



# Minutes

## Benchers

Date: Friday, December 07, 2018

Present: Miriam Kresivo, QC, President  
Nancy Merrill, QC, 1<sup>st</sup> Vice-President  
Craig Ferris, QC, 2<sup>nd</sup> Vice-President  
Jeff Campbell, QC  
Pinder Cheema, QC  
Anita Dalakoti  
Jeevyn Dhaliwal  
Martin Finch, QC  
Brook Greenberg  
Lisa Hamilton, QC  
Roland Krueger, CD  
Dean P.J. Lawton, QC  
Jamie Maclaren, QC  
Claire Marshall

Geoffrey McDonald  
Steven McKoen  
Christopher McPherson, QC  
Phil Riddell  
Elizabeth Rowbotham  
Mark Rushton  
Carolynn Ryan  
Karen Snowshoe  
Michelle Stanford  
Sarah Westwood  
Michael Welsh, QC  
Guangbin Yan  
Heidi Zetzsche

Unable to Attend: Jasmin Ahmad  
Jennifer Chow, QC  
Barbara Cromarty  
Tony Wilson, QC

Staff Present: Don Avison  
Gurprit Bains  
Chantal Broughton  
Lance Cooke  
Su Forbes, QC  
Mira Galperin  
Andrea Hilland  
Jeffrey Hoskins, QC

David Jordan  
Jason Kuzminski  
Michael Lucas  
Jeanette McPhee  
Doug Munro  
Alan Treleaven  
Adam Whitcombe

Guests: Jacqui McQueen	2019 Bencher
Karena Williams	External Relations Executive Member, Aboriginal Lawyers Forum
Margaret Mereigh	President, Canadian Bar Association, BC Branch
Kenneth Armstrong	Vice-President, Canadian Bar Association, BC Branch
Bill Veenstra	Past President, Canadian Bar Association, BC Branch
Caroline Nevin	Executive Director, Canadian Bar Association, BC Branch
Kerry Simmons, QC	Acting Executive Director, Canadian Bar Association, BC Branch
Linda Russell	CEO, Continuing Legal Education Society of BC
Kari Boyle	Interim CEO, Courthouse Libraries BC
Herman Van Ommen, QC	Law Society of BC Member, Council of the Federation of Law Societies of Canada
Dom Bautista	Executive Director, Law Courts Center
Wayne Robertson, QC	Executive Director, Law Foundation of BC
Derek LaCroix, QC	Executive Director, Lawyers Assistance Program
Dr. Catherine Dauvergne	Dean of Law, University of British Columbia
The Honourable Peter Leask, QC	Life Bencher

## CONSENT AGENDA

### 1. Minutes & Resolutions

#### a. Minutes

The minutes of the meeting held on November 9, 2018 were approved as circulated.

The *in camera* minutes of the meeting held on November 9, 2018 were approved as circulated.

#### b. Resolutions

The following resolutions were passed unanimously and by consent.

#### **Language and gender reference corrections to BC Code rule 3.7-2 Commentary [1]**

*BE IT RESOLVED* that:

The Commentary [1] to rule 3.7.2 of the BC Code be amended to reflect the changes indicated in the ‘red-lined’ version of the rule and Commentary presented below.

### Optional withdrawal

**3.7-2** If there has been a serious loss of confidence between the lawyer and the client, the lawyer may withdraw.

#### Commentary

[1] A lawyer may have a justifiable cause for withdrawal in circumstances indicating a loss of confidence, for example, if the lawyer is deceived by the client, the client refuses to accept and act upon the lawyer’s advice on a significant point, the client is persistently unreasonable or uncooperative in a material respect, or the lawyer is facing difficulty in obtaining adequate instructions from the client. However, the lawyer should not use the threat of withdrawal as a device to force a hasty decision by the client on a difficult question.

## **2019 Fee Schedules**

*BE IT RESOLVED to amend the Law Society Rules in Schedule 1, part F, by striking “\$200” wherever it appears and substituting “\$250”.*

## **EXECUTIVE REPORTS**

### **2. President’s Report**

Ms. Kresivo began her report by welcoming the recently elected Vancouver County Bencher Jacqui McQueen, whose term will begin on January 1, 2019, and congratulating Benchers Michelle D. Stanford, Steven McKoen, Lisa Hamilton, and Ronald Krueger, CD on their election to the Executive Committee for 2019. She then reminded Benchers about the Recognition Dinner to be held that evening, and said Richard C.C. Peck, QC, the recipient of the Law Society Award for 2018, and the Attorney General, the Honourable David Eby, QC would both be speaking at the event.

Ms. Kresivo reported on the continued Annual General Meeting held on December 4, 2018 and said she was pleased everything worked well and that the meeting concluded. The resolutions passed at the meeting will need to be considered by Benchers in 2019. There are issues relating to legal aid, pro bono and alternate legal service providers. All are significant issues that will require careful consideration. On a related note, Ms. Kresivo said the consultation period for the alternate legal service providers consultation remains open until the end of December 2018.

She said the Executive Committee is committed to reviewing the Annual General Meeting process with a view to recommending improvements before the 2019 Annual General Meeting. The Governance Committee has been tasked with looking at what can be done to make the whole process more efficient, while still keeping people engaged in the process and in the concerns and issues of the Law Society.

Ms. Kresivo reminded Benchers about the survey distributed by the Governance Committee. The survey asks the Benchers and committee members to evaluate their experience in 2018. A report on the results will be presented in early 2019.

Ms. Kresivo noted that, in lieu of a Bencher holiday gift, a charitable donation on behalf of Benchers had been made by the Law Society to West Coast LEAF. It is their mission to use the law to create a more equal and just British Columbia.

Ms. Kresivo thanked people who attended the Annual General Meeting in the fifteen locations and online, the Chairs and Vice-Chairs, and in particular, staff for their efforts to prepare for and support the Annual General Meeting.

She then summarized some of the key achievements of 2018, including dealing with financial issues and challenges, anti-money laundering, an increase in the number of files in the professional conduct department, looking at whether and how paralegals could be licensed, an inquiry into mental health in the profession, equity and the legal profession, a rule of law lecture, registration of law firms and the pilot project, participated in discussions on pro bono and access to justice, a retreat held on truth and reconciliation and our role, and fostering a better relationship with government on access to justice issues.

### **3. CEO's Report**

Mr. Avison indicated he wished to speak about five main themes.

The first theme was the Annual General Meeting. There were six additional locations added following the events at the first Annual General Meeting on October 30, 2018. A considerable amount of work was undertaken to increase the likelihood of success with the technology. He said the technology served us well during the course of the meeting on December 4, 2018; however, the pace of the meeting was slow. It is clear that the current meeting rules were designed for an in-person meeting of 100 people or less held in the same building at one location. They are not really compatible with our current extension of the Annual General Meeting to multiple physical locations and significant online participation.

Mr. Avison said staff had already begun work on some potential changes that will help us streamline voting procedures in a manner that we hope will cause a greater degree of efficiency and reduction in the time required to complete the Annual General Meeting. He also wanted to thank and recognize the work of staff who assisted with the Annual General meeting.

The second theme was legislative amendments, specifically Bill 57, which was passed by the legislative assembly of British Columbia at the end of November 2018. This was a significant achievement and reflected the government's confidence in the Law Society as regulator.

The third theme was the second Legal Aid Colloquium that also took place in November 2018. He said legal aid would be a significant area of focus for the Law Society in the coming year after the Legal Aid Advisory Committee makes recommendations to Benchers regarding advancing legal aid in 2019.

The fourth theme was the work of the Mental Health Task Force, which Mr. Avison met with the day before the Bencher meeting. A package from the Lawyers Assistance Program had been made available to Benchers, recognizing that Benchers have discussions with students and that it could be a very helpful resource.

The final theme Mr. Avison reported on was a staffing update. He noted that interviews for the Chief Legal Officer position were complete and that he hoped to be in a position to make an announcement shortly.

#### **4. Briefing by the Law Society's Member of the Federation of Law Societies of Canada Council**

Mr. Van Ommen, QC briefed the Benchers as the Law Society's member of the FLSC Council.

Mr. Van Ommen noted there had not been a Council meeting since the last Bencher meeting. He gave a brief report on one of the aspects of the Federation's work; namely, consultation with Federal Government over various pieces of legislation that it is considering passing.

He spoke about Bill C-86, an omnibus bill and referred to two main aspects. The first was that federally incorporated companies will have a requirement that they collect and keep information about beneficial ownership of their shares. In the anti-money laundering file, that is one of the key elements – to require disclosure of beneficial ownership. The legislation only requires the company to collect and keep that information. There are no provisions for public access to information but this is something being considered. Two weeks ago, the federal government reached out to the Federation to talk about how they would move to make that information publicly available or available to investigative bodies, like the police and law societies.

Mr. Van Ommen said the bill also creates a college of patent agents. This creates a problem for law societies as many patent agents are also lawyers. The proposed legislation will require patent agents to be members of both regulatory bodies. The Federation has suggested this is unnecessary, that the requirements in both professions are similar, and patent lawyers should only be required to be register with one or the other. This is an example of the kind of work the Federation is engaged in on a continuous basis.

Mr. Van Ommen said he would be traveling to Ottawa soon for the next Federation meeting and that he would report on that meeting at the first Bencher meeting in 2019.

### **DISCUSSION/DECISION**

#### **5. Mental Health Interim Report with Recommendations**

Mr. Greenberg referred to the discussion about the Interim Report that took place at the last Bencher meeting. He said he appreciated the comments, discussion, and suggestions received when the report was introduced for discussion. He said the ideas have been taken on board for future consideration but that the report presented at the meeting today for decision is identical to the one that was before the Benchers at the last meeting. The report and recommendations remain the same, including references to the Code of Professional Conduct wording. In this

respect, the Mental Health Task Force's recommendation remains that the Task Force collaborate with the Ethics Committee on possible changes.

Mr. Greenberg informed Benchers that the report had been circulated publicly in variety of places, such as on LinkedIn, and it had received a lot of views. The feedback received about the report has been positive.

Mr. Greenberg then moved (seconded by Ms. Stanford) that the First Interim Report of the Mental Health Task Force be accepted and that its recommendations be approved. The motion was approved unanimously.

## **6. Annual Fee Review Working Group: Final Report**

Mr. Lawton thanked the members of the Working Group and staff for their work in creating the final report.

Mr. Lawton introduced the final report. In 2017, two members put forward a resolution at the Annual General Meeting that the Law Society should look into modifications and reductions of practice fees and insurance premiums for public interest practitioners. The Law Society agreed to create a working group to look into the issue and the members withdrew their resolution. The Annual Fee Review Working Group was created look into the issue and report back to the Benchers.

Mr. Lawton reminded Benchers of the mandate of the Working Group and indicated it had met four times. The Working Group met with one of the two lawyers who put forward the resolution and this led to a lively and engaging conversation about the scope of the proposal. The Working Group met in July and decided it would be appropriate to send out a consultation paper to the profession and the public.

Feedback received in response to the consultation paper provided helpful suggestions; however, the Working Group was not able to say who is clearly captured by the definition of "public interest practitioner". The Working Group was concerned that it could not clearly define a "public interest practitioner" as an individual or a group, and for that reason, the Working Group decided against recommending that public interest practitioners should have reduced rates of practice and insurance fees. However, the Working Group also recommends that Benchers consider the issue of differential fees in light of the concerns and comments received as a result of the consultation.

Ms. Kresivo reminded Benchers that the item was on the agenda for discussion only and that the recommendations would not be before the Benchers for decision until the next meeting. Ms. Kresivo invited discussion on the final report.

Mr. McKoen asked Mr. Lawton to clarify whether, if the Working Group could identify a class of lawyers who should be subject to a tariff reduction then the Working Group would have recommended a reduction, or if the Working Group stopped at the point of not being able to identify the class of lawyers. Mr. Lawton confirmed that it was the latter and said he had concerns in any event. Even if a particular group could be identified, there may be many other lawyers who also practice in that area that could be omitted from the opportunity to have a reduced fee. Mr. Lawton said, in the interests of treating everyone equally, the Working Group did not want to move too quickly in terms of a cultural change, but still wanted to be open-minded to the question of a reduced fee.

Mr. Campbell acknowledged the work of the Committee and the thought that went into the final report. He respectfully held a different view from the Working Group and thought it was workable to create a system where a limited group of lawyers receive a decrease in their membership fees based on the public interest nature of their work. He felt it was possible to establish reasonable criteria that would be limited to lawyers who do exclusively legal aid work or who exclusively work for low income clients, and lawyers who themselves have a low income. He added that the reduction in fees did not need to be significant, and could be done in a modest way that does not have an unreasonable burden on the rest of the legal profession and is consistent with the public interest. This would encourage and recognize lawyers that do this important work and serve underrepresented clients.

Mr. Ferris asked Mr. Lawton if the Working Group considered reducing membership fees and insurance fees as one package, or if the Working Group thought about treating the membership fee and the insurance program as discrete items. Mr. Lawton said the Working Group did consider that it is possible to require certain higher risk individuals to pay higher insurance premiums, but that the Working Group did not think it was appropriate to make such recommendations in the report. He said this could be an area to be considered in the future.

Ms. Snowshoe adopted Mr. Campbell's comments and Mr. Ferris' suggestion to separate consideration of the membership fee and the insurance fee in the future.

Mr. McKoen referred to consideration of the budget and often feeling constrained when setting fees because of the disproportionate impact fees have on lower income practitioners versus members who practice in areas that are more lucrative. The Law Society is faced with increasing fee pressure because of items such as money laundering, which place increasing pressure and resources on the Law Society to appropriately deal with allegations against members of the profession. If the trend in that area continues, the Law Society will be facing growing pressure to increase fees to fund the activities necessary to police the membership. The public interest sector is not particularly exposed to the money-laundering issue and it does strike him as something the Law Society needs to think about, so that the fee can be set in such a way that we can fund the

operations of the Law Society and yet still not reduce the ability of the membership to provide services at the lower end of the fee spectrum.

Ms. Kresivo confirmed the final report will come back before the Benchers for decision at the first Bencher meeting in 2019.

## **REPORTS**

### **7. Enterprise Risk Management Plan – 2018 Update**

Mr. Ferris provided an update on the Enterprise Risk Management Plan. The Plan is prepared on a three-year cycle. In 2017 there was an in-depth review, which means in 2018 and 2019 there will be an annual update before another in-depth review occurs in 2020. He said this annual update went to the Finance and Audit Committee last month.

Mr. Ferris said the Plan identifies the risks to the Law Society's goals and mandate, as well as the priority of those risks and mitigation strategies in managing those risks. Mr. Ferris asked Benchers to bring to the attention of the Committee any risks not mentioned in the Plan, as it is an important document that governs the operations of the Law Society.

Ms. Merrill asked where she would find in the Plan the risk associated with the aborted Annual General Meeting. Mr. Ferris said the Committee did discuss this but that it is not included in the Plan.

Ms. Yan asked Mr. Ferris to clarify if the Law Society has a business continuity plan that would apply, for example, in the event of an earthquake or natural disaster. Ms. McPhee responded that the Law Society does have a crisis communication plan that lays out who should be involved when we experience any natural disaster, fire or earthquake. She said we also have significant secondary offsite storage and fire drills every year. Ms. McPhee said we do not have a formal plan document but there are a number of things in place in the event of any kind of emergency.

### **8. Year-End Reports:**

- **Access to Legal Services Advisory Committee**

Chair Jeff Campbell, QC began by thanking Committee members and staff. He explained that the Committee is an advisory committee and its role is to recommend to the Benchers ways the Law Society can promote access to legal services.

Mr. Campbell reported that, in 2018, the Committee looked at the viability of a non-profit law firm model. The concept of the model is to provide low cost services to clients who would not otherwise be able to afford to retain counsel. He said this model has been established with some

success in other places, such as Washington, DC. The Committee established a subgroup to work on this project and consulted with a number of people involved in non-profit legal services to get a better understanding of how those firms operate. More recently, the group engaged with former Benchers Stacy Kuiack, who has some experience with entrepreneurial start-up businesses. Mr. Campbell said the Committee recognizes it is not the role of the Law Society or the Committee to establish a non-profit law firm; rather, its intention is to engage with firms in private practice who might be interested in this initiative.

The Committee has also begun to review the data available from the new questions on the Annual Practice Declaration about access to justice. As the questions were added partway through 2018, some but not all lawyers have completed the new questions. The group that completed the new questions is heavily weighted towards government lawyers and in-house counsel. Mr. Campbell said the Committee will not have a full and accurate picture until 2019 when all lawyers have completed the new questions. However, the Committee has reviewed the questions to consider how they might be fine-tuned, improved and to see what could be learned from the responses.

Mr. Campbell reported that the Committee has also recently discussed a possible proposal to Benchers that there be a review of Law Society regulatory processes in order to improve access to justice. At the Annual General Meeting there was significant support from the profession for the Law Society doing more to encourage pro bono legal services. In his view, this review would also be consistent with the Law Society's strategic plan, which includes the goal of reviewing regulatory requirements to ensure they do not hamper innovation or hinder the cost effective delivery of legal services. At this time, the Benchers have not tasked the Committee with the assignment of carrying out this review. However, given recent developments, Mr. Campbell suggested this be included as part of the Committee's work in 2019 and form part of the strategic plan.

- **Rule of Law and Lawyer Independence Advisory Committee**

Chair Jeff Campbell, QC thanked Committee members and staff. He said the role of the Committee is to advise the Benchers on issues relating to lawyer independence and the rule of law.

Mr. Campbell reported that, in 2018, the Committee has continued to work on public education. A Rule of Law lecture was held in June 2018. This was the second annual event and the Committee hopes to continue it in the future. The lecture was entitled "*Rule of Law and Social Justice*" and included presentations by former Supreme Court of Canada Justice the Honourable Ian Binnie, Dean of the Peter Allard School of Law at UBC, Dr. Catherine Dauvergne, and journalist Jonathan Kay. The lecture was attended by 170 people and was available to be viewed online. Mr. Campbell observed that it was a thoughtful and engaging presentation, and was well

received by the people who attended. The Committee plans to continue with a third lecture in 2019.

Mr. Campbell reported that the Committee also offers an annual high school essay contest on the rule of law. It was open to high school students across the province and we received approximately 50 submissions. The winners were presented with the award at the July 2018 Bencher meeting.

Mr. Campbell said the Committee has also been involved in publicly commenting on rule of law issues. The Committee recently drafted an article on civil disobedience and the rule of law, which came about from the Committee's discussions about some of the protests surrounding the Trans-Mountain Pipeline. The article is soon to be published in the Benchers Bulletin.

The Committee has also been involved in commenting on different pieces of legislation. The Committee produced a paper, which is included in the materials for the Bencher meeting today, on section 3 of the *Legal Profession Act*.

Finally, Mr. Campbell commented on Bill 49. He said this was a piece of legislation the Committee has been following and discussing. The Committee brought it to the attention of the Executive Committee and thinks all Benchers should be aware of it. The Bill would create an Office of the Superintendent of Professional Governance. The intention is to create an office that would oversee a number of professions in the province. The professions covered mainly relate to resources. However, the Act also provides the superintendent with very broad powers to bring other professions under its authority and the superintendent can conduct an investigation into other regulatory bodies and issue directives, including directing the profession to exercise powers in a certain way if it is considered to be in the public interest. The profession would be statutorily compelled to comply with these directives. These are very broad powers and the legal profession is not excluded from the application of this Act.

Mr. Campbell said the Bill does not immediately affect the legal profession and all indications are that it was designed for certain natural resource professions. However, it is potentially a risk to the independence of the Bar. It creates a framework that could allow for interference by the Superintendent with the legal profession and, in Mr. Campbell's view, the profession should not be complacent that this legislation could never be applied to the legal profession. The Committee will continue to monitor this Bill.

- **Equity and Diversity Advisory Committee**

Vice-Chair Brook Greenberg thanked Committee members and staff for their work throughout the year. Mr. Greenberg touched on some of the key aspects from the report.

Mr. Greenberg referred to the Justicia project, which has been supported and facilitated by the Law Society since its inception. The Committee has continued to support the promotion of Justicia resources that are available, including a staff presentation on model policies on parental leave and flexible work arrangements, which was made to the Crown prosecution service and a presentation by Pinder Cheema, QC to the CBA BC Women Lawyers Forum Annual General Meeting.

Mr. Greenberg reported on the Maternity Leave Loan Benefit Program, which was implemented as a pilot project in 2010. The Committee continues to review the program and look for ways to improve it. The Committee most recently created a survey, with the aim of trying to get more information about how the program could be improved.

He said the Committee has prepared a memorandum for the Governance Committee with respect to how to further foster equity and diversity at the Law Society in leadership positions. The memorandum follows up on some recommendations from an earlier Governance Committee report in 2012.

Mr. Greenberg reported that the Lawyer Education Advisory Committee is doing a comprehensive review of the articling program. That Committee consulted with the Equity and Diversity Advisory Committee about a survey and the Committee gave feedback on the survey from an equity and diversity perspective. Similarly, the Committee was consulted with respect to issues that have arisen regarding the credentials and admission process, and considering contextual factors when looking at people's admission. He said the Committee provided some guidance on that with a focus on education and training for tribunal members.

The Committee has also looked to collaborate with the Truth and Reconciliation Advisory Committee, who are looking at the Act, Code and Rules with respect to equity and diversity issues.

Finally, the Committee plans to have a meeting with the editorial board of the Advocate to discuss the diversity representation on the magazines covers and in future articles.

- **Lawyer Education Advisory Committee**

Chair Dean Lawton, QC acknowledged the members of the Committee and staff for their work.

He reported that, under the strategic plan, the Committee was asked look at the value, existence and future of articling in BC. The Committee, with the help of staff, designed a viable and statistically measurable way of getting responses from young lawyers in BC to their articling experience. A focus group and survey has been developed, which will go out to 1st, 2nd and 3rd year lawyers in the province. The survey will go to Executive Committee for review and approval in 2019.

Mr. Lawton reported that the Committee is wanting to know about the availability of articling positions, the effectiveness of articling and examining alternatives to articling. The Committee is closely following developments in Ontario with respect to their articling program. Mr. Lawton asked Mr. Treleaven to update Benchers on these developments. Mr. Treleaven said Ontario's report has not yet been made publicly available and that he would circulate it once it is published.

Mr. Lawton said if the Law Society of Ontario decides to go with different model, it may trigger a need on part of law schools in Canada to adjust their way of teaching law students. Mr. Lawton said he had a concern about overall quality and service, which would need to be considered.

Mr. Lawton referred to his presentation a year ago on the liberalization of CPD credit and, in particular, the question of whether pro bono should qualify for CPD credit. The Committee has spent considerable time looking at this and engaged the help of the Access to Legal Services Advisory Committee. He said there is no consensus because it is such a challenging issue. The Committee has prepared a report, which contains recommendations, but that it is not ready to be released yet.

In terms of going forward, the Committee is interested in maintaining its action plan with respect to truth and reconciliation. Mr. Lawton is keen to see the evolution of the curriculum with the Professional Legal Training Course, to have interwoven into all of its elements, consideration with respect to truth and reconciliation.

- **Legal Aid Advisory Committee**

Chair Nancy Merrill, QC thanked Committee members and staff for their hard work.

Ms. Merrill said the Committee wanted to look at the cost to society of not properly funding legal aid. The data to support an economic analysis is not available. There is no empirical data that tells us how legal aid, or the absence of it, impacts people's lives and/or draws further on publicly funded resources. She said we may have to start lobbying the government, the courts, and the Legal Services Society to start collecting that data.

Ms. Merrill reported that a second colloquium was held on November 17, 2018. Former Justice Bruce Cohen acted as moderator. A variety of individuals and organizations were present and spoke about legal aid and what is needed; including Indigenous support services, transition houses, mental health and addictions, immigration groups, users of legal aid, self-represented litigants, prison system representatives, the police, women's support services and the like.

Ms. Merrill said our role at the colloquium was to listen. Everyone spoke of the need to protect the most vulnerable in our society and the importance of a strong legal aid system. One of the things that came out of the colloquium was that the Law Society could lead a coalition of people

to lobby the government for better funding for legal aid. She said this will be one of the Committee's main tasks in 2019.

- **Truth and Reconciliation Advisory Committee**

Chair Nancy Merrill, QC thanked Committee members and staff. Since the mid-year report, the Committee has been focused on implementing the Truth and Reconciliation Action Plan that Benchers approved earlier in the year. This will likely remain the focus of the Committee in 2019.

The Committee is endeavoring to move forward with the intercultural competence training. It will also invite a guest speaker to speak about the principles of Gladue reports and an invitation may be extended to the entire Bencher table.

The Committee is going to make a request of the Ethics Committee to look at adding to the Professional Code of Conduct a reminder to defence counsel to advise their indigenous clients of the availability of First Nations courts and Gladue rights.

In terms of outreach, Ms. Merrill said the Committee will be taking a more proactive approach to reach out to indigenous organizations and catalogue events coming up, such as courses, symposiums and conferences, because it is important for the Law Society to have a presence at these events.

- **Mental Health Task Force**

Chair Brook Greenberg thanked Committee members and staff for their work throughout the year. He referred to the Interim Report, which is on the Bencher agenda for decision. The report outlines what the Task Force has done this year and what the plans are for 2019. However, he wanted to make four main points.

The first was that there are other mental health task forces in various jurisdictions and BC is among the first to bring forward recommendations. He said he was proud and grateful to the Task Force and Bencher table for that and the Task Force plans to continue its good work.

Secondly, Mr. Greenberg said the focus on a communications strategy is continuing. There will be an article in the Benchers' Bulletin with respect to the Interim Report and there are plans for other communications initiatives.

The third topic is that the Task Force is not only focusing on future recommendations but on implementation of the recommendations adopted by Benchers today. He does not want the momentum to die.

Finally, Mr. Greenberg referred to the recent article “*Big Law Killed My Husband*”. Mr. Greenberg suggested all Benchers read the article and said it would be helpful for Benchers in conducting Bencher interviews and to assist with understanding the pressures experienced by students.

- **Alternate Legal Service Providers Working Group**

Chair Miriam Kresivo, QC thanked Working Group members and staff for their work during the year, particularly in preparing the consultation paper and speaking to the family law bar.

## **9. Law Firm Regulation Task Force Update**

Chair Steven McKoen referred to the pilot project launched in the spring of 2018. The goal of the pilot project was to distribute a self-assessment tool to approximately 10% of law firms in BC. The pilot project ran from July to October 2018. 348 firms were solicited for involvement and 6 firms withdrew for various reasons, leaving 342 firms remaining. 277 responses were received and 65 are outstanding. Mr. McKoen said he has been advised this is a good response rate compared to other jurisdictions.

The Task Force was hoping to have a full report and assessment of the self-assessment tool for Bencher consideration at the meeting today. However, given the delay in responses that will need to wait until early 2019. Mr. McKoen said the Task Force hopes to be able to deliver to Benchers a summary of the pilot project in the first few months of 2019. Following that, there will be an assessment of the actual responses to the self-assessment and a recommendation to Benchers as to whether or not the self-assessment tool should be rolled out to all law firms. If the Benchers recommend the self-assessment be applied to all law firms, the Task Force will make recommendations about the form of the self-assessment based on the feedback received from the pilot project. He said recommendations may also include the frequency of completing the self-assessment and timing and other procedural elements.

Other matters that will need to be discussed in the future are whether to include government and in-house lawyers and what that process might look like and how the idea of “law firms” would apply to those types of organizations. The Task Force will also look at identifying what measurements and data can be collected and used to assess the efficacy of the system over time. He said the goal of the project is to create a regulatory environment that promotes processes, policies and procedures that improve and reduce the incidence of certain behaviours in the profession that create risk for everyone.

The experience in Australia has been that after doing the self-assessment process, the majority of incorporated law practices reported that they had revised their policies and procedures as a result

of being asked to think about these issues. Mr. McKoen said ideally the data would show over time that the self-assessment process is achieving its goal.

Mr. Ferris said full implementation would be a large undertaking for the Law Society and asked if it would be possible to provide a budget as to how much it will cost the Law Society to fully implement the recommendations. Mr. McKoen agreed this would be a good idea.

### **10. Report on Outstanding Hearing & Review Decisions**

Mr. Ferris thanked Jeff Hoskins, QC for putting on the annual Tribunal Refresher course, which focused on intercultural fluency. Mr. Ferris updated the Benchers on outstanding hearing and review decisions, and emphasized the importance of getting decisions out in the timely manner.

### **Final Remarks**

Mr. Avison paid tribute to outgoing President Kresivo and commented on some challenges faced in 2018 and the elegant way with which Ms. Kresivo guided the Law Society. On behalf of staff, he presented Ms. Kresivo with a gift as a token of our appreciation for her efforts throughout the year.

Ms. Kresivo responded that it was her honour and privilege to serve as the Law Society President for 2018. She said she learned a great deal, gained some new skills and made wonderful friends. Ms. Kresivo highlighted some of the key accomplishments in 2018, thanked staff for their hard work throughout the year and the Benchers for volunteering their time.

Ms. Kresivo then welcomed Nancy Merrill, QC as President for 2019, presenting her with the President's pin. She noted it was the first time there would be two female Presidents in a row and said Nancy would be an amazing President.

CBABC President Margaret Mereigh then presented Ms. Kresivo with a gift on behalf of the CBABC and thanked her for her dedicated work in serving the profession and its members.

KG  
2019-01-17