

MINUTES

Benchers

Date:	Thursday, February 9, 2023	
Time:	12:30 p.m.	
Location:	Law Society Offices and via Videoconference	
Present:	Sacha Paul, President Wayne Onchulenko, Vice President Grant Driedger, Past President Miriam Browne, Officer-at-Large Susan Boulter Mason Broadfoot Kyle Dear Serena Ehrmantraut Blair Filyk Sharyne Hamm Kameron Hutchinson Teresa Jaenen	Tehani Jainarine Dr. Richard Jochelson Leah Klassen Mathieu Lafreniere Kenneth Mandzuik Brian McLeod Christian Monnin Carmen Nedohin Kelli Potter Nikhilesh Verma Gerri Wiebe
Regrets:	Joëlle Pastora Sala	
Guests:	Lynda Troup	Erin Wilcott
Staff Present:	Leah Kosokowsky Rennie Stonyk Noelia Bernardo Pat Bourbonnais Natasha Brown	Colleen Malone Deirdre O'Reilly Richard Porcher Sean Rivera Karen Sawatsky

Tana Christianson
Eileen Derksen
Joan Holmstrom

Darcia Senft
Betta Wishart

1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT

Mr. Paul, President, called the meeting to order at 12:30 p.m. and welcomed everyone to the meeting. Treaty territories 1, 2 and 10 were acknowledged with gratitude.

2.0 IN MEMORIAM

Benchers observed a moment of silence for David Lawrence Fraser, Chrysostomos Pappas, K.C., Allan Farrell Weinshenker, Ronald Edward Dearman and Sidney Gold Soronow.

3.0 CONSENT AGENDA

3.1 Minutes of December 15, 2022 Meeting

The minutes of the benchers' meeting held on December 15, 2022 were considered.

3.2 Report of the Complaints Investigation Committee

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

3.3 Reports of the Discipline Committee

Benchers received for information the reports of the Discipline Committee.

3.4 *Code of Professional Conduct* Amendments -- Language Rights

The amendments to the *Code of Professional Conduct* pertaining to language rights were approved in final form in both English and French.

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

MOVED: Mr. Mandzuik
Seconded: Ms Dear
Carried.

4.0 EXECUTIVE REPORTS

4.1 President's Report

Mr. Paul reported to benchers on his attendance at several internal and external meetings since the benchers had last met in December of 2022.

Mr. Onchulenko joined the meeting at 1:00 pm.

4.2 Chief Executive Officer's Report

Benchers received for information Ms Kosokowsky's report dated January 30, 2023. Ms Kosokowsky reported to benchers on an unsuccessful petition made by members of the Law Society of Alberta for a resolution to remove the rule which permits the Law Society to mandate education for its members and, in particular, in relation to the requirement that members participate in Indigenous cultural competency education. Benchers were advised that as a result of the decision rendered by the Court of Appeal in *Green v. The Law Society of Manitoba*, the Law Society would be in a position to effectively resist a similar challenge in this jurisdiction. Benchers expressed disappointment with any member of the profession who would object to participating in Indigenous cultural competency education. It was noted that when the Society is ready to roll out its training program, it will be important to deliver a thoughtfully crafted message to its members.

4.3 Strategic Plan Progress Report - February 2023

Ms Kosokowsky reviewed with benchers the February 2023 Strategic Plan Progress Report. Benchers were encouraged to attend the Building Connections Networking Event on March 16, 2023 which is organized specifically for Indigenous law and articling students.

5.0 DISCUSSION/DECISION

5.1 Code of Professional Conduct Amendments - Harassment, Discrimination and Ex Parte Communications

Benchers were advised that this item was being removed from the agenda as the French version of the amendments to the *Code of Professional Conduct* had not been finalized.

Mr. Driedger joined the meeting at 1:15 pm.

6.0 MISCELLANEOUS BUSINESS

6.1 Appointment of Nominating Committee

Benchers considered Ms Kosokowsky's memorandum, dated January 30, 2023, which invited benchers to approve the recommendations of the Executive to appoint Mr. Driedger (Chairperson), Mr. Paul, Mr. Onchulenko, Ms Klassen, Mr. Lafreniere, Ms Boulter and Ms Jaenen as members of the Society's 2023 Nominating Committee.

Motion: That Mr. Driedger (Chairperson), Mr. Paul, Mr. Onchulenko, Ms Klassen, Mr. Lafreniere, Ms Boulter and Ms Jaenen be appointed to serve as members of the Law Society's 2023 Nominating Committee.

MOVED: Mr. Monnin
Seconded: Ms Nedohin
Carried.

Benchers were also asked to suspend the provision within Rule 2-54 and Rule 2-55 which provides that the election of the president and vice-president take place annually at the April meeting of benchers. By suspending this requirement, the election could then take place at the meeting of benchers scheduled for March 23, 2023.

Motion: That the provision within Rule 2-54 and Rule 2-55 which requires that the election of the president and vice-president take place at a meeting held in the month of April be temporarily suspended and that the election for both the president and vice-president take place at the March 23, 2023 meeting of the benchers.

MOVED: Ms Browne
Seconded: Mr. McLeod
Carried.

Benchers were advised that if they wished to allow for the counting of absentee ballots for the election of the vice-president, they would also need to suspend the portion of Rule 2-55 which provides for the counting of ballots cast by the benchers in attendance at the meeting.

Motion: That the provision within Rule 2-55 which provides that only benchers in attendance at the meeting may participate in the election, be temporarily suspended.

MOVED: Ms Ehrmantraut
Seconded: Ms Klassen
Carried.

6.2 Independent Chair of Discipline

Benchers considered Ms Kosokowsky's memorandum, dated January 30, 2023, which informed benchers of Mr. Scott's intention to resign as Independent Chair of the Discipline Committee, effective July 1, 2023. Benchers were asked to approve the appointment of Ms Leonoff as Chair of the Discipline Committee, effective July 1, 2023, and that in the interim, she be appointed to fill the currently vacant Vice-Chair position.

Motion: That Heather Leonoff, K.C., be appointed to serve as Chair of the Discipline Committee, effective July 1, 2023.

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

Motion: That Ms Leonoff, K.C. be appointed to serve as Vice-Chair of the Discipline Committee, effective immediately.

MOVED: Ms Wiebe
Seconded: Mr. Hutchinson
Carried.

6.3 Bencher Vacancies

Bencher considered Ms Kosokowsky's memorandum, dated January 26, 2023, which invited benchers to endorse the recommendations of the Executive Officers to: (i) hold a referendum (by-election) to fill the existing vacancy in the City of Winnipeg Electoral District arising from Mr. Kavanagh's resignation as a bencher; and, (ii) have the Nominating Committee recommend a candidate to fill the appointed bencher vacancy which will arise when Mr. Paul concludes his term as president of the Law Society in May of 2023.

Motion: That a by-election be held to fill the existing vacancy in the City of Winnipeg Electoral District.

MOVED: Mr. Lafreniere
Seconded: Ms Boulter
Carried.

Bencher agreed that the Nominating Committee should be tasked with recommending a candidate to fill the appointed bencher vacancy which will arise when Mr. Paul has concluded his term as president of the Law Society and is appointed a Life Bencher.

6.4 By-Election Officers

Bencher considered Ms Stonyk's memorandum, dated January 27, 2023, which invited benchers to: (i) appoint a person to serve as substitute chief electoral officer for the upcoming by-election in the City of Winnipeg Electoral District in the event the vice-president is unable to act; and, (ii) appoint two persons to serve as scrutineers in the by-election. It was recommended that Mr. Paul be appointed to serve as the substitute chief electoral officer in the event Mr. Onchulenko is unable to serve, and that Ms Kosokowsky and Ms Malone be appointed to serve as the election scrutineers.

Motion: That Mr. Paul be appointed to serve as the substitute chief electoral officer for the by-election being held in the City of Winnipeg Electoral District in the event Mr. Onchulenko is unable to serve, and that Ms Kosokowsky and Ms Malone be appointed to serve as election scrutineers.

MOVED: Dr. Jochelson
Seconded: Mr. McLeod
Carried.

6.5 2023-2024 Bencher Expense Budget

Benchers considered a memorandum prepared by Ms Kosokowsky, dated February 1, 2023, which reported on the setting of the bencher expense budget for the period April 1, 2023 to March 31, 2024.

Motion: That the bencher expense budget for the 2023/2024 fiscal period be approved as presented.

MOVED: Mr. Driedger
Seconded: Mr. Lafreniere
Carried.

6.6 2023-2024 Budget

Benchers received for information Ms Kosokowsky's memorandum, dated January 30, 2023, which provided a detailed report on the setting of the Law Society's operating budget for the period April 1, 2023 to March 31, 2024. Benchers were advised that a significant increase in the statutory grant received annually from the Manitoba Law Foundation has allowed the Law Society to provide an overall decrease in the practising fee for the 2023/2024 practising period of \$185. Notice of the new fee assessment will be circulated to the profession at the end of February.

6.7 Government Relations - Meeting with Minister of Justice

Benchers considered a memorandum from the Executive Officers, dated January 30, 2023, which provided a detailed report on their meeting with Minister Goertzen on January 25, 2023.

7.0 COMMITTEE REPORTS

7.1 Admissions and Education Committee

Ms Dear reported to benchers on the meeting of the Admissions and Education Committee which was held on January 9, 2023. At this meeting the committee discussed the shortcomings of the Law Society's forgivable loan program since its inception in 2008 and the difficulties of practising in remote communities and in northern Manitoba in particular. Specific consideration was given to what might be done to make the program more effective or whether there might be greater benefit in reallocating those resources to other initiatives aimed at increasing the number of lawyers practising in underserved communities outside of Winnipeg. The committee agreed that it would defer immediate consideration of the future of the program until the spring to allow staff time to conduct the further research needed to inform the work of the committee.

7.2 Indigenous Advisory Committee

Ms Kosokowsky advised that the Indigenous Advisory Committee is continuing to provide its assistance in the development of the Manitoba-specific content of the Indigenous intercultural awareness and competency training program. The committee is scheduled to meet on March 24, 2023, at which time it will further discuss the criteria for exemption to participation in the program.

8.0 MONITORING REPORTS

8.1 Professional Education and Competence

Benchers considered a monitoring report prepared by Ms Stonyk and Ms Derksen, dated January 30, 2023, which provided a detailed report on educational programming and resources delivered by the Law Society designed to support competence within the profession.

Ms Troup joined the meeting at 2:05 pm.

9.0 FOR INFORMATION

Benchers considered the materials provided for information.

10.0 *IN CAMERA* DISCUSSION

Mr. Paul, Mr. Broadfoot, Ms Hamm, Ms Troup and Mr. Verma were excused from the meeting at 2:10 pm due to a conflict on this agenda item,. Ms Wilcott was also excused from the meeting at this time. Mr. Onchulenko assumed the role of chair of the meeting.

10.1 Reimbursement Claims Fund - Paul Hesse Defalcation

Motion: That this agenda item be discussed *in camera*.

MOVED: Mr. Mandzuik
Seconded: Mr. Lafreniere
Carried.

Benchers discussed a detailed report, dated February 2, 2023, on matters related to the Reimbursement Claims Fund arising from the defalcation of Mr. Hesse.

Motion: That the meeting proceed out of camera.

MOVED: Ms Boulter
Seconded: Mr. Lafreniere
Carried.

There being no further business, Mr. Onchulenko adjourned the meeting at 3:00 pm.