

Law Society *of British Columbia*

Benchers Meeting: Minutes

To: Benchers

Purpose: Approval (Consent Agenda)

Date: Friday, September 20, 2024

Present: Jeevyn Dhaliwal, KC, President
Brook Greenberg, KC, 1st Vice-President
Lindsay R. LeBlanc, KC, 2nd Vice-President
Paul Barnett
Aleem Bharmal, KC
Tanya Chamberlain
Nikki L. Charlton
Jennifer Chow, KC
Tim Delaney
Brian Dybwad
Cheryl D'Sa, KC
Ravi R. Hira, KC
Sasha Hobbs
James A. S. Legh
Dr. Jan Lindsay
Jaspreet Singh Malik
Georges Rivard
Michèle Ross
Thomas L. Spraggs
Barbara Stanley, KC
Natasha Tony
Michael F. Welsh, KC
Kevin B. Westell
Gaynor C. Yeung
Jonathan Yuen

Absent: Simran Bains
Nikki L. Charlton
Christina J. Cook
Benjamin D. Levine
Jay Michi
Gurminder Sandhu, KC
James Struthers

Staff present:	Don Avison, KC	Cary Ann Moore
	Avalon Bourne	Doug Munro
	Natasha Dookie	Rashmi Nair
	Su Forbes, KC	Maryanne Prohl
	Vicki George	Michelle Robertson
	Kerryn Holt	Lesley Small
	Jeffrey Hoskins, KC	Arrie Sturdivant
	Alison Kirby	Christine Tam
	Jane Ladesma	Maddie Taylor
	Michael Lucas, KC	Adam Whitcombe, KC
	Alison Luke	Teo Wong
	Claire Marchant	Charlene Yan
	Tara McPhail	Vinnie Yuen
	Jeanette McPhee	

Guests:	Ian Burns	Digital Reporter, The Lawyer's Daily
	Alexandra Calbery	Guest of 2024 Indigenous Scholarship Winner
	Iyanuoluwa Christian	Guest of 2024 Scholarship for Graduate Legal Studies
	Onyinyechi Christian	Guest of 2024 Scholarship for Graduate Legal Studies
	Sopuruchi G. Christian	2024 Scholarship for Graduate Legal Studies
	Shirina Evans	2024 Indigenous Scholarship Winner
	Dr. Cristie Ford	Professor, Peter A. Allard School of Law
	Freya Kodar	Dean of Law, UVic
	Jamie Maclaren, KC	Executive Director, Access Pro Bono Society of BC
	Desmond MacMillan	Assistant Dean of Law, Thompson Rivers University
	Scott Morishita	Past President, Canadian Bar Association, BC Branch
	Lee Nevens	President, Canadian Bar Association, BC Branch
	Caroline Nevin	CEO, Courthouse Libraries BC
	Ngai Pindell	Dean of Law & Professor, Peter A. Allard School of Law
	Laura Selby	Director of Publications, Continuing Legal Education Society of BC
Kerry Simmons, KC	Executive Director, Canadian Bar Association, BC Branch	
Trevor Tailfeathers	Executive Member, Aboriginal Lawyers Forum	

Recognition

1. Presentation of the 2024 Law Society Scholarship for Graduate Legal Studies

President Jeevyn Dhaliwal, KC introduced and congratulated the recipient of the 2024 Law Society Scholarship for Graduate Legal Studies, Sopuruchi G. Christian.

2. Presentation of the 2024 Law Society Indigenous Scholarship

President Dhaliwal introduced and congratulated the recipient of the 2024 Law Society Indigenous Scholarship, Shirina Evans.

Consent Agenda

3. Minutes of July 5, 2024, meeting (regular session)

The minutes of the meeting held on July 5, 2024 were approved unanimously and by consent as circulated.

4. Minutes of July 5, 2024, meeting (*in camera* session)

The minutes of the *in camera* meeting held on July 5, 2024 were approved unanimously and by consent as circulated.

Reports

5. President's Report

President Dhaliwal indicated that Second Vice-President Lindsay R. LeBlanc, KC had declared a conflict in regard to item 10, which would be moved to the end of the regular portion of the agenda.

Ms. Dhaliwal began her report by thanking Benchers for arranging and attending call ceremonies which took place across the province since July, including an extraordinary one which took place in Nisga'a, being the first of its kind in the province to welcome a new member to the bar in their home community. This ceremony attendance led her to being able to travel to Prince Rupert to meet the local bar. Ms. Dhaliwal gave thanks to all Benchers for their meaningful contributions in their communities.

Ms. Dhaliwal commented how each level of the court in BC has received a number of new appointments this year and she has had the pleasure of delivering remarks at many of the

welcoming ceremonies. Ms. Dhaliwal gave her congratulations to the newly appointed judges throughout British Columbia, including Victoria, New Westminster, Vancouver, and Cranbrook, who have taken on these new appointments, or been elevated to the Court of Appeal.

Ms. Dhaliwal spoke of CBABC engagement and welcomed Kerry Simmons, KC, CEO and Lee LMG Nevens, President to the meeting, and gave thanks to the outgoing President, Scott Morishita for the work they had done in their presidential year.

Ms. Dhaliwal spoke about other events she had attended recently, including the welcoming at Allard Hall, a special sitting in Victoria to commemorate the passing of Life Bencher Ralston Alexander, KC, and the Life Bencher Dinner which took place in September.

President Dhaliwal concluded her report by speaking to the National Day of Truth and Reconciliation upcoming on September 30 and its importance as a day to formally recognize the history and legacy of residential schools. President Dhaliwal encouraged all non-Indigenous Benchers and guests to spend time on educating themselves about this important issue. President Dhaliwal concluded her remarks by giving special thanks to Bencher Georges Rivard for increasing awareness on this issue by facilitating a client's choice to provide an affirmation using an eagle feather, a practice more aligned with the client's culture.

6. CEO's Report

Don Avison, KC began his report noting that Bill 21 was before the courts a short while ago in relation to the injunction application, which was declined at the time. However, he said the door was left open to re-consider an injunction application at some later date. At this stage in the proceedings the focus was to work towards setting a date for the substantive constitutional matter to be heard. Mr. Avison indicated there were now a number of interested parties involved including the Trial Lawyers for BC, the Society of Notaries Public of BC, and the Law Society of Manitoba. Mr. Avison advised that the outcome of the Provincial election may have an impact on the future of Bill 21.

Mr. Avison observed that transition planning was underway and that the transitional board members were all confirmed. The transitional Indigenous Council was substantially complete, aside from one or two members to be appointed from the transitional board. Mr. Avison spoke about the work required to do the necessary planning throughout the transitional period and advised that Adam Whitcombe, KC, Senior Advisor, would provide a summary in the *in camera* portion of the meeting.

Mr. Avison then provided an update on the developments in Manitoba with the removal of a Member of the Legislative Assembly due to an alleged conflict. In his view, this was just one of the examples over the course of the last several years of politicians ignoring the fundamentals of the administration of justice and the rule of law. Mr. Avison advised that the Federation had also expressed some concerns regarding this matter, that he was expecting to see some

communication from other law societies, and that he and President Dhaliwal would be sending a letter to the Winnipeg Free Press on this matter to show support for colleague jurisdictions.

Mr. Avison spoke of the upcoming 2024 Annual General Meeting and the number of resolutions that were coming forward, highlighting that the advance voting on the resolutions would close at 4:30pm on September 23, and that the meeting would take place the following day, September 24.

Mr. Avison referred to an event scheduled to take place that afternoon where Dr. Marie Wilson, the author of *North of Nowhere*, would be attending the Law Society of BC offices to speak to staff and Benchers about her book and experiences on Truth and Reconciliation Commission.

Mr. Avison advised of another event being organized by Vicki George, Senior Advisor, Indigenous Engagement, which would be coming up in October where Phyllis Webstad, the founder of the orange shirt movement, would be in attendance to speak with staff and Benchers.

Mr. Avison went on to speak of the exceptional outreach work being done by Ms. George and Jillian Currie, Indigenous Navigator, in Indigenous communities, and with the Law Society, and invited Ms. George to provide more information. Ms. George spoke of their recent trip to Vancouver Island and the outreach there to provide communities with information about Indigenous supports and systems that the Law Society can help them with, and what her role with the Law Society is. She expressed how they were welcomed into the communities and they were pleasantly surprised to see two Indigenous women carrying out that work at the Law Society. Ms. George shared some of the discussions and learnings from the experiences of travelling to different communities, including northern BC which included Indigenous and non-Indigenous peoples expressing concerns that they wouldn't be believed, that they won't be taken seriously, they believed cultural awareness doesn't exist, and that they didn't feel safe sharing information including filing a complaint against a lawyer. Ms. George went on to discuss other work they are doing which includes working closely with the Professional Regulation department looking at our work through a trauma informed lens. Ms. George concluded her update by speaking about other community work including attending UVic and meeting with the Indigenous law research unit, and attending Duncan's First Nations court. Mr. Avison thanked Ms. George and Ms. Currie for the work they are doing.

Mr. Avison then invited Michael Lucas, KC to speak to the Supreme Court of Canada Decision in *Poonian v. British Columbia (Securities Commission)*. Mr. Lucas provided a summary of the decision and how it impacts the Law Society and other regulatory bodies. Mr. Avison concluded that he was of the view that a change to the *Bankruptcy and Insolvency Act* was needed and that the Federation ought to be engaging with other regulatory bodies on this matter.

Mr. Avison provided an update in relation to the security of the member portal and invited Kerryn Holt, Chief Operating Officer, to speak to this item. Ms. Holt presented on what is being

proposed and how this work would be carried out, which will include the member portal being updated with two-factor authentication to improve security. Ms. Holt concluded that communication with the profession about the changes was crucial to the success of the project and that there would be various methods of communication, including notices in E-Brief, pop-up messaging within the member portal and Notices to the Profession.

Mr. Avison concluded his report by providing a staffing update. He advised that Natasha Dookie, Chief Legal Officer, would be moving on from the Law Society and spoke of their achievements during their tenure to include the positive impacts made with regards to discipline and the implementation of the Alternative Discipline Process and consent agreements, cutting the number of hearings by nearly half.

The Annual report for 2023 was distributed and thanks was given to Christine Tam, Director of Communications and Engagement, for the exceptional work on delivering the report, which provides a great resource for discussions.

Presentation

7. Presentation from CBABC President

Ms. Dhaliwal introduced Lee LMG Nevens and welcomed them to the meeting.

Mx. Nevens started their presentation by talking about being trans, queer and non-binary, and being the first transgender CBABC President and first non-binary Branch President in all of the CBA history.

Mx. Nevens spoke of marginalization in our communities, the rise of hate crimes and protests, increased risks violence at pride parades and at queer and trans events, and how these issues were still very much a problem and becoming more apparent. Mx. Nevens spoke of statistics and discussed barriers, and how this impacts access to justice, as well as how discrimination disproportionately affects the trans community, providing examples of recent survey results evidencing the current lack of knowledge and education within the profession around identities.

Mx. Nevens advised that they want to acknowledge who they are, and if not gendered correctly, persons can feel denied and there is no legal remedy that can fix this. Misgendering and misnaming is not always intentional; however, it still has a broader impact. Mx. Nevens spoke of how the Law Society is trying to improve this and that they continue to be a leader in this respect.

Mx. Nevens concluded their report by speaking to the work of CBABC on these matters, including its commitment to having a diverse board. They then provided some updates from

CBABC including how to work with the regulator, and highlighted some upcoming events, including the advancing reconciliation series and a conference being held on November 1 regarding Navigating the Court of Public Opinion. Mx. Nevens spoke about the constitutional challenge issued by Law Society and how the CBABC supports many of the Law Society's concerns, but also supports some of what is in Bill 21, and how the upcoming provincial election creates an opportunity for the CBABC to present their agenda for justice.

Discussion/Decision

8. Publication of Administrative Penalties

Ms. Dhaliwal introduced the item and provided some background information on the proposed Rule amendments, which would amend the Rule regarding publishing notices of administrative penalties, and instead provide for the publication of anonymous summaries of the circumstances and amount of the penalties, so as to align the Rules with those applicable to the publication of conduct reviews.

Mr. Avison provided some additional information regarding the success in the program generally in that there has been a reduction in the number of conduct reviews from 61 in 2022 down to 26 in 2023.

There was no discussion on this item.

The following resolution was passed unanimously:

BE IT RESOLVED to amend the Law Society Rules as follows:

1. In Rule 4-48 (1.2), by deleting “must” and replacing it with “may”.
2. By inserting the following between Rules 4-49 (2) and 4-49 (3):

“(2.1) The publication of the circumstances of a rules breach deemed admitted under Rule 4-59 [Administrative Penalty] must not identify the respondent unless the respondent consents in writing.”

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT

9. 2025 Initiatives, Budgets and Fees

First Vice-President Brook Greenberg, KC introduced the item, followed by a presentation to Benchers on the proposed 2025 initiatives, budgets, and fees delivered by Jeanette McPhee and Don Avison, KC.

Mr. Avison started by thanking everyone for attending the recent budget session noting that it was very helpful to have the opportunity to have these discussions in advance and that the engagement from Benchers had been great.

Mr. Avison spoke about how development of the next strategic plan would need to begin and how things would look different with the Single Legal Regulator (SLR). Mr. Avison spoke about the five main objectives of the current strategic plan: leading as an innovative regulator of legal service providers; working toward reconciliation; taking action to improve access to justice; promoting a profession that reflects the diversity of the public it serves; and increasing confidence in the Law Society, the administration of justice, and the rule of law. Mr. Avison also spoke about some of the key operational priorities in line with the strategic plan contemplated by the 2025 budget and fees, including SLR, lawyer development and licensing, innovation sandbox, professional regulatory operations, professional development and practice support, AML, Indigenous engagement with regulatory matters, diversity action plan, and the information technology strategic plan.

Mr. Avison then spoke about some of the considerations in setting the 2025 budget, including focusing on strategic priorities and effective operations, interest rates and inflation, hybrid events and meetings (mix of hybrid and virtual), general fund net asset reserves, operating budget, deficit funding, and that there would be a modest increase to the practice fee in 2025 to fund external organizations, but no increase in the 2025 indemnity fee.

Jeanette McPhee, Chief Financial Officer and Senior Director, Trust Regulation then spoke about general fund revenues, which are projected to be \$35.6 million, which will be 1.6% higher than the 2024 budget, primarily due to an increase in the number of practising members anticipated for next year. Ms. McPhee reviewed the number of practising lawyers over the last few years, as well as the breakdown between non-practising and retired lawyers. Ms. McPhee then reviewed 2025 budget revenue by type, with the majority coming from the practice fee. Ms. McPhee then reviewed the general fund operating expenses, which are expected to be 5% over the 2024 budget, due to salaries, modest addition of staff resources, technology and facilities upgrades, though there were some savings with external counsel fees. Ms. McPhee reviewed the 2025 budget expense summary by type and reviewed net assets and use of working capital reserves. Ms. McPhee spoke about use of reserves for one-time projects and reviewed the Trust Assurance program and TAF, and provided a summary of external funding included in the practice fee.

Su Forbes, KC, Chief Operating Officer of the Lawyers Indemnity Fund (LIF) provided an overview of LIF budget and fees. Ms. Forbes spoke about errors and omissions, reviewed net assets, minimum capital requirements, revenues, and expenses, as well as the recommendation regarding LIF's fee, which is to maintain the fee at \$1,800 for full-time and \$900 for part-time for 2025.

Ms. McPhee summarized the recommendations for the 2025 practice and indemnity fees.

There was no discussion on this item.

The following resolutions were passed unanimously:

BE IT RESOLVED that:

Effective January 1, 2025, the practice fee be set at \$2,321, pursuant to section 23(1)(a) of the *Legal Profession Act*.

BE IT RESOLVED that:

Effective January 1, 2025, the trust administration fee be set at \$20 for each client matter, pursuant to Rule 2-110 (1).

BE IT RESOLVED that:

The indemnity fee for 2025 pursuant to section 30(3) of the *Legal Profession Act* be set at \$1,800;

The part-time indemnity fee for 2025 pursuant to Rule 3-40(2) be set at \$900; and

The indemnity surcharge for 2025 pursuant to Rule 3-44(2) be set at \$1,000.

10. Transition Cost Sharing

This item was removed from the regular agenda for discussion *in camera*.

11. External Appointments: Policy Revisions

Ms. Dhaliwal introduced the item and provided some background regarding the proposed revisions to the external appointments policy and guidebook.

Mr. Avison provided some additional information regarding the lack of consistency with the appointments process and the rationale for the revisions to address this, and that there would be a communication requirement initiated with each external party regarding the expectations of those appointed.

Discussion was had about whether geographic considerations should be noted in the policy and President Dhaliwal explained that these specific requirements were unique to each external body.

The following resolution was passed unanimously with one abstention:

BE IT RESOLVED the Benchers approve the redlined amendments to the Law Society External Appointments Policy and Guidebook.

For Information

12. External Appointments: BC Law Institute

There was no discussion on this item.

13. Timeline for 2024 By-Election in the County of Vancouver

There was no discussion on this item.

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

RN
2024-10-24