

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

LAW SOCIETY OF BRITISH COLUMBIA

PLAINTIFF

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH  
COLUMBIA and ATTORNEY GENERAL OF BRITISH COLUMBIA

DEFENDANTS

AND:

CANADIAN BAR ASSOCIATION, INDIGENOUS BAR ASSOCIATION, SOCIETY OF  
NOTARIES PUBLIC OF BRITISH COLUMBIA, LAW FOUNDATION OF BRITISH  
COLUMBIA, and LAW SOCIETY OF MANITOBA

INTERVENORS

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**WRITTEN SUBMISSIONS OF THE INTERVENOR  
THE LAW FOUNDATION OF BC**

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and the Lieutenant Governor in  
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**INTERVENORS**

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COLUMBIA, and LAW SOCIETY OF MANITOBA

INTERVENORS

**WRITTEN SUBMISSIONS OF THE INTERVENOR  
THE LAW FOUNDATION OF BC**

**I. OVERVIEW**

1. The Law Foundation of British Columbia (the “Foundation”) is an organization created by statute with the purpose of funding a wide variety of justice projects in the province. At its core, the Foundation serves as a vital source of accessible and robust legal resources for millions of BC residents. To provide this service effectively, the Foundation requires a stable and consistent governance structure.
2. The Foundation takes no position on the outcome of the underlying application generally. However, a portion of the remedies sought by the Plaintiff Law Society of BC (“Law Society”) potentially destabilizes the Foundation’s long-term operations and objectives.
3. The Foundation’s work requires a strong single regulator—whether in its current form or with the changes contemplated by the *Legal Professions Act*, SBC 2024, c 26 (“Bill 21”). The alternative remedy sought by the Plaintiff would phase the Foundation into a post-amalgamation state without the necessary transitional provisions to effect this change.
4. The Foundation largely relies on the submissions made in its Application Response, dated 25 April 2025.

## II. THE PURPOSE AND FUNCTION OF THE LAW FOUNDATION OF BC

### A. Statutory context and purpose of the Foundation

5. The Foundation was established in 1969 as an independent, non-profit organization to make grants in the promotion of access to justice. It is mandated to spend its funds in the public interest.<sup>1</sup> The Foundation is a creature of statute and is continued and governed by Part 7 of the *Legal Professions Act*, SBC 1998, c 9 (the “Current Act”).
6. The Foundation is a “well established, transparent, and accountably governed entity”.<sup>2</sup>
7. The primary source of the Foundation’s income to fund grants is the interest accrued on lawyers’ trust accounts. The scheme provided in s 62 of the Current Act requires lawyers and law firms, by default, to deposit money received or held in trust in a pooled interest-bearing account, at a designated savings institution. Lawyers and law firms hold the interest earned on these funds in trust for the Foundation.
8. The Foundation's revenue is naturally affected by the amount of money held in the pooled trust accounts of regulated lawyers, but also by the interest rates offered by the savings institutions.
9. The Current Act provides guidelines for the Foundation’s routine and long-term operations. Notably, s 59(1) outlines the composition of the organization’s Board of Governors (restyled to “Board of Trustees” under Bill 21). It dictates that the Board consist of 18 governors as follows:
  - a. the Attorney General or the Attorney General's appointee;
  - b. three persons, not lawyers, appointed to the board by the Attorney General;
  - c. 12 lawyers or judges appointed by the executive committee, of whom at least one must be from each county referred to in the *County Boundary Act*;
  - d. two lawyers appointed by the executive committee of the British Columbia Branch of the Canadian Bar Association
10. The Foundation uses moneys it acquires for the funding of programs and projects in all regions of BC to benefit the public in five legislated mandate areas: (i) legal education, (ii) legal research, (iii) legal aid, (iv) law reform and (v) law libraries.

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<sup>1</sup> *Kett v Kobe Steel, Ltd.*, 2020 BCSC 1977, at para 41.

<sup>2</sup> *Chartrand v Google LLC*, 2021 BCSC 7, at para 53. See also *Cronk v LinkedIn Corporation*, 2023 BCSC 2165, at para 42.

## **B. Changes proposed by Bill 21**

11. Sections 152-65 and 242-50 (transitional provisions) of Bill 21 propose changes to the Foundation's structure, primarily through absorption of the Notary Foundation and corresponding changes to the Board.

12. Section 243 outlines this action as follows:

### *Transition – dissolution of Notary Foundation*

243 (1) The Notary Foundation is dissolved.

(2) The assets of the Notary Foundation immediately before the transfer date are transferred to and vested in the Law Foundation.

(3) The liabilities of the Notary Foundation immediately before the transfer date are transferred to and assumed by the Law Foundation.

(4) On the transfer date, a reference to the Notary Foundation in any record that creates, evidences or otherwise relates to anything transferred or assigned under subsection (2) or (3) is deemed to be a reference to the Law Foundation.

13. If Bill 21 comes fully into force, the Foundation will have a revised board of trustees composed of a maximum of 18 trustees, as follows:

- a. no more than 12 trustees appointed by the new regulator, of whom
  - i. at least two must be lawyers,
  - ii. at least two must be notaries public,
  - iii. if the total number of regulated paralegals in British Columbia is 50 or more, at least two must be regulated paralegals, and
  - iv. at least one must be an Indigenous person;
- b. no more than two appointed by the trustees referred to in paragraph (a),
- c. the Attorney General of British Columbia or their designate as a non-voting trustee, and
- d. no more than three trustees appointed by the Attorney General (of whom at least one must be an individual of a First Nation).

### **III. LAW SOCIETY'S ALTERNATIVE REMEDY POSES PROCEDURAL HURDLES TO FOUNDATION'S OPERATIONS & GOVERNANCE**

14. The Foundation takes no position on the primary relief sought by the Plaintiff. That relief would, if fully granted, prevent provisions relating to the Foundation from coming into force. The effect would be maintenance of the status quo, which affords the requisite measure of certainty to the Foundation in carrying out its routine work.
15. The Foundation, however, takes the position that the Plaintiff's alternative relief gives rise to procedural problems, particularly as it concerns the Foundation's ability to collect funds and carry out its mandate.
16. Specifically, the Law Society in the alternative seeks a declaration that Parts 1-6, 15, 17 and 18 of Bill 21 are *ultra vires* provincial authority and of no force and effect. Part 18 refers to the transitional provisions for an amalgamation and other governance structures, including the revised makeup of the Foundation, as outlined above. However, the alternative relief does not include Part 11, which outlines the role and purpose of the Foundation following creation of the new regulator.
17. This outcome would have several implications for the Foundation's governance and operations.
18. For one, Part 11 would exist without the transitional provisions in Part 18, which facilitate the absorption of the Notary Foundation. As such, the Foundation may under the Plaintiff's alternative relief have a board of trustees including at least two notaries public despite the provisions dissolving the Notary Foundation and transferring its assets not being in effect.
19. The Foundation's current board of governors would likewise be left in a state of limbo without the "grandfathering" provision (s 249). The two or more notarial appointees on the restyled Board of Trustees would remain governed by the *Notaries Act*, RSBC 1996, c 334; they would not be "licensees" under the new Act. This in turn could invalidate removal provisions in s 157(1)(c) as they apply to notarial trustees. The definition of "licensees" itself may be problematic given that it is solely defined in Part 1 of Bill 21 (at which the Plaintiff's alternative relief is aimed) and not in the Current Act.
20. A lack of definition for a "licensee" may also cause issues applying provisions in Part 12 (Trust Accounts) given several references to that class of persons throughout the section.
21. Similarly, a lack of definition for "rule" and no mention of the Society of Notaries Public of BC under the alternative scenario may create a scheme where there would be no rules for a notarial trustee on the Foundation's Board to contravene.
22. In sum, the Plaintiff's alternative relief would create procedural gaps in the application and understanding of the remaining in-force provisions. Any and all of the above outcomes creates a sphere of instability around the Foundation's powers and ability to effectively carry out its legislated purposes.

23. The legislation that remains in the Plaintiff's alternative scenario would lack the specificity necessary for proper implementation of the Foundation's new structure.
24. Clarity and precision are essential components of a properly functioning statutory scheme. Ambiguity in language—or a lack of corresponding provisions—may lead to inconsistent enforcement, delays in decision making, and judicial confusion. A reasonably clear statute enables courts, legal professionals, and the public to understand the legislative intent, ensuring that the law is applied fairly and predictably. Precision in statutory language minimizes the risk of misinterpretation, upholds the rule of law, and reinforces confidence in the legal system.
25. In this case, the Foundation's proper functioning requires a consistent and certain governance structure. An irregular Board composition will jeopardize long-term funding decisions, and delay the time in which these decisions are made.
26. Given the above, the Court must reject the alternative remedy proposed by the Plaintiff and accept its submissions either in their entirety or not at all. Anything short of this forces the Foundation into a confusing and piecemeal governance structure and, ultimately, hinder its ability to fund vital legal services in BC.

#### **IV. INTERIM INJUNCTION**

27. The Foundation agrees with Law Society's proposal to seek an interim injunction enjoining the Lieutenant Governor in Council from bringing the balance of Bill 21 into force until 30 days following the determination of the underlying application.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 18<sup>th</sup> DAY OF AUGUST 2025



**Brent Olthuis, K.C. & Ramisha Farooq**  
Counsel for the Law Foundation of British Columbia

**IN THE SUPREME COURT OF BRITISH COLUMBIABETWEEN:**

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

**PLAINTIFFS**

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  - a. the Attorney General or the Attorney General's appointee;
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  - c. 12 lawyers or judges appointed by the executive committee, of whom at least one must be from each county referred to in the *County Boundary Act*;
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## **B. Changes proposed by Bill 21**

11. Sections 152-65 and 242-50 (transitional provisions) of Bill 21 propose changes to the Foundation's structure, primarily through absorption of the Notary Foundation and corresponding changes to the Board.

12. Section 243 outlines this action as follows:

### *Transition – dissolution of Notary Foundation*

243 (1) The Notary Foundation is dissolved.

(2) The assets of the Notary Foundation immediately before the transfer date are transferred to and vested in the Law Foundation.

(3) The liabilities of the Notary Foundation immediately before the transfer date are transferred to and assumed by the Law Foundation.

(4) On the transfer date, a reference to the Notary Foundation in any record that creates, evidences or otherwise relates to anything transferred or assigned under subsection (2) or (3) is deemed to be a reference to the Law Foundation.

13. If Bill 21 comes fully into force, the Foundation will have a revised board of trustees composed of a maximum of 18 trustees, as follows:

- a. no more than 12 trustees appointed by the new regulator, of whom
  - i. at least two must be lawyers,
  - ii. at least two must be notaries public,
  - iii. if the total number of regulated paralegals in British Columbia is 50 or more, at least two must be regulated paralegals, and
  - iv. at least one must be an Indigenous person;
- b. no more than two appointed by the trustees referred to in paragraph (a),
- c. the Attorney General of British Columbia or their designate as a non-voting trustee, and
- d. no more than three trustees appointed by the Attorney General (of whom at least one must be an individual of a First Nation).

### **III. TLABC'S ALTERNATIVE REMEDY MAY POSE PROCEDURAL HURDLES TO FOUNDATION'S OPERATIONS & GOVERNANCE**

14. The Foundation takes no position on the primary relief sought by the Plaintiffs. That relief would, if fully granted, prevent provisions relating to the Foundation from coming into force. The effect would be maintenance of the status quo, which affords the requisite measure of certainty to the Foundation in carrying out its routine work.
15. The Foundation, however, takes the position that the Plaintiffs' alternative relief may give rise to procedural problems, particularly as it concerns the Foundation's ability to collect funds and carry out its mandate.
16. Specifically, the Plaintiffs in the alternative seek a declaration that "portions of Bill 21" are *ultra vires* provincial authority and of no force and effect, without providing specifics. As a result, this relief may result in Part 18 (Transitional Provisions, etc), for example, being struck down without including others like Part 11 (Law Foundation of BC).
17. This potential outcome would have several implications for the Foundation's governance and operations.
18. For one, Part 11 may exist without the transitional provisions in Part 18, which facilitate the absorption of the Notary Foundation. As such, the Foundation may under the Plaintiff's alternative relief have a board of trustees including at least two notaries public despite the provisions dissolving the Notary Foundation and transferring its assets not being in effect.
19. The Foundation's current board of governors may likewise be left in a state of limbo without the "grandfathering" provision (s 249). The two or more notarial appointees on the restyled Board of Trustees may remain governed by the *Notaries Act*, RSBC 1996, c 334; they would not be "licensees" under the new Act. This in turn could invalidate removal provisions in s 157(1)(c) as they apply to notarial trustees. The definition of "licensees" itself may be problematic given that it is solely defined in Part 1 of Bill 21 (at which the Plaintiffs' alternative relief may be aimed) and not in the Current Act.
20. A lack of definition for a "licensee" may also cause issues applying provisions in Part 12 (Trust Accounts) given several references to that class of persons throughout the section.
21. Similarly, a lack of definition for "rule" and no mention of the Society of Notaries Public of BC under the alternative scenario—where transitional provisions are struck down—may create a scheme where there would be no rules for a notarial trustee on the Foundation's Board to contravene.
22. In sum, the Plaintiffs' alternative relief may create procedural gaps in the application and understanding of the remaining in-force provisions. Any and all of the above outcomes creates a sphere of instability around the Foundation's powers and ability to effectively carry out its legislated purposes.
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