

MINUTES

Benchers

Date: Thursday, June 23, 2022

Time: 1:05 p.m.

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

Present:

Sacha Paul, President	Tehani Jainarine
Wayne Onchulenko, Vice President	Dr. Richard Jochelson
Grant Driedger, Past President	Leah Klassen
Miriam Browne, Officer-at-Large	Tyler Koshowski
Susan Boulter	Mathieu Lafreniere
Mason Broadfoot	Kenneth Mandzuik
Kyle Dear	Christian Monnin
Serena Ehrmantraut	Joëlle Pastora Sala
Sharyne Hamm	Kelli Potter
Kameron Hutchinson	Gerri Wiebe

Regrets:

Blair Filyk	Brian McLeod
Anthony Kavanagh	

Guests:

Alexander Barnes	Lynda Troup
Jonathan Herman	Erin Wilcott
Karine Pelletier	Ceyna Yu
Nicolas Plourde	Micah Zerbe

Staff Present:

Leah Kosokowsky	Colleen Malone
Rennie Stonyk	Deirdre O'Reilly
Noelia Bernardo	Richard Porcher
Pat Bourbonnais	Sean Rivera
Natasha Brown	Karen Sawatzky
Tana Christianson	Noah Scatliff

Eileen Derksen
Joan Holmstrom
Sharon Kravetsky

Alissa Schacter
Darcia Senft

1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT

Mr. Paul, President, called the meeting to order at 1:05 p.m. and welcomed everyone to the meeting, including newly appointed bencher, Ms Ehrmantraut, and third year law students, Mr. Barnes, Ms Yu and Mr. Zerbe. Benchers were advised that the President and Chief Executive Officer of the Federation of Law Societies of Canada, Mr. Plourde and Mr. Herman, respectively, would be joining the meeting shortly. Treaty territory 1 was acknowledged with gratitude.

2.0 IN MEMORIAM

Benchers observed a moment of silence for John Alan Davidson, Irvin David Perlov and David Leon Francis Hebert.

3.0 CONSENT AGENDA

3.1 Minutes of May 19, 2022 Meeting

The minutes of the meeting held on May 19, 2022 were approved as presented.

3.2 Minutes of May 31, 2022 Special Meeting

The minutes of the special meeting held on May 31, 2022 were approved as presented.

3.3 Discipline Committee Reports

Benchers received for information the reports of the Discipline Committee.

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

MOVED: Ms Pastora Sala
Seconded: Ms Klassen
Carried.

4.0 PRESENTATION TO STUDENT PRIZE WINNERS

Congratulations were extended to the following University of Manitoba, Faculty of Law students for having attained the four highest standings in third year law:

Margaret Hypatia Crawford Award for highest standing in third year law	Celyna Yu
Second highest standing in third year law	Laura Balagus
Third highest standing in third year law	Alexander Barnes
Fourth highest standing in third year law	Micah Zerbe

Benchers were advised that the prize money associated with each award was being sent directly to the award recipients.

Ms Yu, Mr. Barnes and Mr. Zerbe were excused from the meeting at 1:15 pm. Ms Pelletier joined the meeting at this time.

5.0 EXECUTIVE REPORTS

5.1 President's Report

Mr. Paul reported to benchers on his attendance at: (a) the meeting of the benchers of the Law Society of Alberta held in Jasper on June 1 and 2, 2022; (b) the SOGIC Reception hosted at the Law Society offices on June 9, 2022; and, (c) the mass Call to the Bar Ceremony held at the RBC Convention Centre on June 16, 2022.

5.2 Chief Executive Officer's Report

Benchers received for information Ms Kosokowsky's report dated June 15, 2022. Ms Kosokowsky advised that in addition to the 120 candidates who were called to the Bar on June 16, 2022, call ceremonies had also been held in Brandon and Dauphin. Ms Kosokowsky reported on the issuance of the *Cullen Commission Report* which examined and provided recommendations to assist the Province of British Columbia in addressing a serious money laundering problem which has surfaced in that jurisdiction. The report acknowledged the extensive regulatory measures taken by the Law Society of British Columbia, with the assistance of the Federation of Law Societies of Canada, to adopt processes which have mitigated risk to the legal profession and their clients. It did, however, include several recommendations of additional measures which could be put in place and these are being

actively considered by the Federation's Anti-Money Laundering Working Group. Benchers were advised that they can expect to receive more information on implementation of these recommendations in due course.

Ms Kosokowsky reported on consequential amendments to *The Legal Profession Act* which had been made without notice to the Law Society relating to the repeal of the *Civil Service Act* and the enactment of the *Public Service Act*. Discovery of these amendments had raised concerns that there may be members who are practising without insurance coverage, or that there may be a larger than anticipated number of members who would be exempt from the requirement to purchase professional liability insurance coverage, thus adversely impacting the Society's operating budget. Further investigation revealed that the impact of these amendments on the Society was limited. Ms Kosokowsky noted that this instance emphasized the importance of the Law Society continuing to develop its government relations strategy.

5.3 Strategic Plan Progress Report - June 2022

Benchers received for information the June 2022 progress report on the Strategic Plan for the 2022 - 2025 period.

6.0 DISCUSSION/DECISION

6.1 Code of Professional Conduct - Language Rights Amendments

Benchers considered a memorandum prepared by Ms Senft, dated June 14, 2022, which outlined proposed amendments to the *Code of Professional Conduct*. Benchers were reminded that these amendments arose from a recent request made by L'Association des juristes d'expression française du Manitoba that the commentary to Language Rights rules 3.2-2A and 2B within the *Code* be expanded, both locally and nationally, to recognize the language guarantees recently added to the *Divorce Act*, and that the commentary be further expanded to also identify additional language guarantees specific to Manitoba legislation.

Benchers were invited to consider the proposed amendments to Commentary [2] which incorporated the requested amendments relating to the *Divorce Act* and to section 23 of the *Manitoba Act, 1870*. Ms Senft advised that if benchers were prepared to endorse these amendments, a recommendation would be made to the Federation's Model Code Committee that a similar amendment be made to the Model Code in relation to the *Divorce Act* provision.

Mr. Herman and Mr. Plourde joined the meeting at 1:35 pm.

Mr. Monnin MOVED that benchers consider including the following additional provision within the commentary to make clear to the profession the circumstances in which the lawyer's duty to inform a client of their language rights must be applied in Manitoba:

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

1. Subsection 19(1) of the Canadian Charter of Rights and Freedoms which relates to the right to use French or English in every tribunal established by Parliament.
2. Section 530 of the Criminal Code which relates to the rights of an accused to be tried in either French or English, or both official languages and to be heard and understood by a court in the language of the accused.
3. Subsection 23.2 of the *Divorce Act* which relates to the right to use either French or English, or both official languages in a proceeding issuing from the Divorce Act.
4. Section 23 of the *Manitoba Act, 1870* which relates to equal access in either French or English or both official languages, to the legislature, the laws and the courts.

Mr. Monnin noted that these amendments are consistent with the language rights provisions adopted by the Law Society of New Brunswick within its *Code of Professional Conduct*.

Ms Pelletier requested on behalf of the AJEFM that this matter be deferred until L'Association has had an opportunity to further discuss with Ms Senft a further redrafting of the amendments to specifically reference the *Manitoba Francophone Community Enhancement and Support Act* as well as Part III of the Court of Appeal Rules [Manitoba Regulation 555/88 R].

Mr. Monnin indicated that he was prepared to withdraw his motion at this time to allow the Law Society and the AJEFM to participate in further discussions on this issue.

MOTION: That discussion of this agenda item be deferred until L'Association des juristes d'expression française du Manitoba has had an opportunity to engage in further discussion with the Law Society regarding the *Code* amendments which have been requested.

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

Mr. Paul welcomed Mr. Herman and Mr. Plourde to the meeting.

7.0 MISCELLANEOUS BUSINESS

7.1 Strategic Plan - Outreach to the Northern Bar

Benchers considered a memorandum prepared by Ms Kosokowsky, dated June 10, 2022, which outlined a series of immediate steps and short term measures which have been implemented to address the difficulties being experienced by members practising in northern Manitoba. Benchers were advised that a long term strategy will be developed based on the information which is collected from a survey of all members practising in this region.

7.2 Manitoba Blue Cross Report - Health and Wellness Program

Benchers considered a memorandum prepared by Ms Kosokowsky, dated June 15, 2022, which provided statistical data on the utilization of services which are available to members and their families under the Manitoba Blue Cross Employee Assistance Program during the period May 1, 2021 to April 30, 2022. It was noted that the data indicates a significant increase in utilization of services over the previous year, however, it is unclear whether this is attributable to an increased awareness of the program or if members are experiencing greater stress and anxiety. Benchers were advised that staff will be meeting with Blue Cross staff to try to obtain further insight on this issue.

It was noted that during the reporting period, no members sought assistance for substance abuse. This suggests that members may be concerned that information of this nature may be disclosed to the Law Society. It was recommended that the Law Society make clear to the profession the information which is disclosed by Blue Cross to the Law Society.

7.3 Law Library Hub - Interim Report

Benchers received for information a memorandum prepared by Ms Senft, dated June 15, 2022, which provided a detailed interim report on the operations of the Law Library Hub for the period October 2021 to April 2022.

7.4 Insurance Levy - 2022-2023

Benchers received for information a memorandum prepared by Ms Kosokowsky, dated June 15, 2022, which reported on the setting of the insurance levy for the period July 1, 2022 to June 30, 2023 at \$1,699 plus applicable taxes.

7.5 FLSC Council Report

Benchers received for information Ms Troup's report, dated June 6, 2022, which provided a detailed report on the Federation Council meeting held in Ottawa on June 6, 2022.

8.0 MONITORING REPORTS

8.1 Equity, Diversity and Inclusion

Benchers received for information a monitoring report, dated June 15, 2022, which provided a detailed report on operations in the area of equity, diversity and inclusion.

9.0 GUEST PRESENTATIONS

9.1 Remarks from the President and CEO of the Federation

Mr. Plourde thanked benchers for providing him with the opportunity to meet with them in his role as President of the Federation of Law Societies of Canada. He provided a detailed oral report on the work of the Federation, noting the large number of significant achievements which have been accomplished by the organization through the collaborative efforts of the 14 member law societies.

Mr. Herman reported to benchers on the recent report issued by Austin Cullen, who had been commissioned in 2019 to conduct a public inquiry to fully examine the money laundering problem which had arisen in British Columbia. Mr. Herman noted that the report recognized the important measures taken by Canadian law societies to adopt anti-money laundering policies which are intended to prevent lawyers from being used as conduits to launder money and also aimed at protecting client confidentiality.

9.2 Honourary Membership

Motion: That Mr. Plourde be appointed an honorary member of the Law Society of Manitoba.

MOVED: Mr. Onchulenko
Seconded: Mr. Lafreniere
Carried.

Mr. Plourde was presented with an Honourary Member certificate.

10.0 FOR INFORMATION

Benchers considered the materials provided for information.

There being no further business, Mr. Paul adjourned the meeting at 2:20 p.m.