



Court of Appeal File Nos.
CA51535 & CA51536

COURT OF APPEAL

BETWEEN:

**LAW SOCIETY OF BRITISH COLUMBIA and
TRIAL LAWYERS ASSOCIATION OF BRITISH COLUMBIA and
KEVIN WESTELL**

APPELLANTS
(Plaintiffs)

AND:

**ATTORNEY GENERAL OF BRITISH COLUMBIA and
LIEUTENANT GOVERNOR IN COUNCIL OF BRITISH COLUMBIA**

RESPONDENTS
(Defendants)

AND:

**ADVOCATES' SOCIETY,
BRITISH COLUMBIA ACCESS TO JUSTICE CENTRE FOR EXCELLENCE,
BRITISH COLUMBIA PARALEGAL ASSOCIATION,
CANADIAN BAR ASSOCIATION, CRIMINAL DEFENCE ADVOCACY SOCIETY,
FEDERATION OF LAW SOCIETIES OF CANADA,
INDIGENOUS BAR ASSOCIATION IN CANADA,
LAW FOUNDATION OF BRITISH COLUMBIA, LAW SOCIETY OF MANITOBA,
LAWYERS' RIGHTS WATCH CANADA,
SOCIETY OF NOTARIES PUBLIC OF BRITISH COLUMBIA and
WORKERS FOR ETHICAL SUBSTANCE USE POLICY**

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OPENING STATEMENT

These appeals arise from the Legislature's decision to modernize the regulation and delivery of legal services in British Columbia through a single legal regulator. That decision did not occur in a vacuum. Here, as elsewhere in Canada, the public's persistent lack of access to affordable legal services has contributed to a crisis of unmet legal needs at the core of a broader access to justice crisis.

Under the *Legal Professions Act*, a single legal regulator permits lawyers, notaries and paralegals to practise within one statutory framework, subject to a common regulatory scheme governing competence, conduct and public protection. The general objective is not to displace lawyers, but to expand the range and capacity of professional legal services available to the public, including through regulated paralegals who may provide defined services at lower cost and at a level proportionate to the complexity of everyday legal matters.

The British Columbia Paralegal Association intervenes on a narrow constitutional question: whether the constitutional principle of an independent Bar requires the Legislature to preserve the historical model of lawyer self-governance when it seeks to broaden the range of regulated legal professionals within a common statutory framework.

If independence of the Bar is treated as requiring a lawyer-dominated regulatory model that has repeatedly failed to create meaningful space for independent paralegal practice, the constitutional principle risks entrenching the incumbent profession's role as gatekeeper to the development and licensing of new legal professions in the public interest.

The Constitution does not require every future regulatory framework involving lawyers to reproduce lawyer-dominated self-governance. The Court can protect the constitutional principle of independence of the Bar while leaving the Legislature room to modernize the organization of professional legal services and to give regulated paralegals an impactful role in addressing British Columbia's access to justice crisis.

PART 1 – STATEMENT OF FACTS

1. The British Columbia Paralegal Association (“BCPA”) is a non-profit, volunteer-run organization representing paralegals in British Columbia. It was formed in 1979 and now has more than 700 members, including paralegals working in law firms, in-house legal departments and government ministries, contractors working for lawyers, paralegal students, educational administrators, legal industry organizations, and other law-related members.¹
2. The BCPA has longstanding involvement in the development of the paralegal profession and in consultations concerning the licensing and regulation of legal professions, including the development of the single legal regulator model.²
3. Bill 21, the *Legal Professions Act*, S.B.C. 2024, c. 26 (the “Act”), establishes a common regulatory framework for lawyers, notaries public and regulated paralegals. It provides for a lawyer-majority board and assigns the regulator responsibility for protecting the independence of licensees.³
4. The Act creates regulated paralegals as a class of legal professional and gives the BCPA a defined role in the transition to the new regime. Section 223 provides for a BCPA appointment to the transitional board; s. 230 provides for the first board of the new regulator to be constituted from members of that board; and s. 8(2) contemplates a continuing role for the BCPA in recommending regulated paralegal directors.
5. The BCPA has consistently supported regulated paralegal licensing as a means of increasing access to legal services. In 2022, it supported a single legal regulator and regulated paralegal licensing, emphasizing benefits to affordability, access, competence and public confidence.⁴
6. The Law Society has considered broader forms of legal service provision over a span of two decades, including supervised paralegal services, certified or licensed paralegal models, and its Innovation Sandbox. Those initiatives have been met with

¹ Affidavit of Rosina Jagore, affirmed August 13, 2026, in support of BCPA’s application for leave to intervene, paras. 4–5.

² Jagore Affidavit, paras. 4–16.

³ *Legal Professions Act*, S.B.C. 2024, c. 26, ss. 6, 8, 218–223.

⁴ Jagore Affidavit, Ex. A, pp. 1–7.

varying degrees of lawyer opposition and have not resulted in a general regime for independent paralegal practice.⁵

7. The Legislature enacted the Act in 2024, to replace the current Law Society governance model with a single regulator for several classes of legal professional, including lawyers, notaries public and regulated paralegals. The new framework maintains requirements concerning competence, conduct, public protection and professional independence while creating a statutory basis for regulated paralegal practice.

PART 2 – ISSUES

8. The issue addressed by the BCPA is whether the constitutional principle of an independent Bar requires the Legislature to preserve the historical model of lawyer self-governance when establishing a common regulatory framework for lawyers, notaries public and regulated paralegals.
9. The BCPA takes no position on the appellants' other constitutional challenges, except to the extent an issue depends on the proposition that the Constitution requires the historical lawyer-dominated model of professional regulation.

PART 3 – ARGUMENT

The Constitution protects an independent Bar, not a particular institutional model

10. The BCPA accepts the constitutional importance of lawyer independence. The question is what that constitutional protection requires. The Supreme Court has described self-regulation as the means legislatures have traditionally used to protect

⁵ Joint Application Record, Vol. 2, Tab 51, Affidavit #1 of Brook Greenberg K.C., filed June 4, 2024; paras. 152–54, p. 978; Ex. 63, pp. 1536–37; Ex. 64, pp. 1541–43; Ex. 65, pp. 1586–87.

the independence of the Bar, while leaving open whether self-regulation itself is constitutionally required.⁶

11. In *Law Society of British Columbia v. Trinity Western University*, 2018 SCC 32 at paras. 36–38, the Supreme Court recognized the relationship between legislative delegation, professional expertise and independence. It did not hold that every future regulator of lawyers must reproduce the institutional form of an existing law society.
12. The constitutional inquiry should therefore distinguish the protected value from the institution historically used to secure it. Recognizing the constitutional importance of lawyer independence does not, without more, eliminate legislative choice as to the institutional means by which that independence is protected. The constitutional question is functional, not institutional: whether the challenged arrangements impair the conditions necessary for lawyers to discharge their professional duties independently, not whether the new regulator resembles an existing law society.
13. Lawyer control of the regulator is not synonymous with lawyer independence. As Chief Justice Skolrood recognized in the court below, the constitutional principle of an independent Bar protects lawyers' ability to exercise independent professional judgment in advancing and protecting their clients' interests. The Chief Justice nevertheless rejected the proposition that a regulator must be controlled by a majority of elected lawyers in order to preserve the independence of the Bar.⁷
14. Lawyer control may be one means of protecting the profession from undue government influence, but it is not the constitutional end in itself. The relevant question is whether the regulatory structure preserves the conditions necessary for lawyers to discharge their professional duties independently—free from improper state direction or other undue interference.

⁶ *Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7 at para. 86; *Finney v. Barreau du Québec*, 2004 SCC 36 at para. 1.

⁷ *Law Society of British Columbia v. British Columbia (Attorney General)*, 2026 BCSC 779 at paras. 95–110, 136–167.

The Act does not, without more, impair independence of the Bar

15. The Act directs the regulator to have regard to licensees' independence and gives it responsibility for standards concerning education, training, competence, practice and conduct. The Act does not transfer the regulation of lawyers to direct government administration. It establishes a common regulator, retains a lawyer-majority board, and expressly directs the regulator to protect the independence of licensees.
16. The presence of non-lawyers in regulatory governance is not, by itself, constitutionally suspect. The constitutional concern is undue influence that threatens professional independence, not professional diversity.
17. Professional independence and a common regulator can coexist. Lawyers can remain subject to enforceable duties concerning independence, confidentiality, loyalty, competence, candour and the administration of justice without requiring the governing body to reproduce the historical lawyer-dominated model. If particular provisions cross the constitutional line, the Court can address that defect without constitutionalizing the historical institutional structure.

The history of paralegal regulation illustrates the importance of institutional choice

18. The history of attempts to regulate paralegal practice through the Law Society provides concrete context for why the institutional question matters. It is not a criticism of individual lawyers or of the Law Society's implementation of its public interest mandate. It illustrates the institutional difficulty of moving from recognition of unmet legal needs to the introduction and integration of a new legal profession within a system developed and controlled by the incumbent profession.
19. The Law Society has repeatedly examined broader categories of legal service providers. Its 2008 Futures Committee report considered whether some legal services could be provided by non-lawyers. In 2012, the Law Society amended its rules to allow some paralegals to provide limited legal services under a lawyer's supervision.

Lawyers are now permitted to supervise up to two 'designated paralegals' in their performance of specific duties.⁸

20. In 2013, its Legal Service Providers Task Force recommended merging the regulatory operations of the Law Society and the Society of Notaries Public and creating 'certified paralegals'; on December 6, 2013, the Benchers unanimously adopted the Task Force's report.⁹
21. In 2018, the Legislature amended the governing statute, at the Law Society's request, to permit licensing and regulation of 'licensed paralegals'. At the Law Society's December 2018 annual general meeting, members voted 861 to 297, with 62 abstentions, for a resolution directing the Benchers to request that the amendments not be brought into force pending further consultation. The amendments were never proclaimed.¹⁰
22. The Law Society created the Licensed Paralegal Task Force in March 2019, which recommended that the Law Society create a "grassroots" regulatory sandbox to facilitate and monitor the delivery of unlicensed legal services by non-lawyers. The Law Society implemented the Innovation Sandbox in 2021, and issued fewer than 50 'no action' letters to participating service providers by June 2024.¹¹
23. The Court need not decide whether these policy choices were wise or whether lawyer opposition to licensed paralegals was justified. The history matters because it shows that the creation and scope of new legal professions can be difficult to achieve within the historical institutional model. If that model were constitutionally fixed, a future Legislature seeking to expand regulated legal services could effectively be required to preserve the governance structure of the profession whose interests are most directly affected by that expansion. That would transform a constitutional protection against government interference with professional independence into a constitutional entitlement to institutional control over the profession's regulatory environment.

⁸ JAR, Vol. 2, Tab 51, Greenberg Affidavit #1; Ex. 24, p. 1227.

⁹ JAR, Vol. 2, Tab 51, Greenberg Affidavit #1, paras. 152–54.

¹⁰ JAR, Vol. 2, Tab 51, Greenberg Affidavit #1, paras. 152–54, p. 978; Ex. 63, pp. 1536–37; Ex. 64, pp. 1541–43; Ex. 65, pp. 1586–87.

¹¹ JAR, Vol. 2, Tab 51, Greenberg Affidavit #1, paras. 154–55.

24. In other words, it would give the constitutional principle a reach beyond its purpose. The Constitution protects lawyers' ability to discharge their professional duties independently; it should not also constitutionalize the incumbent profession's institutional control over the creation and development of other regulated legal professions.

Independence of the Bar leaves room for regulated paralegal practice and legislative choice

25. The Act recognizes regulated paralegals as a distinct class of legal professional and gives their representative body a defined role in the transition to the new regulator and in recommending regulated paralegal directors. The BCPA does not claim that this statutory role is constitutionally required.
26. Nor does the BCPA contend that the Constitution guarantees regulated paralegal practice or requires a single legal regulator. Its submission is narrower. A constitutional principle protecting the independence of lawyers should not determine the institutional structure through which the Legislature establishes, licenses and regulates other legal professionals except to the extent that a particular institutional feature is constitutionally necessary to preserve that independence.
27. The professional interests of lawyers and regulated paralegals can co-exist under the same regulator. Regulated paralegals can be subject to appropriate education and competence requirements, defined scopes of practice, professional duties, investigation and discipline, and other public protection measures. At the same time, lawyers can remain subject to the professional obligations and safeguards necessary to preserve their independent judgment. The constitutional question is therefore whether the regulatory framework impairs the substance of lawyers' professional independence, not whether every aspect of professional regulation remains within a lawyer-dominated institution.
28. Treating the historical model as constitutionally fixed would narrow the Legislature's ability to experiment with different institutional arrangements even where professional independence, competence, conduct and public protection are preserved. The point

is not that every experiment is constitutionally permissible. It is that the Constitution should establish the limits within which institutional experimentation may occur, rather than prescribe the institutional model in advance. The constitutional principle should operate as a guardrail: the Legislature retains institutional choice, but cannot subject lawyers to government control or otherwise undermine the professional independence the Constitution protects.

29. As the Supreme Court recognized in *R. v. Chouhan*, 2021 SCC 26 at paras. 130–137, legislatures retain room to respond to social problems through policy choices within constitutional limits. This Court has likewise recognized the need for “experimentation” and “innovation” in access to civil justice.¹² Treating the Law Society’s historical governance structure as constitutionally fixed could restrict the Legislature to a single institutional choice in developing a common legal regulator to broaden the scope and reach of professional legal services.
30. The Legislature has chosen regulated paralegal practice as one innovative means of expanding the range and capacity of professional legal services available to the public. The scope of services that regulated paralegals should be authorized to provide is a matter of legislative and regulatory judgment. The constitutional principle should not foreclose that choice merely because the resulting regulatory structure differs from the historical model.
31. This does not require deference to the Legislature on the meaning of the Constitution. The Court must determine the constitutional minimum. But where that minimum can be satisfied through more than one institutional arrangement, the choice among constitutionally permissible arrangements belongs to the Legislature. Historical practice may inform the analysis; it does not, without more, constitutionalize a particular institutional model.
32. The BCPA therefore submits that the constitutional question is not whether the Act reproduces historical lawyer self-governance. It is whether the challenged provisions impair the conditions necessary for lawyers to discharge their professional duties

¹² *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2022 BCCA 163 at para. 148.

independently. The inclusion of regulated paralegals, other legal professionals, public representatives or Indigenous representatives in the governance of a common legal regulator does not, without more, establish such an impairment.

PART 4 – NATURE OF ORDER SOUGHT

33. The British Columbia Paralegal Association respectfully asks that the Court:

- dismiss the appeals to the extent that they contend that the constitutional principle of an independent Bar requires the Legislature to preserve the historical model of lawyer-dominated self-governance; and
- grant such further relief as the Court considers appropriate, with the BCPA taking no position on the other issues raised in the appeals.

34. The BCPA seeks no order as to costs and asks that it bear its own costs and that no costs be payable by or to it.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Vancouver, British Columbia, this 5th day of October, 2026.



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LIST OF AUTHORITIES

Authorities	Paragraphs in Factum
<i>Canada (Attorney General) v. Federation of Law Societies of Canada</i> , 2015 SCC 7	10
<i>Finney v. Barreau du Québec</i> , 2004 SCC 36	10
<i>Law Society of British Columbia v. British Columbia (Attorney General)</i> , 2026 BCSC 779	13, 14
<i>Law Society of British Columbia v. Trinity Western University</i> , 2018 SCC 32	11
<i>R. v. Chouhan</i> , 2021 SCC 26	29
<i>Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)</i> , 2022 BCCA 163	29
Legislation	Paragraphs in Factum
<i>Legal Professions Act</i> , S.B.C. 2024, c. 26.	3, 4, 7