



Volume 6 | Issue 123

December 1, 2017

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LAW SOCIETY OF ONTARIO:

After a brief but effective online consultation with the profession in which over 17,000 licensees voted, Convocation affirmed a determination to adopt a new name for our regulator. As of January 1st, the new name will be used even if the province has not yet enacted the necessary legislative change. While the name change was a correct decision the shame is that it was accomplished through a needlessly well-orchestrated process designed to achieve the outcome sought by Convocation's Communications Steering Group. The input requested of the profession did not include the historic name, Law Society of Upper Canada. Now that the profession can be canvassed with little muss or fuss it is unfortunate that Benchers did not trust licensees to express an opinion on whether to maintain the historic, original name. Some think it was appropriate for substance to trump process. I don't.

PUBLIC AWARENESS CAMPAIGN:

Following upon the Law Society name change, an initiative has been undertaken to enhance the public's knowledge of who are members of the profession and what we do. Watch for it.

2018 LEVY:

Next year it will cost lawyers \$2,183 for the privilege of practicing law in Ontario in addition to the unchanged base Law Pro Premium of \$2,950. That is a 14% annual increase which is blamed on the recent high claims against the Lawyer Compensation Fund which is available as a fund of last resort to clients harmed by acts of dishonesty. The increase for paralegals was limited to 5%. The hefty fee increases would have been even greater had \$5.4m not been transferred from other funds. The higher annual fee will support staff increases in several key areas as well as to support indigenous initiatives. As suggested to me by a colleague, you will not likely find other "taxing" authorities imposing annual increases of this order of magnitude. Convocation continues to avoid making sufficient tough decisions to restrict spending in less essential areas to help licensees in economically difficult practices. There continues to be ineffective attempts to implement efficiencies. However you feel, don't overlook a \$50.00 annual fee discount, prorated by fee category, that can be secured by enrolling in the Law Society pre-authorized payment plan. Maybe next year, in advance of a Benchers election, there will be increased sensitivity and accountability for the ever increasing cost of regulating the profession in the public interest.

EQUALITY, DIVERSITY AND INCLUSION:

As I reported in September, we are fast approaching the deadline for lawyers to adopt a mandatory statement of principles to be reported upon in our next Law Society Annual Report. However as a result of criticism from the profession and public efforts have been underway to derail the Law Society initiative. A law suit has been initiated in the Superior Court, asserting that the requirement is "contrary to the rule of law in that it lacks a proper legal foundation," and is also not supported by the Law Society of Upper Canada's own rules of professional conduct. In addition, a media firestorm arose within the profession and public as evidenced by extensive derisive news coverage. Clarification was recently attempted by a small group of Benchers preparing and publishing (without consultation with Convocation) a "Statement of Principles" guide. There is no obligation to profess a particular belief. However, many are asking why the following coercive language of Recommendation 3(1) was needed.

The Law Society will "require every licensee to adopt and to abide by a statement of principles acknowledging their obligation to promote equality, diversity and inclusion generally, and in their behaviour towards colleagues, employees, clients and the public."

What has sadly been lost in this avoidable debacle is the real need in the legal profession (as well as in other professions and business generally) to take meaningful action to address systematic racism and discrimination. We have over 60,000 lawyers and paralegals in Ontario. As of 2015, 18.6% self identified as being racialized. Most troubling is that 40% believed that ethnic identity was a barrier to entry and 43% felt that their ethnicity was a barrier to advancement. The recommendations to be rolled out by the Law Society are commendable but the process has been unnecessarily divisive and likely ineffective to make real change.

FEE ARRANGEMENTS:

Convocation has approved the recommendations of its working group. Contingency fees that have been possible in Ontario since 2002 will now be subject to greater oversight to ensure they are fair, reasonable and transparent. The reforms do not apply to the existing process in class actions, to sophisticated clients or where there has been court approval. Law firms will have to post on websites the maximum percentage charged, utilize a standard form contingency fee agreement and satisfy mandatory disclosure requirements. A further recommendation entails an amendment to the Solicitors Act relating to entitlement to costs obtained as part of a settlement or as may be awarded by the Court. Finally the Solicitors Act provisions will be expanded to include contingency fees for paralegals. From information secured on filed Annual Reports, the Law Society will publish on an aggregate basis, the average contingency fees actually charged by area of practice. By-Law amendments to delineate the scope of change will be forthcoming.

PARALEGAL SPECIAL LICENSE FOR FAMILY LAW SERVICES:

In recent years more than 60% of the parties in Family Court appeared without counsel. Judges have expressed concern that unrepresented litigants were disadvantaged in the process. As a result of that crisis in Family Law litigation the Provincial Government jointly with the Law Society secured a report of the Honourable Justice Bonkalo, delivered in December 2016. She made a range of recommendations. This resulted in a consultation that included over 150 submissions in 8 formal information meetings. Subsequently a plan was jointly formulated involving a number of action items including the expanded scope of Paralegal Licenses and for others with appropriate training to offer some family legal service.

In an unusual step the Attorney General Yasir Naqui attended in Convocation urging Benchers, to adopt the process presented. The expansion of qualified persons to provide advise to family law litigants is critical to help make it easier for Ontario families to access needed legal assistance. Notwithstanding requests of the Ontario Bar Association, the Toronto Lawyers Association and the Advocates Society that consideration of the matter be delayed pending further consultation, Convocation overwhelmingly approved the final form of recommendations. To see the report and understand what will be involved in the forthcoming process see the Access to Justice Committee Report at www.lsuc.on.ca.

LAW SOCIETY AWARDS: NOMINATION DEADLINE JANUARY 28, 2018

The deadline is fast approaching for nominations for the Law Society Medal, the Lincoln Alexander Award, the Laura Legge Award and the J. Shirley Denison Award. Information about these awards can be found at www.lsuc.on.ca. Nomination forms can be obtained and submitted online. All nominations are reviewed by an Award Committee which makes recommendations for approval by Convocation. Questions can be submitted to submissions@lsuc.on.ca or 1-800-668-7380.

ACTING C.E.O.:

Diana Miles who has been with the Law Society for 16 years has characteristically jumped into her new role. In a recent town hall style meeting she met with all Law Society staff to address the changing times confronting the profession and how all staff and Benchers can promote excellence and commitment. Diana is front and centre in an effort to ensure that in a time of transition in the C-Suite that there will be continued progress in achieving the initiatives established by Convocation.

LAW SOCIETY TRIBUNAL-PART TIME ADJUDICATOR:

Are you interested in participating in a critical Law Society function of determining important discipline and other matters affecting lawyers and paralegals? The process is undertaken by an independent adjudicative tribunal consisting of staff and appointed adjudicators. Applications are being accepted until December 15, 2017. For more information and a detailed position description please visit www.lawsocietytribunal.ca.

LOST TOUCH?

Do you think that elected Benchers have lost touch with the struggles faced by the profession on a day to day basis? That may be a fair conclusion from watching the recent obsession with the Law Society name change, the equality, diversity and inclusion initiative and apparent disregard for the economics of the practice of law evidenced by the approved budget and increased 2018 levy. If that is your thinking, I hope many of you will consider running for election in the 2019 Bencher election. The last governance reform limited Bencher terms to 12 years. That will again mean that some incumbents will not be eligible to run, while others may choose not to run for re-election or could be held accountable for decisions in Convocation and not be re-elected. Put another way, there will be opportunities to join Convocation. While thinking about it, you may be interested to examine how current Benchers have voted on sensitive issues. See Bencher's recorded votes in the Minutes of Convocation at www.lsuc.on.ca.

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