



# MINUTES

## Benchers

Date: Thursday, September 12, 2024

Time: 2:30 pm

Location: Elkhorn Resort & Conference Centre, Clear Lake, Manitoba  
and via Videoconference

Present:

Gerri Wiebe, KC, President	Teresa Jaenen
Christian Monnin, Vice President	Tehani Jainarine
Wayne Onchulenko, Past President	Dr. Richard Jochelson
Carmen Nedohin, Officer-at-Large	Timothy Kurbis
Kassy Baker	Mathieu Lafrenière
Kathrine Basarab	Kenneth Mandzuik, KC
Gordon Daman	Penny Piper
Kyle Dear	Kelli Potter
Patrick Fortier	Leah Unruh
Mason Geddes	Joshua Weinstein
Sharyne Hamm	Deanna Wilson
Simon Jack	

Regrets: Serena Ehrmantraut Trent Sholdice

Staff Present:

Leah Kosokowsky	Tana Christianson
Rennie Stonyk	Eileen Derksen
Dilyara Alivapova	Linda Fontaine
Sandra Alleyne	Deirdre O'Reilly
Noelia Bernardo	Sean Rivera
Pat Bourbonnais	Alissa Schacter

## 1.0 PRESIDENT'S WELCOME AND TREATY ACKNOWLEDGEMENT

Ms Wiebe, President, called the meeting to order at 2:40 pm. Benchers, guests and staff were welcomed to the meeting. Treaty territories 1, 2 and 5 were acknowledged with gratitude.

## 2.0 IN MEMORIAM

Benchers observed a moment of silence for Diane Dzydz, Frank Lawrence, John David Malcolm George and Brian John Kelsch.

## 3.0 CONSENT AGENDA

### 3.1 Minutes of June 24, 2024 Special Meeting

Benchers considered the minutes of the special benchers' meeting held on June 24, 2024.

### 3.2 Minutes of June 27, 2024 Meeting

Benchers considered the minutes of the benchers' meeting held on June 27, 2024.

### 3.3 Approval of Translated Rule Amendments – Mobility for Federal Government Lawyers

Benchers considered the amendments to Part 3, Divisions 6 (Inter-Jurisdictional Practice Under the National Mobility Agreement) and Division 7 (Temporary Practice by Lawyers from Non-Signatory Jurisdictions) in final form in both English and French.

### 3.4 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 Hamm  
Seconded: Mr. Lafrenière  
Carried.

## 4.0 EXECUTIVE REPORTS

### 4.1 President's Report

Benchers received for information Ms Wiebe's report dated September 6, 2024.

### 4.2 Chief Executive Officer's Report

Benchers received for information Ms Kosokowsky's report dated September 4, 2024. Ms Kosokowsky advised that on September 4, 2024 Kalanit Faingold was acclaimed as the new student bencher. Ms Faingold will join the benchers at their next meeting on October 31, 2024. As this was the final meeting Mr. Geddes would be attending in his role as student bencher, Ms Kosokowsky thanked him for his service to the Law Society over the past year.

## 5.0 MONITORING REPORTS

### 5.1 Statements of Operations – April 1, 2024 to July 31, 2024

Benchers considered a report prepared by Ms Alleyne, dated August 29, 2024, which provided a detailed report on the profit and loss statements for the fiscal period ending July 31, 2024.

### 5.2 Investment Compliance – June 30, 2024

Benchers considered a report prepared by Ms Alleyne, dated August 7, 2024, which confirmed that investments within the Office Staff Pension Plan and the Reserve Fund were in compliance with the Society's investment policies as at June 30, 2024.

## 6.0 DISCUSSION/DECISION

### 6.1 Governance – Grounds for Bencher Removal

Benchers considered a memorandum prepared by Ms Stonyk, dated September 3, 2024, which invited benchers to provide direction regarding the amendment of rules relating to the grounds for removal of a bencher as some of these rules have become outdated. In doing so, benchers contemplated the rules in their existing form, considered relevant provisions within the *Code of Professional Conduct* and the *Bencher Code of Conduct*, and also considered an analysis of the approaches adopted by other jurisdictions. Benchers were advised that it is rare that a circumstance will arise which necessitates the need to remove a bencher and in those instances the bencher generally will elect to resign.

It was noted that significant changes made to these rules may result in the need to also review the rules which provide direction on eligibility to run for election as a bencher. It was suggested that the rules which exclude non-practising members on maternity/parental leave from running for election be considered at the same time. Benchers were advised that this particular issue had been raised and considered previously and might best be brought to the Equity Committee for further consideration.

Following a full discussion on this agenda item, benchers ultimately elected to follow the approach taken by the Law Society of Saskatchewan and adopt a rule which provides broad discretion for the removal of a bencher in circumstances where the bencher is unable or unwilling to fulfill their duties, or conduct themselves in a manner which puts the credibility of the Law Society at risk. Benchers also directed that a formal bencher policy be drafted which: (i) provides direction on the factors which would be relevant to the removal of a bencher; (ii) allows for discretion to consider unique factors which may also inform a decision for removal; and (iii) requires that removal must be supported by a two-thirds majority vote of the benchers present at the meeting at which the matter is considered.

Benchers were advised that the draft rule amendments and a draft bencher policy would be provided for their consideration in due course.

## 7.0 MISCELLANEOUS BUSINESS

### 7.1 Health Recovery Program Update

Benchers received for information a memorandum prepared by Ms Stonyk, dated August 30, 2024, which provided a detailed report on the Society's Health Recovery Program since its launch in the fall of 2022. Benchers were advised that as the Society gained experience in the delivery of the program, procedures and forms were modified to provide staff with the flexibility to address the individual needs and circumstances of each participant. Although still at an early stage, the program has proven to be a success and its objectives have been met. Consideration will next be given on how success will be measured in the longer term.

### 7.2 Access to Justice – Prison Libraries Project

Benchers received for information a memorandum prepared by Ms Kosokowsky, dated August 27, 2024, which provided a detailed report on the first six months of operations of the Legal Information for Incarcerated Manitobans Project being delivered by the Manitoba Law Library Inc. Benchers were reminded that the objective of this initiative is to increase access to justice by building a collection of legal books, resources and information for individuals incarcerated in Manitoba's six correctional centres.

## 8.0 IN CAMERA

With the exception of Ms Kosokowsky, Ms Stonyk, Ms Bourbonnais and Mr. Rivera, all staff were excused from the balance of the meeting at 3:25 pm. Ms Piper was also excused from the meeting at this time due to a conflict on the first *in camera* matter.

Ms Piper rejoined the meeting at 3:30 pm.

Ms Basarab and Mr. Geddes were excused from the balance of the meeting at 3:35 pm due to a conflict on the media inquiry matter.

### **8.1 Tax Opinion, LSBC Intervention and Media Inquiry**

Motion: That these agenda items be discussed *in camera*.

MOVED: Mr. Mandzuik  
Seconded: Mr. Fortier  
Carried.

Ms Kosokowsky reported to benchers on: (i) a tax opinion which had been obtained arising from advice received from the Society's auditors, BDO – Canada LLP; (ii) the status of matters relating to the proposed establishment of a single legal regulator for lawyers, notaries and paralegals by British Columbia's provincial government; and, (iii) a recent media inquiry.

Motion: That the meeting proceed out of camera.

MOVED: Mr. Lafrenière  
Seconded: Ms Unruh  
Carried.

## **9.0 FOR INFORMATION**

Benchers considered the materials provided for information.

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