



Minutes

Benchers

Date: Thursday, November 07, 2013

Present: Art Vertlieb, QC, President
Jan Lindsay, QC 1st Vice-President
Ken Walker, QC 2nd Vice-President
Haydn Acheson
Kathryn Berge, QC
David Crossin, QC
Lynal Doerksen
Thomas Fellhauer
Leon Getz, QC
Miriam Kresivo, QC
Stacy Kuiack
Peter Lloyd, FCA
Bill Maclagan

Ben Meisner
Nancy Merrill
David Mossop, QC
Lee Ongman
Greg Petrisor
David Renwick, QC
Claude Richmond
Phil Riddell
Richard Stewart, QC
Herman Van Ommen, QC
Tony Wilson
Barry Zacharias

Richard Fyfe, QC, Deputy Attorney
General of BC, Ministry of Justice,
representing the Attorney General

Excused: Rita Andreone, QC
Satwinder Bains
Maria Morellato, QC
Thelma O'Grady
Vincent Orchard, QC

Staff Present: Tim McGee
Deborah Armour
Barbara Buchanan
Lance Cooke
Robyn Crisanti
Margrett George
Ben Hadaway
Jeffrey Hoskins, QC

Andrea Hilland
Michael Lucas
Bill McIntosh
Jeanette McPhee
Doug Munro
Jack Olsen
Alan Treleaven
Adam Whitcombe

Guests: Dom Bautista, Executive Director, Law Courts Centre
Johanne Blenkin, Chief Executive Officer, Courthouse Libraries BC
Grant Borbridge, QC, Chairman, Canadian Corporate Counsel Association
Kari Boyle, Executive Director, Mediate BC Society
Dr. Melina Buckely, Chair of the Canadian Bar Association's Envisioning Equal Justice Initiative and Access to Justice Committee
Maureen Cameron, Senior Director, Canadian Bar Association, BC Branch
Dean Crawford, President, Canadian Bar Association, BC Branch
Ron Friesen, CEO, Continuing Legal Education Society of BC
Gavin Hume, QC, Law Society Member of the Council of the Federation of Law Societies of Canada
Wendy King, BC Section Representative, Canadian Corporate Counsel Association
Derek LaCroix, QC, Executive Director, Lawyers Assistance Program
Jamie Maclaren, Executive Director, Access Pro Bono
MaryAnn Reinhardt, BC Paralegal Association
Wayne Robertson, QC, Executive Director, Law Foundation of BC
Alex Shorten, Vice-President, Canadian Bar Association, BC Branch
Dr. Jeremy Schmidt, Executive Coordinator to the Dean, University of British Columbia
Heather Raven, Associate Dean of Academic and Student Relations, University of Victoria
Debra Whelan, BC Paralegal Association

CONSENT AGENDA

1. Minutes

a. Minutes

The minutes of the meeting held on September 27, 2013 were approved as circulated.

The *in camera* minutes of the meeting held on September 27, 2013 were approved as circulated.

b. Resolutions

The following resolutions were passed unanimously and by consent:

- 2014 Fee Schedules

BE IT RESOLVED to amend the Law Society Rules, effective January 1, 2014, as follows:

1. ***In Schedule 1,***
 - (a) ***by striking “\$1,893.06” at the end of item A 1 and substituting “\$1,940.00”, and***
 - (b) ***by striking “\$10.00” at the end of item A.1 1 and substituting “\$15.00”;***
2. ***In Schedule 2, by revising the prorated figures in each column accordingly; and***
3. ***In the headings of schedules 1, 2, and 3, by striking the year “2013” and substituting “2014”.***

- Schedule 4 Tariff of Costs and Rule 4-20.1 Notice to Admit

BE IT RESOLVED to amend Schedule 4 of the Law Society Rules by adding the following items:

Item No.	Description	Number of units or amount payable
8.1	Preparation of Notice to Admit	Minimum 5 Maximum 20
8.2	Preparation of response to Notice to Admit	Minimum 5 Maximum 20

- Rule 1-3(8), President Unable to Act

BE IT RESOLVED to amend the Law Society Rules by rescinding Rule 1-3(8) and substituting the following:

- (8) The powers of the President may be exercised by a Vice-President or another member of the Executive Committee designated by the President

- (a) if the President is absent or otherwise unable to act, or
- (b) with the consent of the President.

- BC Code Rule 3.4-26.1

BE IT RESOLVED to amend the Rule 3.4-26.1 of the BC Code of Professional Conduct as follows:

3.4 Conflicts

Conflicts with clients

3.4-26.1 A lawyer must not perform any legal services if ~~it would reasonably be expected that the lawyer's professional judgment would be affected~~ there is a substantial risk that a lawyer's loyalty to or representation of a client would be materially and adversely affected by the lawyer's ~~or anyone else's~~:

- (a) relationship with the client, or
- (b) interest in the client or the subject matter of the legal services.

REGULAR AGENDA – for Discussion and Decision

2. Enhancing Access to Legal Services and Justice

Mr. Vertlieb introduced Dr. Melina Buckley as Chair of the CBA Access to Justice Committee. Dr. Buckley addressed the Benchers, providing highlights of the Committee's summary report, *Reaching Equal Justice: an Invitation to Envision and Act* (page 81 of the agenda package). Dr. Buckley referred to page 14 of the report (page 99 of the agenda package) for a statement of the Committee's "tangible vision of equal justice to guide reform":

An inclusive justice system requires that it be equally accessible to all, regardless of means, capacity or social situation. It requires six concrete commitments:

1. People – The system focuses on people's needs, not those of justice system professionals and institutions.

2. Participation – The system empowers people. It builds people's capacity to participate, by managing their own matters and having a voice in the system as a whole.

3. Prevention – The system focuses attention and resources on preventing legal problems, not just on resolving them after they arise.

4. Paths to justice – A coherent system involves several options and a continuum of services to arrive at a just result. People get the help they need at the earliest opportunity, and find the most direct route to justice.

5. Personalized – Access to justice is tailored to the individual and the situation, responding holistically to both legal and related non-legal dimensions, so that access is meaningful and effective.

6. Practices are evidence-based – The system encourages equal justice by ensuring justice institutions are 'learning organizations', committed to evidence-based best practices and ongoing innovation.

Dr. Buckley referred to a PowerPoint presentation during her remarks (attached as Appendix 1 to these minutes). She encouraged the Benchers to consider broadening the Law Society's approach to access to justice issues, while continuing the excellent work that is ongoing.

Mr. MacLagan addressed the Benchers as Chair of the Access to Legal Services Advisory Committee. Mr. MacLagan noted the strong overlap of the focus and priorities of the two Committees.

A Benchers' discussion followed.

Mr. Vertlieb thanked Dr. Buckley, Mr. MacLagan for their thoughtful remarks and discussion.

3. Ethics Committee Recommendation for Commentary to BC Code Rule 3.6-3

Mr. Crossin briefed the Benchers as Chair of the Ethics Committee. He outlined the review and consultation process undertaken by the Committee regarding the former-Commentary to BC

Code Rule 3.6-3, at the direction of the Benchers following their rescission of that commentary at the May 13 meeting. BC Code Rule 3.6-3 states:

3. 6-3 In a statement of an account delivered to a client, a lawyer must clearly and separately detail the amounts charged as fees and disbursements.

The rescinded Commentary provided:

Commentary

[1] The two main categories of charges on a statement of account are fees and disbursements. A lawyer may charge as disbursements only those amounts that have been paid or are required to be paid to a third party by the lawyer on a client's behalf. However, a subcategory entitled "Other Charges" may be included under the fees heading if a lawyer wishes to separately itemize charges such as paralegal, word processing or computer costs that are not disbursements, provided that the client has agreed, in writing, to such costs.

Mr. Crossin outlined six principles considered by the Ethics Committee to be desirable elements of a commentary (see the Committee's memorandum to the Benchers at page 190 of the agenda package). He then moved (seconded by Mr. Getz) the adoption of the Ethics Committee's recommended language for commentary [1] to BC Code Rule 3.6-3:

[1] The lawyer's duty of candour to the client requires the lawyer to disclose to a client at the outset the basis on which the client is to be billed for both professional time (lawyer, student and paralegal) and any other charges in a manner that is transparent and understandable to the client. A lawyer may not charge a client more than the actual disbursement cost for services provided by third parties such as court reporters, travel agents, expert witnesses, and printing businesses, except to the extent that the lawyer incurs additional costs in procuring the third party services. A lawyer may not charge a client for overhead expenses generally associated with properly maintaining, staffing and equipping an office; however, the lawyer may charge expenses reasonably incurred in connection with the client's matter for services performed inhouse so long as the charge reasonably reflects the lawyer's actual cost for the services rendered. Such charges must be shown on the bill as "Other Charges." Lawyers and clients may agree that charges for overhead expenses, in-house services and third party services may be calculated or shown on the account on some other basis.

Mr. Van Ommen proposed as a friendly amendment the replacement of the sentence "Such charges must be shown on the bill as "Other Charges."" with the following:

Lawyers must make clear to a client the difference between third party disbursements and “Other Charges.”

In the ensuing discussion concerns were expressed regarding the language of both the proposed commentary and the friendly amendment.

The Benchers agreed to refer the proposed commentary [1] to BC Code Rule 3.6-3 back to the Ethics Committee for further consideration.

GUEST PRESENTATIONS

4. Canadian Corporate Counsel Association Briefing

Mr. Vertlieb introduced Grant Borbridge, QC as Chair and Wendy King as a director and BC Section Representative of the Canadian Corporate Counsel Association (CCCA). Mr. Borbridge and Ms. King briefed the Benchers, referring to a PowerPoint presentation (Appendix 2) and a document (Appendix 3) outlining elements of a three-phase accreditation program, the completion of which will provide graduates with the designation of *Certified In-House Counsel.Canada (CIC.C)*. Mr. Borbridge described the purpose of the CCCA’s training and certification program as enhancing the skill set of an already competent legal advisor to that of a strategic business advisor. He noted the CCAA’s appreciation for the support provided by the Law Society of BC and other law societies.

Alex Shorten, QC provided additional comments as Vice-President of the Canadian Bar Association, BC Branch. He advised that about 1,000 BC lawyers currently work in an in-house counsel environment, and that about 600 of those lawyers are members of the CCCA.

Mr. Vertlieb requested the Lawyer Education Advisory Committee to consider the Continuing Professional Development concerns raised by Mr. Borbridge when the Committee next reviews CPD requirements.

REPORTS

5. Briefing by the Law Society’s Member of the Federation Council

Mr. Vertlieb invited Gavin Hume, QC to report, noting that at their September meeting, the Benchers elected Mr. Hume to serve a second three-term as the Law Society’s Member of the Federation Council, effective November 15, 2013.

Mr. Hume briefed the Benchers on the Federation's recent Council meeting and Conference (October 17 – 19 in St. John's Newfoundland). He reported that the broad Conference theme was the fast-changing nature of the global legal profession, and consideration of related impacts on the regulation of lawyers and law firms.

Mr. Hume noted that the Conference opened with Mr. Whitcombe's presentation on the changing demographics of the legal profession – highlighting the dramatic rise of the large firm over the past 25 years. Discussion of regulatory implications of those changing demographics followed.

CBA National President Fred Headon and Mr. Vertlieb delivered presentations addressing the need for changes in legal regulation to respond to changing nature of the legal profession. University of Ottawa Law Professor Adam Dodek presented on the topic of the regulation of law firms and not just lawyers.

Highlights of the Council meeting were:

- Mid-term review of the Federation's current strategic plan
 - Confirmation of commitment to maintain focus on enhancing access to legal services, and to completion of current major initiatives
 - National Admissions Standards
 - National Discipline Standards
 - Model Code of Professional Conduct
- National Committee on Accreditation Update

Mr. Hume also reported on his recent attendance at a conference of the Canadian Association of Legal Ethics, noting that body's increasing focus on the teaching of ethics at law schools.

6. President's Report

Mr. Vertlieb briefed the Benchers on various Law Society matters to which he has attended since the last meeting, including:

a) Letter to the Honourable Suzanne Anton, QC, Minister of Justice and Attorney General of BC (Legal Aid Funding)

Mr. Vertlieb has written to the BC Minister of Justice and Attorney General: recognizing the provincial government's recent success in securing additional legal aid funding for the

balance of 2013; and confirming the Law Society's commitment to legal aid as a key element of its mandate to protect and promote the public interest in the administration of justice.

b) Kootenay Bar Association Meeting

Mr. Vertlieb and Mr. McGee attended the September 27 meeting of the Kootenay Bar Association, at which Kootenay Benchers Lynal Doerksen presented a Law Society update.

c) Thompson Rivers University Faculty of Law: Welcome to the First-Year Class

On October 31 Mr. Vertlieb delivered welcoming remarks on behalf of the Law Society to the first-year law students at Thompson Rivers University.

d) Federation of Law Societies of Canada Conference and Council Meeting

Mr. Vertlieb reported on highlights of the recent Federation Conference and Council meeting in St. John's, Newfound (October 17-19).

e) 2013 Life Benchers Dinner

Mr. Vertlieb thanked the Benchers who attended the November 6, 2013 Life Benchers Dinner. He noted that the Life Benchers greatly appreciate the effort made by current Benchers to attend annual events as the Commemorative Certificate Luncheon and the Life Benchers Dinner.

7. CEO's Report

Mr. McGee provided highlights of his monthly written report to the Benchers (attached as Appendix 4 to these minutes) including the following matters:

- Introduction
- Third Quarter Financial Results
- Events and Conferences
 - 2013 International Institute of Law Association Chiefs (IILACE) Annual Conference
 - Fall Justice Summit
 - National Action Committee on Access to Justice Event

- Operational Updates
 - RReX Day – October 3, 2013
 - Inspired Lion Award
 - RReX Award
 - Employee Survey
 - Performance Reviews
 - United Way Campaign

8. Law Society Financial Report (September 30, 2013)

2013 Finance Committee Vice-Chair Ken Walker, QC provided highlights of the Law Society's finances for the first nine months of 2013, referring to page 195 of the meeting materials:

General Fund (excluding capital and TAF)

The General Fund operations resulted in a positive variance of \$814,000 to the end of September, 2013. There has been additional revenue from PLTC enrolment fees, and expense savings related to staff vacancies and professional fees and the timing of building maintenance costs.

Revenue

Revenue (excluding capital allocation) is \$15,042,000, \$160,000 (1.1%) ahead of budget, due to an increase in PLTC student enrolment.

Operating Expenses

Operating expenses to the end of September were \$13,886,000, \$528,000 (3.7%) below budget. On a year to date basis, there have been additional salary vacancy savings and there have been savings in external counsel fees and forensic audit fees. 845 Cambie building costs were under budget \$126,000, which relates to the timing of maintenance projects which will occur before the end of the year.

2013 Forecast - General Fund (excluding capital and TAF)

We are forecasting a positive variance of \$400,000 (2%) for the year.

Operating Revenue

Revenues are projected to be very close to budget for the year. Practising membership revenue is projected at 10,935 members, 65 below the 2013 budget, a negative variance of \$85,000. Offsetting this shortfall, PLTC students are projected at 445 students for the year, a positive variance of \$115,000. Other miscellaneous revenues relating to penalties and fines are projected to have a positive variance of \$100,000, and lease revenues will be under budget \$82,000.

Operating Expenses

Operating expenses are projected to have a positive variance of \$380,000 (2%) for the year. Additional expense items in the year approved by the Benchers are the \$75,000 for the 2013 contribution to the CBA REAL program and the additional contribution of \$48,000 relating to the Access Pro Bono space. With the increase in

PLTC students, there will be additional costs of \$75,000 related to the additional students, and \$70,000 for an update to the on-line courses. Offsetting this, there will be cost savings related to staff vacancies, external counsel fees and forensic audit fees.

TAF-related Revenue and Expenses

TAF revenue for the first two quarters of the year was \$998,000, \$222,000 below budget. TAF operating expenses were \$105,000 (5.9%) below budget due to savings in travel. With the continued slowdown in real estate unit sales, TAF revenue is forecast to be similar to 2012 levels, resulting in a negative variance to budgeted revenue of \$242,000. With this reduction in revenue, the Trust Assurance Program will have shortfall of \$104,000 for the year, which will be partially offset by the TAF reserve of \$72,000.

Special Compensation Fund

Once all activities have concluded, the remaining Special Compensation Fund reserve will be transferred to the LIF as required by the *Legal Profession Amendment Act, 2012*. Currently, the reserve is \$1.3 million.

Lawyers Insurance Fund

LIF operating revenues were \$10.5 million in the first nine months, slightly above budget by \$180,000 (1.7%). LIF operating expenses were \$4.5 million, \$573,000 below budget. This positive variance was due to lower staffing costs, insurance costs and external counsel fees. The market value of the LIF long term investments is \$107.8 million, and the year to date investment returns were 9.0%, compared to a benchmark of 6.4%.

Ms. McPhee provided clarification regarding factors contributing to the projected positive variance of 2% for the General Fund for the balance of 2013.

9. 2012-2014 Strategic Plan Implementation Update

This update was put over to the next meeting.

10. Report on the Outstanding Hearing & Review Reports

The Benchers received and reviewed a report on outstanding hearing and conduct review reports.

11. Other Business

Communications Training for Benchers – Mr. Wilson inquired about the availability of communications training for Benchers. Mr. Whitcombe confirmed that one-on-one communications support and training is available for any Bencher upon request.

WKM

2013-11-22

—
reaching
equal justice
—



summaryreport



THE CANADIAN
BAR ASSOCIATION
L'ASSOCIATION DU
BARREAU CANADIEN

INFLUENCE. LEADERSHIP. PROTECTION.



Our Approach: Identify Barriers to Progress

- Shortfalls in information
- Lack of political profile
- Too little coordination and collaboration on efforts
- No mechanisms to measure progress



Three Strategies

- Research and consultation
- New conversation about equal justice
- Enhanced national strategic coordination



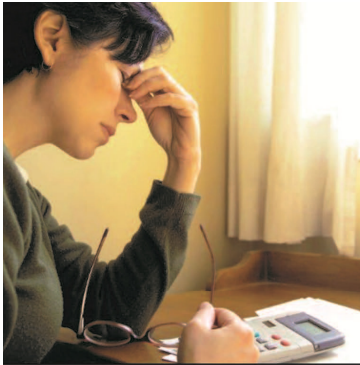
Unequal Justice

What we know

- Law thick world
- Unresolved problems multiply
- Unresolved problems spread to other areas
- Vulnerable groups hit hardest : 22% - 85 %
- Vulnerable groups may not seek help, distrust the system, see justice as for the rich
- Legal help leads to better outcomes



Everyone is Entitled to Justice





The Case for Change

- Everyone has legal problems
- Relationship between courts and democracy
- Growth in poverty and social exclusion
- Costs of inaccessible justice
- Return on investment for legal aid spending
- Why tinkering isn't enough





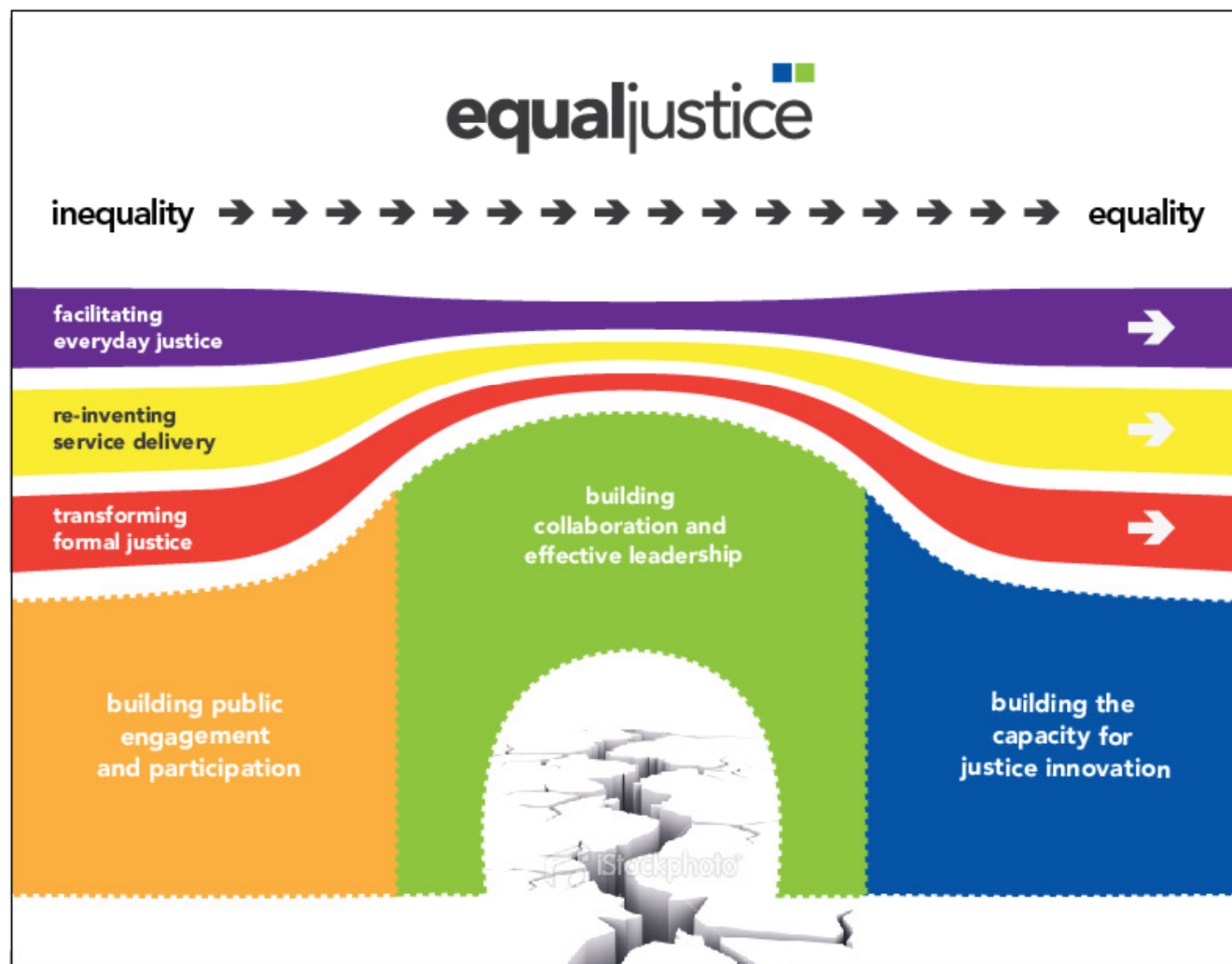
Envisioning 2030

The Vision: Ambitious, but Possible

- People
- Participation
- Prevention
- Paths to justice
- Personalized
- Practices are evidence-based



A Bridge to Equal Justice





Strategy 3: Re-engineering legal services

- Limited scope retainers
- People-centred law practices
- Team delivery
- Legal expense insurance
- Regenerating legal aid
- Bridging public/private divide
- Law schools, legal education, law students





The simple truth: Justice has
been devalued



An invitation to: think
systemically, act locally



What will you do to contribute
to equal justice?

CCCA and the Law Society of British Columbia

November 7, 2013



Canadian Corporate Counsel Association
Association canadienne des conseillers (ères)
juridiques d'entreprises



THE CANADIAN
BAR ASSOCIATION
L'ASSOCIATION DU
BARREAU CANADIEN

INFLUENCE. LEADERSHIP. PROTECTION.

Presenters



Grant Borbridge, Q.C.



Wendy King



Membership

CCCA Regular Members are:

CBA Members who are engaged by, or providing legal services to, any business enterprise, association or institution, crown corporation, government board or agency, municipal corporation, not-for-profit organization, or regulatory board or agency.



Demographics

- **4500 + members in every province and territory**
 - **Ontario is the largest with 1900**
 - **Alberta is the second largest and the fastest growing with 1025**
 - **British Columbia has 625 primarily in Vancouver**
- **96 of the Top 100 Companies by Revenue as defined by the Globe and Mail are members of the CCCA**
- **Regular CCCA members are 51% women / 49% men**
- **30% of our members come from the Public and MUSH sectors**



Key differences between In-house and Private Practice

- **There is only one client – the employer**
- **Core Competencies required differ from external counsel – based on research, clients expect in-house counsel to:**
 - **understand tactical business fundamentals and incorporate them into decision making (e.g., manages a budget well, builds a business case for decisions / actions, takes a market perspective, conducts risk / benefit analysis, etc.),**
 - **understand the environment in which they are providing services,**
 - **have the ability to think in strategic terms, and**
 - **take action which fits business strategy and environment**



Accreditation

- **Accreditation – the current accreditation criteria favours skills and knowledge required of private practitioners and excludes core competencies required and expected of in-house counsel**

- **Example:**

PRACTICE MANAGEMENT

- Content focusing on administration of a lawyer's workload and office, and on client-based administration, including how to start up and operate a law practice in a manner that applies sound and efficient law practice management methodology.
- (b) trust accounting requirements, including:
 - (i) trust reporting;
 - (ii) financial reporting for a law practice;
 - (iii) interest income on trust accounts;
 - (iv) working with a bookkeeper;

LAWYERING SKILLS

but not

- (a) general business leadership;
- (e) skills and knowledge primarily within the practice scope of other professions and disciplines.



Accreditation

- **Diversity:** In-house counsel are often working within a very diverse environment, and as well, many are implementing policies to encourage diversity within the law firms they retain
- **Current accreditation requirement does not reflect this as a skill in-house must have:**
 - **The following topics do not satisfy the practice management definition for CPD accreditation:**
 - (h) business case for retention of lawyers and staff, including retention relating to gender, Aboriginal identity, cultural diversity, disability, or sexual orientation and gender identity
 - (i) handling interpersonal differences within your law firm
 - (j) cultural sensitivity in working with your law firm staff



Certified In-house Counsel.Canada

- Accelerate the career or enhance the skillset of someone who is already a competent legal advisor, to that of strategic business advisor
- Syllabus not based on substantive law
- 6 steps
 - 3 in person weekends at Rotman
 - 1 online course
 - 3 years minimum in-house experience
 - 1 in-person assessment (management meeting)

Thank You!

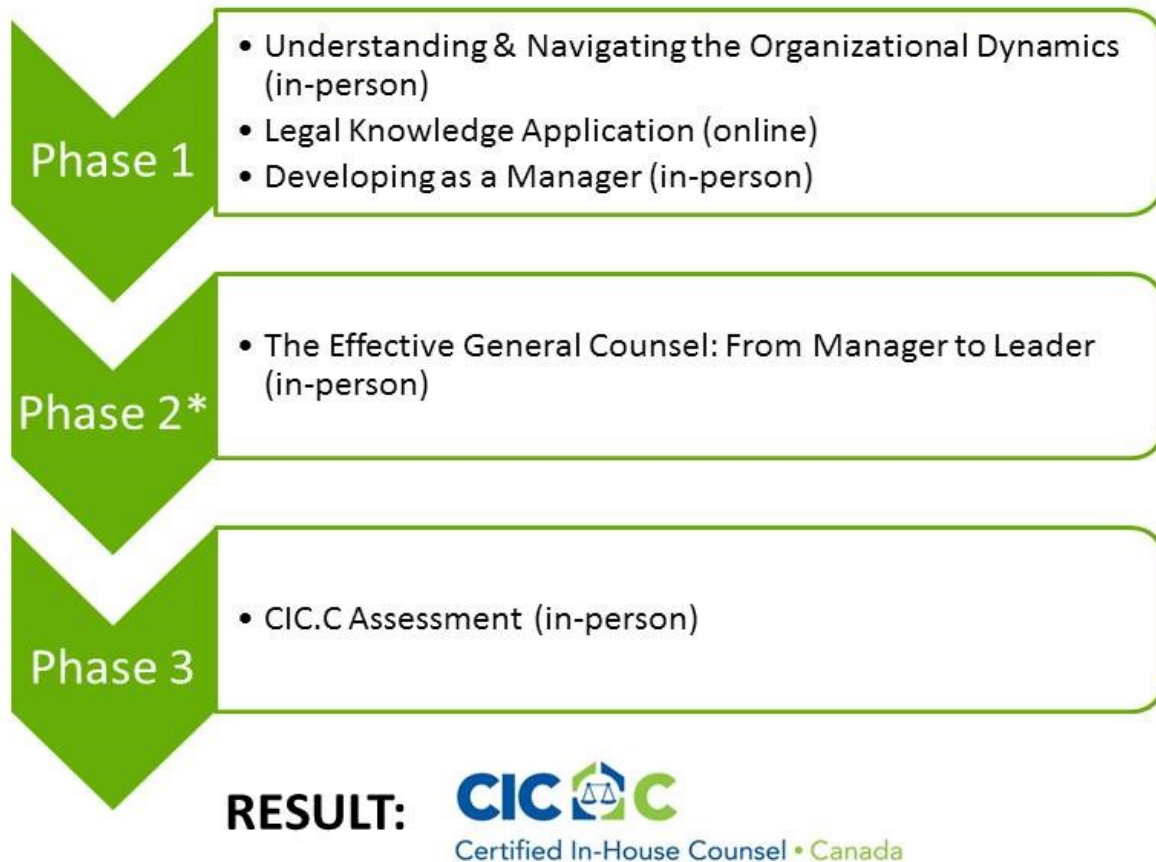


“Think like a lawyer, perform like an executive.”

The **Canadian Corporate Counsel Association (CCCA)** and the **Rotman School of Management** have partnered to create the *Business Leadership Program for In-House Counsel*. The first program of its kind, successful completion of all three phases will provide graduates with the designation of *Certified In-House Counsel.Canada (CIC.C)*.

This program will develop and assess the skills, knowledge and attributes essential to be regarded as both strategic business partner *and* trusted legal advisor. Fulfilling the learning and competency needs required by in-house counsel who are looking to advance in their careers to a General Counsel position or to the executive level, this program provides graduates with a competitive edge.

Curriculum Design



* Experiential Requirement: 3 years in-house counsel experience

** Program applicants must be in good standing with a provincial Law Society and be a CBA/CCCA member in good standing in order to enroll in the program and to maintain the certification.

Who Should Apply?

- Mid-level in-house counsel who want to move to the next career level and require broader management and leadership development
- New to in-house counsel working in a small or large legal department and requiring external training and development
- Only Legal Officers (OLOs) who want to grow their management / leadership skills and enhance their executive team contribution
- In-house counsel serving as specialists within large legal departments, who desire broader and more varied skills development in management and leadership
- Senior Counsel who would like to move to the executive level
- External law firm lawyers who would like to move to an in-house role

Program Dates

Module 1: February 28 - March 2, 2014

Module 2: Self-paced (online)

Module 3: September 5 - 7, 2014

Module 4: January 30 - February 1, 2015

Cost

\$9100.00 + applicable taxes split into 3 payments:

- \$3640.00 + applicable taxes - due upon acceptance of application
- \$3640.00 + applicable taxes - due on September 1st, 2014
- \$1820.00 + applicable taxes - due on January 15th, 2015

Questions?

Contact certification@ccca-cba.org or learn more at www.ccca-accje.org.

Academic Partner

Learn more about our Academic Partner, the Rotman School of Management, at www.rotmanexecutive.com

Application Process

To apply to be a part of the next *Certified In-House Counsel.Canada* cohort, please complete and submit the application form at www.ccca-accje.org. Enrollment is limited, so early application is strongly encouraged.

Learn today. Lead tomorrow.





CEO's Report to Benchers

November 7, 2013

Prepared for: Benchers

Prepared by: Timothy E. McGee

Introduction

My report this month covers a variety of topics, the highlights of which are set out below. I would be happy to discuss any of these items in further detail with the Benchers at any time.

Third Quarter Financial Results

The financial results for the third quarter ending September 30, 2013 have been provided to you as part of your Bencher agenda package. Jeanette McPhee, Chief Financial Officer, will be reviewing the highlights of those results with you at the Bencher meeting. Together with members of the Executive Team, I will be pleased to respond to any questions or comments which you may have.

Events and Conferences

2013 International Institute of Law Association Chief Executives (IILACE) Annual Conference

Attached to this report as Appendix “A” is my report on the highlights of the 2013 IILACE Annual Conference which I recently attended in Berlin. I would be pleased to provide additional information or answer any questions you might have about the conference at any time.

Fall Justice Summit

The second Justice Summit will be held from November 8 – 9, 2013 at Allard Hall, University of British Columbia and will bring together approximately 80 participants from stakeholders in the justice system. The Summit will focus on goals and objectives for the criminal justice system, and in particular, the goals of fairness, protection, sustainability, and public confidence. The participants will examine each of those goals and objectives against the desired vision for the justice system, and will examine what needs to be done in each area to move from where we are to where we want to be. The Law Society will be represented at the Summit by First Vice-President Jan Lindsay, QC, Second-Vice President, Ken Walker, QC, who will be on the panel discussing “public confidence” and Michael Lucas. Once again, I will be acting as the Moderator of the Summit for both days.

National Action Committee on Access to Justice Event

The Ministry of Justice and the Law Society will be co-hosting an event at the Law Society on November 19, 2013, at which Mr. Justice Cromwell of the Supreme Court of Canada will speak to key stakeholders in the justice community about the recent report of the National Action Committee on Access to Justice in Civil and Family Matters. Participants will also reflect on British Columbia-specific considerations concerning access to justice in light of the presentations and findings in the Action Committee's report. The event will also be used as a starting point for considerations about issues relating to the justice system to be discussed at the third Justice Summit scheduled for Spring 2014, which will focus on administrative, civil, and family justice systems. President Art Vertlieb, QC, First Vice-President Jan Lindsay, QC, Second Vice-President Ken Walker, QC, David Crossin, QC, Bill MacLagan, Michael Lucas and I will be attending the November 19 event on behalf of the Law Society.

Operational Updates

RRex Day – October 3, 2013

Our first annual RRex (Rewards and Recognition Program) Day to recognize and celebrate the accomplishments and contributions of Law Society staff was a great success. The highlight of the day was the RRex Day Luncheon and Awards ceremony held at Sutton Place Hotel, where more than 150 employees turned out to celebrate our 2013 RRex Award winners. We had a very strong pool of nominations for each of the awards categories and the nine member Selection Committee made up of staff from across the organization had a difficult task.

This year's award winners were:

Inspired Lion Award

This award, recognizing an individual or team who significantly improved operational or financial efficiency, was awarded to the 22 members of the Trust Regulation Group, for successful completion of the first six-year cycle of the trust assurance program.

RRex Award

This award recognizes a non-management team or individual who has demonstrated a commitment to excellence. The 2013 Selection Committee decided to award two RRex awards this year in recognition of the large number of excellent nominations received:

- Kurt Wedel, Staff Lawyer, Investigations, Monitoring & Enforcement, for his work on developing policies for regulatory changes implemented by the Law Society over the past two years.

- Pam Scheller and Geoff Howes, Credentials Officers, shared the second award, which recognized their exemplary teamwork, ensuring that applicants are handled with efficiency, fairness and empathy.

Thank you to the Selection Committee and our Human Resources team for making RReX Day such a great success.

Employee Survey

Our annual employee survey is currently underway. The survey is a key tool to measure employee engagement and to help management identify areas for improvement. As in past years, the survey results will be made available to the Benchers once compiled. Ryan Williams, President of TWI Surveys Inc., the survey administrators, will be at the January Bencher meeting to provide an overview of the results, and to respond to any questions or comments which you may have.

Performance Reviews

In keeping with our annual plan for staff review and assessment, I am pleased to report that the majority of our staff have now completed a detailed 2013 year end performance review with their managers. The reviews are an opportunity to discuss performance, personal development, future goals and working relationships, and are intended to compliment continuous, timely and meaningful feedback offered throughout the year.

United Way Campaign

This year's United Way Campaign (lead by Leanne Brown, Paralegal, Investigations and Discipline, and a dedicated team of staff volunteers) was a tremendous success. The campaign included a number of fundraising activities including a pancake breakfast, coin-drive, online bingo, silent auction and balloon pop. Thanks to the organizing efforts of the campaign team and the enthusiastic participation of staff, we exceeded our campaign goal by more than \$5,000. The United Way regularly recognizes the Law Society for its outstanding commitment to the annual giving campaign.

International Institute of Law Association Chief Executives - 2013 Annual Conference – Berlin

Conference Highlights

Delegates and Program

This year's conference held in Berlin from September 16 – 19, 2013 brought together the Chief Executive Officers of law regulatory and representative bodies from over 20 countries including Canada, USA, England, Ireland, Scotland, Australia, New Zealand, Germany, Norway, Sweden, Denmark, Africa, Hong Kong, Korea and Japan. In all there were over 45 delegates to the conference who collectively regulate and/or represent approximately 1.6 million lawyers around the world.

The stated purpose of ILLACE is to create a forum for a small group of executives to discuss important topics for the regulation and advocacy of the profession and to compare notes on operational and governance matters. Once again the conference program delivered on this goal. I have set out below highlights from four of the topics covered in the program. I would be pleased to expand on these topics or discuss the remainder of the program at your convenience.

Who and What Should Regulators Regulate?

This was the lead off topic for the conference and was introduced as follows:

Until recently, the world for regulators looked clearly arranged: They regulated, supervised and disciplined lawyers. With the appearance of new participants in the profession, with a development towards more professionally led and bigger law firms, and towards a variety of multi-disciplinary partnerships, one has to wonder if this traditional system is still up to date. Shouldn't regulators also take care of limited license legal practitioners? Shouldn't they supervise law firms rather than individual lawyers? (How) Can they regulate ABSs? What are the consequences for representative organizations?

To set up the discussion we heard from the CEOs of the Washington State Bar, the Law Society of Upper Canada and the Law Society of England and Wales. In Washington State the Supreme Court has established a regime for non-lawyer legal service providers called “limited license legal technicians” or “3LTs”. As we know well, Ontario

has a full accreditation, regulatory and governance regime established for paralegals. In England and Wales there are now over 196 licensed ABSs among which are organizations combining legal services with accountancy, financial planning, home care, and even home renovation and construction.

What I found most interesting about the ensuing discussion was that each of these developments (i.e. 3LTs in Washington, paralegal regulation in Ontario, and ABSs in England and Wales) shared one thing in common – each of them was introduced, at least in part, to enhance access to more affordable legal services. While there were additional rationales for each one, the basic public policy foundation for each was enhanced access.

In comparing and contrasting how each of Washington State, Ontario and England and Wales arrived at these developments, Des Hudson, CEO of the Law Society of England and Wales, used a fishing analogy. He said: *“Paula (CEO of the Washington State Bar) tested her line, chose the right weight and carefully cast off the dock to find a specific type of fish. Rob (CEO of Law Society of Upper Canada) went trolling with multiple lines, flashers and baited hooks. The Solicitor’s Regulatory Authority in England and Wales threw dynamite off the shore and waited for the dead fish to float to the surface.”*

His point was that local circumstances will most likely determine the nature and extent of the regulatory response to the access to justice issue. He emphasized what many in the audience confirmed and that is that there is no silver bullet and there is no standard response. The consensus seemed to be that it was best for regulators to do what they can within their sphere of influence and authority but also to challenge current assumptions regarding those boundaries and to be proactive.

It was acknowledged that Washington State and Ontario were involved in testing assumptions and approaching enhanced access through expanding the supply and scope of practice of non-lawyers. England and Wales, on the other hand, was involved in a more fundamental business proposition based on the assumption that ABSs *“...can create radically different cost structures and through that change make a transformational jump in the pricing of legal services.”*

There was a strong sense at the end of the discussions that regulators should be pursuing three priorities in the public interest; facilitating and encouraging the entrance of new legal service providers together with a appropriate new regulatory framework, establishing entity based regulation which recognizes the public interest issues without unnecessarily constraining new business models, and consulting and talking more with the profession about these priorities.

Is The First Day in Law School the First Day in the Profession? – International Trends in Training and Admission

This topic was introduced at the conference as follows.

What knowledge and skills does a new member of the bar need to have when starting the profession? What roles do bar associations and law societies play in onboarding new members of the profession?

This was a highly relevant topic for the Canadian contingent given our ongoing work through the Federation of establishing a national admissions standard. What soon became apparent was that many jurisdictions are making this a priority as well. The single biggest issue for everyone and the focus of major initiatives in many countries is the lack of practical skills training at entry level. This point was reiterated almost as frequently as the need for but lack of effective “ongoing” quality and competency assurance for lawyers as they progress through their careers. This latter point was referred to by some as the lawyers’ “flight simulator” in reference to the requirement for commercial pilots to regularly refresh aspects of their accreditation.

Perhaps most striking was the presentation and commentary offered by Joe Dunn, CEO of the California State Bar. There are more than 240,000 licensed lawyers in California. Beginning in the early seventies California introduced a mandatory state bar exam in response to widespread negative publicity concerning lawyers and their involvement in the Watergate scandals. Today California administers an exam taken by over 15,000 candidates every year. The exam lasts 3 days and covers 13 topics, although not all topics are tested on each exam. There is one practical skills question. The California State Bar is the hardest of all state entrance exams both because of the extent of the content and because the pass rate is set higher than any other state. After outlining this approach Joe concluded: “After four years of college, three years of law school and the toughest bar exam in America, there is no question that most entry level lawyers in California are not ready to practice law”.

The reason for this was the widespread view that law graduates had virtually no practical skills competency. Because the ABA was not moving to require its approved law schools to address the skills training deficiency the regulator stepped in. A task force studied the issue for a year and a half and reached agreement that the regulators would require graduating students to have 250 hours of experiential learning, which must be done in the second and third year of law school. In addition graduates must do 50 hours of pro bono work during their law school years. An implementation strategy will be worked out in 2014 and the new regime will become effective in 2015. Existing law students will be grandfathered.

A good discussion ensued regarding the reluctance of law schools to move away from an academic focus to incorporate an emphasis on practical training. Joe Dunn was clear about the situation in California, namely if the regulators hadn't insisted upon it the legal academy would not have done it. One expected benefit of this new regime is that clinical/adjunct professors will no longer be treated as second class members of the teaching faculty.

As for other jurisdictions, we learned, for example, that Zimbabwe requires law students to do extensive practical training in second year, including working with court officials and attending in court with lawyers under the auspices of the law school. The students must receive teaching and training in accounting, office management and other technical skills, which are taught by the Law Society, and are required to get insurance. In contrast, the German law regulators have no practical skill requirements for law grads and this gap is being filled in part by the bar associations, which offer voluntary practical training curricula.

If it's Legal – is it Ethical – and Should Lawyers be Doing It?

This topic was introduced at the conference as follows:

Tax planning, financial services: where do we draw the line if we are to retain or improve our image in the public perception and the press?

I moderated a panel discussion on this topic and a very lively plenary discussion which ensued. We considered two famous international case studies involving ethical and professional responsibility for lawyers.

The first was the largest tax evasion case in Norwegian history, which is expected to conclude in 2014. The essence of the case is that tax advisors (including two of Norway's preeminent tax counsel) for Houston-based oil rig firm Transocean must have known they were misleading tax authorities. The facts, greatly simplified, are that Transocean manoeuvred an oil rig just outside Norwegian waters, completed the steps for its sale, and returned the rig to Norwegian waters all without informing Norwegian tax authorities about the sale. As a result of these steps, authorities allege Transocean avoided paying approximately USD\$2B in Norwegian tax. Norway's white collar crime unit has charged Transocean, two of their Norwegian lawyers and a tax adviser claiming they knew what they were doing in neglecting to inform the Norwegian authorities of the plan in advance.

The second case involved a USD\$200M lawsuit filed in England against a Dutch-based oil and commodity shipping company called Trafigura and its lawyers for causing death

and injuries to thousands of residents of the Ivory Coast. The very simplified facts were that a freighter under contract to Trafigura arrived in Amsterdam to unload waste cargo. The Dutch authorities advised that due to the toxicity of the cargo, under Dutch law Trafigura would have to remediate the cargo before it could be offloaded. Instead of doing that, Trafigura redirected the ship to Abidjan, a port in the Ivory Coast where no such toxicity regulations existed. In the weeks following the unloading of the cargo in Abidjan 17 locals died, dozens fell severely ill and tens of thousands required medical treatment. This was all linked to the toxic cargo which had been rerouted from its original destination.

This was a great topic to facilitate and moderate because these two cases raised so many critical ethical and professional responsibility issues for lawyers. The fact that in each case lawyers and law firms were specifically sued for their actions and involvement at various levels made the fact patterns that much more powerful. The discussion was wide ranging and touched on the key issues of a lawyer's duty to his client, to the state and to the public as well as the concept of implied liability of advisers for the dishonest, criminal or fraudulent actions of their clients.

In the context of the Transocean case we also heard about the (then) upcoming report of the International Bar Association's Human Rights Institute entitled *Tax Abuses, Poverty and Human Rights*. This report highlights the rising importance of tax planning as matter of corporate responsibility and business ethics, and the reputational risks that have now become associated with alleged tax abuses. The role of the lawyer and in particular the tax lawyer in this arena is very much front and center in the discussion. Our own Bill Maclagan has recently highlighted for me the difficult and complex issues arising for corporate tax practitioners as covered in the IBA's recent report.

This session was scheduled for 45 minutes on the conference program and by unanimous agreement we extended it to almost 2 hours. I would be happy to expand my report on these discussions at any time

Coping with Stress – Individual Resilience and Resilient Organizations

This is a standing topic for ILLACE annual conferences and typically engages many in the conversation. One of the reasons for this is that statistics around the world reveal that lawyers are one of the least "resilient" of all categories of professionals. Resilient in this context means having the natural or innate ability to deal with the level of stress and demands imposed by their work. As a result, both for the benefit of ILLACE delegates personally and for a better understanding of lawyers generally we continually refresh our awareness of the issues on this topic.

The main take away for me from this year's discussion were the factors which we heard make for a highly resilient person. Top of the list was having a sense of self awareness and self acceptance, knowing your strengths and weaknesses and taking those into account every day. Having a sense of perspective on what is happening to you and around you were also an important feature of resiliency. Not pursuing a command and control approach but encouraging consensus will strengthen personal resiliency. Finally, finding time for yourself and learning from your failures and the ability to "move on" from your setbacks is a significant stress reliever.

The session also included two stories, one amusing and one tragic, that gave us food for thought. The amusing story goes like this: "Two lawyers bring sandwiches into a restaurant. The waitress says you can't eat your sandwiches here. The lawyers look at each other...and they swap their sandwiches." The point was that lawyers are often linear thinkers and this doesn't always fit well into a world which we can't always influence or control and this can cause stress for many.

The tragic story was that of lawyer David Latham, a world renowned trademark lawyer and partner at a top law firm in London, England. Latham had trouble sleeping for weeks and he seemed inconsolable as he worried about the fate of a big case. His client had taken the stand and introduced evidence that wasn't in the main affidavit and Latham had to subsequently rewrite the affidavit and resubmit it to court. This apparently greatly upset him. After having dinner with his wife at Claridges Hotel on Valentine's Day he said he was returning to the office to work and instead stepped in front of a tube train killing himself.

The tragic case revealed a number of things on which we reflected including that Latham had told a fellow partner he was going to kill himself the day before but his action had been dismissed as a "flippant comment" because lawyers "often have to tough things out". In fact, Latham was very stressed out because as best as can be determined he wasn't able to keep a proper perspective on the amended affidavit incident or rely on his self confidence to pull him through and "move on".

We were referred to several publications and books which are all designed to help executives and lawyers cope with stress. I would be happy to provide those titles at any time.

IILACE Executive

IILACE operates under an organizational charter which restricts membership to those who are the chief executives of law regulatory or law association organizations around the world. The executive of IILACE is comprised of an Executive Committee of seven

elected from the membership. The officer positions of IILACE are President, Vice President and Secretary Treasurer; these positions are also elected by the membership and constitute a “ladder”. The President serves a two year term. I am currently the Vice President of IILACE and the 2013 AGM confirmed that I will assume the position of President in November of 2014.