

**Minutes for the Meeting of the Benchers
Held Friday, June 24, 2022, In-Person and via Zoom
Dakota Dunes Resort & Casino, Whitecap**

Present:

James Korpan, Q.C., John Morrall, Foluke Laosebikan, Q.C., Andrea Argue, Q.C., Jonathan Bodvarson, Sonia Eggerman, James Fyfe, Suzanne Jeanson, Nolan Kondratoff, Lynda Kushnir Pekarul, William Lane, James Morrison, Q.C., Tiffany Paulsen, Q.C., Martin Phillipson, Zachery Solomon, Adam Touet, Rochelle Wempe and Julie Ann Wriston

In attendance:

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

Erin Kleisinger, Q.C., Federation Council and Barbara Mysko, Chair of the Equity & Access Committee. Harry Cayton, International Advisor Professional Regulation and Governance joined the meeting at 10:00 am.

The meeting was called to order at 9:00 am.

1. Approval of the Agenda

1.1 Apologies for Absence

An apology for absence was received from Jeff Lee, Q.C.

1.2 Confirmation of Agenda

Moved by Foluke Laosebikan, Q.C. seconded by Nolan Kondratoff, to approve the Agenda as written. The motion carried.

1.3 Bencher Conflict of Interest Disclosures

John Morrall declared a conflict in relation to the selection of the member-at-large on the Queen's Counsel Selection Committee.

John Morrall and Foluke Laosebikan, Q.C declared conflicts in relation to the selection of the PREP Appeal Hearing Committee members.

James Korpan, Q.C, William Lane, and James Morrison, Q.C. declared conflicts in relation to the appointment of Federation Council.

1.4 Agenda Items, Committee Reports and Documents Which Are Not Available to the Public

Documents and Reports related to the following items are not available to the public.

- i. Appointments
- ii. *Draft* Statement on Commitment to Reconciliation
- iii. Informational Items – Operational reports, Committee Reports and reports from Representatives of outside organizations

2. Decision Items

2.1 Appointments

- i. Queen's Counsel Selection Committee

The Committee consists of the past President, a member Benchers, a Public Representative Benchers and a member-at-large.

Interest was expressed by 3 member Benchers and 2 Public Representative Benchers. The election of the Benchers members was done via secret ballot which was released electronically during the meeting.

John Morrall left the meeting for discussion of the member-at-large position.

The Chair of the Nominations Committee presented the Committee's recommendation that Keith Amyotte be selected as member-at-large on the Queen's Counsel Selection Committee.

Moved by Lynda Kushnir Pekrul, seconded by Suzanne Jeanson, that Keith Amyotte be selected as the member-at-large on the Queen's Counsel Selection Committee for 2022. The motion carried.

The Benchers voted via secret ballot and William Lane was selected as the member Benchers and Julie Ann Wriston was selected as the Public Representative Benchers for the Queen's Counsel Selection Committee for 2022.

- ii. Senate of the University of Regina

Since Derek Maher was appointed to the Bench in February 2022, an appointment to the Senate of the University of Regina was required.

Interest was expressed by two candidates for appointment to the Senate of the University of Regina.

The Chair of the Nominations Committee presented the Committee's recommendation that Dale Tesarowski be appointed to the Senate of the University of Regina.

A question was raised about how the Law Society communicates with candidates that are not successful to encourage interest in future opportunities. Tim Brown, Q.C. advised that he writes candidates personally in this respect.

Moved by William Lane, seconded by Foluke Laosebikan, Q.C, that Dale Tesarowski be approved as Law Society representative on the Senate of the University of Regina for a 3-year term, effective July 1, 2022 to June 30, 2025. The motion carried.

iii. PREP Appeal Hearing Committee

Foluke Laosebikan, Q.C., John Morrall and Barbara Mysko left the meeting for discussion of this Agenda item.

The term for the current Committee members will expire on June 30, 2022, and all current members are willing to stand for another 1-year term from July 1, 2022 – June 30, 2023.

Tim Brown, Q.C. provided an overview of the recommendation of the Nominations Committee.

It was suggested that for future recommendations, it would be helpful to provide information to the Benchers as to whether candidates have already been appointed by the Law Society to other bodies.

Moved by Adam Touet, seconded by Nolan Kondratoff, that all 6 currently appointed members on the PREP Appeal Hearing Committee (Foluke Laosebikan, Q.C., Ian Wagner, Ronni Nordal, Q.C., Scott Moffat, Barbara Mysko and John Morrall) be appointed for a further 1-year term, from July 1, 2022 to June 30, 2023, and that Ronni Nordal, Q.C. serve as Chair and Ian Wagner serve as Vice-Chair for the term. The motion carried.

iv. Council of the Federation

Erin Kleisinger, Q.C., James Korpan, Q.C., William Lane and James Morrison, Q.C. left the meeting for discussion of this Agenda item.

The second term for Erin Kleisinger, Q.C. as Council for the Federation will expire December 31, 2022. The Chair of the Nominations Committee presented a recommendation to the Benchers to re-appoint Erin Kleisinger, Q.C. for a further term.

It was noted that this is the final term for Erin Kleisinger, Q.C., however, she is eligible to join the executive ladder of the Federation.

Moved by Tiffany Paulsen, Q.C., seconded by Suzanne Jeanson, to re-appoint Erin Kleisinger, Q.C. for the position of Federation Council for a third and final term, from January 1, 2023 to December 31, 2024. The motion carried.

2.2 Regulation

i. Rule Amendments

- a. Part 7 – Membership and Practice Privileges, Rules 703 and 715; and Part 8 – National Mobility and Interjurisdictional Practice, Rules 815 and 817

Administration provided an overview of proposed amendments to Rules 703, 815 and 817 to revise the identification requirement for applicants and an amendment to Rule 715 to correct a Rule reference error. The Competency Committee recommended the proposed amendments for approval.

The requirement for Student-at-Law applicants to provide an original or notarized copy of proof of identification documents was temporarily waived during Covid, and it is recommended that the Rules be amended to permanently implement this change and extend it to Transfer Lawyers and Canadian Legal Advisor applicants as well. It was noted that this change poses little to no risk, as there are numerous other documents that must be provided and an additional identification check (ie. identification required when signing the Roll).

Moved by Sonia Eggerman, seconded by Rochelle Wempe, to amend Rules 703, 815 and 817 to revise the identification requirement for applicants and to amend Rule 715 to correct a Rule reference error. The motion carried.

A motion to grant second reading on the same day was presented by Lynda Kushnir Pekrul, seconded by Foluke Laosebikan, Q.C.

Moved by Suzanne Jeanson, seconded by Nolan Kondratoff, to amend Rules 703, 815 and 817 to revise the identification requirement for applicants and amend Rule 715 to correct a Rule reference error. The motion carried.

ii. Legal Information Guidelines

An updated version of the Legal Information Guidelines was reviewed by the Future of Legal Services Committee and is recommended for approval prior to dissemination and posting online. A redlined version was provided.

The updated version incorporates feedback following presentation and consultation and updates have also been made to other public facing content on the Law Society website. Some areas of feedback will be addressed later once a limited licensing framework is in place.

A question was raised about how people are directed where a complaint is received in relation to legal information. It was noted that legal information complaints are generally infrequent, but there have been several contacts in relation to inaccurate information on websites. The Law Society has made contact with requests to remove or correct this information and requests have been addressed.

There were no concerns or suggestions for alteration received by the Benchers. The amended guidelines will be publicly disseminated.

2.3 New Uniform Trust Condition Letter and Companion Piece

The new Uniform Trust Condition Letter (UTCL) and educational Companion Piece have been approved by the Real Estate Sub-Committee and the Ethics Committee. The Committees are seeking approval from the Benchers to circulate the new UTCL to the membership.

Given changes to practice, for example the increasing usage of title insurance, a review of legal and practical issues to modernize the UTCL was undertaken. The review included consultation with the membership. The existence of a standard document to reduce errors serves to protect the public.

Andrea Argue, Q.C. has agreed to participate in a video to be used with the roll out of the UTCL and companion piece.

Moved by Rochelle Wempe, seconded by Foluke Laosebikan, Q.C., to approve the new Uniform Trust Condition Letter (UTCL), as written. The motion carried.

2.4 Statement on Commitment to Reconciliation

One of the four short-term priorities set by the Truth and Reconciliation Advisory Group is for the Law Society to make a formal commitment to reconciliation and develop a framework to put that commitment into action. A formal statement was developed under the oversight of the Equity & Access Committee and in consultation with the Truth & Reconciliation Advisory Group, which also formed a Statement Working Group. Several iterations of the statement have been reviewed by each of these groups and feedback was received and incorporated from Law Society staff. The Statement is presented for discussion with the view that it will be brought back in September for approval following feedback received from the Benchers and any further input from the Truth and Reconciliation Advisory Group and Equity & Access Committee.

A memo from Administration with the *draft* Statement, as well as an overview of the drafting process, feedback and next steps, was included for discussion.

The Chair of the Equity & Access Committee and Administration provided an overview of the Equity & Access Committee's involvement, the drafting process and some key aspects of the Statement, including important areas of focus and language use.

Discussion:

- The hard work that went into drafting an appropriate statement was acknowledged
- Potential adjustments were noted with language in the first two sentences of paragraph 4, as well as the language used in the statement and the citations referenced in end note i.

Administration will follow up further with respect to the items identified.

Moved by Sonia Eggerman, seconded by Julie Ann Wriston, to approve the Law Society Statement on Commitment to Reconciliation in principle, subject to resolution of the potential items identified.

3. Discussion Items

3.1 Society Governance

i. Standing Reports

a. President's Report

President Korpan, Q.C. reported on the following:

- President Korpan, Q.C. and Tim Brown, Q.C. attended the Jasper Conference hosted by the Law Society of Alberta, where the focus was on governance and the report by Harry Cayton.
- President Korpan, Q.C., along with Tim Brown, Q.C. and John Morrall, met with the CBA Executive on June 16th. The CBA is interested in partnering on wellness initiatives with the Law Society. The National Well-Being Study from the Federation will provide good data to support work in this area.
- Suzanne Jeanson has agreed to Chair the CIC Committee in place of now Justice Crystal Norbeck.
- An invitation was extended to all Benchers to attend the weekly chats held by the Executive Committee.

b. Executive Director's Report

Tim Brown, Q.C. provided a written report in advance of Convocation. Further reports can be expected at the beginning of summer and the end of August.

c. Federation Council Report

A written report was provided by Erin Kleisinger, Q.C. She also noted the following:

- The National Requirement Review Committee has extended the timeline for its report to the end of 2022 to allow for ongoing consultation.
- The Anti-Money Laundering Group is working on educational programming, which can be expected later in 2022.
- The Annual Fall Conference is scheduled to occur in Saskatchewan in 2022. The focus is expected to be on competencies for lawyers.

ii. Financial Reporting

a. Financial Statements

Financial statements for the month ended May 31, 2022 were provided for review.

If we ignore investments for the moment, the Law Society is ahead of budget for both the General and Special Fund at the end of May 2022. However, this is only expected to be temporary, as some expenses are simply being incurred later in the year than budgeted. Based on information to date, the forecasted deficit for 2022 has been increased by over sixty thousand dollars, mainly due to lower than expected CPD OnDemand revenue.

b. Investment Reports

The May 31, 2022 TDAM investments Summary was provided for review.

The Law Society's investment portfolio has lost roughly 9% in market value since the beginning of 2022 as the markets continue to struggle. While the transition to the new asset mix has not yet commenced, TDAM has stated that they intend to transfer to the new asset mix gradually over time with the intention of reducing losses.

iii. 2022 Workplan

An updated workplan was provided for review.

4. Strategic Initiative Updates

4.1 Strategic Initiatives

i. Expanded Approach to Competency (Goal 1)

a. Firm Regulation

i. Practice Management Assessment Tool

Thirty-two sole practitioner firms are currently engaged in completing the online Assessment Tool. The deadline for completion for this group of firms is August 2, 2022. Including the soft-launch participants, 108 firms (approximately 1/3 of firms in the province), have completed or are currently engaged in completing the online Assessment Tool. We have had very few concerns raised by the firms being asked to complete the Assessment Tool. The concerns that have been raised have been related to requests to complete at a later date, which have been accommodated, or the perception that because of years of experience the Assessment Tool may not be of value. The latter concerns have been resolved by sharing that many senior lawyers, both in large firms and as sole practitioners, have completed the Assessment Tool and have found it to be a beneficial experience for their law firm.

b. Principal Training

As previously reported, the Law Society and Annie Rochette, Law Foundation Chair for 2022, were working together to develop an online training program for principals. Administration reported that the Principal Training Course is now complete and is available in the Law Society Online Shop, and free to all principals. A coupon code was emailed to all Benchers on June 21st so that those who were interested in viewing the Course would have free access.

The Course is not mandatory at this point, but Administration intends to bring this matter before the Competency Committee later in the year to review feedback related to the program and consider whether to make the program mandatory for principals effective 2023.

ii. Trusted and Transparent Regulation (Goal 2)

a. Practice Directives 1 and 3, with Corresponding Forms

Pursuant to Rule 1143.1, the Executive Committee has the authority to issue enduring directives or continue temporary directives governing the remote execution of documents via electronic means. At their meeting held June 7, 2022, the Executive approved amendments to Practice Directive 1 and 3, along with their corresponding forms, to take effect on July 1, 2022.

On May 18, 2022, Bills 54 and 55 received Royal Assent and will come into force upon the making of an Order in Council (likely July 1, 2022).

These Bills modify various pieces of legislation that gave rise to the ability to execute documents remotely, namely: *The Health Care Directives and Substitute Health Care Decision Makers Act, 2015*, *The Powers of Attorney Act, 2002*, *The Electronic Information and Documents Act, 2000* and *The Wills Act, 1996*. The changes bring the remote witnessing provisions out of the regulations and into the Acts. They also removed reference to the ability of participants to hear each other and replaced it with a requirement that the parties simply be able to “adequately communicate” with each other.

The changes to *The Land Titles Act, 2000* are lagging, so the reference is still to the amendments to *The Land Titles Regulations, 2001*.

The Practice Directives have been amended to change the location of the provisions, to include each of the slightly different definitions of “electronic means” and to make a few minor housekeeping changes.

b. Inaugural Adjudicator Hearing Pool

Following discussion of the proposal at April Convocation, further work is underway to flesh out the process that will be used to recruit and select candidates, giving consideration to diversity of skills, perspectives and experiences.

Administration advised that an expert is being engaged to review the position posting with a view to attracting a diverse candidate pool, and that this matter would be brought back to the Benchers table.

Concern was expressed about the timeline for populating the Adjudicator Roster and it was determined that the matter could be brought back before the Discipline Policy Committee rather than waiting until the next Convocation.

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

Pursuant to its Terms of Reference, the Equity & Access Committee is responsible for identifying and recommending actions to address barriers faced by equity-seeking groups to serving as Benchers.

Following consideration of the Benchers Election Survey findings, the Equity & Access Committee agreed to make the following recommendation to the Governance Committee and the Nominations Committee:

Recognizing the importance of the perspectives of members of equity-seeking groups and considering the findings of the Bencher Election Research Report, the Committee recommends that the Governance Committee and the Nominations Committee each take action within their respective mandates to address barriers faced by equity-seeking groups in becoming Benchers of the Law Society, which may include:

- *changes to the Rules and governance policies and processes related to Bencher selection; and*
- *policies and processes in relation to the appointment of Benchers to fill Bencher vacancies.*

The Committee further recommends that, given the urgency for change, action should be taken such that changes are in effect as soon as possible and no later than in advance of the next scheduled election.

iv. Increased Access to Legal Services (Goal 5) and Future of Legal Services Initiative

a. Limited Licensing Pilot

To date, 19 applications have been received by the Future of Legal Services Committee for the Pilot, with 17 approved participants, one non-approval, and one application pending review/decision. The Committee has also reviewed two corporate name registration matters, as well as early lessons, including one Consumer Review from the Pilot with an accompanying framework for measurement. A first meeting of the Code of Conduct Working Group has been held with active participation and input from Pilot participants.

Since the last meeting of the Committee, an additional consumer review has been received and both to date have been positive.

b. Direct Supervision Requirement

At April Convocation, redlined amendments to the *Code of Conduct* were brought before the Benchers for initial feedback. Additionally, the Model Code Sub-Committee and Saskatchewan Lawyer's Insurance Association have reviewed the draft amendments and feedback has been incorporated for consideration by the Discipline Policy Committee. Feedback is pending from Discipline Policy which will be provided for final review by the Future of Legal Services Committee and referral to the full Bencher table for decision, which is expected to occur at September Convocation.

4.2 Reconciliation Mapping Exercise Update

A third meeting of the Law Society Community of Practice (which includes Law Society representatives from all corners of the organization) with Office of the Treaty Commissioner (OTC) facilitators took place on May 10, 2022. Participants were presented with findings from the organization wide survey and took part in exercises to inform development of tailored recommendations towards truth and reconciliation.

The final session was held June 14, 2022 and focused on review of a draft report, discussion and prioritization of 37 recommendations for the Law Society. A final report that incorporates feedback from the session will be shared in the coming weeks and a presentation from OTC is anticipated for September Convocation.

4.3 Information Items

i. Federation Conference

The Federation Annual Conference is scheduled in Saskatoon on October 12 – 14, 2022, with a Saskatchewan Host Dinner being planned for Thursday, October 13, 2022.

ii. Convocation 2023

Proposed 2023 Convocation dates are as follows:

- February 16 and 17, 2023
- April 27 and 28, 2023
- June 21 – 23, 2023
- September 21 and 22, 2023
- Friday, October 27, 2023 (Budget and President's Dinner)
- November 30 and December 1, 2023

The Benchers can enter these dates into their 2023 calendars, as there were no major conflicts reported.

iii. Reports

An information package was included in the Agenda.

5. New Business

A question was raised about filling Bencher vacancies. Tim Brown, Q.C. advised that this will be considered by the Governance Committee.

6. Consent Agenda

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

The items included on the consent Agenda are set out in 6.1 below:

6.1 Approval of the Bencher Minutes

The following Bencher Minutes were provided for review:

- a. Minutes from the Bencher meeting held April 29, 2022; and
- b. Minutes from the *In-Camera* Bencher meeting held April 29, 2022.
- c. Minutes from the Special Meeting of the Benchers held May 11, 2022.
- d. Minutes from the *Closed* Special Meeting of the Benchers held May 11, 2022.

Moved by Martin Phillipson, seconded by William Lane, that the Minutes of the Bencher meetings as listed, be approved, as written. The motion carried.

7. Meeting Finalization

- 7.1 Review Actions to be Taken**
- 7.2 Confirmation Items under 1.4**
- 7.3 Meeting Evaluation**
- 7.4 Next Meeting - September 22 and 23, 2022 in Regina.**
- 7.5 Motion to Adjourn**

Julie Ann Wriston moved that the meeting be adjourned. William Lane seconded. The meeting adjourned.

TIMOTHY J. BROWN, Q.C.
Executive Director