



MINUTES

Benchers

Date: Thursday, May 16, 2024

Time: 12:00 pm

Location: Via Videoconference

Present:

Wayne Onchulenko, President	Dr. Richard Jochelson
Gerri Wiebe, KC, Vice President	Mathieu Lafrenière
Sacha Paul, Past President	Christopher Lange
Miriam Browne, Officer-at-Large	Kenneth Mandzuik, KC
Kathrine Basarab	Christian Monnin
Susan Boulter	Carmen Nedohin
Kyle Dear	Joëlle Pastora Sala
Mason Geddes	Kelli Potter
Simon Jack	Trent Sholdice
Teresa Jaenen	Leah Unruh
Tehani Jainarine	Josh Weinstein

Regrets:

Kassy Baker	Sharyne Hamm
Serena Ehrmantraut	

Guests: Erin Wilcott

Staff Present:

Leah Kosokowsky	Joan Holmstrom
Rennie Stonyk	Rocky Kravetsky
Sandra Alleyne	Deirdre O'Reilly
Noelia Bernardo	Richard Porcher
Pat Bourbonnais	Sean Rivera
Tana Christianson	Karen Sawatzky

Eileen Derksen
Linda Fontaine

Alissa Schacter
Darcia Senft

1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT

Mr. Onchulenko, President, called the meeting to order at 12:35 pm. Newly elected benchers, Simon Jack, Trent Sholdice and Joshua Weinstein, were welcomed to the meeting as well as returning benchers, guests and staff. Treaty territories 1, 2 and 5 were acknowledged with gratitude.

2.0 IN MEMORIAM

Benchers observed a moment of silence for Patricia Mary Fitzmaurice, Heather Mary McLaren and Bruce Ivor Mellon.

3.0 CONSENT AGENDA

3.1 Minutes of March 21, 2024 Meeting

Benchers considered the minutes of the benchers' meeting held on March 21, 2024.

3.2 Approval of Translated Rule Amendments – Expansion of CSO Category

Benchers considered the amendments to Division 8 – Services Delivered by or through Civil Society Organizations in final form in both English and French.

3.3 Report of the Complaints Investigation Committee

Benchers received the report of the Complaints Investigation Committee.

3.4 Reports of the Discipline Committee

Benchers received the reports of the Discipline Committee.

Motion: That the consent agenda items be approved as presented.

MOVED: Ms Boulter
Seconded: Mr. McLeod
Carried.

4.0 EXECUTIVE REPORTS

4.1 President's Report

Benchers received for information Mr. Onchulenko's report dated May 8, 2024. Mr. Onchulenko advised that the executive had met with the Honourable Matt Wiebe, Minister of Justice and Attorney General of Manitoba, on May 14, 2024. Discussion at this meeting had primarily focused on the work being done by the Law Society in the area of access to justice. As there had not been an opportunity to discuss the practices adopted by the Society which ensure and promote transparency, particularly in the area of discipline, it was recommended that this information be shared with the Minister in a follow-up communication.

4.2 Chief Executive Officer's Report

Benchers received for information Ms Kosokowsky's report dated May 6, 2024. Benchers received an update on additional staff changes, including the hiring of auditor inspector, Randy Unger. As this was the final meeting Ms Senft would be attending prior to her retirement at the end of May, she was recognized and thanked for the 28 years of service she had provided to the Law Society.

4.3 Strategic Plan Progress Report

Benchers received for information the Strategic Plan Progress Report covering the period January 2022 to May, 2024.

5.0 NOMINATING COMMITTEE REPORT

5.1 Lay Bencher Appointments, Lawyer Bencher Appointments and Officer-at-Large Appointment

Benchers considered a memorandum, dated May 9, 2024, which provided a detailed report on the work undertaken by the Nominating Committee to fill the six lay bencher positions, the four appointed lawyer positions and the Officer-at-Large position.

With respect to the lay bencher positions, benchers were asked to approve the recommendation of the Nominating Committee to recommend to the special committee chaired by the Chief Justice of Manitoba the appointment of Tehani Jainarine, Carmen Nedohin, Teresa Jaenen, Gordon Damon, Patrick Fortier and Deanna Wilson to fill the six lay benchers positions.

Motion: That Mr. Damon, Mr. Fortier, Ms Jaenen, Ms Jainarine, Ms Nedohin and Ms Wilson be recommended to the special committee chaired by the Chief Justice of Manitoba for appointment as lay benchers for a term of two years.

MOVED: Mr. Monnin
Seconded: Mr. Lafrenière
CARRIED.

Benchers were asked to endorse the recommendation of the Nominating Committee to appoint Ms Nedohin to fill the Officer-at-Large position.

Motion: That Ms Nedohin be appointed to serve in the role of Officer-at-Large for a term of two years, effective May 16, 2024.

MOVED: Mr. Onchulenko
Seconded: Mr. Lafrenière
Carried.

Benchers were advised that the Nominating Committee would be meeting immediately following the conclusion of the bencher meeting to make its final determinations on: (a) the candidates to be recommended to fill the four appointed lawyer bencher positions; (b) the membership of all standing and special committees; and, (c) the individuals who will serve as the Law Society's representatives on a slate of external committees and boards. Benchers

were advised that the committee will present its final report and recommendations at the special meeting of benchers scheduled for May 30, 2024.

5.2 Awarding of Life Bencher Status to Wayne Onchulenko

Ms Wiebe thanked Mr. Onchulenko for the contributions he had made to the Law Society during his tenure as President.

Motion: That, having concluded his term as President of the Law Society of Manitoba, Mr. Onchulenko be appointed a Life Bencher.

MOVED: Ms Basarab
Seconded: Mr. McLeod
CARRIED.

Ms Wiebe assumed the role of President and chaired the balance of the meeting. Mr. Monnin assumed the role of Vice-President.

5.3 Thank You to Past President Sacha Paul

Although Mr. Paul had not yet concluded his work as chairperson of the Nominating Committee, he was recognized for the many contributions he had made to the Society during his tenure as a bencher and executive member of the Law Society.

5.4 Awarding of Honourary Member Certificates to Susan Boulter, Miriam Browne and Brian McLeod

Benchers were advised that when the new slate of lay benchers have been approved by the Chief Justice's special committee, Ms Boulter, Ms Browne and Mr. McLeod will have then formally concluded their term as lay benchers. They were each thanked for their eight years of service to the Society in this role and were also thanked for agreeing to continue to serve as public representatives.

Motion: That Ms Boulter be appointed an Honourary Member of the Law Society of Manitoba.

MOVED: Ms Basarab
Seconded: Mr. Lafrenière
Carried.

Motion: That Ms Browne be appointed an Honourary Member of the Law Society of Manitoba.

MOVED: Ms Nedohin
Seconded: Mr. Onchulenko
Carried.

Motion: That Mr. McLeod be appointed an Honourary Member of the Law Society of Manitoba.

MOVED: Mr. Mandzuik
Seconded: Ms Dear
Carried.

6.0 DISCUSSION/DECISION

6.1 Code Amendment – Single-Party Communications with a Tribunal

Benchers considered a memorandum prepared by Ms Stonyk, dated May 7, 2024, which reported on a recent small amendment to the Federation's Model Code of Conduct which clarified that the rule pertaining to single-party communications with a tribunal (Rule 5.1-2C) did not apply to mediations. Benchers were asked to consider and approve the identical amendment to the Society's *Code of Professional Conduct* at Rule 5.1-2C which was presented for their review in final form in both English and French. It was noted that the Society had not obtained a French translation and in this instance was relying on the Federation's French version which had been approved by Council.

Motion: That the amendment to Rule 5.1-2C be approved in both English and French as presented.

MOVED: Ms Browne
Seconded: Mr. Geddes
Carried.

6.2 Part-Time Practising Fees

Benchers considered a memorandum prepared by Ms Schacter, dated May 7, 2024, which invited benchers to consider and approve an amendment to the eligibility criteria for participation in the part-time practising fees pilot program which now provided discretion to the chief executive officer to permit participation by applicants who, due to their own serious

health concerns, are unable to practise on a full time basis. Benchers were reminded that at their meeting on February 8, 2024, they had approved the extension of the pilot program for an additional three years, subject to the inclusion of an exceptional circumstances clause and with discretion provided to the CEO to approve applicants in this category.

Benchers considered the proposed wording of the amendment at Clause 4 and ultimately agreed that as the CEO would have discretion to approve applications, it may be confusing to include the phrase “In exceptional circumstances” within this provision. It was also noted that the phrase “chronic disease” had been referenced in error and that the correct wording should be “chronic illness”. Accordingly, the footnote referenced within Clause 4 pertaining to chronic illness would be deleted.

Motion: That the proposed criteria for Eligibility for Part-Time Practising Status as set out in Appendix A be approved as presented, subject to the following amendment to Clause 4:

The CEO may, in their discretion, approve the participation of members who, due to their own serious, chronic illness or disability are required to reduce their hours of practice, and otherwise meet the program’s eligibility criteria as set out in paragraphs 1 and 2. The CEO may require the member to provide medical information in support of their application under this criteria.

MOVED: Mr. Lafrenière
Seconded: Mr. McLeod
Carried.

Benchers were reminded that at the conclusion of the pilot, it is anticipated that the Society will have collected enough data to determine whether the program is meeting the needs of its target audience.

7.0 MISCELLANEOUS BUSINESS

7.1 Regulatory Sandbox – Progress Report

Benchers considered a memorandum prepared by Ms Kosokowsky, dated May 6, 2024, which provided a detailed report on the six applicants who have been approved for participation into the Society’s sandbox pilot project.

7.2 CPLED Report – May 2024 Update

Ms Stonyk reviewed with benchers a report prepared by Lisa Worthington, CEO of the Canadian Centre for Professional Legal Education, dated May 8, 2024, which provided comprehensive data on the March 2024 Capstone Evaluation Results for students registered in the summer 2023/2024 PREP program as well as specific data for the Manitoba registrants. The report also provided a breakdown of national and local performance data for NCA and CCL participants during this period. This data reflected a significant variance in the pass rates for Manitoba's registrants (97% pass rate for CCL candidates verses a 52% pass rate for NCA candidates).

Benchers were advised that both CPLED and the NCA have been making improvements to their programs which are targeted towards ensuring that the internationally trained registrants are better equipped to practice in Canada on entry to the profession. Additionally, the Faculty of Law is in the process of developing two micro diplomas for NCA candidates which are being created to aid registrants in acquiring the competencies needed to successfully navigate the CPLED program, and be better prepared for entry into practice. The effect of all of these reported changes will not be fully understood for several years.

Benchers were advised that the Law Society will be closely following these two cohorts over time to see if the difficulties experienced during CPLED follow them into practice. In the short term, articling students, recent graduates of CPLED and principals have been invited to participate in a survey focused primarily on their experience with articling. CPLED will continue to gather its own statistical data and survey information.

Benchers were also advised that when they begin their strategic planning process, they will have an opportunity to decide the level of priority they want placed on reviewing the overall articling experience and practising experience of newly called members.

7.3 Reappointment of Complaints Review Commissioner

Benchers considered a memorandum prepared by Ms Stonyk, dated May 6, 2024, which recommended the reappointment of Mr. Vowell as Complaints Review Commissioner for a second term of two years.

Motion: That Mr. Vowell's appointment as Complaints Review Commissioner be renewed for a term of two years.

MOVED: Mr. Mandzuik
Seconded: Mr. McLeod
Carried.

8.0 MONITORING REPORTS

8.1 National Discipline Standards

Benchers considered a monitoring report prepared by Ms Kosokowsky, dated May 6, 2024, which provided a report on the Law Society's performance in the area of complaints investigation and discipline work as against the national standards. Benchers were reminded that the standards are aspirational, and instances where a standard has not been met it is primarily due to practice efficiencies and procedural fairness which the Society would not be inclined to compromise in order to meet the standard. It was suggested that the Society might consider asking the national committee tasked with developing these standards to review those standards which are unachievable. Benchers were advised that the committee has a Problematic Standards Subcommittee that reviews the standards which consistently present difficulties.

8.2 Investment Compliance – March 31, 2024

Benchers considered a report prepared by Ms Alleyne, dated April 30, 2024, which confirmed that investments within its portfolio for the period ending March 31, 2024 were in compliance with the Society's investment guidelines.

With the exception of Ms Kosokowsky, Ms Stonyk, Ms Bourbonnais and Mr. Rivera, all guests and staff were excused from the balance of the meeting at 2:30 pm.

9.0 IN CAMERA

9.1 Bill C-21 – BC Single Legal Regulator

Motion: That this agenda item be discussed in camera.

MOVED: Mr. Mandzuik
Seconded: Ms Jaenen
Carried.

Minutes

May 16, 2024 Bencher Meeting

Ms Kosokowsky and Mr. Kravetsky provided an update to benchers on matters relating to the proposed establishment of a single legal regulator for lawyers, notaries and paralegals by British Columbia's provincial government.

Ms Jainarine and Ms Pastora Sala were excused from the meeting at 3:30 pm

Motion: That the meeting proceed out of camera.

MOVED: Mr. Mandzuik
Seconded: Mr. Onchulenko
Carried.

10.0 FOR INFORMATION

Benchers considered the materials provided for information.

There being no further business, Ms Wiebe adjourned the meeting at 3:45 pm.