

# **Minutes for the Meeting of the Benchers**

## **Held Friday, December 3, 2021, In-Person and via Zoom**

### **Elk Ridge Resort, Prince Albert**

#### **Present:**

Foluke Laosebikan, Q.C., James Korpan, Q.C., Gerald Tegart, Q.C., Andrea Argue, Jeff Baldwin, Leslie Belloc-Pinder, Q.C., Jill Drennan, Monte Gorchinski, Suzanne Jeanson, Nolan Kondratoff, Lynda Kushnir Pekrul, William Lane, Scott Moffat, John Morrall, Barbara Mysko, Crystal Norbeck, Martin Phillipson, Ian Wagner and Craig Zawada, Q.C.

#### **In attendance:**

Tim Brown, Q.C., Tim Huber, Valerie Payne, Andrea Johnston, Christine Johnston, Jody Martin, Jenna Bailey, Kara-Dawn Jordan, Michelle Owolagba, Paul Westgate, Julie Sobowale, Stephanie Kievits, CPA, CA, Pamela Harmon, CPA, CA, Pamela Kovacs, Sydney Young, Chinye Talabi and Liz Lynchuk, recording secretary

Jonathan Bodvarson, Sonia Eggerman, James Fyfe, Derek Maher, Jeffrey Lee, Q.C., Tiffany Paulsen, Q.C., Adam Touet, Rochelle Wempe, Erin Kleisinger, Q.C., Federation Council, Riva Farrell-Racette and Stacey McPeck

The meeting was called to order at 9:11 am.

## **1. Approval of the Agenda**

### **1.1 Apologies for Absence**

An apology for absence was received from James Morrison, Q.C. Kaitlynn McArthur is on maternity leave.

### **1.2 Confirmation of Agenda**

Moved by Jeff Baldwin, seconded by Ian Wagner, to approve the Agenda as written. The motion carried.

### **1.3 Bencher Conflict of Interest Disclosures**

Ian Wagner and John Morrall declared a conflict in relation to Agenda Item 6, Recovery of Costs.

#### **1.4 Agenda Items, Committee Reports and Documents Which Are Not Open to the Public**

- i. Bencher Training Session – December 2, 2021
- ii. Appointments
- iii. Investment Review
- iv. Public Representative Bencher Selection
- v. Queen's Counsel Nominations 2021

## **2. Consent Agenda**

The Consent Agenda includes items which are not considered controversial and will collectively be enacted by one motion.

The items included on the consent Agenda are set out in 2.1 and 2.2:

### **2.1 Approval of the Bencher Minutes**

- a. Minutes from the Bencher meeting held September 24, 2021;
- b. Minutes from the Bencher meeting held October 29, 2021.

Moved by Scott Moffat, seconded by John Morrall, that Minutes from the Bencher meeting held September 24, 2021 and October 29, 2021 (Budget) be approved as written. The motion carried.

### **2.2 Terms of Reference**

- i. Future of Legal Services Committee (FLS)

The FLS Committee conducted an annual review of its Terms of Reference and made recommendations for amendment.

Some proposed amendments were housekeeping in nature, while other more substantive amendments aimed to better reflect the work of the Committee, such as reference to direct supervision and the analysis of alternative business structures.

Moved by Lynda Kushnir Pekrul, seconded by Crystal Norbeck, that amendments to the Future of Legal Services Committee Terms of Reference be adopted as written. The motion carried.

## **3. Decision Items**

### **3.1 Appointments**

Discussions were held *in-camera*.

i. CPLED Board

Tom Schonhoffer's position was set to expire in February 2021, but his term was extended until December 3, 2021. CPLED has now requested an extension to June 30, 2022 due to several factors involving the recent transition to PREP from the legacy program.

The request was considered by the Nominations Committee at its November 25<sup>th</sup> meeting and the Committee recommended an extension to June 30, 2022.

Moved by Craig Zawada, Q.C., seconded by Barbara Mysko, that the term for Tom Schonhoffer, Q.C. as member on the CPLED Board, be extended to June 30, 2022. The motion carried.

ii. College of Law Endowment Fund

Derek Maher's term expires December 31, 2021.

The candidates were considered by the Nominations Committee at its November 25<sup>th</sup> meeting and the Committee recommended the appointment of Ahmed Malik as Law Society Representative on the College of Law Endowment Fund Board.

Moved by Craig Zawada, Q.C., seconded by Nolan Kondratoff, that Ahmed Malik be appointed as the Law Society Representative on the College of Law Endowment Fund Board for a 2-year term from January 1, 2022 to December 31, 2023. The motion carried.

iii. PLEA Board

Maya Scott's term expires December 31, 2021.

Candidates were considered by the Nominations Committee at its November 25<sup>th</sup> meeting and the Committee recommended the appointment of Davida Bentham as Law Society Representative on the PLEA Board.

Moved by Craig Zawada, Q.C., seconded by Leslie Belloc-Pinder, Q.C., that Davida Bentham be appointed as the Law Society Representative on the Public Legal Education Association of Saskatchewan (PLEA) Board for a 2-year term from January 1, 2022 to December 31, 2023. The motion carried.

iv. PREP Appeal Hearing Committee

At December 2020 Convocation, 7 members were appointed to this Appeal Panel for a one-year term from January 1, 2021 – December 31, 2021. CPLED would like the term to run from July to June instead and has therefore requested extending the current appointments to June 30, 2022.

All 7 members were willing to have their terms extended to June 30, 2022 and the Nominations Committee considered the extension request at their November 25<sup>th</sup> meeting and recommended approval of the extension.

Moved by Nolan Kondratoff, seconded by Jeff Baldwin, that all 7 appointed members on the PREP Appeal Hearing Committee (Ronni Nordal, Q.C., Foluke Laosebikan, Q.C., Scott Moffat, Barbara Mysko, Crystal Norbeck, John Morrall and Ian Wagner) be extended a further 6 months to June 30, 2022 to reset the term from July to June. The motion carried.

v. Saskatchewan Legal Aid Commission

Raymond Wiebe is currently on his third and final term as Law Society representative and was appointed Chair on January 1, 2021. His term is due to expire on December 31, 2021. The Commission would like him to serve another year prior to appointing a replacement for business continuity.

The extension was considered by the Nominations Committee at its November 25<sup>th</sup> meeting and they recommended extending his appointment another year.

Moved by Craig Zawada, Q.C., seconded by Lynda Kushnir-Pekrul, that the term for Raymond Wiebe as Chair on the Saskatchewan Legal Aid Commission be extended a further year to December 31, 2022. The motion carried.

vi. Public Representative Benchers (*In-Camera*)

An update was provided *in-camera*.

### 3.2 Regulation

i. Rule Amendments

The Agenda indicated that “The following Rule amendments are housekeeping in nature.” This is an error; while items a, b and c are housekeeping amendments, the remainder of the amendments are substantial.

a. Part 1 – Definitions and Interpretation

Under Rule 101(1), Definitions and Interpretation, the definition for “member” includes reference to subsection 2(2.2) of the Act; however, that portion has not yet been declared into force, as it relates to limited licensees.

This reference must be removed for the time being as a housekeeping amendment. It will be reintroduced as a Rule once the limited licencing provisions in the *Act* have been proclaimed.

#### **Definitions and Interpretation**

**101(1)** in these Rules:

“**member**” means, ~~subject to subsection 2(2.2) of the Act,~~ member pursuant to clause 2(1)(h) of the Act;)

Moved by Crystal Norbeck, seconded by Nolan Kondratoff, that amendments to Rule 101(1), “member” definition, be amended as written. The motion carried.

A motion to grant second reading on the same day was presented by Monte Gorchinski, seconded by Scott Moffat. The motion carried.

Moved by John Morrall, seconded by Barbara Mysko, that amendments to Rule 101(1), “member” definition, be amended as written. The motion carried.

#### **b. Part 8 – National Mobility and Interjurisdictional Practice**

An amendment to Rule 804(4), Temporary Mobility Without a Permit Pursuant to National Mobility Agreement and Protocol, was required to correct a subrule reference error.

Moved by Nolan Kondratoff, seconded by Ian Wagner, that amendment to Rule 804(4), Temporary Mobility Without a Permit Pursuant to National Mobility Agreement and Protocol, be approved to correct a minor subrule reference error as written in the memo from Andrea Johnston dated October 25, 2021. The motion carried.

A motion to grant second reading on the same day was presented by Crystal Norbeck, seconded by Barbara Mysko. The motion carried.

Moved by Scott Moffat, seconded by Andrea Argue, that amendment to Rule 804(4), Temporary Mobility Without a Permit Pursuant to National Mobility Agreement and Protocol, be approved to correct a minor subrule reference error as written in the memo from Andrea Johnston dated October 25, 2021. The motion carried.

#### **c. Part 11 – Professional Responsibility**

Rule amendments were approved at June 2021 Convocation to delete the “Hearing Committee Appointment Coordinator” definition and replace it with “Hearing Administrator”; however, amendments to Rule 1110(2), 1110(3)(e) and 1123(1), (2) & (4) were inadvertently missed and are housekeeping amendments.

Moved by Lynda Kushnir Pekar, seconded by Leslie Belloc Pinder, Q.C., that amendment to Rule 1110(2), 1110(3)(e) and 1123(1), (2) & (4), Review by Conduct Investigation Committee to delete the term "Hearing Committee Appointment Coordinator" and replace it with "Hearing Administrator," be approved as written in the memo from Tim Huber dated November 8, 2021. The motion carried.

A motion to grant second reading on the same day was presented by Barbara Mysko, seconded by Gerald Tegar, Q.C. The motion carried.

Moved by Suzanne Jeanson, seconded by Crystal Norbeck, that amendment to Rule 1110(2), 1110(3)(e) and 1123(1), (2) & (4), Review by Conduct Investigation Committee, to delete the term "Hearing Committee Appointment Coordinator" and replace it with "Hearing Administrator," be approved as written in the memo from Tim Huber dated November 8, 2021. The motion carried.

d. Part 15 – Accounting

An amendment to Rule 1534, Practice Reviews, was approved by the Competency Committee to provide Practice Advisors the authority to direct members of new solo and small firms to complete the Practice Management Course (the "PM Course"). The amendment also provides the flexibility to exempt members from such requirement under appropriate circumstances.

The course will be at no cost to firms or any member who wishes to take the course and it will count for CPD credit, as well.

Moved by Jeff Baldwin, seconded by Suzanne Jeanson, that amendment to Rule 1534(4), Practice Reviews, to provide Practice Advisers with the appropriate authority to direct members of new solo and small firms to complete the Practice Management Course and to exempt members from such requirement in appropriate circumstances, be approved as written in the memo from Christine Johnston dated November 10, 2021. The motion carried.

A motion to grant second reading on the same day was presented by John Morrall, seconded by Crystal Norbeck. The motion carried.

Moved by Monte Gorchinski, seconded by Jill Drennan, that amendment to Rule 1534(4), Practice Reviews, to provide Practice Advisers with the appropriate authority to direct members of new solo and small firms to complete the Practice Management Course and to exempt members from such requirement in appropriate circumstances, be approved as written in the memo from Christine Johnston dated November 10, 2021. The motion carried.

e. Part 10 Alternative Legal Services Providers - Rule 1002(1)(a)(vi)

The FLS Committee considered an amendment to exemption 1002(1)(a)(vi) current exemptions to support the transition of a Notice Form provider from reliance on a comfort letter to an exemption. This follows the end of the two-year Discovery Period into the Pilot Project phase for Alternative Legal Service providers.

A Rule amendment is required to facilitate the inclusion in an existing exemption of a Notice Form Provider, identified as falling within the policy framework for exemption. The work of the Notice Form Provider is contemplated by Rule 1002(1)(a)(vi), however, since it is not an organization with government employees as are other organizations within this category, an expanded exemption is necessary to account for the existing relationship to government. In this instance, the proposed amendment relies on oversight provided through accountability to the government for funding.

Moved by Leslie Belloc-Pinder, Q.C., seconded by Gerald Tegart, Q.C., that amendment to Rule 1002(1)(a)(vi), Exemptions from the Prohibition Against the Unauthorized Practice of Law, be approved as written in the memo from Administration dated November 22, 2021. The motion carried.

A motion to grant second reading on the same day was presented by Crystal Norbeck, seconded by John Morrall. The motion carried.

Moved by Craig Zawada, Q.C., seconded by Suzanne Jeanson, that amendment to Rule 1002(1)(a)(vi), Exemptions from the Prohibition Against the Unauthorized Practice of Law, be approved as written in the memo from Administration dated November 22, 2021. The motion carried.

## **4. Discussion Items**

### **4.1 Society Governance**

#### **i. Operational Reporting**

##### **a. President's Report**

President Laosebikan, Q.C. reported the following:

- Following September Convocation, James Korpan, Q.C., Tim Brown, Q.C., Pamela Kovacs, Christine Johnston and Kara-Dawn Jordan accompanied Foluke at the Office of the Treaty Commissioner to begin the Reconciliation Mapping Exercise through a pipe ceremony.
- Early October was Foluke's last meeting with the Provincial Court Judicial Council, as upcoming President James Korpan, Q.C. will replace her and begin his term in January 2022.

- The fall Federation Conference did not go ahead in person as planned, however, a 3-day virtual event was offered in its place and was well-attended by law societies across Canada. Dean Martin Phillipson and Foluke were facilitators for some of the sessions.
  - The Executive met prior to October Convocation to go over the budget.
  - On November 15<sup>th</sup>, Tim Brown, Q.C. and Foluke travelled to Saskatoon to make a joint presentation to Brent Cotter's Professional Responsibility class.
  - In late October, Foluke met with the President of the Federation and 9 other law societies whereby the incoming President was introduced.
  - The Executive met late in November to plan December Convocation.
  - Foluke also attended a few Committee meetings in between November and December Convocations.
- b. Executive Director's Report – a written report was provided in advance of Convocation.
- c. Federation Council Report

Erin Kleisinger, Q.C. provided the following report:

- The next Federation meeting will take place on Monday, so included in her written report were items considered at the October meeting, as well as items on the Agenda for consideration in December.
- On the news front, the Federation must complete a full review of the National Requirement in 2022. The Approval Committee will be involved in the review and Erin has been asked to participate on the Committee, which will hold their first meeting in January.
- The National Well-being Study is now complete and the Federation is in the process of assessing the results. A Report should be ready by June 2022.
- The Federation held a virtual conference in October and plans are moving ahead to hold the October Conference in Saskatoon in 2022.

## ii. Financial Reporting

### a. Financial Statements

Financial statements for the month ended October 31, 2021 were provided for review.

For the benefit of new Benchers in attendance, Pam Harmon, CPA, CA provided a brief explanation to help them understand the financial statements.



b. Investment Reports

The October 31, 2021 investment summary and the Quarterly Investment Report for the period July 1 to September 30, 2021 were provided for review.

c. Investment Review

Benchers were directed to the summary page of the Quarterly Investment Review which outlined that the Society has been doing well throughout the pandemic and continues to do well. Discussions have taken place with AON and TD Bank regarding further asset mix options to maximize our investments with the least risk possible. A revised Investment Policy will be provided at the next Convocation.

d. Practicing Fee 2021 – 2022

The Budget was approved at October Convocation, with no increase to the practice fee. A letter to the membership was released on November 18<sup>th</sup>, with the deadline for fees due by December 9, 2021.

Administration reported that approximately 85% of the members have renewed. Overall, the annual renewal process went smoothly this year.

In 2018, Administration completed data analytics work around baby boomer departures from the profession and determined there was a risk over the next decade due to a significant decline in membership. Administration was happy to report membership numbers remain healthy, so the Society is on track to meet budget numbers.

e. Contracting Spot Audits and Review Accountant's Report Requirement

The Trust Safety Committee received an update regarding the contract position at its meeting on September 8, 2021, and with the approval of the budget at October Convocation, Administration is expanding its search for a suitable contractor to supplement in-house audit work and ultimately shift towards a more risk-based approach to audit practices.

Administration is in the process of conducting directed outreach to accounting firms who complete the accountant's reports for members and to gauge any further interest.

f. Annual Reporting

The new online version of the Annual Report is fully operational and essentially done. There have been few issues raised or identified since the online Annual Report launched, and all have been easily and quickly resolved.

## 5. Informational Items

### 5.1 Strategic Initiatives

#### i. Expanded Approach to Competency (Goal 1)

##### a. Firm Regulation

A memo from Jody Martin containing further updates on the following items was attached for information.

##### i. Practice Management Assessment Tool

In response to some of the feedback received from the volunteer firms during the soft launch of the Assessment Tool, improvements were made to the appearance and functionality of the Assessment Tool.

##### ii. Implementation of Mandatory Requirement

Following the successful soft launch of the online Practice Management Assessment Tool, the mandatory requirement to complete the Assessment Tool came into effect on November 1, 2021.

#### ii. Trusted and Transparent Regulation (Goal 2)

##### a. Communications

##### i. A report from Julie Sobowale was provided for review.

#### iii. Innovative and Flexible Leader of an Engaged and Forward Thinking Membership (Goal 3)

Nothing to report.

#### iv. Increased Equity, Diversity and Inclusion in the Law Society and Legal Service Provision (Goal 4)

##### a. Benchers Election Survey

The pilot phase of the Benchers Election Survey is now complete. The Survey was disseminated to the membership on November 19, 2021.

#### v. Increased Access to Legal Services (Goal 5)

##### a. Alternative Legal Service Providers

i. Discovery Period Transition to Limited Licensing Program

The next phase of the Discovery Period transition to the Limited Licensing Program was outlined in a memo included in the materials, dated November 23, 2021.

There was no further update.

ii. Communications

To ensure stakeholders remain well-informed, Administration is continuing efforts to communicate information about this initiative which is summarized in the FLS Committee Report under Item 5.5 Committee Reports.

There was no further update.

## 5.2 Society Governance

i. Execution of Strategy

a. Action Plan Progress Update

Updates can be viewed in the workplan dashboard.

ii. Benchers Committee Preferences

A questionnaire was provided to the Benchers for ranking their 2022 Committee preferences.

iii. Benchers Election 2021

The Benchers election closed on November 15, 2021.

It is anticipated that the Governance Committee will debrief the 2021 election at a wrap-up meeting in December and will report to the Benchers in the new year.

## 5.3 Reconciliation Mapping Exercise *(Informational)*

During national Access to Justice week, a joint presentation by the Law Society and the Office of the Treaty Commissioner (OTC) titled *“Developing and Engaging in a Reconciliation Mapping Exercise”* was held virtually on October 27, 2021. There were 115 registrants and 85 participants and feedback from attendees revealed that 76% of respondents (10/13) indicated the session was excellent.

A Pipe Ceremony was held at the OTC offices in Saskatoon on October 6, 2021 to begin the Reconciliation Mapping Exercise in a good way. The first meeting of the Law Society Community of Practice (which includes Law Society representatives from all corners of the organization) with OTC facilitators will occur in December. An

organization wide survey will follow the first meeting for completion by all Benchers and staff. Subsequent meetings of the Community of Practice will focus on discussing and understanding the survey results to facilitate the development of recommendations.

#### **5.4 Q.C. Nominations 2021**

The Law Society's internal Q.C. Selection Committee, comprised of Sherry Fitzsimmons, Q.C., Lynda Kushnir Pekar, William Lane and Gerald Tegart, Q.C. met via *Teams* on October 12<sup>th</sup> and 15<sup>th</sup> to consider nominations for appointment as Queen's Counsel and a list has been advanced to the Minister's Committee for consideration.

The selection process was briefly explained to assist new Benchers in understanding the process.

#### **5.5 Committee Reports**

Memos included in the materials provided a brief report on the activities of all Bencher Committees.

#### **5.6 Other Informational Items**

- i. PLEA Board – October Report from Maya Scott
- ii. Senate of the University of Saskatchewan – October Report from Max Bilson
- iii. University of Regina Senate – report from Derek Maher

### **6. Recovery of Costs (*In-Camera*)**

This item was for approval of the reassessment of costs on the basis of a signed consent Order.

Current Benchers, excluding Ian Wagner and John Morrall, went *in-camera* for this portion of the meeting.

### **7. Election of President and Vice-President**

James Korpan, Q.C. was the only declared candidate for the President of the Law Society of Saskatchewan in 2022 and was acclaimed, commencing January 1, 2022.

Crystal Norbeck and John Morrall came forward to express interest in running for the position of Vice-President in 2022.

After speeches were made by the two Vice-Presidential candidates, the Benchers voted “live” via secret ballot and John Morrall was selected as Vice-President of the Law Society, commencing January 1, 2022.

**8. Meeting Finalization**

- 8.1 Review Actions to be Taken**
- 8.2 Confirm Items under 1.4**
- 8.3 Meeting Evaluation**
- 8.4 Next Meeting - February 17 and 18, 2022 in Regina**
- 8.5 Motion to Adjourn**

Motioned by James Korpan, Q.C. that the meeting be adjourned.

The meeting adjourned at 11:12 am and the Benchers went *in-camera* with the Executive Director.

**9. Bencher *In-Camera* Session with Executive Director (*In-Camera*)**

This portion of the meeting was held *in-camera*.

**10. Bencher *In-Camera* Session without Executive Director**

**TIMOTHY J. BROWN, Q.C.**  
**Executive Director**