



Volume 10 / Issue 171

June 28, 2022

#171



ADIEU TREASURER DONNELLY:

The COVID challenges of the last 2 years will not be forgotten anytime soon. We all suffered as individuals and professionals as did our institutions. Yet Treasurer Donnelly soldiered on through unknown territory for a regulator and was especially concerned with how the pandemic was impacting all of us collectively. With a steady hand she maintained an equilibrium at the LSO pursuing a strategic plan focused on proportionate regulation, scope of regulation, competence and quality of service and access to justice; despite the turmoil all around and a fractious Bench that was even less constrained as Convocation met virtually (as repeated today in all of its disfunction during new Treasurer Horvat's first Convocation). The Treasurer did not scale back because in-person events were cancelled but carried on with hundreds of public interactions to sustain the business of the Law Society, engage all of us as participants and strengthen relationships with all justice system participants. Treasurer Donnelly's mantra, "you're not alone" championed mental health issues, practice skills and practice management challenges. Kudos to a besieged Treasurer who worked so hard to maintain public trust in the legal profession which is known to be a key component of our privilege of self-regulation. We are all indebted to Teresa Donnelly for years of effort on our behalf and wish her well in everything she undertakes in the future.

METROLINX REPRIEVE:

Toronto City Council this week voted against the proposed Ontario Line Osgoode Hall Station. As a result of community concerns including various legal organizations, the station location has been referred back to staff to identify options to avoid impacts on built and cultural heritage and the loss of publicly-accessible greenspace and mature trees on the grounds of Osgoode Hall.

KLIPPENSTEIN v. THE LAW SOCIETY:

By a Statement of Claim issued June 17, 2022 Bencher Murray Klippenstein commenced an action seeking production of various information and records relating to a 2013 study of the "challenges faced by racialized licensee's". The

resulting Report based in part on survey results and subsequent consultation papers ultimately lead to Convocation's approval of various recommendations in December, 2016. Implementation of the recommendations included the subsequently, maligned Statement of Principles that became a rallying cry (STOP SOP) in the Benchers' 2019 election. Bencher Klippenstein has questioned the validity of the original study. As a Bencher/Director of the LSO, in order to discharge his perceived duties, he sought delivery of material in order to address his concerns and has been dissatisfied with the responses received. Quite apart from the substance of the information sought, whatever it may reveal, this law suit will be quite an unfortunate spectacle pitting an elected Bencher against the institution of the Law Society. More to come.

CALLS TO THE BAR:

We have been joined by new lawyers called to the Bar this month. To enhance the celebration, at each ceremony, a degree of Doctor of Laws, *honoris causa* (LLD) has been conferred upon the following in recognition of outstanding achievements in the legal profession, the rule of law or the cause of justice:

[Audrey Loeb](#)

[Dr. Ian Holloway](#)

[David Nahwegahbow](#)

[Professor Elaine Craig](#)

[The Honourable Michelle K. Fuerst](#)

[The Honourable Paul S. Rouleau](#)

[The Honourable Michael H. Tulloch](#)

[The Honourable Andromache Karakatsanis](#)

COMPETENCE:

The Law Society had not taken a comprehensive examination of its regulatory competence practices for two decades. A Competence Task Force chaired by Bencher Sid Troister undertook that enormous effort. The outcome was adoption by Convocation of a new Competency Framework that includes a number of changes that will impact us for years to come.

- Starting in 2024 every lawyer or paralegal setting up as a sole practitioner must undertake an online practice essentials course;
- Acceptance of unlimited hours of archived or recorded CPD eligible for annual credit;
- Technological competence will find its way into the Rules of Professional Conduct;
- The peremptory wind up of the Certified Specialist Program and elimination of the Certified Specialist designation at the end of the year (despite the Task Force recommendation that the designation be available for use until the specialists retirement);

However, the Benchers agreed to leave the Indigenous Legal Issues Specialist designation in place subject to future recommendations by the Equity and Indigenous Affairs Committee. Go figure.

Many proponents of the Specialist designation are very upset by the Law Society's shabby treatment of them and have spoken out vociferously. They recall the actions of Ian Scott who ended the Ontario appointment of Queens Counsel, but still allowed the continued use of that designation for the life of the lawyer.

To better understand how these developments arose, see: [Competency Task Force's report](#).

Over 50 lawyers have written to express their views in respect to the cancellation of the program. To add your voice you may email the Law Society Certified Specialist Program (certspec@lso.ca) or the Law Society CEO Diana Miles (dmiles@lso.ca).

MINIMUM ARTICLING TERM:

Convocation has approved a 2 year continuation of the minimum 8 month articling term that was first implemented to preserve placements that may have been jeopardized by the impact of COVID. And guess what? It wants to gather more information and feedback. Another punt of the ball pending implementation of the recently approved, mandatory minimum compensation for experiential training.

BAR ADMISSION COURSE:

The LSO has sued the parties said to be responsible for providing documents containing answers to questions, allowing students to cheat on previous licensing examinations. Discovery of these actions in the spring resulted in examination rescheduling, untold student hardship and enormous cost to the Law Society. Investigation into student conduct is ongoing. A copy of the statement of claim is available [here](#). It has been strenuously defended.

UKRAINIAN LAW STUDENTS:

Through the extraordinary efforts of Toronto lawyer Louise Barrington and others we have an opportunity to provide a “Safe Harbor” for Ukrainian students to replace the disruption in their legal education in a safe environment and provide the opportunity to plan for a future despite the atrocities of the Russian war. This is a small program initially focused on students with international moot experience seeking “internship packages” worthwhile for both the students and the hosts. For more information contact info@Safeharbor4UAMooties.com.

INDIGENOUS PEOPLES CEREMONY:

May Convocation began with a 30 minute ceremony to “polish the relationship with the Eagle Feathers”. Begun in the late ‘90’s this is undertaken by the LSO seeking to continuously enhance its policies in regard to indigenous licensees, communities and individuals. Without detracting from those valuable holistic sentiments and insights offered, perhaps future Treasurers might also offer similar invitations to a Priest, Imam, Minister or Rabbi.

IN MEMORIAM - MALCOLM HEINS

MALCOLM HEINS passed away in May, following a long battle with cancer. He had been a successful litigator and insurance executive until he was recruited in 1994 to be the CEO of LPIC and extricate us from a \$200m debt crisis. Having adroitly managed that major issue, he was persuaded to become CEO of the Law Society in 2001 to help navigate turbulent times at Osgoode Hall. His decades long service to the professions was recognized by awarding him the Law Society Medal our highest honour bestowed for outstanding contributions. He enjoyed a productive and enjoyable retirement from 2012. Malcolm’s friendship, dedication, beautiful smile and laughter will be missed. His life will be celebrated by the family welcoming guests on July 7th at the Granite Club, Toronto.

HAVE A HAPPY AND SAFE SUMMER SEASON

I am sending this public service newsletter to you at the email address you provided or published, as permitted by Canada's Anti-Spam Legislation. If you no longer wish to receive it please "Unsubscribe" below.

Larry Banack
Banack Resolutions, Inc.
Bay Adelaide Centre
333 Bay Street, Suite 900
Toronto, ON M5H 2R2
email: larry@banackresolutions.com
Phone: (416) 477-6880