

Banack's Bencher News #54

Volume 3
Issue 8

May 28, 2004

*Larry Banack, Certified by the Law Society as a Specialist in Civil Litigation
Member of the Arbitration and Mediation Institute of Ontario and
Roster Mediator, Ontario Mandatory Mediation Program – Ottawa/Toronto*

BENCHER COMPENSATION – REFERENDUM: In 1995, a referendum of the profession with respect to Bencher compensation was defeated by a vote of 48% against and 34% in favour. In January 2003, Convocation decided by a vote of 22-21 that Bencher compensation was appropriate, however, no agreement was ever reached in respect of implementation of that decision. Convocation has revisited the matter and approved a detailed policy allowing for remuneration of \$500.00 per day but only after the Bencher has participated in Law Society activities for 26 days without remuneration. Full particulars and an information package will be distributed to the Profession for a referendum vote.

ANTI-SEMITISM: In a unanimous vote (with two abstentions) Convocation approved the role the Law Society should play and the positive steps it should take to discourage anti-Semitism and all forms of hatred or discrimination in our profession, our society and the world and to permit religious tolerance and respect in our profession, our society and the world. The motion was eloquently framed by Gary Gottlieb and forcefully seconded by Bob Aaron. The will of Convocation reflected the abhorrence for recent, unacceptable acts of anti-Semitism locally, nationally and internationally. In approving the motion, Convocation was consistent with the text of its Role Statement requiring the Law Society to govern the legal profession for "the purpose of advancing the cause of justice and the rule of law".

REGULATING PARALEGALS: Convocation approved a consultation paper recommending the creation of a Standing Committee to govern and regulate paralegals in the public interest. The paper intended to stimulate discussion anticipates a policy for paralegals relating to a code of conduct, licensing fees, rules of incorporation, books and records, trust accounts, insurance, compensation fund and continuing education. Paralegal accreditation will be achieved through a process requiring education, licensing examinations and satisfaction of a good character requirement before they will be authorized to conduct advocacy work in Small Claims Court, the *Provincial Offences Act* and appeals therefrom, matters before Provincial Boards, Agencies and Tribunals. It is recommended that paralegals not be authorized to conduct solicitors' work. The regulatory approach approved by the O.B.A. will not apply to law clerks and paralegals working in law firms, legal clinics and student clinics or to union representatives appearing in labour arbitrations, mediators, bankruptcy trustees, insurance brokers and possibly others. The consultation paper is available for review at the Law Society website www.lsuc.on.ca. Comments should be directed to Ms. Julia Bass, Policy Advisor at jbass@lsuc.on.ca.

MR. JUSTICE TODD DUCHARME: The appointment of Bencher Todd Ducharme to the Superior Court of Justice created a vacancy in Convocation. On the basis of votes cast in the last election, Mark Sandler fills the newly created vacancy and Bencher Earl Cherniak assumes the position of representative of the "Toronto" region.

SOLE PRACTITIONER AND SMALL FIRM TASK FORCE: An interim report is anticipated in June, following practitioner focus groups in London, Sudbury and Toronto/GTA. In-depth interviews and extensive surveys of over 700 lawyers have been concluded. The information obtained discloses that fully 25% of sole practitioners who work alone reported an annual income of less than \$50,000.00. In contrast, a majority of partners and sole proprietors reported annual incomes over \$100,000.00. In virtually every area, the sole practitioner experienced a lower level of satisfaction with their practice, annual income and practice mix than others. It is hoped that the final task force report will provide the basis to allow future planning to address the needs of the profession and the public throughout the Province.

TITLEPLUS: This wholly-owned initiative of LawPro represents another success for the profession and the public. Lawyers are offered a fully automated Web-based delivery system to streamline real estate transactions. Whether for new home or mortgage-only transactions, lawyers and developers can work in an on-line environment at www.TitlePLUS.LawyerDoneDeal.com. TitlePlus is now licensed in all provinces except Quebec and business grew last year by 13%.

PRO BONO LAW ONTARIO: P.B.L.O. offers opportunities for the legal profession to work in partnership with publicly funded legal services, community organizations and public interest groups to help those facing social disadvantage. Its first pro bono conference was an outstanding success. Ontario law firms embracing pro bono programs for its lawyers include McCarthy's, Gowlings, Blakes, Oslers, Borden Ladner and Baker McKenzie. On May 6th, the Attorney-General announced an intention to examine the opportunity to waive court fees on pro bono cases. He further asserted that the Ministry of the Attorney General being the largest law firm in Canada has established a pro bono task force to find innovative and appropriate ways to participate in pro bono activities. The intention is to set a standard in Canada and an example for all firms in Ontario to improve access to justice. We will all be watching whether the Attorney General follows through on this.

For back issues of this Newsletter, please visit www.koskieminsky.com

IF YOU WOULD LIKE TO RECEIVE THIS NEWSLETTER VIA E-MAIL, SEND A MESSAGE TO: subscribe@koskieminsky.com.
PLEASE INCLUDE THE NAME OF THIS NEWSLETTER AND YOUR E-MAIL ADDRESS.

IF YOU HAVE ANY TRANSMISSION DIFFICULTIES WITH RESPECT TO THIS NEWSLETTER OR WISH NAMES ADDED OR DELETED,
PLEASE RETURN THIS PAGE BY FAX TO (416) 204-2824.