indigenous community	\$ -	\$ 500	\$ -
Equity, diversity and inclusion	\$ 35,000	\$ 35,000	\$ 5,000
Access to justice	\$ 1,000	\$ -	\$ 12,000
Public awareness/Stakeholder confidence	\$ 1,000	\$ -	\$ 12,500
Total initiatives	\$ 39,469	\$ 180,275	\$ 29,500
Interfund admin charges			
Education and Competence	\$ (100,000)	\$ (100,000)	\$ (100,000)
Professional Liability Claims	\$ (475,000)	\$ (475,000)	\$ (475,000)
Reimbursement	\$ (300,000)	\$ (300,000)	\$ (300,000)
Total interfund admin charges	\$ (875,000)	\$ (875,000)	\$ (875,000)
Miscellaneous expense	\$ 1,659	\$ 1,500	\$ 1,500
Office and sundry			
Courier	\$ 3,838	\$ 4,000	\$ 4,000
Office furniture/equipment	\$ 390	\$ 2,000	\$ 2,000
Office supplies	\$ 10,384	\$ 13,000	\$ 13,000
Photocopying expense	\$ 21,854	\$ 22,000	\$ 22,000
Postage/fax	\$ 4,300	\$ 6,000	\$ 5,000
Total office and sundry	\$ 40,766	\$ 47,000	\$ 46,000
Other services			
Court reporters	\$ 2,342	\$ 10,000	\$ 7,000
Filing fees	\$ 1,332	\$ 2,500	\$ 2,500
Notifications	\$ 1,580	\$ 8,000	\$ 2,500
Serving of documents	\$ 368	\$ 1,500	\$ 1,500
Total other services	\$ 5,622	\$ 22,000	\$ 13,500

Law Society of Manitoba
 General Fund (GF) Budget
 April 1, 2023 to March 31, 2024

FINAL

	Projected April 1, 2022 to March 31, 2023	Budget April 1, 2022 to March 31, 2023	Budget April 1, 2023 to March 31, 2024
Professional development			
Course/conference fees	\$ 24,628	\$ 18,800	\$ 17,000
Membership fees	\$ 5,634	\$ 5,000	\$ 6,000
Total professional development	\$ 30,262	\$ 23,800	\$ 23,000
Professional fees			
Complaints commissioner	\$ 10,000	\$ 8,000	\$ 12,500
Contract services	\$ 3,224	\$ 1,000	\$ 28,280
Discipline chair	\$ 20,000	\$ 20,000	\$ 27,500
External audit	\$ 38,927	\$ 55,000	\$ 40,000
General legal/consulting	\$ 19,162	\$ 17,700	\$ 47,800
Indigenous advisor	\$ 20,000	\$ 20,000	\$ 20,000
Health recovery program	\$ 1,200	\$ 5,000	\$ 8,000
Pension advisor	\$ 10,145	\$ 34,000	\$ 20,000
Speaker fee	\$ 100	\$ 4,250	\$ 4,000
Systems consulting	\$ -	\$ 5,000	\$ 7,500
Total professional fees	\$ 122,758	\$ 169,950	\$ 215,580
Publications			
Books/subscriptions	\$ 9,906	\$ 10,500	\$ 10,500
LSM regulations	\$ 296	\$ 1,000	\$ 1,000
Outside printing	\$ 1,134	\$ -	\$ 1,500
Total publications	\$ 11,336	\$ 11,500	\$ 13,000
Rent space			
Additional rent	\$ 208,334	\$ 207,000	\$ 232,800
Basic rent	\$ 268,747	\$ 270,000	\$ 300,104
Management fee	\$ 13,437	\$ 13,800	\$ 15,008
Parking	\$ 405	\$ 1,000	\$ 1,000
Outside rent	\$ 708	\$ 3,000	\$ 3,000
Total rent	\$ 491,631	\$ 494,800	\$ 551,912
Salaries and benefits			
CPP exp	\$ 99,703	\$ 98,110	\$ 102,595
EI exp	\$ 33,383	\$ 30,105	\$ 31,360
Group insurance	\$ 275,946	\$ 268,360	\$ 276,000
MB payroll tax	\$ 66,475	\$ 62,850	\$ 62,665
Pension	\$ 579,205	\$ 570,285	\$ 581,235
Salaries	\$ 2,990,657	\$ 2,853,230	\$ 2,836,515
Total salaries and benefits	\$ 4,045,369	\$ 3,882,940	\$ 3,890,370
Service fees			
Banking	\$ 127	\$ 200	\$ 200
Online bill payment	\$ 1,016	\$ 1,200	\$ 1,200
CAFT	\$ 844	\$ 900	\$ 900
Credit card	\$ 1,155	\$ 700	\$ 1,200
Payworks	\$ 3,576	\$ 3,900	\$ 3,900
Total service fees	\$ 6,718	\$ 6,900	\$ 7,400

Law Society of Manitoba
 General Fund (GF) Budget
 April 1, 2023 to March 31, 2024

FINAL

	Projected April 1, 2022 to March 31, 2023	Budget April 1, 2022 to March 31, 2023	Budget April 1, 2023 to March 31, 2024
Technology			
Hardware	\$ 5,237	\$ 16,000	\$ 10,000
Software	\$ 21,282	\$ 13,290	\$ 20,000
Tech services	\$ 29,839	\$ 26,370	\$ 35,000
Total technology	\$ 56,358	\$ 55,660	\$ 65,000
Telephone	\$ 6,771	\$ 9,180	\$ 7,900
Travel			
Bencher/committee	\$ 11,822	\$ 29,600	\$ 20,000
President/Vice	\$ 9,817	\$ 30,500	\$ 20,000
Presenters	\$ -	\$ 3,000	\$ 3,000
Staff	\$ 25,480	\$ 42,250	\$ 53,000
Total travel	\$ 47,119	\$ 105,350	\$ 96,000
Total Expense	\$ 5,419,699	\$ 5,581,875	\$ 5,502,362
Net Income	\$ 179,229	\$ (286,912)	\$ 7,602
Fund Equity, beginning of year	\$ 11,123,096	\$ 11,123,096	\$ 11,302,325
Fund Equity, end of year	\$ 11,302,325	\$ 10,836,184	\$ 11,309,927

Executive limitation

(> 20%, fund equity end of year/total expenses)

205.55%

Law Society of Manitoba
 Reimbursement Fund (RF) Budget
 April 1, 2023 to March 31, 2024

FINAL

	Projected April 1, 2022 to March 31, 2023	Budget April 1, 2022 to March 31, 2023	Budget April 1, 2023 to March 31, 2024
Income			
Practising fees	\$ 1,204,005	\$ 1,161,000	\$ 990,000
Manitoba Law Foundation	\$ 203,471	\$ 187,500	\$ 1,333,600
Investment - RBC	\$ 18,867	\$ 18,400	\$ 17,300
Total Income	\$ 1,426,343	\$ 1,366,900	\$ 2,340,900
Expense			
Damages, net of recoveries	\$ (2,198,660)	\$ 50,000	\$ 150,000
Administration fees	\$ 20	\$ 30,000	\$ 10,000
Law(yer) Strong	\$ -	\$ -	\$ 143,700
Lawyer assistance	\$ -	\$ -	\$ 90,000
Lawyers trust protection premium	\$ 238,819	\$ 230,000	\$ 240,000
Lawyers trust retro assessment	\$ 260,438	\$ 260,438	\$ 260,438
Grant to General Fund (GF)	\$ 200,000	\$ 300,000	\$ 300,000
Miscellaneous	\$ 188	\$ 350	\$ 250
Courier	\$ 412	\$ 1,000	\$ 500
Office furniture/equipment	\$ 100	\$ 500	\$ 300
Office supplies	\$ 100	\$ 300	\$ 200
Photocopying	\$ 486	\$ 550	\$ 550
Filing fee	\$ 349	\$ -	\$ 350
Course/conference fee	\$ 1,229	\$ 1,700	\$ 1,700
Membership fees	\$ 4,100	\$ 5,000	\$ 4,400
Investment management expense	\$ 1,892	\$ 2,000	\$ 2,000
Practice advisor	\$ -	\$ -	\$ 31,000
Parking expense	\$ 4,680	\$ 4,800	\$ 4,800
CPP exp	\$ 16,131	\$ 15,720	\$ 16,820
El exp	\$ 5,134	\$ 5,020	\$ 5,210
MB payroll tax	\$ 9,370	\$ 9,385	\$ 9,790
Pension - current service	\$ 81,412	\$ 80,795	\$ 106,080
Salaries	\$ 428,233	\$ 425,030	\$ 455,240
Hardware	\$ -	\$ 5,000	\$ 5,000
Software	\$ 1,319	\$ 500	\$ 500
Staff travel	\$ 2,035	\$ 5,000	\$ 11,000
Total Expense (net recovery)	\$ (942,213)	\$ 1,433,088	\$ 1,849,828
Net Income (Loss)	\$ 2,368,556	\$ (66,188)	\$ 491,072
Fund equity, beginning of year	\$ 1,939,784	\$ 1,939,784	\$ 4,308,340
Fund equity, end of year	\$ 4,308,340	\$ 1,873,596	\$ 4,799,412

Executive limitation - Ending equity at least \$500,000 (deductible)

Law Society of Manitoba
Professional Liability Claims Fund (PLCF) Budget
April 1, 2023 to March 31, 2024

FINAL

Projected April 1, 2022 to March 31, 2023	Budget April 1, 2022 to March 31, 2023	Budget April 1, 2023 to March 31, 2024
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Income

Insurance levy, CLIA portion	\$ 766,775	\$ 428,280	\$ 1,059,000
Insurance levy, LSM portion	\$ 2,006,820	\$ 2,151,720	\$ 1,809,125
Insurance levy	\$ 2,773,595	\$ 2,580,000	\$ 2,868,125
Costs recovered - deductibles	\$ 95,999	\$ 75,000	\$ 90,000
Cyber insurance	\$ 120,137	\$ 79,200	\$ 141,200
Interest income	\$ 3,779	\$ 600	\$ 2,000
Investment - RBC	\$ 1,005,189	\$ 981,600	\$ 922,700
Total Income	\$ 3,998,699	\$ 3,716,400	\$ 4,024,025

Expense

Damages/repairs, net of recoveries	\$ 1,234,043	\$ 500,000	\$ 880,000
Administration fees	\$ 7,165	\$ 5,000	\$ 5,000
Defence costs, net of recoveries	\$ 413,695	\$ 900,000	\$ 525,000
Law(yer) Strong	\$ 53,526	\$ 40,000	\$ -
Mental health first aid	\$ 1,250	\$ 5,000	\$ -
Anti money laundering course	\$ -	\$ 5,000	\$ -
Cyber insurance	\$ 122,191	\$ 78,615	\$ 143,040
Directors and officers insurance	\$ 26,010	\$ 25,000	\$ 27,000
Excess insurance	\$ 19,404	\$ 16,500	\$ 20,000
Lawyer assistance	\$ 84,895	\$ 84,000	\$ -
Mandatory premiums	\$ 764,594	\$ 433,775	\$ 1,072,800
CLIA, RST collected on fees	\$ (62,074)	\$ (35,524)	\$ (84,020)
CLIA, RST paid on premiums	\$ 61,674	\$ 35,867	\$ 85,110
Grant to General Fund (GF)	\$ 475,000	\$ 475,000	\$ 475,000
Miscellaneous	\$ 160	\$ 200	\$ 200
Courier	\$ 690	\$ 1,000	\$ 1,000
Office supplies	\$ 113	\$ 300	\$ 300
Photocopying	\$ 2,567	\$ 3,000	\$ 2,800
Filing fee	\$ 65	\$ 100	\$ 100
Course/conference fee	\$ 85	\$ 500	\$ 500
Membership fees	\$ 264	\$ 400	\$ 400
Actuarial fees	\$ 29,531	\$ 29,000	\$ 30,000
Investment management expense	\$ 99,342	\$ 94,000	\$ 100,000
Practice advisor	\$ 30,000	\$ 32,000	\$ -
Systems consulting	\$ 5,456	\$ 50,000	\$ 35,000

Law Society of Manitoba
Professional Liability Claims Fund (PLCF) Budget
April 1, 2023 to March 31, 2024

FINAL

	Projected April 1, 2022 to March 31, 2023	Budget April 1, 2022 to March 31, 2023	Budget April 1, 2023 to March 31, 2024
CPP exp	\$ 21,389	\$ 20,220	\$ 21,665
El exp	\$ 6,515	\$ 6,460	\$ 6,785
MB payroll tax	\$ 12,368	\$ 12,390	\$ 12,700
Pension - current service	\$ 97,762	\$ 97,410	\$ 128,880
Salaries	\$ 569,910	\$ 567,815	\$ 590,530
Hardware	\$ 868	\$ 3,000	\$ 2,000
Software	\$ 3,235	\$ 2,000	\$ 2,200
Tech services	\$ 22	\$ 600	\$ -
Conferencing	\$ 9	\$ 300	\$ -
Staff travel	\$ -	\$ 3,000	\$ 3,000
Total Expense	\$ 4,081,724	\$ 3,491,928	\$ 4,086,990
Net Income (Loss)	\$ (83,025)	\$ 224,472	\$ (62,965)
Fund Equity, beginning of year	\$ 12,162,718	\$ 12,162,718	\$ 12,079,693
Fund Equity, end of year	\$ 12,079,693	\$ 12,387,190	\$ 12,016,728

Executive limitation - Fee not less than recommended by actuary

Law Society of Manitoba
 Education and Competence Fund (ECF) Budget
 April 1, 2023 to March 31, 2024

FINAL

	Projected April 1, 2022 to March 31, 2023	Budget April 1, 2022 to March 31, 2023	Budget April 1, 2023 to March 31, 2024
Income			
Practising fees	\$ 390,221	\$ 376,250	\$ 168,750
CPD program revenue	\$ 362,227	\$ 400,000	\$ 375,000
Manitoba Law Foundation	\$ 203,471	\$ 187,500	\$ 1,333,600
Miscellaneous revenue	\$ 15,000	\$ 500	\$ -
Total Income	\$ 970,919	\$ 964,250	\$ 1,877,350
Expense			
Coffee/water/pop/milk	\$ 406	\$ 500	\$ 500
Meetings catering	\$ 348	\$ 2,500	\$ 1,500
Program catering	\$ 1,861	\$ 30,000	\$ 30,000
Gifts	\$ 4,000	\$ 4,000	\$ 4,000
Anti money laundering course	\$ -	\$ -	\$ 10,000
Cultural awareness, The Path	\$ -	\$ -	\$ 43,000
Grant to General Fund (GF)	\$ 100,000	\$ 100,000	\$ 100,000
Miscellaneous	\$ 100	\$ 300	\$ 100
Courier	\$ 300	\$ 1,000	\$ 500
Office furniture/equipment	\$ 100	\$ 1,500	\$ 500
Office supplies	\$ 509	\$ 2,000	\$ 1,000
Photocopying expense	\$ 6,050	\$ 6,200	\$ 6,200
Course/conference fee	\$ 1,645	\$ 5,000	\$ 7,000
Membership fees	\$ 1,835	\$ 2,475	\$ 2,450
Contract services	\$ 2,059	\$ 3,000	\$ 10,000
Program speaker fee	\$ 5,483	\$ 20,000	\$ 20,000
Program printing	\$ 2,605	\$ 1,500	\$ 2,500
Rent - space	\$ 2,156	\$ 5,000	\$ 2,500
CPP exp	\$ 24,340	\$ 24,295	\$ 24,335
EI exp	\$ 7,928	\$ 7,765	\$ 7,840
MB payroll tax	\$ 13,648	\$ 13,680	\$ 13,635
Pension - current service	\$ 105,229	\$ 105,530	\$ 132,640
Salaries	\$ 629,102	\$ 626,885	\$ 634,015
Credit card fees	\$ 9,294	\$ 12,000	\$ 12,000
Paypal fee	\$ 1,000	\$ 1,000	\$ 1,000
AV services	\$ -	\$ 5,000	\$ 5,000
Hardware	\$ 737	\$ 3,000	\$ 3,000
Software	\$ 3,951	\$ 3,000	\$ 4,000
Tech services	\$ 4,444	\$ 4,880	\$ 4,800
Presenters' travel	\$ 2,007	\$ 8,000	\$ 10,000
Staff travel	\$ 1,500	\$ 10,000	\$ 15,000
Total Expense	\$ 932,637	\$ 1,010,010	\$ 1,109,015

Law Society of Manitoba
 Education and Competence Fund (ECF) Budget
 April 1, 2023 to March 31, 2024

FINAL

	Projected April 1, 2022 to March 31, 2023	Budget April 1, 2022 to March 31, 2023	Budget April 1, 2023 to March 31, 2024
Net Income (Loss)	\$ 38,282	\$ (45,760)	\$ 768,335
Fund Equity, beginning of year	\$ 1,324,841	\$ 1,324,841	\$ 1,363,123
Fund Equity, end of year	\$ 1,363,123	\$ 1,279,081	\$ 2,131,458
Executive limitation (> 20%, fund equity end of year/total expenses)			<u>192.19%</u>



MEMORANDUM

To: Benchers
From: Executive Officers
Date: January 30, 2023
**Re: Government Relations
Meeting with Minister of Justice**

On January 25, 2023, Sacha, Wayne, Rennie, Darcia and Leah met with the Minister of Justice, Kelvin Goertzen, along with Deputy Minister Jeremy Akerstream and ADM Michael Connor. The meeting was held at our request to brief the Minister on our progress on some key strategic initiatives and to explore where we might work together with the Province to advance our common priorities.

Our discussions focused on two areas: access to justice and equity, diversity and inclusion.

ACCESS TO JUSTICE

At the outset, we thanked the Minister for the amendments to *The Legal Profession Act* that will allow us to licence and regulate a limited practitioner. In particular, we expressed our appreciation for the Minister honouring our request to reserve the rule making power to the Law Society.

We briefly reviewed the consultation and surveys that have been undertaken to assist us to determine the breadth and scope of the limited licence and then we spent some time discussing the recently launched Sandbox project. We expressed an interest in further discussions with the government's lead in the Family Law Resolution Service as to how they may participate in the sandbox. Deputy Minister Akerstream was confident that they could assist the Society to increase awareness of the program in the public arena, recognizing the limited opportunities that the Society has to connect with this audience.

Additionally, we reviewed the work that is underway with the Access to Justice working groups related to establishing trusted community intermediaries in northern and rural areas as well as systems and technology in these areas. It was agreed that these are areas of common interest and the Minister encouraged us to continue to work together with provincial representatives on these projects.

Finally, we discussed our priority to recruit and retain lawyers in the northern and remote areas which aligns with the priorities of Manitoba Prosecutions and Legal Aid Manitoba as well as concerns held by the Province regarding a shortage of legal assistants and court clerks in these areas. We

agreed to identify means by which we might work together to generate interest in these areas to explore a career in the legal field generally.

EQUITY, DIVERSITY & INCLUSION

We highlighted for the Minister the progress that has been made in creating a Manitoba version of The Path and the implementation of mandatory education for lawyers commencing on October 1, 2023.

We also shared with the Minister the Society's priority to increase the number of Indigenous lawyers in the province. To the extent that this priority may align with the recruitment and retention activities, we were encouraged by the Minister's and his staff's enthusiasm to work together, keeping in mind that we are only seven months away from the next election.

SUMMARY

Overall, it was a positive meeting with a good dialogue with the Province.



MONITORING REPORT

To: Benchers

From: Rennie Stonyk and Eileen Derksen

Date: January 30, 2023

Re: Professional Education and Competence

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INTRODUCTION

The last monitoring report you received regarding the operations of the Professional Education and Competence Department was in December 2017.

The purpose of this monitoring report is to:

- assist you to judge if we are meeting the *ends* you have established;
- assist you to consider whether the *ends* need modification;
- assist you to judge if we are complying with the Executive Limitations and whether they need modification; and
- provide you with a knowledge base that will help you in your work as a benchers.

GOVERNANCE POLICIES

The Governance Policies contain the following *ends* that relate to the work of the Education and Competence Department:

- End #1* Lawyers are qualified on entry to the profession.
- End #2* Lawyers provide legal services competently after the call to the Bar and are ethical and of good moral character in the practice of their profession.

Pursuant to these *ends*, in the 2022-2025 Strategic Plan you identified competence as a strategic objective and directed the Law Society to:

Regulate proactively to protect the public interest by ensuring that legal services are delivered by competent and ethical lawyers.

You established a number of strategies to meet this objective, including a focus on well-being and providing support at stages of practice when it is most needed.

PEOPLE

The department has two distinct arms: Pre-Call and Post-Call. This report will focus on the Post-Call aspect of our work.

Two people work in the Pre-Call area: Joan Holmstrom, Director of Competence and Manitoba CPLED, and her administrative assistant, Lisa Ehnes. Joan acts as the liaison between articling students and CPLED. Joan and Lisa are both instrumental in planning the annual Call to the Bar ceremonies in Winnipeg and other Manitoba locations.

Seven full time staff work in the Post-Call area:

- Eileen Derksen, Director of CPD, oversees the CPD team and strategic priorities.
- Betta Wishart, Program Counsel, primarily plans CPD programs.
- Clayton McKnight, Learning Solutions Designer, brings elearning expertise to the online platforms we are developing.
- Sharon Kravetsky, Practice Resource Coordinator, coordinates and edits written practice resource materials (and occasionally presents).
- Laura Ziemanski, Administrative Assistant, with primary expertise in editing of publications.

- Kirsty Hyduk, Programs Assistant, primarily manages all registration details for live and archived programs.
- Mike Morier, Multi-Media Coordinator, responsible for the technology side of program delivery and communications, including posting on the Education Centre website and sending out email notifications regarding upcoming programs.

Darlene Douglas, who works primarily in Admissions and Membership, also provides .25 administrative support specifically related to the MCPD compliance work.

Leslie Supnet, a former employee of the department, provides video editing services on a contract basis.

The very brief descriptions of the responsibilities for each staff member are a significant understatement as each member of the CPD team takes on a multitude of roles and their skill sets continue to evolve as we stay current.

MANDATORY CONTINUING PROFESSIONAL DEVELOPMENT (MCPD)

An incremental approach was adopted when MCPD was first implemented by the benchers in 2008. For the first four years the Rules required that all practising members simply report to the Law Society what CPD activities they had participated in for each calendar year. Although practising members were required to report their CPD activities, there was no minimum number of hours required for this first phase.

In 2012 the Rules were amended to require that practising members participate in a minimum number of hours of CPD in each calendar year, specifically one hour of CPD for each month of practising status. For most practising lawyers that means 12 hours of CPD, of which at least 1.5 hours must relate to topics that fall within Ethics, Professionalism or Practice/Risk Management.

One responsibility of the Professional Education and Competence Department is to oversee the compliance of members with these MCPD requirements. The approach to compliance has been a “light touch” both administratively and in terms of enforcement. This means that we have chosen not to spend time and resources to accredit and approve CPD activities. Instead, our approach is that the members are best placed to determine if a particular CPD activity is relevant to their practice and professional development needs. Some guidelines are in place to set basic parameters to assist members to determine the types of CPD activity that would be eligible to report towards their required hours.

Discretion is exercised if a member discloses circumstances (such as a health concern) which have affected their ability to meet the required hours. Extensions may be granted or lesser hours may be acceptable depending on the circumstances. COVID impacts were also considered when exercising discretion.

Compliance has been strong. Only once in 10 years has a member been administratively suspended for non-compliance with the MCPD rules, due to persistent non-compliance without any reasonable explanation.

This approach to compliance allows the department to focus the vast majority of its resources towards proactively providing education resources to enhance the competence of our members.

RESOURCE PROVIDER

The majority of the department's strategic energies are committed to providing resources. The Law Society is best placed to offer certain resources that we know are needed as we can draw upon the experience in other departments of the Law Society, including insurance, audit and complaints. Some resources are critical to provide but would be cost prohibitive if they were delivered by the for-profit CPD sector. Programs, such as advocacy skills or those directed to members living in the North or in smaller communities, would be out of the price range for many members if the actual costs were charged.

The subject matter and delivery formats of CPD have changed substantially in the last 15 years and continue to evolve. There is an increasing complexity that we strive to acknowledge as we assist our members to understand the layers of skills and knowledge that the modern practitioner requires for optimal success.

We offer education resources in a variety of formats:

- Live programs which can be in-person, via webinar or both simultaneously (i.e., hybrid)
- Archived video recordings of past programs
- Written reference materials
- eCourses
- We are working on expanding our inventory of eCourses to include blended options (some components are self-study online and some are live components) and micro-learning bytes

The changing platforms and formats of resources require that the technology we use is updated regularly. In the past two years we have upgraded the Education Centre and the program registration process. Our next phase of work is focused on taking the Education Centre to the next level with a learning management system that will allow members to search and access more than

just live programs. It will be a one-stop centre where members can access archived past programs, live upcoming programs as well as eCourses and other reference material.

The content of our resources is guided by:

- The strategic priorities you have set out for 2022-2025; and
- A working definition of competence (which you will find at 3.1-1 of the *Code of Professional Conduct*).

Important factors that have an impact on resource delivery are:

- Accessibility – both in terms of format and also in terms of cost.
- Diversity – we are striving to increase the diversity of topics, presenters and formats. For example, as a relatively small jurisdiction we are pleased to be able to offer some annual programming in French.
- Collaboration – we have strong relationships with critical partners in the legal profession (including particularly the MBA and the Law School but there are others) and we are grateful for the incredible benefits of working together as we develop resources.

Some numbers on course registration...

Registration for live events increased with the pandemic years which we largely attribute to the increased accessibility of online events:

- 2019-2020 2,441 registrations from 21 live programs
- 2020-2021 3,680 registrations from 21 live programs
- 2021-2022 3,766 registrations from 24 live programs
- 2022-2023 2,866 registrations as of January 27 with 5 programs still to come

EMERGING ISSUES TO MONITOR

Mandatory Indigenous Intercultural Awareness and Competency Training

In March 2022, you resolved to require all Manitoba practising lawyers to complete a one-time course on Indigenous intercultural awareness and competency training. You further directed that “The Path” be the program to be further developed by the Law Society and to be completed by the profession. The program will be launched on October 1, 2023 and lawyers will have 18 months from that date to complete it.

Over the last several months, the Indigenous Advisory Committee along with our consultant, NVision, have been working to develop the Manitoba module for The Path. In the months ahead, the committee will be considering and making recommendations to you regarding what, if any,

exceptions ought to be made regarding the need to take the training, such as exemptions for Indigenous lawyers or partial exemptions for those who have completed a prior version of The Path.

We also are likely to present for your consideration rule amendments to address the requirements and the consequences of non-compliance.

Elsewhere in this meeting's materials, you will have seen reference to a petition that has been signed by 50 lawyers and presented to the Law Society of Alberta, in which they are seeking a resolution to repeal the rule upon which the Law Society of Alberta is relying to require their members to complete specific continuing development programming, including The Path. In fact, the deadline by which Alberta lawyers were required to complete the program has passed and 26 lawyers were suspended for failing to complete it. The Law Society of Alberta is holding a special meeting on February 6, 2023 to debate and vote on the resolution. In a letter to the profession, the benchers have emphasized the reasons why such a requirement is in the public interest and have asked members to attend the meeting and vote against the resolution.

Notably, neither our *Legal Profession Act* nor the Law Society Rules provide for the calling for a special meeting or resolution by Law Society members. Rather, in addition to regular meetings, additional meetings may be convened by the president and must be convened at the request of five or more benchers. While members can attend benchers meetings, they can only speak with leave of the meeting and only benchers are entitled to vote. At the annual general meeting, members are entitled to attend and speak, and those present are entitled to vote.

It is also worthy to note that there is precedent in Manitoba for mandating a specific education program. In 2010, when the benchers resolved to adopt the *Model Code of Conduct*, they also resolved to require all Manitoba lawyers to complete training on the new *Code* provisions by December 31, 2011. Furthermore, the Society's ability to mandate a CPD program, with an automatic suspension for non-compliance was upheld by the Supreme Court of Canada in *Green v. The Law Society of Manitoba* 2017 SCC 20.

Accordingly, we are likely to withstand a challenge to a mandated program. Nevertheless, challenges of the nature that is underway in Alberta do not strengthen public confidence in the legal profession, particularly at a time when self-regulating professions are facing increased scrutiny.

We have published a few articles about our plans to introduce this mandatory training and have heard no concerns to date. We are aware, however, of the potential effect that the petition in Alberta may have. In the next several months, we will continue to highlight the importance of lawyers participating in activities that enhance their skills, integrity, knowledge and professionalism and the rationale for mandating a one-time program in Indigenous intercultural awareness and competency. We would hope that the majority of Manitoba lawyers will understand the value of

such programming. It will also be helpful to highlight that the program is free to our members and can be applied to their annual CPD requirements.

In addition to the above-noted efforts, the development and delivery of The Path will involve significant resources from the CPD team. Phase 2 of our Education Centre platform development is connected to our intention to host The Path on our website.

Well-Being

We have been attuned to the importance of well-being and its impact on the competence of members for some time. The recently released Recommendations from the National Study on the Health & Wellness Determinants of Legal Professionals in Canada (the “National Study”) make it abundantly clear that there is more to do. Educators are well placed to respond to many of the recommendations and it is our intention to continue to work directly with our partners in the profession to provide as much support as we possibly can to assist members. In particular, we are eager to develop and build on opportunities to hone well-being skills.

You will be well-familiar with the health and wellness programs that have been launched and/or supported by the Law Society, such as Law(yer) Strong, the Manitoba Blue Cross Health & Wellness Program (EAP), and the new Health Recovery Program. The CPD department will continue to be involved in the area of health and well-being on the following initiatives:

- Liaising with stakeholders, such as the Manitoba Bar Association and Law(yer) Strong to offer additional CPD programs on the topics of health and well-being;
- Offering existing Manitoba Blue Cross literature and resources on health and well-being to our membership;
- Working with Law(yer) Strong, managing partners at firms and leaders of legal departments to explore the concept of a “wellness challenge” in which firms or legal organizations could participate; and
- Continuing to publish an annual *Communiqué* issue dedicated to the theme of health and well-being each October, which may include a spotlight on lawyers in successful practice who can serve as ambassadors to others in the profession.

Is it time to refresh the MCPD rules and/or guidelines?

While not overly prescriptive, the mandatory CPD guidelines (found [here](#)) provide a general overview of the eligible CPD activities that members may participate in to meet the MCPD requirements. Self study generally does not qualify and mentoring activities are also excluded from the list of eligible activities. With the changing landscape for practitioners and educators it may be time to review our rules, policies and guidelines for MCPD and what is considered eligible learning activity.

The Admissions and Education Committee could consider options for us to review, such as:

- Whether or not mentoring time should qualify as a learning activity. The National Study Recommendations touched on the importance of mentoring so is this something that the Law Society could do to help encourage mentor relationships?
- Should we change our self study parameters in any way?
- Is there a way for our rules or guidelines to include encouragement of self-reflective practice, perhaps with a suggested PD plan?

If you decide that the Society should dedicate resources to addressing the above questions in the coming year, we propose that they be referred to the Admissions and Education Committee for further consideration.

CONCLUSION

The Professional Education and Competence department has evolved significantly over the years. The needs of the profession have increased and we are aware of the complexity of the needed skills and knowledge. We will continue to reflect on where best to dedicate our limited resources in order to be responsive to the education needs of our members.