

Minutes

Benchers

Date: Friday, September 22, 2023

Present: Christopher A. McPherson, KC, President
Jeevyn Dhaliwal, KC, 1st Vice-President
Brook Greenberg, KC, 2nd Vice-President
Paul Barnett
Kim Carter
Tanya Chamberlain
Jennifer Chow, KC
Christina J. Cook
Cheryl S. D'Sa
Lisa Dumbrell
Brian Dybwad
Katrina Harry, KC
Sasha Hobbs
Lindsay R. LeBlanc
Dr. Jan Lindsay

Geoffrey McDonald
Steven McKoen, KC
Paul Pearson
Georges Rivard
Michèle Ross
Gurminder Sandhu
Thomas L. Spraggs
Barbara Stanley, KC
Natasha Tony
Michael Welsh, KC
Kevin B. Westell
Sarah Westwood, KC
Guangbin Yan
Gaynor C. Yeung

Unable to Attend: Tim Delaney

Kelly H. Russ

Staff: Don Avison, KC
Gurprit Bains
Avalon Bourne
Barbara Buchanan, KC
Natasha Dookie
Su Forbes, KC
Vicki George
Kerryn Holt
Jeffrey Hoskins, KC
Aara Johnson
Alison Kirby
Julie Lee

Michael Lucas, KC
Alison Luke
Claire Marchant
Fiona McFarlane
Tara McPhail
Jeanette McPhee
Doug Munro
Lesley Small
Christine Tam
Adam Whitcombe, KC
Vinnie Yuen

Guests:	Dom Bautista	Executive Director, Courts Center & Executive Director, Amici Curiae Friendship Society
	Ian Burns	Digital Reporter, The Lawyer's Daily
	Kaitlyn Cumming	Co-Recipient, Law Society Scholarship for Graduate Legal Studies
	Freya Kodar	Dean of Law, UVic
	Elizabeth Kollias	President, BC Paralegal Association
	Derek LaCroix, KC	Executive Director, Lawyers Assistance Program of BC
	Jamie Maclaren, KC	Executive Director, Access Pro Bono Society of BC
	Tristan Miller	Co-Recipient, Law Society Scholarship for Graduate Legal Studies
	Scott Morishita	President, Canadian Bar Association, BC Branch
	Caroline Nevin	CEO, Courthouse Libraries BC
	Ngai Pindell	Dean of Law, Peter A. Allard School of Law
	Linda Russell	CEO, Continuing Legal Education Society of BC
	Kerry Simmons, KC	Executive Director, Canadian Bar Association, BC Branch
	Ron Usher	General Counsel and Practice Advisor, The Society of Notaries Public of British Columbia
	Lana Walker	Assistant Dean of Law, Thompson Rivers University
	Graeme Wood	Legal Reporter, Glacier Media

RECOGNITION

1. Presentation of 2023 Law Society Scholarship for Graduate Legal Studies

President Christopher A. McPherson, KC introduced and congratulated the co-recipients of the 2023 Law Society Scholarship for Graduate Legal Studies, Kaitlyn Cumming and Maxwell Philip Tristan Miller.

CONSENT AGENDA

2. Minutes of July 14, 2023, meeting (regular session)

The minutes of the meeting held on July 14, 2023 were approved unanimously and by consent as circulated.

3. Minutes of July 14, 2023, meeting (*in camera* session)

The minutes of the *in camera* meeting held on July 14, 2023 were approved unanimously and by consent as circulated.

4. External Appointment: Legal Aid BC

This item was removed from the Consent Agenda for discussion *in camera*. Kim Carter, Brian Dybwad, and Katrina Harry recused themselves from this item.

Following discussions *in camera*, the following resolution was passed unanimously:

BE IT RESOLVED the Benchers appoint Sarf Ahmed to the LABC Board for a three-year term commencing September 25, 2023 concluding September 24, 2026.

REPORTS

5. President's Report

Mr. McPherson confirmed that no conflicts of interest had been declared.

Mr. McPherson began his report by speaking about the National Day of Truth and Reconciliation. He indicated that the Law Society would be closing its offices to observe this important day, and he encouraged everyone to wear an orange shirt in the lead up to and on September 30. He spoke about how wearing an orange shirt shows support for those who were forced to attend residential schools, honours survivors and the children who never returned home, creates awareness of inter-generational impacts, and demonstrates a collective commitment to end anti-Indigenous racism. Mr. McPherson spoke about the recent screening of

a documentary for staff and Benchers about Phyllis Webstad, her orange shirt story, and how she began the Orange Shirt Society movement. He indicated that the documentary was available for a fee on the International Indigenous Speakers' Bureau website. Mr. McPherson spoke about the work of the Law Society in regard to truth and reconciliation, both what has been accomplished thus far, and what the Law Society hopes to accomplish, particularly in regard to having a justice system that treats everyone fairly. He spoke about the work of the Indigenous Engagement in Regulatory Matters Task Force and the importance of the implementation of the Task Force's report and recommendations and continuing the work towards reconciliation. He also spoke about the Indigenous Cultural Awareness Program. He indicated that a meeting had been held with the leadership of the First Nations Justice Summit, where discussions took place about one of the program's modules regarding treaty rights and some modifications to be made to that module.

Mr. McPherson reflected on the single legal regulator initiative. He indicated that he was of the view that the Law Society's concerns regarding the importance of independence had been heard by the Ministry.

Mr. McPherson then provided an update on his recent events and activities, including attending the retirement celebration for Chief Justice Robert J. Bauman and speaking with the new group of law students at UBC.

6. CEO's Report

Don Avison, KC began his report by speaking about the recent event featuring a documentary about Phyllis Webstad, which was held to commemorate Orange Shirt Day, and he thanked staff for their efforts in organizing. This significant event took place in the Law Society's new atrium space, and Mr. Avison spoke about an upcoming meeting with the leadership group of Access to Justice BC, which would also make use of this space.

Mr. Avison spoke about the 2022 National Discipline Standards Implementation Report, which provides a comparative overview as to how all Canadian law societies perform against the standards. He indicated that two standards were not met, but that substantial improvement had been made in these areas. He also spoke about the need for discussions with the Federation of Canadian Law Societies regarding updating some of the standards to reflect the work being done in terms of disciplinary reform.

Mr. Avison informed Benchers that the Federation had commenced proceedings in the Supreme Court of BC to challenge the validity of changes to sections 237.3 and 237.4 of the *Income Tax Act*, which attempt to subject lawyers to reporting obligations. He spoke about the work of the Federation in combatting money laundering, including the recent release of the National Online Anti-Money Laundering and Terrorist Financing Education Program.

Mr. Avison updated Benchers on the recent meeting with the Technology Committee of the Supreme Court of BC regarding the progression of the use of generative AI technology. He indicated that the Law Society would be developing a practice resource on this matter, and the upcoming Federation meetings in October would also be focused on the use of AI.

Mr. Avison then provided an update regarding the upcoming Bencher General Election. He indicated that all candidates, including current Benchers, would need to provide their nomination materials by the deadline of October 16, 2023.

Mr. Avison spoke about the regulatory reform currently taking place in Scotland and read a statement from the Commonwealth Lawyers Association regarding the proposed changes in Scotland to Benchers.

The report of the Indigenous Engagement in Regulatory Matters Task Force has now been published in its final form, and Mr. Avison indicated that he would ensure that all Benchers received a copy. He spoke about ongoing discussions with the First Nations Justice Summit regarding modifications to one of the modules within the Indigenous Cultural Awareness Program regarding treaty rights. Mr. Avison indicated that the Law Society would be making a push to see the Program completed by all members of the profession by the end of the year.

Mr. Avison informed Benchers that the Law Society would be moving towards the implementation of digital licensure cards for the profession. He indicated that the digital cards would include a QR code linking to the Lawyer Directory to allow quick, direct access to the search function when scanned.

Mr. Avison informed Benchers that he had just received a letter from the Attorney General regarding the implementation of the single legal regulator. He informed Benchers that the Attorney General had indicated that legislation regarding the single legal regulator would be shifted to the spring legislative session. He read the letter to Benchers, and then indicated that he was of the view that it was a good decision to shift the legislation to the spring, as there would be quite a bit to get done in preparation.

DISCUSSION/DECISION

7. 2024 Initiatives, Budgets and Fees

Jeevyn Dhaliwal, KC, Chair of the Finance and Audit Committee introduced the item, followed by a presentation to Benchers on the proposed 2024 initiatives, budgets, and fees delivered by Mr. Avison, Jeanette McPhee, and Su Forbes, KC.

Mr. Avison began by presenting on some of the considerations in setting the 2024 budget, including a focus on strategic priorities and effective operations; an increase in in-person events

and meetings, along with a mix of hybrid and fully virtual meetings; and the stabilizing and declining interest rates and inflation. He indicated that net asset reserves would be used to fund a portion of the proposed 2024 operational budget, one-time projects, and external organization funding to enable the 2024 practice fee and the 2024 indemnity fee to be kept at current levels. Mr. Avison then reviewed the key operational priorities for 2024 in line with the Law Society's strategic plan, including the single legal regulator initiative, innovation sandbox initiatives, exploration of alternate pathways to licensing, continued review of professional regulatory operations, implementation of the recommendations of the Indigenous Engagement in Regulatory Matters Task Force report, professional development and practice support, continued focus on anti-money laundering initiatives, and implementation of the diversity action plan.

Ms. McPhee reviewed 2024 revenue highlights, including a projected revenue increase of 8%; an increase in the forecasted number of lawyers; a decrease in the projected number of PLTC students; an increase in projected electronic filing, TAF and real estate market activity, and a large increase in interest income due to rising interest rates.

Ms. McPhee then reviewed 2024 expense highlights including market based salary increases, modest increases in staff resources, increased technology costs to support the digitization of the workplace, and increased professional development costs. She indicated that there would be a decrease in external counsel fees compared to 2023 due to lower than expected costs. Ms. McPhee also provided an overview of the Law Society's net assets, capital plan, and trust assurance, and provided an overview of external funding included in the practice fee.

Ms. Forbes provided an overview of the Lawyers Indemnity Fund, including an overview of 2023 reports, claims, investment returns, and LIF net assets. She indicated that the indemnity fee has been maintained at current rates for six consecutive years.

Mr. Avison spoke about the initiatives the budget proposed to utilize reserves to fund, including Courthouse Libraries BC. He indicated that he was of the view that this expense should be covered by the regular budget, as opposed to reserves, and that this should be addressed for future budgets.

Benchers spoke about the practice fee and whether continuing to not increase the amount year over year would be sustainable in future years. Benchers also discussed reviewing what the Law Society funds as a whole and considering what could be offset in future budgets.

The following resolutions were passed unanimously:

BE IT RESOLVED:

- Effective January 1, 2024, the practice fee be set at \$2,303.00, pursuant to section 23(1)(a) of the *Legal Profession Act*.

BE IT RESOLVED:

- the indemnity fee for 2024 pursuant to section 30(3) of the *Legal Profession Act* be set at \$1,800;
- the part-time indemnity fee for 2024 pursuant to Rule 3-40(2) be set at \$900; and
- the indemnity surcharge for 2024 pursuant to Rule 3-44(2) be set at \$1,000.

The Benchers then commenced the *in camera* portion of the meeting.

AB
2023-10-25