

**Minutes for the Meeting of the Benchers
June 11th and 12th, 2009
Regina Inn, Regina, SK**

Present:

Karl Bazin, Q.C., Susan Barber, Q.C., Thomas Campbell, Brent Cotter, Q.C., Richard Danyliuk, Q.C., Victor Dietz, Q.C., William Holliday, Peter Hryhorchuk, Robert Kennedy, Q.C., Paul Korpan, Q.C., Ronald Kruzeniski, Q.C., Eileen Libby, George Patterson, Peggy Schmeiser, James Taylor, Karen Topolinski, Evert Van Olst, Gregory Walen, Q.C., Janice Wall, Alma Wiebe, Q.C and John Will

In attendance:

Tom Schonhoffer, Q.C., Donna Sigmeth, Melanie Hodges Neufeld, Tim Huber, John Allen, Andrea Johnston and Toby Willis-Camp. Sam Bergerman was present for the Friday meeting only.

1. CALL TO ORDER

The meeting was called to order at 8:36 a.m. on June 11, 2009.

Karl Bazin, Q.C. welcomed Andrea Johnston and Toby Willis-Camp to the Law Society.

2. APOLOGIES FOR ABSENCE

Deb Schmidt sent her regrets.

3. ACCEPTANCE OF AGENDA

The following additions were made to the Agenda:

- Tim Huber to report on the Rault decision from the Court of Appeal;
- Alma Wiebe, Q.C. to speak to increasing membership in the Law Foundation.

A motion to accept the Agenda as amended was presented by Karen Topolinski, and seconded by Bill Holliday. The motion was carried unanimously.

4. AGENDA ITEMS TO BE CONSIDERED IN CAMERA

No Agenda items to be discussed in camera.

5. ADOPTION OF MINUTES

Four sets of Minutes were presented to the Benchers for approval:

- i. Minutes for the Meeting of the Benchers held via conference call on March 6, 2009 and Minutes for the *Closed Meeting* of the Benchers held via conference call on March 6, 2009.
- ii. Minutes for the Meeting of the Benchers held via conference call on May 12, 2009.
- iii. The Minutes for the Meeting of the Benchers held April 30th and May 1st, 2009.

Amendment to Minutes of the Meeting held via conference call on May 12, 2009:

- Tom Campbell was present for the meeting.

Amendment to Minutes for the Meeting held April 30th and May 1st, 2009:

- In section 9. i., the second paragraph should read:

Peggy Schmeiser advised that the role of public representatives may be on the Agenda at the Federation meeting in Winnipeg and that she has been approached for input by Alberta. Peggy wants guidance from the Benchers with respect to her engagement in these matters and the Law Society's participation.

A motion to adopt the Minutes as amended was presented by Ron Kruzeniski, Q.C., and seconded by Tom Campbell. The motion was carried unanimously.

6. MATTERS ARISING FROM THE MINUTES

A written Resolution approving the insurance levy of \$600 was circulated for execution by the Benchers.

7. AGENDA ITEMS FOR DISCUSSION AND DECISION

1. Rault Decision

Tim Huber reported on the Court of Appeal decision on the Susan Rault matter. No further action is required.

2. Library Review

Ron Kruzeniski, Q.C. presented a memo containing recommendations from the Future of the Libraries Committee.

Ron Kruzeniski, Q.C. suggested that the amended recommendations be placed on the Law Society website for member comments and then brought back to the Benchers in September for final approval. If concerns remain at that time, the recommendations can be tabled for the December meeting.

Toby Willis-Camp outlined the recommendations and answered questions.

The following amendment to the report was made. Page 11 of the report should be amended to read “reference services that reflect revenue generation.”

A motion to approve the preliminary report and authorize the committee to publish it for comment from the membership was presented by Ron Kruzeniski, Q.C., and seconded by Victor Dietz, Q.C. The motion was carried unanimously.

3. Law Foundation

The Law Foundation will be asking the Minister for a legislative amendment to expand the composition of the representatives by at least one more Justice appointee and two more Law Society representatives.

A motion was presented by Brent Cotter, Q.C., and seconded by Bill Holliday approving the following two points:

- The Law Society does not oppose a legislative amendment to expand the number of representatives;
- The Law Foundation amendments should be included in the package of proposed amendments from the Law Society.

Alma Wiebe, Q.C. and Victor Dietz, Q.C. abstained. The motion was carried.

4. Borrowing Authority

The Law Society’s VISA Agreement required a borrowing Resolution.

A motion to approve the Resolution in support of the Law Society’s VISA Agreement was presented by Sue Barber, Q.C., and seconded by Greg Walen, Q.C. The motion was carried unanimously.

5. Appointments

a. Queen’s Counsel Selection Committee

By Resolution of the Benchers on June 19, 2008, the Queen’s Counsel Committee for 2009 will consist of the following:

- i. Past President of the Law Society
- ii. A Bencher
- iii. A public representative
- iv. A lawyer from the membership at large

Bencher position:

A secret ballot was held for the Bencher position for the following applicants:

- Susan Barber, Q.C.
- Paul Korpan, Q.C.
- Peter Hryhorchuk
- Greg Walen, Q.C.

Paul Korpan, Q.C. was declared the successful candidate.

Public Representative:

Karen Topolinski was acclaimed.

Membership at large:

The Executive recommended the appointment of James Plemel, Q.C.

A motion to appoint Richard Danyliuk, Q.C., Paul Korpan, Q.C., Karen Topolinski and James Plemel, Q. C. to the Queen's Counsel Committee for 2009 was presented by Evert Van Olst and seconded by Brent Cotter, Q.C. The motion was carried unanimously.

b. Queen's Bench Rule Amendments Committee

Due to a shortage of time, the Executive appointed Robert Kennedy, Q.C. and Tom Schonhoffer, Q.C. to the committee. This was ratified by the Benchers.

c. PBLs

The Executive recommends the appointment of Victor Dietz, Q.C. as the Law Society representative to provide continuity for the new board.

A motion to have Victor Dietz, Q.C. appointed as the Law Society representative to PBLs was presented by Paul Korpan, Q.C., and seconded by John Will. Rick Danyliuk, Q.C., Victor Dietz, Q.C. and Alma Wiebe abstained. The motion was carried.

6. Rule Amendments

i. Accounting Rule Amendments

John Allen, CA, prepared and presented a memorandum describing numerous Rule amendments.

A motion to proclaim the Rule amendments as of September 1, 2009 was presented by George Patterson, and seconded by Bill Holliday on first reading. The motion was carried unanimously.

A motion to accept the Rule amendments as submitted on second reading was presented by John Will, and seconded by Ron Kruzeniski, Q.C. The motion was carried unanimously.

Meeting adjourned at 11:47a.m. on June 11, 2009.



Meeting reconvened at 1:05 p.m. on June 11, 2009.

7. Lawyers Concerned for Lawyers

i. LCL Presentation

James Korpan and Ken Curtis provided a general report updating the Benchers on developments since the change in carriers was approved last year. All reports to LCL are confidential, but statistics on the usage of LCL were provided as follows:

- Since July, there have been 36 referrals to the LCL program. Of those referrals, 15 were time sensitive, in that a counselor should be seen within 24 or 48 hours.
- Seven were urgent and needed to see a counselor within the same day.
- Two were critical or life threatening.
- Twenty-four of the 36 tended to be crisis related.
- There have been 44 inquiries with respect to wanting more information about the program.
- There have been 15 special requests for extension of service over the guidelines or for ineligible family members.
- There have been 40 nuisance calls.

ii. Member Assistance

A *draft* Policy for LCL Member Assistance referred to discipline was presented for discussion.

A motion to accept the *draft* policy for LCL Member Assistance was presented by Paul Korpan, Q.C., and seconded by Greg Walen, Q.C. Victor Dietz, Q.C. opposed. The motion was carried.

8. Rule Amendments

ii. Practice Review

The Professional Standards Committee was seeking approval in principle for *draft* Rule amendments. It is expected that a final Rule amendment will be made in 2009 after further consultation with the members.

A motion to approve the *draft* Rule amendments, in principle, was presented by Greg Walen, Q.C., and seconded by Bill Holliday. The motion was carried unanimously.

iii. Mail Definition

Rule amendments to expand the definition of mail to include courier, facsimile and email was presented for discussion.

A motion to add a definition of the term mail to include courier, facsimile and email on first reading was presented by Tom Campbell, and seconded by Ron Kruzeniski, Q.C. The motion was carried unanimously.

A motion on second reading was presented by Paul Korpan, Q.C., and seconded by Peter Hryhorchuk. The motion was carried unanimously.

9. Admissions & Education

Ron Kruzeniski, Q.C. presented his report to the Benchers.

The Admissions & Education Committee continues to work on the Mandatory CLE policy. An article on the issue has been published in the June issue of the Benchers' Digest and Tom Schonhoffer, Q.C. has made presentations to the membership.

There are two scheduled Admissions & Education hearings.

10. Request to Amend Discipline Order

Kim Stinson requested an amendment of the Order to extend the time to pay costs.

The meeting adjourned and reconvened as the Discipline Committee sitting as a whole. Paul Korpan, Q.C. chaired.

Brent Cotter, Q.C. and James Taylor did not participate, as they were not on the Sentencing Committee. Greg Walen, Q.C. did not participate either, as he was on the Investigation Committee.

A motion to accept Mr. Stinson's proposal was presented by Karen Topolinski and seconded by George Patterson. The motion was carried unanimously.

The Discipline Committee adjourned and a meeting of the Benchers reconvened.

10. REPORTS

i. President's Report

Karl Bazin, Q.C. reported on the following:

- He attended the medal ceremony at the College of Law, University of Saskatchewan.
- He attended the Law Society of Alberta Retreat in Jasper with Tom Schonhoffer, Q.C. and Eileen Libby.

ii. Executive Director's Report

Tom Schonhoffer, Q.C. presented his report.

The staff was excluded at 2:28 p.m.



The meeting reconvened at 8:57 a.m. on June 12, 2009.

Karl Bazin, Q.C. introduced Sam Bergerman to the Benchers.

8. FEDERATION OF LAW SOCIETIES OF CANADA

Graeme Mitchell, Q.C., presented his report on the June Council Meeting and answered questions from the Benchers.

9. SENTENCING – STERLING MCLEAN

Paul Korpan, Q.C. acted as Chair and invited Tim Huber to make submissions for the Law Society and David MacKay to make submissions on behalf of Mr. McLean.

A transcript of the proceedings was prepared by Kim Kreski of Royal Reporting, Regina.

11. IN CAMERA SESSION – MEETING OF THE BENCHERS

The Benchers went in camera at 1:30 p.m.

A motion to resume the open meeting was presented by Alma Wiebe, Q.C., and seconded by Sue Barber, Q.C. The motion was carried unanimously.

The following motion was presented by Sue Barber, Q.C., and seconded by Brent Cotter, Q.C.:

The Public Representative per diem should remain at the current rate of \$125/day. The Expenses and Honoraria Policy should be amended to allow Public Members to claim travel time on occasions where travel causes the Public Member to exceed an 8 hour day. Such travel will be charged at the current travel time rate of \$15.63/hour, commencing July 1, 2009.

There were 13 Benchers present for quorum. Victor Dietz, Q.C. opposed the motion. The motion carried.

12. ITEMS FOR INFORMATION

These items were submitted for information:

- i. Minutes of the Executive Committee meetings held via conference call on April 17, 2009 and May 8, 2009.**
- ii. Minutes of the Discipline Executive Committee held via conference call on April 8, 2009.**
- iii. Enclosed is a copy of decision 2007 NBQB 347, Court of Queen's Bench, October 19, 2007:**
Law Society of New Brunswick vs. FCT Insurance Company, carrying on business as First Canadian Title, and First Canadian Title Company Limited.
- iv. Law Society Awards and Medals**

A letter from the College of Law outlined the winner of the Law Society's Sask. Prize in Professional Responsibility, as well as the recipients of the Law Society's gold, silver and bronze medals.

13. DATE AND PLACE OF THE NEXT MEETING

The next Convocation is scheduled for September 16th, 17th and 18th in Swift Current. The President's Dinner is scheduled for the evening of Friday, September 18th.

Thomas J. Schonhoffer, Q.C.
Executive Director

TJS/el