



LAW SOCIETY

Newfoundland & Labrador

9 JUNE 2023 IN PUBLIC BENCHERS' CONVOCATION

MINUTES OF THE SUMMER TERM CONVOCATION OF THE BENCHERS OF THE LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR HELD AT THE OFFICES OF THE LAW SOCIETY AND VIA VIDEOCONFERENCE ON FRIDAY, THE 9TH DAY OF JUNE 2023, COMMENCING AT 9:30 A.M.

The following Benchers were present:

Elective Benchers:

Suzanne Orsborn, President
Renée L.F. Appleby, KC, Past-President
Scott Worsfold, Vice-President
Gladys Dunne, KC
Lauren Chafe
Brenda Duffy, KC
Valerie Hynes, KC
Michael Ladha, KC
Sheilagh Murphy, KC
Desmond Parsons
Jonathan Regan
Alex Templeton
David Williams
Doug Wright
Rod Zdebiak

Appointed Benchers:

Ross Elliott
Linda Harnett
Allan Skanes
Glenda Reid

Regrets:

Carey Majid, KC
Dean Porter

Honourary Benchers: Derek Green, KC (retired Justice) – now practising member

Law Society Staff: Brenda B. Grimes, KC
Aimee N. Rowe

The President stated that a notice of the Benchers' Convocation was provided to all Benchers in accordance with the Rules of the Law Society. A quorum of Elective Benchers and Lay Benchers being present, the President declared the Convocation regularly constituted.

INTRODUCTORY MATTERS

1. Welcome and Land Acknowledgement

The President welcomed everyone to the meeting and formally acknowledged that the Island of Newfoundland is the ancestral homeland of the Beothuk and Mi'kmaq.

The President noted the attendance of Honourary Bencher, Derek Green (retired justice) and Co-Chair of the *SS Daisy* Legal History Committee, John Joy (retired judge) and welcomed them.

2. Excusal of Benchers unable to attend Convocation

On Motion by Gladys Dunne, KC and seconded by Renee Appleby, KC: that Benchers unable to attend Convocation be excused. CARRIED.

3. Motion to move any Agenda Item to the In-Camera Agenda

There was no motion.

4. Adoption of Agenda

On Motion by Scott Worsfold and seconded by Michael Ladha, KC: that the Agenda be adopted. CARRIED.

ITEMS FOR DECISION/DISCUSSION

5. Education Committee Report.

Certificates of Fitness

Benchers were asked to approve Certificates of Fitness for:

Grace Butler
Alexandra Hayward
Rebecca Kirkwood
Taryn McLachlan
Erik Stiller
Daniel Vlitos
David Barry
Patrick Murphy
Lauren Walker
Lori Wareham

On Motion by Allan Skanes and seconded by Rod Zdebiak: that the Certificates of Fitness be approved. CARRIED.

Minutes – 21 April 2023 Call to Bar

On Motion by Linda Harnett and seconded by Sheilagh Murphy, KC: that the minutes from the 21 April 2023 Call to Bar be approved. CARRIED.

Amendments to Rule 6, 7 and 7A

Benchers were provided with a memo from the Education Committee proposing amendments to Law Society Rules 6, 7 and 7A.

Allan Skanes advised that the proposed amendments are intended to:

- i) make some minor housekeeping changes to Rule 6; and
- ii) significantly overhaul Rules 7 and 7A by combining the subject matter of each into one thus reducing the clutter and redundancy.

The proposed new Rule gives effect to the provisions of the 2013 National Mobility Agreement (NMA) and the 2013 Territorial Mobility Agreement (TMA) and streamlines the framework governing interjurisdictional practice and transfer protocols.

Significantly, the rule will extend the benefits of the 2013 NMA to members of Le Barreau du Québec and La Chambre des Notaires du Québec, despite the fact that Québec has not implemented this agreement. The Education Committee supports this new framework for two reasons. Firstly, the NMA 2013 was initially deemed consistent with the public interest when it was signed in 2013, and the lack of reciprocity should not undermine its value. Secondly, since most other common law provinces have implemented the NMA 2013, a member from Québec could bypass the existing barriers by first transferring to one of these jurisdictions before applying to transfer to Newfoundland and Labrador.

The President noted the good work of the Education Committee.

On Motion by Allan Skanes and seconded by Gladys Dunne, KC: that Benchers approve the amendments to Rules 6, 7 and 7A as drafted. CARRIED.

6. Amendments to the Model Rule on Client Identification and Verification

Benchers were provided with a memo.

The Executive Director noted that these changes are housekeeping matters regarding the client identification and verification rules which have been in effect in the province for many years. They relate to the methods for obtaining original documentation and when an agent can be used. The purpose is to reduce confusion and help members with compliance.

One Bencher questioned whether the Federation of Law Societies was considering any changes to the requirement to verify clients such as insurance companies who do not fit the exemption for financial institutions. The Executive Director advised that the Federation consistently reviews and consults on the rules and potential changes and that she would raise this issue.

On Motion by Alex Templeton and seconded by Doug Wright: that Benchers approve the amendments to the Client Identification and Verification Rules as identified. CARRIED.

7. Strategic Planning Work Plan

General Discussion

The Executive Director noted that any changes to the plan were highlighted in yellow. She pointed out that there had been a change in who was responsible for managing and making recommendations on the Pro Bono Award advising that it would be dealt with by the Honours and Awards Committee along with the other awards.

The Chair of the Access to Justice Committee sought endorsement from Benchers on their approach to the strategic initiative to Advocate for Increased Technology in Court Operations. The committee is proposing two surveys: i) one asking members about their use and experience with technology in the courts; and ii) a second canvassing the public regarding their interactions with the courts and its use of technology. The purpose of the surveys is to establish what improvements might help to promote access to justice.

Some discussion ensued about how to administer a survey to the public and ideas included: providing paper copies on various websites; including it in Legal Aid NL intake documents; creating a link on PLIAN; requesting court registry staff to provide it to self-represented litigants; requesting that victim services disseminate it; and making it available at the Gathering Place and other groups dealing with the public.

Benchers were reminded that the committee had reached out to offer assistance to the courts in advocating for technology but the Court could not identify any area in which the committee could assist.

Honourary Bencher, Justice Green felt that the court would be interested in what is being proposed and that Chief Justice Fry, if contacted, would welcome the initiative. He also felt the courts would want the Law Society to advocate for them and encouraged Benchers to pursue it. He also recommended contacting the self-represented litigants project at the University of Windsor law school (Judy McFarlane) as they have been wanting to expand activities across the country and might be able to assist with the survey.

It was agreed that the end goal was to identify: i) barriers to access to justice; and ii) whether increased use of technology would help alleviate the barriers. Benchers supported the approach and suggested that the committee continue to engage with the courts during the process to avoid duplication of effort.

With respect to Enhancing Public Engagement and Communication, the Executive Director noted that, at the request of the school, two staff members attended Mount Pearl Senior High to talk about the practice of law and the role of the Law Society. Also, a new brochure on library resources was prepared and distributed through other public libraries. Benchers were pleased to hear about this and encouraged further initiatives of that sort.

The Executive Director noted that the deadlines for certain initiatives such as Consider How to Address Boundary Violations and Increase Organizational Effectiveness – Enhance Trust Audit Program had to be shifted because the disciplinary department has been extraordinarily busy and because the new Trust Compliance Auditor is taking time to develop better processes and engage more with members in advance of audits.

Honourary Bencher, Justice Green inquired about the purpose of discussing the strategic work plan. He noted that the preamble to the work plan outlines the mandate and goals of the Law Society and reminded Benchers that the objects of the Law Society at first incorporation in 1834 were stated as:

- i) establishment of order amongst ourselves;
- ii) securing a learned and honourable society;
- iii) assist fellow subjects; and
- iv) support and maintain the constitution of the island.

He identified the importance of education/competence, research/knowledge, assisting the public, legal history and advocacy for the Law Society in protecting the administration of justice and offered his view that any mandate and goals should reflect the statutory purposes of the Law Society, including research and legal history.

The President noted that the discussion of the strategic plan was to obtain an update on initiatives that are set out in it. The plan was developed by Benchers during a strategic planning exercise that considered the Law Society's mandate under the statute and is consistent with the Law Society's statutory mandate.

ITEMS FOR INFORMATION

8. President's Report

A report was provided. There were no questions arising.

9. Education Committee Report – Transfers under NMA and Notice of Resumption of Practicing Status

A report was provided. There were no questions arising.

10. Benchers' Minutes – For Public – 17 April 2023

The minutes were provided. They were previously approved by Benchers for posting on the Law Society's website in advance of this meeting in accordance with the Openness, Transparency and Confidentiality Policy.

11. Annual Reports from the Committees

Reports were provided. There were no questions arising.

CONCLUDING MATTERS

12. Other Business

There was no other business.

13. Adjournment

The President noted that Benchers would move to the *in-camera* portion of the meeting and that the public portion of the Benchers' Meeting was adjourned.

On Motion by Sheilagh Murphy, KC and seconded by Gladys Dunne, KC: that the in-public portion of the Benchers' meeting be adjourned. CARRIED.

SUZANNE ORSBORN