

MINUTES OF CONVOCATION

Thursday, 27th, October, 2011
9:00 a.m.

PRESENT:

The Treasurer (Laurie H. Pawlitza), Anand, Backhouse, Banack (on telephone), Boyd, Braithwaite, Bredt, Callaghan, Campion, Chilcott, Conway, Daud, Doyle, Dray, Elliott, Epstein, Eustace, Evans, Falconer, Feinstein, Finkelstein (on telephone), Furlong (on telephone), Gold, Gottlieb, Haigh, Hare (on telephone), Hartman, Horvat, Hunter, Krishna, Leiper, Lerner, MacKenzie, MacLean, McDowell, McGrath, Marmur, Matheson, Mercer, Minor, Murchie, Murphy, Murray, Porter, Potter, Pustina, Rabinovitch, Richardson, Richer, Robins (on telephone), Ross, Rothstein, Ruby, Scarfone, Sikand, Silverstein, C. Strosberg (on telephone), H. Strosberg (on telephone), Swaye, Symes, Wadden, Wardlaw, Wardle, Wright (on telephone) and Yachetti (on telephone).

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Secretary: James Varro

The Reporter was sworn.

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IN PUBLIC

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TREASURER'S REMARKS

The Treasurer welcomed Nalini Vaddapalli, the Chief Executive Officer of the Law Society of Nunavut.

The Treasurer congratulated Harvey Strosberg on his receipt of the Ontario Bar Association Award of Excellence in Civil Litigation and his recognition by Toronto Rehab and the Stroke Rehabilitation Program for his support of the Program.

The Treasurer congratulated Gerald Swaye on his receipt of the Emilius Irving Award to be bestowed this evening, October 27, 2011.

The Treasurer congratulated Beth Symes on her election as President of the Canadian Institute for the Administration of Justice on October 13, 2011.

The Treasurer commented on the priority setting process of Convocation, to begin this fall.

DRAFT MINUTES OF CONVOCATION

The draft minutes of Convocation of September 21 and September 22, 2011 were confirmed.

MOTIONS – APPOINTMENTS

It was moved by Ms. Potter, seconded by Mr. Silverstein, –

THAT Robert F. Evans be appointed to the LAWPRO Board of Directors.

Carried

It was moved by Ms. Potter, seconded by Mr. Silverstein, –

THAT Terry Knott be reappointed to the Ontario Lawyers' Assistance Program Board of Directors for a term of two years.

Carried

REPORT OF THE DIRECTOR OF PROFESSIONAL DEVELOPMENT AND COMPETENCE

To the Benchers of the Law Society of Upper Canada Assembled in Convocation

The Director of Professional Development and Competence reports as follows:

CALL TO THE BAR AND CERTIFICATE OF FITNESS

Licensing Process and Transfer from another Province – By-Law 4

Attached is a list of candidates who have successfully completed the Licensing Process and have met the requirements in accordance with section 9.

All candidates now apply to be called to the bar and to be granted a Certificate of Fitness on Thursday, October 27th, 2011.

ALL OF WHICH is respectfully submitted

DATED this 27th day of October, 2011

CANDIDATES FOR CALL TO THE BAR

October 27, 2011

Anita Babicki
Oliver Stephen Cooper
Trevor Andrew Wallace Crowley
Rajvir Singh Dhillon
Charles Lorway Gosse
Emily Jane Handford
Pierrette Alexandrina Marie Hébert
Lionel Brent Lepage
Ilario Maria Maiolo
Patrick Thomas Henry Smith
Kim Pamela Stanton
Berge Terzian

It was moved by Mr. Conway, seconded by Mr. Campion, that the Report of the Director of Professional Development and Competence listing the names of the call to the bar candidates be adopted.

Carried

INTER-JURISDICTIONAL MOBILITY COMMITTEE REPORT

Mr. Conway presented the Report.

Report to Convocation
October 27, 2011

Inter-Jurisdictional Mobility Committee

Committee Members

Tom Conway (Chair)
Constance Backhouse
Jacqueline Horvat
Vern Krishna
Wendy Matheson
Joe Sullivan

Purpose of Report: Decision

Prepared by the Policy Secretariat
(Sophia Sperdakos 416-947-5209)

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COMMITTEE PROCESS

1. The Committee met on October 13, 2011. Committee members Tom Conway (Chair), Jacqueline Horvat and Wendy Matheson participated. Two other members, Constance Backhouse and Vern Krishna, provided feedback. Staff members Elliot Spears, Sophia Sperdakos and Sandra Vernon-Noble also participated.

DECISION

EXTENSION OF MOBILITY RIGHTS UNDER THE QUÉBEC MOBILITY AGREEMENT TO QUÉBEC NOTARIES

MOTION

2. That Convocation approve,
 - a. the addendum to the Québec Mobility Agreement, set out at Appendix 3, that extends mobility rights to members of Québec's Chambre des notaires; and
 - b. the general approach to implementing the addendum, set out below at paragraph 7.

Introduction and Background

3. For some time the Federation has been working with representatives of the Chambre des notaires (the governing body for Québec notaries) to consider whether portions of the Québec Mobility Agreement (QMA), already approved by Canadian law societies, could be extended to Québec notaries.
4. The Federation Council has now approved a proposed amendment to the QMA to apply to Québec notaries. Law societies are being asked to consider the proposal and, if appropriate, approve it. The Federation's letter from its President, Ron MacDonald, is set out at Appendix 1.
5. To provide context for the proposal the Federation has prepared background material, which is set out at Appendix 2.
6. The proposed addendum to the QMA is set out at Appendix 3. If Convocation approves the addendum, eligible members of the Chambre will be permitted to exercise mobility in Ontario pursuant to a Canadian Legal Advisor certificate regime.

7. In general, the proposed Law Society of Upper Canada process for notaries seeking a Canadian Legal Advisor certificate would be as follows:
 - a. An application is submitted and supported by a certificate of standing and proof of insurance.
 - b. An initial application fee is charged.
 - c. The duration of the certificate is based on the calendar year and is open to renewal each year for a fee.
 - d. In accordance with the proposed addendum to the QMA, a certificate entitles the notary to,
 - i. give legal advice and consultations on legal matters involving the law of Québec or involving matters under federal jurisdiction;
 - ii. prepare and draw up a notice, motion, proceeding or similar document intended for use in a case before a judicial or quasi judicial body in a matter under federal jurisdiction where expressly permitted by federal statute or regulations;
 - iii. give legal advice and consultations on legal matters involving public international law; and
 - iv. plead or act before a judicial or quasi judicial body in a matter under federal jurisdiction where expressly permitted by federal statute or regulations.
 - e. The Law Society may refuse a certificate and/or revoke it where the applicant does not, or no longer, meets the criteria.
8. If Convocation approves the motion, by-law provisions will be prepared and provided at a subsequent Convocation for consideration and approval.

APPENDIX 3

Quebec Mobility Agreement

Addendum to Extend Mobility Rights to Members of the Chambre des notaires du Québec

FEDERATION OF LAW SOCIETIES OF CANADA

(Date)
(Place)

Introduction

The purpose of this Agreement is to extend the scope of the Quebec Mobility Agreement (the “QMA”) in order to facilitate permanent mobility between the Chambre des notaires du Québec (the “Chambre”) and law societies in common law jurisdictions, thereby completing the national mobility regime for all members of the Federation of Law Societies of Canada (the “Federation”) and both branches of Quebec’s legal profession.

Pursuant to the QMA, the Barreau du Québec (the “Barreau”) and the provincial and territorial law societies in common law jurisdictions have entered into an arrangement under which members of the Barreau may become members of the other law societies and practise federal and Quebec law as Canadian Legal Advisors. Accordingly, the QMA establishes mobility rights for members of the Barreau in the same manner as those that have been established by the Barreau for members of the other law societies, thereby meeting the reciprocity requirements set out in the National Mobility Agreement (the “NMA”).

It is the intention of the signatories to this Agreement that the provincial and territorial law societies in common law jurisdictions implement provisions that will permit members of the Chambre to become members of such law societies and practise federal and Quebec law in those jurisdictions within the scope set out in this Agreement.

The signatories recognize that,

- they have a duty to the Canadian public and to their members to regulate the inter-jurisdictional practice of law so as to ensure that their members practise law competently, ethically and with financial responsibility, including professional liability insurance and defalcation compensation coverage, in all jurisdictions of Canada,
- differences exist in the legislation, policies and programs pertaining to the signatories, particularly between common law and civil jurisdictions, and
- it is desirable to facilitate a nationwide regulatory regime for the inter-jurisdictional practice of law to promote uniform standards and procedures, while recognizing the exclusive authority of each signatory within its own legislative jurisdiction.

Background

In August 2002 the Federation accepted the report of the National Mobility Task Force for the implementation of full mobility rights for Canadian lawyers.

Eight law societies, including the Barreau, signed the NMA on December 9, 2002. The NMA recognized that special circumstances applicable to the Barreau would necessitate additional provisions to implement mobility between the Barreau and the common law jurisdictions. The signatories also recognized that the requirement for the Barreau to comply with regulations applicable to all professions in Quebec would delay implementation of the NMA with respect to the Barreau. The Chambre is not a signatory to the NMA.

In 2006, the law societies of all 10 provinces, including the Barreau, signed the Territorial Mobility Agreement (the “TMA”), along with the law societies of all three territories. The Chambre is not a signatory to the TMA. Under that agreement, provisions were mandated for reciprocal permanent mobility between the law societies of the territories and the provinces, for a five-year period ending January 1, 2012.

Quebec Mobility

In June 2008, the Government of Quebec enacted a “Regulation respecting the issuance of special permits of the Barreau du Québec”, which is stated to be “made in order to facilitate the mobility of advocates.” The Regulation provides, *inter alia*, that a member in good standing of a bar of another Canadian province or territory may apply for a “special Canadian legal advisor permit” in Quebec. A person granted such a permit may engage in the following activities on behalf of another person:

- (1) give legal advice and consultations on legal matters involving the law of the Canadian province or territory where he or she is legally authorized to practise law or involving matters under federal jurisdiction;
- (2) prepare and draw up a notice, motion, proceeding or other similar document intended for use in a case before the courts, but only with respect to matters under federal jurisdiction;
- (3) give legal advice and consultations on legal matters involving public international law; and
- (4) plead or act before any tribunal, but only with respect to matters under federal jurisdiction.

In March 2010, recognizing the provisions of the Quebec Regulation, the common law governing bodies entered into the QMA with the Barreau to enable its members to exercise mobility in the common law jurisdictions on a reciprocal basis. It was recognized that members of other governing bodies will not be able to exercise the reciprocal right to practise public international law unless they have professional liability insurance coverage that specifically includes such practice.

Recognizing that Quebec’s legal system is founded on the French civil law system and its institutions which are reflected in the division of the legal profession in Quebec between advocates, who are members of and are governed by the Barreau, and notaries, who are members of and are governed by the Chambre, it is desirable that mobility rights be extended to members of the Chambre on the basis set out in this Agreement.

THE SIGNATORIES AGREE AS FOLLOWS:

Definitions

1. In this Agreement, unless the context indicates otherwise:

“Advisor” means a Canadian Legal Advisor;

“Canadian Legal Advisor” means a member of the Chambre who holds a current Canadian Legal Advisor certificate issued by a common law governing body;

“Chambre” means the Chambre des notaires du Québec;

“common law governing body” means the Law Society or Barristers’ Society in a Canadian common law jurisdiction;

“liability insurance” means compulsory professional liability errors and omissions insurance required by the Chambre; and

“Quebec notary” means a member of the Chambre.

General

2. The signatory common law governing bodies and the Chambre will
 - (a) use their best efforts to obtain from the appropriate legislative or supervisory bodies amendments to their legislation or regulations necessary or advisable in order to implement the provisions of this Agreement;
 - (b) amend their own rules, by-laws, policies and programs to the extent they consider necessary or advisable in order to implement the provisions of this Agreement;
 - (c) comply with the spirit and intent of this Agreement to facilitate mobility of Quebec notaries in the public interest and strive to resolve any differences among them in that spirit and in favour of that intent; and
 - (d) work cooperatively to resolve all current and future differences and ambiguities in legislation, policies and programs regarding inter-jurisdictional mobility.
3. Signatory common law governing bodies and the Chambre will subscribe to this Agreement and be bound by means of the signature of an authorized person affixed to any copy of this Agreement.
4. A signatory common law governing body will not, by reason of this agreement alone,
 - (a) grant to a Quebec notary greater rights to provide legal services than are permitted to the Quebec notary by the Chambre; or
 - (b) relieve a Quebec notary of restrictions or limits on the Quebec notary’s right to practise, except under conditions that apply to all members of the signatory common law governing body.

Canadian Legal Advisor

5. Signatory common law governing bodies will establish and maintain a program in order to issue Canadian Legal Advisor certificates to qualifying members of the Chambre.

6. Members of the Chambre whose legal training was obtained outside Canada and who have not had their credentials reviewed and accepted as equivalent by the Chambre are not qualifying members of the Chambre for the purpose of clause 5.
7. A member of the Chambre who is granted the status of Advisor in any jurisdiction outside of Quebec, may, in his or her capacity as Advisor:
 - (a) give legal advice and consultations on legal matters involving the law of Quebec or involving matters under federal jurisdiction;
 - (b) prepare and draw up a notice, motion, proceeding or similar document intended for use in a case before a judicial or quasi judicial body in a matter under federal jurisdiction where expressly permitted by federal statute or regulations;
 - (c) give legal advice and consultations on legal matters involving public international law; and
 - (d) plead or act before a judicial or quasi judicial body in a matter under federal jurisdiction where expressly permitted by federal statute or regulations.
8. A signatory common law governing body will require no further qualifications for a Quebec notary to be eligible for membership as Advisor than the following:
 - (a) entitlement to practice the notarial profession in Quebec; and
 - (b) good character and fitness to be a member of the legal profession, on the standard ordinarily applied to applicants for membership.
9. Before admitting as a member a Quebec notary qualified under clause 8, a signatory common law governing body will not require the Quebec notary to pass a transfer examination or other examination, but may require the Quebec notary to do all of the following:
 - (a) provide certificates of standing from all Canadian and foreign governing bodies of the legal profession of which the Quebec notary is or has been a member;
 - (b) disclose criminal and disciplinary records in any jurisdiction; and
 - (c) consent to access by the governing body to the Quebec notary's regulatory files of all governing bodies of the legal profession of which the Quebec notary is a member, whether in Canada or elsewhere.
10. A signatory common law governing body will make available to the public information obtained under clause 9 in the same manner as similar records originating in its jurisdiction.
11. A signatory common law governing body must require that a member of the Chambre who is granted the status of a Canadian Legal Advisor continue to maintain his or her practising membership in the Chambre.

Liability Insurance

12. The Chambre will continue to make available to its members who are also Advisors in another jurisdiction ongoing liability insurance with minimum occurrence or claim limits for indemnity of \$1,000,000 and \$2,000,000 annual per member aggregate.

Transition Provisions

13. This agreement is a multi-lateral agreement, effective respecting the common law governing bodies that are signatories and the Chambre, and it does not require unanimous agreement of common law governing bodies and the Chambre.
14. Nothing in this Agreement is intended to affect the obligations of any party under the provisions of the NMA, the QMA or other agreements in effect.

Dispute Resolution

15. Signatory common law governing bodies and the Chambre adopt and agree to apply provisions in the Inter-Jurisdictional Practice Protocol in respect of arbitration of disputes, specifically Clause 14 and Appendix 5 of the Protocol.

Withdrawal

16. A signatory common law governing body or the Chambre may cease to be bound by this agreement by giving each other party written notice of at least one clear calendar year.
17. A party that gives notice under clause 16 will immediately notify its members in writing of the effective date of withdrawal.

SIGNED on the ● day of ●, 2011.

Law Society of British Columbia

Per: _____ Authorized Signatory

Law Society of Alberta

Per: _____ Authorized Signatory

Law Society of Saskatchewan

Per: _____ Authorized Signatory

Law Society of Manitoba

Per: _____ Authorized Signatory

Law Society of Upper Canada

Per: _____ Authorized Signatory

Chambre des notaires du Québec

Per: _____ Authorized Signatory

Law Society of New Brunswick

Per: _____ Authorized Signatory

Nova Scotia Barristers' Society

Per: _____ Authorized Signatory

Law Society of Prince Edward Island

Per: _____ Authorized Signatory

Law Society of Newfoundland and Labrador

Per: _____ Authorized Signatory

Law Society of Yukon

Per: _____ Authorized Signatory

Law Society of the Northwest Territories

Per: _____ Authorized Signatory

Law Society of Nunavut

Per: _____ Authorized Signatory

TEMPORARY MOBILITY FOR LAWYERS FROM THE BARREAU DU QUÉBEC AND FROM THE NORTHWEST TERRITORIES, YUKON AND NUNAVUT (THE TERRITORIES)

MOTION

9. That Convocation approve the proposal respecting temporary mobility for members of the Barreau du Québec and the Northwest Territories, Yukon and Nunavut (the territories) set out at paragraph 17.

Introduction and Background

10. Currently, the Law Society of Upper Canada allows members of the Barreau du Québec, the Northwest Territories (NWT), the Yukon and Nunavut (the territories) to exercise temporary mobility pursuant to the terms of the Inter-Jurisdictional Practice Protocol (IJPP) as reflected in By-law 4.¹ They can provide legal services in Ontario on up to 10 matters over 20 days in a 12 month period at no cost and without advising the Law Society that they are in the jurisdiction. This approach has not been reciprocal, each of these four jurisdictions having a permit system in place for lawyers from elsewhere in Canada who seek to exercise temporary mobility in those jurisdictions.²
11. The Barreau du Québec system requires lawyers from elsewhere in Canada to obtain a “special authorization to practice law in Québec”. The authorization is valid for a specific case until there is judgment or for a period not exceeding 12 months. It can be renewed. A fee is payable.
12. The territories require those seeking to appear in their jurisdictions for a specific period of time or for a single client or on a single case (temporary) to obtain a Restricted Appearance Certificate (NWT) or a Certificate of Permission to Act (Yukon and Nunavut). In all cases a fee is payable.
13. In 2007 the Barreau made a number of changes to its temporary mobility provisions that made the regime somewhat more onerous. This had the most significant effect in Ontario and New Brunswick whose lawyers are most likely to exercise temporary mobility in Québec. Among other provisions, the Barreau began requiring a number of new background checks (criminal record) and increased the amount and frequency of payment of fees.
14. The Law Society of Upper Canada raised concerns with this approach. The concerns were largely resolved following discussions with the Barreau. The amount of the application fee was reduced and a number of the additional application requirements were reduced or eliminated.

¹ <http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=5275>

² The rest of the provinces are signatories to, and have implemented, the National Mobility Agreement and its provisions for both temporary and permanent (transfer) mobility. The territories have signed and implemented the permanent (transfer) provisions of the National Mobility Agreement.

15. The issue did, however, heighten the fact that the IJPP approach to temporary mobility, which Ontario applies, was very different from that used by the Barreau and also the territories and is out of step with these approaches.
16. Given this, the Committee is of the view that the Law Society should adopt a “permit” approach to temporary mobility with these jurisdictions so that the systems are more similar. They do not need to be identical, reflecting the flexibility to address local priorities, but they use a similar framework. Although little temporary mobility is, in fact, exercised between Ontario and the territories, a permit approach should also be applied to the territories, so that there is one permit system for the 4 jurisdictions.
17. The Committee discussed a proposed approach to temporary mobility for lawyers from the Barreau and the territories and recommends the following general approach:
 - a. Lawyers would apply for the first matter/case and get a permit for up to a maximum of 10 matters in a calendar year. Lawyers won't be required to specify the matters, but will need to keep track of them in case the Law Society wishes to ensure they have not exceeded the limit. They won't be able to ask for permission to handle more than 10 matters in a calendar year.
 - b. There is an annual fee (likely \$100) per year with no extensions. If a matter goes over to the next calendar year, lawyers would have to apply again and pay the fee.
 - c. As was the case under the Inter-jurisdictional Practice Protocol (IJPP) lawyers would be able to practise the law of Ontario where they are competent to do so and, as well, anything they would be eligible to do if they held an L3 licence.³
 - d. There would be discretion to refuse the permit and/or revoke it where the applicant does not, or no longer, meets the criteria.
 - e. The provisions would only apply to permit temporary mobility.
18. If Convocation approves the motion, by-law provisions will be prepared and provided at a subsequent Convocation for consideration and approval.

Attached to the original Report in Convocation file, copies of:

³ (a) giving legal advice on,
 (i) the law of Québec and matters involving the law of Québec,
 (ii) matters under federal jurisdiction, or
 (iii) matters involving public international law, provided his or her home jurisdiction's insurer covers such services,
 (b) drawing, revising or settling a document for use in a proceeding concerning matters under federal jurisdiction,
 (c) appearing as counsel or advocate before any tribunal with respect to matters under federal jurisdiction.

- (1) Copy of a letter from Ronald J. MacDonald, Q.C., President, to Laurie H. Pawlitz, Treasurer dated July 12, 2011 re Approval by the Federation of Law Societies of Canada of an Addendum to the Quebec Mobility Agreement extending mobility rights to members of the Chambres des notaires du Quebec.
(Appendix 1, pages 6 – 7)
- (2) Copy of a memorandum from the Federation of Law Societies of Canada to Canada's law societies dated July 12, 2011 re Quebec Mobility Agreement and the Chambre des notaires du Québec.
(Appendix 2, pages 8 – 15)

Re: Extension of Mobility Rights Under the Québec Mobility Agreement to Québec Notaries

It was moved by Mr. Conway, seconded by Mr. Campion, that Convocation approve:

- a. the addendum to the Québec Mobility Agreement, set out at Appendix 3 of the Report, that extends mobility rights to members of Québec's Chambre des notaires; and
- b. the general approach to implementing the addendum, set out at paragraph 7 of the Report.

Carried

Re: Temporary Mobility for Lawyers from the Barreau du Québec and the Northwest Territories, Yukon and Nunavut (the Territories)

It was moved by Mr. Conway, seconded by Mr. Campion, that Convocation approve the proposal respecting temporary mobility for members of the Barreau du Québec and the Northwest Territories, Yukon and Nunavut (the territories) set out at paragraph 17 of the Report.

Carried

PROFESSIONAL DEVELOPMENT AND COMPETENCE COMMITTEE REPORT

Mr. Conway presented the Report.

Report to Convocation
October 27, 2011

COMMITTEE MEMBERS

Thomas Conway (Chair)
 Mary Louise Dickson (V-Chair)
 Alan Silverstein (V-Chair)
 Constance Backhouse
 Larry Banack
 Jack Braithwaite
 John Callaghan
 Cathy Corsetti
 Adriana Doyle
 Larry Eustace
 Alan Gold
 Howard Goldblatt
 Susan Hare
 Jacqueline Horvat
 George Hunter
 Vern Krishna
 Michael Lerner
 Dow Marmur
 Wendy Matheson
 Susan McGrath
 Janet Minor
 Barbara Murchie
 Judith Potter
 Nicholas Pustina
 Jack Rabinovitch
 Linda Rothstein
 Catherine Strosberg
 Joseph Sullivan
 Robert Wadden
 Peter Wardle

Purpose of Report: Decision
Information

Prepared by the Policy Secretariat
(Sophia Sperdakos 416-947-5209)

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For Information..... TAB B

Continuing Professional Development Requirement Compliance (CPD) - Update

COMMITTEE PROCESS

1. The Committee met on October 13, 2011. Committee members Tom Conway (Chair), Mary Louise Dickson (Vice-Chair), Alan Silverstein (Vice-Chair), Constance Backhouse, John Callaghan, Cathy Corsetti, Adriana Doyle, Larry Eustace, Howard Goldblatt, Jacqueline Horvat, Vern Krishna, Michael Lerner, Dow Marmur, Wendy Matheson, Barbara Murchie, Judith Potter, Nicholas Pustina, Jack Rabinovitch, Linda Rothstein, Cathy Strosberg and Robert Wadden attended. Staff members Diana Miles and Sophia Spurdakos also attended.

FOR DECISION

FEDERATION OF LAW SOCIETIES OF CANADA'S COMMON LAW DEGREE IMPLEMENTATION COMMITTEE - FINAL REPORT FOR APPROVAL

MOTION

2. That Convocation approve the final report and recommendations of the Federation of Law Societies of Canada's Common Law Degree Implementation Committee, set out at APPENDIX 3.

Introduction and Background

3. In 2009 and early 2010 all law societies, including the Law Society of Upper Canada, approved the final report and recommendations of the Federation of Law Societies of Canada's Task Force on the Canadian Common Law Degree. The Report developed a national requirement for entry to bar admission and licensing programs of law societies in the common law jurisdictions. The Executive Summary and Recommendations of the 2009 Task Force Report are set out at APPENDIX 1. The complete Task Force Report is available at [http://www.flsc.ca/_documents/Common-Law-Degree-Report-C\(1\).pdf](http://www.flsc.ca/_documents/Common-Law-Degree-Report-C(1).pdf).
4. In May 2010 a Federation working group reported to Federation Council with recommendations for the composition, mandate and reporting deadline of the Federation's Common Law Degree Implementation Committee whose task would be to develop an implementation plan for the 2009 recommendations.
5. The Federation's Implementation Committee, chaired by Tom Conway, began meeting in September 2010. It presented its final report to Federation Council in August 2011. Council approved the Report at its semi-annual meeting in September 2011. The Report is now being provided to all law societies for their individual consideration and approval.
6. In approving the establishment of the Implementation Committee law societies emphasized the importance of Law Dean representation on the Committee. The

Implementation Committee members were Tom Conway (Chair) (Law Society of Upper Canada bencher and Ontario's Council Member appointee to the Federation), John Campion (Law Society of Upper Canada bencher and Past President of the Federation), John Hunter (British Columbia's Council Member appointee to the Federation and the Federation Vice President), Catherine Walker (Nova Scotia's Council Member at the Federation), Don Thompson (Executive Director of the Law Society of Alberta), Dean Philip Bryden, (University of Alberta Faculty of Law), Dean Mayo Moran (University of Toronto Faculty of Law), and Professor Joost Blom (Professor and former Dean, University of British Columbia Faculty of Law). The staff members to the Committee were Sophia Sperdakos (Policy Counsel, Law Society of Upper Canada) and Alan Treleaven (Director of Education and Practice, Law Society of British Columbia). Deborah Wolfe, the Managing Director of the National Committee on Accreditation, participated in the meetings.

7. In its final report the Implementation Committee commented on the input it received from the legal academy in the course of its deliberations as follows:

The Committee has benefited from the invaluable assistance and input of the Council of Canadian Law Deans (the CCLD). The CCLD established a Law Deans' Working Group consisting of Dean Mary Anne Bobinski (Faculty of Law - University of British Columbia), Dean Kim Brooks (Schulich School of Law at Dalhousie) and Dean Lorne Sossin (Osgoode Hall Law School) to provide initial comments on a variety of proposals the Committee developed during the course of its analysis. This allowed for refinement of proposals and better understanding of the Deans' perspectives. The Committee also provided the CCLD with its proposal respecting the ethics and professionalism course requirement, the draft template for the annual report that Law Deans will complete and a memorandum outlining the Committee's proposals for implementation of the Task Force recommendations. The CCLD invited the Committee Chair to attend its meeting in Windsor, Ontario on May 6, 2011, which he did. The CCLD's input assisted in the refinement of the law school reporting process and annual report.

Because the Task Force's report includes a recommendation that graduates seeking to enter law society admission programs must have completed a course in ethics and professionalism at law school, the Committee invited law schools to provide input on implementation of the recommendation. An Ethics Professors' Working Group (EPWG) consisting of Adam Dodek (Faculty of Law - University of Ottawa), Jocelyn Downie (Schulich School of Law at Dalhousie), Trevor Farrow (Osgoode Hall Law School) and John Law (Faculty of Law - University of Alberta), met with members of the Committee to provide input and assistance in the development of the recommended approach.

The diversity of perspectives among the members of the Committee, the collaborative approach of its discussions and its external consultations have assisted the development of recommendations that will facilitate the effective implementation of the national requirement. The Committee has every confidence that the productive conversations about legal education that have occurred during this process will continue in the future, in the public interest.

8. The Implementation Committee Chair's covering letter to the Federation and the Implementation Committee's Report are set out at APPENDICES 2 and 3, respectively.

INFORMATION

CONTINUING PROFESSIONAL DEVELOPMENT (CPD) REQUIREMENT COMPLIANCE - UPDATE

9. Lawyers and paralegals subject to the CPD requirement are obliged to meet their 2011 required hours by December 31, 2011. To report their CPD hours lawyers and paralegals must register on the Law Society's "portal" and access the section of the portal devoted to CPD.
10. Because the CPD requirement is new this year, the Law Society has developed a multi-step process to,
- a. inform and educate the profession about the requirement;
 - b. remind individual lawyers and paralegals about the status of their reporting and compliance; and
 - c. continue to advise and remind the profession about the portal and how to use it.
11. This process has continued regularly throughout the year to date, but has been intensified since September and will continue as the deadline for compliance approaches. Because registration on the portal is the first essential step lawyers and paralegals must complete to be able to report compliance, the Law Society is paying particular attention to informing and reminding the profession about the portal. Currently approximately 15% of those required to meet the CPD requirement have not yet registered for the portal. However, in the four weeks since the Law Society ran a Notice to the Profession in the *Ontario Reports* and other locations concerning CPD compliance and the importance of portal registration, 3000 more people have registered. In addition the most recent reminder letters was sent out in mid-October and will result in more lawyers and paralegals registering.
12. Between now and the compliance deadline the Law Society will continue to monitor compliance and remind and inform those who have not yet reported compliance with the requirement. The Law Society will,
- a. send general e-mail reminders to lawyers and paralegals;
 - b. send specific e-mail reminders (letters to those without e-mail) to those who have not yet registered on the portal;
 - c. remind all callers to the membership resource line and or attending CPD programs about registration and compliance;
 - d. provide additional general and specific reminders 45 days, 25 days, 15 days and 5 days before the end of the year; and
 - e. where necessary, make phone calls to lawyers or paralegals.
13. The Director, Professional Development and Competence, will continue to update the PD&C Committee on compliance.

Attached to the original Report in Convocation file, copies of:

- (1) Copy of the Executive Summary and Recommendations of the 2009 Task Force Report.
(Appendix 1, pages 7 – 17)
- (2) Copy of a letter from Thomas G. Conway, Chair, Common Law Degree Implementation Committee to Ronald J. MacDonald, Q.C., President, Federation of Law Societies of Canada dated August 10, 2011 re Final Report – Common Law Degree Implementation Committee.
(Appendix 2, pages 18 – 20)
- (3) Copy of the Final Report of the Common Law Degree Implementation Committee dated August 2011.
(Appendix 3, pages 21 – 97)

Re: Federation of Law Societies of Canada's Common Law Degree Implementation Committee - Final Report

It was moved by Mr. Conway, seconded by Mr. Campion, that Convocation approve the final report and recommendations of the Federation of Law Societies of Canada's Common Law Degree Implementation Committee, set out at Appendix 3 of the Report.

Carried

Mr. Conway thanked Sophia Sperdakos for her work on the report.

For Information

- CPD Compliance Update

ARTICLING TASK FORCE INTERIM REPORT

Mr. Conway spoke to the Articling Task Force Interim Report, for information.

Interim Report to Convocation
October 27, 2011

ARTICLING TASK FORCE

TASK FORCE MEMBERS

Laurie Pawlitz (Treasurer)
Thomas Conway (Chair)
Raj Anand
Adriana Doyle
Jacqueline Horvat
Vern Krishna

Dow Marmur
Janet Minor
Barbara Murchie
Paul Schabas
Joe Sullivan
Peter Wardle

Purpose of Report: Information

Prepared by the Policy Secretariat
(Sophia Sperdakos 416-947-5209)

Task Force Process

1. The Task Force has met on 5 occasions to date: June 24, 2011, August 2 and August 11, 2011 and October 3 and 14, 2011.

INFORMATION

Introduction

2. Since Convocation established the Articling Task Force (the Task Force) in June 2011, the Task Force's work has engendered a great deal of interest among the profession. To address this interest, the Task Force is providing regular reports on its progress.

Considerations to Date

3. The immediate impetus for the establishment of the Task Force has been the increasing shortage of articling placements in Ontario. At the same time, the Task Force's mandate makes clear that in the analysis it undertakes and solutions it proposes the Task Force should, among other factors, consider,
 - a. the competency-related principles that articling is intended to address and its effectiveness in addressing those principles; and
 - b. the articling program in the context of the licensing process overall.
4. In its meetings to date the Task Force has considered,
 - a. the competency requirements that newly licensed lawyers should have;
 - b. the goals and purposes of the articling program within the context of those competency requirements;
 - c. the components that should make up the licensing process for lawyers, including assessment of skills;
 - d. the issues that the current articling placement shortages raise and the nature of those shortages; and
 - e. the increasing importance of regulators being able to demonstrate regulatory processes that are transparent, measurable and defensible.

5. Although the Task Force has not yet come to any conclusions, it notes the following considerations that it finds persuasive:
 - a. The current articling shortages are not a short term problem resulting from difficult economic times.
 - b. The problem of unplaced candidates cannot be dismissed as “the market weeding out weak candidates.”
 - c. Although the profession appears to hold a very strong *philosophical* attachment to articling, this has not translated to date into additional lawyers or firms being willing or able to offer articling placements. Following Convocation’s 2007 consideration of articling issues and placement shortages, the Professional Development and Competence Department undertook a detailed telephone survey and follow-up with 8000 firms to determine if there was interest in offering articling placements. No new placements emerged from this effort. Articling therefore remains primarily a large firm and government program, with placements located in larger centres. If one of the goals of articling is to enhance the competence of candidates for license by offering experiences in a range of practice structures, then limitations on the type and number of available placements may undermine that goal.
 - d. Given the factors set out in (a) – (c) above, the status quo may be problematic.
 - e. Any transitional training following law school should provide exposure to,
 - i. contextual or experiential learning, whether simulated or actual: skills in context;
 - ii. a process of socialization from student to practitioner;
 - iii. practice management issues, including the business of law;
 - iv. ethics and professionalism; and
 - v. mentoring.
 - f. Since Ontario’s recommendations respecting articling could have national implications it is important to keep this in mind in considering the way forward.

Consultation Process

6. The Task Force’s deliberations are continuing. It intends to provide a consultation document to the profession in December or January 2012. The consultation document will also be provided to legal organizations, law schools and the Federation of Law Societies of Canada and will be available on the Law Society’s website.
7. Following the consultation period the Task Force will consider the comments and provide a final report to Convocation in the spring of 2012.

PROFESSIONAL REGULATION COMMITTEE REPORT

Ms. Richer presented the Report.

Report to Convocation
October 27, 2011

Professional Regulation Committee

Committee Members
Paul Schabas (Chair)
Julian Porter (Vice-Chair)
Susan Richer (Vice-Chair)
Robert Burd
John Campion
Robert Evans
Julian Falconer
Alan Gold
Carol Hartman
Janet Leiper
William McDowell
Kenneth Mitchell
Malcolm Mercer
Jan Richardson
Sydney Robins
James Scarfone

Purpose of Report: Decision and Information

Prepared by the Policy Secretariat
(Sophie Galipeau – 416-947-3458)

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For Information

Report on the Use of the Requests to Admit Process in
Law Society Proceedings TAB B

Professional Regulation Division Quarterly report (July to September 2011)

COMMITTEE PROCESS

1. The Professional Regulation Committee (“the Committee”) met on October 13, 2011. In attendance were Paul Schabas (Chair), Susan Richer (Vice-Chair), Robert Evans, Julian Falconer, Carol Hartman, Janet Leiper, Michael Lerner, William McDowell, Malcolm Mercer, Jan Richardson, Sydney Robins and James Scarfone. Staff attending were, Naomi Bussin, Lesley Cameron, Malcolm Heins, Zeynep Onen, Jim Varro, and Sophie Galipeau.

FOR DECISION

OUTSIDE COUNSEL RETAINER PROCESS

Motion

2. That Convocation repeal the Guidelines for Retention and Oversight of Outside Counsel Representing the Law Society in Professional Regulation Matters.

Background

3. The Law Society recruits external counsel for various matters, many of which relate to the work of Professional Regulation. Outside counsel may be retained to provide expert opinions on complex or specialized issues and to testify for the Law Society as expert witnesses at Discipline hearings. In recent years, such experts have often been retained to review evidence of lawyer involvement in mortgage fraud.
4. External counsel may be given carriage of complex, sensitive or lengthy matters, or matters requiring specialized expertise in the Discipline process. They supplement the Society’s own prosecutorial resources before the Hearing Panel and at various stages of appeal.
5. External counsel also represent the Law Society in unauthorized practice matters prosecuted in the Provincial Offence Court or in applications for orders for permanent injunctions before the Superior Court. In addition, complaints about benchers and staff are typically assessed and/or investigated by outside counsel. The Professional Regulation and Audit Committees have oversight of outside counsel expenditures incurred by Professional Regulation.

The Guidelines

6. In May 1998, Convocation approved Guidelines for Retention and Oversight of Outside Counsel Representing the Law Society in Professional Regulation Matters (“the Guidelines”), and amended them in March 2001. The Guidelines as amended appear at Appendix 1.
7. In November 2010, staff in Professional Regulation, with the assistance of Elliot Spears, Senior Counsel, Legal Affairs, and the guidance of the Audit Committee, created new procedures for retaining outside counsel. These procedures appear at Appendix 2. They are designed to ensure a fair and equitable recruitment process for outside counsel and expert witnesses, and include a “Process for Obtaining Expressions of Interest from Qualified Practitioners.”

8. This information was first published in the *Ontario Reports* in the spring of 2011 and is available on the Law Society's website. So far, approximately 35 expressions of interest have been received and are kept on file and accessed as needed.
9. Procedures and forms have also been developed to ensure consistency and accountability in the management of external counsel and expert witness retainers.
10. The new procedures developed by Professional Regulation are described in more detail in the following comparison with the Guidelines.

GUIDELINES	NEW PROCEDURES	COMMENTS
Outside counsel are <i>always</i> required for the investigation or prosecution complaints against benchers or staff except with prior written approval of Chair of PRC.	In 2009, Convocation approved a policy regarding complaints about benchers and staff. This policy discusses when and at whose discretion outside counsel will be retained.	In most instances, outside counsel continue to be utilized.
Outside counsel will be retained by the Treasurer, Chief Executive Officer, or Secretary in consultation with the Chair of PRC.	The "Secretary" for this purpose is now the Director of Professional Regulation. That person has the discretion to decide when a retainer is needed, what the budget for the retainer should be, and whom to retain. This has been the practice for some time.	The responsibility for recruiting, retaining and supervising counsel to help ensure the appropriate handling of Professional Regulation matters is centralized with the Director, although he or she will consult with the CEO and/or the Treasurer, particularly on sensitive and/or strategic matters, as circumstances warrant.
Criteria are set out for the selection of outside counsel to ensure that candidates are suitable, willing to adhere to the Guidelines, satisfy equity and other diversity-based requirements etc.	The key criteria from the existing Guidelines are both included and supplemented in the new "Criteria for the Use of Outside Counsel". Moreover, the request for Expressions of Interest provides a mechanism that encourages candidates to apply.	The aim is still to ensure that the most suitable counsel are retained for particular matters, while guaranteeing fairness, diversity and breadth of representation in the selection process.
Financial requirements are set out in the Guidelines and are to be supervised by various officials, including the Chair of PRC.	Financial requirements are as set out in the November 2010 policy description. Financial requirements, including a requirement for regular accounting, are detailed in each retainer letter. All retainers related to Professional Regulation originate with the Director's Office, and all accounts are subject to the Director's review and approval. The Finance Department is also	The supervision of specific retainers, including the review and approval of individual accounts is an operational matter. It will remain the responsibility of both the Audit Committee and PRC to perform general oversight to ensure adherence to financial and other relevant policies of the Society.

GUIDELINES	NEW PROCEDURES	COMMENTS
	responsible for general compliance with the Law Society's requirements for all external contractors, including outside counsel.	
Standardized requirements apply to legal research and memoranda, copies of pleadings and similar litigation-related documents, settlement discussions, and media inquiries.	While not set out in the new policies and criteria, most of these requirements are stated in the template retainer letter and in case-specific instructions in a particular retainer.	Every retainer is unique, and case-specific requirements are better addressed – and are addressed – in the context of case-specific instructions.

Discussion and Recommendation

11. The Guidelines were approved by Convocation at a time when it was assumed that bench oversight of individual retainers was appropriate. Governance processes and policies evolved, and in this case resulted in a regime for oversight by both the Professional Regulation and the Audit Committee of outside counsel expenditures rather than individual retainers.
12. As such, the substance of the Guidelines has effectively been superseded by the Convocation policy approved in 2009 and the Professional Regulation procedures adopted in 2010, as described earlier in this report. For this reason, the Committee is recommending that the repeal of the Guidelines be coincident with a direction to staff to create and implement an operational policy for retention of outside counsel. To that end, in the Committee's view, the procedures adopted in 2010 described above fulfill this purpose and appropriately address the requirements and necessary issues related to retaining outside counsel. They include a comprehensive process under the supervision of the Director, Professional Regulation, with periodic oversight by both the Professional Regulation and Audit Committees.
13. The Committee recommends that Convocation repeal the Guidelines for Retention and Oversight of Outside Counsel Representing the Law Society of Upper Canada in Professional Regulation Matters.

FOR INFORMATION

REPORT ON THE USE OF REQUESTS TO ADMIT FACTS OR DOCUMENTS IN LAW SOCIETY PROCEEDINGS

14. At its October 2011 meeting, the Committee received an information report about the Professional Regulation Division's experience with the Request to Admit process. The Request to Admit process has been in place since July 1, 2009, when the new *Rules of Practice and Procedure* came into force, and is available in any proceedings started after that date.

Policy behind the Request to Admit Process

15. The Request to Admit process was developed to address two distinct issues: first, the chronic phenomenon of licensees not responding to a disciplinary matter until close to the hearing date and, second, the frequent instances in which licensees fail to attend their hearings or to respond to Law Society process at all.
16. The goal was that a form of default proceedings introduced in the *Rules of Practice and Procedure* would result in:
 - (a) fewer last-moment adjournments;
 - (b) earlier and more complete Agreed Statements of Facts or Partial Agreed Statements of Facts;
 - (c) a streamlined hearing process in cases where the licensee chooses not to participate; and
 - (d) more efficient use of staff investigation and prosecution resources
17. The following information provides a description of the Request to Admit process, which is now reflected in Rule 20 of the *Rules of Practice and Procedure*, found in Appendix 1, and reports on the use of the process from July 2009 to July 2011.

Description of the Request to Admit Process

18. Rule 20 permits any party to a proceeding to request another party to the proceeding to admit the truth of facts or the authenticity of documents. If a party does not respond to a Request to Admit or fails to serve a response that complies with the Rule, the party will be deemed to have admitted the truth of facts or the authenticity of documents for the purposes of the proceeding. The Rule requires the party receiving the Request to Admit to admit, deny, or refuse to admit the truth of a fact or the authenticity of a document. If the party refuses to admit, he or she must provide the reason for the refusal. However, it is open to a party to simply deny without providing any explanation.
19. Regardless of whether or how a party responds to a Request to Admit, if that party does not attend at or participate in the hearing on the merits of the proceeding, the party will be deemed to have admitted the truth of facts or the authenticity of documents for the purposes of the proceeding.
20. There is relief available at the Hearing Panel's discretion where a party overlooks or ignores a Request to Admit. On the motion of a party who has admitted or who has been deemed to have admitted the truth of facts or the authenticity of documents, the Hearing Panel may make an order withdrawing any admission.

Requests to Admit Served by the Society

21. As of July 15, 2011, the Society served approximately 35 Requests to Admit.
22. Reflecting the policy set out above, the Society serves Requests to Admit in a number of circumstances, for example, when the opposing party is not engaging with the Society. In these circumstances, it provides an incentive to respond, in that it sets out a deadline and an important consequence for failing to respond. If no response is forthcoming, Society witnesses may not be necessary. If a response is forthcoming, it may assist in narrowing the issues in dispute.
23. Requests to Admit are also being used as a tool to narrow the issues even where the opposing party is engaged. For example, it may be that in a contested hearing, the authenticity of some or all documents is not in issue, and this crystallizes the issue before the hearing.
24. A Request to Admit is also useful where the opposing party does not wish to expressly admit any facts for reasons outside the discipline process, but does not propose to contest the facts. When the response to the Request to Admit indicates that there is substantial agreement on the facts, frequently an agreed statement is also prepared.
25. Circumstances in which the Society may decide not to serve a Request to Admit include when the defence engages early in the discipline process and there is an interest to explore an agreed statement of facts, and in less complex hearings with few witnesses. For example, Requests to Admit are rarely prepared in summary hearings, because the Society's case usually involves only one witness, and the time frames involved may not allow for service and response.

Requests to Admit Served by the Defence

26. No Request to Admit has been served on the Society by a licensee or applicant.

Response to Requests to Admit

From the Respondents

27. In 19 cases, no response to the Request to Admit was received. In a number of cases where the response to the Request to Admit has been a denial or partial admission, the respondent has later signed an Agreed Statement of Facts.

From the Hearing Panels

28. Hearing Panels have been receptive to Requests to Admit and have not rejected any so far. The Request to Admit was accepted by Hearing Panels in 11 cases. In all these cases, the subject of the hearing did not respond to the Request and did not attend the hearing.

29. In a number of cases, the Request to Admit was served but not submitted to the Hearing Panel as evidence. In a few cases, the Request to Admit and the response were used in the negotiation of an Agreed Statement of Facts.
30. There are a few cases in which the subject of a hearing has asked the Hearing Panel for relief from the consequences of Rule 20 and was granted such relief. In other cases, discipline counsel have agreed to extend the time for a response to a Request to Admit or consented to withdrawals of admissions or deemed admissions.

Conclusion

31. The Society has found that the Request to Admit process is a useful tool, particularly when the respondent is not engaging with the Law Society or ultimately does not appear at the hearing.

PROFESSIONAL REGULATION DIVISION

QUARTERLY REPORT

32. The Professional Regulation Division's Quarterly Report (third quarter 2011), provided to the Committee by Zeynep Onen, the Director of Professional Regulation, appears on the following pages. The report includes information on the Division's activities and responsibilities, including file management and monitoring, for the period of July to September 2011.

Attached to the original Report in Convocation file, copies of:

- (1) Copy of the Guidelines for Retention and Oversight of Outside Counsel representing the Law Society in Professional Regulation Matters (*as approved by Convocation, March 22, 2001*).
(Appendix 1, pages 8 – 16)
- (2) Copy of the new procedures prepared by the Professional Regulation staff, Elliot Spears and the Audit Committee re Criteria for the use of Outside Counsel and Process for Obtaining Expressions of Interest from Qualified Practitioners dated November 2010.
(Appendix 2, pages 17 – 19)
- (3) Copy of a description of the Request to Admit process set out in Rule 20 of the *Rules of Practice and Procedure*.
(Appendix 3, pages 24 – 26)
- (4) Copy of the Professional Regulation Division Quarterly Report July – September 2011.
(pages 28 – 64)

Re: Outside Counsel Retainer Process

It was moved by Ms. Richer, seconded by Ms. Hartman, that Convocation repeal the Guidelines for Retention and Oversight of Outside Counsel Representing the Law Society in Professional Regulation Matters.

Carried

For Information

- Professional Regulation Quarterly Report, July – September 2011
- Report on the Use of the Request to Admit Process in Law Society Proceedings

TRIBUNALS COMMITTEE REPORT

Mr. Anand presented the Report.

Report to Convocation
October 27, 2011

Tribunals Committee

Committee Members
Raj Anand (Chair)
Adriana Doyle (Vice-Chair)
Jack Braithwaite
Christopher Bredt
Paul Dray
Howard Goldblatt
Jennifer Halajian
Dow Marmur
Wendy Matheson
Linda Rothstein
Mark Sandler
Beth Symes
Robert Wadden
Peter Wardle

Purposes of Report: Decision
Information

Prepared by the Policy Secretariat
(Sophia Spurdakos 416-947-5209)

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Working Group on Hearings Process

COMMITTEE PROCESS

1. The Committee met on October 13, 2011. Committee members Raj Anand (Chair), Adriana Doyle (Vice-Chair), Paul Dray, Howard Goldblatt, Jennifer Halajian, Wendy Matheson, Robert Wadden and Peter Wardle attended. Staff members Grace Knakowski, Lisa Mallia and Sophia Sperdakos also attended. CEO Malcolm Heins attended part of the meeting.

DECISION PRACTICE DIRECTION ON ADJOURNMENTS

MOTION

2. That Convocation approve the Practice Direction on Adjournments set out at APPENDIX 1.

Background and Information

3. Proceedings Management benchers play a significant role in the effective scheduling of Hearing Panel matters. Input from these benchers to the Tribunals Committee on the issue of adjournment requests led the Committee to consider the issue.
4. Although Rule 14 of the Hearing Panel Rules of Practice and Procedure speaks to the issue of adjournments, including considerations panels should take into account when an adjournment is sought, the Committee became persuaded that further guidance or direction on this issue is warranted.
5. Pursuant to section 127 (1) of By-law 3 the Tribunals Committee mandate includes developing for Convocation's approval policy options on all matters relating to the operation and administration of the Hearing Panel and the Appeal Panel, including the development or preparation of practice directions.
6. A practice direction provides guidance on procedure related to its subject matter in the relevant court or tribunal, subject to any rules that govern the issue. The practice direction does not fetter the discretion of any panel to decide each issue on its merits and in accordance with the Rules.

7. Typically, practice directions or guidelines issued by administrative tribunals take a statutory power as a point of departure and elaborate on how that discretion should be exercised in different factual settings. The legitimacy of such directions was upheld in *Thamotharem v. Canada* (Minister of Citizenship and Immigration) 2007 FCA 198 (CanLII) where the Federal Court of Appeal affirmed that,

administrative agencies must be free to devise processes for ensuring an acceptable level of consistency and quality in their decisions (paragraph 83).

Although not legally binding on a decision-maker in the sense that it may be an error of law to misinterpret or misapply them, guidelines may validly influence a decision-maker's conduct (paragraph 59).

8. At its meeting in April 2011 the Committee finalized the language of a proposed practice direction on adjournments and sought written input on it from the Professional Regulation and Paralegal Standing Committees and from a number of lawyers who regularly appear as counsel on Law Society regulatory matters. The Committee included examples of other tribunals' practice directions and a copy of the Federal Court of Appeal decision in *Thamotharem*.
9. The Committee considered the input it received. Its proposed Practice Direction is set out at Appendix 1 for Convocation's consideration.

Appendix 1

PRACTICE DIRECTION ON ADJOURNMENT REQUESTS TO HEARING PANEL

The Law Society of Upper Canada is committed to the just and expeditious determination of regulatory proceedings. The Rules of Practice and Procedure ("Rules"), made pursuant to section 61.2 of the *Law Society Act*, govern the Law Society of Upper Canada's tribunals proceedings before the Hearing Panel.

The Law Society has developed the following Practice Direction on adjournments to provide further guidance to parties. This Practice Direction does not replace the provisions respecting adjournments provided for by the Rules.

STRICT ADJOURNMENT POLICY

When hearing dates have been scheduled adjournments can interfere with access to justice, waste resources and cause delay and cost to all parties and the Hearing Panel. As a result parties should use pre-hearing preparation to avoid unnecessary adjournments.

Once a hearing date is scheduled, parties are expected to prepare for hearing and be ready to proceed on the date that is set. This includes the preparation of any agreed statement of facts and document books, which should normally be filed at least two full business days prior to the hearing date so that they can be delivered to and reviewed by panel members before the commencement of the hearing.

The Rules require parties to follow various pre-hearing procedures, including those related to scheduling, proceedings management, disclosure, pre-hearing conferences and admissions, so that hearing time is used efficiently.

Hearings are scheduled in consultation with the parties, either through a proceeding management conference (PMC) or, on certain matters specified in the Rules, the Tribunals Office. In the normal course, dates for hearing will be scheduled on consent of the parties. Accordingly, adjournment requests are discouraged, particularly on short notice before the scheduled hearing date.

REQUESTS FOR ADJOURNMENTS PRIOR TO SCHEDULED HEARING DATES

In advance of scheduled hearing dates, a party seeking an adjournment should make a request to the Tribunals Office for the matter to be added to the next regularly scheduled PMC. At the same time, the party seeking an adjournment must advise the Tribunals Office if the adjournment request is on consent, opposed or unopposed. The fact that an adjournment request is made on consent will be a factor to be considered, but will not be determinative of whether the tribunal should grant the request, as broader institutional and public interests must also be considered.

The sooner a party makes an adjournment request before the date scheduled for hearing the fewer resources are wasted and prejudice to a party or parties is less likely to occur.

The closer to the scheduled hearings dates the adjournment request is made the less likely it is to be granted, except in exceptional circumstances such as illness of a party, witness or representative.

If a regularly scheduled PMC is not available before the hearing date, a party may request a special PMC, but only in exceptional circumstances that must be disclosed to the Tribunals Office at the time the request is made. Requests for special PMCs are strongly discouraged and the availability of a special PMC is not guaranteed. Parties are expected to make use of regularly scheduled PMCs.

Parties must attend a PMC at least ten days in advance of the scheduled hearing date(s) if either party intends to make an adjournment request or believes that the hearing may not be ready to proceed on the scheduled hearing date(s) in accordance with Rule of Practice and Procedure 14, formerly rule 1.14.

At a PMC a panelist may hear a request for an adjournment and give directions, including imposing terms if the adjournment is granted. The provisions of Rule 14 apply to any adjournment request.

Adjournments will not ordinarily be granted due to late retention of counsel and/or the unavailability of such counsel for the scheduled hearing dates or on the grounds that parties wish to engage in settlement discussions. Settlement discussions are encouraged, but should be part of the pre-hearing preparation process.

The decision respecting an adjournment request will be endorsed on the record for future reference.

REQUESTS FOR ADJOURNMENTS ON OR AFTER THE COMMENCEMENT OF THE HEARING

Where an adjournment request is made too close to the scheduled hearing date and a PMC is not possible, the Hearing Panel may hear the request on the date scheduled for the hearing.

An adjournment request on or after the commencement of the hearing should only be brought in exceptional circumstances, such as illness of a party, witness or representative. Late retention of counsel and/or the unavailability of such counsel or the parties' wishes to engage in last minute settlement discussions may not be considered exceptional circumstances. The timing of the adjournment request will be considered in rendering a decision.

Any adjournment granted at this stage will likely be made on terms.

Dated: [insert date]

Issued - Chair of the Hearing Panel

INFORMATION

WORKING GROUP ON THE HEARINGS PROCESS

10. In 2007 Convocation approved a number of recommendations of the Tribunals Composition Task Force respecting changes to the composition of the Law Society's tribunals. Since 2007 there has been increasing interest in considering whether changes and improvements to the structure of the Hearing Panel should be explored. As part of its December 2009 Report to Convocation the Governance Task Force recommended that Convocation "direct that the Tribunals Committee on an ongoing basis assess whether additional non-bencher lawyer, paralegal and non-licensee members should be added to the Hearing Panel." Convocation tabled that recommendation. Many benchers have again expressed interest in the issue in 2011.
11. The Tribunals Committee has established a working group to consider issues related to the hearings process. At the working group's first meeting it considered the following as possible topics:
 - a. Tribunals Composition
 - Should the tribunals operate as an internal body or an external one?
 - Should panelists be benchers, non-benchers or a combination of both?
 - If there are to be bencher members should Convocation be divided into a class of policy benchers and a class of adjudicator benchers?
 - If there are to be both benchers and non-benchers should non-benchers be scheduled to sit in the same way as benchers?
 - Should there be an independent Chair overseeing the Tribunal? If the Tribunal will have benchers on it, should the Chair be a bencher or non-bencher?
 - b. Quasi-Criminal versus Administrative Tribunal
 - Does the Tribunal currently lean more to quasi-criminal approaches than administrative law approaches? Should that be reviewed?

- c. Training
 - What role should training of adjudicators play?
 - d. Appeal Process
 - Should there be an Appeal Panel or should appeals from the Hearing Panel go to judicial review?
 - e. Current Rules of Practice and Procedure
 - Is it feasible for the current Rules, broadly speaking, to be modernized in light of current developments in administrative tribunals generally, and professional regulatory bodies in particular?
 - f. Tribunals Processes
 - Is it feasible to increase the case management function of the Tribunal?
 - Should a Registrar's position be created to, among other things, shift some of the administrative and case management tasks of the Tribunal from adjudicators to staff?
 - g. Possible Expansion of Single Adjudicator Hearings
 - h. Tribunal's Relationship with its Stakeholders
12. The Committee and the working group have agreed that it should focus on tribunals composition (11a.), while recognizing that a number of the other issues will be addressed within the context of tribunals composition.
 13. The working group is meeting approximately twice monthly, on committee and Convocation days and will report to the Committee every month. The Committee will report to Convocation from time to time.
 14. The Tribunals Committee expects to submit its final report to Convocation in June or September 2012.

Re: Practice Direction on Adjournments

It was moved by Mr. Anand, seconded by Ms. Doyle, that Convocation approve the Practice Direction on Adjournments set out at Appendix 1 of the Report.

Carried

For Information

- Working Group on the Hearing Process

HERITAGE COMMITTEE REPORT

Ms. Backhouse presented the Report.

Report to Convocation
October 27, 2011

Heritage Committee

Committee Members
Constance Backhouse (Chair)
Marshall Crowe
Patrick Furlong
Gary Lloyd Gottlieb
Jacqueline Horvat
Virginia MacLean
Janet Minor
Nicholas Pustina
Joseph Sullivan

Purposes of Report: Decision

Prepared by the Policy Secretariat
(Sophia Spurdakos 416-947-5209)

COMMITTEE PROCESS

1. The Committee met on October 13, 2011. Committee members Constance Backhouse (Chair), Marshall Crowe, Jacqueline Horvat, Virginia MacLean and Nicholas Pustina attended the meeting. Staff members Paul Leatherdale, Diana Miles and Sophia Spurdakos also attended.

HERITAGE PROJECTS - 2012

MOTION

2. That Convocation approve,
 - a. the completion of the “Diversifying the Bar: Lawyers Make History” project as described in paragraphs 3-7;
 - b. a pilot project to explore further expansion of histories of the legal profession as set out in paragraphs 8-13; and
 - c. a project to document historical discipline data as set out in paragraphs 14-19.

Introduction and Background

Project 1: Diversifying the Bar: Lawyers Make History

3. In its Report to Convocation in May 2011 the Committee reported on the “Diversifying the Bar: Lawyers Make History” project. The Report noted that,

in the coming months additional research respecting a number of the biographies of early lawyers, now deceased, will be undertaken in an effort to uncover additional information. In addition, some groups Dr. Kirk-Montgomery [the project manager] contacted have not yet been able to provide any biographies. Effort will be made to accumulate at least a few biographies from communities not yet represented.
4. Dr. Kirk-Montgomery has also interviewed individual lawyers from a number of heritage backgrounds, focusing on their career paths and the effect of their heritage on those paths.
5. The Committee is of the view that it is worth continuing this additional research and interview process into 2012 so that the project can be completed. The project has provided valuable insight into the culturally rich backgrounds of the members of Ontario’s legal profession. The interviews expand on this snapshot, filling out details and providing valuable insight into interviewees’ backgrounds and influences, the role of gender, culture or heritage in their lives and what a life in the law has meant to them.
6. Dr. Kirk-Montgomery is available to continue the research and interview work into 2012 on a part-time basis.
7. The costs to complete the project will be approximately \$10,000 as follows:

a.	Research, interviews, website input, transcriptions	\$ 8,500
b.	Travel, accommodation for interviews	\$ 1,500
	TOTAL	\$10,000

Project 2: History of the Ontario Legal Profession - Expanding the Scope of Law Society Information - A Pilot Project

8. Over the last eight years Heritage Committee projects have enhanced awareness of the history of various groups within the legal profession. This has attracted increasing interest and many suggestions about how to broaden the base of information that is accessible to the public about the history of the profession. Some observers have suggested expanding this data to include biographies of more lawyers from all backgrounds, not only “diverse” backgrounds, and all geographic areas of the province.

9. The Diversifying the Bar project has also illustrated the need to seek out local bar and law firm histories. The Diversifying the Bar web page has illustrated both the value of compiling information electronically and the versatility of this approach, which allows for archiving of photographs, posting of long and short texts and videos, and linking to other relevant sites. The Law Society has recently moved to a different content system for its website that facilitates uploading content and posting material.
10. The Committee proposes a pilot project to explore broadening the base of historic information about the profession. The objective would be to expand the number of biographical entries on the website and to capture much more material for posterity. The collection might also eventually expand to include short texts on various topics. Some examples for short texts might include a chronology of important dates, histories of local bar associations, a history of significant cases about the profession, a history of legal aid in Ontario, etc. This project could make an important and significant contribution to the web-based information on the history of the profession.
11. The pilot project would involve,
 - a. investigating the value of developing an enhanced web page for housing historical material;
 - b. developing the content objectives;
 - c. to the extent budget permits, designing such a page or enhancing the current Diversifying the Bar webpage; and
 - d. undertaking a sampling of approaches to collecting biographical data, including,
 - i. through roundtables or interviews, focusing on lawyers who retire in 2011 by inviting them to submit short biographical materials about their family background, legal education, careers, significant cases and other achievements, scanned photographs and newspaper clippings; and
 - ii. undertaking one or two projects on firm biographies and/or law association biographies.
12. The pilot project would provide insight on how to design a material-retrieval project that is streamlined, effective, and inexpensive.
13. The Committee is of the view that \$15,000 would be sufficient for this pilot project. Committee members and Law Society staff will undertake aspects of the work of the project, but the funds would be allocated along the following lines:
 - a. Focus groups with retirees, law associations and law firms respecting histories (travel, meeting, food, accommodation, videotaping) \$5,000
 - b. Part-time contractor to develop biographical, law association, law firm history or other content \$7,000

c.	Web page enhancement and design	\$3,000
	TOTAL	\$15,000

Project 3: Historic Discipline Data Project

14. The history of the legal profession's discipline processes, although researched in other jurisdictions, is virtually untouched in Canada. Although the Law Society's Archives contain historical information on the topic there has never been a project to review the files to determine their potential use in legal history scholarship.
15. Prior to 1986 disciplinary hearings were held *in camera*. As a result until a change in policy in 2008 requests for access were denied. In 2008 Convocation approved a Heritage Committee proposal to permit third party requests for access to records of *in camera* discipline proceedings where the member in question is deceased and the request is made no earlier than 100 years after the deceased member's year of birth. The approved motion establishing the policy is set out at Appendix 1.
16. Although there is now the potential for greater access to some historic records, there has as yet been no project to determine the nature of discipline records, what types of discipline actions the Law Society took historically, what can or cannot be disclosed to the public and how best to catalogue the discipline information that is accessible by the Archives department. The Committee proposes that such a historic discipline data project be undertaken on this topic in 2012, within the scope of the access policy set out in Appendix 1 and considering records that are accessible by the Archives department.
17. The Archivist will begin the examination for the historic discipline data project. As the research unfolds, the scope and detail of the project may evolve. Depending upon the depth and breadth of information the Archivist locates and the time involved in cataloguing the information, additional contract support may be needed to assist the Archivist.
18. The Committee proposes that \$10,000 be allocated to the project to ensure that there is sufficient funding available.
19. The Committee estimates that these funds would be allocated as follows:

a.	Storage retrieval and delivery fees	\$ 500
b.	Development of research tool that could include finding aids, catalogue, or data base	\$ 3,000
c.	Possible contract support	\$ 6,500
	TOTAL	\$10,000

Budget

20. Funding requested for the completion of the “Diversifying the Bar: Lawyers Make History” project (\$10,000) is available from the existing budget allocation. The Law Society’s proposed 2012 budget includes \$25,000 in the Policy Secretariat budget for Heritage projects. Should Convocation approve the History of the Ontario Legal Profession - Expanding the Scope of the Collection pilot project (\$15,000) and the Historic Discipline Data project (\$10,000), the funds would come from this budget allocation.

APPENDIX 1

2008 APPROVED POLICY ON ACCESS TO RECORDS OF HISTORIC DISCIPLINE PROCEEDINGS

Motion

1. That Convocation approve a policy to permit third party access to records of *in camera* discipline proceedings where the member in question is deceased and the request is made no earlier than 100 years after the deceased member’s year of birth, as follows:
 - a. All requests for access shall be made to Senior Counsel, Legal Affairs.
 - b. The only documents that will be open to access requests are those that would have been publicly accessible had the discipline proceeding taken place after 1986, when the Law Society changed its policy to open discipline hearings to the public.
 - c. In considering requests for disclosure, Senior Counsel, or her designate will consider,
 - the public interest in access to historically important discipline proceedings;
 - the importance of research into the history of the legal profession;
 - the statutory obligations on the Law Society pursuant to the *Law Society Act*;
 - any solicitor-client privilege issues;
 - the Law Society’s responsibility respecting confidential information;
 - the right to, or expectation of, privacy of the affected member or any other third parties identified in the documents, whether dead or alive; and
 - the importance of transparency and public accessibility.
 - d. Where Senior Counsel, or her designate, decides that access should be denied, the person making the access request may seek a ruling from a single designated benchler pursuant to amended Rules of Practice and Procedure.
2. That the Rules of Practice and Procedure be amended to reflect the policy.

Re: 2012 Projects

It was moved by Ms. Backhouse, seconded by Ms. Horvat, that Convocation approve:

- a. the completion of the “Diversifying the Bar: Lawyers Make History” project as described in paragraphs 3 through 7 of the Report;
- b. a pilot project to explore further expansion of histories of the legal profession as set out in paragraphs 8 through 13 of the Report; and
- c. a project to document historical discipline data as set out in paragraphs 14 through 19 of the Report.

Carried

EQUITY AND ABORIGINAL ISSUES COMMITTEE/COMITÉ SUR
L'ÉQUITÉ ET LES AFFAIRES AUTOCHTONES REPORT

Ms. Minor presented the Report.

Report to Convocation
October 27, 2011

Equity and Aboriginal Issues Committee/
Comité sur l'équité et les affaires autochtones

Committee Members

Janet Minor, Chair
Raj Anand, Vice-Chair
Susan Hare, Vice Chair
Constance Backhouse
Paul Copeland
Cathy Corsetti
Mary Louise Dickson
Adriana Doyle
Seymour Epstein
Julian Falconer
Howard Goldblatt
Janet Leiper
Dow Marmur
Wendy Matheson
Judith Potter
Susan Richer
Heather Ross
Paul Schabas
Baljit Sikand
Beth Symes

Purpose of Report: Decision and Information

Prepared by the Equity Initiatives Department
(Josée Bouchard – 416-947-3984)

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Public Education Equality and Rule of Law Series Calendar 2011- 2012

COMMITTEE PROCESS

1. The Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (Equity Committee) met on October 12, 2011. Committee members Janet Minor, Chair, Raj Anand, Vice-Chair, Constance Backhouse, Cathy Corsetti, Mary Louise Dickson, Adriana Doyle, Julian Falconer, Janet Leiper, Wendy Matheson, Judith Potter and Susan Richer participated. Staff members Brenda Albuquerque-Boutilier, Josée Bouchard and Mark Andrew Wells attended.

FOR DECISION

ASSESSMENT OF RETENTION OF WOMEN IN PRIVATE PRACTICE PROJECT AND STATUS UPDATE

MOTION

2. That Convocation,
 - a. approve a two year extension of the Justicia Project;
 - b. approve an extension of the Parental Leave Assistance Program (PLAP) from March 12, 2012 to December 31, 2012; and
 - c. provide a notice of one year should it decide to terminate the program.

BACKGROUND

3. In May 2008, Convocation approved nine recommendations to enhance the retention of women in the private practice of law. These recommendations have resulted in initiatives

designed to empower women to take charge of their careers and help maintain the viability of small law firms. This report assesses the initiatives developed in the context of the Retention of Women in Private Practice Project (the "Retention Project"), in accordance with Recommendation 9, and makes recommendations to Convocation about the Justicia Project and PLAP. Other initiatives developed in the Retention Project are fully integrated in the work of the Equity Initiatives Department and will continue. The Equity Committee decided that recommendations about these initiatives were not required.

4. The recommendations approved by Convocation in 2008 are as follows:
 - a. Recommendation 1 – The Justicia Project - That the Law Society implement a three-year pilot project (the "Justicia Project") for firms of more than 25 lawyers and the two largest firms in each region, in which firms commit to adopting programs for the retention and advancement of women.
 - b. Recommendation 2 – Direct Support - That the Law Society, in collaboration with legal associations where appropriate, provide direct support to women through programs such as a leadership and professional development institute and online resources. This recommendation includes the implementation of a change of status survey and the establishment of a Women's Leadership and Professional Development Institute.
 - c. Recommendation 3 – Contract Lawyers' Registry - That the Law Society develop a five-year pilot project to promote and support contract lawyers to address the challenges women face in finding available and competent lawyers to maintain their practices during leaves of absence.
 - d. Recommendation 4 – Parental Leave Assistance Program - That the Law Society implement a three-year Parental Leave Benefit Pilot Program, effective in 2009, as follows:
 - i. benefits are available to lawyers in firms of five lawyers or less, including sole practitioners, who have no access to other maternity/parental/adoption financial benefit programs under public or private plans;
 - ii. provide a fixed sum of \$3,000 a month for three months (maximum \$9,000 per leave per family unit) to cover, among other things, expenses associated with maintaining their practice during a maternity, parental or adoption leave.
 - e. Recommendation 5 – Resources for Women in Sole Practices and Small Firms - That the Law Society provide access, in collaboration with legal associations where appropriate, to resources for women in sole practices and small firms through programs such as online resources and practice management and career development advice.
 - f. Recommendation 6 – Beginning at Law School - That the Law Society work with law schools to provide access to information and education opportunities about the practice of law, the business of law, types of practices, practising in diverse work settings and available resources.
 - g. Recommendation 7 – Women's Equality Advisory Group - That the Law Society create an advisory group of women lawyers from Aboriginal, Francophone and/or equality-seeking communities to assist with the implementation of the recommendations outlined in this report.

- h. Recommendation 8 – Networking - That the Equity Committee facilitate the development of networking strategies focused on the needs of women from Aboriginal, Francophone and/or equality-seeking communities in firms of all sizes.
- i. Recommendation 9 – Evaluation of programs - That, after a period of three years of implementation of the programs, and after a period of five years of implementation of the Contract Lawyers' Registry, the Law Society assess the effectiveness of each program and identify further strategies for the retention and advancement of women in private practice.

RETURN TO PRACTICE

5. In the spring of 2009, the Return to Practice Working Group was created as part of the Retention of Women in Private Practice Project. The Return to Practice Working Group is co-chaired by bencher Beth Symes and lawyer Connie Reeve and the members are bencher Janet Minor, Chair of the Equity Committee, and bencher Judith Potter, a member of the Equity Committee.
6. The mandate and objectives of the Return to Practice Working Group are to identify strategies and develop resources to facilitate the return of women lawyers into practice. The identified strategies are meant to be applicable to women lawyers who wish to re-enter the practice of law in non-private and private practice work environments.
7. The Return to Practice Working Group presented its report to the Equity Committee and the Priority Planning Committee in the winter/spring 2011. It was decided that the first two recommendations (recommendations 1 and 2a) did not require approval, as matters of policy were not involved and no additional budget or resources were required for 2011. The recommendations read as follows:

Recommendation 1 - That the Law Society make available online informational resources for lawyers and paralegals focused on the departure from and return to the practice of law.

Recommendation 2 - That the Law Society explore ways to provide or augment educational initiatives currently available for women who are transitioning back into practice,

 - a. *by partnering with external associations to promote and assist in the delivery of their programs.*
8. As described in this report, the Equity Initiatives Department has begun implementing these recommendations.
9. The report also included two other recommendations that have more significant financial and resource implications (recommendations 2b) and 3, presented below). The Equity Committee and the Priority Planning Committee decided that those recommendations would be considered along with other proposals as part of the overall strategic planning discussion at the benchers' priority planning session in the fall 2011. The report was also presented to Convocation for information in May 2011.

10. The following are the outstanding recommendations:

Recommendation 2 - That the Law Society explore ways to provide or augment educational initiatives currently available for women who are transitioning back into practice,

- b. by providing financial assistance to women lawyers, in the form of a repayable loan, who want to attend an external program.*

Recommendation 3 - That the Law Society contract the use of one or more professional career counsellors and provide access of up to six hours of career counselling and/or coaching services to women lawyers who work as sole practitioners or in small firms of five lawyers or less who are taking a leave from the practice of law for maternity, parental and/or compassionate reasons.

11. The Return to Practice Working Group's outstanding recommendations will be considered by the Priority Planning Committee along with the other priorities identified at the planning session.
12. As a result, this report only addresses the nine Retention Working Group recommendations adopted by Convocation in 2008. This report first addresses the Retention Working Group Recommendations 1 (the Justicia Project) and 4 (the PLAP), as they require a decision by Convocation. This report also provides an update of other projects developed in the Retention Project for Convocation's information.

RECOMMENDATION 1 - JUSTICIA PROJECT

Background

13. The Justicia Project was launched on November 17, 2008 and counts 56 participating firms, including one large out-of-province firm. The list of participating firms is included at Appendix 1.
14. Each participating Ontario firm has signed a written commitment to achieve goals in core areas: tracking gender demographics, developing policies on maternity and parental leaves and flexible work arrangements, networking and business development and mentoring and leadership skills development for women. The Commitment Pledge is presented at Appendix 2.
15. Participating firms have been very engaged in the project through their firm representatives and Managing Partners. Most Managing Partners attended the launch meeting and reception, and the Managing Partners' Summits held across the province.
16. The firms are divided into the following three groups, based on their size and location:
- a. Medium out-of Toronto and Ottawa: co-chairs bencher Thomas Conway and Heather Williams;

- b. Between 25 and 100 lawyers: co-chairs bencher Linda Rothstein and Megan Shortreed;
 - c. 100 and more lawyers: co-chairs Treasurer Laurie Pawlitza and Kirby Chown.
17. The groups have been meeting regularly to discuss the Project and develop valuable resources for participating law firms.
 18. At the beginning of Justicia, the Law Society surveyed participating law firms to identify and establish benchmarks of policies and practices based on firm size. Reports of the findings are available to participating firms and have been useful in the development of their own resources.
 19. Participating firms have committed to developing processes to compile and maintain their own gender data. Most firms are now collecting and maintaining such data, even though they do not have to report the results to the Law Society or publicly.
 20. To work effectively, firm representatives have created a number of working groups to develop resources in the core areas in which Justicia firms have committed to implement policies and programs.
 21. The Law Society has spent more than 100 hours working firm representatives to develop the resources outlined below. Because of the extraordinary work of firm representatives, numerous resources are available for participating firms and are posted on the Justicia web portal. The guides and templates are available in formats that can be manipulated by law firms. The following resources have been developed:
 - a. *Justicia Flexible Work Arrangements Profitability Model;*
 - b. *Guide to Assist Law Firms and Lawyers in Developing Successful Flexible Work Arrangements;*
 - c. *Gender Data Collection – Guide for Law Firms;*
 - d. *Gender Data Collection Template;*
 - e. *Summary of Firm Pregnancy and Parental Leave Policies;*
 - f. *Report of the Survey of Justicia Out of GTA and Ottawa Firms;*
 - g. *Report of the Survey of Justicia Firms of Under 100 Lawyers;*
 - h. *Report of the Survey of Justicia Firms of Over 100 Lawyers;*
 - i. *New Parent Tool Kit Template;*
 - j. *Preparing for a Lawyer`s Pregnancy or Parental Leave – Guide for Law Firms;*
 - k. *Guide to Assist Law Firms in Developing Pregnancy and Parental Leave Policies for Associates;*
 - l. *Guide to Assist Law Firms in Developing Pregnancy and Parental Leave Policies for Partners;*
 - m. *Law Firm`s Self-Assessment Tool.*
 22. A Justicia icon has also been developed as a visual identity symbol and has recently been trademarked.
 23. In the fall of 2009 and 2010, the Law Society held a series of Managing Partners' Summits that were very well attended and provided a useful forum to exchange information about progress and challenges.

2009 Managing Partners' Summits

Toronto - October 21 and November 9	Approximately 50 Managing Partners in attendance. Then Treasurer Millar and Co-Chairs bencher Thomas Conway and Treasurer Laurie Pawlitza presented the project, followed by roundtable discussions.
Ottawa – November 18	Approximately 20 Managing Partners and firm representatives in attendance. Co-Chairs Thomas Conway (bencher), Treasurer Laurie Pawlitza and Heather Williams presented the project, followed by roundtable discussions.
Sudbury – November 23	Approximately 6 Managing Partners and firm representatives in attendance. Co-Chairs Thomas Conway (bencher), Treasurer Laurie Pawlitza and Heather Williams presented the project, followed by roundtable discussions.
Hamilton – November 24	Approximately 10 Managing Partners and firm representatives in attendance. Co-Chairs Thomas Conway (bencher) and Heather Williams presented the project, followed by roundtable discussions.

2010 Managing Partners' Summits

Ottawa – November 8	Ten Managing Partners and firm representatives in attendance. Co-Chairs Thomas Conway (bencher), Treasurer Laurie Pawlitza and Heather Williams presented the project, followed by roundtable discussions.
Toronto – November 15	Approximately 40 Managing Partners in attendance. Patricia Gillette, Senior Partner at Orrick in San Francisco, attended as keynote speaker. Co-Chairs bencher Thomas Conway and Treasurer Laurie Pawlitza presented an update of the project. The presentations were followed by roundtable discussions.
Hamilton – November 16	Seven Managing Partners and firm representatives in attendance. Heather

	Williams presented the project, followed by roundtable discussions.
Sudbury – November 22	Six Managing Partners and firm representatives in attendance. Josée Bouchard, Equity Advisor, and Alison Hurst, Lawyer Liaison Counsel, presented the project, followed by roundtable discussions.
Orillia – November 24	Four Managing Partners and firm representatives in attendance. Heather Williams presented the project, followed by roundtable discussions.

24. Since the 2010 Managing Partners' Summits, the firm representatives have continued to meet as follows:
- a. Out of GTA and Ottawa firm representatives – On March 10, 2011 a conference call meeting was held to discuss updates in the project. Most firms indicated that they have ad hoc flexible work arrangements and found the resources developed through Justicia, including those on parental leave, very helpful. In person meetings were also held in Barrie (July 15, 2011), Sudbury (July 13, 2011) and Hamilton (July 14, 2011), with Managing Partners and firm representatives. They discussed and indicated their support for the proposed extension of the Justicia Project for a period of two years. Another meeting was held on September 29, 2011, at which time the *Associate Guide to Career Advancement into Partnership* and the *Law Firm Guide to Career Advancement into Partnership* were discussed and very well received.
 - b. Medium firms – On February 22, 2011, firm representatives held in person meetings to discuss the flexible work arrangement resources and updates in the project. The general view was that the resources are very helpful. A further meeting was held on May 31, 2011. The firm representatives discussed the proposed two year extension of the Justicia Project and indicated their general support for the extension. The next meeting was held on September 21, 2011, at which time the *Associate Guide to Career Advancement into Partnership* and the *Law Firm Guide to Career Advancement into Partnership* were discussed and very well received.
 - c. Large firms – On February 25, 2011, firm representatives held in person meetings to discuss the flexible work arrangement resources and updates in the project. The general view was that the guide to developing a policy on flexible work arrangements should be read in conjunction with the model to calculate

profitability. A further meeting was held on May 10, 2011, when the firm representatives discussed the proposed two year extension of the Justicia Project. There was general support for the extension. The following meeting was held on September 28, 2011, at which time the *Associate Guide to Career Advancement into Partnership* and the *Law Firm Guide to Career Advancement into Partnership* were discussed and very well received.

25. On October 12, 2011, the Equity and Aboriginal Issues Committee approved the *Associate Guide to Career Advancement into Partnership* and the *Law Firm Guide to Career Advancement into Partnership*.
26. The next Toronto Managing Partners' Summit is scheduled for November 23, 2011. The Ottawa Managing Partners' Summit is scheduled for November 28, 2011.

Comments about the Justicia Resources

27. Comments about the resources developed through Justicia have been very positive. Most large firms have established gender data collection processes and have relied on the gender data collection guide and template produced through Justicia to develop their processes. Most firms have used the Justicia guides to adopt maternity and parental leave policies or to review their maternity and parental leave policies. A number of law firms have adopted the parental tool kit for their associates. Firms are in the process of considering the guides on flexible work arrangements (FWA), and have found them helpful. Firms have recently reviewed and approved the *Associate Guide to Career Advancement into Partnership* and the *Law Firm Guide to Career Advancement into Partnership*, indicating that the guides are useful, practical and innovative. Some associates and partners have commented that they would have benefited greatly from having the guides to career advancement available to them when they were starting their careers. The resources developed through the Justicia Project have been regarded as extremely valuable, practical and helpful tools for law firms and lawyers in private practice. The resources are also being used by other law societies in the development of their Justicia Project.

Extension of Project

28. The Project has received national attention, and other law societies have launched or will be launching Justicia Projects in their provinces. The Barreau du Québec recently launched its Justicia Project based on the Ontario model and Treasurer Pawlitzka, Kirby Chown and Josée Bouchard made a presentation on August 30, 2011 at the first Managing Partners' Summit in Montréal. The Québec Justicia Project counts 17 firms. The Law Societies' Equity Network, a group of equity advisors, works in collaborate on with other law societies to ensure a consistent approach in the development of resources. The law societies of Manitoba and British Columbia are also planning Justicia Projects.
29. The three year pilot Project finishes at the end of 2011. However, the work is not completed and firms are at various stages of implementation. The Commitment Pledge calls for the development of resources and initiatives in the areas of business development, marketing and leadership. It would be valuable to build on the momentum

of the first three years to complete the Project in these areas. The Treasurer has therefore called upon the participating firms to indicate their interest in committing to a renewal of the Project for a further two years until the end of 2013.

30. Most (96% of participating firms) have responded to the request for renewal and have indicated their commitment until 2013. The firm representatives have also indicated their commitment to continue to work with the Law Society on this Project.

Budget and Recommendation

31. The annual budget to implement the Justicia Project is \$50,000. The amount has been included in the draft 2012 Equity Initiatives Department budget for Convocation's consideration.
32. Management of the Project requires 0.3 full-time equivalent position. The Equity Initiatives Department provides staff support to the project and no additional position is required in 2012.
33. On October 12, 2011, the Equity Committee approved the extension of the Justicia Project for a period of two years and recommends its extension to Convocation.

RECOMMENDATION 4 - PARENTAL LEAVE ASSISTANCE PROGRAM

Background

34. The Law Society launched the three-year pilot parental leave program to enable more lawyers to stay in practice after the birth or adoption of a child. Since March 12, 2009, PLAP provides financial benefits to practising lawyers who are partners in firms of five or fewer lawyers and sole practitioners and meet the eligibility criteria.
35. Under the program, the Law Society provides a fixed sum of \$750 a week to eligible applicants for up to 12 weeks (maximum \$9,000 per leave, per family unit) to help cover, among other things, expenses associated with maintaining their practice during a maternity, parental or adoption leave.
36. When PLAP was launched, self-employed lawyers had no access to public funding for maternity or parental leaves. In January 2010, the federal *Employment Insurance Act* was amended to provide self-employed persons special benefits including maternity, parental, adoption, sickness, and compassionate care benefits. These benefits were previously available only to wage-earners and salaried workers.
37. The new EI legislation came into effect on January 1, 2010, and benefits were payable beginning in January 2011. Self-employed persons have to opt into the Employment Insurance plan ("EI Special Benefits plan") and pay premiums for at least one year before they can claim benefits. Notwithstanding the federal EI plan, the Law Society decided to continue to offer PLAP until the end of the pilot project (March 12, 2012). PLAP coexists with the federal EI Special Benefits plan.

38. Lawyers who meet the eligibility criteria are eligible for PLAP if they have not opted to receive EI Special Benefits; have entered into an agreement with the Canada Employment Insurance Commission, but are in the one-year waiting period for EI Special Benefits; have opted to receive the EI Special Benefits, but have terminated their agreement; or are still eligible to claim EI Special Benefits but have signed an affidavit indicating that they forego any EI Special Benefits.

Why the PLAP Model?

39. Before deciding to recommend the PLAP model to Convocation, the Retention Working Group also considered the following models to assist sole practitioners and/or lawyers in small firms: a loan program for maternity/parental leave, a voluntary opt-in insurance plan managed by the Law Society and the Law Society acting as a guarantor for loans provided to those on maternity/parental/adoption leave. It was decided that the estimated resources required to structure and administer such programs would be extremely onerous. The Working Group also considered working with an external insurance program that provides income replacement for disability and critical illness to include income replacement for maternity/parental leaves. It was felt that this would send the wrong message, as pregnancy and childbearing should not be regarded as a crisis, illness or injury.
40. Therefore, the Working Group did not recommend any of these options.
41. The Retention Working Group also considered adopting a means test as part of the criteria for eligibility, but it was decided that such a scheme would be administratively onerous to manage.
42. When the Retention Working Group developed its recommendation, there was very strong support for the parental funding program. The vast majority of lawyers who participated in meetings in regions and in Toronto voiced their support for the program and written submissions were generally in favour of this recommendation. Several lawyers otherwise supportive of the program, expressed concern that the amount of the benefits should be higher or that the benefit period should be provided for a longer period. Associations such as County & District Law Presidents Association, the Ontario Crown Attorney's Association and a large majority of the County of Carleton Law Association members indicated their support for the leave. The Advocates' Society found the recommendation laudable, noting that it should be recognized that the difficulties faced by women with children in sole practice and small firms are not limited in time to the first three months after their child is born. The OBA received mixed reactions, with members indicating that the proposal is useful and should be carried out because it will alleviate a genuine problem in the profession.
43. As a result of the consultation process, the Retention Working Group proposed the PLAP model. The differences between PLAP and the EI Special Benefits Program are presented below, along with an assessment of PLAP.

Employment Insurance Act

44. On January 1, 2010, Bill C-56 – *An Act to amend the Employment Insurance Act* came into force.¹ The amendments provide that self-employed persons are allowed to opt into a federal employment insurance plan and collect maternity, parental, adoption, medical and compassionate care benefits. The following outlines the main elements of the EI Special Benefits plan.

Who is self-employed?

45. A person is eligible to EI special benefits if he or she is a self-employed person and is a Canadian citizen or a permanent resident of Canada and enters into an agreement as described below. A self-employed person is defined as,
- a. someone who is or was engaged in a business; or
 - b. an employee who is employed by a corporation and is excluded from insurable employment under the EI program because he or she controls more than 40% of the voting shares of the corporation.
46. The definition of a business includes a profession.² Human Resources and Skills Development Canada interprets self-employment as including persons who declare self-employed earnings when they file their tax return. It appears that, for the purpose of EI, a self-employed person is one who is not an employee. Therefore, the EI Special Benefits plan for self-employed persons applies to most lawyers who are also eligible for PLAP, including sole-practitioners and partners.

Who is eligible?

47. To be eligible to claim and receive benefits, a person must enter into an agreement (i.e. “opt into”) with the Canada Employment Insurance Commission (the “agreement”).³ Again, most lawyers eligible for PLAP would also be eligible to enter into this agreement.
48. Self-employed persons are required to opt into the EI Special Benefits plan at least one year prior to claiming benefits.⁴ They are also responsible for making premium payments starting with the tax year in which they apply to the plan.

¹ See section 37(1) Bill C-56. *An Act to amend the Employment Insurance Act and make consequential amendments to other Acts*, 2nd Sess., 40th Parl., 2009.

² *Supra* note 1 at s. 16 which adds s. 152.01 (1) to the *Employment Insurance Act*.

³ *Supra* note 1 at s. 16 which adds s. 152.02 (1) to the *Employment Insurance Act*.

⁴ *Supra* note 1 at s. 16 which adds s. 152.07 (1)(a) to the *Employment Insurance Act*.

Time period of an agreement

49. The agreement with the Canada Employment Insurance Commission is for an indefinite period⁵ and can only be terminated by a prescribed circumstance in the regulations.⁶ A self-employed person may opt out of the program/terminate the agreement as long as notice is given and before any benefits have been paid to the individual.⁷ This also means that once a self-employed person has claimed benefits, he or she must continue to contribute to the program for as long as he or she is self-employed.
50. If an agreement is terminated, it generally ends on December 31 of the year in which the notice is given⁸ and the agreement is deemed never to have been entered into, if notice is given within 60 days after the self-employed person opted into the program.⁹

Premiums

51. The self-employed person pays the same premium rate as salaried employees. In 2011, for every \$100 earned, the contribution is \$1.78 in EI premiums up to a defined maximum, the same as for an employed person. The amount in 2011 is \$44,200. This means that the most premium a person would pay in 2011 is \$786.76.¹⁰

Benefits

52. The EI Special Benefits plan allows birth mothers to claim maternity benefits for a maximum of 15 weeks¹¹ and parental/adoptive parents who are caring for one or more newborn or adopted children to claim parental benefits for a maximum of 35 weeks.¹² Generally, a combination of maternity and parental benefits can be received up to a combined maximum of 50 weeks.¹³
53. The rate of weekly benefits payable to a self-employed person is 55% of the individual's average weekly earnings up to a defined annual limit. In 2011, the income maximum insurable earnings is \$44,200 for that year. This means that a self-employed person can receive up to \$468 per week.¹⁴

⁵ *Supra* note 1 at s. 16 which adds s. 152.02 (2) to the *Employment Insurance Act*.

⁶ *Supra* note 1 at s. 16 which adds s. 152.02 (4) to the *Employment Insurance Act*. It should be noted that s. 152.33 gives the Commission, with the approval of the Governor in Council, the authority to make regulations that would, among other things, set out other circumstances under which the agreement can be terminated.

⁷ *Ibid.*

⁸ *Supra* note 1 at s. 16 which adds s. 152.03 (6) to the *Employment Insurance Act*.

⁹ *Supra* note 1 at s. 16 which adds s. 152.03 (7) to the *Employment Insurance Act*.

¹⁰ <http://www.servicecanada.gc.ca/eng/sc/ei/sew/index.shtml>.

¹¹ *Supra* note 1 at s. 16 which adds s. 152.14 (1)(a) to the *Employment Insurance Act*.

¹² *Supra* note 1 at s. 16 which adds s. 152.14 (1)(b) to the *Employment Insurance Act*.

¹³ *Supra* note 1 at s. 16 which adds s. 152.14 (8) to the *Employment Insurance Act*.

¹⁴ <http://www.servicecanada.gc.ca/eng/sc/ei/sew/index.shtml>.

54. Under the EI Special Benefits Program, benefits are not only payable for maternity and parental leaves. Sickness benefits may be paid to a person who is unable to work because of sickness, injury or quarantine. In addition, compassionate benefits may be paid to persons who have to be away from work temporarily to provide care or support to a family member who is gravely ill with a significant risk of death.

PLAP Eligibility

55. To be eligible for benefits under PLAP, the applicant must satisfy all of the following requirements:
- a. be a birth parent (mother or father) or an adoptive parent (mother or father);
 - b. be a member in good standing who provides legal advice, opinions or services with respect to the laws of Ontario;
 - c. be a member in good standing;
 - d. be a sole practitioner or a partner in a firm of five lawyers or less;
 - e. have no access to any other maternity, parental, or adoption financial benefits under public or private plans;
 - i. The following note was added to the eligibility criteria:
 1. The term "access to any other public or private plans" includes lawyers who have entered into an agreement with the Canada Employment Insurance Commission and are eligible to receive Employment Insurance Special Benefits. Those lawyers are not eligible for PLAP.
 2. Lawyers who have not opted to receive EI Special Benefits or who have entered into an agreement with the Canada Employment Insurance Commission but are in the one-year waiting period to be eligible for EI Special Benefits, are eligible for PLAP.
 3. Lawyers who have opted to receive EI Special Benefits but have terminated their agreement and, if still eligible to claim EI Special Benefits, have signed an affidavit indicating that they forego any EI Special Benefits, are eligible for PLAP.
 - f. cease to engage in remunerative work or to practise law during the leave for which he or she is receiving payments under PLAP.
56. A member in good standing is a member of the Law Society who provides legal advice, opinion or services with respect to the laws of Ontario and holds a Class L1 license that is not suspended.

Premiums

57. Lawyers do not have to pay a premium to be eligible for PLAP. PLAP is fully funded by the legal profession through lawyers' fees.

Benefits

58. The amount of benefits offered by the Law Society for a parental leave is \$750 per week for up to twelve weeks, to a maximum of \$9,000 per leave. If more than one parent is eligible under PLAP, each parent may claim benefits as long as the total combined amount of benefits do not exceed \$9,000 per leave per family unit.

Brief Comparison of PLAP and EI Special Benefits Program

59. The following table provides a brief comparison of the PLAP and the EI Special Benefits Program.

	Law Society PLAP	EI Special Benefits Program
Eligibility criteria	Must be a birth or adoptive parent (mother or father); be a member in good standing who provides legal services with respect to the laws of Ontario; be a sole practitioner or a partner in a firm of five lawyers or less; and have no access to other public or private plans.	Must be self-employed (includes lawyers who carry on activity in their own profession); be a Canadian citizen or permanent resident of Canada; have entered into an agreement with the Canada Employment Insurance Commission through Service Canada; have earned a minimum of \$6,000 in self-employed earnings and have worked at least 600 hours within the last 52 weeks.
Duration of benefit	12 weeks to be taken in the 16 weeks following the birth or adoption.	Maternity benefits are for a maximum of 15 weeks and paternal benefits are for a maximum of 35 weeks and can be combined for coverage of 50 weeks.
When benefit commences	Once a completed application has been reviewed and approved. Applications are sent in on a voluntary basis.	Must opt into the program a year in advance, with a two week waiting period before benefits are received once a claim is made. Opting-in is done on a voluntary basis.
Amount of benefit	\$750/wk with a maximum of \$9,000 per leave, per family unit. Taxable income.	The rate of weekly benefits payable is 55% of the average weekly earnings up to \$44,200 in 2011. A self-employed person can receive up to \$468 per week. If taken for 50 weeks the maximum would equal \$23,400.
Cost of program	Fully funded by lawyers' fees.	Taxable income. The individual must opt in and pay premiums. In 2011, for every \$100 earned, the contribution is \$1.78 in EI premiums up to \$44,200. The most premium a person would pay in 2011 is \$786.76.
Working during receipt of benefits	The lawyer does not need to cease the practice of law for 12 consecutive weeks, however if engaged in remunerative work or the practice of law in a given	Can work part-time while claiming EI special benefits but will have to declare any earnings on bi-weekly EI reports which must be submitted every two weeks during the period

	Law Society PLAP	EI Special Benefits Program
	week must opt not to receive the benefit for that week.	<p>the individual's EI claim is active. If claiming maternity benefits, part-time earnings will be deducted from the benefits on a dollar-for-dollar basis.</p> <p>If claiming parental benefits the individual can earn either a maximum of 25 percent of his or her weekly benefit (if the weekly amount is \$200 or more) or a maximum of \$50 (if the weekly amount is less than \$200) without changing the amount of EI benefits received that week. Any money earned above this amount will be deducted from benefits on a dollar-for-dollar basis.</p>

Benefits under PLAP and the EI Special Benefits Plan

60. The EI Special Benefits plan allows for the following benefits (in):

Benefits	Amount	Length	Total
Maternity Benefits (birth mothers only)	\$468 per week	15 weeks	\$7,020
Parental Benefits (biological or adoptive parents)	\$468 per week	35 weeks	\$16,380
Maternity and parental benefits for birth mothers only	\$468 per week	50 weeks	\$23,400
Sickness	\$468 per week	15 weeks	\$7,020
Compassionate	\$468 per week	6 weeks	\$2,808

61. The benefits under PLAP are as follows:

Benefits	Amount	Length	Total
Parental Benefits (biological or adoptive parents, mothers or	\$750 per week	12 weeks	\$9,000

Benefits	Amount	Length	Total
fathers)			

62. Although on a weekly basis EI benefits are lower than benefits under PLAP, they cover a much longer period and the overall amount is greater. Some lawyers may prefer to proceed through PLAP, for example in instances where contributing to the EI Special Benefits plan is prohibitive or when lawyers do not wish to take more than 3 months away from their practice.

Experience with PLAP

63. The table presented at Appendix 3 provides an outline of approved and completed applications by gender and practice type, information about number of lawyers who remain in private practice after receiving PLAP benefits and the expenses related to the program.
64. In total, 148 lawyers received PLAP benefits since the inception of the program to the end of June 2011. Seventy five percent (75%) of beneficiaries were women and 25% were men. Eighty percent (80%) of beneficiaries were in sole practice and 20% were in small firms.
65. Ninety seven percent (97%) of men and 82% of women beneficiaries have returned to private practice after their leave. It should be noted however that of the 20 women who reported as not having returned to practice, seven began their parental leave in April 2011 or onwards. If the assumption is made that the 7 lawyers will return to their practice, the percentage of women that would be classified as “returned to private practice” would be 88%. The women who did not return to private practice are not working.

PLAP Survey of Recipients

66. In September 2011, the Law Society conducted random interviews with some of the female PLAP recipients to assess whether PLAP is fulfilling its objectives. The results are presented at Appendix 4.
67. All interviewees indicated that they used the PLAP benefits for purposes related to maintaining their practice, such as overhead, rent and salary for assistants. Of the 13 interviewees, four indicated that they used the benefits to compensate lawyers who took over their practice during the leave.
68. At least eight interviewees, all sole practitioners, indicated that PLAP allowed them to maintain their practice. A number of interviewees indicated that PLAP allowed them to take a longer leave or to hire lawyers to maintain their practice during the leave.

69. Some interviewees indicated that, without PLAP benefits, they would not have been able to take time off or would have taken less time. A number of interviewees indicated that they would have had to borrow money or get a line of credit to maintain their practice.
70. The interviewees were asked whether they would have come back to practice if they had not received benefits. About half indicated that they would have returned to their practice but much sooner. One indicated that she would have lost her practice.
71. To the question of whether interviewees would have applied to receive EI Special Benefits if PLAP was not available, two did not know that the EI program existed, four did not know whether they qualified, three indicated that they would not have applied for special benefits and two indicated that they would have applied.
72. Of the general comments received, interviewees indicated that PLAP is very helpful. Interviewees expressed relief with having access to PLAP and indicated that it helped them manage their family and professional lives. Most were of the view that the program should continue.

Budget for PLAP

73. The annual budget for PLAP has been maintained since the inception of the program at \$540,000 (until 2011).
74. It should be noted that if the Law Society decides to continue PLAP, the budget would have to increase over time. The estimated cost for the program was assessed in the May 2008 Retention of Women in Private Practice Report, based on an actuarial report. The cost was estimated at \$506,700 for 2009, \$523,800 for 2010 and \$540,000 for 2011.
75. Although the Retention Working Group opted against this option, it has been suggested that the Law Society could request the reimbursement of benefits in cases where lawyers do not return to private practice. The statistics indicate that 20 women have not returned to private practice. However, 7 of those women are still on leave. If we assume that they will return to private practice, this means that 13 women and one man have not returned to private practice since the inception of the program. Assuming that they have received \$9,000 in benefits, the amount of benefits allocated to lawyers who have not returned to private practice since the program began is approximately \$126,000.
76. PLAP also requires 1 full-time equivalent position at approximately \$70,000 per year, to manage the project.

The Equity Committee's Consideration

77. The Equity Committee considered the following factors when identifying the preferable option for the PLAP. Factors in favour of maintaining PLAP include the following:
 - a. The Law Society's database indicates that a majority of lawyers (82% of women and 95% of men) who have received PLAP benefits have returned to private practice.

- b. The interviews with PLAP recipients show that PLAP is very beneficial for recipients of benefits; most were of the view that the program should continue. PLAP allowed them to maintain their practice, to take longer leaves or to hire lawyers to maintain their practice during the leave.
 - c. Lawyers do not have to pay premiums to receive PLAP benefits. To receive EI Special Benefits, lawyers must enter into an agreement and pay premiums for a period of one year before being eligible for benefits.
 - d. Once a person has received benefits under the EI Special Benefits, he or she must continue to pay premiums as long as he or she is self-employed.
 - e. Only two of the interviewees would have applied for EI Special Benefits if PLAP had not been available. However, there appears to be a lack of information about the EI Special Benefits plan, as interviewees often did not know anything about the plan or whether they qualified.
 - f. The take-up of PLAP has been constant since its inception and is consistent with the actuarial predictions made in 2008. However, the actuarial report anticipated that 20% of recipients would be men, while 25% have been men.
 - g. The PLAP has been operating within budget since its inception.
78. Factors against maintaining PLAP include the following:
- a. The rationale for creating PLAP was that there were no other programs available to provide financial support to self-employed lawyers. The EI Special Benefits plan is now available to self-employed lawyers.
 - b. Most of the interviewees indicated that even without PLAP they would have gone back to private practice (usually with a shorter leave or because they had no choice).
 - c. PLAP benefits are paid up to \$9,000 while EI Special Benefits can amount to more than \$20,000.
 - d. The period of leave entitlement under the EI Special Benefits plan is longer at 50 weeks compared to 12 weeks for PLAP.
 - e. The PLAP fund is generated through fees from the profession as a whole, with annual fees of approximately \$15 per member. The cost of maintaining PLAP is at \$540,000 and will increase if PLAP is maintained.

The Equity Committee's Recommendation

79. The Equity Committee considered numerous options regarding PLAP. It decided that the recommendation to extend from March 12, 2012 to December 31, 2012 would allow the Retention of Women Working Group and the Equity Committee to consider whether alterations should be made to the program, e.g. making PLAP available to paralegals and considering how PLAP could be structured to operate in conjunction with the EI Special Benefits plan.
80. The Equity Committee also recommends that, if the Law Society decides to terminate PLAP, it will provide at least a one year notice to allow sole practitioners and partners in small firms enough time to conclude an agreement with the Canada EI Commission. As mentioned above, to be entitled to EI Special Benefits, one must pay premiums for a period of at least one year.

OTHER PROJECTS – FOR INFORMATION

Background

81. The following projects are discussed separately, as they were not adopted as pilot projects. The budget of the Equity Initiatives Department covers the implementation of the following programs and the programs will continue to be offered through the work of the Equity Initiatives Department.
82. The Contract Lawyers Registry is a five year pilot project and will not be formally assessed until the end of the project in two years. The Equity Committee was not asked to make a decision about the continuation of the Contract Lawyers Registry and makes no recommendation about the program.

Recommendation 2 – Direct Support

83. This recommendation focuses on conducting a change of status survey and on the establishment of a Women's Leadership and Professional Development Institute. The online resources are developed through the Justicia project for medium and large firms and through the Women's Resource Centre for smaller firms, as described under Recommendation 5.

Change of Status Survey

84. In 2008, the Law Society of Upper Canada retained The Strategic Counsel to undertake a study with lawyers who change their professional legal status. The 2009 *Change of Status Quantitative Study – Report of Research Findings* was released publicly and is available on-line on the Law Society website. The report provides findings from a survey conducted via an online methodology among a sample of Law Society lawyers who changed status in 2009. In total, 5263 lawyers filed a change of status with the Law Society last year and a total of 1257 respondents completed the survey, a strong response rate of 31%.
85. The 2010 Change of Status Research report is also available and provides the findings from the 2009 and 2010 survey with lawyers who changed their professional status. In 2010, 5179 lawyers filed a change of status with the Law Society. Among the lawyers who filed a change of status in 2010, a total of 1214 lawyers completed the survey for a strong response rate of 29%. The report is available online on the Law Society website.
86. The findings of the survey are used to inform the Retention of Women in Private Practice Working Group and the Equity and Aboriginal Issues Committee in the development of policies and initiatives. The findings are also used in presentations and conferences about the legal profession and have received media attention. The Equity and Aboriginal Issues Committee decided to continue to survey lawyers who change their status, and that a report of the data since the inception of the project would be produced in 2013.

Budget

87. The annual budget to continue this project in 2011 and 2012, with a final report in 2013, is approximately \$25,000 and is covered by the Equity Initiatives Department's Demographic Analysis budget. The Equity Initiatives Department has retained an external consulting firm to undertake the Project.

88. This research has provided useful information about trends in the legal profession. The Equity Committee has already approved the continuation of the research for another two years.

Women's Leadership Institute

89. The purpose of the Women's Leadership Institute is to provide and facilitate educational and networking opportunities for women lawyers and law students. To this end, over the past two years the Law Society has developed and participated in a number of programs and events for women lawyers. In developing these programs, the Law Society often works in partnership with law associations across the province, including the County of Carleton Law Association (CCLA), Women's Law Association of Ontario (WLAO), South West Region Women's Law Association (SWRWLA).
90. Some of the programs organized as part of the Women's Leadership Institute include the following:
- a. Women's Lawyers' Symposium (Ottawa 2010) This one day program organized by the Law Society attracted 100+ women lawyers, law students and speakers from across the province. It featured several high profile speakers who addressed issues relevant to women lawyers, such as Justice Charron of the Supreme Court of Canada, and offered workshops on the business and practice of law. It was also an excellent mentoring and networking opportunity for women lawyers. The Law Society received very positive feedback about this program.
 - b. Guide To Success – A Dialogue with Women in the Law (Toronto 2010) Together with the Women's Law Association of Ontario, the Law Society organized a panel discussion featuring senior women lawyers from various sectors of the legal profession. The panellists discussed their experiences and shared their insights about issues and opportunities for women lawyers.
 - c. Women in Transition Program (October 2010) - The Law Society sponsored this two day program organized by the University of Toronto. The program provided information and networking opportunities for women lawyers who are contemplating a return to practice or an alternate career in law. Benchers Beth Symes and Janet Minor presented about the Law Society's return to practice requirements, the Retention Project, and the work of the Return to Practice working group.
 - d. Articling & Beyond (Toronto November 2010) As part of the Articling & Beyond program (an event designed to bring law students and new lawyers together with sole and small firm practitioners from across the province), the Law Society organized workshops for women lawyers which focused upon issues related to women in private practice. Over 80 female law students and new lawyers participated in the workshops. Articling & Beyond (and the workshops for women lawyers) will be held again November 18, 2011 in Toronto
 - e. "Leadership Conference for Professional Women: Skills for Success" (Toronto January 2011) The Law Society participated as a sponsor of this two day Canadian Bar Association conference. The conference was designed by women lawyers for professional women. It provided women with tools to enhance productivity and job satisfaction.

- f. Women Lawyers Conference (Toronto and Ottawa 2011) Organized by Career Women Interaction, this program focused on practice issues and ways in which women lawyers can advance in their careers. The Treasurer presented at the Toronto conference about the work of the Retention and Justicia projects. The Lawyer Liaison Counsel will present on these issues in Ottawa in November 2011.
- g. Alternative Careers for Women in Law (Toronto May 2011) - The Law Society, in partnership with the Women's Law Association of Ontario, hosted the 5th annual Alternative Careers for Women in Law program entitled You're a Lawyer – Now What? Alternative Career's for Women in the Law. The program featured two panel discussions. The first panel was composed of women lawyers who are engaged in alternate practice. The second panel provided the audience with information and tools about making a career transition. More than 80 female lawyers participated in the program.
- h. 2011 Women's Bar Leadership Summit: Strengths Across Borders (August 2011) The Law Society partnered with the National Conference of Women's Bar Associations to present a one day conference. Over 100 women lawyers from throughout Canada and the United States participated in presentations and workshops. Treasurer Pawlitzka, Equity Advisor Josée Bouchard and Heather Williams presented on the Justicia Project, a topic that generated much discussion and interest.
- i. International Women's Day Program (March 2011) - In partnership with the Women's Law Association of Ontario, the Feminist Legal Analysis Section of the Ontario Bar Association, the Women's Legal Education and Action Fund, and the Barbara Schlifer Commemorative Clinic, the Law Society hosts an annual panel discussion and reception to celebrate International Women's Day. This annual program attracts 100+ lawyers.
- j. Presentation to the Barreau du Quebec (August 2011) – Treasurer Pawlitzka, Kirby Chown and Equity Advisor Josée Bouchard attended the Barreau du Quebec's first Managing Partners' Summit. They presented on the Justicia experience in Ontario to approximately 20 managing partners, the Bâtonnier du Québec and the CEO of the Barreau.
- k. Retention Regional Workshops (ongoing): In the fall of 2010, together with some of its partners, the Law Society launched a workshop series in Ottawa, Toronto and Southwestern Ontario. The first three "workshops" or events in the series were "Meet the Treasurer" events in Toronto (November 2010), Ottawa (November 2010) and Windsor (February 2011) at which the Treasurer discussed the Retention project and the Law Society's resources for women lawyers. All three events were well received, with approximately 60 participants in Toronto and Windsor, and 80+ in Ottawa. The Treasurer was also the key note speaker at the SRWLA Fall 2010 retreat in Kitchener, where she discussed the Retention project and the related resources. Another Meet the Treasurer event is scheduled for October 26, 2011 in London. Future regional workshops are being developed. These will focus on practical skills and issues of interest to women lawyers.

- I. Programs for the law students (ongoing): The Treasurer, the Lawyer Liaison Counsel and the Equity Advisor have participated in and organized various events at law schools across the province, to discuss, among other topics, the Retention project. The Lawyer Liaison Counsel organized and participated in a series of Women & the Law panel discussions at law schools (Windsor, University of Western Ontario, Osgoode, and the University of Toronto.) The Treasurer has also participated in a number of panel discussions for Women & the Law events, including an International Women's Day event at Queen's Law School in March 2011 which attracted 80+ students.

Budget

91. The activities outlined above are offered on a cost-recovery basis or are covered by the Equity Initiatives Department or the Professional Development and Competence (Articling & Beyond Symposium) budgets. The activities require 0.75 full-time equivalent position, and most of the activities are coordinated through the Lawyer Liaison Counsel position. They are effective outreach activities that have been offered across the province. These activities are part of the mandate of the Equity Initiatives Department and will continue to be offered without an increase in budget or staff for 2012.

Recommendation 3: Contract Lawyers' Registry

92. The Contract Lawyers' Registry is an online registry of lawyers from across the province who are available to provide legal services on a contract basis. The Contract Lawyers' Registry is a helpful resource for lawyers who require coverage if they want to take a maternity, parental or other type of leave from practice. It is also used by lawyers who need short term and/or part-time assistance with their current workload.
93. The site was launched in the spring of 2009 and revamped in 2010. It is easy to access and use, with the lawyer listings organized by region and practice area. In addition to a registry of contract lawyers, the Contract Lawyer's Registry also provides practical resources for sole and small firm practitioners who are seeking to hire a contract lawyer. Some of these tools include sample contract clauses, a contract checklist, and information about issues to consider when entering into a contract.
94. Since it was launched, interest in and use of the site has steadily increased. The registry lists approximately 140 lawyers who are available to work on a contract basis. The Law Society surveyed users of the Contract Lawyers' Registry and received positive feedback about the service. The survey results confirm that lawyers and paralegals are using the site to hire contract lawyers and to advertise their availability for contract work.
95. The Law Society actively promotes the Contract Lawyers' Registry, with an advertising campaign in the Ontario Reports, a targeted email campaign, a flyer, promoting it at outreach events, and enlisting the assistance of our partners to promote it to their members.
96. The Contract Lawyers' Registry can be found on the Law Society website.
97. The table below represents the number of lawyers registered as contract lawyers and the number of requests for information about contract lawyers, as of September 15, 2011.

2011	Applications Posted	Requests for Information Regarding Registered Lawyers
January	12	7
February	5	5
March	3	5
April	8	4
May	5	14
June	6	23
July	6	3
August	3	7
September	0 (as of Sept. 15)	2 (as of Sept. 15)
October		
November		
December		
Total:	48	70

98. The current number of postings on the registry is 142. The total number of registrant applications received since the inception of the program is 193. The following table represents the statistical information since the inception of the program.

Yearly Totals	Applications Posted	Requests for Information Regarding Registered Lawyers
2009	42	14
2010	103	32
2011	48	70

Budget

99. This is a five year pilot project that will be more formally assessed in 2013. The Equity Committee does not have to make a recommendation about this project. However, this is a project that does not have budgetary implications for 2012. One tenth (0.1) of a full-time equivalent position is required to manage the project. The position is already in the Equity Initiatives Department and no further position is required for 2012.

Recommendation 5 – Direct Resources

100. In December 2010, the Law Society launched the Women's Online Resource Centre (WORC). WORC includes links to practical resources for women lawyers, including tools

and information about business development, work-life balance, mentoring, networking, and resources developed specifically for sole and small firm practitioners. WORC also provides quick and easy access to information for working parents about maternity and parental leaves, and childcare. There is a special section devoted to resources for women lawyers who are planning a return to practice. The Law Society regularly reviews and adds content to WORC.

101. The site monitoring efforts confirm that interest and use of WORC remains consistently strong. The feedback about the site from women lawyers and partners that were consulted in the development of the site is excellent. The Law Society actively promotes WORC, with an advertising campaign in the Ontario Reports, a targeted email campaign, a flyer, promoting it at outreach events, and enlisting the assistance of our partners to promote it to their members.
102. WORC can be found on the Law Society website at <http://rc.lsuc.on.ca/jsp/worc/index.jsp>

Budget

103. WORC is in place and has been well received by the profession. The resources on WORC are practical and useful. Additional resources were added to address the issue of the return to practice for women. Maintaining and promoting the site does not require extensive resources and the resources are available through the Equity Initiatives Department. One tenth (0.1) of a full-time equivalent position is required to maintain the resources. The position is already in the Equity Initiatives Department and no further position is required for 2012.

Recommendation 6 – Beginning at Law School

104. Law Society representatives, including the Treasurer, the Lawyer Liaison Counsel, the Equity Advisor, the Aboriginal Initiatives Counsel, other Law Society staff members and benchers, regularly visit Ontario law schools to meet with female law students and speak to issues affecting women lawyers.
105. In 2010, the Lawyer Liaison Counsel organized and participated in a series of Women & the Law panel discussions at Ontario law schools, including Windsor, University of Western Ontario, Osgoode, and the University of Toronto. The panels were composed of women lawyers from a variety of practice areas who engaged in an active dialogue with law students about the practice and business of law. The Lawyer Liaison Counsel also presented about the Retention project and resources for women lawyers. A second series of panel discussions is in development.
106. In November 2010, as part of the Articling & Beyond program, the Law Society organized workshops for women lawyers, which focused upon issues related to women in private practice. One panel of women lawyers included an overview of the Retention project and the resources developed as part of the project. Over 80 female law students and new lawyers participated in the workshops. Articling & Beyond (and the panel discussion of women lawyers) will be held again November 18, 2011 in Toronto
107. The Treasurer has also participated in a number of law school events, including an International Women's Day event at Queen's Law School in March 2011 which attracted 80+ students.

108. On September 1, 2011, Equity Advisor Josée Bouchard presented to the University of Ottawa, Faculty of Common Law's first year class. Approximately 380 students in the English Common Law program and 100 students in French Common Law program attended her presentation, which included an overview of the Retention project.

Budget

109. These are activities that fall within the mandate and operational activities of the Equity Initiatives Department and a budget is already allocated to these activities.

Recommendation 7 – Creation of Advisory Group

110. The Women's Equality Advisory Group (WEAG) was created in May 2009. WEAG is composed of 10 women lawyers (all from equality-seeking backgrounds) with expertise in issues related to equality and diversity. WEAG is currently chaired by Jacqueline Beckles and Sue-Lynn Noel is the Vice-Chair.
111. WEAG meets regularly to discuss activities and resources arising out of the Retention project. The Law Society regularly consults with WEAG members about its resources and projects for women lawyers. In order to make WEAG more effective and to avoid duplication, the Chair of WEAG participates in the meetings of the Equity Advisory Group.
112. No budget is required to continue the work of WEAG.

Recommendation 8 – Networking

113. The Law Society facilitates the development of networking opportunities by holding approximately 10 Public Education Equality and Rule of Law events and five continuing professional development programs with organizations such as the Aboriginal Legal Services of Ontario, the Association des juristes d'expression française de l'Ontario (AJEFO), ARCH Disability Law Centre, B'nai Brith Canada, the Canadian Association of Black Lawyers, the Feminist Legal Analysis Committee of the Ontario Bar Association, the South Asian Bar Association of Toronto, the Indigenous Bar Association, the Métis Nation of Ontario, the Official Languages Committee of the OBA, the Sexual Orientation and Gender Identity Committee of the Ontario Bar Association (OBA), the South Asian Legal Clinic of Ontario and the Women's Law Association of Ontario.
114. The Law Society also sponsors events or partners with associations to organize external events that facilitate networking opportunities, such as the Women's Law Association of Ontario's annual President's Award gala, the Canadian Association of Black Lawyers' gala reception, the annual AJEFO conference and the Women's Legal Education and Action Fund. The Equity Committee developed sponsoring guidelines to assist the Equity Initiatives Department in planning these events.
115. In addition, the Equity Committee organizes networking events with the Equity Advisory Group (and now also the Women's Equality Advisory Group) to ensure continued dialogue between committee members and the advisory groups.

116. On March 2, 2011, the Law Society hosted an event and reception in the context of International Women's Day. The event, organized in partnership with the Women's Law Association of Ontario, the Feminist Legal Analysis Section of the Ontario Bar Association, the Women's Legal Education and Action Fund, and the Barbra Schlifer Commemorative Clinic included the film screening of a documentary entitled *Constitute!* on the making of Sections 15 and 28 of the *Charter*.
117. In addition, intergenerational feminist voices discussed the journey of feminism in Canada and its popularity now and in the future. Using the new book, *Feminist Journeys/Voies feministes* as a basis for discussion, speakers were asked to comment on the status of feminism. The panel examined the question of why few women self-identify as feminist and why many have done so over the years. Feminists and experts discussed their journeys and reflected on the richness of the past 50 years of feminism, and looked at what the future holds.
118. The Law Society, in partnership with the Women's Law Association of Ontario, hosted on May 4, 2011 the WLAO's 5th annual Alternative Careers for Women in Law program entitled You're a Lawyer – Now What? Alternative Career's for Women in the Law. The Law Society also partnered with the National Conference of Women's Bar Associations to present the 2011 Women's Bar Leadership Summit: Strengths across Borders, to be held at the Law Society on August 5, 2011.

BUDGET

119. These are activities that fall within the mandate and operational activities of the Equity Initiatives Department and a budget is already allocated to these activities.

Overview of Resources Required to Continue the Retention of Women Project in 2012

RECOMMENDATION	STAFFING	PROGRAM EXPENSE
1 Justicia project	0.3 of a full-time equivalent position	\$50,000 per annum
2 Direct support	Institute - 0.75 of a full-time equivalent position	Cost recovery or within preexisting budgets.
	Change of status survey – Not material	\$25,000 per annum (included in the Equity Initiatives Department budget for demographic analysis.
3 Contract Lawyers' Registry	0.1 of a full-time equivalent position	Not material
4 Parental leave	1.0 of a full-time equivalent position	\$540,000 per annum
5 Direct resources	0.1 of full- time equivalent position	Not material.
6 Law school initiative	Equity Initiatives Department	Equity Initiatives Department

	existing resources	existing resources
7 Advisory group	Not material	Not material
8 Networking	Equity Initiatives Department existing resources	Equity Initiatives Department existing resources

Appendix 1

Justicia Participating Firms

Aird & Berlis LLP
 Beard Winter LLP
 Blake, Cassels & Graydon LLP
 Blaney McMurtry LLP
 Borden Ladner Gervais LLP
 Cassels Brock & Blackwell LLP
 Cavanagh Williams Conway Baxter LLP
 Crawford McKenzie McLean Anderson & Duncan LLP
 Davis LLP
 Dutton Brock LLP
 Epstein Cole LLP
 Evans, Philp LLP
 Fasken Martineau DuMoulin LLP
 Ferguson Barristers LLP
 Fogler, Rubinoff LLP
 Fraser Milner Casgrain LLP
 Gardiner Roberts LLP
 Gibson & Adams LLP
 Goodmans LLP
 Gowling Lafleur Henderson LLP
 Hacker Gignac Rice
 Heenan Blaikie LLP
 Hicks Morley
 Koskie Minsky LLP
 Lacroix Forest LLP
 Lenczner Slaght Royce Smith Griffin LLP
 Lerner LLP
 Lewis Downey Tornosky Lassaline & Timpano Professional Corporation
 Mathews, Dinsdale & Clark LLP
 McCarthy Tétrault LLP
 McInnes Cooper
 McMillan LLP
 Miller Maki LLP
 Miller Thomson LLP
 Minden Gross LLP
 Nelligan O'Brien Payne LLP

Norton Rose LLP
O'Connor MacLeod Hanna LLP
Osler, Hoskin & Harcourt LLP
Paliare Roland Rosenberg Rothstein LLP
Pallett Valo LLP
Perley-Robertson, Hill & McDougall LLP
Ridout & Maybee LLP
Ross & McBride LLP
Sack Goldblatt Mitchell LLP
Shibley Righton LLP
Siskinds LLP
SmithValeriotte Law Firm LLP
Stikeman Elliott LLP
Thomson, Rogers
Torkin Manes LLP
Torys LLP
Weaver, Simons LLP
Weiler, Maloney, Nelson
WeirFoulds LLP
Wildeboer Dellelce LLP

Appendix 2

JUSTICIA LAW FIRM COMMITMENT

Statement of Diversity Principles

1. The Law Society of Upper Canada and the law firm signatory acknowledge the challenges faced by the legal profession in general and law firms in particular in the retention and advancement of women.
2. To this end, the law firm signatory commits to the following principles and pledge to participate in the Law Society Justicia Project for the retention and advancement of women and encourage other law firms in the Province of Ontario to do the same.
3. We also recognize that women in our firm are diverse by virtue of, but not limited to, ethnicity, ancestry, place of origin, colour, citizenship, race, religion or creed, disability, sexual orientation, marital status, age and/or family status. We will take into account this diversity when implementing this initiative.

Project Description

4. In 2008, the Law Society will invite law firms to commit to the project. The Law Society will coordinate a first summit meeting of Managing Partners during 2008.

5. Between 2009 and by the end of 2011, participating law firms will develop and implement programs, with the collaboration and assistance of the Law Society, focusing on the following four core areas: tracking demographics; parental leave program and flexible work arrangements; networking and business development; and mentoring and leadership development skills for women. The development and implementation of each program will be staggered to ensure that participating law firms have established the appropriate resources to optimize the effectiveness of the programs.
6. At the end of the project, the following activities will be undertaken:
 - a. an assessment of the programs to identify best practices and develop model policies and guidelines;
 - b. communication of best practices to the legal profession as a whole;
 - c. identification of other law firms that may wish to implement best practices; and
 - d. establishment of next steps with participating law firms.

Signatory Law Firm - Commitment

7. We commit to participate in this project for three years, from 2009 to the end of 2011.
8. Our managing partner will participate in the Managing Partners Network Group, and will attend a minimum of two summit meetings of the Justicia Project in each calendar year. It is anticipated that summit meetings will last between 1 and 2 hours.
9. We will nominate a partner and/or a director of students, associates and/or partners who has the expertise and knowledge of issues related to diversity and the advancement of women in the firm, to have operational responsibility for the Justicia Project ("Gender Diversity Officer").
10. Our Gender Diversity Officer will attend such regular meetings of the Gender Diversity Officers Working Group as are required to advance understanding of issues affecting women and develop best practices and programming and will serve as a liaison with the Law Society and other participating law firms. Consideration will be given to the needs of women from Aboriginal, Francophone and/or equality-seeking communities.
11. We will monitor and measure our own experiences with the programs and, on a voluntary basis, share these with the Law Society and other participating law firms in order to develop best practices that can be shared with the profession.

Details of Commitment

2009 - Launch of Tracking Demographics and Flexible Work Arrangements Programs

12. The signatory law firm agrees to collaborate with the Law Society and other participating law firms to develop a template to track gender demographics, which hopefully will guide participating law firms in developing their tracking methodology.

13. Our firm will develop a system to maintain statistical data about gender in the composition of the firm and begin tracking gender demographic information once our system is in place and before 2010. We understand that results will be kept confidential, and the Law Society will not monitor or request that we report demographics. However, we may agree to share some or all of their data or to share general trends.
14. We agree to maintain gender statistics on matrices applicable to our firm, such as articling student composition, articling student hire back, advancement into income and equity partnership, number of women in management roles, attrition rates from the associate and partner ranks. We will consider whether our firm wishes to maintain statistical data about membership in Aboriginal, Francophone and/or equality-seeking communities.
15. Beginning in mid-2008, we will collaborate with the Law Society in its collection of parental leave programs and flexible work arrangements policies in Canadian and US law firms, with a goal to creating a draft Ontario Flexible Work Arrangements Model Policy.
16. We will review our existing written policies relating to maternity, parental and adoption leave, flexible work arrangements, accommodations and partnership admission and we will consider incorporating the impact of flexible work arrangements or maternity leave arrangements on partnership admission. We will consider developing, with the assistance of the Law Society if required, our own written policies relating to those topics.
17. By the end of 2011, we commit to having effective written policies, based on our organization's needs and culture, with respect to maternity, parental and adoption leave and flexible work arrangements. We also commit to revising existing policies, if any, with respect to partnership admission, and to consider the impact of flexible work or maternity leave arrangements on partnership admission.
18. We will work with our teams and their practice groups to support such arrangements, to ensure that there is full acceptance and understanding throughout the firm of the benefits of these arrangements and to ensure that there is transparency about how the flexible work arrangements are constructed and granted. We will monitor the effectiveness of flexible work arrangements.

2010 - Launch of Networking and Business Development Initiative

19. In 2010, we will continue to build on existing programs by examining the current allocation of our business development resources and networking opportunities, taking into account allocation by gender, to better understand the focus and allocation of resources.
20. We will collaborate with the Law Society to share information about business development and networking opportunities and programs specifically tailored for women lawyers and women clients.

21. We will develop our own strategic business development plan and allocate appropriate resources to implement effective business development opportunities and networking opportunities focused on women lawyers' needs and women clients.

2011 – Launch of Mentoring and Leadership Skills Development for Women

22. In 2011, we will collaborate with the Law Society to assist it in identifying various models of mentoring and leadership skills development programs.
23. We will, through consultation, identify what women in our firm need and want regarding mentoring and leadership development opportunities, and identify the resources to support those programs. We will consider whether women lawyers are well represented throughout the firm, as group leaders, committee members, including executive and compensation committee members, and other positions of leadership. We will identify gaps and develop strategies to enhance women's participation in the leadership of the firm.
24. We will implement mentoring programs for women based on identified need, which could include but not be limited to substantive legal mentoring of women; individual and peer-to-peer group career mentoring of women as well as supportive programs.

The Law Society of Upper Canada's Role

25. The Law Society of Upper Canada will,
 - a. coordinate the Justicia Project and provide expertise, advice and administrative support for the project;
 - b. coordinate a Managing Partners Network Group, organize at least two Justicia summit meetings in each calendar year and provide administrative support to the Managing Partners Network Group;
 - c. coordinate regular meetings of the Gender Diversity Officers Working Group with the objective of advancing understanding of issues affecting women, developing best practices and programming, serving as a forum for information sharing between participating firms and the Law Society, and providing administrative support to the Gender Diversity Officers Working Group;
 - d. coordinate teleconference meetings of an advisory group of women from Aboriginal, Francophone and/or equality seeking communities,
 - e. provide advice and expertise to assist participating law firms in the implementation of programs.
26. The following are the types of activities that the Law Society will undertake,
 - a. develop guidelines and templates on recording demographic data;
 - b. collect and disseminate to the participating law firms examples of flexible work arrangements policies and seek input with respect to best practices with a view of developing an Ontario Flexible Work Arrangements Policy;
 - c. provide the participating law firms with models of networking and business development activities tailored for women lawyers and clients, to identify best practices with respect to business development training for women;
 - d. provide the participating law firms with models of mentoring and leadership skills development models for women;

- e. promote best practices in the legal profession as a whole;
- f. assess the effectiveness of the project and identify next steps with participating law firms and in the legal profession.

27. We hereby commit to participating in the Justicia Project. We allow the Law Society to release the name of our firm as a participating firm in the Justicia Project.

Managing Partner Name

Contact information

Signature

Date

Appendix 4

Survey of PLAP Recipients

In September 2011, a survey of female PLAP recipients was conducted to assess whether PLAP is fulfilling its objectives. The following are the results.

Survey Questionnaire Parental Leave Assistance Program - Assessment Interview of Participants

The PLAP pilot project ends in March 2012. As a result, we are in the process of assessing the effectiveness of the program. Our files indicate that you have received the full PLAP benefits. The purpose of our call is to ask you a few questions about PLAP and whether or how you have benefited from receiving benefits from PLAP. This should take only a few minutes of your time.

1. What did you use the PLAP for?
2. How did PLAP impact your practice?
3. Were PLAP benefits the critical factor to allow you to take a leave? In other words, would you have been able to take time off from your practice if you had not received PLAP benefits? How would you have managed?
4. If you had not had access to PLAP benefits, would you have come back to your practice anyway?
5. If PLAP was not available, would you have applied to receive the Federal Employment Insurance benefits for self-employed?

What did you use the PLAP for?	
Cover income loss and work expenses	Sole practice
Overhead, rent and staff, child rearing costs	Sole practice
Hers is not the traditional sole practitioner's career as she contracts on a part-time basis with Crown Attorney's office	Sole practice
Pay rent, pay secretary (keep up her share of paying secretary – secretary shared with two lawyers), phone calls	Sole practice
Expenses during time at home. Very helpful, allowed her to stay home longer with her child.	Sole practice
Assist in paying overhead, personal expenses	Sole practice
Pay rent for practice, use of internet and administration of the law office	Sole practice
Overhead, rent, administrative costs	Sole practice
Helped to compensate income, pay for replacement	Small firm
Pay other lawyers to take over ongoing cases	Sole practice
Main source of income, overhead	Sole practice
Overhead to maintain practice. Plus remuneration for contract lawyer found through the Law Society's Contract Lawyer's Registry.	Sole practice
Pay overhead. Hired a new lawyer to look after the practice.	Sole practice

How did PLAP impact your practice?	
More flexible. Without PLAP she would have been left with a deficit.	Sole practice
Was able to keep practice open.	Sole practice
Allowed her to take more time to stay home with her baby.	Sole practice
Enabled her to stay afloat.	Sole practice
Helped with cash flow to be able to keep the practice. Allowed her to take more time, 5 months instead of 3.	Sole practice
Helped her to maintain what she had.	Sole practice
Huge help. Able to keep practice.	Sole practice
Forbidden to go to work. There should be no strings or restrictions while receiving PLAP.	Sole practice
Helped pay replacement lawyer's salary. The member is a partner at the office and the replacement lawyer's salary had to come from her salary and client base profit margin.	Small firm
She had tried to close out as many files as possible prior to maternity leave but PLAP allowed her to pay other lawyers to take over her ongoing cases.	Sole practice
Able to hold on to and continue with her practice.	Sole practice
Member was able to hold on to the practice and to her clients.	Sole practice
Enabled her to leave office without grave financial concern	Sole practice

Were PLAP benefits the critical factor to allow you to take a leave? In other words, would you have been able to take time off from your practice if you had not received PLAP benefits? How would you have managed?	
Probably not be able to take time off. Second time around, definitely not. Impacted family planning: not as big a gap between her two children so she and her husband could take advantage of PLAP and not face economic hardship.	Sole practice
Yes to the first question. Could not have kept practice open otherwise. She would not have been able to take time off from the practice. Without PLAP, she would have relied on family.	Sole practice
Yes to the first question. Without PLAP she would have taken much less time.	Sole practice
She would have taken time off anyway, but she would have struggled. She would have gotten a loan.	Sole practice
Yes to the first question. It allowed her a 5 month leave instead of going right back to work. She would not have been able to take the time otherwise. She would have had to take out a loan or a line of credit.	Sole practice
Yes to the first question. She would not have been able to take time off without PLAP. With great difficulty, she would have had to go back to work sooner (she took 3 months).	Sole practice
Yes to the first question. If it was a higher amount she could have taken more time off with her daughter. Do not know that it would have been able to hold to the practice.	Sole practice
I would have been very difficult. She felt taken care of and felt that someone cared.	Sole practice
She would have taken the time off but would not have been able to take as long a leave to be home with her baby. Would have to go back to work sooner.	Small firm
Yes to the first question. It certainly helped. She would not have been able to take the time off. Her husband took time off. She has a small practice.	Sole practice
Yes to the first question. She would not have been able to take time off without PLAP. She does not know how she would have been able to afford it.	Sole practice
Yes to the first question. No to the second question. Would have gone back to work a lot sooner. Probably would have had to get a loan.	Sole practice
No. Could have made things work but it would have been a struggle.	Sole practice

If you had not had access to PLAP benefits, would you have come back to your practice anyway?	
Yes. There are limited jobs for lawyers in her area.	Sole practice
Would have had to come back sooner.	Sole practice
Yes, but much sooner.	Sole practice
Yes. Had benefit of being in family based practice. If she had not had her family advantage, she would have come back after two months.	Sole practice
Would have come back sooner.	Sole practice
Yes, would have had no choice.	Sole practice
She would have had to give up her practice.	Sole practice
She would have had to take out a loan or line of credit.	Sole practice
Yes.	Small firm
Yes but much sooner.	Sole practice
Yes but sooner. 12 weeks.	Sole practice
Yes, but much sooner.	Sole practice
Not applicable.	Sole practice

If PLAP was not available, would you have applied to receive the Federal Employment Insurance benefits for self-employed?	
No. Could not afford it.	Sole practice
She did not think she qualified for federal EI	Sole practice
She would have applied for EI.	Sole practice
Not sure if she qualified for EI.	Sole practice
Does not know enough about EI. She would not pay into it.	Sole practice
Yes.	Sole practice
She does not pay into it, so does not think she qualifies.	Sole practice
Never heard of the EI self-employed program. Thinks she would not qualify as husband works full time.	Sole practice
Does not know if she qualifies	Small firm
Were not available at the time of her maternity leave.	Sole practice
Did not know the program existed.	Sole practice
No.	Sole practice

Comments	
PLAP is very beneficial and it would be a shame if it disappeared. It is an incredible program.	Sole practice
She would like to see the program longer than 3 months. It was a sense of relief to her and her colleagues that the program was available. It is difficult as a woman to maintain a practice and family life. With her first child, the challenges were overwhelming. She took no time off and brought her child with her to be able to keep her practice going. Last comment: "Please do not let the program go".	Sole practice
The PLAP timing was perfect for her 3 rd pregnancy. She was able to balance family and work life.	Sole practice
She hopes that PLAP will continue as she believes it is invaluable to women lawyers having families and wishing to hold on to their practice.	Sole practice
Hopes that PLAP will be extended or become permanent	Sole practice
Great benefits. Came at a time when she needed it. Helps women lawyers during difficult personal and professional period of their life.	Sole practice
Happy to pay membership fees in order to make PLAP available to other women.	Sole practice
Thank you.	Sole practice
Timing was perfect. It is a great program.	Sole practice
Very good program. Hope it continues.	Sole practice
Very helpful. Law Society was very supportive and helpful in setting her up on the program. Hopes the Law Society will keep the program.	Sole practice
Very helpful program. Lessened the financial burden, which was huge. Great program.	

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FOR INFORMATION

COMMENTS TO THE LAW COMMISSION OF ONTARIO ON *THE LAW AS IT AFFECTS PERSONS WITH DISABILITIES*

153. In the fall 2011, the Law Commission of Ontario released a consultation paper entitled *The Law as it Affects Persons with Disabilities* (available at <http://www.lco-cdo.org/en/disabilities-consultation-paper-announcement>). The Equity Committee thought it might be useful to the Law Commission to have information about the research, processes, policies and initiatives undertaken by the Law Society to address the needs of persons with disabilities in the legal community. The comments on the consultation paper made to the Law Commission are presented at Appendix 9 for information.

JUSTICIA CAREER ADVANCEMENT INTO PARTNERSHIP GUIDES

154. Justicia participants have been meeting regularly since November 2008. The following resources have been developed to date:
- a. *Justicia Flexible Work Arrangements Profitability Model;*
 - b. *Guide to Assist Law Firms and Lawyers in Developing Successful Flexible Work Arrangements;*
 - c. *Gender Data Collection – Guide for Law Firms;*
 - d. *Gender Data Collection Template;*
 - e. *Summary of Firm Pregnancy and Parental Leave Policies;*
 - f. *Report of the Survey of Justicia Out of GTA and Ottawa Firms;*
 - g. *Report of the Survey of Justicia Firms of Under 100 Lawyers;*
 - h. *Report of the Survey of Justicia Firms of Over 100 Lawyers;*
 - i. *New Parent Tool Kit Template;*
 - j. *Preparing for a Lawyer’s Pregnancy or Parental Leave – Guide for Law Firms;*

- k. *Guide to Assist Law Firms in Developing Pregnancy and Parental Leave Policies for Associates;*
 - l. *Guide to Assist Law Firms in Developing Pregnancy and Parental Leave Policies for Partners;*
 - m. *Law Firm's Self-Assessment Tool.*
155. In 2010, a Career Advancement Working Group was created to develop resources for law firms and lawyers to assist in the career advancement of women lawyers. The Working Group met regularly (approximately 15 meetings) to develop guides for firms and associates. The Working Group consulted broadly by distributing the guides to a group of associates and partners for their review. Comments were reviewed and integrated into the guides. The guides have been considered and approved by the Justicia representatives of out of GTA and Ottawa, medium and large firms. All groups found the guides are practical, useful and innovative.
156. On October 12, 2011, the Equity Committee approved the *Associate Guide to Advancement into Partnership* and the *Law Firm Guide to Advancement into Partnership*.
157. The Guides are available to Justicia participating firms.

PUBLIC EDUCATION EQUALITY AND RULE OF LAW SERIES CALENDAR 2011- 2012

158. The calendar of Public Education Equality and Rule of Law Series is presented at Appendix 10

Appendix 9

Equity and Aboriginal Issues Committee - Comments on the Consultation Paper *The Law as it Affects Persons with Disabilities*

Introduction

1. The following are the comments of the Equity and Aboriginal Issues Committee of the Law Society of Upper Canada ("Law Society") on the Law Commission of Ontario's ("Law Commission") Consultation Paper: *The Law as it Affects Persons with Disabilities* ("Consultation Paper").
2. The Consultation Paper synthesizes the results of research and consultations that have been completed by the Law Commission and seeks to identify the key questions that must be addressed to develop its proposed Framework and Report. In lieu of addressing the specific issues or questions raised in the Consultation Paper, the Equity Committee is providing information about the research, processes, policies and initiatives undertaken by the Law Society to address the needs of persons with disabilities in the legal community.

Mandate of the Law Society

3. The mandate of the Law Society is to govern the legal profession in the public interest. This is accomplished by ensuring that the people of Ontario are served by lawyers and paralegals who meet high standards of learning, competence and professional conduct.

The Law Society has a duty to protect the public interest, to maintain and advance the cause of justice and the rule of law, to facilitate access to justice for the people of Ontario and to act in a timely, open and efficient manner. As such, it licenses, regulates, and disciplines approximately 43,000 lawyers and 3,500 paralegals in Ontario pursuant to the Law Society Act²⁵ and the Law Society's rules, regulations and guidelines.

Studies and Reports of the Law Society

4. As part of its mandate, in May 1997, the Law Society unanimously adopted the *Bicentennial Report*.²⁶ The report made 16 recommendations that have since guided the Law Society as it seeks to promote and advance its goals of equity and diversity within the legal profession. The implementation of the *Bicentennial Report* demonstrated the Law Society's commitment to its goals and also affirmed the Law Society's responsibility to regulate and provide services to an increasingly diverse legal profession and population, including persons with disabilities.
5. Since the adoption of the *Bicentennial Report*, the Law Society has produced a number of reports and commissioned or partnered with a number of research projects. These initiatives have sought to identify and enhance the Law Society's understanding of the changing demographics in the legal profession in Ontario and the challenges that are experienced by members of equality-seeking groups, including persons with disabilities. One such report, *Report of the Disability Working Group* was released in 2005.²⁷
6. Prior to this report, the Law Society had never commissioned or conducted a systematic assessment on the needs and issues of lawyers and law students with disabilities. The primary objective of this consultation was to investigate the nature and extent of support that could be offered, by the Law Society in particular, but also by the profession more broadly, to assist lawyers and future lawyers with disabilities to pursue meaningful and productive careers in the practice of law. In depth interviews were conducted with law students, law graduates and lawyers in all regions of Ontario, including practising and non-practising lawyers. In drafting its Framework and Report, the Law Commission may wish to consult this report.
7. Another report, *Listening to Ontarians: Report of the Ontario Civil Legal Needs Project* was published by the Law Society in 2011 and is a comprehensive study of why low and middle-income Ontarians seek help with their civil legal needs and how successful they are in finding that help. The Project consists of three research components: an extensive telephone survey of low and middle-income Ontarians, focus groups with front-line legal and social service providers and a mapping exercise that will identify existing legal services.²⁸

²⁵ R.S.O. 1990, c. L.8.

²⁶ *Bicentennial Report and Recommendations on Equity Issues in the Legal Profession* (Toronto: The Law Society of Upper Canada, May 1997) [*Bicentennial Report*] online: <<http://rc.lsuc.on.ca/pdf/equity/bicentennial.pdf>>.

²⁷ *Report of the Disability Working Group: Students and Lawyers with Disabilities, Increasing Access to the Legal Profession* (Toronto: The Law Society of Upper Canada, December 2005) [*Report of the Disability Working Group*] online: <<http://rc.lsuc.on.ca/pdf/equity/studentsandlawyerswithdisabilitiesreport.pdf>>.

²⁸ *Listening to Ontarians: Report of the Ontario Civil Legal Needs Project* (Toronto: Law Society of Upper Canada, May 2010) [*Listening to Ontarians*] online: <http://www.lsuc.on.ca/media/may3110_oclnreport_final.pdf>.

8. *Listening to Ontarians* contains the findings from the telephone survey and the focus groups. The quantitative survey report provides results for each of the survey questions including specific results for person with disabilities who participated in the telephone survey. These results are also highlighted in the *Listening to Ontarians* report. The Law Commission may wish to consult both the quantitative survey report and the *Listening to Ontarians* report to inform its Framework and Report.
9. Another source of information that the Law Commission may wish to consult are the yearly published *Placement Reports* by the Law Society.²⁹ These reports provide statistical data that relates to the articling and post-call employment of candidates, including candidates with disabilities, who entered the Law Society's Licensing Process in the previous year.
10. Finally, in 2010, the Law Society introduced a self-identification question in its Lawyer Annual Report ("LAR") and Paralegal Annual Report ("PAR"). Although the self-identification question is voluntary, lawyers and paralegals are required to fulfill their professional obligations by completing their respect reports. The information gathered has assisted the Law Society in understanding the changing demographics in the legal profession, which includes lawyers and paralegals with disabilities. The Law Commission may wish to consult these Statistical Snapshots of the legal profession.^{30 31}
11. These reports inform the work of Convocation of the Law Society by providing quantitative and qualitative data to assist Convocation in its policy development and implementation and the information available in them may assist the Law Commission as it drafts its Framework and Report.

Advisory Group and Bencher Committees of the Law Society

12. In order to fully take into account the perspective of equality-seeking groups, the Law Society has created a number of advisory and working groups to assist it its work. For example, the Equity Advisory Group ("EAG") is comprised of various equity-seeking legal organizations and individuals who have expertise in equity and diversity issues.

²⁹ *Placement Report – 2010 Licensing Process* (Toronto: Law Society of Upper Canada, 2011); *Placement Report – 2009 Licensing Process* (Toronto: Law Society of Upper Canada, 2010); *Placement Report – 2008 Licensing Process* (Toronto: Law Society of Upper Canada, 2009); *Placement Report – 2007 Licensing Process* (Toronto: Law Society of Upper Canada, 2008); *Placement Report – 2006 Licensing Process* (Toronto: Law Society of Upper Canada, 2007); *Placement Report 2005/2006* (Toronto: Law Society of Upper Canada, 2006); *Placement Report – 2004/2005* (Toronto: Law Society of Upper Canada, 2005); *Placement Report – 2003/2004* (Toronto: Law Society of Upper Canada, 2004) and *Placement Report – 2002/2003* (Toronto: Law Society of Upper Canada, 2003).

³⁰ *Statistical Snapshot of Lawyers in Ontario* online: <<http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147485403>>.

³¹ *Statistical Snapshot of Paralegals in Ontario* online: <http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147485404>>.

EAG identifies and advises the Equity and Aboriginal Issues Committee (“EAIC”), a standing committee of Convocation, on the development of policies to promote and enhance equality and diversity in the legal profession. Of the organizational members on EAG, representation of the disability legal community and public is ensured through the membership of the ARCH Disability Law Centre (“ARCH”).

13. In addition to advisory groups, the Law Society has also, on occasion, created ad hoc working groups to ensure that the perspective of persons with disabilities is represented, in addition to gathering advice from experts in the area of accessibility. One example of an ad hoc working group established resulted in the *Report of the Disability Working Group*.
14. Using that approach, a Disability Advisory Group, comprised of individuals and organizations representing persons with disabilities could be constructed on either an ad hoc or permanent basis and consulted by policy makers and the legislator in the event that laws are being created or amended that have the potential to impact persons with disabilities.
15. The Disability Advisory Group could also be tasked with reviewing existing legislation and providing comments and feedback on ways to amend the legislation so that it accurately reflects and respects the lives and experiences of persons with disabilities. In drafting its Framework and Report, the Law Society suggests considering such a model.

Equity and Access to Justice Template of the Law Society

16. As a result of its commitment to the entrenchment of equity and diversity principles in its work and policies, the Law Society introduced a tool to assist it in examining issues through the lenses of equality and access to justice.
17. The attached *Equality and Access to Justice Template* (“Equity Template”) does not attempt to determine whether an initiative, project or policy should proceed. Rather, it assists in identifying the potential impact, positive or negative, of initiatives, projects and policies on access to justice, and on Aboriginal, Francophone and equality-seeking communities. The instrument has also been useful in determining whether there are alternative ways to proceed that would alleviate negative impacts or that would accentuate the positive impacts on Aboriginal, Francophone and equality-seeking communities, including persons with disabilities.
18. The Equity Template mandated that Convocation, Committees, managers and project leads of the Law Society apply this instrument to initiatives, projects or policy development such as the development of internal policies and guidelines and significant projects and initiatives. The questions contained in the Equity Template were meant to either be integrated within already existing processes or used and applied on its own.
19. The first set of questions are intended to elucidate any potential impact on Aboriginal, Francophone or equality-seeking communities, while the second set of questions are intended to address any potential impact on access to justice, more generally, which may or may not arise because the persons affected are members of equality-seeking groups. The Law Commission may wish to use the Equity Template as a resource when drafting its Framework and Report.

Guides and Model Policies of the Law Society

20. The Law Society also creates guides and model policies. These documents are meant to serve as resources of the legal profession by assisting its members meet their legal obligations. Model policies and guides cover areas of law and topics such as preventing and responding to workplace harassment, discrimination and violence, flexible work arrangements and creating an inclusive work environment.
21. In this regard, the Law Society has also adopted a *Guide to Developing a Law Firm Policy Regarding Accommodation Requirements*³² and *Accommodation of Creed and Religious Beliefs, Gender Related Accommodation and Accommodation for Persons with Disabilities: Legal Developments and Best Practices*.³³ In addition, the Law Society is also in the process of drafting, in consultation with EAG, a Guide to Developing a Customer Service Accessibility Policy to assist the legal profession in meeting its requirements under the *Accessibility for Ontarians with Disabilities Act*.³⁴ Once completed, this guide will be published on the Law Society's website. In drafting its Framework and Report, the Law Commission may choose to consult these resources.

Equality and Access to Justice Template

Impact on Aboriginal, Francophone and/or equality-seeking communities

1. What are the potential benefits for Aboriginal, Francophone and/or equality-seeking communities?

2. What are the potential risks or barriers that may affect members of Aboriginal, Francophone and/or equality-seeking communities?

3. What is the foreseeable impact on members of Aboriginal, Francophone and/or equality-seeking communities?

³² *Guide to Developing a Law Firm Policy Regarding Accommodation Requirements*, 2d ed. (Toronto: Law Society of Upper Canada, 2005) online: <<http://rc.lsuc.on.ca/pdf/equity/accommodationRequirements.pdf>>.

³³ *Accommodation of Creed and Religious Beliefs, Gender Related Accommodation and Accommodation for Persons with Disabilities: Legal Developments and Best Practices*. 2d ed. (Toronto: Law Society of Upper Canada, 2004) online: <<http://rc.lsuc.on.ca/pdf/equity/accommodation.pdf>>.

³⁴ S.O. 2005, c. 11.

4. If foreseeable impact on members of Aboriginal, Francophone and/or equality-seeking communities, how could the initiative, project or policy be modified to eliminate or reduce negative impact, or create or accentuate positive impact?

5. What, if any, additional research or consultation is desirable or essential to better appreciate the impact of the initiative, project or policy on diverse groups?

6. Have issues of accessibility for persons with disabilities been considered?

7. What, if any, aspects of the initiative, project or policy should be undertaken in both official languages?

8. What benchmarks and measures can be used to assess the success and impact of the initiative, project or policy on members of Aboriginal, Francophone and equality-seeking communities?

9. Is there an intended or unintended impact with respect to equality or diversity?
Yes No

Impact on access to justice

10. What are the potential benefits for enhancing access to justice?

11. What are the potential risks or barriers that may affect access to justice?

12. What is the foreseeable impact on access to justice?

13. If foreseeable impact on access to justice, how could the initiative, project or policy be modified to eliminate or reduce negative impact, or create or accentuate positive impact?
-
-

14. What, if any, additional research or consultation is desirable or essential to better appreciate the impact of the initiative, project or policy on access to justice?
-
-

15. What benchmarks and measures can be used to assess the success and impact of the initiative, project or policy on access to justice?
-
-

16. Is there an intended or unintended impact with respect to access to justice?

Yes

No

Appendix 10

PUBLIC EDUCATION EQUALITY AND RULE OF LAW SERIES CALENDAR
2011 – 2012

CANADIAN ASSOCIATION OF BLACK LAWYERS CONFERENCE

Promoting Professional Excellence and Diversity

October 21, 2011

Lamont Learning Centre (8:00 a.m. – 4:30 p.m.)

LOUIS RIEL DAY

November 16, 2011

Upper and Lower Barristers' Lounge (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

Panel Discussion: Canada and Riel's People: Promises Made, Promises Kept?

Panelists will discuss recent legal developments and the upcoming *Manitoba Métis Federation v. Canada* case being heard by the Supreme Court on December 13, 2011.

Reception: Featuring a reading by Giller Award-winner Joseph Boyden from his recent book, *"Louis Riel and Gabriel Dumont."*

BLACK HISTORY MONTH

February 7, 2012

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

INTERNATIONAL WOMEN'S DAY

March 2, 2012

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

LA JOURNEE DE LA FRANCOPHONIE

Wednesday, March 21, 2012

Convocation Hall (6:00 p.m. – 8:00 p.m.)

RULE OF LAW SERIES

March 28 or 29, 2012 (tentative)

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

HOLOCAUST REMEMBRANCE DAY

April 17, 2012

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

ASIAN AND SOUTH ASIAN HERITAGE MONTH

May 17, 2012

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

ACCESS AWARENESS – LEGAL SYMPOSIUM ON DISABILITY ISSUES

June 6, 2012

Lamont Learning Centre (4:00 p.m. – 8:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

NATIONAL ABORIGINAL HISTORY MONTH

June 19, 2012

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

PRIDE WEEK

June 21, 2012

Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

Attached to the original Report in Convocation file, copies of:

- (1) Copy of a table that provides an outline of approved and completed applications by gender and practice type, information about number of lawyers who remain in private practice after receiving PLAP benefits and the expenses related to the program.

(Appendix 3, page 47)

Re : Assessment of Retention of Women in Private Practice Project and Status Update

It was moved by Ms. Minor, seconded by Mr. Anand, that Convocation:

- a. approve a two year extension of the Justicia Project.

Carried

It was moved by Ms. Minor, seconded by Mr. Anand, that Convocation:

- b. approve an extension of the Parental Leave Assistance Program (PLAP) from March 12, 2012 to December 31, 2012; and
- c. provide a notice of one year should it decide to terminate the program.

Carried

For Information

- Submission of Comments to the Law Commission of Ontario
- Information on Justicia Guides
- Public Education Equality and Rule of Law Series Calendar – 2011 to 2012

FINANCE COMMITTEE REPORT

Ms. Hartman presented the Report.

Report to Convocation
October 27, 2011

Finance Committee

Committee Members
 Carol Hartman (Chair)
 Alan Silverstein (Vice-Chair)
 Bob Aaron
 John Callaghan
 Mary Louise Dickson
 Paul Dray
 Larry Eustace
 Susan Hare
 Vern Krishna
 Janet Leiper
 Michael Lerner

Dan Murphy
Ross Murray
Judith Potter
Gerald Swaye
Robert Wadden
Peter Wardle

Purpose of Report: Decision and Information

Prepared by the Finance Department
Fred Grady, Manager, Finance, 416-947-3439

TABLE OF CONTENTS

For Decision:

J. S. Denison Fund (In Camera)..... TAB A

Treasurer’s Honorarium TAB B

For Information:

Draft 2012 Law Society Budget..... TAB C

COMMITTEE PROCESS

1. The Finance Committee (“the Committee”) met on October 13, 2011. Committee members in attendance were Carol Harman (Chair), Alan Silverstein (Vice-Chair), John Callaghan, Larry Eustace (teleconference), Janet Leiper, Michael Lerner, Dan Murphy, Ross Murray, Judith Potter, Gerald Swaye (teleconference), Robert Wadden, and Peter Wardle.
2. Staff in attendance: Malcolm Heins, Fred Grady and Andrew Cawse.

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FOR DECISION

TREASURER'S HONORARIUM

MOTION

13. That Convocation approve an increase in the Treasurer's annual honorarium to \$175,000, adjusted annually for changes in the Ontario Consumer Price Index, commencing with the new Treasurer's term in 2012.

Background - Honorarium

14. An honorarium is intended to provide some compensation to the Treasurer for time spent in service to the profession, and to enable the Treasurer to devote more professional time to Law Society affairs. It has never been considered as a salary or billings replacement. The payment has also been supported as a way to permit Benchers who are sole practitioners or members of small firms to stand for election as Treasurer, thus expanding candidacy to a broader cross-section of the profession.
15. Para. 71 of the current By-law 3 states "The Treasurer is entitled to receive from the Society an honorarium in an amount determined by Convocation from time to time." The amount of the LSUC Treasurer's honorarium in 2011 is \$108,000.
16. Prior to 1983, the LSUC Treasurer received no honorarium. The Treasurer was reimbursed only for expenses incidental to the discharge of Treasurer's duties. In 1983, an annual honorarium of \$50,000 for the Treasurer was implemented. In 1993 the honorarium was increased to \$75,000. In January 2001, Convocation adopted the recommendation of the Strategic Planning Committee that the annual honorarium for the Treasurer of \$75,000 be adjusted to reflect the increase in the cost of living since 1993, and thereafter be indexed annually to inflation. This arrangement is still in place. The Treasurer's role has expanded considerably since these periods, particularly in outreach roles to the profession and the public.

Background – Treasurer's Role

17. A discussion on the Treasurer's job description is attached as Appendix 1, a job description is attached as Appendix 2. The current Treasurer provided information on her duties, including her quarterly reports to the Committee attached as Appendix 3.

18. There are very limited statistics on the time commitment required to fulfill the office of Treasurer. In 2005, an annual estimate of 1,500 hours was made, based on Policy Secretariat management's perceptions of the average commitments made by Treasurers around that time. This estimate incorporates an amount of time for travel (particularly onerous for Treasurers from outside of Toronto), preparation etc. At seven hours a day this is equivalent to 214 days or about 75% of most full time jobs. The time commitment has been expanding and a more recent Treasurer averaged over 1,800 docketed hours fulfilling the role of Treasurer. The role is particularly demanding given the required attendance at various business and professional events, much of which takes place in the evening and on weekends.
19. Based on bench remuneration rates the busiest benchers in the 2009 / 2010 and 2010 / 2011 bencher years would have been paid \$78,000 and \$66,000 respectively if the 26 day deductible had not been in place. The commitment by the Treasurer is significantly larger than the busiest bencher.

Possible Remuneration Basis

20. In researching a rational basis for the Treasurer's honorarium, the Committee assessed Legal Aid rates. The current top Legal Aid rate, for Complex Criminal Cases, is \$129 per hour. Applying the top rate to the hours committed by the Treasurer results in possible remuneration of \$194,000.
21. A comparison to the remuneration of judges is appropriate. According to the public sector salary disclosure list published by the Ontario government for employees earning more than \$100,000 in 2010, most judges at the Ontario Court of Justice make \$250,000 a year. If 1,500 hours or three quarters of a full time position is a reasonable estimate for the Treasurer's time, this would prorate to \$188,000.
22. According to the 2006 Census of Canada the median employment income¹ for lawyers in Ontario in 2005 was \$95,000.

Comparatives

23. The Law Society of Upper Canada has one of the largest membership bases and most comprehensive mandates of any of the self regulatory organizations in Canada. It is therefore difficult to find comparatives of President's / Treasurer's honoraria from other regulatory organizations. In April 2011, the Committee completed a survey of President / Treasurer remuneration at other Canadian law societies, the bar associations and other professional regulatory bodies with the results summarized on Appendix 4. Given the wide disparity in organizations there is a wide disparity in results. Summarizing the results of the three most similar organizations:

¹ Employment income refers to total income received as salaries and net income from a professional practice. The median income is that amount which divides the income distribution into two halves. The average employment income was \$145,000.

- The President of the Law Society of British Columbia earns \$88,000 per year.
 - The President of the Barreau du Quebec earns \$269,000 although this is a full time position.
 - The President of the College of Physicians & Surgeons of Ontario earns \$540 per half day.
24. Given the above contexts, an increase in the Treasurer's honorarium to \$175,000 is recommended to better reflect the demands of the Treasurer's role and its responsibilities while still retaining an element of volunteerism.

Appendix 1

EXCERPT FROM THE 2005 GOVERNANCE TASK FORCE REPORT DEALING WITH THE
ROLE OF THE TREASURER

25. The Task Force could not improve on the following narrative description provided by bencher Ron Manes, transcribed from Convocation's discussion of the Strategic Planning Report on January 25, 2001:

...when it comes to defining what the Treasurer does, it's important we understand the scope of the Treasurer's job and how it has evolved from what historically may be termed a largely ceremonial position to what is now a real integral function to the internal operations of the Law Society and to Convocation.

The Treasurer, it is true, presides over Convocation, presides over our agenda to ensure that what comes before us is properly before us, and, of course, regulates the debate. The Treasurer oversees all committees, all task forces, and all working groups to ensure that they all achieve their objective.

The Treasurer is responsible for coordinating. The Treasurer is an ex officio member of all of those committees, task forces, and working groups, and in our experience with our present Treasurer, attends many of these committee meetings, task force meetings, et cetera.

The Treasurer, in addition to that, monitors the CEO. We have decided that now. It is clear to us that the Treasurer is going to be accountable to us to monitor the performance of the CEO. Now, this entails, just so we understand, not only defining for the CEO or translating what we have defined for the CEO what the CEO's objectives are, but also measuring the CEO against those objectives.

Now, anyone who knows that responsibility knows how onerous it is, and it is not a responsibility that in our view the Treasurer can possibly discharge on his own. And then he comes to recommend to us, in a formal way, what we or how we assess the performance of the CEO.

The Treasurer, in addition to that oversight and in addition to his responsibilities here at Convocation, must liaise with the public, must liaise with the profession, must liaise with the bench, liaise with the press, deal with interest groups and constantly write letters to the Globe and Mail.

The Treasurer is the face of Convocation. Yes, it is a ceremonial job. It is a huge job. He represents us at a substantial number of functions, more functions than we can possibly count or comprehend.”

26. The Treasurer’s formal authority is found in the *Law Society Act*, the regulations and the by-laws. Policies have also developed around the role of the Treasurer. Certain practices connected with the office of the Treasurer are also followed. The following discusses the provisions that relate to governance.

Law Society Act

27. The Treasurer is part of the corporation of the Society. Section s. 2(2) says that the Society “is a corporation without share capital composed of the Treasurer, the benchers and the other members from time to time.” The Treasurer is the president and head of the Society (s. 7). Benchers, not the membership, elect the Treasurer annually, who ceases to be an elected bencher (s. 25).
28. The Act includes by-law-making authority for matters related to the office of the Treasurer. Section 62 (1) 7. says that by-laws may be made “governing the election of and removal from office of the Treasurer, the filling of a vacancy in the office of Treasurer, the appointment of an acting Treasurer to act in the Treasurer's absence or inability to act, and prescribing the Treasurer's duties”.

The By-Laws

29. The By-Laws include the following:
- a. By-Law 1 (By-laws): the Treasurer has the authority to call a special meeting of Convocation to vote on making, amending or revoking a by-law when that vote has been deferred (s. 1(3)).
 - b. By-Law 5 (Election of Benchers): Generally, the Treasurer presides over the election of benchers. The Treasurer can intervene to fill certain positions (e.g. assistant or scrutineer) related to the election (s. 7).
 - c. By-Law 6 (Treasurer): Most of this by-law focuses on the election of the Treasurer. The last part of the by-law deals such things as term of office, vacancy and who acts when the Treasurer is unable to act (s. 16 and 17). For example:
 - i. Subject to removal of a Treasurer from office, he or she remains in office until his or her successor takes office;
 - ii. If a Treasurer resigns, is removed from office or cannot continue to act, Convocation must elect an elected bencher to fill the office of Treasurer until the next Treasurer election;

- iii. If a Treasurer is temporarily unable to act, or if there is a vacancy in the office, the chair of the standing committee of Convocation responsible for financial matters, or if he or she cannot act, the chair of the standing committee of Convocation responsible for admissions matters, acts as Treasurer until the Treasurer is able to act or another election is held.
- d. By-Law 8 (Convocation) details the Treasurer's authority and responsibility in Convocation. In particular,
 - i. The Treasurer may vary the dates of regular Convocation (s. 1);
 - ii. The Treasurer may call a special Convocation (s. 2(1)) at any place (s. 3(2)) but must do so on the written request of 10 benchers (s. 2(2));
 - iii. The Treasurer presides over all Convocations (s. 4);
 - iv. In addition to Convocation's decision to meet *in camera* according to the criteria in By-Law 8, Convocation will meet *in camera* to consider "any matter at the instance of the Treasurer" (s. 5(3)5);
 - v. The Treasurer can vary the usual order of business at Convocation (s. 6(1)).

Appendix 2

LAW SOCIETY OF UPPER CANADA
"TREASURER'S JOB DESCRIPTION"

The Statutory Foundation

The Treasurer's formal authority and responsibility is found in the *Law Society Act* and the by-laws. The Governance Policies of the Law Society ("the Society"), adopted by Convocation, also describe the Treasurer's role and responsibilities.

The *Law Society Act*, section 7 states that the Treasurer is the president and head of the Society, while section 8 gives the authority to the Chief Executive Officer, under the direction of Convocation, to manage the affairs and functions of the Society. The benchers, pursuant to section 10, govern the affairs of the Society.

The Treasurer is to be elected annually by benchers entitled to vote in Convocation and at the time of election must be an elected bencher. However, upon assuming the office of Treasurer, the Treasurer is a bencher by reason of the office (*ex officio*) and ceases to be an elected bencher. By convention, the Treasurer only serves for two terms and is acclaimed by benchers for the second term.

General Duties

The Treasurer's responsibilities further to the current governance policies and by-laws include the following:

- to act as the president and head of the Society;
- to be the public and ceremonial representative of the Society and the only person authorized to speak for Convocation;

- to chair Convocation in accordance with the procedures for Convocation in By-Law 3;
- to preside over the Society's Annual General Meeting in accordance with By-Law 2;
- to chair the Priority Planning Committee, the Compensation Committee, the Law Society Awards Committee and the Law Society LL.D. Advisory Committee;
- to lead the development, for Convocation's approval, of priorities for the Society for the benchers term in consultation with benchers and senior staff;
- to coordinate, in consultation with staff and committee chairs, the work and responsibility of committees and to ensure policy issues are assigned to appropriate committees;
- to prepare Convocation's agenda;
- to appoint chairs and vice-chairs and members of committees subject to approval by Convocation;
- to be an ex-officio member of all committees and task forces;
- to appoint benchers and others to external committees, bodies and institutions where the Society has a designated representative or representatives subject to approval by Convocation as required; and
- to preside over the election of benchers, in accordance with By-Law 3.

Convocation and the Treasurer

The Treasurer has extensive authority and responsibility in Convocation. The Treasurer presides over all Convocations and may call Convocation at any time. He or she has discretion to vary the order of business and determine when a matter is heard in camera.

The Treasurer controls Convocation's agenda. No item will appear on the agenda unless it is first approved by the Treasurer. In consultation with the Chief Executive Officer, the Treasurer ensures that items that appear on the agenda have been fully developed, consulted upon and properly presented in writing. The Treasurer will also consult with the committee chairs and the Director of Policy and Tribunals with respect to Convocation's agenda.

The Scope of the Office of Treasurer

The Treasurer must liaise with the public, the profession, the bench, the press and deal with various interest groups. The Treasurer meets regularly with the Attorney General, the Chief Justice and representatives of the various Ontario legal organizations. The Treasurer is an *ex officio* member of the Ontario Bar Association Council also serves or appoints a lawyer to serve on the Ontario Judicial Council.

The Treasurer will respond to the initiatives of benchers, external bodies and other stakeholders to have matters considered by the Law Society and Convocation to the extent that they relate to the governance of the profession.

The Treasurer will be asked frequently to speak at county and district law association events and meetings, and the meetings of other legal organizations – in Ontario, Canada and abroad - from time to time. The Treasurer also attends the Federation of Law Societies of Canada's annual and semi-annual meetings in the capacity as head of the Society.

As will be apparent from the above, the Treasurer, to be effective, must be prepared to devote considerable time and effort, including travel and time away from home and practice, to fulfill these duties.

The Treasurer and Law Society Operations

The Treasurer will meet regularly with the CEO and be briefed by the CEO so that the Treasurer may monitor the operations of the Society. This information is important as it permits the Treasurer to be properly informed of relevant operational matters in his/her capacity as the president and head of the Law Society and as chair of the Priority Planning Committee and Compensation Committee. The Treasurer is also responsible for directing the process to measure the CEO's performance in operationally fulfilling Convocation's objectives.

August 2011

Appendix 3

OFFICE OF THE TREASURER MEMORANDUM

To: Finance Committee

FROM: TREASURER LAURIE H. PAWLITZA

DATE: OCTOBER 5, 2011

RE: TREASURER'S ACTIVITIES

I have been asked by the Chair of Finance to provide some further detail about the activities of the Treasurer's Office.

TIME SPENT

As Treasurer, I keep track of my time and activities which are Law Society-related. In the first 12 months as Treasurer, I docketed 1,859 hours to Treasurer's activities. This included travel time involved in outreach. I gave 99 speeches over the first 12 months, which ranged from three minute 'welcomes' to lectures of 1 ½ hours in length. My calendar reflects that I attended about 600 Law Society business related meetings over the year, although many meetings with Law Society staff do not find their way into my calendar. Many of the 'public' activities often take place in the late afternoon and evenings, between Monday and Thursday.

OUTREACH BY TREASURER WITHIN THE PROFESSION

(a) *Outreach within the Province*

The Treasurer's position in recent years has involved a great deal of outreach to the profession. In the first 14 months of my term, my travel has included trips to Windsor (3 times), Sarnia, London (twice), St. Jacobs, Kitchener (twice), Niagara Falls (twice), Hamilton (twice), Brantford, Port Colborne, Oshawa (twice), Barrie, Owen Sound, Sudbury, Thunder Bay, Sault Ste. Marie (twice), Kingston, Ottawa (9 times), Cornwall and Gananoque.

(b) *Legal Organizations*

The Treasurer meets frequently with executive members of many provincial legal organizations, and often has meetings with larger groups from those organizations. These organizations include the County and District Law Presidents' Association, the Ontario Bar Association, the Advocates' Society, the Federation of Law Societies, and the Women's Law Association of Ontario. I have also met with a number of corporate counsel including the President of the Canadian Chapter of the Association of Corporate Counsel.

(c) *National Outreach*

I have attended Federation of Law Societies meetings in St. John, New Brunswick, Banff, Alberta, and Charlottetown, Prince Edward Island. I have been invited to speak both by the Barreau du Quebec in Montreal as well as by the Law Society of Saskatchewan.

(d) *International Outreach*

I have been to London, England for the Opening of the Legal Year, and to the Cambridge Lectures in Cambridge, England to moderate a panel. I was also on a panel at the Commonwealth Law Conference in Hyderabad, India, and attended the International Bar Association in Vancouver. I spoke at the Advocates' Society Conference in Mexico.

(e) *University Outreach*

I also gave lectures at the University of Toronto, the University of Windsor, the University of Ottawa and at Queens. I also spoke at Ryerson University.

OUTREACH BY THE TREASURER WITH GOVERNMENT, COURTS AND LEGAL ORGANIZATIONS

(a) Government

The Treasurer meets regularly with the Attorney General of the Province. The Treasurer also meets regularly with MPP's and occasionally with MP's. In addition, the Treasurer regularly attends events at which MP's and cabinet ministers are speaking.

(b) The Courts

The Treasurer meets with all three Chief Justices, three to four times per year each. I have met with a number of the Regional Senior Justices.

(c) Treasurer's Liaison

The Treasurer's Liaison Group meets quarterly, and its regular meetings include representatives of the following groups: The Advocates' Society, County and District Law Presidents' Association, Association des jurists d'expression français d l'Ontario (AJEFO), Toronto Lawyers' Association, Ontario Bar Association, Association of the Law Officers of the Crown, Criminal

Lawyers' Association, Family Lawyers' Association, Canadian Association of Black Lawyers, Ontario Crown Attorneys' Association, Women's Law Association of Ontario, Indigenous Bar Association, Federation of Asian Canadian Lawyers, South Asian Bar Association of Toronto and Pro Bono Law Ontario. This meeting fosters a regular exchange of ideas with these organizations.

(d) *International Regulators and Organizations*

Over the course of my first year, I facilitated contact and meetings with the Law Society of England and Wales, the President of the American Bar Association, the Law Society of New South Wales in Australia, and the Hong Kong Law Association.

OTHER ACTIVITIES

(a) *Swearings-in*

The Treasurer regularly attends and speaks at swearings-in (seven within the first 12 months of office).

(b) *Outside Obligations*

The Treasurer has a number of responsibilities outside the Law Society. They include obligations as a member of the Chief Justice's Advisory Committee on Professionalism and as a member of the Osgoode Society Board. The Treasurer hosts dinners and events for these groups. I also have met with members of the Law Commission, the LibraryCo Board, the LawPro Board and with Legal Aid Ontario.

In addition, from time to time the Society is consulted on various issues, or is called on to make public submissions. In the past year, I delivered part of our submission to the Parliamentary Standing Committee on Citizenship and Immigration on Bill C35.

OBLIGATIONS INTERNAL TO THE LAW SOCIETY

The Treasurer chairs the Compensation Committee and the Long Term Planning Committee. In addition, the Treasurer chairs the LLD Advisory Committee, and the Law Society Medals and Awards Committee. Finally, the Treasurer chairs the Priority Planning Committee, which sets the longer term agendas and priorities for Convocation.

Throughout her or his term, the Treasurer meets weekly with the CEO, and regularly with a number of the members of the Senior Management Team on various issues.

(a) *Daily Activities*

The Treasurer is usually in contact with a number of the Benchers on a daily basis, either by email or phone. In addition, a usual day includes a minimum of 20 or more emails to and from Law Society staff with respect to various issues, as well as a number of phone calls.

Time is also spent with Benchers on a one on one basis, or in small groups. This 'outreach' supports the collegial and cohesive working atmosphere of Convocation.

Every four years, subsequent to the Bencher election, the Treasurer assists with the orientation of new Benchers, and in the planning and execution of a Bencher Planning Session for the policy agenda for the term.

Once per year, the Treasurer sets Committees and appoints to outside organizations.

FOR INFORMATION

DRAFT 2012 LAW SOCIETY BUDGET

30. The Society's draft 2012 budget summary will be presented to all benchers for input at a budget information session after Convocation on October 27, 2011. It will then be presented in detail to the Finance Committee and Convocation in November for approval.

Attached to the original Report in Convocation file, copies of:

- (1) Copies of Memorandums from Treasurer Laurie H. Pawlitz to all benchers dated October 28, 2010, January 19, 2011, April 2011 and September 13, 2011.
(Appendix 3, pages 20 – 30)
- (2) Copy of a survey of President/Treasurer remuneration at other Canadian law societies, the bar associations and other professional regulatory bodies.
(Appendix 4, pages 31 - 32)

Re: Treasurer's Honorarium

It was moved by Ms. Hartman, seconded by Mr. Silverstein, that Convocation approve an increase in the Treasurer's annual honorarium to \$175,000, adjusted annually for changes in the Ontario Consumer Price Index, commencing with the new Treasurer's term in 2012.

Carried

Mr. Conway, Ms. McGrath and Ms. Potter abstained.

For Information

- 2012 Budget

Mr. Bredt extended congratulations to the new Attorney General of Ontario, John Gerretsen.

The Treasurer thanked former Attorney General Christopher Bentley for his assistance to and support of the Law Society.

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ACCESS TO JUSTICE COMMITTEE REPORT

Re: Ontario Civil Legal Needs Project Mapping Project Final Report

Ms. Boyd spoke to the Report for information.

Report to Convocation
October 27, 2011

Access to Justice Committee

Access to Justice Committee

Marion Boyd (Chair)
Michelle Haigh (Vice-Chair)
Raj Anand
Robert Burd
Cathy Corsetti

Mary Louise Dickson
Adriana Doyle
Susan Elliott
Larry Eustace
Robert Evans
Julian Falconer
Howard Goldblatt
Susan Hare
Janet Leiper
Michael Lerner
Virginia MacLean
Dow Marmur
William McDowell
Susan McGrath
Janet Minor
Nicholas Pustina
Jan Richardson
Susan Richer
Robert Wadden
Peter Wardle

Purpose of Report: Information

Prepared by the Equity Initiatives Department
(Marisha Roman, Aboriginal Initiatives Counsel – 416-947-3989)

COMMITTEE PROCESS

1. The Access to Justice Committee (the Committee) held its regular meeting on October 12, 2011. Committee members Marion Boyd (Chair), Raj Anand (by telephone), Robert Burd, Cathy Corsetti, Mary Louise Dickson, Adriana Doyle, Susan Elliott (by telephone), Lawrence Eustace, Robert Evans (by telephone), Julian Falconer, Janet Leiper, Michael Lerner (by telephone), Virginia MacLean, Dow Marmur, Susan McGrath, Nicholas Pustina, Jan Richardson (by telephone), Susan Richer, Robert Wadden (by telephone) and Peter Wardle participated. John Callaghan and Barbara Murchie, members of the Government Relations Committee, also attended for a presentation on Legal Aid Ontario, conducted by John McCamus, Robert Ward and Sue McCaffrey. Staff members Josée Bouchard, Malcolm Heins, Diana Miles, Marisha Roman, Roy Thomas and Sheena Weir attended.

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FOR INFORMATION

UPDATE ON LEGAL AID ONTARIO - PRESENTATION BY
JOHN MCCAMUS, CHAIR,
ROBERT WARD, PRESIDENT AND CHIEF EXECUTIVE OFFICER AND SUE MCCAFFREY,
VICE-PRESIDENT AND
GENERAL COUNSEL,
LEGAL AID ONTARIO

BACKGROUND

19. Throughout its regular meeting schedule, the Access to Justice Committee invites representatives from legal organizations and associations to attend Committee meetings and provide updates on their current programs, initiatives and projects.
20. John McCamus is the Chairman of the Board of Directors, Robert Ward is the President and Chief Executive Officer and Sue McCaffrey is Vice-President and General Counsel of Legal Aid Ontario (LAO).
21. In 1998, the Ontario government enacted the *Legal Aid Services Act* in which the province renewed and strengthened its commitment to legal aid. The Act established LAO, an independent but publicly funded and publicly accountable non-profit corporation, to administer the province's legal aid program. The Ontario government provides the majority of legal aid funding. The Federal government and Law Foundation of Ontario also fund LAO.
22. LAO's mandate is to "promote access to justice throughout Ontario for low-income individuals by means of providing consistently high quality legal aid services in a cost-effective and efficient manner."
23. LAO is the second largest justice agency in Ontario. LAO is one of the largest providers of legal services in North America covering a range of legal aid services such as criminal, family, mental health, aboriginal law, clinic law, and refugee law.
24. LAO operates offices in communities across the province and funds 77 community legal clinics throughout Ontario, including 17 specialty clinics that provide assistance to clients in such areas of law as worker's compensation, housing, income security, and worker's health and safety.

25. Legal aid is available to financially-eligible, low-income individuals and disadvantaged communities for a variety of legal problems, including criminal matters, family disputes, immigration and refugee hearings and poverty law issues such as landlord/tenant disputes, disability support and family benefits payments. In specific circumstances, clients may contribute towards the cost of their legal representation through contribution agreements with LAO.
26. LAO provides numerous access to justice programs and services, including in-house legal services, community legal clinics, duty counsel, Student Legal Aid Services Society (SLASS) and the legal aid certificate program, which gives low-income people access to legal representation from a pool of several thousand private lawyers who undertake legal aid work. The LAO in-house legal services include three family law offices, a refugee law office, and criminal services across Ontario. Advice lawyers assist clients in over 130 locations, including all Family Law Information Centres. SLASSs are located at each of the six Ontario law schools. Further information about LAO can be accessed through its website at <http://www.legalaid.on.ca>.
27. Bencher Michelle Haigh and former Treasurer W. A. Derry Millar are members of LAO's Board of Directors.
28. At APPENDIX 2 is the LAO presentation received by the Access to Justice Committee at its meeting on October 12, 2011.

Attached to the original Report in Convocation file, copies of:

- (1) Copy of the final report of the mapping project phase for the Ontario Civil Legal Needs Project entitled The Geography of Civil Legal Services in Ontario.
(Appendix 1, pages 15 – 120 (in camera))
- (2) Copy of the Legal Aid Ontario presentation to the Law Society of Upper Canada.
(Appendix 2, pages 125 - 139)

COMPENSATION FUND COMMITTEE REPORT

Ms. McGrath presented the Report.

Report to Convocation
October 27, 2011

Committee Members
 Susan McGrath (Chair)
 Michelle Haigh
 Jack Rabinovitch
 Catherine Strosberg
 Peter Wardle

Purpose of Report: Decision and Information

Prepared by the Professional Regulation Division
 (Dan Abrahams 416.947.7626 / Zeynep Onen 416.947.3949)

TABLE OF CONTENTS

For DecisionTAB A
[in camera]

For Information.....TAB B

GRANTS APPROVED FROM THE FUND

GRANTS PAID FROM THE FUND

COMMITTEE PROCESS

1. The Committee discussed the matters reported here on October 12, 2011. Committee members in attendance were Susan McGrath (Chair), Michelle Haigh, Jack Rabinovitch, Cathy Strosberg and Peter Wardle. Staff members Zeynep Onen, Dan Abrahams and Paul McCormick also attended.

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INFORMATION

GRANTS APPROVED BY THE FUND

8. A number of grant recommendations were submitted to the Committee for approval, in accordance with the changes to By-Law 12 approved by Convocation in May 2010. These grants will be reported to Convocation when paid.

GRANTS PAID FROM THE FUND

9. The Committee wishes to report that the following grants were approved and paid from the Fund between August 20, 2011, and September 26, 2011. Licensees whose discipline proceedings are completed, or who are not subject to discipline, are identified by name.

Lawyers	Number of Claimants	Total Grants Paid
Solicitor #196 (Suspended June 19, 2009)	1	\$ 17,000.00
Solicitor #212 (Suspended April 11, 2011)	2	\$ 28,686.00
David Harris (Licence revoked September 21, 2011)	1	\$ 3,000.00
Solicitor #218 (Suspended September 23, 2011)	1	\$ 14,468.31
Sub-total (Lawyers)	5	\$ 63,154.31
Paralegals		
Rupen Balaram-Sivaram (Licence Revoked April 4, 2011)	1	700.00
TOTAL GRANTS PAID	6	\$ 63,854.31

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REPORTS FOR INFORMATION

ACCESS TO JUSTICE COMMITTEE REPORT

- Presentation from Legal Aid Ontario

COMPENSATION FUND COMMITTEE REPORT

- Grants Approved and Paid from the Fund

CONVOCATION ROSE AT 1:10 P.M.

Confirmed in Convocation this 24th day of November, 2011.

Treasurer