

THE LAW SOCIETY OF BRITISH COLUMBIA

MINUTES

- MEETING:** Benchers
- DATE:** Friday April 4, 2008
- PRESENT:**
- | | |
|--|-----------------------------|
| John Hunter, QC, President | Peter Lloyd |
| Gordon Turriff, QC, 1 st Vice-president | Jan Lindsay |
| Glen Ridgway, QC, 2 nd Vice-president | David Mossop, QC |
| Rita Andreone | Thelma O'Grady |
| Kathryn Berge, QC | June Preston |
| Joost Blom, QC | Robert Punnett |
| Robert Brun, QC | David Renwick, QC |
| Ken Dobell | Allan Seckel, QC, Deputy AG |
| Ian Donaldson, QC Life Bencher | Meg Shaw, QC |
| Leon Getz, QC | Richard Stewart, QC |
| Carol Hickman | Ronald Tindale |
| Gavin Hume, QC | Dr. Maelor Vallance |
| William Jackson | Art Vertlieb, QC |
| Patrick Kelly | James Vilvang, QC |
| Terry La Liberté, QC | Ken Walker |
| Bruce LeRose, QC | David Zacks, QC |
| Barbara Levesque | |
- STAFF PRESENT:**
- | | |
|------------------|-----------------|
| Tim McGee, CEO | Michael Lucas |
| Dana Bales | Bill McIntosh |
| Stuart Cameron | Jeanette McPhee |
| Brad Daisley | David Newell |
| Su Forbes, QC | Susanna Tam |
| Jeffrey Hoskins | Alan Treleaven |
| Graeme Keirstead | Adam Whitcombe |
| Howard Kushner | |
- GUESTS:**
- Professor Claire Young, Associate Dean, University of BC Faculty of Law
 - Miriam Maisonville, Vice-president, CBABC
 - Caroline Nevin, Executive Director, CBABC
 - Johanne Blenkin, Executive Director and Chief Librarian, BCCLS
 - Tom Felhauer, QC, Chair, CLE Society
 - Jack Huberman, QC, Executive Director, CLE Society
 - Jamie McLaren, Executive Director, Pro Bono Law of BC
 - Wayne Robertson, Executive Director, Law Foundation of BC

1. MINUTES

The minutes of the meeting held on February 29, 2008 were approved as circulated.

2. **CONSENT AGENDA**

The following resolutions were passed unanimously and by consent:

Resolved: to appoint Gordon Turriff, QC, First Vice-president, to the Queen's Counsel Appointments Advisory Committee for 2008.

Resolved: to amend Rule 4-13 of the Law Society Rules by rescinding subrule (2) and substituting the following:

(2) At any time before a panel makes a determination under Rule 4-35, the Discipline Committee may rescind a citation and substitute another decision under Rule 4-4(1).

Resolved: to amend the Law Society Rules as follows:

1. ***In Rule 1, by rescinding paragraph (k) of the definition of "professional conduct record" and substituting the following:***

(k) an action taken under section 38(5), (6) or (7) of the Act;

2. ***In Rule 4-35(1), by rescinding paragraphs (c) and (d) and substituting the following:***

(c) include in its decision under this Rule

(i) any order, declaration or imposition of conditions under section 38(7) of the Act, and

(ii) any order under Rule 5-9 on the costs of the hearing, including any order respecting time to pay,

(d) prepare a written record, with reasons, of its action taken under subrule (b) and any action taken under subrule (c),

Resolved: to amend the Law Society Committee and Task Force structure as follows:

1. The following groups are eliminated:

- a. Access to Justice Committee,
- b. Equity and Diversity Committee,
- c. Futures Committee,
- d. Independence and Self-Governance Committee,
- e. Lawyer Education Committee
- f. Legal Information and Technology Committee
- g. Regulatory Policy Committee; and

2. The following groups are established:

- a. Access to Legal Services Advisory Committee,
- b. Equity and Diversity Advisory Committee,
- c. Independence and Self-governance Advisory Committee,
- d. Lawyer Education Advisory Committee,
- e. Civil Justice Reform Task Force,

- f. Retention of Women in Law Task Force.
3. The mandate of the Access to Legal Services Advisory Committee is as follows:
 - a. to monitor developments affecting access to legal services in British Columbia;
 - b. to report to the Benchers on a semi-annual basis on those developments;
 - c. to advise the Benchers annually on priority planning in respect of issues affecting access to legal services in British Columbia; and
 - d. to attend to such other matters as the Benchers or the Executive Committee may refer to the Advisory Committee from time to time.
4. The mandate of the Equity and Diversity Advisory Committee is as follows:
 - a. to monitor developments affecting equity and diversity in the legal profession and the justice system in British Columbia;
 - b. to report to the Benchers on a semi-annual basis on those developments;
 - c. to advise the Benchers annually on priority planning in respect of issues affecting equity and diversity in the legal profession and the justice system in British Columbia; and
 - d. to attend to such other matters as the Benchers or the Executive Committee may refer to the Advisory Committee from time to time.
5. The mandate of the Independence and Self-Governance Advisory Committee is as follows:
 - a. to monitor developments affecting the independence and self-governance of the legal profession and the justice system in British Columbia;
 - b. to report to the Benchers on a semi-annual basis on those developments;
 - c. to advise the Benchers annually on priority planning in respect of issues affecting the independence and self-governance of the legal profession and the justice system in British Columbia; and
 - d. to attend to such other matters as the Benchers or the Executive Committee may refer to the Advisory Committee from time to time.
6. The mandate of the Lawyer Education Advisory Committee is as follows:
 - a. to monitor developments affecting the education of lawyers in British Columbia;
 - b. to report to the Benchers on a semi-annual basis on those developments;
 - c. to advise the Benchers annually on priority planning in respect of issues affecting the education of lawyers in British Columbia; and
 - d. to attend to such other matters as the Benchers or the Executive Committee may refer to the Advisory Committee from time to time.
7. The mandate of the Civil Justice Reform Task Force is to consider what further response to the Attorney General's Civil Justice Reform Task Force, if any, the Law Society should make, and report to the Benchers at the May 2 meeting.
8. The mandate of the Retention of Women in Law Task Force is to review issues relating to the retention of women lawyers in private practice, including the preparation of a business case to support the retention of women lawyers in private practice, and report to the Benchers by the first meeting in 2009.

Resolved: to award the Law Society Scholarship for 2008 to Abeer Hasan, and if Abeer Hasan is unable or unwilling to take up the scholarship, to Kate Mackenzie Blomfield.

3. **PRESIDENT'S REPORT**

Mr. Hunter gave a brief report on the Federation of Law Societies meeting in Whitehorse. He said the overall tenor of the meeting was very positive and the Federation appeared to be building a sense of common purpose and momentum for joint action.

Mr. Hunter reviewed his other activities on behalf of the Law Society over the previous month, and thanked Benchers Jackson, Turriff, Lindsay, Hickman and Vertlieb for attending events on behalf of the Law Society.

Mr. Hunter reminded the Benchers that the Law Society would be hosting a public forum on youth in the justice system on May 21, 2008 and he encouraged Benchers to attend.

4. **CEO'S REPORT**

Mr. McGee reported on the status of the recommendations made by the Title Insurance Issues Task Force, noting that the portion of his report on this matter that included confidential or privileged information would be dealt with *in camera* at the end of the meeting.

With respect to recommendation 3, Mr. McGee reported that he and others had met with the Land Title and Survey Authority to examine ways to improve the filing process and the issues raised in the report.

- With respect to recommendation 4, Mr. McGee reported that Law Society staff was actively engaged in preparing two informational brochures on the Western Law Societies Conveyancing Protocol, one for lawyers and one for lenders, which would be distributed in the near future. Additionally, an article on the protocol was being prepared for the Benchers Bulletin.
- With respect to recommendation 5, Mr. McGee reported that as a result of follow-up discussions, the Law Society was satisfied that the government staff people responsible for order-in-council appointment of commissioners for taking oaths have an appropriate process in place for checking references and screening applicants, therefore the recommendation had been fulfilled.

Mr. McGee reported that at the CEO's portion of the Federation of Law Societies meeting there was a discussion of national standards. He said the Benchers should be aware that there is a move to create national standards at an operational level on such matters as turnaround time on complaints and other basic regulatory operations. He said CEO's in other jurisdictions were enthusiastic about the Law Society of BC's key performance measures and the underlying process for setting them.

Mr. Zacks asked if the Land Title and Survey Authority was able to advise whether there was a disproportionate number of errors in documents filed by or on behalf of title insurance companies. Mr. McGee said their advice was that the error rate was not disproportionate. However, the rectification rate appears to lag behind other users of the system. The Land Title and Survey Authority is engaged in discussions with the title insurance companies and is trying to establish a constructive working relationship.

Mr. McGee asked Ms. McPhee, CFO, to report on the 2007 year-end financial position. He noted that the financial statements had not yet been presented to the Audit Committee so they remained in draft form.

Ms. McPhee reported General Fund results were better than expected, with a significant surplus over budget resulting in part from higher than anticipated revenue and in part from decreased expenditures. On the expense side, she said there had been a focus on reducing the amount spent on external counsel; additionally, there was some savings on salaries as a result of unfilled staff vacancies. Bencher governance and committee costs were also less than budgeted. There was a deficit in programs covered by the Trust Assurance Fee but there were sufficient reserves to cover it. The Lawyers Insurance Fund also had a deficit against budget, but that was part of the normal fluctuation in claims. LIF had a surplus in 2006.

Mr. McGee said the Law Society was in a very solid financial position. He particularly acknowledged the work done by Chief Legal Officer, Mr. Kushner, and Director of Regulation, Mr. Cameron, in bringing down external counsel costs.

Mr. Zacks noted that the Benchers wanted to budget on a “zero balance” basis so that there are not large surpluses on an ongoing basis. Ms. McPhee said the total accumulated surplus was the 2007 surplus plus approximately \$650,000. The minimum surplus set by executive limitations is \$500,000 but that has been in place for some time and is due to be re-examined.

Mr. McGee reported on the Law Society’s Key Performance Measures, noting that this was the first report on the performance measures the Benchers approved in 2007. Points of note included:

- All KPMs in the Professional Conduct area were met. The total number of complaints is trending downward and there is increased satisfaction with courtesy and timeliness of complaints handling. Of 95 complaints referred to the Complainants Review Committee, the initial disposition was confirmed in 90, four were referred to the Discipline Committee and one was returned for further investigation.
- The new custodianships program was too new to measure results accurately, but appeared to be tracking its targets. Six out of eight custodianships in 2007 were handled in-house, resulting in substantial cost savings.
- Similarly, it is too early to make meaningful assessments of the new trust assurance program. The goal is to see a long term reduction in the number of financial suspensions and referrals to professional conduct. The Law Society now has the capacity to perform up to 500 full compliance audits per year.
- PLTC had a record number of students in 2007 (386). Targeted pass rates were being met (96% pass rate overall).
- Survey information is being gathered with respect to the practice advice program and will be available later in 2008. The practice advisors received over 5000 telephone calls and emails in 2007.
- There is evidence of real improvement in the members referred to the practice standards program.
- The Policy and legal services department met or exceeded its targets.

5. REPORT ON OUTSTANDING HEARING DECISIONS

The Benchers received a report on outstanding hearing decisions.

6. REPORT ON LAWYERS INSURANCE FUND 2007 RESULTS

Ms. Forbes, Director of Insurance, gave a presentation on the Lawyers Insurance Fund in 2007. A copy of the presentation is appended as Appendix 1.

In response to a question from Mr. Walker, Ms. Forbes said she would obtain information on whether further payments under Part B insurance were anticipated on 2007 claims. She said the

cost of operating Part B insurance was expected to be somewhat less than operating the Special Compensation Fund because the claims can be addressed faster.

In response to a question from Mr. Jackson, Ms. Forbes said there were some particularly cautious lawyers who report incidents more frequently than others, but lawyers who have multiple claims tend to have already left the profession.

Ms. Andreone noted that some professionals are including more and more limitations on liability in their engagement letters, and she asked if that trend was likely in the legal profession. Ms. Forbes said she did not think lawyers would be able to limit their liability in that way.

Ms. Preston noted that some claimants are dissuaded from pursuing their claims and she asked if there is anything like the Complainants Review Committee for those people. Ms. Forbes said there was not but she noted that these are not situations where claims are simply denied but are cases where people make claims but are persuaded that their claims have no merit. She also noted that claimants are represented by counsel in many such cases. Ms. Preston also asked if claimants were asked about their level of satisfaction. Ms. Forbes said they were not because the LIF's duty is to the lawyer and claimants have recourse to the civil litigation process.

Ms. Hickman acknowledged Ms. Forbes' point about claimant's satisfaction still thought it was important for the Benchers to have feedback from claimants in order to consider how the process as a whole is protecting the public interest.

Mr. Hunter suggested claimants' feedback with respect to Part B claims might be more valuable.

Ms. Berge agreed with Ms. Hickman. There would be value in the Benchers understanding how claimants view the insurance function. She asked if there were statistics available on the number of claims settled before and after litigation is commenced. Ms. Forbes said those numbers were not tracked. Claims counsel generally try to settle before litigation is commenced if that is possible but LIF does not always have notice of a claim before a writ is filed.

Mr. Brun was concerned that seeking claimants' views of the process with respect to Part A claims could mix up the Law Society's role as insurer and as regulator.

Mr. Turriff said the possibility of that confusion and the independence issues that might arise from it was why the Independence and Self-governance Committee suggested that the Benchers should examine the role of the Law Society in relation to insurance.

7. REPORT ON THE FEDERATION OF LAW SOCIETIES MEETING

The Benchers received a written report on the semi-annual meeting of the Federation of Law Societies held in Whitehorse. Ian Donaldson, QC, the Law Society's representative on the Federation Council, reported on the meeting. Highlights included:

- A presentation that considered the inherent conflict between public and member interests in the Law Society of BC's statutory mandate, in which it was noted that the public interest is not mentioned in the mandates of some other Law Societies.
- A presentation by Jamie Watt (a public relations consultant) who made a convincing presentation based on polls on attitudes towards professions over a period of time concluding that lawyers have been faring progressively worse. He noted that the Law Society of BC was on the right track with increased transparency and willingness to speak about its actions.
- A presentation from David Brown focusing on the experience of the accounting profession following major scandals (e.g. Enron), noting that the Canadian accounting

profession, along with accountants world-wide, faced enormous pressure to remove their ability to self-regulate even though the scandals had nothing to do with them directly.

Mr. Donaldson said the upshot of the presentations was that the legal profession couldn't afford to be sanguine about its independence. It is unlikely that government will refrain from actions similar to those taken in other jurisdictions. The Competition Bureau report on professions makes points that the Law Society should consider carefully, in particular the differences between jurisdictions that are not rationally sustainable, and the fee splitting rule that prevents the formation of multidisciplinary practices. There are critical issues affecting the profession at the national level and the Federation can provide a unified voice. He said the Federation has greatly improved capabilities and provides good value for the money spent.

Mr. Vertlieb asked if the presentation on public perception of the legal profession generated any response. Mr. Donaldson said there were the expected responses about not being able to comment on matters under investigation but Mr. Watt's point was that lawyers are too used to "turning turtle" in the face of criticism, and needed to respond positively when people are unfairly criticizing lawyers. He described this as changing the "congenial truth". Mr. Donaldson noted that there was a discussion about creating an oversight body composed of non-lawyers who would examine the Law Societies and what they do.

Mr. Hunter commented that the Law Society of BC is able to respond locally because of the strength in its communications department. Public education is one of the Benchers' priorities. The Federation has difficulty being proactive because it does not have a lot of staff. Much of the work winds up being done by staff of the Law Societies in BC, Ontario and Alberta. The Federation will probably have to increase its policy staff. Mr. Daisley, Communications Manager, said the Law Society of BC had made a commitment to work with the Federation on strategic communications, and to provide assistance that can be used by smaller Law Societies.

Mr. Vilvang said the Benchers should bear in mind that many national issues are not exclusively Federation issues. The Benchers should be informed about the national context and think about it with respect to all issues that come before them.

Ms. Preston commented that despite the fact that there are Lay Benchers in every jurisdiction, they tend to have a low profile in published material. There may be opportunities to highlight the work of the non-lawyers who are already part of Law Societies.

Mr. Donaldson agreed that the Law Society should take opportunities to promote the Law Society as a regulator, noting that critics might say that if the Law Society is really intended to protect the public interest, it should not promote the interests of lawyers.

Mr. Turriff reiterated the comment that the Federation levy is too low and said it should be increased substantially to enable the Federation to gain strength and work more effectively. Right now, the Law Society of BC contributes human resources but it will have to contribute more money. Governments have made incursions into the independence of the profession in some jurisdictions and will continue to do so unless the Law Societies are ready to take a stand.

Ms. Berge suggested that 2008 would be an opportune year to discuss in a principled way what the Law Society should do to support the Federation generally, possibly starting with a consideration of the Federation model code of conduct.

Mr. Brun noted that the Canadian Bar Association conducts polls annually on public attitudes, and does promote the image of lawyers. The Law Society must avoid an "us and them" approach and pull together. Mr. Turriff agreed that there is no competition between the Law Society and the

CBA. The Law Society is not interested in promoting the image of lawyers per se but promoting what lawyers do to protect the public.

Mr. Lloyd noted that the relationship between provincial institutes of Chartered Accountants and the Canadian Institute of Chartered Accountants had also been difficult and although fostering the relationship with the Federation was not easy it was something the Law Society of BC should do. He said it is difficult to build a national consensus even in a profession dominated by a few very large firms and the Law Society should beware the potential “domino effect” of losing self-governance in a single province.

8. UNBUNDLING OF LEGAL SERVICES

Ms. Hickman introduced the report of the Unbundling of Legal Services Task Force and reviewed the task force’s recommendations. The task force considered issues that arise in provision of limited scope legal services in relation to four main topic areas:

- lawyers providing confidential drafting assistance;
- lawyers making limited appearances in court as part of the limited scope retainer;
- lawyers providing legal information and advice under a limited scope retainer; and
- lawyers providing legal services at a court-annexed program, or at a non-profit legal service program.

The task force’s recommendations fell under five main categories:

- general professional conduct;
- confidential drafting assistance;
- communications;
- conflicts of interest; and
- education and transition.

Mr. Hume reported that the Ethics Committee had examined the recommendations with respect to conflicts of interest and recommended modification of conflict rules to permit lawyers to participate in court-annexed or non-profit legal service programs. This would not permit direct conflicts but is intended to deal with the problem of other lawyers in a firm acting for a party with a potential conflict of interest.

It was moved (Hickman/Mossop) to approve the report and refer the recommendations set out in the report to the Ethics Committee to draft the amendments to the Professional Conduct Handbook needed to implement them.

Ms. Andreone noted that a goal of the recommendations is to expand the number of lawyers able to provide pro bono services, however, there is a group of perpetually available counsel who might not want to take on pro bono clients for fear of not being able to take a paying retainer later because of a conflict.

Mr. Hume said the proposed changes to the conflicts rules would preclude the individual lawyer from taking a client with a conflicting interest but would not prevent another lawyer in the same firm from doing so.

Mr. Hunter noted that recommendation number ten was that the Supreme Court and Court of Appeal should adopt the Federal Court practice of drafting orders of the court. He noted that the BC Supreme Court was consulted but it was not clear whether this specific recommendation was

discussed. He said if judges were not going to draft orders, then he would be concerned because of the impact on civil justice generally.

Ms. Hickman said the preparation of court orders in general was discussed and the Supreme Court was of the opinion that there is sufficient capacity to prepare orders. The judges agreed that if the resources were available, this would be helpful.

Ms. Lindsay and Ms. Shaw shared Mr. Hunter's concerns. Ms. Shaw said she would be very opposed to leaving drafting orders to court clerks.

Mr. LeRose asked if recommendation number 10 was intended to be limited to matters involving and unrepresented party. Ms. Hickman said the task force had in mind the context of interim orders where counsel are present when the order is drafted.

Mr. Brun suggested the motion be rephrased to make it clear that in the normal course it would remain the responsibility of the parties to draft orders, subject to the ability of the court to direct that the registry draft the order, similar to the current ability of the court to dispense with the signature of a party.

Mr. Vertlieb said he assumed having the court draft orders was intended to apply only to the situation where there is an unrepresented party so as not to be bog down either the opposing lawyer or a lawyer offering limited legal services.

Ms. Hickman said that was the intention of the task force.

It was agreed to amend the motion by adding the following: "subject to amending recommendation number ten to read as follows:

For consistency and certainty the British Columbia Court of Appeal and British Columbia Supreme Court should be asked to draft orders of the Court in circumstances the court deems appropriate.

Mr. Turriff did not think the recommended changes were necessary. He did not accept the premise that limited scope legal services had become more prevalent. He said there was an unspoken assumption inherent in the recommendations, with which he disagreed, that unrepresented litigation is inevitable and acceptable. He said lawyers had always been able to provide limited scope services and ninety percent or more of what was covered in the recommendations was already covered by the Rules of Court and the Professional Conduct Handbook. He supported the special conflicts rules but nothing else in the recommendations, especially not the drafting of orders by court clerks. The order forms the basis for appeal, and how it is written is critically important.

Mr. Kelly asked whether the recommendations would in any way undermine the protection of the public interest?

Ms. Hickman said that from the perspective of people who are unrepresented, the recommendations would make more services available to them. People would have the benefit of at least some advice. For people who have full representation the recommendations would ameliorate the unfairness that results from their lawyer doing more work, for which they pay.

Mr. LaLiberté said he did not want to see any unnecessary proliferation of rules but was in favour of anything that allowed people to get legal advice where otherwise they would not be able to. However, he agreed with Mr. Hunter's concerns with respect to drafting court orders.

Mr. Punnett agreed with the concerns already expressed with respect to drafting orders, but he did not think the recommendations would result in a proliferation of rules, but would merely amend existing rules. He noted that Mr. Turriff's point had not been addressed and it might be that most of the necessary rules already exist and only a few amendments are needed.

Ms. Berge said the purpose of the recommendations was to clarify existing rules as they apply to unbundled legal services, not to change the whole practice of civil litigation. The suggestions that had been made were exactly the sort of input the task force hoped to generate.

Mr. Mossop agreed with Mr. Turriff's argument but not his conclusion. He did not think the rules needed to be changed to any great degree, but the Benchers should realize that unbundling of legal services is going on and some lawyers are unsure about whether they should. The advantage of the report is that it affirms that it is permissible to accept a limited scope retainer, and it says to the public that there are affordable options for obtaining legal advice.

Mr. Turriff noted the reference in the report to a statement made by the Chief Justice of the Supreme Court of Canada that raised the concept of proportionality which, in his view, suggested that the report supported an endorsement of the proportionality principle embodied in the proposed reforms of the Civil Justice Reform Task Force, and presupposed the conclusion that it is appropriate. He reiterated that the ability to provide unbundled legal services already exists, and it may be part of the professional responsibility of lawyers to do so.

Mr. LeRose said the Bencher had an opportunity to do something practical about increasing people's access to legal services. The people involved have said it would be a good thing. The Benchers will have a further opportunity to debate specific changes to the Rules or the Handbook when they are brought forward for implementation.

The motion, as amended, was carried.

Ms. Hickman thanked Mr. Munro of the Policy and Legal Services staff for his contribution to the work of the task force.

9. INDEPENDENCE AND SELF-GOVERNANCE COMMITTEE REPORT

Mr. Turriff introduced the report of the Independence and Self-governance Committee, drafted by Mr. Lucas of the Policy and Legal Services staff. The report has two main messages. The first is why it is necessary to be vigilant about independence and self-governance. Not all jurisdictions in Canada have the same views on some aspects of the report but it is important to state the case and give others the opportunity to explain why they agree or disagree. The second message is that most of what the Law Society of BC does is consistent with independence and self-governance. The committee analyzed the Law Society's core functions and tested them against independence and the public interest. Two areas that the committee thought merit further consideration are the Law Society's prosecutorial and adjudicative functions, and insurance. The committee did not think it was necessary to examine the prosecutorial and adjudicative functions immediately but because of the potential for adverse public perception, it should be considered in the near future. The committee thought there were some questions to be considered with respect to the insurance program but went no further. As a final comment, public education is needed. The more people understand the public protection role lawyers play, the more they will understand why lawyers need to be independent and self-governing.

Mr. Getz said he subscribed entirely to the concept of independence described in the report. With respect to public education, he suggested that the report could be reworked into an article to be published to explain why lawyers must be independent and why the profession should be self-regulated. There are other aspects of lawyer independence that are not contemplated in the report in terms of the obligations and privileges of employed lawyers, such as the extent to which their

employment obligations supersede their independence, or retained lawyers with possible obligations towards their corporate clients.

Mr. Vertlieb noted that the report made the point that lawyer independence is a public right necessary to preserve the rule of law, but many people do not understand that. He suggested it might be better to describe the concept as lawyer/client independence.

Ms. Preston said that the lack of public understanding was an issue for her and she therefore supported a consideration of how best to describe the concept. The public needs to understand that independence of the legal profession is about the public's right to an independent lawyer.

Mr. Hume agreed with Mr. Getz and said he had discussed the possibility of publishing a version of the paper in the Advocate.

Mr. Walker said he was struck by the idea that an independent lawyer is a client's right.

10. PLANNING AND PRIORITIES

Mr. Hunter reported that the Executive Committee had considered the Benchers comments made at the previous meeting and tried to come back with recommendations on priorities. The committee focused on developing a reasonably practical schedule for addressing what the Benchers have expressed as priorities rather than trying to assign on a higher priority over another. The objective is to provide the Benchers with an adequate knowledge base to allow informed policy discussion and decisions. The timeline circulated with the agenda presents a basic work plan for this year and part of 2009.

11. STATUS REPORT ON RECOMMENDATIONS OF THE TITLE INSURANCE ISSUES TASK FORCE THAT CONCERN CONFIDENTIAL OR PRIVILEGED INFORMATION.

This matter was considered *in camera*.

It was agreed that the Law Society would not pursue litigation at this time against First Canadian Title based on unauthorized practice of law.

12. DISCUSSION OF BENCHER CONCERNS

This matter was discussed *in camera*.

DMGN
08-04-22