Form 49

C121659

COURT FILE NUMBER	2301-14224
COURT	Court of King's Bench of Alberta
JUDICIAL CENTRE	Calgary
APPLICANT	Yue Song
RESPONDENT	The Law Society of Alberta
DOCUMENT	**AFFIDAVIT of YUE (ROGER) SONG**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Glenn Blackett Law [redacted]

Affidavit of Yue (Roger) Song

Sworn on

December 6, 2023

I, Yue (Roger) Song, of Calgary, Alberta, SWEAR AND SAY THAT:

1. I have personal knowledge of the facts and matters hereinafter deposed to by me, except where stated to be based upon information, in which case I verily believe such information to be true.

I. INTRODUCTION

2. I have been an active member in good standing with the Law Society of Alberta (the "**LSA**") since 2014.
3. My legal background is as follows:
   a. I graduated from:
      i. Peking University Law School with a Bachelor of Law in 1985; and
      ii. Peking University Law School with Master of Law in 1988;
   b. I taught international law at the Peking University Law School for 5 years and acted as in-house legal counsel to major international energy corporations in Hong Kong and China for more than a decade;
   c. I graduated from New York University School of Law with a Masters in International Legal Studies in 1994;
   d. I passed the New York Bar Examination in 1996;

e. I graduated from the University of Calgary School of Law with a J.D. degree in 2013;

f. From 2013 to 2014 I articled with Blake, Cassels & Graydon LLP ("**Blakes**") in Calgary, Alberta;

g. I worked at Blakes as an associate until 2018; and

h. Since 2019, I have been a sole practitioner.

4. I bring this application because I have a professional responsibility to uphold and improve the administration of justice in Canada and the public's confidence therein. Most especially, I bring this application in the public interest to defend the rule of law and public access to loyal legal counsel in Alberta.

5. As an immigrant to Canada who grew-up, taught law in, and escaped socialist China, I believe Canada's liberal democratic constitutional order is fundamentally good and just and that it promotes and sustains personal and social outcomes including individual dignity, individual spiritual fulfilment, freedom, democracy, health, wealth, happiness, social harmony, peace, order, and progress.

6. I believe that constitutional order is delicate and vulnerable to being undermined, especially, by those entrusted to protect it.

7. I bring this application, then, to defend that constitutional order and to protect the freedom of lawyers to openly defend it, without fear of hindrance or reprisal.

8. I also bring this application as a Christian, commanded by God to love my neighbor as I love myself, meaning "without discrimination", and to seek and speak the truth.

9. Among my neighbours are indigenous Canadians, too many of whom suffer from poverty, sickness, and personal, family, and community dislocation and turmoil.

10. I believe that many Canadians believe the resolution to these problems will be found in the revolutionary prescriptions of modern social justice. However, my love for indigenous Canadians and my love for truth compel me to disagree and to express my firm belief, rooted in my experience in socialist China, that this is profoundly and dangerously wrong.

11. However, I believe that in a democratic society, whether I am right or wrong about this and other such policy questions, such questions are entirely to be resolved by the people, through their democratically elected legislatures and councils – not by people in their capacities as lawyers, judges, or regulators.

12. The LSA has embraced modern social justice ideologies. I believe that, in a pluralistic society, the Benchers in their individual capacity and not in their capacity as Benchers, may adopt these ideologies and may, therefore, disagree with me in matters of epistemology, politics, economics, history, race, spirituality, and the like, however:

a. such matters fall far outside the LSA's statutory mandate; and

b. the LSA adopting and promoting a political objective is a direct violation of the LSA's most important function: insulating the Alberta bar from political influence.

13. At issue in this application is:

a. the jurisdiction of the LSA to compel lawyers to believe in, express affirmation of, and actively promote any political objective including the "**Political Ideologies**"

(being the "Anti-Constitutional Ideologies, as defined in the originating application herein; the materials attached to this affidavit and all other LSA materials incorporating the Political Ideologies being referred to herein as the "**Political Materials**") which include critical race theory, postcolonialism, and gender theory, which Political Ideologies I do not believe, do not wish to affirm, and do not wish to advance;

b. a lawyer's freedom to believe, express the belief, and promote the belief that:

   i. the Political Ideologies, and the manner the LSA is advancing such ideologies

      1. are false, immoral, unjust, and destructive to Canadian society, including to the interests of the minorities such ideologies ostensibly benefit

      2. are contrary to the **Canadian Constitution** (as defined in the within originating application);

      3. undermine the rule of law in Canada and the Canadian Constitution;

      4. harm the reputation of the profession as competent and loyal to the client's legitimate interests; and

      5. impair the ability of lawyers to fulfill their professional duties;

   ii. the Canadian Constitution is a social good and is just;

   iii. neither the Canadian Constitution nor the laws promulgated under it are a system of "colonialism", "whiteness", "privilege", "systemic discrimination", "racism", "liberal racism", "ignorance", "hate', "violence" or other such system of oppression;

   iv. the Political Ideologies are wrong and destructive, do not reasonably describe reality, and do not represent a morality valuable to Canadian society,

   which are my beliefs and desired expression;

c. my freedom to believe, express belief in, and to not express disbelief in or hostility towards my personal and religious beliefs; and

d. a lawyer's freedom not to believe in, expressly affirm, or actively promote the Political Ideologies, which ideologies I do not believe or wish to expressly affirm or promote.

II. THE CHARTER OF RIGHTS AND FREEDOMS

14. The following forms part of my personal and religious beliefs and desired expression and conduct.

A. PERSONAL BELIEFS

15. I was born in the People's Republic of China under the regime of the Communist Party of China (the "**CCP**") in 1964.

16. Throughout my time in China, I was formally indoctrinated in socialist ideology.

1. Beliefs Regarding Political Education

17. In primary school and high school (from 1971 to 1981) my classmates and I were required to attend classes in "**Political Education**" where we were taught to believe in and advance the CCP's socialist ideology including dogmas relating to legal, historical, political, social, economic, moral, spiritual, and cultural issues.

18. In Political Education we were indoctrinated to become the "politically qualified" successors of the communist cause. We were told to be ready to save much of the world's population which, we were taught, were barely surviving "the depth of water and the heat of fire" (meaning, misery) in their own countries. At this time, China was a desperately poor nation, near starvation in many areas, while the West was, by comparison, fabulously prosperous and well fed. Even when I was teaching at Peking University in the late 1980's I was not making nearly enough money to support myself. I had to live with my parents even after I was married.

19. CCP indoctrination, including Political Education, taught me there was no God. Rather, I was taught that Mao Zedong was the savior of China and of the people of the world. Mao is the figurehead of the CCP and a nearly god-like figure to Chinese socialists. The CCP was, and remains, the highest and overriding value in all aspects of Chinese life including in politics, military, government, economics, law, business, education, arts, society, personal conscience, and even the family. The CCP was and remains the sole source of truth and morality in China. In the words of the CCP, the CCP is the leader of every area of Chinese life.

20. I believe the kind of political order outlined in paragraphs 17, 18, and 19 is destructive to society by which I mean, herein, destructive to personal and social outcomes including individual dignity, spiritual fulfilment, freedom, democracy, health, wealth, happiness, social harmony, peace, order, and progress.

2. Beliefs Regarding State Invasion of Conscience

21. As a part of CCP indoctrination, I was taught to consistently engage in self-reflection and self-examination and to acknowledge and cleanse from my mind the "spiritual pollution" of corrupt (i.e. Western) worldviews and ideas. By "Western" and "West", the CCP meant, *inter alia*, the principles of the Canadian Constitution and Christianity. Such corrupting worldviews and ideas, I was taught, originated from the "corrupt cultures of Western countries and the bourgeoisie." I believe a commandment from the state to rid one's conscience of impugned thoughts is a profound invasion of conscience which is destructive to society. I also believe that it is a social good (by which I mean, herein, it promotes personal and social outcomes including individual dignity, spiritual fulfilment, freedom, democracy, health, wealth, happiness, social harmony, peace, order, and progress) to have "Western" worldviews and ideas.

3. Beliefs Regarding State-Imposed Dogma

22. All the ideological indoctrination I was subjected to in China had, at least, five distinct features:

    a. First, the substantive content was the socialist ideology of the CCP including:

        i. Marxism, Leninism, and Maoism;

        ii. that there is no God;

iii. dogmas including that

1. the Chinese socialist system was superior to the liberal democratic systems of western countries[1]; and
2. that the socialist (or proletarian) culture of China was superior to the capitalist (or bourgeois) culture of western countries.

b. Second, the ideological indoctrination, including dogmas, was unchallengeable truth, beyond discussion or doubt.

c. Third, the ideological indoctrination was always presented as the highest order of morality or social justice to protect the interests of oppressed peoples, to liberate the "poor people exploited by rich people." The objective is to "destroy an old corrupt world", and to "create a new world where there is no inequality, oppression, or exploitation." In other words, the indoctrination I received was utopian.

d. Fourth, the ideological indoctrination was imposed under coercion without any exceptions or exemptions. If I refused or failed to take Political Education, or if I even raised any question or doubted the dogmas, I would be considered politically or ideologically incompetent for higher education, including universities or law schools, for being a professional such as a doctor or a lawyer, or for being employed in any state-owned enterprise or governmental department.

a. Fifth, the ideological indoctrination was not about loyalty to any fixed theories. The theories in which I was indoctrinated in China were all very confusing, vague, uncertain, and subject to consistent changes over the time according to the needs of the CCP. Indoctrination was really about power: to dictate what to think and not think; what to do and not do; to create divisions among people who "struggle against each other" about their ideological differences; and to be the final arbitrator of the "correct" theories from day to day. Ultimately, indoctrination is about obtaining and keeping power, not ideological purity. This is why, in China, the power of the Department of Propaganda of the CCP's Central Committee was, in practice, higher than the head of government.

23. I believe that:

a. Imposed dogma is destructive to society:

i. It is often false or misleading and is inculcated into a population to achieve a political objective, not to discover the truth;

ii. It elevates state-mandated morality above all competing authorities including the transcendent authority of one's faith, and is thereby idolatry which I believe undermines individual dignity; and

iii. The entity which imposes the dogma becomes the law-maker, regardless of the entity designated by the constitution as the "official" law-maker. In fact, the official law-maker is subordinate to the indoctrination. I believe the effect of this is to destroy the rule of law.

---

[1] "Socialism" is the ideology, whereas "communism" relates to the end-goal of socialism, a worldwide utopia.

b. Western institutions like freedom of thought, freedom of speech, and science have proven excellent systems for discovering truth and moving away from error; and

c. Freedom of thought and speech are necessary aspects of genuine democracy.

4. Beliefs Regarding Socialism

24. I believe that socialism is destructive to society. I also believe there is a significant overlap between socialism and "equity" as that term is used by modern social justice movements.

5. Beliefs Regarding Western or "Colonial" Constitutional Orders

25. I believe the CCP's dogmas are false. I believe the liberal democratic systems of Western countries are superior to the CCP's socialist system – if the goal is personal and social outcomes including individual dignity, spiritual fulfilment, freedom, democracy, health, wealth, happiness, social harmony, peace, order, and progress.

6. Beliefs Regarding Tribalism or Collectivism

26. In the Chinese socialist regime people are divided into two tribes:

a. "people of the working class" or "our friends" (categorized as the "red" identity group during the Cultural Revolution of China from 1966 to 1976); and

b. "people of the capitalist class" or "our enemies" (categorized as the "black" identity group during the Cultural Revolution period) of the working class people.

27. In CCP ideology, a person is either "our friend" or "our enemy" – there is no in-between. The "people of the working class" originally consisted primarily of people who were, in fact, working class. But it was really a term to describe people, working class or otherwise, who were totally loyal to the CCP and its ideology.

28. Through an ideology that explained the evils perpetrated by and inherent to "our enemies," CCP indoctrination and guidance validated, mandated, and promoted the social and professional vilification and marginalization of the "class enemies" bringing about what was called "social death."

29. "Chairman Mao," as everyone used to always call him in China, used to "teach us", "Who are our friends? Who are our enemies? This is the priority question of the revolution."

30. This kind of tribalization, vilification, and marginalization was a central tool of Mao's Cultural Revolution from 1966 to 1976 which destroyed civil society in China, killing hundreds of thousands of Chinese people.

31. I believe this kind of tribalized division of society between "good" identity groups, being ideological loyalists, and "bad" identity groups, being those without total ideological loyalty, is destructive to society. As a Christian I believe that we should love our enemies, respond to evil with good, and forgive the sins of those who trespass against us.

32. Further, I believe the Canadian system, pluralism, is far superior to this system of tribalization because pluralism acts as a unifying, rather than dividing, order which

accepts and absorbs conflicting opinions through equal freedom of thought and expression.

7. Beliefs Regarding the Rule of Law

33. Like Canada, China has a constitution which guarantees fundamental rights to its citizens including equality before the law, freedom of speech, and democracy. However, in China, all of this is illusory because there is no rule of law.

34. Throughout all aspects of Chinese society under the CCP's regime there is only one supreme law: the CCP's socialism. Everything, including "fundamental" constitutional rights are subordinate to the will of the CCP. The effect is that, whatever rights the constitution or laws may ostensibly secure to the people, nothing which interferes with socialism and the leadership of the CCP is legitimate or allowed to continue.

35. This is reflected in Article 1 of China's constitution which states: "... China is a socialist state under the people's democratic dictatorship led by the working class and based on the alliance of workers and peasants. The socialist system is the basic system of the People's Republic of China. Disruption of the socialist system by any organization or individual is prohibited."

36. According to CCP indoctrination, the law is inherently a tool that the people of the ruling class use to rule over the class of people being ruled. I believe this view is similar to the concept of "systemic discrimination" and "colonialism" as understood by the Political Ideologies.

37. Notwithstanding that China has many laws and a constitution, rather than being a "rule of law" system, China's socialism is really the "rule of the party" in which the CCP dictates absolute truth and morality and any conduct which advances the CCP's interest or the "party line" (i.e. consistency with the CCP's dictates) is good, and anyone or anything which interferes with or opposes the party line is the "enemy of the people."

38. I believe that elevating ideology over the rule of law effectively dissolves the rule of law.

39. In China, the "red" identity group was entitled to enjoy the express rights and freedom of law, while the "black" identity group was entitled to no such rights and freedoms. Likewise, for the "enemy of the people," the CCP will always find a tool to persecute its enemies, the law being just one such tool.

40. I believe that a state which elevates ideology over the rule of law is destructive to society.

41. I believe the effect of the "party line" on what might appear to be the "rule of law" in China is illustrated in the example of my father. My father, Mr. Ke Song aka Ziling Xin, used to be a professor at the National University of Defense of the People's Liberation Army of China. He published "*The Complete Biography of Mao Zedong*" in 5 volumes (the "**Mao Biography**") in Hong Kong and Taiwan in 1993. My father wrote, in a chapter titled "the Communist Hell":

> "According to expert statistics, in the 2,129 years before the Chinese Communist Party came to power in 1949, there were a total of 203 major climate disasters that killed more than 10,000 people, killing more than 29,910,000 people. The total number of people who starved to death during Mao Zedong's three-year Great Leap Forward period (i.e.1959 to 1962) was 37,558,000, which was 7.64

million more than the entire population that died of natural disasters in China over the past 2,000 years.

This is not a mistake in individual policies, but a mistake in the fundamental theory, a mistake in the fundamental line, and a mistake in the fundamental path. The so-called theory, line, and path of "conversion of private agriculture economy into "agricultural co-operatives" or "agricultural communes" is utopian socialism, which can neither bring prosperity nor equality. They are the main source of great disasters and should be completely rejected."

[my translation from the original Chinese]

42. I believe my father was correct.

43. Not surprisingly, his Mao Biography was banned in mainland China.

44. My father also wrote a petition letter to the Standing Committee of the National People's Congress of China in 2010 calling upon the CCP government to abolish press censorship and effectively respect the freedom of speech of citizens under Article 35 of the Constitution of China. Hundreds of "intellectuals and veteran revolutionary cadres" signed the petition letter. I also signed the petition.

45. My father also publicly wrote articles criticizing the corruption of the CCP.

46. Theoretically, according to Chinese law, my father was entitled to enjoy all the rights of citizenship including freedom of movement. However, to the CCP, and, therefore, to all party loyalists, my father was not "our friend"; he was "our enemy." As a result, he was placed under house arrest for 5 years on the campus of the National University of Defense of the People's Liberation Army of China.

47. During one trip back to China, I went with my father to sweep the tomb of my mother according to Chinese tradition. However, my father was stopped by the military guards at the campus gate and was told, on the authority of the "superior department", that he was not allowed to step off campus to pay tribute to his late wife. Similarly, when I invited my father to my bar call ceremony in Canada in 2014, the CCP denied my father the right to visit Canada.

48. There was no court order or other legal instrument that restricted the freedom of my father in any way. Whatever the law had to say, though, his ideological dissent against the "party line" meant that he did not enjoy full legal rights as other citizens.

49. I believe that when the rule of law is subordinated to ideology, it functionally ceases to exist.

8. Beliefs Regarding the Ideological Filtering of Professions

50. While studying at Peking University from 1981 to 1988 I was required to continue my Political Education. In order to be admitted to university and to graduate, I had to demonstrate my political "competence" by passing political examinations. These exams were a tool used by CCP to ensure universities and the professions were populated, solely, with people loyal to the CCP. I believe this kind of ideological filtering is destructive to society because it:

a. reduces genuine diversity, as understood in liberal democracies;

b. eliminates any "marketplace of ideas" thereby frustrating the search for truth, democracy, self-actualization, and the value of professions;

c. distorts the role of professionals - from "servant of the client" to "servant of ideology;" and

d. promotes to positions of power and influence people loyal to ideology.

9. Beliefs Regarding the Political Ideologies in Canadian law

51. Living and growing-up in China, I became more and more uncomfortable and frustrated with CCP indoctrination including Political Education. In Political Education my duty was to passively receive, accept, memorize, and expressly affirm the truth of prescribed dogmas. I received no training in independent thinking or the ability to seek truth or to distinguish truth from propaganda. I believe Political Education is destructive to society.

52. In 1992 I applied to become a visiting scholar to Korea University for a period of 5 months. In order to qualify, I was required to complete a 6-month "political qualification assessment" process. This cleared me as "politically qualified" to go abroad for study and research.

53. I was deemed "politically qualified" and permitted to travel to South Korea. From there I applied for and received a scholarship to study at the New York University School of Law.

54. It was in New York's Chinatown, that I first saw my father's book for sale in a bookstore.

55. I immigrated to Canada from China together with my wife and son in 2000 and proudly became a Canadian citizen in 2015.

56. I articled with Blakes under Michael Laffin, KC, who was my principal. I fondly remember being admitted to the Alberta bar, at the age of 50, by the Honourable Madam Justice C. S. Anderson on July 28, 2014, and being able to take my oath on the Holy Bible.

57. The oath that I and, so far as I am aware, all other practicing Alberta lawyers swore was:

> "I will, as a Barrister and Solicitor, conduct all causes and matters faithfully and to the best of my ability. I will not seek to destroy anyone's property. I will not promote suits upon frivolous pretences. I will not pervert the law to favour or prejudice anyone, but in all things will conduct myself truly and with integrity. I will uphold and maintain the Sovereign's interest and that of the public according to the law in force in Alberta."

58. I believe this oath compels lawyers to be:

    a. neutral towards the Canadian Constitution and the laws promulgated thereunder; and

    b. loyal to the client's legitimate interests.

59. I immigrated to Canada, in part, because I read the preamble to the *Canadian Charter of Rights and Freedoms* which states, "Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law." To me this meant that the source of Canadian truth and morality was not the state but an authority that transcended the state. It also told me that Canadian law was supreme and not subordinate to any ideology or to the dictatorship of any person or party. I believe this preamble is profoundly wise. It reassured me that Canada was, indeed, a free country and would remain so. I believe the Canadian Constitution is a social good.

60. I first became alarmed about the sanctity of the rule of law in Canada in 2021 when the LSA forced me to undergo "cultural competency" training called The Path (as defined at paragraph 107, below). The training included, for each module, a test section where lawyers were required to "correctly" answer questions from the *curriculum*. If an answer was "wrong", lawyers were required to retry that question until they got enough answers "right".

61. I was shocked that, in order to practice law in Canada I was, just as in China, being compelled to submit to reeducation in matters of law, history, politics, society, economics, morality, spirituality, and culture.

62. Further, the format compelled me, effectively, to expressly affirm belief in the truth of the *curriculum*, failing which I would be deemed "culturally incompetent" and my permission to practice law would be immediately suspended. For a lawyer who does not believe the "right" answer to be true, they are forced into an ethical dilemma: maintain your right to practice or maintain your conscience and professional ethics. I believe this is a profound assault on a lawyer's dignity.

63. I found myself captured in the jaws from which I had escaped.

64. I do not admit that the facts asserted in The Path were accurate, balanced, or appropriate content for professional development.

65. Just as I was taught in China, The Path told me the West was corrupt and that the law was a system to oppress racial minorities. As in China, The Path taught me that the West was corrupted by "colonialism" and "racism … discrimination … [and] unfair treatment and … inequality [was] built into Canadian law, policies, and structures."[2]

66. For the reasons outlined above, I believe the way the LSA's has implemented The Path, and its substantive content, to be destructive to society and false.

67. I believe:

    a. The Path is, essentially, the same as Political Education;

    b. the Chinese concept of "politically qualified" is similar in content and use to the concept of "cultural competence;"

[2] See The Path.

c. The Path contains dogma, being assertions of fact and value in matters of law, history, politics, race, society, economics, morality, spirituality, and culture which may not be questioned and which I believe to be false or misleading, which I do not know to be true, and which I was forced to expressly affirm to be true;

d. the dogmas in The Path include the assertion that Canada's legal system is one of "systemic discrimination" and "colonialism" which, as such terms are understood by the Political Ideologies, I believe to be false;

e. The Path thereby vilifies Canada's legal system and promotes, to some unspecified extent, its destruction;

f. The Path incorporates the Political Ideologies, which conflict with my religious beliefs and personal beliefs;

g. The Path promotes harmful racial stereotypes;

h. The Path promotes racial tribalization including expressly supporting the racial segregation of indigenous Canadians, which I believe to be destructive to society, including indigenous society; and

i. elevates ideology over the rule of law.

68. More broadly, I believe the LSA's Political Materials and Political Ideologies and the way the LSA is implementing them, is destructive to society for the same reasons.

69. I also believe the LSA's Political Materials and Political Ideologies and the way the LSA is implementing them are destructive to society because:

a. the obligation to become "self-[aware] of … one's own conscious and unconscious biases" is essentially the same as the CCP commandment to search one's conscience for corrupt thoughts;

b. they are hostile to the liberal democratic principles in the Canadian Constitution including objectivity, reason, and science;

c. they are a use of state power to ensure, *inter alia*, professions are populated with ideological loyalists (or, in modern social justice parlance, "allies") and to promote the vilification and marginalization of dissidents;

d. they are a use of state power to impose morality and truth;

e. they promote racial segregation; and

f. such further reasons set-out below.

B. RELIGIOUS BELIEFS

70. I am a practicing Christian. I believe in God, the Father almighty, creator of heaven and earth. I believe in Jesus Christ, his only Son, our Lord, who was conceived by the Holy Spirit and born of the virgin Mary. He suffered under Pontius Pilate, was crucified, died, was buried, and descended to hell. On the third day he rose again from the dead. He ascended to heaven and is seated at the right hand of God the Father almighty. From there he will come to judge the living and the dead. I believe in the Holy Spirit, the holy catholic church (i.e. the universal Christian church), the communion of saints, the forgiveness of sins, the resurrection of the body, and the life everlasting.

71. As a Christian, my sincerely held religious beliefs include:

a. I should love God with my whole heart, mind and soul, love my neighbor as I love myself, and follow the morality and spirit of the Ten Commandments and must not bear false witness. I must be honest, tell what I know to be the truth, and not say what I believe to be false;[3]

b. God is, and is the only source of, truth and morality and it is sin to worship false idols. To worship anything other than God includes accepting any other source of morality or accepting any truth that conflicts with my religious beliefs or which I believe to be false;[4]

c. The rule of law, including equality before the law, is God's justice and equity;[5]

---

[3] Mark 12:28-29: 28 One of the teachers of the law came and heard them debating. Noticing that Jesus had given them a good answer, he asked him, "Of all the commandments, which is the most important?" 29 "The most important one," answered Jesus, "is this: 'Hear, O Israel: The Lord our God, the Lord is one.[e] 30 Love the Lord your God with all your heart and with all your soul and with all your mind and with all your strength.'[f] 31 The second is this: 'Love your neighbor as yourself.'[g] There is no commandment greater than these.
Exodus 20

[4] John 14:6-7: Jesus answered, "I am the way and the truth and the life. No one comes to the Father except through me. 7 If you really know me, you will know[b] my Father as well. From now on, you do know him and have seen him."
Exodus 20: 1-4: And God spoke all these words: 2 "I am the Lord your God, who brought you out of Egypt, out of the land of slavery. 3 "You shall have no other gods before[a] me. 4 "You shall not make for yourself an image in the form of anything in heaven above or on the earth beneath or in the waters below. 5 You shall not bow down to them or worship them; for I, the Lord your God, am a jealous God, punishing the children for the sin of the parents to the third and fourth generation of those who hate me, 6 but showing love to a thousand generations of those who love me and keep my commandments. 7 "You shall not misuse the name of the Lord your God, for the Lord will not hold anyone guiltless who misuses his name. 8 "Remember the Sabbath day by keeping it holy. 9 Six days you shall labor and do all your work, 10 but the seventh day is a sabbath to the Lord your God. On it you shall not do any work, neither you, nor your son or daughter, nor your male or female servant, nor your animals, nor any foreigner residing in your towns. 11 For in six days the Lord made the heavens and the earth, the sea, and all that is in them, but he rested on the seventh day. Therefore the Lord blessed the Sabbath day and made it holy. 12 "Honor your father and your mother, so that you may live long in the land the Lord your God is giving you. 13 "You shall not murder. 14 "You shall not commit adultery. 15 "You shall not steal. 16 "You shall not give false testimony against your neighbor. 17 "You shall not covet your neighbor's house. You shall not covet your neighbor's wife, or his male or female servant, his ox or donkey, or anything that belongs to your neighbor."

[5] Leviticus 19:15: Do not pervert justice; do not show partiality to the poor or favoritism to the great but judge your neighbor fairly.

d. God created all humans in his own image and likeness and all humans are, therefore, fundamentally the same and have inherent and equal dignity; God created only man and woman; and sex is a biological and objective fact and is not dependent on subjective experience;[6]

e. God created an ordered and comprehensible universe and granted to humans, without discrimination by race, sex, gender, culture or other identity characteristic, the capacities (including humility, curiosity, wisdom, the senses, and reason) to search for and discover universal truth. Science is a manifestation of this ordered universe;[7]

f. God created universal morality applicable to all humans, at all times, and in all places, equally;[8]

g. God gave humans free will. We are all born with same inherent capacity for sin, God will hold each person accountable for his or her own sin – not for the sins of one's ancestors or for the sins of the members of one's race, sex, gender, culture or other group or groups defined by similar identity characteristics (referred to herein as one's "**Collectivist Identity**" as opposed to one's individual identity). I am called to follow the moral lessons of God, so I do not believe it is right to hold people accountable for the wrongs of their ancestors or members of their race, sex, gender, culture or other group or groups defined by similar identity characteristics;[9]

---

[6] Genisis 1:27: So God created mankind in his own image, in the image of God he created them; male and female he created them

[7] Genesis 1:1: In the beginning God created the heavens and the earth.
Ephesians 1:16-19: 16 I have not stopped giving thanks for you, remembering you in my prayers. 17 I keep asking that the God of our Lord Jesus Christ, the glorious Father, may give you the Spirit of wisdom and revelation, so that you may know him better. 18 I pray that the eyes of your heart may be enlightened in order that you may know the hope to which he has called you, the riches of his glorious inheritance in his holy people, 19 and his incomparably great power for us who believe.
Genesis 2:15: The Lord God took the man and put him in the Garden of Eden to work it and take care of it.
Genesis 1: 26: Then God said, "Let us make mankind in our image, in our likeness, so that they may rule over the fish in the sea and the birds in the sky, over the livestock and all the wild animals, and over all the creatures that move along the ground."

[8] John 3:16-21: 16 For God so loved the world that he gave his one and only Son, that whoever believes in him shall not perish but have eternal life. 17 For God did not send his Son into the world to condemn the world, but to save the world through him. 18 Whoever believes in him is not condemned, but whoever does not believe stands condemned already because they have not believed in the name of God's one and only Son. 19 This is the verdict: Light has come into the world, but people loved darkness instead of light because their deeds were evil. 20 Everyone who does evil hates the light, and will not come into the light for fear that their deeds will be exposed. 21 But whoever lives by the truth comes into the light, so that it may be seen plainly that what they have done has been done in the sight of God.

[9] Roman 3:23: for all have sinned and fall short of the glory of God.
Roman 2:6-9: God "will repay each person according to what they have done." To those who by persistence in doing good seek glory, honor and immortality, he will give eternal life. But for those who are self-seeking and who reject the truth and follow evil, there will be wrath and anger. 9 There will be trouble and distress for every human being who does evil: first for the Jew, then for the Gentile; Ezekiel 18: 14-18: 14 "But suppose this son has a son who sees all the sins his father commits, and though he sees them, he does not do such things: 15 "He does not eat at the mountain shrines or look to the idols of Israel.

h. God is ultimately the true Lord and master of the land. All humans are just strangers and foreigners of the land in His eyes. We are all visitors on God's earth and, as trustees, are to care for earth;[10]

i. It is the lie of Satan that one is forever bound by sin and that all is hopeless;[11]

j. God's commandment is to forgive everyone always;[12]

k. God's commandment is not to repay anyone evil for evil, but to overcome evil with good;[13]

l. All Christians should spread the gospel, including associated facts and values, to all people of all races, nations and cultures;[14] and

m. My most important identity is defined by my relationship with and my faith in God and God's only Son, Jesus Christ, not by my Collectivist Identity.[15]

72. The LSA's Political Ideologies, and the way the LSA is implementing them, significantly interfere with my personal and religious beliefs for reasons including:

a. They attack my faith;

He does not defile his neighbor's wife. 16 He does not oppress anyone or require a pledge for a loan. He does not commit robbery but gives his food to the hungry and provides clothing for the naked. He withholds his hand from mistreating the poor and takes no interest or profit from them. He keeps my laws and follows my decrees.
He will not die for his father's sin; he will surely live. 18 But his father will die for his own sin, because he practiced extortion, robbed his brother and did what was wrong among his people.

[10] Chronicles 29: 11 Yours, Lord, is the greatness and the power and the glory and the majesty and the splendor, for everything in heaven and earth is yours.
Chronicles 29: 15 We are foreigners and strangers in your sight, as were all our ancestors. Our days on earth are like a shadow, without hope.

[11] John 3:16.

[12] Matthew 6:14-15: 14 For if you forgive other people when they sin against you, your heavenly Father will also forgive you. 15 But if you do not forgive others their sins, your Father will not forgive your sins.

[13] Romans 12:17-21: 17 Do not repay anyone evil for evil. Be careful to do what is right in the eyes of everyone. 18 If it is possible, as far as it depends on you, live at peace with everyone. 19 Do not take revenge, my dear friends, but leave room for God's wrath, for it is written: "It is mine to avenge; I will repay,"[d] says the Lord. 20 On the contrary: "If your enemy is hungry, feed him; if he is thirsty, give him something to drink. In doing this, you will heap burning coals on his head."[e] 21 Do not be overcome by evil, but overcome evil with good.

[14] Matthew 28:16-20 "Then the eleven disciples went to Galilee, to the mountain where Jesus had told them to go. 17 When they saw him, they worshiped him; but some doubted. 18 Then Jesus came to them and said, "All authority in heaven and on earth has been given to me. 19 Therefore go and make disciples of all nations, baptizing them in the name of the Father and of the Son and of the Holy Spirit, 20 and teaching them to obey everything I have commanded you. And surely I am with you always, to the very end of the age."

[15] John 3:16-21 16 For God so loved the world that he gave his one and only Son, that whoever believes in him shall not perish but have eternal life. 17 For God did not send his Son into the world to condemn the world, but to save the world through him. 18 Whoever believes in him is not condemned, but whoever does not believe stands condemned already because they have not believed in the name of God's one and only Son. 19 This is the verdict: Light has come into the world, but people loved darkness instead of light because their deeds were evil. 20 Everyone who does evil hates the light, and will not come into the light for fear that their deeds will be exposed. 21 But whoever lives by the truth comes into the light, so that it may be seen plainly that what they have done has been done in the sight of God.

b. They attack and mischaracterize my religious devotion by claiming that, because I reject the Political Ideologies, I do not love my neighbour as I love myself;

c. They interfere with my ability to tell the truth and spread the gospel, and they compel me to say things I believe to be false;

d. They claim to be a source of morality and a source of truths which conflict with my religious beliefs;

e. They claim that truth is relative not objective;

f. They require that I place faith in people rather than God;

g. They are hostile to the rule of law and equality before the law;

h. They claim the identity of a person is defined primarily with reference to their Collectivist Identity rather than, primarily, with reference to their individual character;

i. They claim that a sexual binary is false and oppressive, and that sex cannot be determined objectively but only subjectively;

j. They claim that Collectivist Identities each have different "ways of knowing" (a racial stereotype);

k. They claim that indigenous people have a unique interest and ability in the preservation of the environment (a racial stereotype);

l. They attribute collective and ancestral guilt;

m. They are unforgiving;

n. They reject the concept of personal responsibility; and

o. They advocate for discrimination to remedy historic discrimination.

C. CONCLUSION REGARDING PERSONAL AND RELIGIOUS BELIEFS

73. As explained above, the LSA's Political Ideologies and Political Materials and the way the LSA is implementing them conflict significantly with my personal and religious beliefs.

74. My objections to the Political Ideologies are explained by them, at base, as a failure to love people who aren't like me. While I know this is false, it is a fundamental and profoundly insulting attack on me as a human and Christian. My most sacred belief and value is that I should love God with my whole heart, mind and soul, love my neighbor as I love myself, and follow the morality of the Ten Commandments.

75. Because the LSA's Political Ideologies and Political Materials and the way the LSA is implementing them categorize my beliefs and desired expression as conduct deserving of sanction I fear hindrance and reprisals for my beliefs and expression of same.

II. LSA's POLITICAL IDEOLOGY AND POLITICAL MATERIALS

76. I have attached to my affidavit only a sample of the LSA's records to evidence the nature and extent of LSA's political activities. The LSA's website has far more information and records than what I attach hereto. I obtained all LSA records herein from the LSA's website, unless otherwise indicated.

77. Attached hereto and marked as **Exhibit "A"** to this my affidavit is a true copy of the LSA's 2010 annual report.

A. STRATEGIC PLAN AND REGULATORY OBJECTIVES

78. On December 5, 2019, the Benchers of the LSA passed a resolution to approve its 2020-2023 Strategic Plan and Regulatory Objectives.

79. Attached hereto and marked as **Exhibit "B"** to this my affidavit is a true copy of the minutes of the December 5, 2019, Benchers meeting.

80. Attached hereto and marked as **Exhibit "C"** to this my affidavit is a true copy of the LSA's Strategic Plan 2020 – 2023 (the "**Plan**").

81. The Plan references the "Truth and Reconciliation Commission's Calls to Action." Attached hereto and marked as **Exhibit "D"** to this my affidavit is a true copy of an excerpt of from the Truth and Reconciliation Commission's (the "**TRC**") Final Report, being the relevant 94 "calls to action" which, I am advised by Ashley Sexton, legal assistant to my counsel, Glenn Blackett, she obtained from the website of the Truth and Reconciliation Commission.

82. Attached hereto and marked as **Exhibit "E"** to this my affidavit is a true copy of the Regulatory Objectives of the LSA, "Executive Summary" dated December 9, 2019 (the "**Regulatory Objectives**").

83. Attached hereto and marked as **Exhibit "F"** to this my affidavit is a true copy of the LSA's 2019 annual report.

B. CODE OF CONDUCT

84. Attached hereto and marked as **Exhibit "G"** to this my affidavit is a true copy of the LSA's Code of Conduct, revised October 5, 2023 (the "**Code**") and the LSA's webpage commenting on these amendments.

C. MY EXPERIENCE

85. In the fall of 2020, the LSA launched the "'My Experience' Project." Attached hereto and marked as **Exhibit "H"** to this my affidavit is a true copy of the LSA's "'My Experience' Project" webpage.

86. Attached hereto and marked as **Exhibit "I"** to this my affidavit is a true copy of a sample of the experiences of racial discrimination and stereotyping shared by an anonymous lawyer, which I downloaded from the LSA website.

87. Attached hereto and marked as **Exhibit "J"** to this my affidavit is a true copy of the LSA's "'My Experience' Project Submissions Shared" webpage. Attached hereto and marked as Exhibit "K" to this my affidavit is a true copy of the "qualitative analysis" referenced on that page.

88. Attached hereto and marked as **Exhibit "L"** to this my affidavit is a true copy of a notice posted on the LSA's website from the Chief Justices of the Court of Justice of Alberta, Court of King's Bench of Alberta, and Court of Appeal of Alberta referencing

the "My Experience" project which, I am advised by Ms. Sexton, she obtained from the LSA website.

89. I do not believe that the "My Experience" Project was rigorous research or that it proved, or was material evidence of, the existence or impact of systemic discrimination in the legal system. I believe the LSA's "My Experience" Project was an exercise in deductive reasoning: the LSA started with a conclusion (there is systemic discrimination in the legal profession); sought only evidence to support the conclusion; and then purported to prove the conclusion with that evidence.

90. I believe in the existence of discrimination and its harmful effects.

91. I think that the racial segregation of indigenous people from other Canadians harms them and could be described as "systemic discrimination" according to the LSA's definition in the Acknowledgment of Systemic Discrimination at paragraph 96 . I am not an expert, but I understand that treaty rights, the Canadian Constitution, the *Indian Act*, and other instruments formalize this segregation. In addition, I am aware of the *R.* v. *Gladue* [1999] 1 SCR 688 decision and of various indigenous justice strategies in Alberta which, I believe, further promote the segregation of indigenous people. According to The Path, this system of formalized and increasing segregation is promoted by the LSA and is promoted by and on behalf of indigenous people. In fact, it quotes Harold Cardinal comparing the White Paper which proposed to revoke the *Indian Act* and other aspects of this system of racial segregation to "cultural genocide." I note that the Acknowledgment of Systemic Discrimination (see below) does not reference *The Indian Act* as evidence of systemic discrimination. It is my understanding that this system of racial segregation is not considered "systemic discrimination" by the LSA. This contradiction confuses me.

92. I do not believe in the existence of invisible or unconscious discrimination and do not believe that unfavourable socioeconomic disparities between Canadians of different Collectivist Identities are materially caused by discrimination, whether conscious, unconscious, individual or (subject to paragraph 91) systemic.

93. Subject to paragraph 91, I am not aware of and, therefore, do not believe there is systemic discrimination in the Canadian legal system or in Canada. In fact, my own experiences are evidence to me that no such systemic discrimination exists.

94. I immigrated to Canada in 2000 at 36 years old, with little money, without any qualification to practice law in Canada, with few contacts in Canada, without any experience of Canadian society, and as a "racialized" person (as the Political Ideologies would label me). And yet, by 2014 I had obtained a J.D. in law, had completed articles at one of Canada's most prestigious law firms, and had been called to the Alberta Bar. It was difficult and at times lonely, but through work ethic and the grace of God I succeeded. I now have an annual income that exceeds the Canadian average and am a member of a profession. According to the Political Ideologies, my belief in an individual's power, through work and God's grace, to obtain personal objectives, is "whiteness", etc. I believe such apathy is destructive to society and sin.

95. Attached hereto and marked as **Exhibit "M"** to this my affidavit is a true copy of the LSA's 2021 annual report.

D. ACKNOWLEDGMENT OF SYSTEMIC DISCRIMINATION

96. In about April 2022 the LSA posted an "Acknowledgment of Systemic Discrimination" to its website, a true copy of which is attached hereto and marked as **Exhibit "N"** to this my affidavit which, I am advised by Ms. Sexton, she obtained from the LSA website.

97. Attached hereto and marked as **Exhibit "O"** to this my affidavit is a true copy of a similar newsletter posted to the LSA website on April 25, 2022.

98. Attached hereto and marked as **Exhibit "P"** to this my affidavit is a true copy of the minutes of the April 21, 2022, Benchers meeting.

99. I am advised by Mr. Leighton B.U. Grey, K.C. that he send a "testimonial" to the LSA regarding the Acknowledgment of Systemic Discrimination and the LSA never responded or posted his testimonial. Attached hereto and marked as **Exhibit "Q"** to this my affidavit is a true copy of Mr. Grey's testimonial.

100. I believe that what Mr. Grey says in his testimonial is true.

E. CONTINUING PROFESSIONAL DEVELOPMENT HISTORY

101. I am advised by Katherine Kowalchuk, member of the LSA since 2003 that, prior to 2008, the LSA imposed no continuing professional development ("**CPD**") requirements on members apart from the general obligation on members to practice competently as reflected, for example, in the Code.

102. Attached hereto and marked as **Exhibit "R"** to this my affidavit is a true copy of the LSA's "Rules Amendment History".

103. According to the Rules Amendment History, on November 29, 2008, the LSA amended the Rules to require members complete CPD plans annually by October 1 of each year.

104. According to the Rules Amendment History, on September 29, 2016, the LSA amended the Rules to add Rule 67.3 which introduced automatic suspension for non-compliance with CPD requirements.

105. Attached hereto and marked as **Exhibit "S"** to this my affidavit is a true copy of the minutes of the Benchers meeting of May 14, 2020. According to the minutes, on May 14, 2020, the LSA decided to suspend all CPD requirements.

106. Attached hereto and marked as **Exhibit "T"** to this my affidavit is a true copy of the minutes of the Benchers meeting of October 1, 2021. According to the minutes, on October 1, 2021, the LSA extended the suspension of the CPD requirements until May 1, 2023.

F. THE PATH

107. On October 1, 2020, the Benchers carried a motion by a 2/3 majority to mandate "Indigenous Cultural Competency Education" called "The Path, Your Journey Through Indigenous Canada (Law Society of Alberta)" ("**The Path**") for all active LSA members. Attached hereto and marked as **Exhibit "U"** to this my affidavit is a true copy of the public minutes of the LSA Benchers' meeting of October 1, 2020.

108. On October 6, 2020, the LSA President announced that The Path was mandatory for all active members. The President stated:

"… there are some competencies where it is appropriate that the Law Society mandate training. Indigenous Cultural Competency is one of those unique areas where mandatory training is important."

109. Attached hereto and marked as **Exhibit "DDDD"** to this my affidavit is a true copy of the above October 6, 2020, notice.

110. However, at this time, even if the LSA had authority under statute to impose such training, which I deny, they had no authority even under their own Rules. According to the Rules Amendment History, on December 3, 2020, almost two months after the President's public announcement, the LSA amended the Rules to purportedly authorize that mandate (by adding Rule 67.4).

111. I believe this demonstrates the subordination of rule of law to ideological interests.

112. On April 19, 2021, the LSA announced that members were required within 18 months (by October 20, 2022) to complete The Path. According to the LSA's website, this was partial satisfaction of TRC Call to Action #27. Attached hereto and marked as Exhibit "V" to this my affidavit is a true copy of the LSA's April 19, 2021, announcement discussing The Path mandatory education.

113. Attached hereto and marked as **Exhibit "W"** to this my affidavit is a true copy of a page from the LSA website describing The Path.

114. Attached hereto and marked as **Exhibit "X"** to this my affidavit is a true copy of The Path which I obtained from the website of NVision Insight Group Inc. which I understand was the developer of The Path. A version of The Path was provided to Dr. Joanna Williams for her expert opinion which was substantively identical to this exhibit.

115. I completed The Path "cultural competency" training as required.

116. According to an LSA notice, pursuant to Rule 67.4, 30 Alberta lawyers were automatically suspended for failure to complete The Path by the prescribed deadline. Attached hereto and marked as **Exhibit "Y"** to this my affidavit is a true copy of that LSA notice.

117. I objected to the LSA's Rule 67.4 because I thought it was *ultra* vires on its face but, also, because The Path demonstrated that Rule 67.4 was not a tool to enforce professional competence but to enforce "cultural competence" which, as explained above, I believe to be simply ideological indoctrination. Attached hereto and marked as **Exhibit "Z"** to this my affidavit is a true copy of my "course survey" answer provided during The Path. I believe what I said in the survey except:

    a. Subject to paragraph 91, I no longer believe it would assist lawyers to understand the present and material issues facing indigenous people; and

    b. I believe it tends to cause lawyers to misunderstand the issues facing indigenous people by not focusing on pragmatic solutions.

118. Other lawyers in Alberta objected to Rule 67.4 for the same or other reasons.

119. I spearheaded an effort to revoke Rule 67.4 by a special meeting of the LSA's members.

120. Attached hereto and marked as **Exhibit "AA"** to this my affidavit is a true copy of letter I sent to the LSA on January 13, 2023, enclosing my statutory declaration and

a petition signed by 51 members which forced a special meeting of the members to consider a resolution.

121. On January 25, 2023, I emailed Ms. Osler to suggest procedures to ensure the vote on the motion was fair and informed. Attached hereto and marked as **Exhibit "BB"** to this my affidavit is a true copy of that email.

122. On January 26, 2023, Ms. Osler responded, refusing all of my requests including that the meeting last longer than 20 minutes. Attached hereto and marked as **Exhibit "CC"** to this my affidavit is a true copy of that email. When the meeting began the chair advised that the meeting would not be limited to 20 minutes, as this email suggested.

123. Attached hereto and marked as **Exhibit "DD"** to this my affidavit is a true copy of a notice I received from the LSA on January 26, 2023.

124. I attended the LSA's annual general meeting on December 1, 2022. At that meeting Ken Warren K.C., President, advised members that the LSA had obtained an opinion that Rule 67.4 was *intra vires* (the "**Opinion**").

125. Attached hereto and marked as **Exhibit "EE"** to this my affidavit is a true copy of a letter dated January 30, 2023, from Mr Blackett (not my counsel at the time) which, I am advised by Ms. Sexton, was sent to, *inter alia,* the LSA.

126. I am advised by Ms. Sexton that, attached to that letter is a December 6, 2022, letter which Mr. Blackett received from Ms. Osler. In that letter Ms. Osler refuses to produce the Opinion. To date, the LSA has, so far as I am aware, refused to release the Opinion publicly.

127. I wrote to Ms. Osler and the Benchers on January 31, 2023, setting out in detail my reasons for supporting the motion. I believe what I said in that letter, except I no longer agree the LSA should be involved in matters of social or political education of any sort and do not agree that "cultural competence" as understood by the LSA is valuable. Attached hereto and marked as **Exhibit "FF"** to this my affidavit is a true copy of that letter. In Mr. Blackett's letter of January 30, 2023, he requested that this January 31, 2023,[16] letter be provided by the LSA to all members in advance of the meeting.

128. Contrary to Mr. Blackett's request, my January 31, 2023, letter was not circulated, However, the Benchers did circulate their own submissions on the resolution to (so far as I am aware) the entire Alberta bar. Attached hereto and marked as **Exhibit "GG"** to this my affidavit is a true copy of a notice I received from the LSA on January 31, 2023, regarding a letter from the Benchers to the profession regarding their position on the motion (the "**Position Letter**").

129. Attached hereto and marked as **Exhibit "HH"** to this my affidavit is a true copy of the Position Letter.

130. On February 1, 2023, I wrote to Ms. Osler requesting that, having circulated its own Position Letter by use of its regulatory power (i.e., its member database and administrative resources), it likewise circulate my January 31, 2023, letter. Ms. Osler responded on February 1, 2023, saying the LSA had circulated my January 13, 2023, letter (which provided little explanation of my position), and that I was "free to

[16] Mr. Blackett's letter refers to my January 30, 2023, letter, but my letter was not finalized and sent until the next day.

distribute [my] letters and that of the other petitioners through your personal and professional channels." Attached hereto and marked as **Exhibit "II"** to this my affidavit is a true copy of that email exchange.

131. The publicly available member information on the LSA's website does not contain any contact information for most of the lawyers in Alberta. To recreate the LSA's member database would be an enormous task, if even possible, especially for a sole practitioner such as myself.

132. I believe the foregoing demonstrates one type of damage to society the LSA's Political Ideologies perpetuate: the subordination of procedural fairness and democratic discourse to ideological interests.

133. Attached hereto and marked as **Exhibit "JJ"** to this my affidavit is a true copy of an email I received from Mr. Grey to me and other lawyers on the subject of The Path and reconciliation generally. I believe Mr. Grey expresses valid reasons to object to The Path and I agree with much of what he says.

134. Attached hereto and marked as **Exhibit "KK"** to this my affidavit is a true copy of an email I was copied on from Mr. Charles H. McKee, a retired lawyer of British Columbia, to Mr. Ken Warren, KC, President of LSA, as he then was, dated February 5, 2023. I believe Mr. McKee expresses valid reasons to object to The Path.

135. So far as I am aware, the LSA did not circulate to members any position statement supporting the resolution, including mine, Mr. Blackett's, Mr. Grey's, or Mr. McKee's.

136. For the reasons expressed by Mr. Grey, Mr. McKee, by me in the foregoing testimony, and for other reasons, I dispute the accuracy, balance, and propriety of The Path.

137. The group of lawyers who supported the motion to repeal Rule 67.4, including myself, were pilloried, privately and publicly, as, *inter alia*, ignorant and racist. For example, the Canadian Broadcasting Corporation carried a column, in which the author (an Alberta lawyer, according to his CBC bio) claimed that denial of the existence of systemic discrimination is "embarrassingly irresponsible and inexcusably ignorant," and even a breach of the rule of law. Attached hereto and marked as **Exhibit "LL"** to this my affidavit is a true copy of that column which, I am advised by Ms. Sexton, she obtained from the CBC website.

138. Similar assaults on the character and intelligence of supporters, including me, are below:

a. attached hereto and marked as **Exhibit "MM"** to this my affidavit is a true copy of an article run by Raven, "a registered charity with a mission to raise funds for Indigenous People's access to justice," which, I am advised by Ms. Sexton, she obtained from the Raven website;

b. attached hereto and marked as **Exhibit "NN"** to this my affidavit is a true copy of a column in Ricochet, "public interest journalism" which, I am advised by Ms. Sexton, she obtained from the Ricochet website;

c. attached hereto and marked as **Exhibit "OO"** to this my affidavit is a true copy of an article which ran in the St. Albert Gazette which, I am advised by Ms. Sexton, she obtained from the Gazette website;

d. attached hereto and marked as **Exhibit "PP"** to this my affidavit is a true copy of an article which ran in Canadian Lawyer Magazine which, I am advised by Ms. Sexton, she obtained from the Canadian Lawyer Magazine website;

e. attached hereto and marked as **Exhibit "QQ"** to this my affidavit is a true copy of an article which ran in the Toronto Star which, I am advised by Ms. Sexton, she obtained from the Toronto Star website;

f. attached hereto as marked as **Exhibit "RR"** to this my affidavit is a true copy of an email I received on February 7, 2023, from Anita Simaganis, who I don't know;

g. attached hereto as marked as **Exhibit "SS"** to this my affidavit is a true copy of an email I received on February 7, 2023, from Eunice Roulette, who I don't know;

h. attached hereto as marked as **Exhibit "TT"** to this my affidavit is a true copy of an email I received on February 5, 2023, from "Tim", who I don't know;

i. attached hereto as marked as **Exhibit "UU"** to this my affidavit is a true copy of an email I received on February 3, 2023, from Robert McCrank, a member of the LSA; and

j. during the special meeting, one member described the comments in support of the motion as "violence."

139. I believe this demonstrates another type of damage to society the LSA's Political Ideologies cause. They promote the division of lawyers across ideological lines and encourage the self-righteous to impugn the morality and intelligence of ideological opponents. In China this kind of social opprobrium to enforce ideological compliance is called "struggle session" and "social death."

140. Attached hereto and marked as **Exhibit "VV"** to this my affidavit is a true copy of an LSA announcement on the result of the Special Meeting on R 67.4.

141. Attached hereto and marked as **Exhibit "WW"** to this my affidavit is a true copy of a copy of the minutes of the LSA Special Meeting of February 6, 2023.

G. NEW PROFESSIONAL DEVELOPMENT PROFILE and CPD TOOL

142. From late 2020 to May of 2023 the LSA imposed no CPD requirement on members except The Path.

143. Attached hereto and marked as **Exhibit "XX"** to this my affidavit is a true copy of the minutes of the Benchers meeting of April 27, 2023. According to the minutes, LSA amended Rules 67.2 and 67.3 effective April 27, 2023.

144. Attached hereto and marked as **Exhibit "YY"** to this my affidavit is a true copy of an excerpt of the Rules following this amendment.

145. I created and attach hereto as **Exhibit "ZZ"** to this my affidavit a true copy of a blackline comparison showing the changes made to the Rules on April 27, 2023.

146. Attached hereto and marked as **Exhibit "AAA"** to this my affidavit is a true copy of a notice to the bar from the LSA dated May 2, 2023, regarding the April 27, 2023, amendment to the Rules.

147. Attached hereto and marked as **Exhibit "BBB"** to this my affidavit is a true copy of the LSA's website explaining the new CPD requirements, including the "CPD Tool" which, I am advised by Ms. Sexton, she obtained from the LSA website. Referenced on that page are the following:

a. CPD Tool User Guide, a true copy of which is attached hereto and marked as **Exhibit "CCC"** to this my affidavit;

b. CPD Frequently Asked Questions, a true copy of which is attached hereto and marked as **Exhibit "DDD"** to this my affidavit;

c. CPD Resources, a true copy of which is attached hereto and marked as **Exhibit "EEE"** to this my affidavit;

d. CPD Plan Review Process, a true copy of which is attached hereto and marked as **Exhibit "FFF"** to this my affidavit; and

e. CPD Program Guidelines, a true copy of which is attached hereto and marked as **Exhibit "GGG"** to this my affidavit,

each of which, I am advised by Ms. Sexton, she obtained from the LSA website.

148. Attached hereto and marked as **Exhibit "HHH"** to this my affidavit is a true copy of the LSA's June 2022 "Professional Development Profile for Alberta Lawyers" (the "**Profile**"). I believe that many components of the Profile, as understood by the Political Ideologies, are:

a. untrue;

b. destructive to society;

c. contrary to the Canadian Constitution;

d. *ultra vires* the LSA; or

e. one or more of the foregoing,

including, especially:

f. 1.2 "Adapt communications appropriately to … enumerated groups…;"

g. 2.2 "Engage in intentional self-reflection …";

h. 3 "Cultural Competence, Equity, Diversity and Inclusion";

i. 7.3 "Advance access to legal services and access to justice" (according to the Regulatory Objectives this requires cultural competency and some measure of racial segregation);

j. 8 "Truth and Reconciliation"; and

k. 9.3 "Recognize impact of one's own behaviours on others' well-being."

149. Under express protest, on September 29, 2023, I complied with the above CPD requirement and assessed my "competence" against the Profile using the CPD Tool. Attached hereto and marked as **Exhibit "III"** to this my affidavit is a true copy of the protest I delivered to the LSA prior to completing such CPD planning.

150. The CPD Tool was so simplistic that completing a plan by use of the CPD Tool alone seemed to be of no value whatsoever. The CPD Tool only has value to the extent a lawyer independently creates a plan on his or her own and inserts the details of that plan into the CPD Tool. I do not, therefore, know what "value" the CPD Tool adds, *per*

se, except that it requires the creation of a CPD Plan with reference only to the competencies in the Profile and it requires that lawyers submit their plans to the LSA.

151. Without a lawyer independently creating a plan on his or her own and inserting the details of the plan into the CPD Tool, a CPD plan could be easily prepared by lawyers using the CPD Tool with the perfunctory push of a few buttons.

152. The CPD Tool works as follows.

153. It required that I choose two competency from the nine "domains" in the Profile.

154. I was then required to assess each of two competencies on a scale of:

a. pre-discovery;

b. discover;

c. attempt;

d. do;

e. excel; and

f. lead.

155. It then asked me what activities I planned to help develop each of two competencies from a list:

g. attend a conference – in person;

h. attend a conference– online;

i. attend organization or association meetings or events;

j. be a mentor or mentee;

k. create and publish/share a resource;

l. implement a new process to improve your practice;

m. implement a new routine or habit (practice or personal);

n. join an online forum;

o. learn on the job;

p. listen to a podcast;

q. plan and host a learning event for your firm or organization;

r. read a book;

s. review a written resource;

t. take a course or seminar – in person;

u. take a course or seminar – online;

v. teach a conference, course or seminar;

w. volunteer;

x. watch a video;

y. other.

156. The tool did not recommend to me any specific activities like, for example, particular upcoming conferences in my chosen domain, or books or other recommended written resources that dealt with the domain I had chosen.

157. I was then asked, for the two competencies, to complete a blank space with, "... further details about your chosen activities, reasons for picking them, and/or how you hope these activities will help you enhance or develop this competency." This was the only space in the CPD Tool in which a lawyer could actually record any substantive plan which plan the CPD Tool provided no meaningful assistance in preparing.

158. The CPD Tool required that I "submit" my plan to the LSA before the plan was complete.

159. Given the foregoing, I am aware of no purpose the CPD Tool serves except to:

a. focus CPD plans on the "competencies" outlines in the Profile; and

b. force the communication of the CPD plans to the LSA.

160. Attached hereto and marked as **Exhibit "JJJ"** to this my affidavit is a true copy of a notification circulated by the LSA on October 23, 2023, advising that 68 Alberta Lawyers had been suspended effective October 2, 2023, for failure to comply with Rule 67.2 and 67.3.

H. OTHER LSA RESOURCES AND INITIATIVES

161. Attached hereto and marked as **Exhibit "KKK"** to this my affidavit is a true copy of the LSA's webpage called "Key Resources > Cultural Competence & Equity, Diversity and Inclusion," which, I am advised by Ms. Sexton, she obtained from the LSA website.

162. That page links to a number of resources including:

j. The Calgary Anti-Racism Education website which includes a:

i. glossary, a true copy of which attached hereto and marked as **Exhibit "LLL"** to this my affidavit which, I am advised by Ms. Sexton, she obtained from the Calgary Anti-Racism Education website;

ii. an article titled "Strategies of Liberal Racism" a true copy of which is attached hereto and marked as **Exhibit "MMM"** to this my affidavit which, I am advised by Ms. Sexton, she obtained from the Calgary Anti-Racism Education website;

iii. an article titled "Whiteness" a true copy of which attached hereto and marked as **Exhibit "NNN"** to this my affidavit which, I am advised by Ms. Sexton, she obtained from the Calgary Anti-Racism Education website;

k. the Canadian Bar Association website including:

i. a page titled "How Lawyers Can be Good Allies – The Principles of Allyship" a true copy of which attached hereto and marked as **Exhibit "OOO"** to this my affidavit;

ii. a link in the preceding resource directs to an "Ally Bill of Responsibilities" a true copy of which attached hereto and marked as **Exhibit "PPP"** to this my affidavit;

iii. a page titled "Increasing your IQ (Your Indigenous Quotient)" a true copy of which attached hereto and marked as **Exhibit "QQQ"** to this my affidavit,

each of which, I am advised by Ms. Sexton, she obtained from the Canadian Bar Association website;

l. an article titled "Cultural Competency: A Necessary Skill for the 21st Century Attorney" a true copy of which attached hereto and marked as **Exhibit "RRR"** to this my affidavit which, I am advised by Ms. Sexton, she obtained from the link on the LSA's website;

m. an article titled "From Discrimination to Systemic Racism: Understanding Social Construction" a true copy of which attached hereto and marked as **Exhibit "SSS"** to this my affidavit which, I am advised by Ms. Sexton, she obtained from the link on the LSA's website.

163. Ms. Osler made public statements with respect to these resources and in regard to the features of the CPD Tool, according to an Epoch Times article dated July 19, 2023, a true copy of which is attached hereto and marked as **Exhibit "TTT"** to this my affidavit which, I am advised by Ms. Sexton, she obtained from the Epoch Times website.

164. Attached hereto and marked as **Exhibit "UUU"** to this my affidavit is a true copy of the LSA's website description of the mandate of its Equity, Diversity, and Inclusion Committee which, I am advised by Ms. Sexton, she obtained from the LSA website.

165. Attached hereto and marked as **Exhibit "VVV"** to this my affidavit is a true copy of the LSA's webpage titled, "Indigenous Land Acknowledgements" which, I am advised by Ms. Sexton, she obtained from the LSA website.

166. Attached hereto and marked as **Exhibit "WWW"** to this my affidavit is a true copy of the LSA's webpage titled, "Articling Placement Program," which, I am advised by Ms. Sexton, she obtained from the LSA website.

167. On that page the LSA references the concepts of harassment and discrimination as being defined in the Federation of Law Societies of Canada "Model Code of Professional Conduct". Attached hereto and marked as **Exhibit "XXX"** to this my affidavit is a true copy of the Model Code of Professional Conduct which, I am advised by Ms. Sexton, she obtained from the LSA link.

168. Attached hereto and marked as **Exhibit "YYY"** to this my affidavit is a true copy of the LSA's webpage titled, "Complaints About Discrimination or Harassment in the Profession" which, I am advised by Ms. Sexton, she obtained from the LSA website.

169. Attached hereto and marked as **Exhibit "ZZZ"** to this my affidavit is a true copy of the minutes of a meeting of the Benchers on February 24, 2022.

III. OBJECTION TO LSA'S POLITICAL IDEOLOGIES

170. Attached hereto and marked as Exhibit **"AAAA"** to this my affidavit is a true copy of a letter dated July 17, 2023, that I delivered to Mr. Bill Hendsbee, KC, President, Ms. Osler, the Honourable Premier Danielle Smith, the Honourable Minister Mickey Amery and the Honourable Members of Provincial Caucus signed by 30 Alberta lawyers including myself, 16 lawyers of other provinces of Canada, and 24 other Canadian professionals and citizens objecting to the LSA's political objective.

171. I believe the facts and arguments expressed in the letter are good and correct.

172. Attached hereto and marked as **Exhibit "BBBB"** to this my affidavit is a true copy of a July 27, 2023, letter I received from Mr. Hendsbee in response to the above letter.

173. Attached hereto and marked as **Exhibit "CCCC"** to this my affidavit is a true copy of a September 19, 2023, letter I received from Mr. Mickey Amery, Minister of Justice of Alberta in response to the above letter.

IV. CONCLUSION

174. I make this Affidavit in support of my application for judicial review and for declarations and an injunction and for no improper purpose.

SWORN BEFORE ME AT)
)
Calgary, Alberta,)
)
this 6th day of December, 2023)
)
)
)

Glenn Blackett
Barrister & Solicitor

Yue (Roger) Song

This is Exhibit " A " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

THE LAW SOCIETY OF ALBERTA

2010 Annual Accountability Report

SERVING *the* PUBLIC INTEREST

VISION

The Law Society of Alberta will be **recognized as a model** for protecting the public interest and preserving the fundamental principles of justice through a self-regulated, independent and trusted legal profession.

MISSION

To serve the public interest by promoting a high standard of legal services and professional conduct through the governance and regulation of an independent legal profession.

CORE VALUES

› **Public Interest** – serving the public interest is fundamental
› **Integrity** – honest and ethical behavior
› **Transparency** – open and clear processes and communications
› **Fairness** – fair and consistent treatment
› **Competency** – best practices, high standards and pursuit of excellence
› **Objectivity** – independent legal profession, fearless advocates
› **Diversity** – respect individual differences, ideologies, backgrounds and orientations

STRATEGIC GOALS

The Law Society of Alberta will serve the public interest by focusing its energy and resources on the following strategic goals:

› **Model Regulator**: Be a model regulator by promoting and ensuring high ethical standards and competence on the part of all those seeking admission to and practising law in Alberta.

› **Public Confidence**: Build public confidence in the profession and the Law Society as a regulator by being effective, fair, timely, transparent and responsive.

› **Principles of Justice**: Uphold and preserve the principles of justice fundamental to a free democratic society, particularly client-lawyer privilege, the rule of law, and the independence of courts and lawyers.

› **Access to Justice**: Promote access to high quality legal services.

PRESIDENT'S MESSAGE

Strategic Plan is a Map to Determine Law Society's Course

By Rod Jerke, 2010-2011 President, Law Society of Alberta

In 2010, the Law Society of Alberta approved several key regulatory projects which moved the Law Society closer to its vision of being a model regulator.

In 2010, the Law Society of Alberta approved several key regulatory projects which moved the Law Society closer to its vision of being a model regulator.

These included the 2010-2013 Strategic Plan, new Rules for the Law Society's Trust Safety Program, and adoption of a national model as the Alberta Code of Conduct.

As well, the Law Society undertook an Ipsos Reid general consumer survey and a survey of the legal profession. The poll of consumers showed that most Albertans are satisfied with the services provided by a lawyer. The results show that the public recognizes that lawyers play an important role in providing high quality legal services. The poll findings show that the public is generally satisfied with the services and value they receive.

This 2010 Annual Accountability Report highlights the work of the Benchers and the Law Society, and the key regulatory projects undertaken in the 2010-2011 year. I would like to take an opportunity to detail some of its key achievements as follows. (Further details are within the pages of this Annual Accountability Report.)

2010-2013 Strategic Plan Approved

What is the purpose of a strategic plan? To my mind, a strategic plan is a road map that helps an organization determine its future course. In order to determine where it is going, an organization needs to know where it stands and then determine where it wants to go and how to get there. Accordingly, a strategic plan must be a fluid document capable of amendment in response to or in reasonable anticipation of changing conditions.

The work by the Benchers on the strategic plan has been ongoing for over a half decade. The adoption by the Benchers of this plan ensures that the energy and resources of the Law Society are focused on those strategic initiatives most important to achieving our vision, mission, and goals.

New Alberta Code of Conduct Approved

The Benchers have identified that a national model code is an important initiative in our strategic goal of being a model regulator, and flows from the necessity of developing national standards for the regulation of the legal profession. This is not a situation where all law societies adopt one code, but rather, a situation where 15 codes will exist – the National Code, and a code for each province and territory (consisting of the National Model Code with amendments specific to each province or territory and two for Quebec). Thus each regulator will have an opportunity to amend the National Model Code to suit its particular needs. That's why we asked the Professional Responsibility Committee to review the provisions of the Model Code and make recommendations as to adoption and any amendments that are required for the local environment.

continued on page 2 ...

Strategic Plan is a Map to Determine Law Society's Course
... from page 1

The Benchers, while approving the Model Code as the Code of Conduct, have requested the Professional Responsibility Committee develop an implementation plan, including a future effective date and communications and educational plans, to introduce the Alberta Code of Conduct.

Trust Safety Program Rules Approved

The Benchers and staff have been working to create new Rules and processes to support its Trust Safety Program.

At its November 2010 meeting, the Benchers approved the new Rules to Part 5, Division 2 of the Law Society of Alberta Rules. These are now in effect, as of January 1, 2011.

It is the combination of requiring a responsible lawyer, education of about an hour to supervise trust accounting, e-filing and e-audits which puts this Trust Safety program far ahead of those similar programs in other law societies across Canada.

All law societies have programs to administer trust accounting requirements of lawyers, which include reporting trust account activities through the submission of forms.

The Law Society is committed to supporting lawyers in maintaining efficient and effective accounting systems to ensure trust funds held by Alberta lawyers remain safe from fraudulent schemes and losses.

The Special General Meeting and Legal Aid Funding

Legal Aid is a serious concern for the Law Society and our work flows from two of our strategic goals: Public Confidence and Access to Justice.

At the September Bencher meeting, we heard from representatives of the Criminal Trial Lawyers' Association, Legal Aid Board and the Edmonton Criminal Law Bar. While each speaker presented the legal aid funding issue from a different perspective, they share a common concern about the negative consequences of the funding reductions on already disadvantaged Albertans, and that an increase in funding is desperately needed.

The Benchers adopted four important Strategy Statements at its September meeting. We have been working on those. These strategies are aimed at an even broader objective, namely an increase in access to legal services for disadvantaged Albertans. No one doubts that to accomplish that there needs to be an increase in resources provided to Legal Aid Alberta.

The Law Society has worked hard to foster and maintain a good working relationship with government, and understands that a collaborative approach is necessary for success when working with government.

New Public Representative Welcomed

Amal Umar was appointed public representative in Spring 2010.

Amal has earned a B.A. (Social Science) from Macalester College in St. Paul, Minnesota and a M.A. (Political Science) from American University of Beirut.

She brings expertise in the areas of equity/ human rights and social justice issues, community development and facilitation, and organizational development and governance.

Amal Umar is involved in such organizations as: the Calgary Foundation; Immigrant Access Fund - Micro Loans for Internationally Trained Immigrants; Coalition for Meaningful Employment of Internationally Trained Immigrants; Calgary Task Force on Cultural and Racial Diversity; United Way of Calgary; Coalition for Equal Access to Education; Alberta Advisory Council on Women's Issues; and the Dignity Foundation among others.

Amal Umar has been awarded: the YWCA Women of Distinction Award for Community Service; the Haider Dhanani Achievement Award from the Government of Alberta for outstanding service in developing programs that serve newcomers and their communities; the Canada 125 Anniversary Award from the Government of Canada for Community Work; and the Deputy Minister's Award from the Department of Canadian Heritage.

EXECUTIVE DIRECTOR'S REPORT

Four Strategic Goals Drive Law Society's Programs

By Don Thompson, QC, Executive Director, Law Society of Alberta

The aspirations of the Law Society of Alberta are mapped out in a new 2010-2013 Strategic Plan which is intended to steer the Law Society in its journey towards achieving its vision.

The Strategic Plan was developed during the January and April 2010 Bencher meetings, and the priorities from the plan were incorporated into a three-year plan which was presented to the Benchers in June 2010. These priorities were incorporated into the business plan and budget for 2010-2011 and considered by the Benchers in September and October 2010.

The key results accomplished in 2010 are tied into the four goals of the Strategic Plan. Some of our significant accomplishments are as follows:

Goal 1: Model Regulator

Be a model regulator by promoting and ensuring high ethical standards and competence on the part of all those seeking admission to and practising law in Alberta.

Key Results:

- On a national level, the Law Society continues to work closely with the Federation of Law Societies of Canada on a uniform national standard for a Canadian law degree as the basis for entry to law society bar admission programs or licensing processes.
- The Law Society provides the services of Practice Advisors who are available to lawyers for consultation on issues of practice concern. The Office of the Equity Ombudsperson provides confidential assistance with the development of workplace policies and the resolution of harassment and discrimination concerns.
- The Law Society regularly updates lawyers on risks associated with practice including frauds operating in the area through articles in its Advisory publication, on its website and in electronic EBulletins.
- It continues to support programs and opportunities for lawyers to fulfill their Continuing Professional Development program obligations.

Goal 2: Public Confidence

Build public confidence in the profession and the Law Society as a regulator by being effective, fair, timely, transparent and responsive.

Key Results:

- The Benchers have adopted a complaints and discipline (conduct) strategy statement which will guide the Law Society in reviewing, improving and enhancing its complaints and discipline (conduct) process.
- The Law Society's complaints and discipline process are entirely public: we provide public notice in advance once citations are determined; we have public participation through public representation on hearing committees, hearings are held in public; and we publish notices and hearing reports in a timely manner.
- The Benchers have approved amendments to the Rules of the Law Society to prohibit the use of trust accounts if no legal services are provided. These Rules were effective April 2010. The Benchers also approved a new regulatory

continued on page 4...

Four Strategic Goals Drive Law Society's Programs
continued... from page 3

structure for the safety and control of trust funds and a new audit system. The new Trust Safety program reflects a commitment of the Law Society as a regulator to better equip lawyers to keep trust money safe.

Goal 3: Principles of Justice

Uphold and preserve the principles of justice fundamental to a free democratic society, particularly client-lawyer privilege, the rule of law, and the independence of courts and lawyers.

Key Results:

- Lawyers and the courts remain independent.
- Solicitor-client privilege is preserved.

Goal 4: Access to Justice.

Promote access to high quality legal services.

Key Results:

- In February 2010, the Benchers adopted an Access to Justice Strategy Statement which is intended to guide and re-position some existing and upcoming initiatives.
- We are already doing a significant amount of access to justice work. Our support for Pro Bono Law Alberta and our policy inquiry concerning the provision of legal services by non-lawyers are the two most visible examples.
- The Access to Justice Committee has continued to look at the role of the Law Society in enhancing access to justice. From its report and recommendations, the Bencher-adopted strategy statement directs the Law Society to work towards increasing the availability and diversity of legal services to the Alberta public.

In addition, **Goal 5 focuses on Organizational Capacity:** Ensure the Law Society has the required organizational infrastructure and business supports in place to achieve the Law Society's mission and strategic goals.

Key Results in Governance/Leadership

- Effective Bencher succession planning policies and practices are currently being developed.
- The Law Society's strategic, business and budget planning processes are being clearly articulated, communicated and effectively aligned.
- The Law Society is taking steps to operate with a clearly established governance model consistent with governance best practices and which recognize the unique role of the Law Society and the Benchers.

The privilege of self-regulation as some call it, is more accurately called the duty of independent regulation. As our duty, it is one we are called to fulfill with excellence. We believe our Strategic Plan enables the Law Society to regulate lawyers with excellence and in the public interest.

Quebec Mobility Agreement: A Milestone Towards Practising Law Across Canada

Canada's law societies took another major step in the implementation of national mobility for lawyers with the formal signing of the landmark Quebec Mobility Agreement. Law Society of Alberta President Rod Jerke, QC, was one of the 14 signatories to the landmark agreement. The agreement was signed in March 2010.

Four Outstanding Lawyers Celebrated with 2010 Distinguished Service Awards

The 2010 Distinguished Service Awards celebrated four outstanding lawyers who have made an important impact on the legal profession in Alberta. The following lawyers were honoured at the 2010 Alberta Law Conference on January 29, 2010.

The 2010 Distinguished Service Awards Recipients and Presenters on January 29, 2010 (top row, left to right): Professor Gerald Gall, OC; Gillian Marriott, QC, 2009 CBA Alberta President; Peter Michalyshyn, QC, 2009 Law Society of Alberta President; and Solomon J. Rolingher, QC. (Bottom row, left to right): Virginia M. May, QC and Margaret Weir Andreassen, niece accepting on behalf of the late John A. Weir, QC.

Gerald Gall, OC
Distinguished Service in Legal Scholarship

The commitment made by Professor Gerald Gall to legal scholarship and to human rights organizations is unsurpassed. Professor Gall has served, since 2001, as the President and Chair of the John Humphrey Centre for Peace and Human Rights. For 24 years, he has played a prominent role with the Canadian Human Rights Foundation. As a legal scholar, he is co-editor of a newly published casebook on Constitutional Law, and is author of the treatise, The Canadian Legal System. He received his BA (1969) from Queen's University and his LL.B. (1972) from U. of Windsor. In 2001, he was appointed an Officer to the Order of Canada.

Virginia M. May, QC
Distinguished Service to the Profession

After three decades of trailblazing and career challenges, Virginia May is regarded by many lawyers as an inspirational role model. She graduated with her law degree (1980) from the U. of Calgary. In 1995, she founded May Jensen Shawa Solomon LLP and is now senior partner. Her service to the profession began in the 1990s with four consecutive elections to the Benchers of the Law Society of Alberta. As a Bencher, she chaired five major Law Society committees and served on more than a dozen others. Virginia May is known as one of Alberta's leading litigators, as a mentor and guide for many junior lawyers, and is held in high esteem as a role model and inspiration.

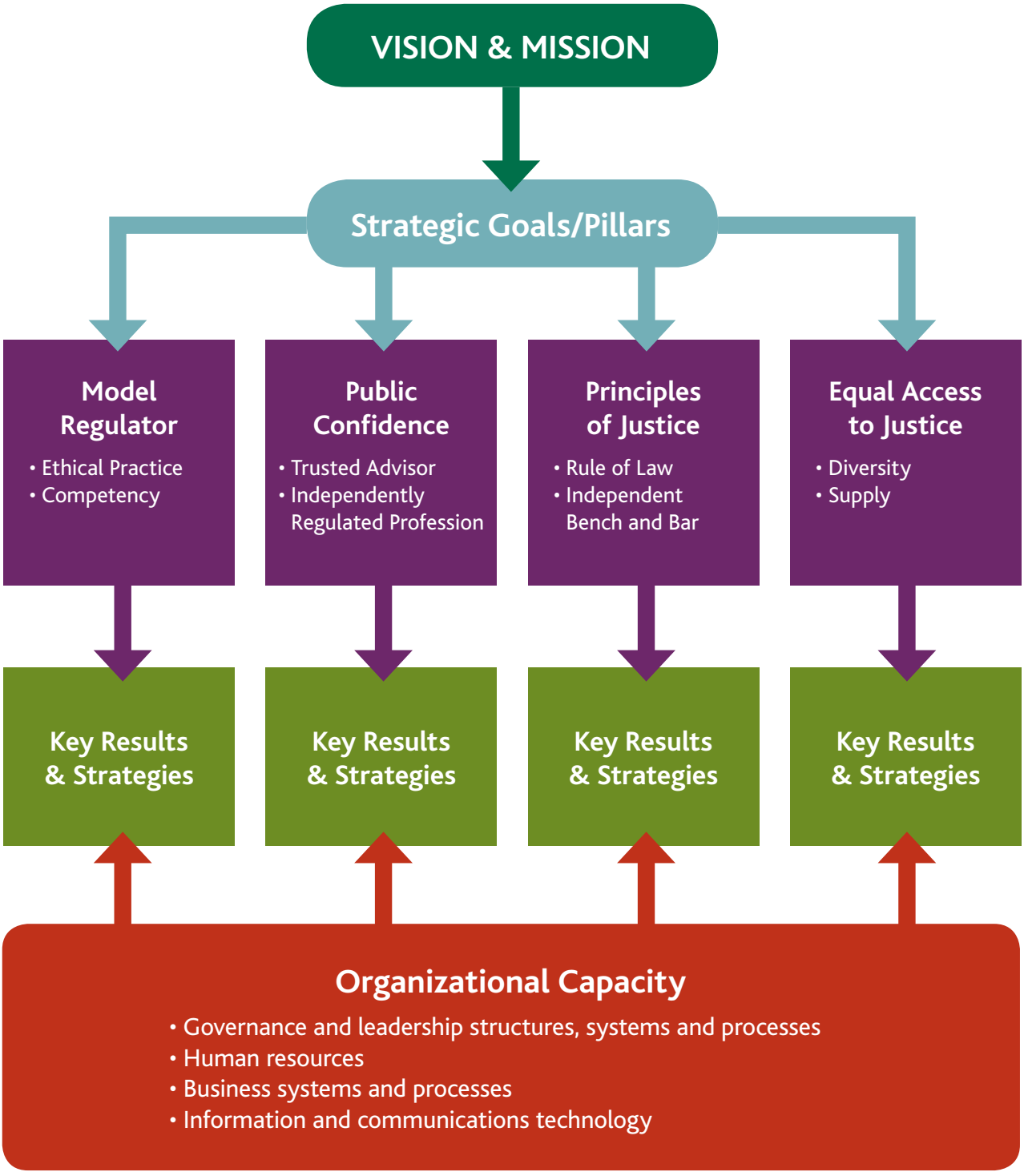
Solomon J. Rolingher, QC
Distinguished Service to the Community

As an inspired community builder dedicated to improving cultural relations, Solomon J. Rolingher's service makes a difference in the quality of life in Edmonton. His visionary work brought together Edmonton's Islamic, Jewish and Christian leaders to help diffuse growing tensions in the aftermath of the 9/11 terrorist attacks. He initiated and continues to chair his law firm's successful Laurel Awards lunch which recognizes volunteer contributions in non-profit organizations. He serves the U. of Alberta as a university governor, senate member and with four faculties. He graduated as a petroleum engineer (1965) from the Colorado School of Mines, and then earned his Juris Doctoris (1968).

Late John A. Weir, QC
Distinguished Service in Pro Bono Legal Service

For more than five decades, the late John Weir expressed his commitment to pro bono service by taking on hundreds of pro bono cases, virtually all of them on a client-by-client basis. John Weir's decades of selfless dedication to pro bono work ensured access to justice for many Albertans who may otherwise not have received it. John Weir earned his arts degree (1956) and law degree (1956) from the University of Alberta. In the late 1980s, he was appointed by Canada's Solicitor General to conduct the Gringras Inquiry.

2010-2013 Strategic Planning Framework



How Albertans Access Legal Services

By Doug Mah, QC, President-Elect and Chair, Alternate Delivery of Legal Services Committee

In 2010, the Alternate Delivery of Legal Services Committee oversaw a general population survey on legal services usage and attitudes as well as the survey of the legal profession.

The Committee was formed the previous year to lead an inquiry into how non-lawyer legal service providers can address issues related to access to justice. The three phases of the Committee's work are as follows:

1. In its first phase last year, the Committee conducted a high-level overview to identify issues.
2. In the second phase, a comprehensive research requirement of the project was undertaken. The Committee undertook two surveys: the first, an Ipsos Reid general population survey which identified legal consumer trends, and the second, a survey of the legal profession itself.
3. The third phase, which will be undertaken in 2011, will see the Committee considering the research findings and making recommendations.

Citizen protection, the unclear definition of the practice of law and the lack of information on the delivery of legal services were among the issues

continued on page 8...

Legal Consumer Survey results

Albertans' satisfaction with their lawyers:

- Very satisfied (53%)
- Somewhat satisfied (25%)
- Somewhat Dissatisfied (6%)
- Very dissatisfied (3%)

Albertans' assessment of value received for fees paid:

- Very Good Value (34%)
- Good Value (37%)
- Somewhat Good Value (20%)
- Not Very Good Value (6%) or
- Poor Value (3%)

Albertans report using the services of lawyers for a wide range of matters during the past three years:

- Real estate transactions (84%),
- wills and estates (78%),
- family relationship problems (59%),
- small business issues (54%),
- personal injury problems (46%) and
- crime related matters (40%).
- Immigration problems (35% of those who experienced such situations),
- property damage (27%) and
- discrimination issues (25%).

Factors most often considered by Albertans in selecting a lawyer:

- Reputation (43%),
- referral from another person (41%),
- professional credentials (Legal training 30%) and
- standing (Subject to Code of Ethics and Professional 26%).
- Knowing the lawyer personally (25%),
- the cost of services (23%) and
- proximity/accessibility (23%)

Profile of Sole Practitioners and Small Firms Emerge from Survey

Legal Profession Consultation undertaken by the Law Society of Alberta

Albertans' choice of law firms:

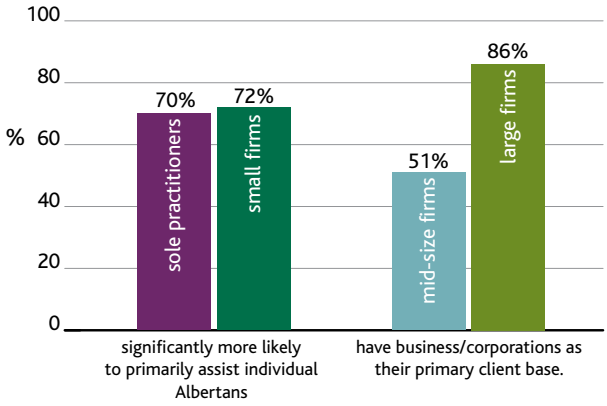
- 72% of individual Albertans who used lawyers in last 3 years sought assistance from a practitioner in a firm with 1-9 lawyers
- 28% sought assistance from a lawyer in a firm of 10 lawyers and/or more

Composition of law firms:

- 62% of lawyers work as either a sole practitioner (30%) or at a small law firm (32%)
- 19% of lawyers work in a mid-size firm
- 20% of lawyers work in a large firm

Over half (52%) of lawyers surveyed expect to continue practising for 10-14 years (18%) or 15 or more years (33%). Survey results indicate that lawyers who have been practising for 20 or more years are significantly more likely to work as a sole practitioner (59%) or small law firm (47%) than their counterparts. On the other hand, lawyers who have been practising for 4 or less years are significantly more likely to work in a mid (28%) or large sized (25%) firm.

Types of Clients being Served:



Areas of Law Practised by Lawyers outside Edmonton and Calgary:

- 25% family/matrimonial
- 22% real estate – residential
- 12% criminal

Lawyers outside Edmonton and Calgary are more likely to practice nearly every area of law. This is true for lawyers working as a sole practitioner or in a small firm.

Legal Service Delivery Examined in Context of Increasing Access for all Albertans *continued... from page 7*

identified in this phase. In this second phase, which oversees the comprehensive research requirement of the project, the Committee learned that individual Albertans overwhelmingly rely on small firms to resolve their everyday legal issues. The Ipsos Reid general population survey revealed that some 72 per cent of individual Albertans who used lawyers in the last three years sought assistance from a practitioner in a firm with one to nine lawyers. The personal legal services typically provided related to residential real estate transactions, wills and estate matters and family law issues.

Those surveyed indicated a high level of satisfaction (78 per cent) with the services provided by their lawyer and 91 per cent felt they received good value. The mean cost of resolving a matter was $2,564. Clients also said the most important factor in choosing a lawyer was "good reputation" (43 per cent) and referral by another person (41 per cent).

Although there is a perception that the cost of a lawyer is prohibitive, the middle income group appears to have accessed a lawyer's services within their price range, with good outcomes, for the legal problems they experienced. As well, the survey showed that 71 per cent of self-represented litigants indicated they preferred to self-represent and would not have chosen to be represented by a lawyer. There is good evidence in the survey data to show that those in a lower income group earning $50,000 or less tend to experience a greater number and variety of legal issues, as well as face greater barriers to accessing the services of a lawyer. The data indicates that lower income Albertans were less likely to use a lawyer as their primary resource for legal services and more likely to rely on secondary resources such as government, not-for-profit or other legal information services.

For Albertans involved in court proceedings or a hearing, 69 per cent were satisfied with their experience with only 14 per cent saying they were dissatisfied.

The results from the two surveys will be used to inform the third phase of the Committee's project, that of considering the research findings and formulating recommendations.

ENHANCING THE PUBLIC'S ACCESS TO LEGAL SERVICES

Law Society Programs Examined to Enhance Public's Access to Legal Services

By Scott Watson, QC, Bencher and 2010 Chair of Access to Justice Committee

To enhance the public's access to legal services in Alberta, the Access to Justice Committee examined the Law Society's existing programs, and also further studied the options for legal service delivery and education.

The existing Lawyer Referral Service was reviewed in depth, including its history, existing challenges, and its present and potential value to the public. The goals of the program were examined and consideration was given to whether there were better ways to accomplish the intended goals. Ways to encourage meaningful participation by lawyers in the program were considered as well as the role of the regulator in the process. Work began on a draft policy statement, against which, goals and potential changes to the program may be tested.

The Committee assisted then President-Elect, Doug Mah, QC, in examining a variety of topics for the Law Society's Plenary set to coincide with the Canadian Bar Association's Alberta Law Conference held in Edmonton in January 2011. The Committee created a list of topics, a roster of speakers and developed the session around the subject of "Alternate Business Structures". The program focused on making lawyers aware of a variety of business models in use in Canada which serve to enhance the public's access to legal services.

During the course of its work on alternate business structures and based on the experience in other jurisdictions, the Committee began work on examining existing regulatory barriers which prevent or impede such progress in Alberta.

The Three "R's": Rural, Regional and Remote

By Sarah King-D'Souza, QC, Bencher and Chair, Retention and Re-Engagement Task Force

The Retention and Re-Engagement Task Force has commenced its work to develop a strategy to retain and re-engage lawyers in the private practice of law.

We have not yet, as a legal profession, fully considered the importance of recruitment and retention of lawyers in rural areas, and the impact of lack of rural lawyers upon access to justice for persons living outside the major centres.

Of the legal profession in Alberta, current demographic information revealed that:

- 4346 are located in Calgary,
- 2724 in Edmonton, and
- 1013 in other parts of the province.
- 216 students-at-law are working in Calgary,
- 133 students-at-law in Edmonton and,
- 38 elsewhere in Alberta.

In 2009, approximately 58 per cent of Law Society of Alberta lawyers were between the ages of 41-70; 25 per cent were aged 31-40; and less than 10 per cent were under age 30.

One of the Law Society's strategic goals is to promote access to justice. Limited access to lawyers in regions means that some Albertans may not receive legal advice on matters affecting their legal rights. We need to examine the extent of the problem affecting recruitment and retention of lawyers in rural, regional and remote areas of Alberta, identify the potential factors contributing to the problem and consider strategies, commencing at the point of law school entry, and continuing thereafter.

The Task Force is tasked with considering what might retain and re-engage lawyers in active private practice and with developing strategies the Law Society could adopt in this regard.

Legal Aid: Law Society's Regulatory Role Includes Active Participation in Justice System

By Rod Jerke, QC, 2010-2011 President, Law Society of Alberta

Legal Aid is a serious concern for the Law Society, and our work in this area flows from two of our four strategic goals: Public Confidence and Equal Access to Justice.

Why the Law Society is involved in Legal Aid?

The Law Society involvement in the Legal Aid issue began in Spring, 2010 when we were petitioned to discuss (1) the funding provided to the Legal Aid Society, and (2) changes to the legal aid program which were approved by the Legal Aid Board.

Our involvement stems from the fact that we have and continue to advocate for proper resourcing of a properly functioning legal aid system. As well, we require that lawyers are independent so they can provide proper legal services to their clients. The Law Society has no direct control over, or participation in funding the legal aid program.

As a result of the petition, a Special General Meeting was held on June 23, 2010 to discuss these two aspects.

After discussion among lawyers attending via video- and tele-conference in Edmonton, Calgary, Lethbridge, Red Deer and Hinton, two motions were passed by a majority of lawyers present (see motions on the next page).

As I reflected on the debate and the motions passed at the Special General Meeting with others, I concluded that benefit would be obtained by seeking the input of other stakeholders interested in this debate. An Advisory Group of leaders from across the justice system was formed in Summer, 2010. (The group was later expanded and another meeting was held in mid-January 2011.)

The Benchers then considered the motions at its September meeting. We heard from representatives of the Criminal Trial Lawyer's Association, Legal Aid Board and the Edmonton Criminal Law Bar. While each speaker presented the legal aid funding issue from a different perspective, they shared a common concern about the negative consequence of the funding reductions on already disadvantaged Albertans. We heard that an increase in funding is desperately needed.

Strategy Statements Aimed at Increasing Access to Legal Services

The Benchers adopted four important Strategy Statements at this meeting. We began working on those in Winter 2010. It is worth keeping in mind that the strategies are aimed at an even broader objective, namely an increase in access to legal services for disadvantaged Albertans. No one doubts that to accomplish that there needs to be an increase in resources provided to egal Aid Alberta.

The Law Society works hard to foster and maintain a good working relationship with government, and understands that a collaborative approach is necessary for success when working with government.

We recognize there are limits and constraints on what the regulator of the legal profession acting in the public interest can do with respect to a Legal Aid program or any program.
At the end of 2010, the Law Society was continuing its advocacy strategies on the funding issues facing Legal Aid Alberta.

Understanding How Legal Aid is Funded

The rule of law is paramount to the role of the Law Society, but the rule of law cannot be sustained without lawyers. Legal Aid provides access to independent lawyers for disadvantaged Albertans. This is a vital aspect of access to justice for those Albertans.

The issue of that independence and the issue of funding are inextricably entwined.

Those lawyers, and Legal Aid itself are funded from several sources, including Alberta Justice, the Federal Government, and the Alberta Law Foundation.

Legal Aid Alberta's Corporate Business Plan, 2010 – 2013, forecasts that funding from the Province will remain at 2009/10 levels for the next three years, but notes an overall revenue decrease due to decreased Alberta Law Foundation Funding. The amount provided by the Alberta Law Foundation (which is independent from the Law Society) varies from year to year,

continued on page 11 ...

Lawyers Honoured with Long Service Awards: 50, 60 & 70 Years of Service Celebrated

The Law Society commemorated 50, 60 and 70 years of service with a luncheon on November 25, 2010. The recipients are as follows:

Top row, left to right: Robert G. Roddie, QC, 50 years; Stanley Schumacher, QC, 50 years; Law Society President Rod Jerke, QC; Hon Judge R.A. Jacobson, 50 years; and Donald T.D. Hatch, QC, 50 years.

Bottom row, left to right: Gerald M. Burden, QC, 60 years; Maclean Jones, QC, 70 years; Arthur M. Davis, QC, 50 years; and Raymond F. Kutz, 50 years.

Missing: Theodore L. Babie, 50 years.

Legal Aid: Law Society's Regulatory Role Includes Active Participation in Justice System *continued... from page 10*

because it is set by a statutory formula as 25 per cent of the amount remitted to the Foundation by financial institutions as interest on lawyers' trust accounts.

The amount provided by the Province is set by Alberta Justice, which has recently considered the results of an extensive review of Legal Aid. That review includes certain recommended changes. The then Minister of Justice Redford said in a recent letter that she believes these changes "will help ensure that the provision of legal aid continues to be sustainable." The Minister also pointed out that her government is providing "a grant of $53.8 million; a substantial amount which has been maintained in place since 2008/2009."

(Note that this was for the 2010 budget year. Since then, the 2011 Alberta government budget included a 10 per cent increase in funding to Legal Aid at a time when the Department of Justice budget was reduced by 0.5 per cent.)

How Independence Fosters Access to Justice

In a free society, based on the rule of law, the courts determine the balance between the rights of the state and the rights of individuals within that state. This requires that the judiciary be independent, but also that lawyers be independent to properly serve their clients and the courts. As those lawyers are funded by Legal Aid, Legal Aid must also be independent.

If the judges, lawyers and Legal Aid are not thus independent, the individual client has not had true access to justice, and the rule of law has not been upheld.

Two Motions Carried at Special General Meeting

Two motions were passed pursuant to the Rules of the Law Society:

1. That the Law Society publicly advocate in the public interest for an adequately publicly funded Legal Aid system with a statutory foundation that is independent of the government.
2. That the Law Society request that the Legal Aid Society immediately rescind the recent changes including the changes to the financial eligibility guidelines and the choice of counsel provisions.

The Law Society's over-riding duty is to guard the independence of regulation and governance of legal services and to do so in the public interest. This does, on occasion, lead to steps to guard independence of individual lawyers, but only in the context of that duty.

The Law Society is, however, only one of several participants in the justice system, and cannot rectify deficiencies in the justice system by itself. It does take its responsibilities very seriously, but in the end, appropriate funding, access to justice, and independence are all the responsibility of all Albertans.

CPLED Delivers Learning Modules Online

By Leona Dvorak, Ph.D., Regional Coordinator, CPLED

CPLED, the Canadian Centre for Professional Legal Education, successfully delivered its yearly Bar Admission Program to 463 students from Alberta, Saskatchewan and Manitoba.

For the first time, CPLED also delivered three online modules to 75 students of the Nova Scotia Barrister's Society's Bar Admission Program. Our new online platform has proven to be robust and stable over the year.

This year, CPLED updated its Negotiations videos on DVD platform to an interest-based approach to negotiations. We produced six videos with over 75 minutes of instructional content as follows:

- Negotiating for Mutual Gain – An Interest-Based Approach to Negotiations
- Before Dad Finds Out – Preparing Your Client for Negotiations
- Renovation Blues – Set the Tone and Outline Issues
- Turn It Sideways – Explore Interests and Gather Information
- It's All About The Kids – Problem Solve and Reach Agreement
- Making it Work – Demonstrating an Interest-Based Approach to Negotiations

We continue to review and improve our Program content as well as our instructional methodology. Our intention is to provide an exemplary Program with positive results for participants.

Lawyers at Risk Roundtable: Programs Identified to Address Gaps in Services

By Carsten Jensen, QC, Bencher and Chair, Lawyers at Risk Task Force, Law Society of Alberta

A roundtable discussion addressed ways to help lawyers and articling students dealing with personal and professional issues including mental health and addiction.

Held on May 7, 2010, the Law Society of Alberta's Lawyers at Risk Task Force Roundtable reviewed the existing programs and policies available in Alberta to assist lawyers and articling students experiencing these kinds of personal problems. It also compared those programs and policies with best practices. The discussion also benefited from a review of the work done by other regulators, lawyer assistance programs and legal communities.

One of the discussion goals was to articulate the gaps and deficiencies which exist in Alberta. Another goal was to identify possible policy and program initiatives to address those gaps and deficiencies, all the while keeping in mind that the Law Society regulates the profession in the public interest.

The Task Force was established by the Benchers to look at "lawyers at risk". Specifically, many of the lawyers in the Law Society's disciplinary process appear to have, as a root cause of their difficulty, some serious personal problems which may include mental or physical illness, addiction, bereavement, or other problems.

The participants included Law Society President Rod Jerke, QC, Law Society President-Elect Douglas Mah, QC, and Taskforce chair Carsten Jensen, QC, together with several other Benchers and Law Society staff. Invited guests included the Executive Director of the Florida Lawyers Assistance Program, the Executive Director of the Oregon Attorney Assistance Program, and the Deputy Registrar of the College of Physicians and Surgeons of British Columbia. As well, two Alberta lawyers who had first-hand experiences dealing with mental health and addiction issues, and resulting Law Society disciplinary matters participated in the roundtable.

The contributions from all participants were exceptional. The discussion will no doubt help to inform and shape the future work of the Law Society in dealing with lawyers and articling students living with mental health issues, addiction problems and other personal issues that impact their professional lives.

TRUST SAFETY COMMITTEE

New Rules Set Framework for Leading Edge Trust Safety Program

By Steve Raby, QC, Bencher and Chair, 2010 Trust Funds Implementation Task Force and Janet Dixon, QC, Senior Counsel, Law Society of Alberta

The Trust Safety Committee had a busy year in 2009 culminating in the enactment of a number of Rules amending the audit processes and accounting requirements of members.

By a Rule Amendment made effective April 1, 2010, it was made clear that lawyer trust accounts are only to be used in conjunction with the provision of legal services.

It was originally intended that the balance of the new Rules would be enacted in the spring of 2010; however, technology matters prevented the implementation within that time frame. This did allow the institution of a pilot program to test the new systems, which proved beneficial.

Ultimately, the balance of the Rule Amendments was passed by the Benchers in December of 2010 with an effective date of January 1, 2011.

While the Rule Amendments reflect a number of accounting matters which arose from the Western Harmonization Project which was a joint audit department program of the Law Societies of Manitoba, Saskatchewan and Alberta, the highlights of the Rule Amendments relating to trust safety can be summarized as follows:

1. **Designating a responsible lawyer:** A law firm is required to identify a lawyer who will be accountable to the Law Society for compliance with the new Rules and for implementing controls to keep trust monies safe. A responsible lawyer has an obligation to complete certain educational requirements being offered through LESA.
2. **Conditions to maintain a trust account:** In addition to identifying a responsible lawyer, a firm must have Law Society approval to operate a trust account. If concerns exist regarding the adequacy of such controls, a firm may have conditions imposed on its entitlement to maintain a trust account.
3. **New audit regime:** New reporting requirements incorporate efficiencies made possible by automating data collection and new computerized audit techniques. If audit information is electronically transmitted to the Law Society using an approved accounting software, and if there are no concerns arising from such data, then a firm will be relieved of its obligation to have prepared and filed a Form T.
4. **New enforcement regime:** The enforcement regime reflects the commitment of the Law Society as regulator to closely monitor compliance with the Rules and to hold members accountable for Rule violations. However, the focus of such monitoring will be on remediation to ensure that law firms understand how to become fully compliant with the new Rules.

Alberta Law Conference Plenary: Does the Law Society Act "in the Public Interest"?

The Law Society of Alberta declares at every turn that it acts "in the Public Interest." What do we mean when we say that? And what is the Law Society doing to give effect to that bold commitment?

A panel analyzed specific Law Society initiatives – the Safety of Trust Property and Alternate Delivery of Legal Services — from this 'Public Interest' perspective at the 2010 Alberta Law Conference.

Panellists during the January 28th event were: Professor Alice Woolley, Faculty of Law, University of Calgary; Yvonne Stanford, a former public representative to the Law Society Benchers (in photo left); and Gordon Turriff, QC, outgoing President of the Law Society of B.C. The panel discussion was moderated by co-chairs, Peter Michalyshyn, QC, then President and Rod Jerke, QC, then President-Elect.

SERVING *the* PUBLIC INTEREST

The Law Society of Alberta

MAIN OFFICE

Suite 500, 919 - 11th Avenue SW
Calgary, Alberta T2R 1P3

Tel: (403) 229-4700
1-800-661-9003
Fax: (403) 228-1728

EDMONTON OFFICE

Bell Tower
Suite 800, 10104 103 Avenue
Edmonton, Alberta T5J 0H8

Tel: (780) 429-3343
1-800-272-8839
Fax: (780) 424-1620

www.lawsociety.ab.ca

CONTINUING PROFESSIONAL DEVELOPMENT COMMITTEE

High Rate of Compliance Among Lawyers for CPD Program

By Jim Glass, QC, Bencher and 2010 Chair, Continuing Professional Development (CPD) Committee

The year 2010 marked the third full year of the Continuing Professional Development program.

The program is premised on lawyers being responsible to plan and implement an education plan that will ensure their ongoing competence. The Law Society requires lawyers to declare between January 1 and March 15 of each year that they have made a plan.

From all reports, the program is meeting with great acceptance from members of the profession. All evidence suggests that we have a very high rate of compliance from lawyers for the past two years.

The CPD Alberta website for online declarations has been improved to make online declarations easier. In addition, the contact information and internal processes of the Law Society have been streamlined so that inquiries from lawyers are dealt with effectively and quickly.

The Communications Strategy continues to remind lawyers to make their declaration between January 1 and March 15, 2011. This is being well received by lawyers and will continue to ensure a high level of compliance.

1. **CPD Declarations** – Over this past year, the Committee clarified the interpretation of the Rule and spent considerable effort on the communication strategy to advise lawyers of the same. As indicated above, we have a high level of compliance with the program.
2. **Educational Resources** – This continues to be primarily in the hands of the Legal Education Society of Alberta. They continue to offer excellent educational material and regularly update their CPD website to notify members who have their CPD plan online regarding courses of interest. The Committee hopes to be able to work over the coming year on developing additional resources and providing some examples or templates of what a CPD plan should look like.
3. **Regulatory Program** – The Committee issued clear interpretations of the Rule and what is expected of lawyers. The committee expects to discuss how to further enhance and develop the program for lawyers over the coming year, including the enforcement of the mandatory aspect of the Program.
4. **Communications** – The communications strategy is fully on track and is effective in reminding lawyers about the program and their obligations under the Rules. Communications will continue to enhance the Program's profile in the minds of the lawyers and the public.

Aboriginal Law Student Program Fosters Work Experience and Relationships

By Jocelyn Frazer, Equity Ombudsperson, Law Society of Alberta

Two law students were placed in summer student employment positions in Summer of 2010 as a result of their participation in the Aboriginal Law Student Summer Program facilitated by the Law Society of Alberta.

At the time of placement, Jody Peterson, had finished her second year of law school at the University of Alberta. She holds a B.Sc. in nursing and has worked previously as a staff nurse and educator in that field. She has extensive volunteer experience, including work with Student Legal Services in Edmonton. She was hired to work in the summer of 2010 for Alberta Justice in Edmonton in their Aboriginal law division.

Bryan Hunter is also a Métis student at the University of Alberta where he completed his final year of law school. This was Bryan's second summer employment position through the program, having also earned a position during the summer of 2009. He is a two-time recipient of the Belcourt Brousseau Métis award, and a member of the Indigenous Bar Association.

The Aboriginal Law Student Summer Program began as a pilot project in 2006, and since that time has facilitated the placement of 20 aboriginal law students into summer employment programs. The program was created to: (1) allow law firms and the legal profession to gain greater insight into aboriginal culture and issues; (2) promote opportunities for aboriginal law students early in their legal career to obtain work experience in a law firm; and (3) foster opportunities for ongoing relationships to develop between aboriginal students and practising lawyers.

Jocelyn Frazer, Equity Ombudsperson (right) with student Bryan Hunter.

CONDUCT COMMITTEE AND CONDUCT PROCESS TASK FORCE

Review of Discipline Processes Guided by Principles of Fairness and Public Transparency

By Carsten Jensen, QC, Bencher and 2010 Chair, Conduct Committee; and Doug Mah, QC, and James Eamon, QC, Co-Chairs, Conduct Process Task Force

A strategy statement was approved by the Benchers in February 2010 to strategically guide the Law Society in reviewing, improving and enhancing its conduct processes.

The principles of public transparency and fairness serve to guide the Law Society, and these principles directed the work of the Conduct Committee this year.

The Work of the Conduct Committee

In 2010, the Conduct Committee discussed three possible initiatives within the existing rules which might improve or streamline the present conduct process. As well, the Committee approved the Appeals from Complaint Dismissal Guideline which was adopted by the Benchers in August 2010.

In addition, the Committee adopted a six-month pilot project to permit a delegate of the Executive Director (in practice, the Deputy or Director of Lawyers Conduct) to attend Conduct Panel meetings for limited purposes. As well, the Committee adopted an audit costs recovery policy.

The Conduct Committee continued to work on initiatives designed to improve and streamline the disciplinary process, within the existing rules, while enhancing consistency in outcomes. This work is intended to improve the existing process while a Conduct Process Task Force does its substantive reform work.

The Work of the Conduct Process Task Force

In March 2010, a Conduct Process Task Force was formed with a mandate to re-envision the conduct process in light of evolving methods for dispute resolution, conflict management and regulatory disciplinary processes.

In September 2010, the Task Force convened four focus groups who were asked the general question of what principles and goals a conduct process should strive for.

The Task Force recognizes that its work is just beginning. The general agreement among the focus groups and the opportunity for legislative changes of the 20-year old Legal Profession Act means the Law Society can move forward quickly with a legislative strategy. Such a strategy could include amendments which permit the Benchers to authorize, by new or changed rules, changes to the conduct process.

The Task Force commissioned Bottom Line Research to complete a "Review of Complaints and Conduct/Discipline Processes for Lawyers". Law Society policy staff met with Alberta Justice to discuss the steps required for legislative amendments to pass in the Fall 2011 legislative session. The Task Force is considering an outline of a new conduct process, and in doing so, is considering detailed issues such as pre-citation and citation processes, early resolutions by agreement, hearings, the composition of adjudicators, the costs structure, and the concepts of appeals.

Conduct Hearings Ordered Since Jan 1, 2002

Year	Hearings Ordered
2002	23
2003	31
2004	34
2005	31
2006	47
2007	39
2008	42
2009	51
2010	21

Open Complaints as at Dec 31, 2010

	Formal Complaints	Informal Complaints
Total	824	400

Complaints Closed as at October 1, 2010

	Formal Complaints	Informal Complaints
Total	57	547

Hearing Outcomes

Hearing Outcomes	2008	2009	2010
Disbarred	16	6	8
Resignations	52	39	65
Suspended	5	2	10

THE LAW SOCIETY'S REGULATORY RECORD

Regulatory Processes are Entirely Public

By Howard Kushner, Deputy Executive Director – Regulation, Law Society of Alberta

The Law Society has a history of successfully investigating and prosecuting misconduct by lawyers. We take all allegations of misconduct seriously; where there is evidence of misconduct we conduct full reviews, and where appropriate investigations.

This includes complaints on mortgage fraud which we take very seriously.

Where a Hearing Committee finds a lawyer has been involved in fraud, the lawyer is disbarred. In every case where the Hearing Committee has reasonable grounds to believe a criminal offence has been committed the matter is referred to the Attorney General. Our enforcement record shows:

- In 2008, the Law Society disbarred 16 people. Of those, eight disbarments included admissions or findings of misappropriation or fraud related conduct. All eight resulted in referrals to the Attorney General.
- In 2009, the Law Society disbarred six lawyers. Three of those disbarments included admissions or findings of misappropriation or fraud, or conduct related to obstructing investigations related to similar conduct. Only one matter was referred to the Attorney General.
- In 2010, the Law Society has disbarred eight people. One of these disbarments included findings of misappropriation, and this matter was referred to the Attorney General

Our processes are entirely public – we provide public notice in advance once citations are determined; we have public participation through public representatives on hearing committees; hearings are held in public, and we publish notices and hearing reports in a timely manner. Summaries of disciplinary matters are published by the Law Society in its regular Advisory publication.

Professionalism and Competence

Practice Review – Opened Practice Review Files

Year	Formal	Reinstatement
2001	6	6
2002	15	1
2003	6	2
2004	9	3
2005	13	3
2006	7	3
2007	8	4
2008	10	3
2009	37	4
2010	11	2

Law Society of Alberta Membership

Year	Active	Inactive	Insured
2005	7711	1703	-
2006	7967	1707	5533
2007	8152	1784	5620
2008	8336	1800	5729
2009	8457	1963	5800
2010	8624	1888	5865

Students-at-Law

Status	2008	2009	2010
Called	334	321	305

Transfers to date

Status	2008	2009	2010
Applied	105	76	112

FINANCE COMMITTEE

General Fund Levy Increases Related to Trust Safety Initiative

By Steve Raby, QC, Bencher and 2010 Chair, Finance Committee

The following matters were dealt with by the Finance Committee in 2010:

1. The Statement of Investment Policies and Goals was updated to deal with a few anomalies. The changes were recommended by our investment advisers and were confirmed by our consultant.
2. The Committee received a report from the Legal Education Society of Alberta regarding tuition fees for the CPLED program and made a recommendation to the Benchers which was ultimately approved.
3. The Finance Committee was significantly involved in the review and approval of the 2010/2011 budget. Once again, the General Fund levy was increased, but in 2010 the Assurance Fund levy remained static. The major reasons for the increase to the General Fund levy relate to premises costs in both Calgary and Edmonton and the introduction of certain components of the e-Business project which were necessary to allow for the implementation of the new Trust Safety program, but will ultimately benefit the whole of the organization. As a result of the approved budget, it is hoped that both our General Fund balance and Assurance Fund balance will be at more acceptable levels than in the previous year.
4. The Finance Committee reviewed and commented on the financial statements for the fiscal year ended October 31, 2010.

There were no significant policy initiatives undertaken by the Finance Committee during 2010 as most of the audit group at the Law Society was focused on initiating the new Trust Safety Program.

Annual Fees at Work

PUBLIC PROTECTION (ASSURANCE FUND)

Count of Files for Assurance Fund

Year	Claim Amount	Reserve Amount	Paid Amount	Claims
2001	$52,000	$17,000	$17,000	5
2002	$743,000	$496,000	$496,000	18
2003	$3,105,000	$167,000	$167,000	21
2004	$2,606,000	$1,460,000	$1,402,000	43
2005	$3,568,000	$1,114,000	$864,000	67
2006	$15,126,000	$1,862,000	$754,000	71
2007	$4,249,000	$830,000	$96,000	78
2008	$1,189,000	$163,000	$14,000	28
2009	$19,304,000	$190,000	$29,000	60
2010	$8,644,000	$1,291,000	$11,000	39

Paid amounts are reported on claims opened in the specific year even if have been paid in future years.

THE LAW SOCIETY OF ALBERTA

Summarized Financial Statements

October 31, 2010

Auditors' Report

February 4, 2011
To the Members of
The Law Society of Alberta

The accompanying summarized balance sheet and statement of revenue, expenses and fund balances are derived from the complete financial statements of The Law Society of Alberta as at October 31, 2010 and for the year then ended on which we expressed an opinion without reservation in our report dated February 4, 2011. The fair summarization of the complete financial statements is the responsibility of management. Our responsibility, in accordance with Assurance Guideline 25 of The Canadian Institute of Chartered Accountants, is to report on the summarized financial statements.

In our opinion, the accompanying financial statements fairly summarize, in all material respects, the related complete financial statements in accordance with the criteria described in the Guideline referred to above.

These summarized financial statements do not contain all the disclosures required by Canadian generally accepted accounting principles. Readers are cautioned that these statements may not be appropriate for their purposes. For more information on the entity's financial position, results of operations and cash flows, reference should be made to the related complete financial statements.

PricewaterhouseCoopers LLP

Chartered Accountants
Calgary, Alberta

Summarized Balance Sheet

As at October 31, 2010

	2010 ($000s)	2009 ($000s)
Assets		
Current assets	3,991	3,384
Investments	14,391	13,400
Reinsurance recoverables	5,214	3,698
Trust assets	841	711
Capital assets	1,333	1,626
	25,770	**22,819**
Liabilities		
Current liabilities	782	1,098
Reserve for claims and related costs	10,907	7,883
Pension plan payable	654	568
Trust liabilities	841	711
Deferred lease inducement	322	400
	13,506	**10,660**
Fund Balances		
Invested in capital assets	1,333	1,626
Externally restricted funds		
Contingency reserve	7,341	7,875
Scholarship reserve	1,239	1,190
Unrestricted funds	2,351	1,468
	12,264	**12,159**
	25,770	**22,819**

Summarized Statement of Revenue, Expenses and Fund Balances

For the year ended October 31, 2010

	2010 ($000s)	2009 ($000s)
Revenue		
Practice fees	18,262	17,031
Investment income	952	860
Management fee	1,175	1,016
Enrolment and application fees	336	343
Other	53	77
Fines and penalties	36	61
	20,814	**19,388**
Expenses		
Corporate costs	2,251	2,346
Departments, programs and committees	15,139	14,936
Grants and contributions	2,131	2,024
Provision (recovery) for claims and related costs	1,552	1,526
Scholarships	45	40
	21,118	**20,872**
Excess (deficiency) of revenue over expenses for the year before the following	(304)	(1,484)
Unrealized gain (loss) on fair market value of investments	409	(811)
Excess (deficiency) of revenue over expenses for the year	**105**	**(673)**
Fund balances - beginning of year	**12,159**	**12,832**
Fund balances - end of year	**12,264**	**12,159**

THE ALBERTA LAWYERS INSURANCE ASSOCIATION

Summarized Non-Consolidated Financial Statements

June 30, 2010

Auditors' Report

December 9, 2010
To the Directors of
The Alberta Lawyers Insurance Association

The accompanying summarized non-consolidated balance sheet and non-consolidated statement of revenue, expenses and net assets are derived from the complete non-consolidated financial statements of The Alberta Lawyers Insurance Association as at June 30, 2010 and for the year then ended on which we expressed an opinion without reservation in our report dated December 9, 2010. The fair summarization of the complete non-consolidated financial statements is the responsibility of management. Our responsibility, in accordance with Assurance Guideline 25 of The Canadian Institute of Chartered Accountants, is to report on the summarized financial statements.

In our opinion, the accompanying non-consolidated financial statements fairly summarize, in all material respects, the related complete non-consolidated financial statements in accordance with the criteria described in the Guideline referred to above.

These summarized non-consolidated financial statements do not contain all the disclosures required by Canadian generally accepted accounting principles. Readers are cautioned that these statements may not be appropriate for their purposes. For more information on the entity's financial position, results of operations and cash flows, reference should be made to the related complete non-consolidated financial statements.

PricewaterhouseCoopers LLP

Chartered Accountants
Calgary, Alberta

Summarized Non-Consolidated Balance Sheet

As at June 30, 2010

	2010 ($000s)	2009 ($000s)
Assets	18,299	19,082
Current assets	85,051	80,146
Capital assets	46	29
	103,396	**99,257**
Liabilities		
Current liabilities	17,023	16,022
Reserve for claims and related costs	55,034	46,027
	72,057	62,049
Net assets		
Unrestricted net assets	31,339	37,208
	103,396	**99,257**

Summarized Non-Consolidated Statement of Revenue, Expenses and Net Assets

For the year ended June 30, 2010

	2010 ($000s)	2009 ($000s)
Revenue		
Annual levy	15,398	10,474
Investment income	8,462	4,648
	23,860	15,122
Expenses		
Provision for claims and related costs	20,174	15,184
Premium paid to Canadian Lawyers Insurance Association	3,799	2,721
Operating expenses	3,420	2,788
	27,393	20,693
Deficiency of revenue over expenses for the year before the following	(3,533)	(5,571)
Unrealized loss on fair market value of investments	(2,336)	(8,528)
Premium credit	–	736
Deficiency of revenue over expenses for the year	(5,869)	(13,363)
Unrestricted net assets - Beginning of year	37,208	50,571
Unrestricted net assets - End of year	31,339	37,208

2010 Executive Committee of the Law Society of Alberta

Front row (from left to right): Nicole Woodward (Staff Governance Lawyer); Doug Mah, QC (President-Elect); Rod Jerke, QC (President); Don Thompson, QC (Executive Director); and Howard Kushner (Deputy Executive Director – Regulation).

Middle row (from left to right): Larry Ohlhauser, MD (Public Representative); Dale Spackman, QC; and Carsten Jensen, QC.

Back row (from left to right): Steve Raby, QC; and Ron Everard, QC

2010 Benchers of the Law Society of Alberta

Front row (seated from left to right): Harry Van Harten; Ron Everard, QC; Doug Mah, QC (President-Elect); Rod Jerke, QC (President); Don Thompson, QC (Executive Director); Carsten Jensen, QC; and Dale Spackman, QC.

Middle row (standing from left to right): Rose Carter, QC; Neena Ahluwalia, QC; Tony Young, QC; Jim Eamon, QC; Scott Watson, QC; Kevin Feth, QC; Steve Raby, QC; and Amal Umar (Public Representative).

Back row (standing from left to right): Fred Fenwick, QC; Frederica Schutz, QC; Larry Ohlhauser, MD (Public Representative); James Glass, QC; Roy Nickerson, QC; Miriam Carey, PhD (Public Representative); Wayne Jacques (Public Representative); and Sarah King-D'Souza, QC.

Missing: Larry Ackerl, QC; and John Higgerty, QC.

2010 AWARDS AND BURSARIES

Viscount Bennett Scholarship Winners

The Viscount Bennett Scholarship was established through a trust fund by the Right Honourable Viscount Bennett to encourage a high standard of legal education, training and excellence. In 2010, scholarships were awarded to three Alberta law students.

Jocelyn Stacey
Having completed a year - long clerkship at the Supreme Court of Canada in Ottawa, Jocelyn Stacey now has her sights set on earning an LL.M. degree from Yale University. She intends to focus her course work on legal theory and also work on an individual research project on administrative and environmental law. Jocelyn has a B.Sc. from the U. of Alberta and an LL.B. from the U. of Calgary. Upon earning her LL.M., she plans to find an academic position at a Canadian law school.

Anna Lund
Anna Lund is attending the University of California, Berkeley (Boalt Hall), working towards her LL.M. and focusing on property law, bankruptcy law and water rights. She will be writing her thesis with Joseph Sax, author of Legal Control of Water Resources: Cases and Materials (Thomson West, 2006). Anna is appreciative of the Viscount Bennett Scholarship as it assists her in pursuing studies in water issues.

Cameron Jefferies
Earning a biological sciences degree from the University of Alberta fueled an interest in environmental law for Cameron Jefferies. Having completed his law degree at the University of Alberta, Cameron is now studying towards his LL.M. at the University of Virginia in Charlottesville. Cameron plans to complete an independent research project on whale and shark conservation along with his course work.

2010 STANDING COMMITTEE LIST

ACCESS TO JUSTICE
Scott Watson *(Chair)*
Wayne Jacques *(Vice-Chair)*
Fred Fenwick
John Higgerty
Roy Nickerson
Steve Raby
Sarah King-D'Souza
Gillian Marriott
Janice Pasay
Jocelyn Frazer *(LSA)*

APPEAL
Rod Jerke *(President)*
Doug Mah *(President-Elect)*

Benchers:
Larry Ackerl
Neena Ahluwalia
Rose Carter
James Eamon
Ron Everard
Fred Fenwick
Kevin Feth
James Glass
John Higgerty
Carsten Jensen
Sarah King-D'Souza
J. Roy Nickerson
Stephen Raby
Frederica Schutz
Dale Spackman
Harry Van Harten
Scott Watson
Tony Young

Appointed Benchers:
Miriam Carey
Wayne Jacques
Larry Ohlhauser
Amal Umar
Donna Diamond *(LSA)*

AUDIT
Carsten Jensen *(Chair)*
Frederica Schutz
Jim Eamon
Brett Code
Brian Foster
Heather Dunlop
Christine Silverberg
Don Thompson, ex officio *(LSA)*
Bill Wakefield *(LSA)*
Drew Thomson *(LSA)*
Tia Mankar *(LSA)*

CIVIL PRACTICE ADVISORY
Frederica Schutz *(Chair)*
Jim Glass *(Vice-Chair)*
Roy Nickerson
Russell Brown
David Hicks
Elizabeth Liu
David Tupper
Raymond Wong
Vivian R. Stevenson *(Rules of Court, ex officio)*
Jim Eamon *(Rules of Court, ex officio)*
Diana J. Lowe *(Canadian Forum on Civil Justice, ex officio)*
Mr. Justice David Wilkins *(Ad Hoc Member)*
Don Thompson, ex officio *(LSA)*

CONDUCT
Carsten Jensen *(Chair)*
Kevin Feth *(Vice-Chair)*
Larry Ackerl
Neena Ahluwalia
Miriam Carey
Fred Fenwick
Jim Glass
John Higgerty
Sarah King-D'Souza
Larry Ohlhauser
Steve Raby
Amal Umar
Harry Van Harten
Mae Chow
Catrin Coe
Sandra Corbett
Bill Hendsbee
Clarke Hunter
Karen M. O'Keeffe
Walter Pavlic
Kathleen Ryan
Harvey Steblyk
Howard Kushner *(LSA)*
Greg Busch *(LSA)*
Janet Dixon *(LSA)*
Donna Diamond *(LSA)*

CONTINUING PROFESSIONAL DEVELOPMENT
Jim Glass *(Chair)*
Frederica Schutz *(Vice-Chair)*
Larry Ackerl
Wayne Jacques
Harry Van Harten
Corinne Ghitter
Julie Inch
Kathryn Chisholm
Paul Wood *(LESA)*
Nancy Carruthers *(LSA)*
Ross McLeod *(LSA)*
Michael Penny *(LSA)*

CORPORATE & COMMERCIAL ADVISORY
Dale Spackman *(Chair)*
Peter Dobbie *(Vice-Chair)*
Rick Reeson
Ken Skingle
David Stratton
Peter Bryan
Don Thompson *(LSA)*

CREDENTIALS & EDUCATION
Ron Everard *(Chair)*
John Higgerty *(Vice-Chair)*
Rose Carter
Jim Eamon
Wayne Jacques
Frederica Schutz
Dale Spackman
Amal Umar
Tony Young
Crae Garrett
Kanchana Fernando
Lorena Harris
Anne Kirker
Catherine Workun
Dean Alastair Lucas *(U of C)*
John Law *(U of A)*
Paul Wood *(LESA)*
Howard Kushner *(LSA)*
Angela Gallo-Dewar *(LSA)*

CRIMINAL PRACTICE ADVISORY
Larry Ackerl *(Chair)*
Harry Van Harten *(Vice-Chair)*
T. Catherine Christopher
Charles Davison
Gloria Grieco
James Lutz
Greg Rice
Neil Skinner
Janet Dixon *(LSA)*
Katrina Diaz *(LSA)*

EXECUTIVE
Rod Jerke *(President)*
Doug Mah *(President-Elect)*
Ron Everard
Carsten Jensen
Steve Raby
Dale Spackman
Larry Ohlhauser *(Appointed Bencher)*
Don Thompson *(LSA)*
Nicole Woodward *(LSA)*

FAMILY LAW ADVISORY COMMITTEE
John Higgerty *(Chair)*
Renee Cochard
Timothy J. Corcoran
Dale Ellert
Catherine Fox
Tina Huizinga
Barbara Widdowson
Deborah Miller
Kathy Whitburn *(LSA)*
Shonet Arsenault *(LSA)*

FINANCE
Steve Raby *(Chair)*
Scott Watson *(Vice-Chair)*
Miriam Carey
Jim Eamon
Fred Fenwick
Wayne Jacques
Amal Umar
Tony Young
Blair Carbert
James McGinnis
Deanna Steblyk
Bill Wakefield *(LSA)*
Nadine Meade *(LSA)*
Drew Thomson *(LSA)*
Don Thompson, ex officio *(LSA)*

GOVERNANCE COMMITTEE
Dale Spackman *(Chair)*
Neena Ahluwalia *(Vice-Chair)*
Carsten Jensen
Larry Ohlhauser
Scott Watson
Doug Hudson
Don Thompson *(LSA)*
Drew Thomson *(LSA)*
Nicole Woodward *(LSA)*
Rod Jerke *(President)*
Doug Mah *(President-Elect)*

INSURANCE
Roy Nickerson *(Chair)*
Dale Spackman *(Vice-Chair)*
Ron Everard
Jim Glass
Sean Smyth
Doug Stokes
Phyllis A. L. Smith *(CLIA Past Chair – ex officio)*
Vivian Stevenson *(CLIA Rep)*
Lisa Sabo (ALIA)
Veronica D'Souza *(ALIA)*

JOINT LIBRARY
Rose Carter *(Chair)*
Larry Ackerl *(Vice-Chair)*
Elliot Baker
Marlis Schoenemann *(CanLII Rep)*
Lynn Varty *(Planning & Business Services)*
Sonia Poulin *(Director, Provincial Law Libraries)*

PRACTICE REVIEW
Tony Young *(Chair)*
Rose Carter *(Vice-Chair)*
Sarah King-D'Souza
Neena Ahluwalia
Kevin Feth
Wayne Jacques
Larry Ohlhauser
Frederica Schutz
Harry Van Harten
Scott Watson
Greg Collver
Penny Frederiksen
Moosa Jiwaji
John Kong
Jim T. Neilson
S. Leonard Polsky
Carolyn Seitz
Farrel Shadlyn
Victor Vogel
Howard Kushner *(LSA)*
Greg Busch *(LSA)*
Barbara Cooper *(LSA)*
Merry Rogers *(LSA)*

PROFESSIONAL RESPONSIBILITY
Neena Ahluwalia *(Chair)*
Fred Fenwick *(Vice-Chair)*
Carsten Jensen
Sarah King-D'Souza
Harry Van Harten
Tony Young
Bruce Hepburn
Dena Mitchell
Eleanor Olszewski

...continued on page 24

2010 STANDING COMMITTEE LIST *continued... from page 23*

Tom Sides
Heather Treacy
Derek Van Tassell
Neil Wiberg
Alice Woolley
Howard Kushner *(LSA)*
Nancy Carruthers *(LSA)*
Ross McLeod *(LSA)*
Jocelyn Frazer *(LSA)*
Jennifer Rothery *(LSA)*

REAL ESTATE PRACTICE ADVISORY COMMITTEE
Steve Raby *(Chair)*
Roy Nickerson *(Vice-Chair)*
Pat Bishop
Heather Bonnycastle
Louise Eccleston
Don Homer
Gary Kaskiw
Sonny Mirth
Jennifer Oakes
Steve Shavers
Mark Stillman
Chris Warren
Linda Wright
Susan Billington *(LSA)*

ALTERNATE DELIVERY OF LEGAL SERVICES PROJECT COMMITTEE (ADLS)
Doug Mah *(Chair)*
Sarah King-D'Souza *(Vice-Chair)*
Miriam Carey
Fred Fenwick
Frederica Schutz
Scott Watson
Greg Francis
Douglas Lynass
Susan Billington *(LSA)*

CONDUCT PROCESS TASK FORCE
Jim Eamon/Doug Mah *(Co-chairs)*
Larry Ackerl
Miriam Carey
Perry Mack
Laura Stevens
Howard Kushner *(LSA)*

LAWYERS AT RISK TASK FORCE
Carsten Jensen *(Chair)*
Larry Ohlhauser
Scott Watson
Craig Kinsman
Michael Penny *(LSA)*

PRO BONO POLICY TASK FORCE
Jim Eamon *(Chair)*
VC, Tony Young
Kevin Feth
Wayne Jacques
Doug Mah
Bruce Churchill-Smith
Michael Penny *(LSA)*

(QUALITY ASSURANCE) QA PROGRAM TASK FORCE
Kevin Feth *(Chair)*
VC, Ron Everard
Neena Ahluwalia
Rose Carter
Larry Ohlhauser
Matia Matkovic

RE-ENGAGEMENT AND RETENTION TASK FORCE
C, Sarah King-D'Souza *(Chair)*
VC, Miriam Carey *(Vice-Chair)*
Neena Ahluwalia
Jim Glass
John Higgerty
Emily Anderson
Tahira Karim
Kyle Kawanami
Sandra Mah
Dawn Pentelechuk
Ken Warren
Carole Anctil-Michalyshyn

THIRD PARTY FUNDING POLICY TASK FORCE
Fred Fenwick *(Chair)*
VC, John Higgerty
Rose Carter
Dale Spackman
Peter Michalyshyn

TRUST FUNDS IMPLEMENTATION TASK FORCE
Steve Raby *(Chair)*
Kevin Feth *(Vice-Chair)*
Ron Everard
Jim Glass
Dale Spackman
Amal Umar
Janet Dixon *(LSA)*

SPECIAL COMMITTEES & REPRESENTATIVES TO OTHER BODIES

ACCESS TO JUSTICE STEERING COMMITTEE
Rod Jerke

ADVISORY COMMITTEE ON JUDICIAL APPOINTMENTS FOR ALBERTA
Mona Duckett

ALBERTA LAW FOUNDATION
Stephen Raby
Murray W. Stooke

ALBERTA LAW REFORM INSTITUTE
Jim Eamon

ALBERTA LEGAL SERVICES MAPPING PROJECT ADVISORY COMMITTEE
Rose Carter

ASSIST BOARD
Carsten Jensen

CANADIAN BAR ASSOCIATION – ALBERTA
Rod Jerke *(President)*
Doug Mah *(President-Elect)*
Don Thompson *(Executive Director)*

CANADIAN INSTITUTE OF RESOURCE LAW
Jay Todesco

CANADIAN LEGAL INFORMATION INSTITUTE – CANLII
Marlis Schoenemann

CANADIAN RESEARCH INSTITUTE FOR LAW & FAMILY
Judy Boyes

CANADIAN LAWYERS INSURANCE ASSOCIATION
Roy Nickerson *(Chair, Insurance)*
Vivian Stevenson *(CLIA Board)*

EQUALITY AND RESPECT COMMITTEE, LAW FACULTY, U OF A
Leah Lis

FAMILY JUSTICE ADVISORY COMMITTEE
Deborah Snow

FAMILY LAW RULES OF COURT PROJECT
Pat Daunais
Michelle Mackay

FEDERATION OF LAW SOCIETIES OF CANADA
Rod Jerke *(President)*
Doug Mah *(President-Elect)*
Mona Duckett *(Council Member)*

FEDERATION NATIONAL COMMITTEE ON ACCREDITATION
Don Thompson

JUSTICE INFORMATION MANAGEMENT SYSTEM
J. Roy Nickerson

JUSTICE POLICY ADVISORY COMMITTEE
Rod Jerke

LAW FACULTY COUNCIL
Tony Young *(U of C)*
Brian Beresh *(U of A)*

LEGAL AID NOMINATING COMMITTEE – BOARD OF DIRECTORS
Mona Duckett
Fred Fenwick

LEGAL AID LIAISON COMMITTEE
Peter Michalyshyn *(Past President)*

LEGAL ARCHIVES
Larry Ackerl
Don Thompson, ex officio

LEGAL EDUCATION SOCIETY OF ALBERTA
Ron Everard *(Chair, Credentials & Education)*
Don Thompson

LEGISLATIVE REVIEW COMMITTEE
Kevin P. Feehan

NOTARIES PUBLIC REVIEW COMMITTEE
S. (Sam) N. Amelio

PRO BONO LAW ALBERTA
Kevin Feth

PROVINCIAL COURT CONSULTATION COMMITTEE
Robert Batting

PROVINCIAL COURT CONSULTATION COMMITTEE
Charles Davison

PROVINCIAL COURT NOMINATING COMMITTEE
Rod Jerke *(President)*

PROVINCIAL JUDICIAL COUNCIL
Rod Jerke *(President)*
Doug Mah *(President-Elect)*

RULES OF COURT COMMITTEE VIVIAN STEVENSON
Jim Eamon

SELF-REPRESENTED LITIGANTS ADVISORY COMMITTEE
Neena Ahluwalia

TAX CONSULTATIVE GROUP
Donald Cherniawsky

VISCOUNT BENNETT SCHOLARSHIP COMMITTEE
Rod Jerke *(President)*
Doug Mah *(President-Elect)*
Ron Everard *(Chair, Credentials & Education)*
Dean Alastair Lucas *(U of C)*
Dean Philip Bryden *(U of A)*
Don Thompson *(Executive Director)*

AD HOC COMMITTEES

BENCH & BAR COMMITTEE
Rod Jerke *(Chair)*
Balfour Der
Virginia Engel

CLAIMS COMMITTEE
Anne L. Kirker
Douglas A. McGillivray
Douglas G. Stokes
Edward W. Halt
Gerald F. Scott
Walter W. Kubitz
Donald Cranston
Phyllis A. Smith
Alexander G. (Sandy) McKay
Lisa Sabo *(LSA)*

THANKS TO LAW SOCIETY OF ALBERTA STAFF (AS OF DECEMBER 31, 2010)

ACCOUNTING
Bill Wakefield
Tia Mankar
Nadine Meade
Eloisa Dela Rosa
Siu Ayala

ALIA
Lisa Sabo
Paula Haney
Brian Snyder
Colleen Beatty
Philip Carr
Dora Choi
Veronica D'Souza
Aiken Fernandes
Garry Henderson
Jackie Hickey
Florinda Krebs
Alex Lawson
Anna Lerch
Gina Maskell
Tammy Missal
Chris Olenick
Carmen Zaharia

BUSINESS ENABLEMENT SERVICES (BES)
David Baker
Sarah Emslie
Diana Khadem

CPLED (CANADIAN CENTRE FOR PROFESSIONAL LEGAL EDUCATION)
Leona Dvorak

COMMUNICATIONS
Sheila Serup
Bria Cridland
Melinda Lundy

CONDUCT
Greg Busch
Maurice Dumont
Kathy Whitburn
Arlene Anaka
Joseph Angeles
Linda Arksey
Cathlyn Atkins
Loreen Austin
Steve Bach
Irina Barsukoff
Donna Diamond
Dan Dorsey
Bob Ellergodt
Ann Fougere
Kristin Heisler
Rick Hilborn
Boyd Hiltz
Donna Kanomata
Pamela Jenkyns
Trevor Jones
Tina Mackay
Doug McKenzie
Julie MacMullin
Mike Martin
Doug Morris
Jim Oake
Brian Olesky
Gabrielle Poirer
Michelle Roxas
Lisa Sanders
Nancy Stenson
Lawrence Taylor
Linda Threet
Karen Vanderzweerde
Lewis Wasel

COUNSEL
Janet Dixon
Tracy Davis
Garner Groome
Molly Naber-Sykes
Susan Amyotte
Katrina Angeles
Shonet Arsenault
Lara Ewen
Jillanna Sehn
Michelle Webster

EQUITY OMBUDSPERSON
Jocelyn Frazer

IT (INFORMATION TECHNOLOGY SERVICES)
Devin Hobley
Rob Vinnicombe

MEMBERSHIP
Angela Gallo-Dewar
Rachel Lor
Natalie Coco
Jacqueline Keats
Deborah Leslie
Stephanie Skiffington
Laura Weernink

OFFICE SERVICES
Lisa Dubyk
Maureen Forbes
Colleen Goodbrand
Julie Hanson
Dylan Ofsie
Karen Olsen
Karolina Pinczewska
Melody Rodger
Donna Schultz
Chantaal Tanner

POLICY COUNSEL
Michael Penny
Susan Billington
Nicole Woodward
Kristin Clark-Brown
Cindy Derwores
Gillian Archibald

PRACTICE ADVISORS
Nancy Carruthers
Ross Mcleod
Jocelyn Frazer
Jennifer Rothery

PRACTICE REVIEW
Barbara Cooper
Merry Rogers

RECORDS & INFORMATION MANAGEMENT SERVICES (RIMS)
Jessica Arts
Lisa Bird
Tammy Garrioch
Bev Ormond
Brad Stewart

SECRETARIAT
Don Thompson
Howard Kushner
Drew Thomson
Nona Cameron
Corrine Ainslie
Sharon Allard

TRUST SAFETY
Glen Arnston
Lisa Atkins
Raymond Cawaling
Lisa Fayant
Debra Korol-Bock
Suzanna Stoehr
Jamaica Zarchekoff

This is Exhibit " B " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA
700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Bencher Public Minutes

Public Minutes of the Four Hundred and Ninety-Sixth Meeting of the Benchers of the Law Society of Alberta (the "Law Society")

December 5, 2019

Hotel Macdonald, Edmonton, Alberta

9:00 am

Benchers present	Rob Armstrong, President Kent Teskey, President-Elect Ryan Anderson Arman Chak Corie Flett Elizabeth Hak Bill Hendsbee Cal Johnson Linda Long Jim Lutz Barb McKinley Bud Melnyk Walter Pavlic Corinne Petersen Stacy Petriuk Robert Philp Kathleen Ryan Darlene Scott Deanna Steblyk Margaret Unsworth Cora Voyageur Ken Warren Louise Wasylenko Nate Whitling
Executive Leadership Team members present	Elizabeth Osler, Executive Director and Chief Executive Officer Cori Ghitter, Deputy Executive Director and Director, Professionalism and Policy Paule Armeneau, Director, Regulation, and General Counsel Nadine Meade, Chief Financial Officer Andrew Norton, Chief Information Officer and Director, Business Operations

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	David Weyant, President and Chief Executive Officer, Alberta Lawyers Indemnity Association
Staff present	Barbra Bailey, Policy Counsel Nancy Bains, Associate General Counsel Colleen Brown, Manager, Communications Nancy Carruthers, Manager, Professionalism and Ethics Ruth Corbett, Governance Administrator Shabnam Datta, Policy Counsel Koren Lightning Earle, Indigenous Initiatives Liaison Nicholas Maggisano, Manager, Conduct Tina McKay, Senior Manager, Business Operations Jody Saunders, Tribunal Counsel Laura Scheuerman, Governance Assistant Avery Stodalka, Senior Communications Advisor Stephen Ong, Business Technology
Guests and observers present:	David Hiebert, Canadian Bar Association, Alberta Branch Nonye Opara, Pro-Bono Law Alberta Sandra Petersson, Executive Director, Alberta Law Reform Institute Christine Sanderman, Executive Director, Legal Education Society of Alberta

Secretary's Note: The arrival and/or departure of participants during the meeting are recorded in the body of these minutes.

The meeting was called to order at 9:05 a.m.

	Item
1	**Opening Remarks from the Chair** Mr. Armstrong opened the meeting by acknowledging that the land on which we gathered is Treaty 6 territory and a traditional meeting ground and home for many Indigenous Peoples, including Cree, Saulteaux, Blackfoot, Métis, and Nakota Sioux. Mr. Armstrong welcomed Benchers and guests and acknowledged new Federation of Law Societies of Canada ("FLSC") representative, Carsten Jensen, who was unable to attend today. Mr. Maggisano was welcomed to his first Bencher meeting.
2	**Election of the President-Elect and the Executive Committee** Documentation circulated for this item included the Statements of Intention, approved election procedures, and the applicable Rules of the Law Society (the "Rules"). Mr. Armstrong advised the Benchers that Ms. Scott put her name forward for President-Elect.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Mr. Armstrong called for nominations from the floor in accordance with Rule 27(1) and there were none.

Motion:
To close the nominations for President-Elect.

Seconded
Carried

Ms. Scott was acclaimed as the President-Elect pursuant to Rules 27(1)(b) and 28(2)(a). Ms. Scott was invited to address the Benchers and in her remarks Ms. Scott emphasized her confidence in the new Executive Leadership Team ("ELT") and her appreciation for Law Society staff and the work they do. Ms. Scott recognized the work being done at the Board table and the Benchers' engagement in Big Issues and their support for the Strategic Plan. Ms. Scott highlighted the Law Society's leadership in Canada and internationally through its early intervention program, improvements to the conduct process, the adjudication and decision writing. Lawyer wellbeing, equity and diversity are important priorities and the Law Society's response to the results of the articling survey will explore real and effective solutions to challenging issues. Ms. Scott encouraged the Law Society and the Benchers to be bold and innovative in their approach and she expressed her honour and privilege to serve the public and the profession.

Mr. Armstrong then outlined the procedures for the election of the Executive Committee, read the Statements of Intention and called for nominations from the floor. There were no new nominations.

Motion:
To close the nominations for the Executive Committee.

Seconded
Carried

The election for the Executive Committee proceeded. Following three rounds of voting the successful candidates for the four elected positions on the Executive Committee were (in alphabetical order) Bill Hendsbee, Cal Johnson, Deanna Steblyk, and Ken Warren. The Lay Benchers appointed Louise Wasylenko to the Executive Committee for one year.

3 Appointment of the Bencher-at-Large to the Nominating Committee

Mr. Armstrong advised the Benchers that the process for the appointment of the Bencher-at-large to the Nominating Committee is that the Executive Committee makes the recommendation. The Executive Committee will discuss the matter following the Board meeting and a recommendation will then be circulated by e-ballot to the Benchers.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

4 2020 Business Plan and Budget

Documentation for this item was circulated with the meeting materials. Ms. Ryan, Chair of the Audit and Finance Committee ("AFC"), presented the 2020 Business Plan and Budget, highlighting the following:

- The draft Budget was reviewed by the AFC at three meetings in October 2019 and then by the Benchers at the special budget meeting on November 6, 2019. Ms. Ryan advised the Benchers that the CFO and ELT provided timely, accurate and useful information throughout the process.
- In the budget meetings, the AFC and the Benchers had discussed whether the practice fee should decrease this year; however, they ultimately supported a static practice fee, ensuring funds would be available to address identified risks, particularly the part time fees project and the enhanced entry level competency program through the Canadian Centre for Professional Legal Education ("CPLED").
- Ms. Ryan commended ELT and particularly the CFO for their work on the 2020 Business Plan and Budget and thanked the Benchers and AFC for their review and feedback.

Ms. Meade provided an overview of the 2020 Budget, highlighting the following:

- Process improvements this year included the requirement for departments to submit business plans to support staffing changes.
- AFC and the Benchers provided invaluable feedback on the themes of the Budget and associated risks; i.e., merchant banking fees, the CPLED program subsidy, part time fees, insurance defense costs, salaries, surplus, and return on investment.
- 2020 will see an increased focus on the Law Society's sustainability model and a formal surplus policy will be implemented.
- Ms. Meade noted the Benchers desire to achieve more alignment between the budget process and the Strategic Plan with longer term budgeting, and added that ELT is committed to continuously reviewing and refining the process.
- Ms. Meade thanked everyone for their support of the budget process and throughout her first year as CFO of the Law Society.

Motion:
To approve the 2020 Law Society of Alberta Business Plan and Budget as presented and to set the Practice Fee at $2,600.

Seconded
Carried unanimously

5 Indigenous Initiatives Liaison Report

A report on Indigenous initiatives at the Law Society from Ms. Lightning Earle, Indigenous Initiatives liaison ("IIL"), was circulated with the meeting materials. An Indigenous

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Advisory Committee is currently developing goals and objectives for 2020 and beyond that will take reconciliation to the next level for the Law Society. Ms. Lightning Earle advised the Benchers that this was her last IIL report and she encouraged the Law Society to build on the foundation to create long term plans for reconciliation. On behalf of the Benchers, Mr. Armstrong thanked Ms. Lightning Earle for being the first IIL at the Law Society, congratulated her on her new position and on receiving a Women in Law Leadership Award (Leader of Tomorrow). The Benchers presented Ms. Lightning Earle with the traditional gift of a blanket.
6	**Timeline Updates** **6.1 Big Issues** **6.2 Engagement** **6.3 2017-2019 Strategic Plan Review** Ms. Osler presented the Big Issues and Engagement timelines and summarized the updates. Additionally, the 2017-2019 Strategic Plan Review was prepared to provide Benchers with a summary of the strategies, programs and initiatives accomplished over the last three years. A timeline for the new Strategic Plan accomplishments will be developed.
7	**2020-2024 Strategic Plan and Regulatory Objectives** Documentation for this item was circulated with the meeting materials. Mr. Armstrong summarized the process followed and thanked Benchers for their review and feedback on earlier drafts, noting that their changes were incorporated. He thanked the Strategic Plan Task Force and Ms. Bailey for being instrumental in the work. **Motion:** **That the Benchers approve the Strategic Plan for 2020-2024, as proposed.** **Seconded** **Carried unanimously** Mr. Armstrong presented the Regulatory Objectives, again thanking the Benchers for their review of earlier drafts, confirming that changes were incorporated. **Motion** **That the Benchers approve the Statement of Regulatory Objectives, as proposed.** **Seconded** **Carried unanimously**

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

8 Committee Restructuring

Documentation for this item was circulated with the meeting materials. Mr. Teskey presented the proposal for changes to the committee structure that are intended to focus the committee work on current strategic issues.

The Benchers considered the key elements of regulatory reform, lawyer competence, and equity, diversity and inclusion, and how best to accomplish these strategic goals. Discussion included whether access from the public point of view is being addressed and it was noted that much of the work on Law Society initiatives contains access elements that will become more evident over time.

Motion:
That the Benchers approve the following changes to the structure of Bencher committees for 2020:
- Transition the Policy Committee to the Policy and Regulatory Reform Committee;
- Replace the Practice Foundations Task Force with the following two committees:
- **Lawyer Competence Committee**
- **Equity, Diversity and Inclusion Committee; and**

- Disband the Innovating Regulation Task Force.

Seconded
Carried unanimously

9 Executive Committee Rule Amendment

Mr. Armstrong recused himself from the meeting.

Documentation for this item was circulated with the meeting materials. Mr. Teskey presented the proposal for a Rule amendment that would allow the immediate past President to sit on the Executive Committee upon their resignation as a Bencher. The rationale for this Rule change was that the past President's institutional knowledge would be invaluable to the work of the Law Society. The past President would not attend Bencher meetings and would not hold a voting position on the Executive Committee. Mr. Teskey noted that this issue has been discussed at the Board table in the past.

The Benchers supported the proposal, noting that it addresses succession and aligns with the strategic goal to improve business practices. The new practice will be monitored to ensure expectations and time commitments are reasonable.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Motion:
That the Benchers approve the amendments to Rule 26, as proposed.
Seconded
Carried unanimously

Mr. Armstrong rejoined the meeting and was advised of the Benchers' decision.

10 Practice Foundations Task Force ("PFTF") Update

A final report from the PFTF was circulated with the meeting materials. The focus of the PFTF meetings was on the launch of the Respectful Workplace Model Policy and the recruitment and formation of the advisory committees for lawyer competence and equity, diversity and inclusion. The work of the advisory committees will feed into the work of the two new Board committees which replaced the PFTF (see agenda item 8).

11 Lawyer Directory

Presentation

Ms. McKay's provided a detailed online demonstration of how the Lawyer Directory works.

11.1 Roll, Register and Lawyer Directory Rule Amendments

Documentation for this item was circulated with the meeting materials. Ms. Datta presented the Rule changes that are intended to modernize and enhance the Lawyer Directory and provide the necessary and appropriate information to the public, balanced with lawyers' privacy and confidentiality. Highlights and discussion included the following:

- Ms. Datta confirmed that the definition of what is included in disciplinary information has not been broadened; for example, citations in the definition still means citations that have been directed to a hearing and are then made available to the public.
- The Benchers discussed proposed Rule 45(5) which provides for the Executive Director to allow, limit or refuse disclosure. Ms. Armeneau confirmed that it is important to ensure that disclosure can be refused, if necessary, to ensure private matters are not disclosed.

Motion:
That the Benchers approve the amendments to Rules 1, 39, 40, 40.1, 44, 45, 154, and 159.1, as proposed in Appendix "A" of the meeting materials, *subject to two minor, non-substantive changes to be incorporated by Ms. Datta.*
Carried by greater than a 2/3 majority
Two opposed

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

11.2 Rules 106 and 107 Amendments

Documentation for this item was circulated with the meeting materials. Ms. Carruthers and Ms. Bains presented the proposal for amendments to Rules 106 and 107 and consequential changes to the *Publication and Redaction Guideline for Adjudicators* being recommended by the Policy Committee. Highlights and discussion included the following:

- The purpose of the amendments is to simplify the current Rules, facilitate the changes to the Lawyer Directory, and provide open and clear guidance on the publication of hearing outcomes.
- Ms. Carruthers detailed a number of additional amendments to the proposed Rule changes since the Policy Committee's review, suggested by Mr. Johnson prior to the Bencher meeting. Specifically, proposed Rule 106(6) was to be revised to remove the reference to hearings or appeals held wholly or partly in private. The Rule was intended to authorize the Executive Director to publish a member's name and a summary of the hearing outcome where no hearing report is available for publication. As well, for consistency with other Rule amendments, proposed Rule 106(2)(b) was amended to refer to section 85 of the Act rather than section 85(1).
- The Benchers discussed a concern raised in relation to paragraph 53 of the *Publication and Redaction Guideline for Adjudicators,* with respect to the publication of the names of firms, and it was noted that this was also a topic of discussion at the Policy Committee. Following their discussion, the Benchers directed staff to take the *Publication and Redaction Guideline for Adjudicators* back to the Policy Committee for more work on this aspect.

Motion:
That the Benchers approve the amendments to Rules 106 and 107, as set forth in Appendix "A" of the meeting materials, *subject to the amendments to 106(2)(b) and 106(6) discussed.*

Carried by greater than a 2/3 majority
One opposed

12 Adjudicator Training Guideline and Adjudicative Appointment Guideline

Documentation for this item was circulated with the meeting materials. Ms. Saunders presented the proposal for two new guidelines, on the recommendation of the Policy Committee. Highlights and discussion included the following:

- Law societies are expected to comply with the expectations for adjudicator training in the FLSC's National Curriculum. The Law Society leads in this area, with the Adjudicator Training Program ("ATP") addressing 38/40 of the core topics of the FLSC National Curriculum and the marketing of the ATP to other law societies and regulators.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

- The Benchers' discussion focused on duplication in sections 29, 30 and 33 with respect to adjudicators who have not completed the ATP. Ms. Saunders was directed to review and adjust the wording to remove any duplication.

Motion 1:
That the Benchers approve the Adjudicator Training Guideline, *subject to further changes to paragraphs 29, 30, and 33 to be made by Tribunal Counsel to remove any duplication*.

Seconded
Carried unanimously

Secretary's note: following the meeting, Tribunal Counsel reviewed her notes and prior versions of the Guideline and confirmed that paragraph 33 should have been removed, as it was duplicative with paragraphs 29 and 30. Prior versions had paragraph 33 addressing an additional point, which point was ultimately dropped, removing the need for this remainder of the paragraph as it was sufficiently caught by the two prior paragraphs.

Motion 2:
That the Benchers approve the Adjudicative Panel Appointment Guideline as proposed.

Seconded
Carried unanimously

Secretary's note: the Adjudicative Panel Appointment Guideline replaced the Hearing Committee Appointment Protocol.

13 Conduct Committee Panel Guideline

Documentation for this item was circulated with the meeting materials. Ms. Bailey and Mr. Maggisano presented the proposal for a new *Conduct Committee Panel Guideline*, amendments to Rule 88, and consequential amendments to the *Mandatory Conduct Advisory Guideline*. The Policy Committee's recommendations were incorporated into the final drafts. Highlights and discussion included the following:

- The proposed changes are intended to update and more accurately reflect current processes.
- The Benchers discussed paragraph 14 of the *Mandatory Conduct Advisory Guideline* regarding the confidentiality of section 53 reports. Mr. Maggisano clarified that during the investigation stage the lawyer subject to a complaint would be entitled to exhibits to the report, which contain the facts; however, not the report itself, which contains the Law Society's internal analysis and, as such, is privileged.
- The question was asked whether Benchers who sit on the conduct panel prior to the Mandatory Conduct Advisory ("MCA") should be excluded in the same way that

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Benchers who complete the MCA do not sit on the panel that reviews the MCA report. Mr. Maggisano advised the Benchers that the Policy Committee had discussed this question as well and determined that the distinction is that the Bencher doing the MCA is recommending the result whereas that is not the case at the Conduct Committee stage prior to the MCA; i.e., often it's the case where the Bencher on the Conduct Panel is best placed to know the Conduct Committee's concerns.

Motion 1: **That the Benchers approve the new Conduct Committee Guideline, as proposed.** **Seconded** **Carried unanimously**
Motion 2: **That the Benchers approve the amendments to Rule 88, as proposed.** **Seconded** **Carried unanimously**
Motion 3: **That the Benchers revoke the "Conduct Panel Guideline" and "Factors to be Considered – Section 58 Referral Guideline."** **Seconded** **Carried unanimously**
Motion 4: **That the Benchers approve consequential amendments to the Mandatory Conduct Advisory Guideline to:** **a) Rename the "Conduct Panel Guideline" to the "Conduct Committee Guideline", and** **b) Reflect the proposed amendments to Rule 88(6) respecting Mandatory Conduct Advisories.** **Seconded** **Carried unanimously**

14 President's Report

Mr. Armstrong had no remarks to add to his report which was circulated with the meeting materials.

15 Leadership Report

The Leadership Report was circulated with the meeting materials. Ms. Osler reported the following:

- Ms. Andrea Menard will replace Ms. Lightning Earle as the Law Society's IIL in the new year.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

- The format of the Podcast has evolved and will be developed further in 2020 to include interviews with external stakeholders.
- The timelines for Big Issues and Engagement, as well as the new budget process, and the Law Society's new approach to strategically viewing its work through a sustainability lens were discussed.
- Ms. Osler thanked the Benchers for their approval of the new and revised guidelines.
- Ms. Osler commended the Communications team for their work to develop materials and webinars on various topics for the profession, including the information tools on the new merchant banking process.
- Ms. Osler thanked Mr. Norton and his team for managing the Law Society's move to new space and advised that there will be an official opening ceremony on February 19, 2020.
- Ms. Osler thanked everyone for their support during her first year as CEO and Executive Director.

16 CONSENT AGENDA

The consent agenda consisted of the September 26, 2019 Public Bencher minutes which were circulated with the meeting materials.

Motion:
That the Benchers approve the September 26, 2019 Public Bencher meeting minutes, as circulated.

Seconded
Carried

17 Reports for Information

The following reports were circulated with the meeting materials for information:

17.1 Alberta Law Foundation report
17.2 Alberta Law Reform Institute report
17.3 Bencher Election Task Force report
17.4 Canadian Bar Association report
17.5 Federation of Law Societies of Canada report
17.6 Legal Education Society of Alberta report
17.7 Pro Bono Law Alberta report

18 Other Business

There was no other business.

19 Adjournment

The public meeting was adjourned at 2:30 pm.

This is Exhibit " C " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

STRATEGIC PLAN

2020-2023

TABLE OF CONTENTS

STRATEGIC GOALS

Goals will serve the Law Society for the next four years. They are outcome-oriented statements that represent what will constitute the organization's future success. The achievement of each goal will move the Law Society towards the realization of its mission.

Objectives describe what we want to have happen with an issue. What would constitute success in observable or measurable terms? They indicate a direction – increase, expand, decrease, reduce, consolidate, abandon, all, distribute, none. Objectives have a three to five-year timeframe and are reviewed every year by the Board.

INNOVATION & PROACTIVE REGULATION

COMPETENCE & WELLNESS

ACCESS

EQUITY, DIVERSITY & INCLUSION

INNOVATION & PROACTIVE REGULATION

The Law Society regulates the legal profession in a manner that is innovative, proactive, transparent and proportionate.

1. Expand the Law Society's ability to be innovative and proactive through new governing legislation.
2. Reduce regulatory barriers to innovation in the delivery of legal services.
3. Consider ways to reduce regulatory oversight where possible and to otherwise incorporate proportional regulation.
4. Increase innovation, efficiency and transparency of all regulatory and governance processes.
5. Increase Law Society communication and engagement with the public and the profession.
6. Commit to continuous improvement of governance practices.
7. Increase the Law Society's use of progressive, responsive and efficient business practices.

COMPETENCE & WELLNESS

The Law Society promotes a broad concept of competency and wellness in the legal profession.

1. Evaluate and improve the training programs for new lawyers.
2. Increase the practice management and client relationship management skills of the profession.
3. Broaden the concept of competency, within both the Law Society and the profession, into non-traditional areas, such as technological and cultural competence.
4. Reduce the stigma related to mental and physical health issues by creating a supportive regulatory environment.
5. Increase dialogue with the profession about ways it can innovate to provide efficient and effective legal services and provide resources to support technical competence.

ACCESS

The Law Society promotes affordability of legal services and removes regulatory barriers to access where reasonable and appropriate.

1. Reduce unnecessary regulatory barriers to access related to language, geographic location, literacy, disability and technology.
2. Increase support for lawyers in providing timely and appropriate legal services.
3. Increase resources providing information for the public about legal services and assistance in finding the services it needs.
4. Increase collaboration with other legal organizations and service providers to address unmet legal needs.
5. Increase support for lawyers providing accessible legal services in innovative ways.

EQUITY, DIVERSITY & INCLUSION

The Law Society leads the profession to increase cultural competency and promotes a profession that is representative of the public it serves.

1. Increase cultural competency of the organization and the profession.
2. Increase diversity and inclusion in the delivery, development and engagement of Law Society programs and services.
3. Increase diversity and inclusion on the Law Society Board.
4. Increase retention of lawyers from diverse communities in the profession.
5. Remove barriers to accessing Law Society resources, programs and services.
6. Increase collaboration with stakeholders to respond to the Truth and Reconciliation Commission’s Calls to Action.

CORE IDEOLOGY

Core ideology describes an organization's consistent identity that transcends all changes related to its relevant environment. Core ideology consists of three notions: **core purpose, mission and core values**.

Core purpose describes the organization's reason for being.

The mission describes who we are, what we do and how we do it.

Our **core values** are the enduring principles that guide the behaviour of the organization.

CORE PURPOSE

Regulate the legal profession in the public interest.

MISSION STATEMENT

Ensure high standards of professional conduct and competency through the governance and independent regulation of the legal profession.

CORE VALUES

The Law Society of Alberta values:

- **Integrity** – Honest and ethical behaviour.
- **Transparency** – Open, timely and clear processes.
- **Fairness** – Equitable treatment of people interacting with the Law Society and the profession we govern.
- **Respect** – Equity, diversity and inclusion in the profession, the Law Society and our interactions with the public.
- **Independence** – Autonomous regulation of an independent legal profession and commitment to the rule of law.
- **Visionary Leadership** – Innovation in regulation, governance and business operations.

STRATEGIC PLAN

2020-2023

This is Exhibit " D " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Canada's Residential Schools:

Reconciliation

The Final Report of the
Truth and Reconciliation
Commission of Canada

Volume 6

Truth and Reconciliation
Commission of Canada

Calls to action

In order to redress the legacy of residential schools and advance the process of Canadian reconciliation, the Truth and Reconciliation Commission makes the following Calls to Action.

LEGACY

Child welfare

1) We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:
   i. Monitoring and assessing neglect investigations.
   ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.
   iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools.
   iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing.
   v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers.
2) We call upon the federal government, in collaboration with the provinces and territories, to prepare and publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children,

as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions.

3) We call upon all levels of government to fully implement Jordan's Principle.

4) We call upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that:

   i. Affirm the right of Aboriginal governments to establish and maintain their own child-welfare agencies.

   ii. Require all child-welfare agencies and courts to take the residential school legacy into account in their decision making.

   iii. Establish, as an important priority, a requirement that placements of Aboriginal children into temporary and permanent care be culturally appropriate.

5) We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate parenting programs for Aboriginal families.

Education

6) We call upon the Government of Canada to repeal Section 43 of the *Criminal Code* of Canada.

7) We call upon the federal government to develop with Aboriginal groups a joint strategy to eliminate educational and employment gaps between Aboriginal and non-Aboriginal Canadians.

8) We call upon the federal government to eliminate the discrepancy in federal education funding for First Nations children being educated on reserves and those First Nations children being educated off reserves.

9) We call upon the federal government to prepare and publish annual reports comparing funding for the education of First Nations children on and off reserves, as well as educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.

10) We call on the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples. The new legislation would include a commitment to sufficient funding and would incorporate the following principles:

   i. Providing sufficient funding to close identified educational achievement gaps within one generation.

ii. Improving education attainment levels and success rates.

iii. Developing culturally appropriate curricula.

iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses.

v. Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems.

vi. Enabling parents to fully participate in the education of their children.

vii. Respecting and honouring Treaty relationships.

11) We call upon the federal government to provide adequate funding to end the backlog of First Nations students seeking a post-secondary education.

12) We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate early childhood education programs for Aboriginal families.

Language and culture

13) We call upon the federal government to acknowledge that Aboriginal rights include Aboriginal language rights.

14) We call upon the federal government to enact an Aboriginal Languages Act that incorporates the following principles:

i. Aboriginal languages are a fundamental and valued element of Canadian culture and society, and there is an urgency to preserve them.

ii. Aboriginal language rights are reinforced by the Treaties.

iii. The federal government has a responsibility to provide sufficient funds for Aboriginal-language revitalization and preservation.

iv. The preservation, revitalization, and strengthening of Aboriginal languages and cultures are best managed by Aboriginal people and communities.

v. Funding for Aboriginal language initiatives must reflect the diversity of Aboriginal languages.

15) We call upon the federal government to appoint, in consultation with Aboriginal groups, an Aboriginal Languages Commissioner. The commissioner should help promote Aboriginal languages and report on the adequacy of federal funding of Aboriginal-languages initiatives.

16) We call upon post-secondary institutions to create university and college degree and diploma programs in Aboriginal languages.

17) We call upon all levels of government to enable residential school Survivors and their families to reclaim names changed by the residential school system by waiving administrative costs for a period of five years for the name-change process and the revision of official identity documents, such as birth certificates, passports, driver's licenses, health cards, status cards, and social insurance numbers.

Health

18) We call upon the federal, provincial, territorial, and Aboriginal governments to acknowledge that the current state of Aboriginal health in Canada is a direct result of previous Canadian government policies, including residential schools, and to recognize and implement the health-care rights of Aboriginal people as identified in international law, constitutional law, and under the Treaties.

19) We call upon the federal government, in consultation with Aboriginal peoples, to establish measurable goals to identify and close the gaps in health outcomes between Aboriginal and non-Aboriginal communities, and to publish annual progress reports and assess long-term trends. Such efforts would focus on indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.

20) In order to address the jurisdictional disputes concerning Aboriginal people who do not reside on reserves, we call upon the federal government to recognize, respect, and address the distinct health needs of the Métis, Inuit, and off-reserve Aboriginal peoples.

21) We call upon the federal government to provide sustainable funding for existing and new Aboriginal healing centres to address the physical, mental, emotional, and spiritual harms caused by residential schools, and to ensure that the funding of healing centres in Nunavut and the Northwest Territories is a priority.

22) We call upon those who can effect change within the Canadian health-care system to recognize the value of Aboriginal healing practices and use them in the treatment of Aboriginal patients in collaboration with Aboriginal healers and Elders where requested by Aboriginal patients.

23) We call upon all levels of government to:

    i. Increase the number of Aboriginal professionals working in the health-care field.

ii. Ensure the retention of Aboriginal health-care providers in Aboriginal communities.

iii. Provide cultural competency training for all health-care professionals.

24) We call upon medical and nursing schools in Canada to require all students to take a course dealing with Aboriginal health issues, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, and Indigenous teachings and practices. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Justice

25) We call upon the federal government to establish a written policy that reaffirms the independence of the Royal Canadian Mounted Police to investigate crimes in which the government has its own interest as a potential or real party in civil litigation.

26) We call upon the federal, provincial, and territorial governments to review and amend their respective statutes of limitations to ensure that they conform with the principle that governments and other entities cannot rely on limitation defences to defend legal actions of historical abuse brought by Aboriginal people.

27) We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

28) We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

29) We call upon the parties and, in particular, the federal government, to work collaboratively with plaintiffs not included in the Indian Residential Schools Settlement Agreement to have disputed legal issues determined expeditiously on an agreed set of facts.

30) We call upon federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.

31) We call upon the federal, provincial, and territorial governments to provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.

32) We call upon the federal government to amend the *Criminal Code* to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.

33) We call upon the federal, provincial, and territorial governments to recognize as a high priority the need to address and prevent Fetal Alcohol Spectrum Disorder (FASD), and to develop, in collaboration with Aboriginal people, FASD preventive programs that can be delivered in a culturally appropriate manner.

34) We call upon the governments of Canada, the provinces, and territories to undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including:

i. Providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD.

ii. Enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD.

iii. Providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community.

iv. Adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety.

35) We call upon the federal government to eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system.

36) We call upon the federal, provincial, and territorial governments to work with Aboriginal communities to provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.

37) We call upon the federal government to provide more supports for Aboriginal programming in halfway houses and parole services.

38) We call upon the federal, provincial, territorial, and Aboriginal governments to commit to eliminating the overrepresentation of Aboriginal youth in custody over the next decade.

39) We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.

40) We call on all levels of government, in collaboration with Aboriginal people, to create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms.

41) We call upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls. The inquiry's mandate would include:

   i. Investigation into missing and murdered Aboriginal women and girls.

   ii. Links to the intergenerational legacy of residential schools.

42) We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in November 2012.

RECONCILIATION

Canadian governments and the *United Nations Declaration on the Rights of Indigenous Peoples*

43) We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.

44) We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the *United Nations Declaration on the Rights of Indigenous Peoples*.

Royal Proclamation and Covenant of Reconciliation

45) We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. The proclamation would build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764, and reaffirm the nation-to-nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to, the following commitments:

i. Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and *terra nullius*.

ii. Adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.

iii. Renew or establish Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.

iv. Reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements.

46) We call upon the parties to the Indian Residential Schools Settlement Agreement to develop and sign a Covenant of Reconciliation that would identify principles for working collaboratively to advance reconciliation in Canadian society, and that would include, but not be limited to:

i. Reaffirmation of the parties' commitment to reconciliation.

ii. Repudiation of concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*, and the reformation of laws, governance structures, and policies within their respective institutions that continue to rely on such concepts.

iii. Full adoption and implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.

iv. Support for the renewal or establishment of Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.

v. Enabling those excluded from the Settlement Agreement to sign onto the Covenant of Reconciliation.

vi. Enabling additional parties to sign onto the Covenant of Reconciliation.

47) We call upon federal, provincial, territorial, and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and *terra nullius*, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.

Settlement Agreement parties and the *United Nations Declaration on the Rights of Indigenous Peoples*

48) We call upon the church parties to the Settlement Agreement, and all other faith groups and interfaith social justice groups in Canada who have not already done so, to formally adopt and comply with the principles, norms, and standards of the *United Nations Declaration on the Rights of Indigenous Peoples* as a framework for reconciliation. This would include, but not be limited to, the following commitments:

   i. Ensuring that their institutions, policies, programs, and practices comply with the *United Nations Declaration on the Rights of Indigenous Peoples*.

   ii. Respecting Indigenous peoples' right to self-determination in spiritual matters, including the right to practise, develop, and teach their own spiritual and religious traditions, customs, and ceremonies, consistent with Article 12:1 of the *United Nations Declaration on the Rights of Indigenous Peoples*.

   iii. Engaging in ongoing public dialogue and actions to support the *United Nations Declaration on the Rights of Indigenous Peoples*.

   iv. Issuing a statement no later than March 31, 2016, from all religious denominations and faith groups, as to how they will implement the *United Nations Declaration on the Rights of Indigenous Peoples.*

49) We call upon all religious denominations and faith groups who have not already done so to repudiate concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*.

Equity for Aboriginal people in the legal system

50) In keeping with the *United Nations Declaration on the Rights of Indigenous Peoples*, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.

51) We call upon the Government of Canada, as an obligation of its fiduciary responsibility, to develop a policy of transparency by publishing legal opinions it develops and upon which it acts or intends to act, in regard to the scope and extent of Aboriginal and Treaty rights.

52) We call upon the Government of Canada, provincial and territorial governments, and the courts to adopt the following legal principles:

i. Aboriginal title claims are accepted once the Aboriginal claimant has established occupation over a particular territory at a particular point in time.

ii. Once Aboriginal title has been established, the burden of proving any limitation on any rights arising from the existence of that title shifts to the party asserting such a limitation.

National Council for Reconciliation

53) We call upon the Parliament of Canada, in consultation and collaboration with Aboriginal peoples, to enact legislation to establish a National Council for Reconciliation. The legislation would establish the council as an independent, national, oversight body with membership jointly appointed by the Government of Canada and national Aboriginal organizations, and consisting of Aboriginal and non-Aboriginal members. Its mandate would include, but not be limited to, the following:

i. Monitor, evaluate, and report annually to Parliament and the people of Canada on the Government of Canada's post-apology progress on reconciliation to ensure that government accountability for reconciling the relationship between Aboriginal peoples and the Crown is maintained in the coming years.

ii. Monitor, evaluate, and report to Parliament and the people of Canada on reconciliation progress across all levels and sectors of Canadian society, including the implementation of the Truth and Reconciliation Commission of Canada's Calls to Action.

iii. Develop and implement a multi-year National Action Plan for Reconciliation, which includes research and policy development, public education programs, and resources.

iv. Promote public dialogue, public/private partnerships, and public initiatives for reconciliation.

54) We call upon the Government of Canada to provide multi-year funding for the National Council for Reconciliation to ensure that it has the financial, human, and technical

resources required to conduct its work, including the endowment of a National Reconciliation Trust to advance the cause of reconciliation.

55) We call upon all levels of government to provide annual reports or any current data requested by the National Council for Reconciliation so that it can report on the progress towards reconciliation. The reports or data would include, but not be limited to:

i. The number of Aboriginal children—including Métis and Inuit children—in care, compared with non-Aboriginal children, the reasons for apprehension, and the total spending on preventive and care services by child-welfare agencies.

ii. Comparative funding for the education of First Nations children on and off reserves.

iii. The educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.

iv. Progress on closing the gaps between Aboriginal and non-Aboriginal communities in a number of health indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.

v. Progress on eliminating the overrepresentation of Aboriginal children in youth custody over the next decade.

vi. Progress on reducing the rate of criminal victimization of Aboriginal people, including data related to homicide and family violence victimization and other crimes.

vii. Progress on reducing the overrepresentation of Aboriginal people in the justice and correctional systems.

56) We call upon the prime minister of Canada to formally respond to the report of the National Council for Reconciliation by issuing an annual "State of Aboriginal Peoples" report, which would outline the government's plans for advancing the cause of reconciliation.

Professional development and training for public servants

57) We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and

Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Church apologies and reconciliation

58) We call upon the Pope to issue an apology to Survivors, their families, and communities for the Roman Catholic Church's role in the spiritual, cultural, emotional, physical, and sexual abuse of First Nations, Inuit, and Métis children in Catholic-run residential schools. We call for that apology to be similar to the 2010 apology issued to Irish victims of abuse and to occur within one year of the issuing of this Report and to be delivered by the Pope in Canada.

59) We call upon church parties to the Settlement Agreement to develop ongoing education strategies to ensure that their respective congregations learn about their church's role in colonization, the history and legacy of residential schools, and why apologies to former residential school students, their families, and communities were necessary.

60) We call upon leaders of the church parties to the Settlement Agreement and all other faiths, in collaboration with Indigenous spiritual leaders, Survivors, schools of theology, seminaries, and other religious training centres, to develop and teach curriculum for all student clergy, and all clergy and staff who work in Aboriginal communities, on the need to respect Indigenous spirituality in its own right, the history and legacy of residential schools and the roles of the church parties in that system, the history and legacy of religious conflict in Aboriginal families and communities, and the responsibility that churches have to mitigate such conflicts and prevent spiritual violence.

61) We call upon church parties to the Settlement Agreement, in collaboration with Survivors and representatives of Aboriginal organizations, to establish permanent funding to Aboriginal people for:

i. Community-controlled healing and reconciliation projects.

ii. Community-controlled culture- and language-revitalization projects.

iii. Community-controlled education and relationship-building projects.

iv. Regional dialogues for Indigenous spiritual leaders and youth to discuss Indigenous spirituality, self-determination, and reconciliation.

Education for reconciliation

62) We call upon the federal, provincial, and territorial governments, in consultation and collaboration with Survivors, Aboriginal peoples, and educators, to:

i. Make age-appropriate curriculum on residential schools, Treaties, and Aboriginal peoples' historical and contemporary contributions to Canada a mandatory education requirement for Kindergarten to Grade Twelve students.

ii. Provide the necessary funding to post-secondary institutions to educate teachers on how to integrate Indigenous knowledge and teaching methods into classrooms.

iii. Provide the necessary funding to Aboriginal schools to utilize Indigenous knowledge and teaching methods in classrooms.

iv. Establish senior-level positions in government at the assistant deputy minister level or higher dedicated to Aboriginal content in education.

63) We call upon the Council of Ministers of Education, Canada to maintain an annual commitment to Aboriginal education issues, including:

i. Developing and implementing Kindergarten to Grade Twelve curriculum and learning resources on Aboriginal peoples in Canadian history, and the history and legacy of residential schools.

ii. Sharing information and best practices on teaching curriculum related to residential schools and Aboriginal history.

iii. Building student capacity for intercultural understanding, empathy, and mutual respect.

iv. Identifying teacher-training needs relating to the above.

64) We call upon all levels of government that provide public funds to denominational schools to require such schools to provide an education on comparative religious studies, which must include a segment on Aboriginal spiritual beliefs and practices developed in collaboration with Aboriginal Elders.

65) We call upon the federal government, through the Social Sciences and Humanities Research Council, and in collaboration with Aboriginal peoples, post-secondary institutions and educators, and the National Centre for Truth and Reconciliation and its partner institutions, to establish a national research program with multi-year funding to advance understanding of reconciliation.

Youth programs

66) We call upon the federal government to establish multi-year funding for community-based youth organizations to deliver programs on reconciliation, and establish a national network to share information and best practices.

Museums and archives

67) We call upon the federal government to provide funding to the Canadian Museums Association to undertake, in collaboration with Aboriginal peoples, a national review of museum policies and best practices to determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and to make recommendations.

68) We call upon the federal government, in collaboration with Aboriginal peoples, and the Canadian Museums Association to mark the 150th anniversary of Canadian Confederation in 2017 by establishing a dedicated national funding program for commemoration projects on the theme of reconciliation.

69) We call upon Library and Archives Canada to:

i. Fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Joinet-Orentlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.

ii. Ensure that its record holdings related to residential schools are accessible to the public.

iii. Commit more resources to its public education materials and programming on residential schools.

70) We call upon the federal government to provide funding to the Canadian Association of Archivists to undertake, in collaboration with Aboriginal peoples, a national review of archival policies and best practices to:

i. Determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Joinet-Orentlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.

ii. Produce a report with recommendations for full implementation of these international mechanisms as a reconciliation framework for Canadian archives.

Missing children and burial information

71) We call upon all chief coroners and provincial vital statistics agencies that have not provided to the Truth and Reconciliation Commission of Canada their records on the deaths of Aboriginal children in the care of residential school authorities to make these documents available to the National Centre for Truth and Reconciliation.

72) We call upon the federal government to allocate sufficient resources to the National Centre for Truth and Reconciliation to allow it to develop and maintain the National Residential School Student Death Register established by the Truth and Reconciliation Commission of Canada.

73) We call upon the federal government to work with churches, Aboriginal communities, and former residential school students to establish and maintain an online registry of residential school cemeteries, including, where possible, plot maps showing the location of deceased residential school children.

74) We call upon the federal government to work with the churches and Aboriginal community leaders to inform the families of children who died at residential schools of the child's burial location, and to respond to families' wishes for appropriate commemoration ceremonies and markers, and reburial in home communities where requested.

75) We call upon the federal government to work with provincial, territorial, and municipal governments, churches, Aboriginal communities, former residential school students, and current landowners to develop and implement strategies and procedures for the ongoing identification, documentation, maintenance, commemoration, and protection of residential school cemeteries or other sites at which residential school children were buried. This is to include the provision of appropriate memorial ceremonies and commemorative markers to honour the deceased children.

76) We call upon the parties engaged in the work of documenting, maintaining, commemorating, and protecting residential school cemeteries to adopt strategies in accordance with the following principles:

i. The Aboriginal community most affected shall lead the development of such strategies.

ii. Information shall be sought from residential school Survivors and other Knowledge Keepers in the development of such strategies.

iii. Aboriginal protocols shall be respected before any potentially invasive technical inspection and investigation of a cemetery site.

National Centre for Truth and Reconciliation

77) We call upon provincial, territorial, municipal, and community archives to work collaboratively with the National Centre for Truth and Reconciliation to identify and collect copies of all records relevant to the history and legacy of the residential school system, and to provide these to the National Centre for Truth and Reconciliation.

78) We call upon the Government of Canada to commit to making a funding contribution of $10 million over seven years to the National Centre for Truth and Reconciliation, plus an additional amount to assist communities to research and produce histories of their own residential school experience and their involvement in truth, healing, and reconciliation.

Commemoration

79) We call upon the federal government, in collaboration with Survivors, Aboriginal organizations, and the arts community, to develop a reconciliation framework for Canadian heritage and commemoration. This would include, but not be limited to:

i. Amending the *Historic Sites and Monuments Act* to include First Nations, Inuit, and Métis representation on the Historic Sites and Monuments Board of Canada and its Secretariat.

ii. Revising the policies, criteria, and practices of the National Program of Historical Commemoration to integrate Indigenous history, heritage values, and memory practices into Canada's national heritage and history.

iii. Developing and implementing a national heritage plan and strategy for commemorating residential school sites, the history and legacy of residential schools, and the contributions of Aboriginal peoples to Canada's history.

80) We call upon the federal government, in collaboration with Aboriginal peoples, to establish, as a statutory holiday, a National Day for Truth and Reconciliation to honour Survivors, their families, and communities, and ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process.

81) We call upon the federal government, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install

a publicly accessible, highly visible, Residential Schools National Monument in the city of Ottawa to honour Survivors and all the children who were lost to their families and communities.

82) We call upon provincial and territorial governments, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools Monument in each capital city to honour Survivors and all the children who were lost to their families and communities.

83) We call upon the Canada Council for the Arts to establish, as a funding priority, a strategy for Indigenous and non-Indigenous artists to undertake collaborative projects and produce works that contribute to the reconciliation process.

Media and reconciliation

84) We call upon the federal government to restore and increase funding to the CBC/Radio-Canada, to enable Canada's national public broadcaster to support reconciliation, and be properly reflective of the diverse cultures, languages, and perspectives of Aboriginal peoples, including, but not limited to:

i. Increasing Aboriginal programming, including Aboriginal-language speakers.

ii. Increasing equitable access for Aboriginal peoples to jobs, leadership positions, and professional development opportunities within the organization.

iii. Continuing to provide dedicated news coverage and online public information resources on issues of concern to Aboriginal peoples and all Canadians, including the history and legacy of residential schools and the reconciliation process.

85) We call upon the Aboriginal Peoples Television Network, as an independent non-profit broadcaster with programming by, for, and about Aboriginal peoples, to support reconciliation, including but not limited to:

i. Continuing to provide leadership in programming and organizational culture that reflects the diverse cultures, languages, and perspectives of Aboriginal peoples.

ii. Continuing to develop media initiatives that inform and educate the Canadian public, and connect Aboriginal and non-Aboriginal Canadians.

86) We call upon Canadian journalism programs and media schools to require education for all students on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations.

Sports and reconciliation

87) We call upon all levels of government, in collaboration with Aboriginal peoples, sports halls of fame, and other relevant organizations, to provide public education that tells the national story of Aboriginal athletes in history.

88) We call upon all levels of government to take action to ensure long-term Aboriginal athlete development and growth, and continued support for the North American Indigenous Games, including funding to host the games and for provincial and territorial team preparation and travel.

89) We call upon the federal government to amend the *Physical Activity and Sport Act* to support reconciliation by ensuring that policies to promote physical activity as a fundamental element of health and well-being, reduce barriers to sports participation, increase the pursuit of excellence in sport, and build capacity in the Canadian sport system, are inclusive of Aboriginal peoples.

90) We call upon the federal government to ensure that national sports policies, programs, and initiatives are inclusive of Aboriginal peoples, including, but not limited to, establishing:

i. In collaboration with provincial and territorial governments, stable funding for, and access to, community sports programs that reflect the diverse cultures and traditional sporting activities of Aboriginal peoples.

ii. An elite athlete development program for Aboriginal athletes.

iii. Programs for coaches, trainers, and sports officials that are culturally relevant for Aboriginal peoples.

iv. Anti-racism awareness and training programs.

91) We call upon the officials and host countries of international sporting events such as the Olympics, Pan Am, and Commonwealth games to ensure that Indigenous peoples' territorial protocols are respected, and local Indigenous communities are engaged in all aspects of planning and participating in such events.

Business and reconciliation

92) We call upon the corporate sector in Canada to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:

i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.

ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.

iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Newcomers to Canada

93) We call upon the federal government, in collaboration with the national Aboriginal organizations, to revise the information kit for newcomers to Canada and its citizenship test to reflect a more inclusive history of the diverse Aboriginal peoples of Canada, including information about the Treaties and the history of residential schools.

94) We call upon the Government of Canada to replace the Oath of Citizenship with the following:

I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada including Treaties with Indigenous Peoples, and fulfill my duties as a Canadian citizen.

This is Exhibit " E " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

Regulatory Objectives of the Law Society of Alberta

Executive Summary

December 5, 2019

LAW SOCIETY of ALBERTA

Table of Contents

Regulatory Objectives of the Law Society of Alberta

Statement of Regulatory Objectives

The core purpose of the Law Society of Alberta ("Law Society") is to regulate the legal profession in the public interest.

The Law Society views its core purpose as an active obligation and duty to uphold and protect the public interest in the delivery of legal services. The public interest, as it applies to the work of the Law Society, will be upheld and protected through the following regulatory objectives:

a) Protect those who use legal services;
b) Promote the independence of the legal profession, the administration of justice and the rule of law;
c) Create and promote required standards for the ethical and competent delivery of legal services and enforce compliance with those standards in a manner that is fair, transparent, efficient, proactive, proportionate and principled;
d) Promote access to legal services; and
e) Promote equity, diversity and inclusion in the legal profession in the delivery of legal services.

The Law Society will have regard for these regulatory objectives when discharging its regulatory functions.

Regulatory Purpose of the Law Society – Regulate in the Public Interest

1. In Alberta, the legal profession is self-regulating, meaning a board (called the Benchers) consisting of 20 lawyers elected by the legal profession and four appointed members of the public governs the affairs of the Law Society. The Benchers establish the *Rules of the Law Society of Alberta* (the "Rules") that regulate lawyers in the province. The Law Society receives the authority to regulate the legal profession through legislation called the *Legal Profession Act*[1] (the "*Act*"), but otherwise the Law Society regulates the profession independently of the government.

2. The core purpose of the Law Society is to regulate the legal profession in the public interest. The Law Society sees this as an active duty to uphold and protect the public interest in the delivery of legal services. This requires the Law Society to put the interests of the public ahead of the interests of the lawyers it regulates.

3. The "public interest" refers to society at large. The actions that lawyers take have the potential to affect not only the clients they represent, but also society as a whole. Likewise, many decisions and actions taken by the Law Society have the potential to impact the societal view of the legal profession and the profession's role in the legal system.

[1] Revised Statutes of Alberta 2000 Chapter L-8.

What are Regulatory Objectives?

4. In order to better articulate how it will regulate the legal profession in a manner that upholds and protects the public interest, the Law Society has developed a set of regulatory objectives that it will use as a guide for all of its activities. In other words, the regulatory objectives of the Law Society set out the purpose and parameters of lawyer regulation.

5. This executive summary is intended to assist both those regulating the legal profession and those being regulated to better understand the relationship between the regulator and the profession and its importance to the public interest. It is also intended to provide clarity to the public to understand the role of the Law Society, the purpose of lawyer regulation, and how that regulation relates to them.

6. The Law Society will use these regulatory objectives as a guide when making regulatory, governance and operational decisions. However, these regulatory objectives will not serve as a checklist of objectives that each decision or initiative of the Law Society must achieve. That will not be possible in every case, given limitations imposed by resources, time, the mandate of the Law Society and other factors outside of the Law Society's control. In fact, there may be times when two or more of the regulatory objectives conflict with one another. In these cases, the Law Society will weigh the costs and benefits of aligning with each objective.

7. The regulatory objectives have not been ranked and appear in no particular order. There is a great deal of overlap between the objectives, and they should be read as a collective whole rather than as separate objectives. Together, they illustrate the Law Society's understanding of its mandate to regulate the legal profession in the public interest.

Regulatory Objectives of the Law Society

a) Protect those who use legal services

8. People often seek legal services in times of distress, making them vulnerable and sometimes unable to discern whether they are receiving quality services. To protect those accessing the services of a lawyer, the Law Society has put several proactive measures in place through standards and programs for lawyers to promote ethical and competent practice. The Law Society will strive to ensure its standards for legal service providers continue to be appropriate and effective, through an understanding of the current legal services marketplace and the risks to those who use legal services.

9. Legal services are increasingly being delivered by different types of providers, and through an array of different means, and the Law Society recognizes that it has a role to play in ensuring that the public understands the differences in the options available to them, and the protections or risks that come with accessing legal services in different ways. Where the Law Society believes it is in the public interest to do so (meaning, it would not cause harm) it will work with non-traditional providers to ensure the services they provide to the public are safe.

b) Promote independence of the legal profession, the administration of justice and the rule of law

10. The existence of an independent legal profession, free from government influence, supports a rule of law culture which in turn supports the proper administration of justice.[2] These are crucial elements of a free and democratic society. The rule of law requires that both government officials and citizens be bound by the law and act consistently with the law.[3] The administration of justice refers to the public's confidence in the laws, legal institutions and public authorities of society. It is in the public interest to have an effective legal and court system, that supports the concept of equal justice for all within an open, ordered and impartial system.

11. The Law Society's independence from the government provides a check and balance in the legal system to ensure that transparency, accountability and the rule of law are upheld, including in instances where citizens find themselves in opposition to the government. There can be no functional judiciary without an independent arm of lawyers who act free of political pressure and motivations.[4]

12. Lawyers and legal regulators have an ethical duty to make efforts to improve the administration of justice and to maintain public confidence in the overall effectiveness of the legal system.[5] The Law Society carries out its regulatory duties in a manner consistent with the rule of law. It takes opportunities to support the rule of law and improve the administration of justice when they arise.

c) Create and promote required standards for the ethical and competent delivery of legal services and enforce compliance with those standards in a manner that is fair, transparent, efficient, proportionate, proactive and principled

13. One of the primary roles of the Law Society is to ensure that the legal services provided by lawyers in Alberta are ethical and competent. The *Act* provides that the Benchers may make Rules to set requirements and standards for the profession and that the Law Society may impose a sanction on a lawyer for failing to meet those standards. The Law Society takes proactive steps to educate and assist lawyers in achieving the goals of competent and ethical practice and the vast majority of lawyers comply with these standards. In instances where lawyers fall short, the Law Society has mechanisms to impose sanctions and to demonstrate to the profession the importance of adhering to their professional requirements.

14. The Law Society aims to enforce these standards in a manner that is fair, proportionate, efficient, transparent, principled and proactive. The purpose of disciplining lawyers is to protect the public, the legal profession, and legal institutions against lawyers who have

[2] Terry et al., supra note 2 at pp. 2735-2736.
[3] Brian Tamanaha, *A Concise Guide to the Rule of Law*, (St. John's University School of Law: 2007) at p. 3.
[4] *R v Sussex Justices,* [1924] 1 KB 256.
[5] Law Society of Alberta, *Code of Conduct* (Calgary: April, 2018) at s. 5.6. See also Solicitor's Regulation Authority, *Approach to regulation and its reform: Policy statement,* (Solicitor's Regulation Authority: 2015) at pp. 2-3.

demonstrated an unwillingness or an inability to comply with professional standards.[6] This is another tool to support the rule of law, the proper administration of justice and the independence of the legal profession, while also protecting members of the public who might be harmed by incompetent legal services or conduct unbecoming of a lawyer.

d) Promoting access to legal services

15. Another important aspect of upholding the rule of law and the proper administration of justice is the availability and accessibility of legal services. It is in the public interest for all people to have access to the legal services they require.[7] If the public does not have access to legal services or to comprehensible and reliable information about the legal system, their confidence in the system will be eroded. Access to legal services is most commonly related to the cost of legal services, but involves many other issues relating to availability, quality, and barriers caused by factors such as geography, language, literacy, disability and cultural differences.

16. The Law Society supports non-profit organizations and lawyers who facilitate access to legal services and public legal information and education initiatives. It collaborates with other stakeholders to look for ways to improve access to the legal system overall and encourages innovative and proportionate approaches to the delivery of legal services. The Law Society works to make its own processes accessible and easy to comprehend. Finally, the Law Society strives to maintain an understanding of the changing legal services market, from the perspective of both those providing and using legal services, to better understand whether its regulatory requirements are creating unnecessary barriers to legal services.

e) Promoting equity, diversity and inclusion in the legal profession and in the delivery of legal services

17. The Law Society believes it is in the public interest for the legal profession to be representative of the population it serves. This is connected to accessibility of legal services, in that the public should have a meaningful choice in who represents them. This is particularly true in the case of groups who might be underrepresented in society, have cultural or language barriers to working with certain lawyers or firms, or simply feel more comfortable having someone who understands their culture representing them, particularly in cases where that person might be in a vulnerable legal situation.

18. The Law Society will look for ways to remove regulatory barriers to entry, retention and advancement in the legal profession and ensure a level playing field for all who seek to serve the public as part of the legal profession. The Law Society will also consider ways to be more inclusive in its own processes, consulting with underrepresented or vulnerable groups in the public and the profession to better understand how cultural differences may have an impact on interactions with the Law Society. The Law Society will promote cultural competence both within the organization and in the profession.

---

[6] Charles Wolfram, *Modern Legal Ethics* (West Publishing: 1986) at p. 79.
[7] See Brent Cotter, *Thoughts on a Coordinated and Comprehensive Approach to Access to Justice in Canada*, (2012) 63 U.N.B.L.J. 54 at p. 67; and Lucinda Vandervort, *Access to Justice and the Public Interest in the Administration of Justice*, 63 U.N.B.L.J. 125 at p. 125.

This is Exhibit " F " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

View Static Version

2019 Annual Report

Law Society of Alberta

TABLE OF CONTENTS

Message from the President

Read Rob W. Armstrong's Message

A Message from Elizabeth J. Osler

As my first official year in the role of Chief Executive Officer and Executive Director, 2019 was an exciting time both for me personally and the Law Society as a whole. I would like to sincerely thank my predecessor, Don Thompson, QC, for his dedicated leadership of the Law Society from 1999 to 2018.

In 2019, we continued to move our strategic objectives forward, while focusing on building increased operational

collaboration internally. To name just a few of our major initiatives in 2019, we implemented Rule changes in response to the anti-money laundering and anti-terrorist financing model rules; we conducted a survey of the articling system in Alberta to gather feedback from students, principals and mentors; we developed a Model Respectful Workplace Policy for lawyers to adapt and use within their practice; and we formed the Bencher Election Task Force in preparation for the upcoming 2020 Bencher election to enhance the diversity of candidates and increase voter turnout.

Read more about these major initiatives under the *Year in Review* section below.

Working with the Board, we closed out the last year of our 2017-2019 Strategic Plan, and the Board approved a new five-year Strategic Plan (2020-2024) in December 2019. We are excited about our new strategic goals and look forward to working with the Board and our key stakeholders to accomplish them over the coming years.

The Law Society benefits from the dedicated work of the Benchers, staff and our leadership teams, and I am grateful for their support in 2019.

I look forward to continuing all of the great work currently underway at the Law Society to ensure that we serve the public through the regulation and support of the profession.

Elizabeth J. Osler, Chief Executive Officer & Executive

Director

Back to Top

Who We Are

ABOUT THE LAW SOCIETY

The Law Society of Alberta regulates the legal profession in the public interest by promoting and enforcing a high standard of professional and ethical conduct by Alberta lawyers.

We derive our authority from the *Legal Profession Act* and set standards through the Code of Conduct and the Rules of the Law Society of Alberta.

MISSION

Serve the public interest by promoting a high standard of legal services and professional conduct through the governance and regulation of an independent legal profession and upholding the Rule of Law.

VISION

The Law Society will be recognized as a model for protecting the public interest and preserving the fundamental principles

of justice through an independently regulated and trusted legal profession.

VALUES

- **Integrity** – honest and ethical behaviour.
- **Transparency** – open and clear processes and communications.
- **Fairness** – equitable treatment of people.
- **Competency** – best practices, high standards and the pursuit of excellence.
- **Independence** – independent and independently regulated legal profession.
- **Respect** – inclusion, diversity and equity in the profession and in the Law Society.

STRATEGIC GOALS

The Law Society's 2017 – 2019 Strategic Plan provided direction and focus to the board and the entire organization,

including a framework for decision making, resource allocation and priority setting. The Strategic Plan guided our activities to achieve four main goals:

- **Model Regulator:** Regulate to protect the public interest by promoting excellence, high ethical standards, diversity and equity within the legal profession.
- **Stakeholder Confidence:** Maintain the confidence of the public, lawyers and other key stakeholders.
- **Access to Justice and the Rule of Law:** Promote and support access to justice and the rule of law for Albertans.
- **Governance and Culture:** Create a responsive and innovative governance and management culture that positions the law Society as a leader in the regulation of professions.

BOARD MEMBERS IN 2019

The Law Society is governed by a 24-member Board. Of the 24 Board members, also called Benchers, 20 are lawyers elected by the profession, and four are public representatives (Lay Benchers) appointed by the Alberta Minister of Justice and Solicitor General.

The Board provides strategic direction, focusing on goals which demonstrate our values and help achieve our vision and

mission.

- **Rob Armstrong, QC,** President
- **Kent Teskey, QC**, President-Elect
- **Ryan D. Anderson**
- **Arman Chak**
- **Corie Flett**
- **Bill Hendsbee**
- **Cal Johnson, QC**
- **Linda Long, QC**
- **Jim Lutz**
- **Bud Melnyk**
- **Walter Pavlic, QC**
- **Corinne Petersen** (appointed February 2019)
- **Stacy Petriuk**
- **Robert Philp, QC**
- **Kathleen Ryan, QC**
- **Darlene W. Scott, QC**
- **Deanna Steblyk**
- **Margaret Unsworth, QC**
- **Ken Warren, QC**
- **Nathan Whitling**
- **Elizabeth Hak**; Lay Bencher

Barbara McKinley; Lay Bencher

- **Cora Voyageur**; Lay Bencher
- **Louise Wasylenko**: Lay Bencher
- **Don Cranston, QC** (until February 2019)

TASK FORCES AND COMMITTEES

Major committees, task forces and liaisons conduct governance work associated with our core regulatory functions. Learn more about our committees and task forces **here**.

Board Committees

Audit and Finance Committee | Executive Committee | Nominating Committee | Pension Committee | Policy Committee | Professional Responsibility Committee

Adjudication Committees

Appeal Committee | Assurance Fund Adjudications (Finance) Committee | Conduct Committee | Credentials and Education Committee | Practice Review Committee | Trust Safety Committee

Task Forces and Advisory Committees

Bencher Election Task Force | Indigenous Advisory Committee

Back to Top

Year in Review

NEW LEADERSHIP

On January 1, 2019, we saw new leadership begin as Elizabeth J. Osler assumed the role of Chief Executive Officer and Executive Director. **Ms. Osler is the first female leader in the history of the Law Society, making her appointment a historical milestone for the organization.**

BENCHER ELECTION TASK FORCE

With the upcoming Bencher Election in October 2020, a Bencher Election Task Force was created to facilitate this process. The stated mandate of the Bencher Election Task Force is to develop:

- strategies for **increasing number and diversity of candidates** running for Bencher.
- strategies for **increasing voter engagement and turnout** for Bencher election.
- recommendations for **Bencher candidate campaign materials**.
- recommendations for **Bencher candidate education and orientation**.
- recommendations regarding **how election results are shared** with candidates and the profession.

The task force is comprised of seven members, including Benchers, lawyer volunteers and staff support.

ANTI-MONEY LAUNDERING RULE CHANGES

In 2019, changes were introduced to the Rules of the Law Society around client identification and verification, the receipt of cash and the permitted use of lawyers' trust accounts.

This change was born out of the ongoing fight that the Federation of Law Societies of Canada has been waging against money laundering and the financing of terrorist activities within the legal profession. The stricter rules around client identification and verification address the conduct of lawyers and reduce the risk of assisting anyone to commit an illegal act.

By adhering to these fundamental principles, lawyers help prevent crime

and maintain public trust in the justice system.

The rollout of these rule changes involved developing resources for lawyers, several in-person sessions in various locations around Alberta and two live webinars.

Read more

REVIEW ON ARTICLING

In conjunction with the Law Societies of Saskatchewan and Manitoba, we conducted two surveys to better understand the current state of the articling system across the three provinces.

One survey was geared towards articling students and new lawyers (articled in the last five years) to better understand the types of training and mentorship they were receiving, any issues related to harassment or discrimination in the workplace and whether they felt prepared to practise as 21st century lawyers. We heard from 549 student and new lawyer respondents for this survey, resulting in a 23 per cent response rate. **A key finding revealed that nearly one in three (32 per cent) reported experiencing discrimination or harassment during recruitment and/or articling.**

The second survey targeted recruiters, principals and mentors in the legal profession, asking mirrored questions to the first survey. Full details from the report are on our website.

Read more

RESPECTFUL WORKPLACE MODEL POLICY

In response to the results of the articling survey, we launched a **Respectful Workplace Model Policy** for members of the legal profession to adapt and use within their practices.

In addition to the model policy, we began developing **guides for employees and employers to further understand the model policy.** The employee guide explains how the policy protects employees when they experience discrimination, harassment and violence in the workplace. It also provides additional resources for employees to seek assistance. The employer guide explains how to implement the model policy and why it's important.

These guides will be released in 2020.

Read more

APPROVED LEGAL SERVICES PROVIDERS PROGRAM

To further improve access to legal services in Alberta, we implemented Rule changes that allowed for the regulation of pro bono organizations as Approved Legal Services Providers (ALSPs). The program launched in July 2019 and was designed to **create a clear process for established and new pro bono organizations to provide their legal services to the public**, in turn increasing access for those facing financial, geographical, cultural or social barriers.

Organizations now apply to become listed as an approved provider on the Law Society website. This way, **employees, clients, volunteers or funders of pro**

bono organizations can have greater confidence in their legal services. Lawyers who are otherwise exempt from insurance coverage are also now covered for volunteer legal services provided through any ALSP.

Read more

DEVELOPMENT OF STRATEGIC PLAN AND REGULATORY OBJECTIVES

Throughout 2019, the Board and Law Society staff developed and approved two key documents: the **2020-2024 Strategic Plan and the Regulatory Objectives of the Law Society of Alberta**.

The 2020-2024 Strategic Plan provides strategic direction for the organization over the next five years. The Regulatory Objectives are new for the Law Society and describe how the Law Society will fulfil its core purpose of protecting and upholding the public interest in the delivery of legal services.

Read more

Back to Top

The Numbers

FINANCIAL REPORTS

The Law Society uses external auditors to produce financial statements annually. Our 2019 financial statements can be found on **our website**.

LAW SOCIETY STATISTICS

We are committed to providing meaningful engagement opportunities with the public, profession and legal student body. In 2019, we conducted a **total of 55 outreach**

events across the organization, including in-person and online formats.

LAWYER STATISTICS

As of December 31, 2019, there were **10,396 active lawyers** and **2,305 inactive lawyers**. Both statistics show a small increase over the 2018 numbers.

Age and Gender Breakdowns

Of the total number of active lawyers in Alberta, **40 per cent are female, 58 per cent are male, one per cent are transgender and one per cent prefer not to disclose**. Please note that the Law Society is committed to an inclusive reporting process that allows for statistically significant year-over-year reporting.

The number of male and female lawyers in both firm and in-house settings remains relatively consistent and equal for those who have 25 years of service or less. **However, in the senior cohort of those with over 25 years of experience, males outnumber females by a ratio of over three to one.** In the graph below, the percentages over each bar show the portion of total active lawyers that group represents.

Articling Students

As of December 31, 2019, **525 students were actively articling in Alberta**. This reflects a slight increase over 2018, making this year the highest number of articling students in over a decade.

Back to Top

CONDUCT STATISTICS

National Discipline Standards

We are currently meeting **84 per cent of the Federation of Law Societies of Canada's National Discipline Standards.** Due to the requirements of the *Legal Profession Act*, we are not able to meet 100 per cent of the current standards without amendments to the legislation.

Issues concerning lawyers in Alberta

Of the general inquiries and concerns about Alberta lawyers received in 2019, **799 were referred to Early Intervention**

and 322 matters were reviewed by Conduct.

When a lawyer fails to fulfil the administrative requirements imposed by the Law Society through Rules, the lawyer will be administratively suspended until they have fulfilled their obligations. Due to this kind of non-compliance, **134 lawyers were administratively suspended in 2019**. The majority of these lawyers have resolved their error and have since been reinstated.

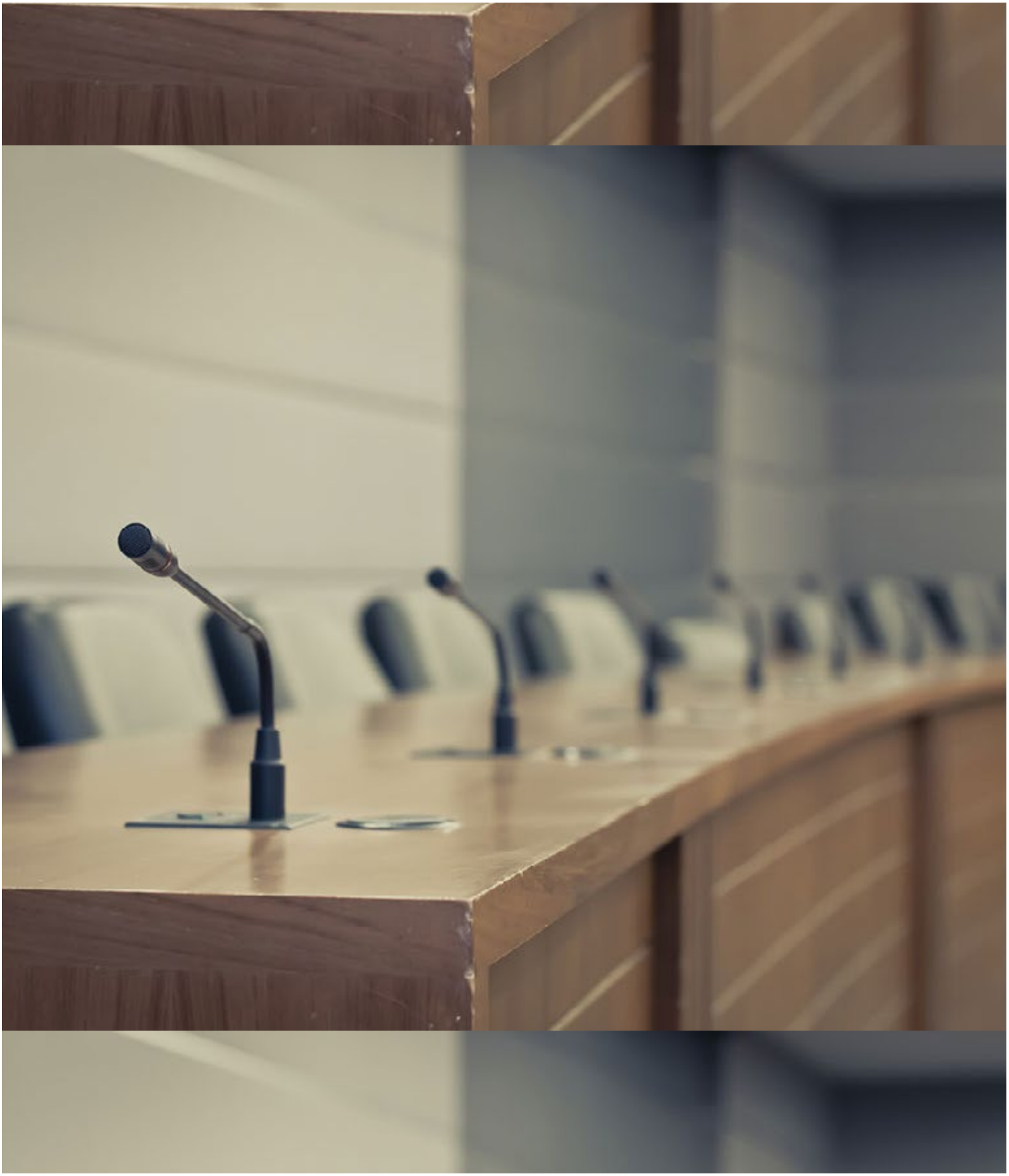
DEFINITIONS

Hearing

When a lawyer is directed to hearing, the matter is heard by a Hearing Committee. If a lawyer is found guilty, penalties can be imposed including a reprimand, fine, suspension, and disbarment.

- **Fined:** When a lawyer is required to pay a financial penalty to the Law Society of Alberta.
- **Reprimand:** A formal expression of reproach, either written or oral, issued by the Hearing Committee, which becomes part of the lawyer's conduct record.
- **Suspension:** A lawyer's membership in the Law Society of Alberta is suspended and they are prohibited to practise law in Alberta for a specific period.
- **Disbarred:** The lawyer's membership in the Law Society of Alberta is terminated and they can no longer practise

law in Alberta.



Resignation

When a lawyer applying to resign is the subject of current complaints and discipline proceedings, the lawyer will have their resignation application heard by a panel of three Benchers.

- **Resigned (s.32):** A lawyer who faces conduct proceedings but is given permission by a Resignation Committee to resign due to certain mitigating factors or circumstances, or a lawyer who seeks to resign for other reasons (e.g. relocation, retirement).
- **Resigned (s. 61):** A lawyer who faces serious conduct proceedings which would likely give rise to a penalty of disbarment by a Hearing Committee but is instead given permission by a Resignation Committee to resign. This is equal to a disbarment.

Contact Us

The Law Society of Alberta | 700, 333 – 11th Avenue SW | Calgary, AB T2R 1L9 lawsociety.ab.ca | feedback@lawsociety.ab.ca | 403.229.4700 or toll free 1.800.661.9003

Back to Top

Appreciate

This is Exhibit " G " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

Law Society of Alberta

Code of Conduct

October 5, 2023

Table of Contents

Introduction

The Law Society of Alberta participated with the Federation of Law Societies of Canada in the development of a Model Code of Conduct from 2004 to 2010. The Professional Responsibility Committee and the Benchers then undertook a thorough review to ensure that the Model Code was current and complied with Alberta law and practice. Alberta lawyers will find the format and paragraph numbering new. At the same time, the content preserves much of the commentary, cross referencing and legal referencing characteristic of the former Code of Professional Conduct that served so well as a practical guide to lawyer conduct.

The practice of law continues to evolve. That is mainly why the Law Society has adopted the Code of Conduct set out in the following pages. Interprovincial lawyer mobility, anticipated in 1995, has arrived as a reality and allows lawyers to practice in every province and territory in the country. National and regional law firms are prevalent and international firms are emerging. The establishment of uniform national ethical standards is also important to the tradition of a strong independent bar. These factors all favor the establishment of national standards governing lawyer conduct.

The Alberta Code of Professional Conduct was introduced in 1995. The drafters intended to provide Alberta lawyers with practical guidance about the rules governing ethical conduct and clear direction when exercising professional judgment about them. They succeeded admirably. The following Preface is retained from the 1995 Alberta Code because it expresses the timeless nature of lawyers' professional obligations in the unambiguous language characteristic of the whole document.

Preface

Lawyers have traditionally played a vital role in the protection and advancement of individual rights and liberties in a democratic society. Fulfillment of this role requires an understanding and appreciation by lawyers of their relationship to society and the legal system. By defining and clarifying expectations and standards of behaviour that will be applied to lawyers, the Code of Conduct is intended to serve a practical as well as a motivational function.

Two fundamental principles underlie this Code and are implicit throughout its provisions. First, a lawyer is expected to establish and maintain a reputation for integrity, the most important attribute of a member of the legal profession. Second, a lawyer's conduct should be above reproach. While the Law Society is empowered by statute to declare any conduct deserving of sanction, whether or not it is related to a lawyer's practice, personal behaviour is unlikely to be disciplined unless it is dishonourable or otherwise indicates an unsuitability to practise law. However, regardless of the possibility of formal sanction, a lawyer should observe the highest standards of conduct on both a personal and professional level so as to retain the trust, respect and confidence of colleagues and members of the public.

The legal profession is largely self-governing and is therefore impressed with special responsibilities. For example, its rules and regulations must be cast in the public interest, and its members have an obligation to seek observance of those rules on an individual and collective basis. However, the rules and regulations of the Law Society cannot exhaustively cover all situations that may confront a lawyer, who may find it necessary to also consider legislation relating to lawyers, other legislation, or general moral principles in determining an appropriate course of action.

Disciplinary assessment of a lawyer's conduct will be based on all facts and circumstances as they existed at the time of the conduct, including the willfulness and seriousness of the conduct, the existence of previous violations and any mitigating factors.

A member of the Law Society remains subject to this Code no matter where the member practises law. If a lawyer becomes a member of the bar of another jurisdiction in addition to that of Alberta, and there is an inconsistency or conflict between the rules of conduct of the two jurisdictions in a given instance, the rules of the jurisdiction in which the lawyer is practising in that matter will normally prevail. However, the Law Society continues to have jurisdiction over the lawyer. Disciplinary proceedings by another governing body may form the basis for proceedings in Alberta.

The willingness and determination of the profession to achieve widespread compliance with this Code is a more powerful and fundamental enforcement mechanism than the imposition of sanctions by the Law Society. A lawyer must therefore be vigilant with respect to the lawyer's own behaviour as well as that of colleagues. However, it is inconsistent with the spirit of this Code to use any of its provisions as an instrument of harassment or as a procedural weapon in the absence of a genuine concern respecting the interests of a client, the profession or the public.

Chapter 1 – Interpretation and Definitions

1.1 Definitions

1.1-1 In this Code, unless the context indicates otherwise,

"associate" includes:

(a) a lawyer who practises law in a law firm through an employment or other contractual relationship; and

(b) a non-lawyer employee of a multi-discipline practice providing services that support or supplement the practice of law;

"client" includes a client of a lawyer's firm, whether or not the lawyer handles the client's work, and may include a person who reasonably believes that a lawyer-client relationship exists, whether or not that is the case at law;

Commentary

[1] A lawyer-client relationship is often established without formality. For example, an express retainer or remuneration is not required for a lawyer-client relationship to arise. Also, in some circumstances, a lawyer may have legal and ethical responsibilities similar to those arising from a lawyer-client relationship. For example, a lawyer may meet with a prospective client in circumstances that give rise to a duty of confidentiality, and, even though no lawyer-client relationship is ever actually established, the lawyer may have a disqualifying conflict of interest if he or she were later to act against the prospective client. It is, therefore, in a lawyer's own interest to carefully manage the establishment of a lawyer-client relationship.

"conflict of interest" means the existence of a substantial risk that a lawyer's loyalty to or representation of a client would be materially and adversely affected by the lawyer's own interest or the lawyer's duties to another client, a former client, or a third person;

"consent" means fully informed and voluntary consent after disclosure

(a) in writing, provided that, if more than one person consents, each signs the same or a separate document recording the consent; or

(b) orally, provided that each person consenting receives a separate letter recording the consent;

"disclosure" means full and fair disclosure of all information relevant to a person's decision (including, where applicable, those matters referred to in commentary in this Code), in sufficient time for the person to make a genuine and independent decision, and the taking of reasonable steps to ensure understanding of the matters disclosed;

"law firm" includes one or more lawyers practising:

- **(a) in a sole proprietorship;**
- **(b) in a partnership;**
- **(c) as a clinic operated by Legal Aid Alberta;**
- **(d) in a government, a Crown corporation or any other public body; or**
- **(e) in a corporation or other organization;**
- **(f) from the same premises, while expressly or impliedly holding themselves out to be practising law together and indicating a commonality of practice through physical layout of office space, firm name, letterhead, signage and business cards, reception and telephone-answering services, or the sharing of office systems and support staff;**
- **(g) from the same premises and indicating that their practices are independent.**

"lawyer" means an active member of the Society, an inactive member of the Society, a suspended member of the Society, a student-at-law and a lawyer entitled to practise law in another jurisdiction who is entitled to practise law in Alberta. A reference to "lawyer" includes the lawyer's firm and each firm member except where expressly stated otherwise or excluded by the context;

"limited scope retainer" means an agreement for the provision of legal services for part, but not all, of a client's legal matter;

"Society" means the Law Society of Alberta;

"tribunal" includes a court, board, arbitrator, mediator, administrative agency or other body that resolves disputes, regardless of its function or the informality of its procedures.

Chapter 2 – Standards of the Legal Profession

2.1 Integrity

2.1-1 A lawyer has a duty to carry on the practice of law and discharge all responsibilities to clients, tribunals, the public and other members of the profession honourably and with integrity.

Commentary

[1] Integrity is the fundamental quality of any person who seeks to practise as a member of the legal profession. If a client has any doubt about his or her lawyer's trustworthiness, the essential element in the true lawyer-client relationship will be missing. If integrity is lacking, the lawyer's usefulness to the client and reputation within the profession will be destroyed, regardless of how competent the lawyer may be.

[2] Public confidence in the administration of justice and in the legal profession may be eroded by a lawyer's irresponsible conduct. Accordingly, a lawyer's conduct should reflect favourably on the legal profession, inspire the confidence, respect and trust of clients and of the community, and avoid even the appearance of impropriety.

[3] Dishonourable or questionable conduct on the part of a lawyer in either private life or professional practice will reflect adversely upon the integrity of the profession and the administration of justice. Whether within or outside the professional sphere, if the conduct is such that knowledge of it would be likely to impair a client's trust in the lawyer, the Society may be justified in taking disciplinary action.

[4] Generally, however, the Society will not be concerned with the purely private or extra-professional activities of a lawyer that do not bring into question the lawyer's professional integrity.

2.1-2 A lawyer has a duty to uphold the standards and reputation of the legal profession and to assist in the advancement of its goals, organizations and institutions.

Commentary

[1] Collectively, lawyers are encouraged to enhance the profession through activities such as:

(a) sharing knowledge and experience with colleagues and students informally in day-to-day practice as well as through contribution to professional journals and publications, support of law school projects and participation in panel discussions, legal education seminars, bar admission courses and university lectures;

(b) participating in legal aid and community legal services programs or providing legal services on a pro bono basis;

(c) filling elected and volunteer positions with the Society;

(d) acting as directors, officers and members of local, provincial, national and international bar associations and their various committees and sections; and

(e) acting as directors, officers and members of non-profit or charitable organizations.

Chapter 3 – Relationships to Clients

3.1 Competence

Definitions

3.1-1 In this rule

"competent lawyer" means a lawyer who has and applies relevant knowledge, skills and attributes in a manner appropriate to each matter undertaken on behalf of a client and the nature and terms of the lawyer's engagement, including:

- **(a) knowing general legal principles and procedures and the substantive law and procedure for the areas of law in which the lawyer practises;**
- **(b) investigating facts, identifying issues, ascertaining client objectives, considering possible options and developing and advising the client on appropriate courses of action;**
- **(c) implementing as each matter requires, the chosen course of action through the application of appropriate skills, including:**
  - **(i) legal research;**
  - **(ii) analysis;**
  - **(iii) application of the law to the relevant facts;**
  - **(iv) writing and drafting;**
  - **(v) negotiation;**
  - **(vi) alternative dispute resolution;**
  - **(vii) advocacy; and**
  - **(viii) problem solving;**
- **(d) communicating with the client at all relevant stages of a matter in a timely and effective manner;**
- **(e) performing all functions conscientiously, diligently and in a timely and cost-effective manner;**
- **(f) applying intellectual capacity, judgment and deliberation to all functions;**
- **(g) complying in letter and spirit with all rules pertaining to the appropriate professional conduct of lawyers;**

(h) recognizing limitations in one's ability to handle a matter or some aspect of it and taking steps accordingly to ensure the client is appropriately served;

(i) managing one's practice effectively;

(j) pursuing appropriate professional development to maintain and enhance legal knowledge and skills; and

(k) otherwise adapting to changing professional requirements, standards, techniques and practices.

Competence

3.1-2 A lawyer must perform all legal services undertaken on a client's behalf to the standard of a competent lawyer.

Commentary

[1] As a member of the legal profession, a lawyer is held out as knowledgeable, skilled and capable in the practice of law. Accordingly, the client is entitled to assume that the lawyer has the ability and capacity to deal adequately with all legal matters to be undertaken on the client's behalf.

[2] Competence is founded upon both ethical and legal principles. This rule addresses the ethical principles. Competence involves more than an understanding of legal principles: it involves an adequate knowledge of the practice and procedures by which such principles can be effectively applied. To accomplish this, the lawyer should keep abreast of developments in all areas of law in which the lawyer practises.

[3] In deciding whether the lawyer has employed the requisite degree of knowledge and skill in a particular matter, relevant factors will include:

(a) the complexity and specialized nature of the matter;

(b) the lawyer's general experience;

(c) the lawyer's training and experience in the field;

(d) the preparation and study the lawyer is able to give the matter; and

(e) whether it is appropriate or feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question.

[4] In some circumstances, expertise in a particular field of law may be required; often the necessary degree of proficiency will be that of the general practitioner.

[5] To maintain the required level of competence, a lawyer should develop an understanding of, and ability to use, technology relevant to the nature and area of the lawyer's practice and

responsibilities. A lawyer should understand the benefits and risks associated with relevant technology, recognizing the lawyer's duty to protect confidential information set out in Rule 3.3.

[6] The required level of technological competence will depend on whether the use or understanding of technology is necessary to the nature and area of the lawyer's practice and responsibilities and whether the relevant technology is reasonably available to the lawyer. In determining whether technology is reasonably available, consideration should be given to factors including:

(a) the lawyer's or law firm's practice areas;

(b) the geographic locations of the lawyer's or firm's practice; and

(c) the requirements of clients.

[7] A lawyer should not undertake a matter without honestly feeling competent to handle it, or being able to become competent without undue delay, risk or expense to the client. The lawyer who proceeds on any other basis is not being honest with the client. This is an ethical consideration and is distinct from the standard of care that a tribunal would invoke for purposes of determining negligence.

[8] A lawyer must recognize a task for which the lawyer lacks competence and the disservice that would be done to the client by undertaking that task. If consulted about such a task, the lawyer should:

(a) decline to act;

(b) make reasonable efforts to assist the client to obtain competent legal representation from another lawyer;

(c) obtain the client's instructions to retain, consult or collaborate with a lawyer who is competent for that task; or

(d) obtain the client's consent for the lawyer to become competent without undue delay, risk or expense to the client.

[9] The lawyer should also recognize that competence for a particular task may require seeking advice from or collaborating with experts in scientific, accounting or other non-legal fields, and, when it is appropriate, the lawyer should not hesitate to seek the client's instructions to consult experts.

[10] Lawyers owe clients a duty of competence, regardless of whether the retainer is a full service or a limited scope retainer. When a lawyer considers whether to provide legal services under a limited scope retainer, the lawyer must consider whether the limitation is reasonable in the circumstances. For example, some matters may be too complex to offer legal services pursuant to a limited scope retainer. (See Rule 3.2-2).

[11] A lawyer should clearly specify the facts, circumstances and assumptions on which an opinion is based, particularly when the circumstances do not justify an exhaustive investigation and the resultant expense to the client. However, unless the client instructs otherwise, the lawyer should investigate the matter in sufficient detail to be able to express an opinion rather than mere comments

with many qualifications. A lawyer should only express his or her legal opinion when it is genuinely held.

[12] A lawyer should be wary of providing unreasonable or over-confident assurances to the client, especially when the lawyer's employment or retainer may depend upon advising in a particular way.

[13] In addition to opinions on legal questions, a lawyer may be asked for or may be expected to give advice on non-legal matters such as the business, economic, policy or social complications involved in the question or the course the client should choose. In many instances the lawyer's experience will be such that the lawyer's views on non-legal matters will be of real benefit to the client. The lawyer who expresses views on such matters should, if necessary and to the extent necessary, point out any lack of experience or other qualification in the particular field and should clearly distinguish legal advice from other advice.

[14] In a multi-discipline practice, a lawyer must ensure that the client is made aware that the legal advice from the lawyer may be supplemented by advice or services from a non-lawyer. Advice or services from non-lawyer members of the firm unrelated to the retainer for legal services must be provided independently of and outside the scope of the legal services retainer and from a location separate from the premises of the multi-discipline practice. The provision of non-legal advice or services unrelated to the legal services retainer will also be subject to the constraints outlined in the rules/by-laws/regulations governing multi-discipline practices.

[15] The requirement of conscientious, diligent and efficient service means that a lawyer should make every effort to provide timely service to the client. If the lawyer can reasonably foresee undue delay in providing advice or services, the client should be so informed.

[16] The lawyer should refrain from conduct that may interfere with or compromise his or her capacity or motivation to provide competent legal services to the client and be aware of any factor or circumstance that may have that effect.

[17] A lawyer who is incompetent does the client a disservice, brings discredit to the profession and may bring the administration of justice into disrepute. In addition to damaging the lawyer's own reputation and practice, incompetence may also injure the lawyer's partners and associates.

Incompetence, Negligence and Mistakes

[18] This rule does not require a standard of perfection. An error or omission, even though it might be actionable for damages in negligence or contract, will not necessarily constitute a failure to maintain the standard of professional competence described by the rule. However, evidence of gross neglect in a particular matter or a pattern of neglect or mistakes in different matters may be evidence of such a failure, regardless of tort liability. While damages may be awarded for negligence, incompetence can give rise to the additional sanction of disciplinary action.

3.2 Quality of Service

Quality of Service

3.2-1 A lawyer has a duty to provide courteous, thorough and prompt service to clients. The quality of service required of a lawyer is service that is competent, timely, conscientious, diligent, efficient and civil.

Commentary

[1] This rule should be read and applied in conjunction with Rule 3.1 regarding competence.

[2] A lawyer has a duty to provide a quality of service at least equal to that which lawyers generally expect of a competent lawyer in a like situation. An ordinarily or otherwise competent lawyer may still occasionally fail to provide an adequate quality of service.

[3] A lawyer has a duty to communicate effectively with the client. What is effective will vary depending on the nature of the retainer, the needs and sophistication of the client and the need for the client to make fully informed decisions and provide instructions. A lawyer must use reasonable efforts to ensure that the client comprehends the lawyer's advice and recommendations.

[4] A lawyer should ensure that matters are attended to within a reasonable time frame. If the lawyer can reasonably foresee undue delay in providing advice or services, the lawyer has a duty to so inform the client, so that the client can make an informed choice about his or her options, such as whether to retain new counsel.

Examples of expected practices

[5] The quality of service to a client may be measured by the extent to which a lawyer maintains certain standards in practice. The following list, which is illustrative and not exhaustive, provides key examples of expected practices in this area:

(a) keeping a client reasonably informed;

(b) answering reasonable requests from a client for information;

(c) responding to a client's telephone calls and emails;

(d) keeping appointments with a client, or providing a timely explanation or apology when unable to keep such an appointment;

(e) taking appropriate steps to do something promised to a client, or informing or explaining to the client when it is not possible to do so; ensuring, where appropriate, that all instructions are in writing or confirmed in writing;

(f) answering, within a reasonable time, any communication that requires a reply;

(g) ensuring that work is done in a timely manner so that its value to the client is maintained;

(h) providing quality work and giving reasonable attention to the review of documentation to avoid delay and unnecessary costs to correct errors or omissions;

(i) maintaining office staff, facilities and equipment adequate to the lawyer's practice;

(j) informing a client of a proposal of settlement, and explaining the proposal properly;

(k) providing a client with complete and accurate relevant information about a matter;

(l) making a prompt and complete report when the work is finished or, if a final report cannot be made, providing an interim report when one might reasonably be expected;

(m) avoiding the use of intoxicants or drugs that interfere with or prejudice the lawyer's services to the client;

(n) being civil.

[6] A lawyer should meet deadlines, unless the lawyer is able to offer a reasonable explanation and ensure that no prejudice to the client will result. Whether or not a specific deadline applies, a lawyer should be prompt in handling a matter, responding to communications and reporting developments to the client. In the absence of developments, contact with the client should be maintained to the extent the client reasonably expects.

Limited Scope Retainers

3.2-2 Before undertaking a limited scope retainer the lawyer must advise the client about the nature, extent and scope of the services that the lawyer can provide and must confirm in writing to the client as soon as practicable what services will be provided.

Commentary

[1] The scope of the service to be provided should be discussed with the client, and the client's acknowledgement and understanding of the risks and limitations of the retainer should be confirmed in writing. The lawyer should clearly identify the tasks for which the lawyer and the client are each responsible. The lawyer should advise the client about related legal issues which fall outside the scope of the limited scope retainer, and advise the client of the consequences of limiting the scope of the retainer, to allow the client to have enough information on which to base a decision to limit or expand the retainer.

[2] A lawyer who is providing legal services under a limited scope retainer should be careful to avoid acting in a way that suggests that the lawyer is providing full services to the client. Modifications to the scope of the limited scope retainer, or the obligations of the client and lawyer, should be confirmed in writing. The lawyer should also consider advising the client when the lawyer's retainer has ended.

[3] Where the limited services being provided include an appearance before a tribunal a lawyer must be careful not to mislead the tribunal as to the scope of the retainer. Lawyers should consider whether disclosure of the limited nature of the retainer is required by the rules of practice governing a particular tribunal or other circumstances.

[4] In Alberta, Rule 2.27 of the Rules of Court requires lawyers to inform the court if the lawyer is retained for a limited or particular purpose.

[5] When one party is receiving legal services pursuant to a limited scope retainer, the lawyers representing all the parties in the matter should consider how communications from opposing counsel in a matter should be managed. (See Rule 7.2-9).

[6] This rule does not apply to situations in which a lawyer is providing summary advice or to initial consultations that may result in the client retaining the lawyer.

[7] Summary advice may include advice received in a brief consultation on a telephone hotline or from duty counsel, for example, or may otherwise be advice which is received during the provision of short-term legal services, described in Rule 3.4-15.

Honesty and Candour

3.2-3 When advising a client, a lawyer must be honest and candid and must inform the client of all information known to the lawyer that may affect the interests of the client in the matter.

Commentary

[1] A lawyer should disclose to the client all the circumstances of the lawyer's relations to the parties and interest in or connection with the matter, if any, that might influence whether the client selects or continues to retain the lawyer.

[2] A lawyer's duty to a client who seeks legal advice is to give the client a competent opinion based on a sufficient knowledge of the relevant facts, an adequate consideration of the applicable law and the lawyer's own experience and expertise. The advice must be open and undisguised and must clearly disclose what the lawyer honestly thinks about the merits and probable results.

[3] Occasionally, a lawyer must be firm with a client. Firmness, without rudeness, is not a violation of the rule. In communicating with the client, the lawyer may disagree with the client's

perspective, or may have concerns about the client's position on a matter, and may give advice that will not please the client. This may legitimately require firm and animated discussion with the client.

Client Instructions

3.2-4 A lawyer must obtain instructions from the client on all matters not falling within the express or implied authority of the lawyer.

Commentary

[1] Assuming that there are no practical exigencies requiring a lawyer to act for a client without prior consultation, the lawyer must consider before each decision in a matter whether and to what extent the client should be consulted or informed. Even an apparently routine step that clearly falls within the lawyer's authority may warrant prior consultation, depending on circumstances such as a particular client's desire to be involved in the day to day conduct of a matter.

[2] A lawyer has an ethical obligation to put all settlement offers to the client and to obtain specific instructions with regard to making or accepting settlement offers on a client's behalf (see Rule 3.2-1). In addition, certain decisions in litigation, such as how a criminal defendant will plead, whether a client will testify, whether to waive a jury trial and whether to appeal, require prior discussion with the client. As to other, less fundamental decisions, if there is any doubt in the lawyer's mind as to whether the client should be consulted, it is most prudent to do so.

[3] If a client persistently refuses or fails to provide instructions, the lawyer is entitled to withdraw (see Rule 3.7-2). If, however, the failure to provide instructions is due to the client's disappearance or incapacity, the lawyer has additional duties to attend to before withdrawal is justified (see Rules 3.2-5 and 3.2-15 and accompanying commentaries).

[4] When acting for a corporation, on an in house basis or otherwise, a lawyer may encounter difficulty in identifying who within the corporation has authority to give instructions and receive advice on the client's behalf. In this regard, see Rule 3.2-9 and related commentary.

3.2-5 When a lawyer is unable to obtain instructions from a client because the client cannot be located, the lawyer must make reasonable efforts to locate the client.

Commentary

[1] Circumstances dictating the extent of a lawyer's efforts to locate a missing client include the facts giving rise to the inability to contact the client and importance of the issue on which instructions are sought. A wilful disappearance may mandate a less strenuous attempt at location, while the potential loss of a significant right or remedy will require greater efforts. In the latter case, the lawyer should take such steps as are reasonably necessary and in accordance with the lawyer's implied

authority to preserve the right or remedy in the meantime. Once a matter moves beyond the implied authority of the lawyer and all attempts to locate the client have been unsuccessful, the lawyer may be compelled to withdraw since a representation may not be continued in the absence of proper instructions.

3.2-6 When receiving instructions from a third party on behalf of a client, a lawyer must ensure that the instructions accurately reflect the wishes of the client.

Commentary

[1] It is not inherently improper for a lawyer to accept instructions on a client's behalf from someone other than the client. For example, a client may be indisposed or unavailable and therefore unable to provide instructions directly, or a lawyer may be retained at the suggestion of another advisor, such as an accountant, with the result that at least the initial contact is made by the advisor on the client's behalf.

{2] In these circumstances a lawyer must verify that the instructions are accurate and were given freely and voluntarily by a client having the capacity to do so. The lawyer's freedom of access to the client must be unrestricted. In certain situations it may be appropriate for the lawyer to insist on meeting alone with the client (see also Rule 3.2-1 and related commentary).

[3] From time to time a lawyer is retained and paid by one party but requested to prepare a document for execution by another party. While on a technical analysis the instructing party may be the client, the facts may indicate a relationship with the other party as well that carries with it certain duties on the part of the lawyer, such as the duty to make direct contact with the other party to confirm the instructions. If, for example, a lawyer has been asked to prepare a power of attorney or a will for a relative of the person providing instructions, the possibility of coercion or undue influence requires that steps be taken to protect the interests of the relative. If that person's wishes cannot be satisfactorily verified, it is improper for the lawyer to carry out the instructions.

[4] **Accepting payment from a third party –** A lawyer may be paid by one person, such as an insurance company or union, while being retained to act for another person, such as an insured individual or union member, who has standing to provide instructions directly to the lawyer. In this situation, the lawyer must clarify through discussions with both parties at the outset of the representation whether the lawyer will be acting for both parties, or only for the person instructing the lawyer.

[5] If both parties are to be represented by the lawyer in the relevant matter, then the conflict of interest rules will apply, regarding multiple representations. Briefly, the lawyer must make an independent judgment whether acting for both is in the parties' best interests; both parties must consent to the terms of the arrangement after full disclosure; and the lawyer will not be permitted to keep material information confidential from either party. In the event that a dispute develops, the

lawyer will be compelled to cease acting altogether unless, at the time the dispute arises, both parties consent to the lawyer's continuing to represent one of them.

[6] In some circumstances, the person responsible for payment may agree that the other person will be considered the sole client of the lawyer in that matter if (for example) the first party is paying the other's legal fees through courtesy or philanthropy or pursuant to a prepaid legal services plan. In this event, the lawyer should be satisfied that the financially responsible party understands the significance of the characterization of the other party as the sole client and, in particular, that the financially responsible party will have no right to request or receive confidential information regarding the matter.

[7] Some prepaid legal services plans do not offer subscribers a choice of counsel. A lawyer participating in such a plan must explain to the client the implications of this lack of choice at the first available opportunity (See also Rule 3.6-11 regarding prepaid legal services plans).

Language Rights and Language Competency

3.2-7 A lawyer must, when appropriate, advise a client of the client's language rights, including the right to proceed in the official language of the client's choice.

3.2-8 When a client wishes to retain a lawyer for representation in the official language of the client's choice, the lawyer should not undertake the matter:

(a) unless the lawyer is competent to provide the required services in that language; or

(b) if the lawyer is not competent to provide the required services in that language, unless the lawyer is otherwise able to competently provide those services and the client consents in writing to the representation.

Commentary

[1] The lawyer should advise the client of the client's language rights as soon as possible.

[2] The choice of official language is that of the client not the lawyer. The lawyer should be aware of relevant statutory and constitutional law relating to language rights including the *Canadian Charter of Rights and Freedoms*, s.19(1) and Part XVII of the *Criminal Code* regarding language rights in courts established by Parliament and in criminal proceedings. The lawyer should also be aware that provincial or territorial legislation may provide additional language rights, including in relation to aboriginal languages.

[3] When a lawyer considers whether to provide the required services in the official language chosen by the client, the lawyer should carefully consider whether it is possible to render those services in a competent manner as required by Rule 3.1-2 and related commentary.[4] A

lawyer should be aware of the language rights relating to the client's matter, including those rights set out in the *Canadian Charter of Rights and Freedoms*, the *Criminal Code*, the *Divorce Act*, the *Official Languages Act*, *Alberta's Languages Act*, and *Alberta's Languages in the Courts Regulation*.

[5] A lawyer should confirm language choice and choice of counsel with a client in writing. To assist a client in exercising these choices, a lawyer may discuss with the client options to exercise any language rights the client may have, concerns about proceeding in one official language over the other, including timing and costs, and options for representation with and without interpreters and other translation services, including the client's right to an interpreter under section 14 of the *Charter of Rights and Freedoms*.

[6] In any legal matter, a lawyer should ensure that they have the competency to effectively communicate with the client in such a way as to understand and be understood by the client. If the client and the lawyer are unable to communicate effectively with each other, then the lawyer should not undertake the matter or should arrange for the assistance of an interpreter with the written consent of the client.

[7] If a client consents to an interpreter or translation services, a lawyer should make the necessary arrangements for the service to represent the client and ensure effective communication with the client and with all other participants in the client's matter, including witnesses and opposing parties, and to ensure understanding of any necessary consent forms, transactions, documents or Court proceedings.

When the Client is an Organization

3.2-9 Although a lawyer may receive instructions from an officer, employee, agent or representative, when a lawyer is employed or retained by an organization, including a corporation, the lawyer must act for the organization in exercising his or her duties and in providing professional services.

Commentary

[1] A lawyer acting for an organization should keep in mind that the organization, as such, is the client and that a corporate client has a legal personality distinct from its shareholders, officers, directors and employees. While the organization or corporation acts and gives instructions through its officers, directors, employees, members, agents or representatives, the lawyer should ensure that it is the interests of the organization that are served and protected. Further, given that an organization depends on persons to give instructions, the lawyer should ensure that the person giving instructions for the organization is acting within that person's actual or ostensible authority.

[2] In addition to acting for the organization, a lawyer may also accept a joint retainer and act for a person associated with the organization. For example, a lawyer may advise an officer of an organization about liability insurance. In such cases the lawyer acting for an organization should be

alert to the prospects of conflicts of interests and should comply with the rules about the avoidance of conflicts of interests (Rule 3.4).

Encouraging Compromise or Settlement

3.2-10 A lawyer must advise and encourage a client to compromise or settle a dispute whenever it is possible to do so on a reasonable basis and must discourage the client from commencing or continuing useless legal proceedings.

Commentary

[1] Determining whether settlement or compromise is a realistic alternative requires objective evaluation and the application of a lawyer's professional judgment and experience to the circumstances of the case. The client must then be advised of the advantages and drawbacks of settlement versus litigation. Due to the uncertainty, delay and expense inherent in the litigation process, it is often in the client's interests that a matter be settled. On the other hand, because a lawyer's role is that of advocate rather than adjudicator, going to trial is justified if the client so instructs and the matter is meritorious (see Rule 5.1-2(b)). A lawyer should not press settlement for personal reasons such as an overloaded calendar, lack of preparation, reluctance to face judge or opposing counsel in a courtroom setting, or possible financial benefit due to the terms of a fee agreement.

Threatening Criminal or Regulatory Proceedings

3.2-11 A lawyer must not, in an attempt to gain a benefit for a client, threaten, or advise a client to threaten:

(a) to initiate or proceed with a criminal or quasi-criminal charge; or

(b) to make a complaint to a regulatory authority.

Commentary

[1] It is an abuse of the court or regulatory authority’s process to threaten to make or advance a complaint in order to secure the satisfaction of a private grievance. Even if a client has a legitimate entitlement to be paid money, threats to take criminal or quasi-criminal action are not appropriate.

[2] It is not improper, however, to notify the appropriate authority of criminal or quasi-criminal activities while also taking steps through the civil system. Nor is it improper for a lawyer to request that another lawyer comply with an undertaking or trust condition or other professional obligation or face being reported to the Society. The impropriety stems from threatening to use, or actually using, criminal or quasi-criminal proceedings to gain a civil advantage.

Inducement for Withdrawal of Criminal or Regulatory Proceedings

3.2-12 A lawyer must not:

(a) give or offer to give, or advise an accused or any other person to give or offer to give, any valuable consideration to another person in exchange for influencing the Crown or a regulatory authority's conduct of a criminal or quasi-criminal charge or a complaint, unless the lawyer obtains the consent of the Crown or the regulatory authority to enter into such discussions;

(b) accept or offer to accept, or advise a person to accept or offer to accept, any valuable consideration in exchange for influencing the Crown or a regulatory authority's conduct of a criminal or quasi-criminal charge or a complaint, unless the lawyer obtains the consent of the Crown or the regulatory authority to enter such discussions; or

(c) wrongfully influence any person to prevent the Crown or regulatory authority from proceeding with charges or a complaint or to cause the Crown or regulatory authority to withdraw the complaint or stay charges in a criminal or quasi-criminal proceeding.

Commentary

[1] "Regulatory authority" includes professional and other regulatory bodies.

[2] A lawyer for an accused or potential accused must never influence a complainant or potential complainant not to communicate or cooperate with the Crown. However, this rule does not prevent a lawyer for an accused or potential accused from communicating with a complainant or potential complainant to obtain factual information, arrange for restitution or an apology from an accused, or defend or settle any civil matters between the accused and the complainant. When a proposed resolution involves valuable consideration being exchanged in return for influencing the Crown or the regulatory authority not to proceed with a charge or to seek a reduced sentence or penalty, the lawyer for the accused must obtain the consent of the Crown or the regulatory authority prior to discussing such proposal with the complainant or potential complainant. Similarly, lawyers advising a complainant or potential complainant with respect to any such negotiations can do so only with the consent of the Crown or the regulatory authority.

[3] A lawyer cannot provide an assurance that the settlement of a related civil matter will result in the withdrawal of criminal or quasi-criminal charges, absent the consent of the Crown or the regulatory authority.

[4] When the complainant or potential complainant is unrepresented, the lawyer should have regard to the rules respecting unrepresented persons and make it clear that the lawyer is acting exclusively in the interests of the accused. If the complainant or potential complainant is vulnerable, the lawyer should take care not to take unfair or improper advantage of the circumstances. When communicating with an unrepresented complainant or potential complainant, it is prudent to have a witness present.

Fraud by Client or Others

3.2-13 A lawyer must never:

(a) assist in or encourage any fraud, crime, or illegal conduct,

(b) do or omit to do anything that assists in or encourages any fraud, crime, or illegal conduct by a client or others, or

(c) instruct a client or others on how to violate the law and avoid punishment.

Commentary

[1] A lawyer should be on guard against becoming the tool or dupe of an unscrupulous client, or of others, whether or not associated with the unscrupulous client.

[2] A lawyer should be alert to and avoid unwittingly becoming involved with a client or others engaged in criminal activities such as mortgage fraud or money laundering. Vigilance is required because the means for these, and other criminal activities, may be transactions for which lawyers commonly provide services such as: establishing, purchasing or selling business entities; arranging financing for the purchase or sale or operation of business entities; arranging financing for the purchase or sale of business assets; and purchasing and selling real estate.

[3] If a lawyer has suspicions or doubts about whether he or she might be assisting a client or others in dishonesty, fraud, crime or illegal conduct, the lawyer should make reasonable inquiries to obtain information about the client or others and, in the case of the client, about the subject matter and objectives of the retainer. These should include verifying who are the legal or beneficial owners of property and business entities, verifying who has the control of business entities, and clarifying the nature and purpose of a complex or unusual transaction where the purpose is not clear. The lawyer should make a record of the results of these inquiries.

[4] This rule does not apply to conduct the legality of which is supportable by a reasonable and good faith argument. A bona fide test case is not necessarily precluded by this rule and, so long as no injury to a person or violence is involved, a lawyer may properly advise and represent a client who, in good faith and on reasonable grounds, desires to challenge or test a law and the test can most effectively be made by means of a technical breach giving rise to a test case. In all situations, the lawyer should ensure that the client appreciates the consequences of bringing a test case.

[5] This rule is not intended to prevent a lawyer from fully explaining the options available to a client, including the consequences of various means of proceeding, or from representing after the fact a client accused of wrongful conduct. However, a lawyer may not act in furtherance of a client's improper objective. An example would be assisting a client to implement a transaction that is clearly a fraudulent preference. Nor may a lawyer purport to set forth alternatives without making a direct recommendation if the lawyer's silence would be construed as an indirect endorsement of an illegal action.

[6] The mere provision of legal information must be distinguished from rendering legal advice or providing active assistance to a client. If a lawyer is reasonably satisfied on a balance of probabilities that the result of advice or assistance will be to involve the lawyer in a criminal or fraudulent act, then the advice or assistance should not be given. In contrast, merely providing legal information that could be used to commit a crime or fraud is not improper since everyone has a right to know and understand the law. Indeed, a lawyer has a positive obligation to provide such information or ensure that alternative competent legal advice is available to the client. Only if there is reason to believe beyond a reasonable doubt, based on familiarity with the client or information received from other reliable sources, that a client intends to use legal information to commit a crime should a lawyer decline to provide the information sought.

Fraud when Client an Organization

3.2-14 A lawyer who is employed or retained by an organization to act in a matter in which the lawyer knows that the organization has acted, is acting or intends to act fraudulently, criminally or illegally, must do the following, in addition to his or her obligations under Rule 3.2-13:

(a) advise the person from whom the lawyer takes instructions and the chief legal officer, or both the chief legal officer and the chief executive officer, that the conduct is or would be fraudulent, criminal or illegal and should be stopped;

(b) if necessary because the person from whom the lawyer takes instructions, the chief legal officer or the chief executive officer refuses to stop the conduct, advise progressively the next highest persons or groups, including ultimately, the board of directors, the board of trustees, or the appropriate committee of the board, that the conduct is or would be fraudulent, criminal or illegal and should be stopped; and

(c) if the organization, despite the lawyer's advice, continues with or intends to pursue the unlawful conduct, withdraw from acting in the matter in accordance with Rule 3.7.

Commentary

[1] The past, present, or proposed misconduct of an organization may have harmful and serious consequences, not only for the organization and its constituency, but also for the public who rely on organizations to provide a variety of goods and services. In particular, the misconduct of publicly traded commercial and financial corporations may have serious consequences for the public at large. This rule addresses some of the professional responsibilities of a lawyer acting for an organization, including a corporation, when he or she learns that the organization has acted, is acting, or proposes to act in a way that is fraudulent, criminal or illegal. In addition to these rules, the lawyer may need to consider, for example, the rules and commentary about confidentiality (Rule 3.3).

[2] This rule speaks of conduct that is fraudulent, criminal or illegal. Such conduct includes acts of omission. Indeed, often it is the omissions of an organization, such as failing to make required disclosure or to correct inaccurate disclosures that constitute the wrongful conduct to which these rules relate. Conduct likely to result in substantial harm to the organization, as opposed to genuinely trivial misconduct by an organization, invokes these rules.

[3] In considering his or her responsibilities under this section, a lawyer should consider whether it is feasible and appropriate to give any advice in writing.

[4] A lawyer acting for an organization who learns that the organization has acted, is acting, or intends to act in an unlawful manner, may advise the chief executive officer and must advise the chief legal officer of the misconduct. If the unlawful conduct is not abandoned or stopped, the lawyer must report the matter "up the ladder" of responsibility within the organization until the matter is dealt with appropriately. If the organization, despite the lawyer's advice, continues with the unlawful conduct, the lawyer must withdraw from acting in the particular matter in accordance with Rule 3.7. In some but not all cases, withdrawal means resigning from his or her position or relationship with the organization and not simply withdrawing from acting in the particular matter.

[5] This rule recognizes that lawyers as the legal advisors to organizations are in a central position to encourage organizations to comply with the law and to advise that it is in the organization's and the public's interest that organizations do not violate the law. Lawyers acting for organizations are often in a position to advise the executive officers of the organization, not only about the technicalities of the law, but also about the public relations and public policy concerns that motivated the government or regulator to enact the law. Moreover, lawyers for organizations, particularly in-house counsel, may guide organizations to act in ways that are legal, ethical, reputable and consistent with the organization's responsibilities to its constituents and to the public.

Clients with Diminished Capacity

3.2-15 When a client's ability to make decisions is impaired because of minority or mental disability, or for some other reason, the lawyer must, as far as reasonably possible, maintain a normal lawyer and client relationship.

Commentary

[1] A lawyer and client relationship presupposes that the client has the requisite mental ability to make decisions about his or her legal affairs and to give the lawyer instructions. A client's ability to make decisions depends on such factors as age, intelligence, experience and mental and physical health and on the advice, guidance and support of others. A client's ability to make decisions may change, for better or worse, over time. A client may be mentally capable of making some decisions but not others. The key is whether the client has the ability to understand the information relative to the decision that has to be made and is able to appreciate the reasonably foreseeable consequences of the decision or lack of decision. Accordingly, when a client is, or comes to be, under a disability that impairs his or her ability to make decisions, the lawyer will have to assess whether the impairment is minor or whether it prevents the client from giving instructions or entering into binding legal relationships.

[2] A lawyer who believes a person to be incapable of giving instructions should decline to act. However, if a lawyer reasonably believes that the person has no other agent or representative and a failure to act could result in imminent and irreparable harm, the lawyer may take action on behalf of the person lacking capacity only to the extent necessary to protect the person until a legal

representative can be appointed. A lawyer undertaking to so act has the same duties under these rules to the person lacking capacity as the lawyer would with any client.

[3] If a client's incapacity is discovered or arises after the solicitor-client relationship is established, the lawyer may need to take steps to have a lawfully authorized representative, such as a litigation guardian, appointed or to obtain the assistance of the Office of the Public Trustee to protect the interests of the client. Whether that should be done depends on all relevant circumstances, including the importance and urgency of any matter requiring instruction. In any event, the lawyer has an ethical obligation to ensure that the client's interests are not abandoned. Until the appointment of a legal representative occurs, the lawyer should act to preserve and protect the client's interests.

[4] In some circumstances when there is a legal representative, the lawyer may disagree with the legal representative's assessment of what is in the best interests of the client under a disability. So long as there is no lack of good faith or authority, the judgment of the legal representative should prevail. If a lawyer becomes aware of conduct or intended conduct of the legal representative that is clearly in bad faith or outside that person's authority, and contrary to the best interests of the client with diminished capacity, the lawyer may act to protect those interests. This may require reporting the misconduct to a person or institution such as a family member or the Public Trustee.

[5] When a lawyer takes protective action on behalf of a person or client lacking in capacity, the authority to disclose necessary confidential information may be implied in some circumstances: See commentary under Rule 3.3-1 (Confidentiality) for a discussion of the relevant factors. If the court or other counsel becomes involved, the lawyer should inform them of the nature of the lawyer's relationship with the person lacking capacity.

3.3 Confidentiality

Confidential Information

3.3-1 A lawyer at all times must hold in strict confidence all information concerning the business and affairs of a client acquired in the course of the professional relationship and must not divulge any such information unless:

(a) expressly or impliedly authorized by the client;

(b) required by law or a court to do so;

(c) required to deliver the information to the Society; or

(d) otherwise permitted by this rule.

Commentary

[1] A lawyer cannot render effective professional service to a client unless there is full and unreserved communication between them. At the same time, the client must feel completely secure and entitled to proceed on the basis that, without any express request or stipulation on the client's part, matters disclosed to or discussed with the lawyer will be held in strict confidence.

[2] This rule must be distinguished from the evidentiary rule of lawyer and client privilege, which is also a constitutionally protected right, concerning oral or documentary communications passing between the client and the lawyer. The ethical rule is wider and applies without regard to the nature or source of the information or the fact that others may share the knowledge.

[3] A lawyer owes the duty of confidentiality to every client without exception and whether or not the client is a continuing or casual client. The duty survives the professional relationship and continues indefinitely after the lawyer has ceased to act for the client, whether or not differences have arisen between them.

[4] A lawyer also owes a duty of confidentiality to anyone seeking advice or assistance on a matter invoking a lawyer's professional knowledge, although the lawyer may not render an account or agree to represent that person. A solicitor and client relationship is often established without formality. A lawyer should be cautious in accepting confidential information on an informal or preliminary basis, since possession of the information may prevent the lawyer from subsequently acting for another party in the same or a related matter (See Rule 3.4 Conflicts).

[5] Generally, unless the nature of the matter requires such disclosure, a lawyer should not disclose having been:

(a) retained by a person about a particular matter; or

(b) consulted by a person about a particular matter, whether or not the lawyer-client relationship has been established between them.

[6] A lawyer should take care to avoid disclosure to one client of confidential information concerning or received from another client and should decline employment that might require such disclosure. When acting for more than one party in the same matter, a lawyer must disclose to all such parties any material confidential information acquired by the lawyer in the course of the representation and relating to the matter in question. While multiple representation is generally discouraged, there are circumstances in which it is in the best interests of the parties involved (see Rule 3.4, Conflicts). A lawyer will be precluded, however, from receiving material information in connection with the matter from one client and treating it as confidential in respect of the others. This aspect of the representation must be disclosed to the clients in advance so that their consent is an informed one.

[7] When lawyers share space, the risk of advertent or inadvertent disclosure of confidential information is significant even if the lawyers involved exert efforts to insulate their respective practices. Consequently, the definition of "law firm" includes lawyers practising law from the same premises but otherwise practising law independently of one another. To comply with Rule 3.4 regarding Conflicts, lawyers in space-sharing arrangements must share certain confidential client information with each other. For example, it will be necessary to know the identities of clients of the other lawyers to determine when conflicts exist. When a conflict check shows that a person against whom one of the lawyers wishes to act was previously represented by another of the lawyers, those lawyers may need to discuss the nature of any confidential information possessed by the previous lawyer. Accordingly, the implied consent to disclosure of information referred to in Rule 3.3-1 extends to all lawyers practising in such an arrangement.

[8] A lawyer should avoid indiscreet conversations and other communications, even with the lawyer's spouse or family, about a client's affairs and should shun any gossip about such things even though the client is not named or otherwise identified. Similarly, a lawyer should not repeat any gossip or information about the client's business or affairs that is overheard or recounted to the lawyer. Apart altogether from ethical considerations or questions of good taste, indiscreet shoptalk among lawyers, if overheard by third parties able to identify the matter being discussed, could result in prejudice to the client. Moreover, the respect of the listener for lawyers and the legal profession will probably be lessened. Although the rule may not apply to facts that are public knowledge, a lawyer should guard against participating in or commenting on speculation concerning clients' affairs or business.

[9] In some situations, the authority of the client to disclose may be inferred. For example, in court proceedings some disclosure may be necessary in a pleading or other court document. Also, it is implied that a lawyer may, unless the client directs otherwise, disclose the client's affairs to partners and associates in the law firm and, to the extent necessary, to administrative staff and to others whose services are used by the lawyer. But this implied authority to disclose places the lawyer under a duty to impress upon associates, employees, students and other lawyers engaged under contract with the lawyer or with the firm of the lawyer the importance of non-disclosure (both during their employment and afterwards) and requires the lawyer to take reasonable care to prevent their disclosing or using any information that the lawyer is bound to keep in confidence.

[10] The client's authority for the lawyer to disclose confidential information to the extent necessary to protect the client's interest may also be inferred in some situations where the lawyer is taking action on behalf of the person lacking capacity to protect the person until a legal representative can be appointed. In determining whether a lawyer may disclose such information, the lawyer should consider all circumstances, including the reasonableness of the lawyer's belief the person lacks capacity, the potential harm to the client if no action is taken, and any instructions the client may have given the lawyer when capable of giving instructions about the authority to disclose information. Similar considerations apply to confidential information given to the lawyer by a person who lacks the capacity to become a client but nevertheless requires protection.

[11] A lawyer may have an obligation to disclose information under Rule 5.5-2 or 5.5-3. If client information is involved in those situations, the lawyer should be guided by the provisions of this rule.

Use of Confidential Information

3.3-2 A lawyer must not use or disclose a client's or former client's confidential information to the disadvantage of the client or former client, or for the benefit of the lawyer or a third person without the consent of the client or former client.

Commentary

[1] See Rule 3.4, Conflicts. The fiduciary relationship between a lawyer and a client forbids the lawyer or a third person from benefiting from the lawyer's use of a client's confidential information. If a lawyer engages in literary works, such as a memoir or autobiography, the lawyer is required to obtain the client's or former client's consent before disclosing confidential information.

[2] There is generally an obligation to disclose to a client all information that must be disclosed to enable the lawyer to properly carry out the representation. A lawyer must decline to act in a matter, therefore, or must withdraw from an existing representation if all of the following circumstances are present:

(a) the lawyer is in possession of confidential information of a current or former client that is material to that matter or representation;

(b) the current or former client will not consent to disclosure of the information to the other client or potential client; and

(c) it is impossible to properly carry out the representation or prospective representation without making such disclosure or, alternatively, the client or potential client in that matter is unwilling to accept legal advice based on the information without actually being privy to the information and therefore insists on disclosure.

Under these circumstances, the lawyer is unable to act in the best interests of that client and cannot represent or continue to represent the client.

Future Harm / Public Safety Exception

3.3-3 A lawyer may disclose confidential information, but must not disclose more information than is required, when the lawyer believes on reasonable grounds that an identifiable person or group is in imminent danger of death or serious bodily harm, and disclosure is necessary to prevent the death or harm.

Commentary

[1] Confidentiality and loyalty are fundamental to the relationship between a lawyer and a client because legal advice cannot be given and justice cannot be done unless clients have a large measure of freedom to discuss their affairs with their lawyers. In some very exceptional situations identified in this rule, disclosure without the client's permission might be warranted because the lawyer is satisfied that truly serious harm of the types identified is imminent and cannot otherwise be prevented. These situations will be extremely rare.

[2] Serious psychological harm may constitute serious bodily harm if it substantially interferes with the health or well-being of the individual.

[3] In assessing whether disclosure of confidential information is justified to prevent substantial harm, a lawyer should consider a number of factors, including:

(a) the seriousness of the potential injury to others if the prospective harm occurs;

(b) the likelihood that it will occur and its imminence;

(c) the apparent absence of any other feasible way to prevent the potential injury; and

(d) the circumstances under which the lawyer acquired the information of the client's intent or prospective course of action.

[4] How and when disclosure should be made under this rule will depend upon the circumstances. A lawyer who believes that disclosure may be warranted should contact the Society for ethical advice. When practicable and permitted, a judicial order may be sought for disclosure.

[5] If confidential information is disclosed under Rule 3.3-3, the lawyer should prepare a written note as soon as possible, which should include:

(a) the date and time of the communication in which the disclosure is made;

(b) the grounds in support of the lawyer's decision to communicate the information, including the harm intended to be prevented, the identity of the person who prompted communication of the information as well as the identity of the person or group of persons exposed to the harm; and

(c) the content of the communication, the method of communication used and the identity of the person to whom the communication was made.

Disclosure of Confidential Information by Lawyers

3.3-4 If it is alleged that a lawyer or the lawyer's associates or employees:

(a) have committed a criminal offence involving a client's affairs;

(b) are civilly liable with respect to a matter involving a client's affairs;

(c) have committed acts of professional negligence; or

(d) have engaged in acts of professional misconduct or conduct unbecoming a lawyer;

the lawyer may disclose confidential information in order to defend against the allegations, but must not disclose more information than is required.

3.3-5 A lawyer may disclose confidential information in order to establish or collect the lawyer's fees, but must not disclose more information than is required.

3.3-6 A lawyer may disclose confidential information to another lawyer to secure legal or ethical advice about the lawyer's proposed conduct.

3.3-7 A lawyer may disclose confidential information to the extent reasonably necessary to detect and resolve conflicts of interest arising from a lawyer's proposed transfer to a new law firm, or from a proposed law firm merger or acquisition, but only if disclosure does not otherwise prejudice the client.

Commentary

[1] Lawyers in different firms may need to disclose limited client information to each other to detect and resolve conflicts of interest, such as when a lawyer is considering an association with another firm, two or more firms are considering a merger, or a lawyer is considering the purchase of a law practice. (see Rules 3.4-6 to 3.4-11.)

[2] Disclosure of client information would only be made once substantive discussions regarding the new relationship have occurred. The exchange of information needs to be done in a manner consistent with the requirement to protect client confidentiality and privilege and to avoid any prejudice to the client. It ordinarily would include no more than the names of the persons and entities involved in a matter. Depending on the circumstances, it may include a brief summary of the general issues involved, and information about whether the representation has come to an end.

[3] The disclosure should be made to as few lawyers at the new law firm as possible, ideally to one lawyer of the new firm, such as a designated conflicts lawyer. The information should always be disclosed only to the extent reasonably necessary to detect and resolve conflicts of interest that might arise from the possible new relationship.

[4] As the disclosure is made on the basis that it is solely for the use of checking conflicts where lawyers are transferring between firms and for establishing reasonable measures to protect confidential client information, the new law firm should agree with the transferring lawyer that it will:

(a) limit access to the disclosed information;

(b) not use the information for any purpose other than detecting and resolving conflicts; and

(c) return, destroy, or store in a secure and confidential manner the information provided once appropriate measures are established to protect client confidentiality.

[5] Lawyers must be sensitive to the disclosure of information which may prejudice the client. For example:

- a corporate client may be seeking advice on a corporate takeover that has not been publicly announced;
- a person may consult a lawyer about the possibility of divorce before the person's intentions are known to the person's spouse;
- a person may consult a lawyer about a criminal investigation that has not led to charges being laid.

3.4 Conflicts

Duty to Avoid Conflicts of Interest

3.4-1 A lawyer must not act or continue to act for a client where there is a conflict of interest, except as permitted under this Code.

Commentary

[1] A conflict of interest exists when there is a substantial risk that a lawyer's loyalty to or representation of a client would be materially and adversely affected by the lawyer's own interest or the lawyer's duties to another client, a former client, or a third person. A substantial risk is one that is significant and, while not certain or probable, is more than a mere possibility. A client's interests may be prejudiced unless the lawyer's advice, judgment and action on the client's behalf are free from conflicts of interest.

[2] A lawyer must examine whether a conflict of interest exists not only from the inception of the retainer but throughout its duration, as new circumstances or information may establish or reveal a conflict of interest.

[3] The disqualification of a lawyer may mean the disqualification of all lawyers in the law firm, due to the definition of "law firm" and "lawyer" in this Code. The definition of a law firm also includes practitioners who practise with other lawyers in space-sharing or other arrangements.

The Fiduciary Relationship, the Duty of Loyalty and Conflicting Interests

[4] Lawyers' duties to former clients are primarily concerned with protecting confidential information. Duties to current clients are more extensive, and are based on a broad fiduciary duty, which prevails regardless of whether there is a risk of disclosure of confidential information.

[5] The lawyer-client relationship is a fiduciary relationship. Lawyers accordingly owe a duty of loyalty to current clients, which includes the following:

- the duty not to disclose confidential information;
- the duty to avoid conflicting interests;
- the duty of commitment to the client's cause; and
- the duty of candour with a client on matters relevant to the retainer.

The Role of the Court and Law Societies

[6] These rules set out ethical standards to which all members of the profession must adhere. The courts have a separate supervisory role over court proceedings. In that role, the courts apply fiduciary principles developed by the courts to govern lawyers' relationships with their clients, to ensure the proper administration of justice. A breach of the rules on conflicts of interest may lead to sanction by a law society even where a court may decline to order disqualification as a remedy.

Consent and Disclosure

[7] Except for representing opposing parties in a dispute (see Rule 3.4-2), these rules allow a lawyer to continue to act in a matter even when in a conflict of interest, if the clients consent. The lawyer must also be satisfied that the lawyer is able to proceed without a material and adverse effect on the client.

[8] As defined in these rules, “consent” means fully informed and voluntary consent after disclosure. Disclosure may be made orally or in writing, and the consent should be confirmed in writing.

[9] “Disclosure” means full and fair disclosure of all information relevant to a person’s decision, in sufficient time for the person to make a genuine and independent decision, and the taking of reasonable steps to ensure understanding of the matters disclosed. A lawyer therefore should inform the client of the relevant circumstances and the reasonably foreseeable ways that a conflict of interest could adversely affect the client interests. This would include the lawyer's relations to the parties and any interest in connection with the matter.

[10] This rule does not require that a lawyer advise a client to obtain independent legal advice about the conflict of interest. In some cases, however, the lawyer should recommend such advice, especially if the client is vulnerable or not sophisticated.

Express Consent

[11] Express consent is required in the case of conflicts involving multiple retainers, former clients, and transferring lawyers, and in the case of lawyers’ personal interests or relationships coming into conflict with the interests of clients. Disclosure is an essential requirement to obtaining a client’s consent. The lawyer must inform the client about all matters relevant to evaluating the conflict. Where it is not possible to provide the client with disclosure because of the confidentiality of the information of another client, the lawyer must decline to act.

Implied Consent

[12] In cases involving the simultaneous representation of current clients, consent may either be express or implied. Implied consent is applicable in only exceptional cases. It may be appropriate to imply consent when acting for government agencies, chartered banks and other entities that might be considered sophisticated and frequent consumers of legal services from a variety of law firms. The matters must be unrelated, and the lawyer must not possess confidential information from one client that could affect the other client.

[13] The nature of the client is not a sufficient basis upon which to imply consent. The terms of the retainer, the relationship between the lawyer and client, and the unrelated matters involved must be considered. There must be a reasonable basis upon which a lawyer may objectively conclude that the client commonly accepts that its lawyers may act against it.

[14] Where legal services are either highly specialized or are scarce, consent to act for another current client may be implied, depending on the circumstances.

Advance Consent

[15] Consent may be obtained in advance of a conflict of interest arising, provided the consent is sufficiently comprehensive to contemplate the subsequent conflict, and there has been no change of circumstances that would render the initial consent invalid. The client must be able to understand the risks and consequences of providing the advance consent.

[16] While not required, in some circumstances it may be advisable to recommend that the client obtain independent legal advice before deciding whether to provide advance consent. Advance consent must be recorded in writing or contained in the retainer agreement.

Disputes

3.4-2 A lawyer must not represent opposing parties in a dispute.

Commentary

[1] The existence of a dispute precludes joint representation, not only because it is impossible to properly advocate more than one side of a matter, but because the administration of justice would be brought into disrepute.

[2] It is sometimes difficult to determine whether a dispute exists. While a litigation matter qualifies as a dispute from the outset, parties who appear to have differing interests or who disagree are not necessarily engaged in a dispute. The parties may wish to resolve the disagreement by consent, in which case a lawyer may be requested to act as a facilitator in providing information for their consideration. At some point, however, a conflict or potential conflict may develop into a dispute. At that time, the lawyer would be compelled by Rule 3.4-1 to cease acting for more than one party and perhaps to withdraw altogether.

[3] In determining whether a dispute exists, a lawyer should have regard for the following factors:

- the degree of hostility, aggression and "posturing";
- the importance of the matters not yet resolved;
- the intransigence of one or more of the parties; and
- whether one or more of the parties wishes the lawyer to assume the role of advocate for that party's position.

[4] If clients have consented to a joint retainer, a lawyer is not necessarily precluded from advising clients on non-contentious matters, even if a dispute has arisen between them. When in doubt, a lawyer should cease acting.

Mediation or Arbitration

[5] This rule does not prevent a lawyer from mediating or arbitrating a dispute between clients or former clients where:

(a) the parties consent;

(b) it is in the parties' best interests that the lawyer act as mediator or arbitrator; and

(c) the parties acknowledge that the lawyer will not be representing either party and that no confidentiality will apply to material information in the lawyer's possession.

Current Clients

3.4-3 A lawyer must not represent one client whose legal interests are directly adverse to the immediate legal interests of another client, even if the matters are unrelated, unless both clients consent.

Commentary

[1] This rule mirrors the bright line rule articulated by the Supreme Court of Canada.

[2] The lawyer-client relationship may be irreparably damaged where the lawyer's representation of one client is directly adverse to another client's immediate interests. For example, one client may legitimately fear that the lawyer will not pursue the representation out of deference to the other client, and an existing client may legitimately feel betrayed by the lawyer's representation of a client with adverse legal interests.

[3] A client is a current client if the lawyer is currently acting for the client, and may be a current client despite there being no matters on which the lawyer is currently acting. In determining whether a client is a current client, notwithstanding that the lawyer has no current files, the lawyer must take into consideration all the circumstances of the lawyer-client relationship, including, where relevant:

- the duration of the relationship;
- the terms of the past retainer or retainers;
- the length of time since the last representation was completed or the last representation assigned; and
- whether the client uses other lawyers for the same type of work.

[4] When determining if one client's legal interests are directly adverse to the immediate legal interests of another current client, a lawyer must consider the following factors:

- the immediacy of the legal interests;
- whether the legal interests are directly adverse;
- whether the issue is substantive or procedural;

- the temporal relationship between the matters;
- the significance of the issue to the immediate and long-term interests of the clients involved; and
- the clients' reasonable expectations in retaining the lawyer for the particular matter or representation.

[5] The bright line rule cannot be used to support tactical abuses. For example, it is inappropriate for a lawyer to raise a conflict of interest in order to disqualify an opposing lawyer for an improper purpose, or to inconvenience an opposing client.

[6] This rule will not apply in circumstances where it is unreasonable for a client to expect that its law firm will not act against it in unrelated matters. In exceptional cases, a client's consent that a lawyer may act against it may be implied. (See commentary to Rule 3.4-1)

[7] A lawyer's duty of candour requires that a lawyer inform a client about any factors relevant to the lawyer's ability to provide effective representation. If the lawyer is accepting a retainer that requires the lawyer to act against an existing client, the lawyer should disclose this information to the client even if the lawyer believes there is no conflict of interest.

[8] A lawyer's duty of commitment to the client's cause prevents the lawyer from summarily and unexpectedly dropping that client to circumvent conflict of interest rules. The client may legitimately feel betrayed if the lawyer ceases to act for the client in order to avoid a conflict of interest with another more lucrative or attractive client.

Concurrent Clients

3.4-4 (a) An individual lawyer or a law firm may act for concurrent clients with competing business or economic interests, provided that the lawyer or law firm treats information received from each client as confidential and does not disclose it to other clients;

(b) Where concurrent clients wish to retain a law firm in respect of the same business opportunity, the law firm must:

(i) disclose that it is acting for other business competitors and the risks associated with concurrent representation;

(ii) provide the client with the opportunity to seek independent legal advice;

(iii) ensure that each client is represented by different lawyers in the law firm;

(iv) implement measures to protect confidential information;

(v) withdraw from the representation of all clients in the event a dispute arises that cannot be resolved, in relation to the subject matter of the concurrent representation.

Commentary

[1] Concurrent retainers are distinct from joint retainers, which are the subject of Rule 3.4-5. For the purposes of these rules, concurrent retainers arise when a lawyer or firm simultaneously represents different clients in separate matters. There is no sharing of confidential information, and the concurrent clients are not associated. In contrast, joint representation involves simultaneous representation of multiple clients in the same matter, and involves sharing of confidential information and shared instructions from the clients.

[2] Conflict of interest rules do not preclude law firms and individual lawyers from concurrently representing different clients who are economic or business competitors and whose legal interests are not directly adverse. Lawyers are obliged at all times to ensure that they maintain confidentiality regarding the information of each client. Competing commercial interests of clients will not present a conflict when they do not impair a lawyer's ability to properly represent the legal interests of each client. Whether or not a real risk of impairment exists will be a question of fact.

[3] In a litigation practice, competing commercial interests become relevant when there is a legal dispute between clients, in which case Rules 3.4-2 and 3.4-3 will apply.

[4] In corporate and commercial practice, a conflict of interest will arise when commercial competitors simultaneously seek to retain the same lawyer or law firm with regard to the same corporate or business opportunity. Where the subject matter of each independent retainer is the same, the same lawyer may not act for each concurrent client. A law firm may, however, represent concurrent clients in this situation if each client is represented by different lawyers and the existence of concurrent retainers is disclosed to the clients. Lawyers are not required to disclose the identities of other concurrent clients. Reasonable measures will be required to protect confidential client information and the details of the implementation of the measures should be disclosed to the clients (See commentary to Rule 3.4-10).

[5] Concurrent clients must be fully informed of the risks and understand that, if a dispute arises between them which cannot be resolved, the lawyers must withdraw, resulting in potential additional costs. Clients should be given the opportunity to seek independent legal advice regarding the advisability of the concurrent retainer, and whether the concurrent representation is in the best interests of the clients. The law firm should assess whether there is a real risk that the firm will not be able to properly represent the legal interests of each client.

Joint Retainers

3.4-5 Before a lawyer acts for more than one client in the same matter, the lawyer must:

(a) obtain the consent of the clients following disclosure of the advantages and disadvantages of a joint retainer;

(b) ensure the joint retainer is in the best interests of each client;

(c) advise each client that no information received in connection with the matter from one client can be treated as confidential so far as any of the others are concerned; and

(d) advise each client that, if a conflict develops that cannot be resolved, the lawyer cannot continue to act for both or all of them and may have to withdraw completely.

Commentary

Identifying Conflicts

[1] A joint retainer must be approached by a lawyer with caution, particularly in situations involving conflicting interests, rather than a potential conflict. It will generally be more difficult for a lawyer to justify acting in a situation involving actual conflicting interests. In each case, the lawyer must assess the likelihood of being able to demonstrate that each client received representation equal to that which would have been rendered by independent counsel.

[2] A lawyer should examine whether a conflict of interest exists, not only from the outset, but also throughout the duration of a retainer, because new circumstances or information may establish or reveal a conflict of interest.

[3] In appropriate circumstances, lawyers may act for clients who have conflicting interests or have a potential conflict. Clients may have conflicting interests where they have differing interests but there is no actual dispute. Examples include vendor and purchaser, mortgagor and mortgagee (see special notes below), insured and insurer, estranged spouses, and lessor and lessee.

[4] A potential conflict exists when clients are aligned in interest and there is no dispute among them in fact, but the relationship or circumstances are such that there is a possibility of differences developing. Examples are co-plaintiffs; co-defendants; co-insured; co-accused; shareholders entering into a unanimous shareholder agreement; spouses granting a mortgage to secure a loan; common guarantors; beneficiaries under a will; and a trustee in bankruptcy or court appointed receiver/manager and the secured creditor who had the trustee or receiver/manager appointed. This list is not exhaustive.

Assessing When the Joint Representation is in the Best Interests of the Parties

[5] Many lawyers prefer not to act for more than one party in a transaction. From the client's perspective, however, this preference may interfere with the right to choose counsel and may appear to generate unwarranted costs, hostility and complexity. In addition, another lawyer having the requisite expertise or experience may not be readily available, especially in smaller communities. Situations will therefore arise in which it is clearly in the best interests of the parties that a lawyer represents more than one of them in the same matter.

[6] In determining whether it is in the best interests of the parties that a lawyer act for more than one party where there is no dispute but where there is a conflict or potential conflict, the lawyer must consider all relevant factors, including but not limited to:

- the complexity of the matter;
- whether there are terms yet to be negotiated and the complexity and contentiousness of those terms;
- whether considerable extra cost, delay, hostility or inconvenience would result from using more than one lawyer;
- the availability of another lawyer of comparable skill;
- the degree to which the lawyer is familiar with the parties' affairs;
- the probability that the conflict or potential conflict will ripen into a dispute due to the respective positions or personalities of the parties, the history of their relationship or other factors;
- the likely effect of a dispute on the parties;
- whether it may be inferred from the relative positions or circumstances of the parties (such as a long-standing previous relationship of one party with the lawyer) that the lawyer would be motivated to favour the interests of one party over another; and
- the ability of the parties to make informed, independent decisions.

[7] The requirement that the joint representation be in the clients' best interests will not be fulfilled unless the lawyer has made an independent evaluation and has concluded that this is the case. It is insufficient to rely on the clients' assessment in this regard.

[8] Although the parties to a particular matter may expressly request joint representation, there are circumstances in which a lawyer may not agree. Even if all the parties consent, a lawyer should avoid acting for more than one client when it is likely that a dispute between them will arise or that their interests, rights or obligations will diverge as the matter progresses. For example, it is not advisable to represent opposing arm's-length parties in complex commercial transactions involving unique, heavily negotiated terms. In these situations, the risks of retaining a single lawyer outweigh the advantages.

[9] If a lawyer proposes to act for a corporation and one or more of its shareholders, directors, managers, officers or employees, the lawyer must be satisfied that the dual representation is a true

reflection of the will and desire of the corporation as a separate entity. Having met all preliminary requirements, a lawyer acting in a conflict or potential conflict situation must represent each party's interests to the fullest extent. The fact of joint representation will not provide a justification for failing to fulfill the duties and responsibilities owed by the lawyer to each client.

Informed Consent to Joint Representation

[10] If a lawyer determines that joint representation is permissible, then the consent of the parties must be obtained. Consent will be valid only if the lawyer has provided disclosure of the advantages and disadvantages of, first, retaining one lawyer and, second, retaining independent counsel for each party. Disclosure must include the fact that no material information received in connection with the matter from one party can be treated as confidential so far as any of the other parties is concerned. In addition, the lawyer must stipulate that, if a dispute develops, the lawyer will be compelled to cease acting altogether unless, at the time the dispute develops, all parties consent to the lawyer continuing to represent one of them. Advance consent may be ineffective since the party granting the consent may not at that time be in possession of all relevant information (see commentary to Rule 3.4-1). Lawyers must disclose any relationships with the parties and any interest in or connection with the matter, if applicable.

[11] While it is not mandatory that either disclosure or consent in connection with joint representation be in writing, the lawyer will have the onus of establishing that disclosure was provided and that consent was granted. Therefore, it is advisable to document the communication between the lawyer and client and to obtain written confirmation from the client.

[12] Rule 3.4-5 does not require that a lawyer advise the client to obtain independent legal advice about a conflicting interest. In some cases, especially when the client is not sophisticated or is vulnerable, the lawyer should recommend independent legal advice. If a lawyer has a continuing relationship with a client for whom the lawyer acts regularly, before the lawyer accepts joint employment for that client and another client in a matter, the lawyer should advise the other client of the continuing relationship and recommend that the client obtain independent legal advice about the joint retainer.

Joint Representation of Lenders and Borrowers

[13] In appropriate circumstances, a lawyer may act for or otherwise represent both lender and borrower in a mortgage or loan transaction. Consent must be obtained from both clients at the outset of the retainer.

[14] When a lawyer acts for both the borrower and the lender in a mortgage or loan transaction, the lawyer must disclose to the borrower and the lender, before the advance or release of the mortgage or loan funds, all information that is material to the transaction. What is material is to be determined objectively. The duty to disclose arises even if the lender or the borrower does not ask for the specific information.

[15] A lender’s acknowledgement of, and consent to, the terms of and consent to the joint retainer is usually confirmed in the documentation of the transaction, such as mortgage loan instructions, and the consent is generally acknowledged by a lender when the lawyer is requested by it to act.

Joint Retainer for Drafting Wills

[16] A lawyer who receives instructions from spouses or domestic partners (including, in Alberta, adult interdependent partners) to prepare one or more wills for them based on their shared understanding of what is to be in each will should comply with this rule. It is important for the lawyer to ensure that the spouses or domestic partners understand the consequences of giving conflicting instructions during the course of the joint retainer for the preparation of the wills, and that any information or instructions provided to counsel by one client will be shared with the other spouse or domestic partner.

[17] If subsequently only one spouse or domestic partner communicates new instructions, such as instructions to change or revoke a will:

a) the subsequent communication must be treated as a request for a new retainer and not as part of the joint retainer;

b) in accordance with Rule 3.3, the lawyer is obliged to hold all information related to the subsequent communication in strict confidence and not disclose it to the other spouse or domestic partner;

c) the lawyer has a duty to decline the new retainer, unless:

(i) the spouses or domestic partners have annulled their marriage, divorced, permanently ended their conjugal relationship or permanently ended their close personal relationship, as the case may be;

(ii) the other spouse or domestic partner has died; or

(iii) the other spouse or domestic partner has been informed of the subsequent communication and agreed to the lawyer acting on the new instructions.

Single Client in Multiple Roles

[18] Special considerations apply when a lawyer is representing one client acting in two possibly conflicting roles. For example, a lawyer acting for an estate when the executor is also a beneficiary must be sensitive to divergence of the obligations and interests of the executor in those two capacities. Such divergence could occur if the executor is a surviving spouse who is the beneficiary of only part of the estate. The individual may wish to apply to the court to receive a greater share of the estate. This course of action is, however, contrary to the interests of other beneficiaries and inconsistent with the neutral role of executor. The lawyer would accordingly be obliged to refer the executor elsewhere with respect to the application for relief which the individual is pursuing in a personal capacity.

Acting Against Former Clients

3.4-6 Unless the former client consents, a lawyer must not act against a former client:

(a) in the same matter,

(b) in any related matter, or

(c) except as provided by Rule 3.4-7, in any other matter if the lawyer has relevant confidential information arising from the representation of the former client that may prejudice that client.

Commentary

[1] This rule protects clients from the misuse of confidential information and prohibits a lawyer from attacking the legal work done during the retainer, or from undermining the client's position on a matter that was central to the retainer. It is not improper for a lawyer to act against a former client in a fresh and independent matter wholly unrelated to any work the lawyer has previously done for that client. A new matter is wholly unrelated if no confidential information from the prior retainer is relevant to the new matter and the new matter will not undermine the work done by the lawyer for the client in the prior retainer.

[2] A person who has consulted a lawyer in the lawyer's professional capacity may be considered a former client for the purposes of this rule even though the lawyer did not agree to represent that person or did not render an account to that person (see commentary below regarding "Prospective Client").

Confidential Information

[3] "Confidential information" means all information concerning a client's business, interests and affairs acquired in the course of the lawyer-client relationship. A lawyer's knowledge of personal characteristics or corporate policies that are notably unusual or unique to a client may bar an adverse representation if such knowledge could potentially be used to the client's disadvantage. For example, a lawyer might know that a former client will not under any circumstances proceed to trial or appear as a witness. However, a lawyer's awareness that a client has a characteristic common to many people (such as a general aversion to testifying) or a fairly typical corporate policy (such as a propensity to settle rather than proceed to litigation) will not generally preclude the lawyer from acting against that client.

[4] A lawyer's duty not to use confidential information to the disadvantage of a former client continues indefinitely. However, the passage of time may mitigate the effect of a lawyer's possession of particular confidential information, and may permit the lawyer to act against a former client when the information no longer has the potential to prejudice the former client.

Prospective Client

[5] A prospective client is a person who discloses confidential information to a lawyer for the purpose of retaining the lawyer. A lawyer must maintain the confidentiality of information received from a prospective client.

[6] Before performing a conflict check, a lawyer should endeavour not to receive more information than is necessary to carry out the conflict check. As soon as a conflict becomes evident the lawyer must decline the representation and refuse to receive further information, unless the conflict is resolved by the consent of the existing client and the prospective client or the approval of a tribunal. If the lawyer declines the representation, the information disclosed by the prospective client, including the fact that the client approached the firm, must not be disclosed to those who may act against the prospective client. The firm may act or continue to act contrary to the interests of the prospective client in relation to the proposed retainer if the lawyer takes adequate steps to ensure that:

(a) the confidential information is not disclosed to other firm members representing clients adverse to the prospective client, and

(b) firm members who have the confidential information will not be involved in any retainer that is related to the matter for which the prospective client sought to retain the firm.

[7] The adequacy of the measures taken to prevent disclosure of the information will depend on the circumstances of the case, and may include destroying, sealing or returning to the prospective client notes and correspondence and deleting or password protecting computer files on which any such information may be recorded.

3.4-7 When a lawyer has acted for a former client and obtained confidential information relevant to a new matter, another lawyer in the lawyer's law firm ("the other lawyer") may act in the new matter against the former client if:

(a) the former client consents to the other lawyer acting; or

(b) the law firm establishes that it is in the interests of justice that the other lawyer act in the new matter, having regard to all relevant circumstances, including:

(i) the adequacy and timing of the measures taken to ensure that there has been, and will be, no disclosure of the former client's confidential information to any other member or employee of the law firm, or any person whose services the lawyer or law firm has retained in the new matter;

(ii) the extent of prejudice to any party;

(iii) the good faith of the parties; and

(iv) the availability of suitable alternative counsel.

Commentary

[1] The guidelines at the end of the commentary in Rule 3.4-10 regarding lawyer transfers between firms provide valuable guidance for the protection of confidential information in the cases where, having regard to all of the relevant circumstances, it is appropriate for the lawyer's partner or associate to act against the former client.

Conflicts from Transfer Between Law Firms

3.4-8 Rules 3.4-9 and 3.4-10 apply when a lawyer transfers from one law firm ("former law firm") to another ("new law firm"), and either the transferring lawyer or the new law firm is aware at the time of the transfer or later discovers that:

- **(a) the new law firm represents a client in a matter that is the same as, or related to, a matter in which the former law firm represents or represented its client ("former client");**
- **(b) the interests of those clients in that matter conflict.**

3.4-9 If the transferring lawyer possesses relevant confidential information respecting the former client that may prejudice the former client if disclosed to a member of the new law firm, the new law firm must cease representation of its client in that matter unless:

- **(a) the former client consents to the new law firm's continued representation of its client; or**
- **(b) the new law firm establishes that it is in the interests of justice that it act in the matter, having regard to all relevant circumstances, including:**
  - **(i) the adequacy and timing of the measures taken to ensure that no disclosure of the former client's confidential information to any member of the new law firm will occur;**
  - **(ii) the extent of prejudice to any party;**
  - **(iii) the good faith of the parties; and**
  - **(iv) the availability of suitable alternative counsel.**

3.4-10 If the transferring lawyer does not possess relevant confidential information that could prejudice the former client, the transferring lawyer must not, unless the former client consents:

(a) participate in the new law firm's representation of its client in the relevant matter or disclose any confidential information respecting the former client; or

(b) discuss with any member of the new law firm the new law firm's representation of its client or the former law firm's representation of the former client, except as permitted by Rule 3.3-7.

Commentary

[1] The purpose of the rules regarding transferring lawyers is to deal with actual knowledge. Imputed knowledge may not give rise to disqualification if the law firm can demonstrate compliance with these rules and the implementation of effective ethical screens.

[2] In these rules, "client" bears the same meaning as in Chapter 1, and includes anyone to whom a lawyer owes a duty of confidentiality, even if no lawyer-client relationship exists between them.

[3] "Confidential information" means information concerning a client's business, interests and affairs which is not generally known to the public and which has been acquired in the course of the lawyer-client relationship.

[4] A "matter" means a case or client file, but does not include general "know-how" and, in the case of a government lawyer, does not include policy advice unless the advice relates to a particular matter.

[5] The duties imposed by this rule concerning confidential information should be distinguished from the general ethical duty to hold in strict confidence all information concerning the business and affairs of the client acquired in the course of the professional relationship, which duty applies without regard to the nature or source of the information or to the fact that others may share the knowledge.

Lawyers and Support Staff

[6] This rule is intended to regulate lawyers and students-at-law who transfer between law firms. There is also a general duty on lawyers to exercise due diligence in the supervision of non-lawyer staff to ensure that they comply with the rule and with the duty not to disclose confidential information of clients of the lawyer's firm and confidential information of clients of other law firms in which the person has worked.

Government Employees and In-house Counsel

[7] The definition of "law firm" includes one or more lawyers practising in a government, a Crown corporation, any other public body or a corporation. Thus, the rule applies to lawyers transferring to or from government service and into or out of an in-house counsel position, but does not extend to purely internal transfers in which, after transfer, the employer remains the same.

Law Firms with Multiple Offices

[8] This rule treats as one "law firm" such entities as the various legal services units of a government, a corporation with separate regional legal departments, an interjurisdictional law firm and a legal aid program with many community law offices. It is easier to create more effective ethical screens when the law firm's offices are remote from one another or are managed independently. The law firm should disclose the reasonable measures taken to ensure protection of confidential information when seeking the former client's consent.

Other Matters

[9] When a new law firm considers hiring a lawyer from another law firm, the transferring lawyer and the new law firm need to determine, before the transfer, whether any conflicts of interest will be created. In determining whether the transferring lawyer possesses confidential information, both the transferring lawyer and the new law firm must be very careful, during any interview of a potential transferring lawyer, or other recruitment process, to ensure that they do not disclose confidential information.

[10] If the new law firm applies to a tribunal under Rule 3.4-9 for a determination that it may continue to act, it bears the onus of establishing that it has met the requirements of Rule 3.4-9(b).

Reasonable Measures to Ensure Non-disclosure of Confidential Information

[11] The new law firm should implement reasonable measures to ensure that no disclosure of the former client's confidential information will be made to any member of the new law firm:

(a) when the transferring lawyer actually possesses confidential information respecting a former client that may prejudice the former client if disclosed to a member of the new law firm, and

(b) when the new law firm is not certain whether the transferring lawyer actually possesses such confidential information.

[12] It is not possible to offer a set of "reasonable measures" that will suffice in every case. Instead, the new law firm that seeks to implement reasonable measures must exercise professional judgment in determining what steps must be taken.

[13] In the case of law firms with multiple offices, the degree of autonomy possessed by each office will be a factor in determining what constitutes "reasonable measures." For example, the various legal services units of a government, a corporation with separate regional legal departments, an interjurisdictional law firm, or a legal aid program may be able to demonstrate that, because of its institutional structure, reporting relationships, function, nature of work, and geography, relatively fewer "measures" are necessary to prevent the disclosure of confidential information. If it can be shown that, because of factors such as the above, lawyers in separate units, offices or departments do not "work together" with other lawyers in other units, offices or departments, this will be taken into account in the determination of what screening measures are "reasonable."

[14] The following guidelines are intended as a checklist of relevant factors to be considered. Adoption of only some of the guidelines may be adequate in some cases, while adoption of them all may not be sufficient in others.

1. The transferring lawyer should have no involvement in the new law firm's representation of its client.
2. The transferring lawyer should not discuss the current matter or any information relating to the representation of the former client (the two may be identical) with anyone else in the new law firm.
3. No member of the new law firm should discuss the current matter or the previous representation with the transferring lawyer.
4. The current matter should be discussed only within the limited group that is working on the matter.
5. The files of the current client, including computer files, should be physically segregated from the new law firm's regular filing system, specifically identified, and accessible only to those lawyers and support staff in the new law firm who are working on the matter or who require access for other specifically identified and approved reasons.
6. No member of the new law firm should show the transferring lawyer any documents relating to the current representation.
7. The measures taken by the new law firm to prevent the disclosure of confidential information should be stated in a written policy explained to all lawyers and support staff within the firm, supported by an admonition that violation of the policy will result in sanctions, up to and including dismissal.
8. Appropriate law firm members should provide undertakings setting out that they have adhered to and will continue to adhere to all elements of the firm's policy.
9. If the former client, or a lawyer representing the former client, requests further information regarding the protection of confidential information, the former client should be advised of the measures adopted by the new law firm to ensure that there will be no disclosure of confidential information. An appropriate response may include the provision of an affidavit or statutory declaration, confirming that the transferring lawyer possesses no confidential information or, alternatively, that a transferring lawyer possessing actual confidential information has not disclosed the former client's confidential information to other members of the new firm.
10. The transferring lawyer's office or work station and that of the lawyer's support staff should be located away from the offices or work stations of lawyers and support staff working on the matter.
11. The transferring lawyer should use associates and support staff different from those working on the current matter.

12. In the case of law firms with multiple offices, consideration should be given to referring conduct of the matter to counsel in another office.

Merged Firms

3.4-11 When two or more firms have been representing different parties in a matter and the firms merge during the course of the matter, the following rules apply:

(a) If the matter constitutes a dispute, the merged firm must not continue acting for opposing parties to the dispute.

(b) If the matter constitutes a potential or actual conflicting interest, the merged firm may continue acting for more than one party only in compliance with Rule 3.4-5.

(c) Whether the matter constitutes a dispute or a potential or actual conflicting interest, the merged firm may continue acting for one of the parties only if all parties consent.

Commentary

[1] A merger is distinguishable from lawyer movement between firms because knowledge of confidential information will be imputed to the merged firm when two or more firms merge. It may be impossible for the merged firm to represent more than one client in a matter. In evaluating the best interests of the clients, the firm should consider additional factors such as the stage of the matter at the time of merger. If the matter has not progressed very far and it would not be unduly prejudicial or costly for the clients to obtain other counsel, the merged firm may be wise to refer all parties to other firms.

[2] If, however, the firm wishes to send one or more clients elsewhere while continuing to act for another of the clients (whether the matter constitutes a dispute, or a potential or actual conflict), all parties must consent.

Conflict with Lawyer's Own Interests

3.4-12 A lawyer must not act when there is a conflict of interest between lawyer and client, unless the client consents and it is in the client's best interests that the lawyer act.

Commentary

[1] If a lawyer's own loyalty, interest, or belief would impair the lawyer's ability to carry out a representation, the lawyer may not act. If the conflicting interest of the lawyer does not impair the lawyer's objectivity, the lawyer should nonetheless decline to act unless the representation is in the client's best interests. In making this judgment, the lawyer must evaluate all relevant factors. It is insufficient to rely on the client's assessment. The client must consent to the representation after disclosure by the lawyer of the nature of the conflicting interest and the advantages of independent representation. The lawyer has the onus to establish disclosure to and consent from the client. It is therefore advisable that these matters be confirmed in writing.

[2] In addition, a lawyer's professional objectivity in a matter may be threatened or destroyed by circumstances personal to the lawyer. A conflict may arise due to a family or other close relationship, an outside activity, or a strong belief or viewpoint. Another example is a mental state created or exacerbated by a particular representation, such as feelings of enmity towards a colleague acting for an opposing party. A lawyer's objectivity may also be affected when the lawyer unduly favours the client's position, since the result may be overly optimistic advice or an unrealistic recommendation.

[3] In all of these circumstances, a lawyer must recognize when it is not in the client's best interests to be represented by the lawyer.

Doing Business with a Client

3.4-13 A lawyer must not enter into a transaction with a client who does not have independent legal representation unless the transaction is fair and reasonable to the client and the client consents to the transaction.

Commentary

[1] This rule applies to any transaction with a client, including:

(a) lending or borrowing money (see related commentary below);

(b) buying or selling property;

(c) accepting a gift, including a testamentary gift (see related commentary below);

(d) giving or acquiring ownership, security or other pecuniary interest in a company or other entity;

(e) recommending an investment; and

(f) entering into a common business venture.

General Principles

[2] The relationship between lawyer and client is a fiduciary one, and no conflict between the lawyer's own interest and the lawyer's duty to the client is permitted. When entering a transaction with a client who does not otherwise have independent legal representation, the lawyer faces a potential conflict whether acting only on his own behalf or on behalf of both himself and the client in relation to the transaction.

[3] Independent legal representation is distinguishable from independent legal advice. Independent legal representation is a retainer in which the client has a separate lawyer acting for the client in the transaction. Independent legal advice is a retainer in which the client does not wish to have full independent legal representation but receives advice about the legal aspects of the transaction and its advisability.

[4] When the client does not have separate independent legal representation in the transaction, the lawyer has the onus of demonstrating that:

- the transaction was fair and reasonable to the client;
- the transaction was not disadvantageous to the client;
- the client was fully informed;
- the client consented to the transaction; and
- the client had independent legal advice, or was not disadvantaged by its absence.

[5] For the purposes of this rule and commentary, the reference to a "lawyer" includes an associate or partner of the lawyer, related persons (as defined below), and a trust or estate in which the lawyer has a beneficial interest or for which the lawyer acts as a trustee or in a similar capacity.

[6] In this rule, "related persons" means individuals connected to the lawyer by a blood relationship, marriage or common-law partnership or adoption, and includes a corporation owned or controlled directly or indirectly by the lawyer, or other related persons as described, either individually or in combination with one another.

[7] A conflict may also arise if a related person transacts business with the lawyer's client. There is no conflict, however, if the client is entering a transaction with a publicly traded corporation or entity in which the lawyer has an interest.

[8] The lawyer must act in good faith and make full disclosure to the client of material facts relevant to the transaction. The lawyer must also disclose and explain the nature of any actual or potential conflict of interest to the client. If the lawyer does not choose to make disclosure of material facts or a conflict of interest, or cannot do so without breaching confidentiality, the lawyer must not proceed with the transaction.

[9] The client must be advised of the advantages of retaining independent counsel. The nature of the matter may require that the client have independent legal representation. At a minimum, the lawyer must recommend that the client seek independent legal advice. If the client elects to waive independent legal advice, the lawyer must still make an independent assessment of whether he or she is able to proceed, considering the nature of the transaction. All discussions with the client should be clearly documented and confirmed in writing.

Payment of Fees

[10] The remuneration paid to a lawyer by a client for the legal work undertaken by the lawyer for the client does not give rise to a conflict of interest.

[11] Where a client proposes to pay for legal services by transferring an interest in a corporation, property, investment or other enterprise, the lawyer must, at a minimum, recommend that the client receive independent legal advice.

[12] See also “Gifts and Bequests”, below, regarding fees paid to lawyers for the administration of an estate.

Lending and Borrowing

[13] A lawyer must not borrow money from a client unless:

- the client is a lending institution whose business includes lending money to members of the public, or
- the client is a related person and the lawyer is able to discharge the onus of proving that the client’s interests were fully protected by independent legal advice.

[14] If a lawyer lends money to a client, before agreeing to make the loan, the lawyer must disclose and explain the nature of the conflicting interest to the client, recommend that the client receive independent legal representation, and obtain the client’s consent.

[15] A lawyer must not personally guarantee, or otherwise provide security for, any indebtedness in respect of which a client is a borrower or lender unless:

- the lender is providing funds solely for the lawyer or a related person,
- the transaction is for the benefit of a non-profit or charitable institution, and the lawyer is a member or supporter of such institution, either individually or together with others, or
- the lawyer has entered into a business venture with a client and a lender requires personal guarantees from all participants in the venture as a matter of course and the lawyer has otherwise complied with these rules.

Gifts and Bequests

[16] A "transaction" includes the acceptance of a gift or bequest. A lawyer is not entitled to make a profit from clients other than through fair professional remuneration. If a gift or bequest from a client appears to be unearned or disproportionately substantial, it is prima facie not "fair and reasonable" to the client as required by this rule and a presumption of undue influence is raised. A

lawyer must refuse to accept a gift that is other than nominal unless the client has received independent legal advice.

[17] A lawyer may prepare an instrument giving the lawyer or another firm member a gift or benefit from a client, including a testamentary gift, where the client is a family member of the lawyer or another firm member. A lawyer must otherwise refuse to draft an instrument effecting a gift or bequest to the lawyer or any related person or entity.

[18] A lawyer may draft a client's will to include a clause directing that the executor retain the lawyer's services in the administration of the client's estate, but only if the client expressly instructs the lawyer to do so. Express instructions from the client are also required if the will contains a clause dealing with the lawyer's fees, whether the lawyer is acting as executor, the estate's lawyer, or both.

Compassionate Loans – Alberta

[19] Lawyers sometimes find themselves in situations where their clients have claims but are in dire financial circumstances and request a loan (which for these purposes includes a cash advance on prospective recovery) from the lawyer, with little or no prospect of repayment other than from the proceeds of the case. Because of the inequality of the bargaining positions of the lawyer and the client in these situations, and the inevitable appearance that the lawyer is taking advantage of the client, a lawyer must not make a loan to such a client other than on a no-interest, no-charges basis; however, it may be appropriate for a lawyer to make a compassionate loan to such a client, to be repaid out of the proceeds of the case or otherwise. A compassionate loan is one made for the purpose of relieving the client's personal or financial distress and which carries no interest or other charges, reflecting the fact that the loan is intended as a compassionate gesture and not as a commercial transaction.

[20] A lawyer must not make a compassionate loan if, as a result of the lawyer's expectation of recovering fees, disbursements, and the loan from the proceeds of the case, the lawyer has a financial interest in the case that is so disproportionate that the lawyer's objectivity will be impaired. After making a compassionate loan, a lawyer's objectivity or judgment may be adversely affected by a reassessment of the case. In that event, the lawyer must cease to act.

[21] This commentary applies to the conduct of a lawyer personally or that of related persons, including any arrangement pursuant to which the lawyer benefits directly or indirectly, such as, for example, a referral by a lawyer to a lender who is a member of the lawyer's immediate family or a lender controlled by a member of the lawyer's immediate family.

Conflicts Arising from Relationships with Others

3.4-14 A lawyer must not personally represent a party to a dispute when a family member is acting for an opposing party and, unless all parties consent, a lawyer must not personally represent a party to a matter when a family member is representing another party to the matter and those parties are in a conflict or potential conflict situation.

Commentary

[1] If a relationship exists that does not, pursuant to this rule, prevent a lawyer from acting in a matter but where doing so may raise a reasonable apprehension of impropriety, the lawyer must disclose the relationship to the client (see also Rule 5.1-3 - avoidance of apprehension of bias when appearing before a tribunal).

[2] For the purposes of this rule, "family member" means the spouse, child, sibling, parent, grandchild or grandparent of a lawyer, and any person who is a member of the lawyer's household.

[3] This rule applies only to the lawyer having the relationship in question and not to other members of the lawyer's firm.

[4] A close familial relationship is inconsistent with the adversarial nature of legal representation in a dispute. In contrast, the absence of a dispute may permit related lawyers to act provided that the lawyer’s objectivity is not impaired. If, however, the situation constitutes a conflict or potential conflict, the consent of all parties must be obtained.

[5] A lawyer may have a close relationship with a person not qualifying as a family member. That relationship may nonetheless be relevant to a particular representation. For example, a lawyer may be married to the secretary of opposing counsel; lawyers acting on opposing sides of a matter may be cousins or close friends; or opposing counsel may be a member of a small firm in which the lawyer's spouse practises. In these and similar situations, the relationship must be disclosed to the client.

Pro Bono Service – Alberta

3.4-15 (a) A lawyer engaged in the provision of short-term legal services through a non-profit legal services provider, without any expectation that the lawyer will provide continuing representation in the matter:

(i) May provide legal services, unless the lawyer is aware that the clients’ interests are directly adverse to the immediate interests of another current client of the individual lawyer, the lawyer’s firm or the non-profit legal services provider; and

(ii) May provide legal services, unless the lawyer is aware that the lawyer or the lawyer’s firm may be disqualified from acting due to the possession of confidential information which could be used to the disadvantage of a current or former client of the lawyer, the lawyer’s firm, or the non-profit legal services provider.

(b) In the event a lawyer provides short-term legal services through a non-profit legal services provider, other lawyers within the lawyer's firm or providing services through the non-profit legal services provider may undertake or continue the representation of other clients with interests adverse to the client being represented for a short-term or limited purpose, provided that adequate screening measures are taken to prevent disclosure or involvement by the lawyer providing short-term legal services.

Commentary

[1] This rule provides guidance in managing conflicts of interest for lawyers volunteering in a pro bono setting. Improving access to justice is an important goal of the legal profession. Lawyers have a duty to facilitate access to justice: Rule 4.1-1. Also, lawyers have a duty to participate in pro bono activities: Rule 2.1-2. This objective should be balanced with all other factors in determining whether a lawyer should be disqualified from a representation because of a conflict of interest.

[2] For the purposes of this rule, the term "non-profit legal services provider" means volunteer pro bono and non-profit legal services organizations, including Legal Aid Alberta. These non-profit legal services providers have established programs through which lawyers provide short-term legal services.

[3] "Short-term legal services" means advice or representation of a summary nature provided by a lawyer to a pro bono client under the auspices of a non-profit organization with the expectation by the lawyer and the pro bono client that the lawyer will not provide continuing representation in the matter. It is in the interests of the public, the legal profession and the judicial system that lawyers be available to individuals through these organizations. Although a lawyer-client relationship is established in such a limited consultation, there is no expectation that the lawyer's representation of the pro bono client will continue beyond it. Such programs or services are normally offered in circumstances which make it difficult to systematically identify conflicts of interest, despite the best efforts and existing practices of non-profit legal services organizations. Further, the limited nature of the legal services being provided significantly reduces the risk of conflicts of interest with other matters being handled by the consulting lawyer's firm.

[4] Accordingly, the rule requires compliance with the usual rules which govern conflicts of interest only if the consulting lawyer has actual knowledge that he or she may be disqualified as the result of a potential or actual conflict. Such a conflict may involve a lawyer's relationship between an existing or former client and the consulting lawyer, the lawyer's firm or the non-profit legal services provider. In most cases, it is expected that the existence of a potential conflict will be identified through the conflict identification processes employed by non-profit legal services organizations or by the individual lawyer who may identify a conflict before or at the time of meeting with the pro bono client receiving the short-term legal services.

[5] The personal disqualification of a lawyer providing legal services through a non-profit legal services provider shall not be imputed to other participating lawyers. If, however, the lawyer intends to represent the pro bono client on an ongoing basis after commencing the short-term limited retainer, the other rules governing conflicts of interest will apply.

[6] The confidentiality of information obtained by a lawyer providing short-term legal services pursuant to this rule must be maintained. If not, a lawyer's firm, or other lawyers providing services under the auspices of the non-profit legal services provider, will not be able to act for other clients where there is a conflict with the pro bono client. Without restricting the scope of screening measures which may be appropriate, the following are examples of some measures which may be taken to ensure confidentiality:

- The lawyer who provided the short-term legal services shall have no involvement in the representation of another client whose interests conflict with those of the pro bono client, and shall not have any discussions with the lawyers representing the other client.
- Discussions involving the relevant matter should take place only with the limited group of firm members working on the other client's matter.
- The relevant files may be specifically identified and physically segregated and access to them limited only to those working on the file or who require access for specifically identified or approved reasons.
- It would also be advisable to issue a written memo to all lawyers and support staff, explaining the measures which have been undertaken.
- See Rule 3.4-10, paragraph 14, guidelines for screening, for additional suggestions.

[7] Provided this rule has been complied with, the lawyer providing short-term legal services does not require consent of the pro bono client or another client whose interests are in conflict with the pro bono client. However, if the lawyer is or becomes aware of a conflict, then it may not be waived by consent. In that case, the lawyer shall not provide short-term legal services.

[8] When offering short-term legal services, lawyers should also assess whether the pro bono client may require additional legal services, beyond a limited consultation. In the event that such additional services are required or advisable, the lawyer should explain the limited nature of the consultation and encourage or assist the pro bono client to seek further legal assistance.

3.5 Preservation of Clients' Property

Preservation of Clients' Property

3.5-1 (a) In this rule, "property" includes a client's money, securities as defined in the Alberta Securities Act, original documents such as wills, title deeds, minute books, licences, certificates and the like, and all other papers such as client's correspondence, files, reports, invoices and other such documents, as well as personal property including precious and semi-precious metals, jewellery and the like.

(b) A lawyer must:

(i) observe all relevant rules and law, including the duties of a professional fiduciary, about the preservation of a client's property entrusted to a lawyer; and

(ii) care for a client's property as a careful and prudent owner would when dealing with like property.

Commentary

[1] The duties concerning safekeeping, preserving, and accounting for clients' money and other property are set out in the Rules of the Law Society, Rules 119-119.46.

[2] These duties are closely related to those regarding confidential information. A lawyer is responsible for maintaining the safety and confidentiality of the files of the client in the possession of the lawyer and should take all reasonable steps to ensure the privacy and safekeeping of a client's confidential information. A lawyer should keep the client's papers and other property out of sight as well as out of reach of those not entitled to see them.

[3] Subject to any rights of lien, the lawyer should promptly return a client's property to the client on request or at the conclusion of the lawyer's retainer.

[4] If the lawyer withdraws from representing a client, the lawyer is required to comply with Rule 3.7 (Withdrawal from Representation).

Notification of Receipt of Property

3.5-2 A lawyer must promptly notify a client of the receipt of any money or other property of the client, unless satisfied that the client is aware that they have come into the lawyer's custody.

Identifying Clients' Property

3.5-3 A lawyer must clearly label and identify clients' property and place it in safekeeping distinguishable from the lawyer's own property.

3.5-4 A lawyer must maintain such records as necessary to identify clients' property that is in the lawyer's custody.

Accounting and Delivery

3.5-5 A lawyer must account promptly for clients' property that is in the lawyer's custody and deliver it to the order of the client on request or, if appropriate, at the conclusion of the retainer.

Commentary

[1] Money held in trust by a lawyer to the credit of a client may not be applied to fees incurred by the client unless an account has been rendered to the client. This rule permits the use of trust money held to the credit of a client to pay an outstanding account not only in the matter in respect of which the trust money was received, but in any previous matter handled by the lawyer for the same client. This rule is not, however, intended to be an exhaustive statement of the considerations that apply to the payment of a lawyer's account from trust. The handling of trust money generally is governed by the Rules of the Law Society. Those Rules must also be complied with in the application of trust money to fees earned by a lawyer.

3.5-6 If a lawyer is unsure of the proper person to receive a client's property, the lawyer must apply to a tribunal of competent jurisdiction for direction.

Commentary

[1] A lawyer should be alert to the duty to claim on behalf of a client any privilege in respect of property seized or attempted to be seized by an external authority or in respect of third party claims made against the property. In this regard, the lawyer should be familiar with the nature of the client's common law privilege and with such relevant constitutional and statutory provisions as those found in the *Income Tax Act* (Canada), the *Charter* and the *Criminal Code*.

[2] The duties of a lawyer with respect to the handling of client property that is evidence of a crime are complex and may impose additional duties beyond those described in this rule (See Rule 5.1-10 and Commentary).

3.6 Fees and Disbursements

Reasonable Fees and Disbursements

3.6-1 A lawyer must not charge or accept a fee or disbursement, including interest or other charges, unless it is fair and reasonable and has been disclosed in a timely fashion.

Commentary

[1] What is a fair and reasonable fee depends on such factors as:

(a) the time and effort required and spent;

(b) the difficulty of the matter and the importance of the matter to the client;

(c) whether special skill or service has been required and provided;

(d) the results obtained;

(e) fees authorized by statute or regulation;

(f) special circumstances, such as the postponement of payment, uncertainty of reward, or urgency;

(g) the likelihood, if made known to the client, that acceptance of the retainer will result in the lawyer's inability to accept other employment;

(h) any relevant agreement between the lawyer and the client;

(i) the experience and ability of the lawyer;

(j) any estimate or range of fees given by the lawyer; and

(k) the client's prior consent to the fee.

[2] The fiduciary relationship between lawyer and client requires full disclosure in all financial dealings between them and prohibits the acceptance by the lawyer of any hidden fees. No fee, extra fees, reward, costs, commission, interest, rebate, agency or forwarding allowance, or other compensation related to professional employment may be taken by the lawyer from anyone other than the client without full disclosure to and the consent of the client or, where the lawyer's fees are being paid by someone other than the client, such as a legal aid agency, a borrower, or a personal representative, without the consent of such agency or other person.

[3] A lawyer should provide to the client in writing, before or within a reasonable time after commencing a representation, as much information regarding fees and disbursements, and interest, as is reasonable and practical in the circumstances, including the basis on which fees will be determined.

[4] A lawyer should be ready to explain the basis of the fees and disbursement charged to the client. This is particularly important concerning fee charges or disbursements that the client might not reasonably be expected to anticipate. When something unusual or unforeseen occurs that may substantially affect the amount of a fee or disbursement, the lawyer should give to the client an immediate explanation. A lawyer should confirm with the client in writing the substance of all fee discussions that occur as a matter progresses, and a lawyer may revise an initial estimate of fees and disbursements.

Contingent Fees and Contingent Fee Agreements

3.6-2 Subject to Rule 3.6-1, a lawyer may enter into a written agreement in accordance with governing legislation that provides that the lawyer's fee is contingent, in whole or in part, on the outcome of the matter for which the lawyer's services are to be provided.

Commentary

[1] In determining the appropriate percentage or other basis of a contingency fee, a lawyer and client should consider a number of factors, including the likelihood of success, the nature and complexity of the claim, the expense and risk of pursuing it and the amount of the expected recovery. Party-and-party costs received by a lawyer are the property of the client and should therefore be accounted for to the client in accordance with the Alberta Rules of Court, Rule 10.7. The test is whether the fee, in all of the circumstances, is fair and reasonable.

[2] Although a lawyer is generally permitted to terminate the professional relationship with a client and withdraw services if there is justifiable cause as set out in Rule 3.7, special circumstances apply when the retainer is pursuant to a contingency agreement. In such circumstances, the lawyer has impliedly undertaken the risk of not being paid in the event the suit is unsuccessful. Accordingly, a lawyer cannot withdraw from representation for reasons other than those set out in Rule 3.7-5 (Obligatory Withdrawal) unless the written contingency contract specifically states that the lawyer has a right to do so and sets out the circumstances under which this may occur.

Statement of Account

3.6-3 In a statement of an account delivered to a client, a lawyer must clearly and separately detail the amounts charged as fees and disbursements.

Commentary

[1] The two main categories of charges on a statement of account are fees and disbursements. A lawyer may charge as disbursements only those amounts that have been paid or are required to

be paid to a third party by the lawyer on a client's behalf. However, a subcategory entitled "Other Charges" may be included under the fees heading if a lawyer wishes to separately itemize charges such as paralegal, word processing or computer costs that are not disbursements, provided that the client has agreed to such costs.

[2] Subject to any special agreement with the client, a final account should be rendered within a reasonable time after completion of the services.

[3] See the Alberta Rules of Court, Rule 10.2, respecting the content of lawyers' accounts.

[4] Party-and-party costs received by a lawyer are the property of the client and should therefore be accounted for to the client. See the Commentary to Rule 3.6-2 respecting contingency matters.

Joint Retainer

3.6-4 If a lawyer acts for two or more clients in the same matter, the lawyer must divide the fees and disbursements equitably between them, unless there is an agreement by the clients otherwise.

Division of Fees and Referral Fees

3.6-5 If there is consent from the client, fees for a matter may be divided between lawyers who are not in the same firm, provided that the fees are divided in proportion to the work done and the responsibilities assumed.

3.6-6 If a lawyer refers a matter to another lawyer because of the expertise and ability of the other lawyer to handle the matter, and the referral was not made because of a conflict of interest, the referring lawyer may accept, and the other lawyer may pay, a referral fee, provided that:

(a) the fee is reasonable and does not increase the total amount of the fee charged to the client; and

(b) the client is informed and consents.

3.6-7 A lawyer must not:

(a) in connection with the referral of clients, directly or indirectly share, split, or divide his or her fees with any person who is not a lawyer; or

(b) give any financial or other reward for the referral of clients or client matters to any person who is not a lawyer.

Commentary

[1] This rule prohibits lawyers from entering into arrangements to compensate or reward non-lawyers for the referral of clients. It does not prevent a lawyer from engaging in promotional activities involving reasonable expenditures on promotional items or activities that might result in the referral of clients generally by a non-lawyer. Accordingly, this rule does not prohibit a lawyer from:

(a) making an arrangement respecting the purchase and sale of a law practice when the consideration payable includes a percentage of revenues generated from the practice sold;

(b) entering into a lease under which a landlord directly or indirectly shares in the fees or revenues generated by the law practice;

(c) paying an employee for services, other than for referring clients, based on the revenue of the lawyer's firm or practice; or

(d) occasionally entertaining potential referral sources by purchasing meals, providing tickets to, or attending at, sporting or other activities or sponsoring client functions.

[2] Lawyers may pay non-lawyers for direct and reasonable advertising costs (including a lawyer referral service), and are also allowed to compensate employees and other persons for general marketing and public relations services, whether by salary, profit sharing, bonus or otherwise, provided the compensation is not directly related to a specific client matter.

Exception for Multi-discipline Practices and Inter-jurisdictional Law Firms

3.6-8 Rule 3.6-7 does not apply to:

(a) multi-discipline practices of lawyer and non-lawyer partners if the partnership agreement provides for the sharing of fees, cash flows or profits among the members of the firm; and

(b) sharing of fees, cash flows or profits by lawyers who are members of an interjurisdictional law firm.

Commentary

[1] An affiliation is different from a multi-disciplinary practice established in accordance with the rules, regulations or by-laws under the governing legislation, or an interjurisdictional law firm, however structured. An affiliation is subject to Rule 3.6-7. In particular, an affiliated entity is not permitted to share in the lawyer's revenues, cash flows or profits, either directly or indirectly through excessive inter-firm charges, for example, by charging inter-firm expenses above their fair market value.

Payment and Appropriation of Funds

3.6-9 A lawyer must not appropriate any client funds held in trust or otherwise under the lawyer's control for or on account of fees, except as permitted by the governing legislation.

Commentary

[1] The rule is not intended to be an exhaustive statement of the considerations that apply to payment of a lawyer's account from trust. The handling of trust money is generally governed by the Rules of the Law Society.

[2] Refusing to reimburse any portion of advance fees for work that has not been carried out when the contract of professional services with the client has terminated is a breach of the obligation to act with integrity.

3.6-10 If the amount of fees or disbursements charged by a lawyer is reduced on a review or assessment, the lawyer must repay the money to the client as soon as is practicable.

Prepaid Legal Services Plan

3.6-11 A lawyer who accepts a client referred by a prepaid legal services plan must advise the client in writing of:

(a) the scope of work to be undertaken by the lawyer under the plan; and

(b) the extent to which a fee or disbursement will be payable by the client to the lawyer.

3.7 Withdrawal from Representation

Withdrawal from Representation

3.7-1 A lawyer must not withdraw from representation of a client except for good cause and on reasonable notice to the client.

Commentary

[1] Although the client has the right to terminate the lawyer-client relationship at will, a lawyer does not enjoy the same freedom of action. Having undertaken the representation of a client, the lawyer should complete the task as ably as possible unless there is justifiable cause for terminating the relationship. It is inappropriate for a lawyer to withdraw on capricious or arbitrary grounds.

[2] An essential element of reasonable notice is notification to the client, unless the client cannot be located after reasonable efforts. No hard and fast rules can be laid down as to what constitutes reasonable notice before withdrawal and how quickly a lawyer may cease acting after notification will depend on all relevant circumstances. When the matter is covered by statutory provisions or the Rules of Court, these will govern. In other situations, the governing principle is that the lawyer should protect the client's interests to the best of the lawyer's ability and should not desert the client at a critical stage of a matter or at a time when withdrawal would put the client in a position of disadvantage or peril. As a general rule, the client should be given sufficient time to retain and instruct replacement counsel. Nor should withdrawal or an intention to withdraw be permitted to waste court time or prevent other counsel from reallocating time or resources scheduled for the matter in question. See Rule 3.7-6, Manner of Withdrawal.

[3] Every effort should be made to ensure that withdrawal occurs at an appropriate time in the proceedings in keeping with the lawyer's obligations. The court, opposing parties and others directly affected should also be notified of the withdrawal.

Optional Withdrawal

3.7-2 If there has been a serious loss of confidence between the lawyer and the client, the lawyer may withdraw.

Commentary

[1] A lawyer may have a justifiable cause for withdrawal in circumstances indicating a loss of confidence, for example, if a lawyer is deceived by the client, the client refuses to accept and act upon the lawyer's advice on a significant point, a client is persistently unreasonable or uncooperative in a material respect, or the lawyer is facing difficulty in obtaining adequate instructions from the

client. However, the lawyer should not use the threat of withdrawal as a device to force a hasty decision by the client on a difficult question.

Non-payment of Fees

3.7-3 If, after reasonable notice, the client fails to provide a retainer or funds on account of disbursements or fees, a lawyer may withdraw unless serious prejudice to the client would result.

Commentary

[1] When the lawyer withdraws because the client has not paid the lawyer's fee, the lawyer should ensure that there is sufficient time for the client to obtain the services of another lawyer and for that other lawyer to prepare adequately for trial. Also see the commentary to Rule 3.7-4.

Withdrawal from Criminal Proceedings

3.7-4 If a lawyer has agreed to act in a criminal case and the interval between a withdrawal and the trial of the case is sufficient to enable the client to obtain another lawyer and to allow such other lawyer adequate time for preparation, the lawyer who has agreed to act may withdraw because the client has not paid the agreed fee or for other adequate cause provided that the lawyer:

(a) notifies the client, in writing, that the lawyer is withdrawing because the fees have not been paid or for other adequate cause;

(b) accounts to the client for any money received on account of fees and disbursements;

(c) notifies Crown counsel that the lawyer is no longer acting; and

(d) complies with the applicable Rules of Court.

Commentary

[1] In Alberta, when a lawyer seeks to withdraw in criminal proceedings the usual practice is to apply for leave in open court.

[2] A lawyer who has withdrawn, or intends to withdraw, because of conflict with the client should not indicate in the notice addressed to the court or Crown counsel the cause of the conflict or make reference to any matter that would violate the privilege that exists between lawyer and client. The notice should merely state that the lawyer is no longer acting and has withdrawn. If the court requests that the lawyer provide reasons for withdrawal, then the lawyer may indicate that there are "ethical reasons" or an inability to obtain proper instructions, making the least possible disclosure of privileged information. In certain circumstances, the court may refuse to allow a lawyer to withdraw for non-payment of fees.

Obligatory Withdrawal

3.7-5 A lawyer must withdraw if:

(a) discharged by a client;

(b) a client persists in instructing the lawyer to act contrary to professional ethics; or

(c) the lawyer is not competent to continue to handle a matter.

Manner of Withdrawal

3.7-6 When a lawyer withdraws, the lawyer must try to minimize expense and avoid prejudice to the client and must do all that can reasonably be done to facilitate the orderly transfer of the matter to the successor lawyer.

3.7-7 On discharge or withdrawal, a lawyer must:

(a) notify the client in writing, stating:

(i) the fact that the lawyer has withdrawn;

(ii) the reasons, if any, for the withdrawal; and

(iii) in the case of litigation, that the client should expect that the hearing or trial will proceed on the date scheduled and that the client should retain new counsel promptly;

(b) subject to the lawyer's right to a lien, deliver to or to the order of the client all papers and property to which the client is entitled;

(c) subject to any applicable trust conditions, give the client all relevant information in connection with the case or matter;

(d) account for all funds of the client then held or previously dealt with, including the refunding of any remuneration not earned during the representation;

(e) promptly render an account for outstanding fees and disbursements;

(f) co-operate with the successor lawyer in the transfer of the file so as to minimize expense and avoid prejudice to the client; and

(g) comply with the applicable Rules of Court.

Commentary

[1] If the lawyer who is discharged or withdraws is a member of a firm, the client should be notified that the lawyer and the firm are no longer acting for the client.

[2] If the question of a right of lien for unpaid fees and disbursements arises on the discharge or withdrawal of the lawyer, the lawyer should have due regard to the effect of its enforcement on the client's position. Generally speaking, a lawyer should not enforce a lien if to do so would prejudice materially a client's position in any uncompleted matter. Material prejudice is more than mere inconvenience to the client. A lawyer should not enforce a solicitor's lien for non-payment if the client is prepared to enter into an arrangement that reasonably assures the lawyer of payment in due course. When a matter is being transferred to other counsel, the transferring lawyer may request that the receiving lawyer undertake to pay an outstanding account from the money ultimately

recovered by that lawyer. Where the matter in question is subject to a contingency agreement, the lawyers may agree to divide the contingent fee on the basis of an apportionment of total effort required to effect recovery.

[3] The obligation to deliver papers and property is subject to a lawyer's right of lien. In the event of conflicting claims to such papers or property, the lawyer should make every effort to have the claimants settle the dispute.

[4] Co-operation with the successor lawyer will normally include providing any memoranda of fact and law that have been prepared by the lawyer in connection with the matter, but confidential information not clearly related to the matter should not be divulged without the written consent of the client.

[5] Subject to Rule 3.4 (Conflicts of Interest) and Rule 3.3 (Confidentiality), a lawyer acting for several clients in a case or matter who ceases to act for one or more of them should co-operate with the successor lawyer or lawyers and should seek to avoid any unseemly rivalry, whether real or apparent.

Duty of Successor Lawyer

3.7-8 Before agreeing to represent a client, a successor lawyer must be satisfied that the former lawyer has withdrawn or has been discharged by the client.

Commentary

[1] It is quite proper for the successor lawyer to urge the client to settle or take reasonable steps toward settling or securing any outstanding account of the former lawyer, especially if the latter withdrew for good cause or was capriciously discharged. But, if a trial or hearing is in progress or imminent, or if the client would otherwise be prejudiced, the existence of an outstanding account should not be allowed to interfere with the successor lawyer acting for the client.

Leaving a Law Firm

3.7-9 When a lawyer leaves a law firm, the lawyer and the law firm must:

(a) ensure that clients who have current matters for which the departing lawyer has conduct or substantial involvement are given reasonable notice that the lawyer is departing and are advised of their options for retaining counsel; and

(b) take reasonable steps to obtain the instructions of each affected client as to who they will retain.

Commentary

[1] When a lawyer leaves a firm to practise elsewhere, it may result in the termination of the lawyer-client relationship between that lawyer and a client.

[2] The departing lawyer should provide reasonable notice of the lawyer's departure to the firm, in advance of any notice of the departure to clients.

[3] The client's interests are paramount. Clients must be free to decide whom to retain as counsel, without undue influence or pressure by the lawyer or the firm. The client should be provided with sufficient information to make an informed decision about whether to (a) continue with the departing lawyer, (b) remain with the firm, or (c) retain new counsel.

[4] The lawyer and the law firm should cooperate to identify the clients who should receive notice of the lawyer's departure and to agree on the contents of a neutrally-worded letter which provides notice of the departure and sets forth the three available options listed in paragraph [3]. The firm should provide notice of the lawyer's departure to the affected clients, which include those who have current matters for which the departing lawyer has conduct or in which the departing lawyer has had substantial involvement. In the absence of agreement, either the departing lawyer and the law firm may provide the notification. In some cases, the departure of the lawyer may be relevant to the handling of a client's file. The firm may have an obligation to notify the client of the lawyer's departure, even if the firm and departing lawyer agree that the client will not be provided with a letter in which the client is asked to choose one of the three options above,

[5] If a client contacts a law firm to request a departed lawyer's contact information, the law firm should provide the professional contact information where reasonably possible. The firm and the departing lawyer should agree that clients may be contacted by the other party, where appropriate. Should a client actively seek advice or information, the response of the lawyer contacted must be professional, neutral in tone, and consistent with the client's best interests.

[6] Where a client chooses to remain with the departing lawyer, the instructions referred to in the rule should include written authorizations for the transfer of files and client property. The lawyer and firm must come to a mutually acceptable arrangement respecting work in progress and disbursements outstanding on files that are to be transferred with the lawyer. In all cases, the situation should be managed in a way that minimizes expense and avoids prejudice to the client.

[7] When a client chooses to remain with the firm, the firm should consider whether it is reasonable in the circumstances to charge the client for time expended by another firm member to become familiar with the file.

[8] The principles outlined in this rule and commentary will apply to the dissolution of a law firm. When a law firm is dissolved, it usually results in the termination of the lawyer-client relationship between a particular client and one or more of the lawyers in the firm. The client should be notified of the dissolution and provided with sufficient information to decide who to retain as counsel. The lawyers who are no longer retained by the client should try to minimize expense and avoid prejudice to the client.

[9] See also rules 3.7-6 to 3.7-8 and related commentary regarding enforcement of a solicitor's lien and the duties of former and successor counsel.

[10] Rule 3.7-9 does not apply to a lawyer leaving (a) a government, a Crown corporation or any other public body or (b) a corporation or other organization for which the lawyer is employed as in house counsel.

Chapter 4 – Marketing of Legal Services

4.1 Making Legal Services Available

Making Legal Services Available

4.1-1 A lawyer must make legal services available to the public efficiently and conveniently and, subject to rule 4.1-2, may offer legal services to a prospective client by any means.

Commentary

[1] A lawyer may assist in making legal services available by participating in the Legal Aid Plan and lawyer referral services and by engaging in programs of public information, education or advice concerning legal matters.

[2] As a matter of access to justice, it is in keeping with the best traditions of the legal profession to provide services pro bono and to reduce or waive a fee when there is hardship or poverty or the client or prospective client would otherwise be deprived of adequate legal advice or representation. The Society encourages lawyers to provide public interest legal services and to support organizations that provide services to persons of limited means.

[3] A lawyer who knows or has reasonable grounds to believe that a client is entitled to Legal Aid should advise the client of the right to apply for Legal Aid, unless the circumstances indicate that the client has waived or does not need such assistance.

Right to Decline Representation

[4] A lawyer has a general right to decline a particular representation (except when assigned as counsel by a tribunal), but it is a right to be exercised prudently, particularly if the probable result would be to make it difficult for a person to obtain legal advice or representation. Generally, a lawyer should not exercise the right merely because a person seeking legal services or that person's cause is unpopular or notorious, or because powerful interests or allegations of misconduct or malfeasance are involved, or because of the lawyer's private opinion about the guilt of the accused. A lawyer declining representation should assist in obtaining the services of another lawyer qualified in the particular field and able to act. When a lawyer offers assistance to a client or prospective client in finding another lawyer, the assistance should be given willingly and, except where a referral fee is permitted by Rule 3.6-6, without charge.

Restrictions

4.1-2 In offering legal services, a lawyer must not use means that:

(a) are false or misleading;

(b) amount to coercion, duress, or harassment;

(c) take advantage of a person who is vulnerable or who has suffered a traumatic experience and has not yet recovered; or

(d) otherwise bring the profession or the administration of justice into disrepute.

Commentary

[1] A person who is vulnerable or who has suffered a traumatic experience and has not recovered may need the professional assistance of a lawyer, and this rule does not prevent a lawyer from offering assistance to such a person. A lawyer is permitted to provide assistance to a person if a close relative or personal friend of the person contacts the lawyer for this purpose, and to offer assistance to a person with whom the lawyer has a close family or professional relationship. The rule prohibits the lawyer from using unconscionable, exploitive or other means that bring the profession or the administration of justice into disrepute.

4.1-3 A lawyer must not advertise that the lawyer will make loans to clients, whether such loans are characterized as loans or cash advances with respect to claims.

Commentary

[1] This rule applies to the conduct of a lawyer personally or in relation to entities either related to or controlled by a lawyer.

4.2 Marketing

Marketing of Professional Services

4.2-1 A lawyer may market professional services, provided that the marketing is:

(a) demonstrably true, accurate and verifiable;

(b) neither misleading, confusing or deceptive, nor likely to mislead, confuse or deceive;

(c) in the best interests of the public and consistent with a high standard of professionalism.

Commentary

[1] Examples of marketing that may contravene this rule include:

(a) stating an amount of money that the lawyer has recovered for a client or referring to the lawyer's degree of success in past cases, unless such statement is accompanied by a further statement that past results are not necessarily indicative of future results and that the amount recovered and other litigation outcomes will vary according to the facts in individual cases;

(b) suggesting qualitative superiority to other lawyers;

(c) raising expectations unjustifiably;

(d) suggesting or implying the lawyer is aggressive;

(e) disparaging or demeaning other persons, groups, organizations or institutions;

(f) taking advantage of a vulnerable person or group; and

(g) using testimonials or endorsements that contain emotional appeals.

Advertising of Fees

4.2-2 A lawyer may advertise fees charged for legal services provided that:

(a) the advertising is reasonably precise as to the services offered for each fee quoted;

(b) the advertising states whether other amounts, such as disbursements and taxes, will be charged in addition to the fee; and

(c) the lawyer strictly adheres to the advertised fee in every applicable case.

4.3 Advertising Nature of Practice

4.3-1 A lawyer must not advertise that the lawyer is a specialist in a specified field unless the lawyer has been so certified by the Society.

Commentary

[1] Lawyers' advertisements may be designed to provide information to assist a potential client to choose a lawyer who has the appropriate skills and knowledge for the client's particular legal matter.

[2] A lawyer who is not a certified specialist is not permitted to use any designation from which a person might reasonably conclude that the lawyer is a certified specialist. A claim that a lawyer is a specialist or expert, or specializes in an area of law, implies that the lawyer has met some objective standard or criteria of expertise, presumably established or recognized by a Law Society. In the absence of Law Society recognition or a certification process, an assertion by a lawyer that the lawyer is a specialist or expert is misleading and improper.

[3] If a firm practises in more than one jurisdiction, some of which certify or recognize specialization, an advertisement by such a firm that makes reference to the status of a firm member as a specialist or expert, in media circulated concurrently in the Province of Alberta and the certifying jurisdiction, does not offend this rule if the certifying authority or organization is identified.

[4] A lawyer may advertise areas of practice, including preferred areas of practice or a restriction to a certain area of law. An advertisement may also include a description of the lawyer's or law firm's proficiency or experience in an area of law. In all cases, the representations made must be accurate (that is, demonstrably true) and must not be misleading.

4.4 Firm Names

4.4-1 Law firms are permitted to use trade names, initials, logos, symbols, or the names of individuals or their professional corporations, provided that they are not misleading or confusing, and are otherwise consistent with these rules.

Commentary

[1] Firm names must accurately represent the firm and the work carried out by firm members. A firm name may consist of:

(a) the names of one or more individual lawyers;

(b) the names of one or more professional corporations;

(c) the names of existing or former partners or associates;

(d) a trade name; or

(e) any combination of (a), (b), (c) and (d).

[2] The firm must be able to: (a) demonstrate sufficient connection or relationship with the name(s) included, and (b) use such qualifying words as necessary to ensure that a potential consumer of the firm's services understands it is a law firm and is not engaged in some other business. A law firm name must not include the name of any individual or other entity not entitled to practise law in Canada or any other jurisdiction. The firm name may include the name(s) of individuals currently or formerly entitled to practice law in Canada and in jurisdictions other than Canada. If using a trade name, the name should include such phrases as “Law”, “Law Firm”, “Lawyer”, or “Barristers and Solicitors”, so that it is clear that the activity of the firm is the practice of law.

[3] The inclusion in a firm name of a person or entity not currently licensed or eligible to deliver legal services in Alberta, or a person who is no longer alive, does not constitute a representation that the named person or entity is available in the firm to deliver legal services.

[4] A trade name must be carefully selected to avoid any misconception on the part of the public. For example, "University Legal Clinic" would be unacceptable because it implies a connection with another institution. A geographical trade name is improper if it leads a reasonable person to erroneously conclude that the law office is a public agency, or is the only law office available in that area or locality, or if the name misleads the public in another respect. A trade name which includes a reference to the lawyer’s area(s) of practice is allowed, as long as it is not misleading or confusing.

[5] The name of a firm member who has become a judge may continue to be in the firm name (but not in the listing of names on the letterhead); however, no firm member may appear before that judge so long as the judge's name forms part of the firm name. This prohibition is necessary to preserve the appearance of justice and propriety (see Rule 5.1-3 and related commentary).

[6] The use by a sole practitioner of the phrase "and Company" or "and Associates" after the lawyer's surname is misleading.

Limited liability partnership

[7] A limited liability partnership, in addition to complying with the name regulations under the Partnership Act (Alberta), must ensure that any trade name used by the partnership clearly indicates the limited liability status of its partners.

Names listed on letterhead

[8] Names listed on letterhead must accurately represent the status of the individual(s) named. For example:

(a) the status of an inactive or former member must be clearly indicated;

(b) the names of extraprovincial lawyers associated with the firm must be so described, together with the jurisdictions in which they are authorized to practice;

(c) the position or status of persons who are not lawyers (such as office manager, in house accountants, students at law and patent and trade mark agents) employed by the firm, must be clearly stated.

[9] The status of a person whose name appears in the firm name only and is not listed on the letterhead does not require specification.

Chapter 5 – Relationship to the Administration of Justice

5.1 The Lawyer as Advocate

Advocacy

5.1-1 When acting as an advocate, a lawyer must represent the client resolutely and honourably within the limits of the law, while treating the tribunal with candour, fairness, courtesy and respect.

Commentary

[1] In adversarial proceedings, the lawyer has a duty to the client to raise fearlessly every issue, advance every argument and ask every question, however distasteful, that the lawyer thinks will help the client's case and to endeavour to obtain for the client the benefit of every remedy and defence authorized by law. The lawyer must discharge this duty by fair and honourable means, without illegality and in a manner that is consistent with the lawyer's duty to treat the tribunal with candour, fairness, courtesy and respect and in a way that promotes the parties' right to a fair hearing in which justice can be done. Maintaining dignity, decorum and courtesy in the courtroom is not an empty formality because, unless order is maintained, rights cannot be protected.

[2] This rule applies to the lawyer as advocate, and therefore extends not only to court proceedings but also to appearances and proceedings before boards, administrative tribunals, arbitrators, mediators and others who resolve disputes, regardless of their function or the informality of their procedures.

[3] The lawyer's function as advocate is openly and necessarily partisan. Accordingly, the lawyer is not obliged (except as required by law or under these rules and subject to the duties of a prosecutor set out below) to assist an adversary or advance matters harmful to the client's case.

[4] In adversarial proceedings that will likely affect the health, welfare or security of a child, a lawyer should advise the client to take into account the best interests of the child, if this can be done without prejudicing the legitimate interests of the client.

[5] A lawyer should refrain from expressing the lawyer's personal opinions on the facts in evidence of a client's case to a court or tribunal.

[6] A lawyer must not communicate with a tribunal respecting a matter unless the other parties to the matter, or their counsel, are present or have had reasonable prior notice, or unless the circumstances are exceptional and are disclosed fully and completely to the court.

[7] When a lawyer is required by law to notify one or more parties of a step taken or to be taken in a matter, the lawyer must notify all parties to the matter. Although certain steps appear to involve

only certain parties and not others, the interests of one or more of the other parties may be affected in a manner not immediately evident.

[8] When opposing interests are not represented, for example, in without notice or uncontested matters or in other situations in which the full proof and argument inherent in the adversarial system cannot be achieved, the lawyer must take particular care to be accurate, candid and comprehensive in presenting the client's case so as to ensure that the tribunal is not misled. This situation creates an obligation on the lawyer present to prevent a manifestly unjust result by disclosing all material facts known to the lawyer that the lawyer reasonably believes are necessary to an informed decision.

[9] The lawyer should never waive or abandon the client's legal rights, such as an available defence under a statute of limitations, without the client's informed consent.

[10] In civil proceedings, a lawyer should avoid and discourage the client from resorting to frivolous or vexatious objections, attempts to gain advantage from slips or oversights not going to the merits or tactics that will merely delay or harass the other side. Such practices can readily bring the administration of justice and the legal profession into disrepute.

Duty as Defence Counsel

[11] When defending an accused person, a lawyer's duty is to protect the client as far as possible from being convicted, except by a tribunal of competent jurisdiction and upon legal evidence sufficient to support a conviction for the offence with which the client is charged. Accordingly, and notwithstanding the lawyer's private opinion on credibility or the merits, a lawyer may properly rely on any evidence or defences, including so-called technicalities, not known to be false or fraudulent.

[12] Admissions made by the accused to a lawyer may impose strict limitations on the conduct of the defence, and the accused should be made aware of this. For example, if the accused clearly admits to the lawyer the factual and mental elements necessary to constitute the offence, the lawyer, if convinced that the admissions are true and voluntary, may properly take objection to the jurisdiction of the court, the form of the indictment or the admissibility or sufficiency of the evidence, but must not suggest that some other person committed the offence or call any evidence that, by reason of the admissions, the lawyer believes to be false. Nor may the lawyer set up an affirmative case inconsistent with such admissions, for example, by calling evidence in support of an alibi intended to show that the accused could not have done or, in fact, has not done the act. Such admissions will also impose a limit on the extent to which the lawyer may attack the evidence for the prosecution. The lawyer is entitled to test the evidence given by each individual witness for the prosecution and argue that the evidence taken as a whole is insufficient to amount to proof that the accused is guilty of the offence charged, but the lawyer should go no further than that.

5.1-2 When acting as an advocate, a lawyer must not:

(a) abuse the process of the tribunal by instituting or prosecuting proceedings that, although legal in themselves, are clearly motivated by

malice on the part of the client and are brought solely for the purpose of injuring the other party;

(b) take any step in the representation of a client that is clearly without merit;

(c) unreasonably delay the process of the tribunal;

(d) knowingly assist or permit a client to do anything that the lawyer considers to be dishonest or dishonourable;

(e) appear before a judicial officer when the lawyer, the lawyer's associates or the client have business or personal relationships with the officer that give rise to or might reasonably appear to give rise to pressure, influence or inducement affecting the impartiality of the officer, unless all parties consent and it is in the interests of justice;

(f) endeavour or allow anyone else to endeavour, directly or indirectly, to influence the decision or action of a tribunal or any of its officials in any case or matter by any means other than open persuasion as an advocate;

(g) knowingly attempt to deceive a tribunal or influence the course of justice by offering false evidence, misstating facts or law, presenting or relying upon a false or deceptive affidavit, suppressing what ought to be disclosed or otherwise assisting in any fraud, crime or illegal conduct;

(h) knowingly misstate the contents of a document, the testimony of a witness, the substance of an argument or the provisions of a statute or like authority;

(i) knowingly assert as true a fact when its truth cannot reasonably be supported by the evidence or as a matter of which notice may be taken by the tribunal;

(j) introduce or otherwise bring to the tribunal's attention facts or evidence that the lawyer knows to be inadmissible;

(k) make suggestions to a witness recklessly or knowing them to be false;

(l) permit or participate in a payment or other benefit to a witness in excess of reasonable compensation;

(m) counsel a witness to give evidence that is untruthful or misleading;

(n) deliberately refrain from informing a tribunal of any relevant adverse authority that the lawyer considers to be directly on point and that has not been mentioned by another party;

(o) improperly dissuade a witness from communicating with other parties or from giving evidence, or advise a witness to be absent;

(p) knowingly permit a witness or party to be presented in a false or misleading way or to impersonate another;

(q) discuss the testimony of a witness with a person excluded by the tribunal during such testimony;

(r) knowingly misrepresent the client's position in the litigation or the issues to be determined in the litigation;

(s) needlessly abuse, hector or harass a witness;

(t) when representing a complainant or potential complainant, attempt to gain a benefit for the complainant by threatening the laying of a criminal or quasi-criminal charge or complaint to a regulatory authority or by offering to seek or to procure the withdrawal of a criminal or quasi-criminal charge or complaint to a regulatory authority;

(u) needlessly inconvenience a witness; or

(v) appear before a court or tribunal while under the influence of alcohol or a drug or when it may be reasonably foreseen that the lawyer will be unable for any reason to provide competent services.

Commentary

[1] In civil proceedings, a lawyer has a duty not to mislead the tribunal about the position of the client in the adversarial process. Thus, a lawyer representing a party to litigation who has made or is party to an agreement made before or during the trial by which a plaintiff is guaranteed recovery by one or more parties, notwithstanding the judgment of the court, should immediately reveal the existence and particulars of the agreement to the court and to all parties to the proceedings.

[2] **Relevant adverse authority:** A decision is relevant where it refers to any point of law on which the case in question might turn. Relevance does not include cases that have merely some resemblance to the case before the court on the facts; it "means cases which decide a point of law" on which the current case depends. With respect to the lawyer's obligation to discover the relevant law, the duty does not extend to searching out unreported cases. The lawyer does have an obligation to bring to the court's attention cases of which the lawyer has knowledge and, as well, the lawyer cannot discharge this duty by not bothering to determine whether there is a relevant authority.

Lawyers are not obliged to bring forward facts that the other side has omitted to bring to the court's attention. They are not obliged to make the other side's case. They are, simply, obliged to make sure that the court has before it all relevant legal authority, whether helpful or not.

[3] A lawyer representing an accused or potential accused may communicate with a complainant or potential complainant, for example, to obtain factual information, to arrange for restitution or an apology from the accused, or to defend or settle any civil claims between the accused and the complainant. However, when the complainant or potential complainant is vulnerable, the lawyer must take care not to take unfair or improper advantage of the circumstances. If the complainant or potential complainant is unrepresented, the lawyer should be governed by the rules about unrepresented persons and make it clear that the lawyer is acting exclusively in the interests of the accused or potential accused. When communicating with an unrepresented complainant or potential complainant, it is prudent to have a witness present.

[4] It is an abuse of the court's process to threaten to bring an action or to offer to seek withdrawal of a criminal charge in order to gain a benefit. See also Rules 3.2-11 to 3.2-12 and accompanying commentary.

[5] When examining a witness, a lawyer may pursue any hypothesis that is honestly advanced on the strength of reasonable inference, experience or intuition.

Ex Parte Proceedings

5.1-2A In an *ex parte* proceeding, a lawyer must act with utmost good faith and inform the tribunal of all material facts, including adverse facts, known to the lawyer that will enable the tribunal to make an informed decision.

Commentary

[1] *Ex parte* proceedings are exceptional. The obligation to inform the tribunal of all material facts includes an obligation of full, fair and candid disclosure to the tribunal (see also Rules 5.1-1, 5.1-2).

[2] The obligation to disclose all relevant information and evidence is subject to a lawyer's duty to maintain confidentiality and privilege (see Rule 3.3).

[3] Before initiating *ex parte* proceedings, a lawyer must ensure that the proceedings are permitted by law and are justified in the circumstances. Where no prejudice would occur, a lawyer must consider giving notice to the opposing party or their lawyer (when they are represented), notwithstanding the ability to proceed *ex parte*.

Single-Party Communications with a Tribunal

5.1-2B Except where authorized by law, and subject to rule 5.1-2A, a lawyer must not communicate with a tribunal in the absence of the opposing party or their lawyer (when they are represented) concerning any matter of substance, unless the opposing party or their lawyer has been made aware of the content of the communication or has appropriate notice of the communication.

Commentary

[1] It is improper for a lawyer to attempt to influence, discuss a matter with, or make submissions to, a tribunal without the knowledge of the other party or the lawyer for the other party (when they are represented). A lawyer should be particularly diligent to avoid improper single-party communications when engaging with a tribunal by electronic means, such as email correspondence.

[2] When a tribunal invites or requests a communication from a lawyer, the lawyer should inform the other party or their lawyer. As a general rule, the other party or their lawyer should be copied on communications to the tribunal or given advance notice of the communication.

[3] This rule does not prohibit single-party communication with a tribunal on routine administrative or procedural matters, such as scheduling hearing dates or appearances. A lawyer should consider notifying the other party or their lawyer of administrative communications with the tribunal. Routine administrative communications should not include any submissions dealing with the substance of the matter or its merits.

[4] When considering whether single-party communication with a tribunal is authorized by law, a lawyer should review local rules, practice directives, and other relevant authorities that may regulate such a communication.

5.1-3 Except with the consent of all parties, a lawyer must not appear before a judge or a tribunal when the lawyer's past or present relationship with the judge or the tribunal would create a reasonable apprehension of bias.

Commentary

[1] The term “lawyer” is used in the sense of the individual lawyer. Most relationships contemplated by the Rule are sufficiently personal that others in the lawyer’s firm should not be tainted by association. On the other hand, circumstances are conceivable in which it would be unwise for a partner or associate of the lawyer having the relationship to appear before the judge or tribunal in question.

[2] Impartiality is an essential element of judicial proceedings, from a substantive viewpoint and also in terms of society's perception of the justice system. Accordingly, lawyers have an ethical obligation to contribute to the fact and appearance of impartiality.

[3] The first aspect of the Rule is the relationship between a lawyer and an individual judge. The Rule clearly prohibits a lawyer from appearing before a judge who is a relative or with whom the lawyer has a business relationship. Other close or intimate relationships may also bar a lawyer from appearing, depending on the circumstances.

[4] With respect to a judge who was formerly with the lawyer's firm, the propriety of such an appearance will be governed by factors such as the length of time the judge has been on the bench and the nature and import of the judicial proceeding.

[5] A second aspect of the Rule is the relationship between a lawyer and the tribunal. Relationships that may create a reasonable apprehension of bias include the following:

(a) A firm member may be a member of a tribunal, council or other official body. While the lawyer is generally prevented from appearing before the body itself, it is normally permissible to appear before a committee of the body if the firm member is not a member of that committee.

(b) A lawyer may at one time have had an association with a court, tribunal, council or other official body, as an employee or in the role of judge or adjudicator. The lawyer's subsequent appearance before the body as counsel may be improper because of actual or perceived collegiality with the current adjudicators, or because of a suspected "reverse bias" that could operate to the detriment of the lawyer's client. The passage of time will in most cases mitigate these considerations, two years being a standard benchmark. Other factors may also be present that are not mitigated by the passage of time. Whether there is an apprehension of bias in a particular case must therefore be determined by reference to all relevant circumstances.

[6] In some instances, the other parties to a matter may consent to a lawyer's appearance before a judge or tribunal despite a past or present relationship, or the lawyer may have concluded on a consideration of all relevant factors that such an appearance is not improper. Nonetheless, an appropriately impartial atmosphere must be maintained during the proceeding, which will not be the case if the lawyer displays undue familiarity in discussions or dealings with the judge or tribunal.

Duty as Prosecutor

5.1-4 When acting as a prosecutor, a lawyer must act for the public and the administration of justice resolutely and honourably within the limits of the law while treating the tribunal with candour, fairness, courtesy and respect.

Commentary

[1] When engaged as a prosecutor, the lawyer's primary duty is not to seek to convict but to see that justice is done through a fair trial on the merits. The prosecutor exercises a public function involving much discretion and power and must act fairly and dispassionately. To the extent required by law and accepted practice, the prosecutor should not do anything that might prevent the accused from being represented by counsel or communicating with counsel and should make timely disclosure to defence counsel or directly to an unrepresented accused of all relevant and known facts and witnesses, whether tending to show guilt or innocence.

Disclosure of Error or Omission

5.1-5 (a) A lawyer must not mislead a tribunal nor assist a client or witness to do so.

(b) Upon becoming aware that a tribunal is under a misapprehension as a result of submissions made by the lawyer or evidence given by the lawyer's client or witness, a lawyer must, subject to Rule 3.3 (Confidentiality), immediately correct the misapprehension.

Commentary

[1] If a client desires that a course be taken that would involve a breach of this rule, the lawyer must refuse and do everything reasonably possible to prevent it. If that cannot be done, the lawyer should, subject to Rule 3.7 (Withdrawal from Representation), withdraw or seek leave to do so.

[2] It is an obvious contravention of the rule for an advocate to lie to a tribunal. The rule applies as well, however, to an indirect misrepresentation. For example, a lawyer may not respond to a question from a tribunal in a technically correct manner that creates a deliberately misleading impression.

[3] On the other hand, a lawyer is not required to inform a tribunal of facts that should have been brought forth by opposing counsel. If it becomes apparent that the tribunal is uninformed or misinformed on a factual matter through no fault of the lawyer or the lawyer's client or witness, a lawyer is justified in remaining silent.

[4] A lawyer has a duty to correct a misapprehension arising from an honest mistake on the part of counsel or from perjury by the lawyer's client or witness. It may be a sufficient discharge of this duty to merely advise the tribunal not to rely on the impugned information.

[5] The principle applies not only to statements that were untrue at the time they were made, but to those that were true when made but have subsequently become inaccurate due to a change in circumstance. For example, it may have been represented that a personal injury plaintiff is permanently disabled. If, prior to judgment, the plaintiff's condition undergoes material improvement, the lawyer must, subject to confidentiality, convey this information to the court.

[6] Even if a matter has been judicially determined, the discovery of an error that may reasonably be viewed as having materially affected the outcome may oblige a lawyer to advise opposing counsel of the error. This may be the case notwithstanding that the appeal period has expired, since another remedy may be available to redress the mistake in whole or in part.

[7] Briefly, if correction of the misrepresentation requires disclosure of confidential information, the lawyer must seek the client's consent to such disclosure. If the client withholds consent, the lawyer is obliged to withdraw.

Courtesy

5.1-6 A lawyer must be courteous and civil and act in good faith to the tribunal and all persons with whom the lawyer has dealings.

Commentary

[1] Legal contempt of court and the professional obligation outlined here are not identical, and a consistent pattern of rude, provocative or disruptive conduct by a lawyer, even though unpunished as contempt, may constitute professional misconduct.

Undertakings

5.1-7 A lawyer must strictly and scrupulously fulfil any undertakings given and honour any trust conditions accepted in the course of litigation.

Commentary

[1] A lawyer should also be guided by the provisions of Rule 7.2-14 (Undertakings and Trust Conditions).

Agreement on Guilty Plea

5.1-8 A lawyer for an accused or potential accused may enter into an agreement with the prosecutor about a guilty plea if, following investigation,

(a) the lawyer advises his or her client about the prospects for an acquittal or finding of guilt;

(b) the lawyer advises the client of the implications and possible consequences of a guilty plea and particularly of the sentencing

authority and discretion of the court, including the fact that the court is not bound by any agreement about a guilty plea;

(c) the client voluntarily is prepared to admit the necessary factual and mental elements of the offence charged; and

(d) the client voluntarily instructs the lawyer to enter into an agreement as to a guilty plea.

Commentary

[1] The public interest in the proper administration of justice should not be sacrificed in the interest of expediency.

Handling Evidence

5.1-9 A lawyer must not counsel or participate in:

(a) the obtaining of evidence or information by illegal means;

(b) the falsification of evidence; or

(c) the destruction of property having potential evidentiary value or the alteration of property so as to affect its evidentiary value.

Commentary

[1] Lawyers must uphold the law and refrain from conduct that might weaken respect for the law or interfere with its fair administration. A lawyer must therefore seek to maintain the integrity of evidence and its availability through appropriate procedures to opposing parties.

[2] Paragraph (a) of Rule 5.1-9 prohibits a lawyer's involvement in the obtaining of evidence or information in a civil or criminal matter by means that are contrary to law, including the Charter of Rights and Freedoms and the Criminal Code.

[3] The word "property" in paragraph (c) includes electronic information. Paragraph (c) is not intended to interfere with the testing of evidence as contemplated by the Rules of Court.

Incriminating Physical Evidence

5.1-10 A lawyer must not counsel or participate in the concealment, destruction or alteration of incriminating physical evidence or otherwise act so as to obstruct or attempt to obstruct the course of justice.

Commentary

[1] In this rule, "evidence" does not depend upon admissibility before a tribunal or upon the existence of criminal charges. It includes documents, electronic information, objects or substances relevant to a crime, criminal investigation or a criminal prosecution. It does not include documents or communications that are solicitor-client privileged or that the lawyer reasonably believes are otherwise available to the authorities.

[2] This rule does not apply where a lawyer is in possession of evidence tending to establish the innocence of a client, such as evidence relevant to an alibi. However, a lawyer must exercise prudent judgment in determining whether such evidence is wholly exculpatory, and therefore falls outside of the application of this rule. For example, if the evidence is both incriminating and exculpatory, improperly dealing with it may result in a breach of the rule and also expose a lawyer to criminal charges.

[3] A lawyer is never required to take or keep possession of incriminating physical evidence or to disclose its mere existence. A lawyer in possession of incriminating physical evidence should carefully consider his or her options. These options include, as soon as reasonably possible:

(a) delivering the evidence to law enforcement authorities or the prosecution, either directly or anonymously;

(b) delivering the evidence to the tribunal in the relevant proceeding, which may also include seeking the direction of the tribunal to facilitate access by the prosecution or defence for testing or examination; or

(c) disclosing the existence of the evidence to the prosecution and, if necessary, preparing to argue before a tribunal the appropriate uses, disposition or admissibility of it.

[4] A lawyer should balance the duty of loyalty and confidentiality owed to the client with the duties owed to the administration of justice. When a lawyer discloses or delivers incriminating physical evidence to law enforcement authorities or the prosecution, the lawyer has a duty to protect client confidentiality, including the client’s identity, and to preserve solicitor-client privilege. This may be accomplished by the lawyer retaining independent counsel, who is not informed of the identity of the client and who is instructed not to disclose the identity of the instructing lawyer, to disclose or deliver the evidence. A lawyer cannot merely continue to keep possession of the incriminating physical evidence.

[5] A lawyer has no obligation to assist the authorities in gathering physical evidence of crime but cannot act or advise anyone to hinder an investigation or a prosecution. The lawyer’s advice to a client that the client has the right to refuse to divulge the location of physical evidence does not constitute hindering an investigation. A lawyer who becomes aware of the existence of incriminating physical evidence or declines to take possession of it must not counsel or participate in its concealment, destruction or alteration.

[6] A lawyer may determine that non-destructive testing, examination or copying of documentary or electronic information is needed. A lawyer should ensure that there is no concealment, destruction or any alteration of the evidence and should exercise caution in this area. For example, opening or copying an electronic document may alter it. A lawyer who has decided to copy, test or examine evidence before delivery or disclosure should do so without delay.

5.2 The Lawyer as Witness

Submission of Evidence

5.2-1 A lawyer who appears as advocate must not testify or submit his or her own affidavit evidence before the tribunal unless permitted to do so by law, the tribunal, the Rules of Court or the rules of procedure of the tribunal, or unless the matter is purely formal or uncontroverted.

Commentary

[1] A lawyer should not express personal opinions or beliefs or assert as a fact anything that is properly subject to legal proof, cross-examination or challenge. The lawyer should not, in effect, appear as an unsworn witness or put the lawyer's own credibility in issue. The lawyer who is a necessary witness should testify and entrust the conduct of the case to another lawyer. There are no restrictions on the advocate's right to cross-examine another lawyer, however, and the lawyer who does appear as a witness should not expect or receive special treatment because of professional status.

Appeals

5.2-2 A lawyer who is a witness in proceedings must not appear as advocate in any appeal from the decision in those proceedings, unless the matter about which he or she testified is purely formal or uncontroverted.

5.3 Interviewing Witnesses

Interviewing Witnesses

5.3-1 A lawyer may seek information from any potential witness, provided that:

(a) before doing so, the lawyer discloses the lawyer's interest in the matter;

(b) the lawyer does not encourage the witness to suppress evidence or to refrain from providing information to other parties in the matter; and

(c) the lawyer observes rules 7.2-8 through 7.2-11 on communicating with represented parties.

Commentary

[1] There is generally no property in a witness. To achieve the truth-seeking goal of the justice system, any person having information relevant to a proceeding must be free to impart it voluntarily and in the absence of improper influence. The rule does not, however, prevent a lawyer from responding in the negative if a witness specifically asks if it is mandatory to talk to opposing parties.

[2] A lawyer may advise a witness to refrain from providing relevant information to an opposing party if the witness is:

(a) The lawyer's client. It is not only permissible but expected that a lawyer will not allow a client to discuss the merits of a case with an opponent except in the presence or with the consent of the lawyer.

(b) A witness having a close connection and identification of interests with the client. A witness such as a spouse or child of the client may be so closely connected with the client that it would be contrary to that person's legitimate interests to discuss the case with opposing parties. It is also possible that the witness may be the client's agent for the purposes of instructing and consulting with counsel and the agent's discussions with counsel may be privileged. In these circumstances, it is permissible to advise the witness against engaging in such discussions.

(c) The client's expert witness. As an expert witness usually receives confidential information of the client, it would be inappropriate for that witness to communicate freely with all parties. In addition, an expert's report will likely be privileged as part of the solicitor's brief. With respect to an expert, such as an attending doctor, who can be characterized as both an ordinary and an expert witness, opposing counsel is entitled to question the witness on matters not subject to privilege. Such questioning should be conducted only on notice to the lawyer concerned due to the risk of improper disclosure, intentional or otherwise. A lawyer must be aware of the legal and procedural rules of the relevant jurisdiction which govern contact with expert witnesses, including the application of litigation and solicitor-

client privilege. There may also be different limitations on the ability to contact an expert depending on the area of practice.

5.4 Communication with Witnesses Giving Evidence

Communication with Witnesses Giving Evidence

5.4-1 A lawyer must not influence a witness or potential witness to give evidence that is false, misleading or evasive.

5.4-2 A lawyer involved in a proceeding must not obstruct an examination or cross-examination in any manner.

Commentary

General Principles

[1] The ethical duty against improperly influencing a witness or a potential witness applies at all stages of a proceeding, including while preparing a witness to give evidence or to make a statement, and during testimony under oath or affirmation. It also applies to the preparation of sworn written evidence and "will say" statements for use in any proceeding. The role of an advocate is to assist the witness in bringing forth the evidence in a manner that ensures fair and accurate comprehension by the tribunal and opposing parties.

[2] A lawyer may prepare a witness, for questioning and for appearances before tribunals, by discussing courtroom and questioning procedures and the issues in the case, reviewing facts, refreshing memory, and by discussing admissions, choice of words and demeanour. It is, however, improper to direct or encourage a witness to misstate or misrepresent the facts or to give evidence that is intentionally evasive or vague.

Communicating with Witnesses Under Oath or Affirmation

[3] During any witness testimony under oath or affirmation, a lawyer should not engage in conduct designed to improperly influence the witness' evidence.

[4] The ability of a lawyer to communicate with a witness at a specific stage of a proceeding will be influenced by the practice, procedures or directions of the relevant tribunal, and may be modified by agreement of counsel with the approval of the tribunal. Lawyers should become familiar with the rules and practices of the relevant tribunal governing communication with witnesses during examination-in-chief and cross-examination, and prior to or during re-examination.

[6] A lawyer may communicate with a witness during examination-in-chief. However, there may be local exceptions to this practice.

[7] It is generally accepted that a lawyer is not permitted to communicate with the witness during cross-examination except with leave of the tribunal or with the agreement of counsel. The opportunity to conduct a full-ranging and uninterrupted cross-examination is fundamental to the adversarial system. It is counterbalanced by an opposing advocate's ability to ensure clarity of testimony through initial briefing, direct examination and re-examination of that lawyer's witnesses.

There is therefore no justification for obstruction of cross-examination by unreasonable interruptions, repeated objections to proper questions, attempts to have the witness change or tailor evidence, or other similar conduct while the examination is ongoing.

[8] A lawyer should seek approval from the tribunal before speaking with a witness after cross-examination and before re-examination.

Questioning and Other Examinations

[9] Rule 5.4 also applies to questioning, including all examinations under oath or affirmation that are not before a tribunal. Lawyers should scrupulously avoid any attempts to influence witness testimony, particularly as the tribunal is unable to directly monitor compliance. This rule is not intended to prevent discussions or consultations that are necessary to fulfil undertakings given during such examinations.

5.5 Relations with Jurors

Communications before Trial

5.5-1 When acting as an advocate before the trial of a case, a lawyer must not communicate with or cause another to communicate with anyone that the lawyer knows to be a member of the jury panel for that trial.

Commentary

[1] A lawyer may investigate a prospective juror to ascertain any basis for challenge, provided that the lawyer does not directly or indirectly communicate with the prospective juror or with any member of the prospective juror's family. But a lawyer should not conduct or cause another, by financial support or otherwise, to conduct a vexatious or harassing investigation of either a member of the jury panel or a juror.

[2] A lawyer should be aware of the provisions of the *Jury Act* (Alberta), setting out that certain communications by or with jurors and potential jurors may amount to contempt of court.

Disclosure of Information

5.5-2 Unless the judge and opposing counsel have previously been made aware of the information, a lawyer acting as an advocate must disclose to them any information of which the lawyer is aware that a juror or prospective juror:

- **(a) has or may have an interest, direct or indirect, in the outcome of the case;**
- **(b) is acquainted with or connected in any manner with the presiding judge, any counsel or any litigant; or**
- **(c) is acquainted with or connected in any manner with any person who has appeared or who is expected to appear as a witness.**

5.5-3 A lawyer must promptly disclose to the court any information that the lawyer reasonably believes discloses improper conduct by a member of a jury panel or by a juror.

Communication during Trial

5.5-4 Except as permitted by law, a lawyer acting as an advocate must not communicate with or cause another to communicate with any member of the jury during a trial of the case.

5.5-5 A lawyer who is not connected with a case before the court must not communicate with or cause another to communicate with any member of the jury about the case.

5.5-6 A lawyer must not have any discussion after trial with a member of the jury about its deliberations.

Commentary

[1] The restrictions on communications with a juror or potential juror should also apply to communications with or investigations of members of his or her family.

5.6 The Lawyer and the Administration of Justice

Encouraging Respect for the Administration of Justice

5.6-1 A lawyer must encourage public respect for and try to improve the administration of justice.

Commentary

[1] The obligation outlined in the rule is not restricted to the lawyer's professional activities but is a general responsibility resulting from the lawyer's position in the community. A lawyer's responsibilities are greater than those of a private citizen. A lawyer should take care not to weaken or destroy public confidence in legal institutions or authorities by irresponsible allegations. The lawyer in public life should be particularly careful in this regard because the mere fact of being a lawyer will lend weight and credibility to public statements. Yet, for the same reason, a lawyer should not hesitate to speak out against an injustice.

[2] Admission to and continuance in the practice of law implies, on the part of a lawyer, a basic commitment to the concept of equal justice for all within an open, ordered and impartial system. However, judicial institutions will not function effectively unless they command the respect of the public, and, because of changes in human affairs and imperfections in human institutions, constant efforts must be made to improve the administration of justice and thereby maintain public respect for it.

[3] **Criticizing Tribunals –** Proceedings and decisions of courts and tribunals are properly subject to scrutiny and criticism by all members of the public, including lawyers, but judges and members of tribunals are often prohibited by law or custom from defending themselves. Their inability to do so imposes special responsibilities upon lawyers. First, a lawyer should avoid criticism that is petty, intemperate or unsupported by a bona fide belief in its real merit, since, in the eyes of the public, professional knowledge lends weight to the lawyer's judgments or criticism. Second, if a lawyer has been involved in the proceedings, there is the risk that any criticism may be, or may appear to be, partisan rather than objective. Third, when a tribunal is the object of unjust criticism, a lawyer, as a participant in the administration of justice, is uniquely able to, and should, support the tribunal, both because its members cannot defend themselves and because, in doing so, the lawyer contributes to greater public understanding of, and therefore respect for, the legal system.

[4] A lawyer, by training, opportunity and experience, is in a position to observe the workings and discover the strengths and weaknesses of laws, legal institutions and public authorities. A lawyer should, therefore, lead in seeking improvements in the legal system, but any criticisms and proposals should be bona fide and reasoned.

Seeking Legislative or Administrative Changes

5.6-2 A lawyer who seeks legislative or administrative changes must disclose the interest being advanced, whether the lawyer's interest, the client's interest or the public interest.

Commentary

[1] The lawyer may advocate legislative or administrative changes on behalf of a client although not personally agreeing with them, but the lawyer who purports to act in the public interest should espouse only those changes that the lawyer conscientiously believes to be in the public interest.

5.7 Lawyers and Mediators

Role of Mediator

5.7-1 A lawyer who acts as a mediator must, at the outset of the mediation, ensure that the parties to it understand fully that:

(a) the lawyer is not acting as a lawyer for either party but, as mediator, is acting to assist the parties to resolve the matters in issue; and

(b) although communications pertaining to and arising out of the mediation process may be covered by some other common law privilege, they will not be covered by solicitor-client privilege.

Commentary

[1] In acting as a mediator, generally a lawyer should not give legal advice, as opposed to legal information, to the parties during the mediation process. This does not preclude the mediator from giving direction on the consequences if the mediation fails.

[2] Generally, neither the lawyer-mediator nor a partner or associate of the lawyer-mediator should render legal representation or give legal advice to either party to the mediation, bearing in mind the provisions of Rule 3.4 (Conflicts) and its commentaries and the common law authorities.

[3] If the parties have not already done so, a lawyer-mediator generally should suggest that they seek the advice of separate counsel before and during the mediation process, and encourage them to do so.

[4] If, in the mediation process, the lawyer-mediator prepares a draft contract for the consideration of the parties, the lawyer-mediator should expressly advise and encourage them to seek separate independent legal representation concerning the draft contract.

Chapter 6 – Relationship to Students, Employees, and Others

6.1 Supervision

Direct Supervision Required

6.1-1 A lawyer has complete professional responsibility for all business entrusted to him or her and must directly supervise staff and assistants to whom the lawyer delegates particular tasks and functions.

Commentary

[1] A lawyer may permit a non-lawyer to act only under the supervision of a lawyer, so long as the lawyer maintains a direct relationship with the client. The extent of supervision will depend on the type of legal matter, including the degree of standardization and repetitiveness of the matter, and the experience of the non-lawyer generally and with regard to the matter in question. The burden rests on the lawyer to educate a non-lawyer concerning the duties that the lawyer assigns to the non-lawyer and then to supervise the manner in which such duties are carried out. A lawyer should review the non-lawyer's work at sufficiently frequent intervals to enable the lawyer to ensure its proper and timely completion.

[2] A lawyer who practises alone or operates a branch or part time office should ensure that

(a) all matters requiring a lawyer's professional skill and judgment are dealt with by a lawyer qualified to do the work; and

(b) no unauthorized persons give legal advice, whether in the lawyer's name or otherwise.

[3] If a non-lawyer has received specialized training or education and is competent to do independent work under the general supervision of a lawyer, a lawyer may delegate work to the non-lawyer.

Application

6.1-2 In this rule, a non-lawyer does not include a student-at-law.

Delegation

6.1-3 A lawyer must not permit a non-lawyer to:

(a) accept cases on behalf of the lawyer, except that a non-lawyer may receive instructions from established clients if the supervising lawyer approves before any work commences;

(b) give legal advice;

(c) exercise judgment in giving or accepting undertakings or accept trust conditions, except at the direction of and under the supervision of a lawyer responsible for the legal matter, providing that, in any communications, the fact that the person giving or accepting the undertaking or accepting the trust condition is a non-lawyer is disclosed, the capacity of the person is indicated and the lawyer who is responsible for the legal matter is identified;

(d) act finally without reference to the lawyer in matters involving professional legal judgment;

(e) be held out as a lawyer;

(f) appear in court or actively participate in formal legal proceedings on behalf of a client except as set forth above, in a supporting role to the lawyer appearing in such proceedings or authorized by law or the Rules of Court;

(g) be remunerated on a sliding scale related to the earnings of the lawyer, unless the non-lawyer is an employee of the lawyer;

(h) conduct negotiations with third parties, other than routine negotiations if the client consents and the results of the negotiation are approved by the supervising lawyer before action is taken;

(i) take instructions from clients, unless the supervising lawyer has directed the client to the non-lawyer for that purpose and the instructions are relayed to the lawyer as soon as reasonably possible;

(j) sign correspondence containing a legal opinion;

(k) sign correspondence, unless

- **(i) it is of a routine administrative nature,**
- **(ii) the non-lawyer has been specifically directed to sign the correspondence by a supervising lawyer,**
- **(iii) the fact the person is a non-lawyer is disclosed, and**

(iv) the capacity in which the person signs the correspondence is indicated;

(l) forward to a client or third party any documents, other than routine, standard form documents, except with the lawyer's knowledge and direction;

(m) perform any of the duties that only lawyers may perform or do things that lawyers themselves may not do; or

(n) set fees.

Commentary

[1] A lawyer is responsible for any undertaking given or accepted and any trust condition accepted by a non-lawyer acting under his or her supervision.

[2] A lawyer should ensure that the non-lawyer is identified as such when communicating orally or in writing with clients, lawyers or public officials or with the public generally, whether within or outside the offices of the law firm of employment.

[3] In all matters using a system for the electronic submission or registration of documents, whether or not the system contains the electronic signature of the lawyer, a lawyer who approves the electronic registration of documents by a non-lawyer is responsible for the content of any document.

Suspended or Disbarred Lawyers

6.1-4 Without the express approval of the lawyer's governing body, a lawyer must not retain, use the services of, partner or associate with or employ in any capacity having to do with the practice of law any person who, in any jurisdiction, has been disbarred, struck off the rolls, suspended, undertaken not to practise or who has been involved in disciplinary action and been permitted to resign and has not been reinstated or readmitted.

Commentary

[1] Lawyers should also refer to the Alberta Legal Profession Act regarding the employment of suspended or disbarred lawyers.

Electronic Registration of Documents

6.1-5 A lawyer who has personalized encrypted electronic access to any system for the electronic submission or registration of documents must not

(a) permit others, including a non-lawyer employee, to use such access; or

(b) disclose his or her password or access phrase or number to others.

6.1-6 When a non-lawyer employed by a lawyer has personalized encrypted electronic access to any system for the electronic submission or registration of documents or electronic searching of private or confidential information, the lawyer must ensure that the non-lawyer does not

(a) permit others to use such access; or

(b) disclose his or her password or access phrase or number to others.

Commentary

[1] The implementation of systems for the electronic submission or registration of documents imposes special responsibilities on lawyers and others using the system. The integrity and security of the system is achieved, in part, by its maintaining a record of those using the system for any transactions. Statements professing compliance with law without registration of supporting documents may be made only by lawyers in good standing. It is, therefore, important that lawyers maintain and ensure the security and the exclusively personal use of the personalized access code, diskettes, etc., used to access the system and the personalized password, access phrase or number.

[2] When it is permissible for a lawyer to delegate responsibilities to a non-lawyer who has such access, the lawyer should ensure that the non-lawyer maintains and understands the importance of maintaining the security of the system.

6.2 Students

Recruitment and Engagement Procedures

6.2-1 A lawyer must observe any procedures of the Society about the recruitment and engagement of articling or law students.

Duties of Principal

6.2-2 A lawyer acting as a principal to a student must provide the student with meaningful training and exposure to and involvement in work that will provide the student with knowledge and experience of the practical aspects of the law, together with an appreciation of the traditions and ethics of the profession.

Commentary

[1] A principal or supervising lawyer is responsible for the actions of students acting under his or her direction. In Alberta, articling students are subject to the authority of the Society and bound by all of the provisions of the Code and the Rules of the Law Society. Consequently, they are subject to discipline by the Society for breaches and misconduct.

Duties of Articling Student

6.2-3 An articling student must act in good faith in fulfilling and discharging all the commitments and obligations arising from the articling experience.

6.3 Discrimination and Harassment

Discrimination

6.3-1 A lawyer must not directly or indirectly discriminate against a colleague, employee, client or any other person.

Commentary

[1] Lawyers are uniquely placed to advance the administration of justice, requiring lawyers to commit to equal justice for all within an open and impartial system. Lawyers are expected to respect the dignity and worth of all persons and to treat all persons fairly and without discrimination. A lawyer has a special responsibility to respect and uphold the principles and requirements of human rights and workplace health and safety laws in force in Canada, its provinces and territories and, specifically, to honour the obligations enumerated in such laws.

[2] In order to reflect and be responsive to the public they serve, a lawyer must refrain from all forms of discrimination and harassment, which undermine confidence in the legal profession and our legal system. A lawyer should foster a professional environment that is respectful, accessible, and inclusive, and should strive to recognize their own internal biases and take particular care to avoid engaging in practices that would reinforce those biases, when offering services to the public and when organizing their workplace.

[3] Indigenous peoples may experience unique challenges in relation to discrimination and harassment as a result of the history of the colonization of Indigenous peoples in Canada, ongoing repercussions of the colonial legacy, systemic factors, and implicit biases. Lawyers should take particular care to avoid engaging in, allowing, or being willfully blind to actions which constitute discrimination or any form of harassment against Indigenous peoples.

[4] Lawyers should be aware that discrimination includes adverse effect and systemic discrimination, which arise from organizational policies, practices and cultures that create, perpetuate, or unintentionally result in unequal treatment of a person or persons. Lawyers should consider the distinct needs and circumstances of their colleagues, employees, and clients, and should be alert to unconscious biases that may inform these relationships and that serve to perpetuate systemic discrimination and harassment. Lawyers should guard against any express or implicit assumption that another person's views, skills, capabilities, and contributions are necessarily shaped or constrained by their gender, race, Indigeneity, disability or other personal characteristic.

[5] Discrimination is a distinction, intentional or not, based on grounds related to actual or perceived personal characteristics of an individual or group, which has the effect of imposing burdens, obligations or disadvantages on the individual or group that are not imposed on others, or which withhold or limit access to opportunities, benefits and advantages that are available to other members of society. Distinctions based on personal characteristics attributed to an individual solely

on the basis of association with a group will typically constitute discrimination. Intersecting grounds of discrimination require consideration of the unique oppressions that result from the interplay of two or more protected grounds in a given context.

[6] The principles of human rights and workplace health and safety laws and related case law apply to the interpretation of this Rule and to Rules 6.3-2 to 6.3-4. A lawyer has a responsibility to stay apprised of developments in the law pertaining to discrimination and harassment, as what constitutes discrimination, harassment, and protected grounds continue to evolve over time and may vary by jurisdiction.

[7] Examples of behaviour that constitute discrimination include, but are not limited to:

(a) harassment (as described in more detail in the Commentary to Rules 6.3-2 and 6.3-3);

(b) refusing to employ or to continue to employ any person on the basis of any personal characteristic protected by applicable law;

(c) charging higher fees on the basis of any personal characteristic protected by applicable law;

(d) assigning lesser work or paying an employee or staff member less on the basis of any personal characteristic protected by applicable law;

(e) using derogatory racial, gendered, or religious language to describe a person or group of persons;

(f) failing to provide reasonable accommodation to the point of undue hardship;

(g) applying policies regarding leave that are facially neutral (i.e. that apply to all employees equally), but which have the effect of penalizing individuals who take parental leave, in terms of seniority, promotion or partnership;

(h) providing training or mentoring opportunities in a manner which has the effect of excluding any person from such opportunities on the basis of any personal characteristic protected by applicable law;

(i) providing unequal opportunity for advancement by evaluating employees on facially neutral criteria that fail to take into account differential needs and needs requiring accommodation;

(j) comments, jokes or innuendos that cause humiliation, embarrassment or offence, or that by their nature, and in their context, are clearly embarrassing, humiliating or offensive;

(k) instances when any of the above behaviour is directed toward someone because of their association with a group or individual with certain personal characteristics protected by applicable law; or

(l) any other conduct which constitutes discrimination according to any applicable law.

[8] It is not discrimination to establish or provide special programs, services or activities which have the object of ameliorating conditions of disadvantage for individuals or groups who are disadvantaged for reasons related to any characteristic protected by applicable laws.

[9] Lawyers are reminded that the provisions of this Rule do not only apply to conduct related to, or performed in, the lawyer's office or in legal practice.

Harassment

6.3-2 A lawyer must not harass a colleague, employee, client or any other person.

Commentary

[1] Harassment includes an incident or a series of incidents involving physical, verbal or non-verbal conduct (including electronic communications) that might reasonably be expected to cause humiliation, offence or intimidation to the person who is subjected to the conduct. The intent of the lawyer engaging in the conduct is not determinative. It is harassment if the lawyer knew or ought to have known that the conduct would be unwelcome or cause humiliation, offence or intimidation. Harassment may constitute or be linked to discrimination.

[2] Examples of behaviour that constitute harassment include, but are not limited to:

(a) objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome, including comments and displays that demean, belittle, intimidate or cause humiliation or embarrassment;

(b) behaviour that is degrading, threatening or abusive, whether physically, mentally or emotionally;

(c) bullying;

(d) verbal abuse;

(e) abuse of authority where a lawyer uses the power inherent in their position to endanger, undermine, intimidate, or threaten a person, or otherwise interfere with another person's career;

(f) comments, jokes or innuendos that are known or ought reasonably to be known to cause humiliation, embarrassment or offence, or that by their nature, and in their context, are clearly embarrassing, humiliating or offensive; or

(g) assigning work inequitably.

[3] Bullying, including cyberbullying, is a form of harassment. It may involve physical, verbal or non-verbal conduct. It is characterized by conduct that might reasonably be expected to harm or damage the physical or psychological integrity of another person, their reputation or their property. Bullying includes, but is not limited to:

(a) unfair or excessive criticism;

(b) ridicule;

(c) humiliation;

(d) exclusion or isolation;

(e) constantly changing or setting unrealistic work targets; or

(f) threats or intimidation.

[4] Lawyers are reminded that the provisions of this Rule do not only apply to conduct related to, or performed in, the lawyer's office or in legal practice.

Sexual Harassment

6.3-3 A lawyer must not sexually harass a colleague, employee, client or any other person.

Commentary

[1] Sexual harassment is an incident or series of incidents involving unsolicited or unwelcome sexual advances or requests, or other unwelcome physical, verbal, or nonverbal conduct (including electronic communications) of a sexual nature. Sexual harassment can be directed at others based on their gender, gender identity, gender expression, or sexual orientation. The intent of the lawyer engaging in the conduct is not determinative. It is sexual harassment if the lawyer knew or ought to have known that the conduct would be unwelcome. Sexual harassment may occur:

(a) when such conduct might reasonably be expected to cause insecurity, discomfort, offence, or humiliation to the person who is subjected to the conduct;

(b) when submission to such conduct is implicitly or explicitly made a condition for the provision of professional services;

(c) when submission to such conduct is implicitly or explicitly made a condition of employment;

(d) when submission to or rejection of such conduct is used as a basis for any employment decision, including;

i. Loss of opportunity;

ii. The allocation of work;

iii. Promotion or demotion;

iv. Remuneration or loss of remuneration;

v. Job security; or

vi. Benefits affecting the employee;

(e) when such conduct has the purpose or the effect of interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment;

(f) when a position of power is used to import sexual requirements into the workplace and negatively alter the working conditions of employees or colleagues; or

(g) when a sexual solicitation or advance is made by a lawyer who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the lawyer making the solicitation or advance knows or ought reasonably to know that it is unwelcome.

[2] Examples of behaviour that constitute sexual harassment include, but are not limited to:

(a) displaying sexualized or other demeaning or derogatory images;

(b) sexually suggestive or intimidating comments, gestures or threats;

(c) comments, jokes that cause humiliation, embarrassment or offence, or which by their nature, and in their context, are clearly embarrassing, humiliating or offensive;

(d) innuendoes, leering or comments about a person's dress or appearance;

(e) gender-based insults or sexist remarks;

(f) communications with sexual overtones;

(g) inquiries or comments about a person's sex life;

(h) sexual flirtations, advances, propositions, invitations or requests;

(i) unsolicited or unwelcome physical contact or touching;

(j) sexual violence; or

(k) unwanted contact or attention, including after the end of a consensual relationship.

[3] Lawyers should avoid condoning or being willfully blind to conduct in their workplaces that constitutes sexual harassment.

[4] Lawyers are reminded that the provisions of this Rule do not only apply to conduct related to, or performed in, the lawyer's office or in legal practice.

Reprisal

6.3-4 A lawyer must not engage or participate in reprisals against a colleague, employee, client or any other person because that person has:

(a) inquired about their rights or the rights of others;

(b) made or contemplated making a complaint of discrimination, harassment or sexual harassment;

(c) witnessed discrimination, harassment or sexual harassment; or

(d) assisted or contemplated assisting in any investigation or proceeding related to a complaint of discrimination, harassment or sexual harassment.

Commentary

[1] The purpose of this Rule is to enable people to exercise their rights without fear of reprisal. Conduct which is intended to retaliate against a person, or discourage a person from exploring their rights, can constitute reprisal. Examples of such behaviour include, but are not limited to:

(a) refusing to employ or to continue to employ any person;

(b) penalizing any person with respect to that person's employment or changing, in a punitive way, any term, condition or privilege of that person's employment;

(c) intimidating, retaliating against or coercing any person;

(d) Imposing a pecuniary or any other penalty, loss or disadvantage on any person;

(e) changing a person's workload in a disadvantageous manner, or withdrawing opportunities from them; or

(f) threatening to do any of the foregoing.

Chapter 7 – Relationship to the Society and Other Lawyers

7.1 Responsibility to The Society and The Profession Generally

Communications from the Society

7.1-1 A lawyer must reply promptly and completely to any communication from the Society.

Meeting Financial Obligations

7.1-2 A lawyer must promptly meet financial obligations in relation to his or her practice, including payment of the deductible under a professional liability insurance policy, when called upon to do so.

Commentary

[1] In order to maintain the honour of the Bar, lawyers have a professional duty (quite apart from any legal liability) to meet financial obligations incurred, assumed or undertaken on behalf of clients, unless, before incurring such an obligation, the lawyer clearly indicates in writing that the obligation is not to be a personal one.

[2] When a lawyer retains a consultant, expert or other professional, the lawyer should clarify the terms of the retainer in writing, including specifying the fees, the nature of the services to be provided and the person responsible for payment. If the lawyer is not responsible for the payment of the fees, the lawyer should help in making satisfactory arrangements for payment if it is reasonably possible to do so.

[3] If there is a change of lawyer, the lawyer who originally retained a consultant, expert or other professional should advise him or her about the change and provide the name, address, telephone number, fax number and email address of the new lawyer.

Duty to Report

7.1-3 Unless to do so would be unlawful or would involve a breach of solicitor-client privilege, a lawyer must report to the Society:

(a) the misappropriation or misapplication of trust money;

(b) the abandonment of a law practice;

(c) participation in criminal activity related to a lawyer's practice;

(d) conduct that raises a substantial question as to another lawyer's honesty, trustworthiness, or competency as a lawyer;

(e) conduct that raises a substantial question about a lawyer's capacity to provide professional services; and

(f) any situation in which a lawyer's clients are likely to be materially prejudiced.

Commentary

[1] Unless a lawyer who departs from proper professional conduct is checked at an early stage, loss or damage to clients or others may ensue. Evidence of minor breaches may, on investigation, disclose a more serious situation or may indicate the commencement of a course of conduct that may lead to serious breaches in the future. It is, therefore, proper (unless it is privileged or otherwise unlawful) for a lawyer to report to the Society any instance involving a breach of these rules. If a lawyer is in any doubt whether a report should be made, the lawyer should consider seeking the advice of the Society directly or indirectly (for example, through another lawyer). In all cases, the report must be made without malice or ulterior motive.

[2] Nothing in this rule is meant to interfere with the lawyer-client relationship.

[3] Instances of conduct described in this rule can arise from a variety of causes, including addictions or physical, mental or emotional conditions or disorders. Lawyers who face such challenges should be encouraged by other lawyers to seek assistance as early as possible.

[4] The Society supports the ASSIST Program in Alberta and similar agencies in their commitment to the provision of counselling on a confidential basis. Therefore, a lawyer who is making a bona fide effort to have another lawyer seek help for such problems is not required to report to the Society non-criminal conduct of that lawyer that would otherwise have to be reported under the rule. However, the lawyer must advise the Society if there are reasonable grounds to believe that the other lawyer is encouraging or will engage in conduct that is criminal or is likely to harm any person or of any other conduct under the rule if the lawyer refuses or fails to seek help.

Encouraging Client to Report Misconduct

7.1-4 A lawyer must encourage a client who has a claim or complaint of serious misconduct against a lawyer to report the facts to the Society as soon as reasonably practicable.

Commentary

[1] In determining whether the matter involves “serious misconduct”, refer to Rule 7.1-3 and the related commentary.

7.2 Responsibility to Lawyers and Others

Courtesy and Good Faith

7.2-1 A lawyer must be courteous and civil and act in good faith with all persons with whom the lawyer has dealings in the course of his or her practice.

Commentary

[1] The public interest demands that matters entrusted to a lawyer be dealt with effectively and expeditiously, and fair and courteous dealing on the part of each lawyer engaged in a matter will contribute materially to this end. The lawyer who behaves otherwise does a disservice to the client, and neglect of the rule will impair the ability of lawyers to perform their functions properly.

[2] Any ill feeling that may exist or be engendered between clients, particularly during litigation, should never be allowed to influence lawyers in their conduct and demeanour toward each other or the parties. The presence of personal animosity between lawyers involved in a matter may cause their judgment to be clouded by emotional factors and hinder the proper resolution of the matter. Personal remarks or personally abusive tactics interfere with the orderly administration of justice and have no place in our legal system.

[3] A lawyer should avoid ill-considered or uninformed criticism of the competence, conduct, advice or charges of other lawyers, but should be prepared, when requested, to advise and represent a client in a complaint involving another lawyer.

[4] A lawyer should agree to reasonable requests concerning trial dates, adjournments, the waiver of procedural formalities and similar matters that do not prejudice the rights of the client.

7.2-2 A lawyer must not lie to or mislead another lawyer.

Commentary

[1] This rule expresses an obvious aspect of integrity and a fundamental principle. In no situation, including negotiation, is a lawyer entitled to deliberately mislead a colleague. When a lawyer (in response to a question, for example) is prevented by rules of confidentiality from actively disclosing the truth, a falsehood is not justified. The lawyer has other alternatives, such as declining to answer. If this approach would in itself be misleading, the lawyer must seek the client's consent to such disclosure of confidential information as is necessary to prevent the other lawyer from being misled. The concept of "misleading" includes creating a misconception through oral or written statements, other communications, actions or conduct, failure to act, or silence (See Rule 7.2-5, Correcting Misinformation).

7.2-3 A lawyer must avoid sharp practice and must not take advantage of or act without fair warning upon slips, irregularities or mistakes on the part of other lawyers not going to the merits or involving the sacrifice of a client's rights.

Commentary

[1] This rule is directed at sharp practice. It becomes operative when two elements are present: an obvious mistake by opposing counsel, and a benefit flowing from that mistake to which the lawyer's client is clearly not entitled.

[2] A clerical or arithmetical error is an example of an obvious mistake. However, an act or omission by another lawyer that appears questionable but that may have involved a conscious exercise of judgment is not a mistake of the kind contemplated by this rule. For example, an opponent's acceptance of an apparently unfavourable contract or settlement offer, or the failure of a Crown prosecutor to raise the criminal record of an accused, may have been the result of careful consideration, including factors of which the lawyer is not aware.

[3] A client has no legal entitlement to a benefit created solely through error. Consequently, it is improper for a lawyer to knowingly proceed on the basis of an incorrect statement of adjustments or a transfer that misdescribes the property intended to be bought and sold. The benefit that would be obtained by the client is unwarranted and without independent legal support.

[4] On the other hand, a defendant in a lawsuit has a legal right to insist that proceedings be brought within a certain period of time. Accordingly, while the missing of a limitation date by plaintiff's counsel may be an obvious mistake, the defendant's lawyer does not violate this rule by allowing the limitation period to expire.

7.2-4 A lawyer must not use any device to record a conversation between the lawyer and a client or another lawyer, even if lawful, without first informing the other person of the intention to do so.

Correcting Misinformation

7.2-5 If a lawyer becomes aware during the course of a representation that:

- **(a) the lawyer has inadvertently misled an opposing party, or**
- **(b) the client, or someone allied with the client or the client's matter, has misled an opposing party, intentionally or otherwise, or**
- **(c) the lawyer or the client, or someone allied with the client or the client's matter, has made a material representation to an opposing party that was accurate when made but has since become inaccurate,**

then, subject to confidentiality, the lawyer must immediately correct the resulting misapprehension on the part of the opposing party.

Commentary

"Subject to confidentiality" (see Rule 3.3, Confidentiality)

[1] Briefly, if correction of the misrepresentation requires disclosure of confidential information, the lawyer must seek the client's consent to such disclosure. If the client withholds consent, the lawyer is obliged to withdraw. The terminology used in this rule is to be broadly interpreted. A lawyer may have provided technically accurate information that is rendered misleading by the withholding of other information; in such a case, there is an obligation to correct the situation. In paragraph (c), the concept of an inaccurate representation is not limited to a misrepresentation that would be actionable at law.

[2] See Rule 5.1-5, in respect of correcting misinformation in advocacy settings.

Communications

7.2-6 A lawyer must not, in the course of a professional practice, send correspondence or otherwise communicate to a client, another lawyer or any other person in a manner that is abusive, offensive, or otherwise inconsistent with the proper tone of a professional communication from a lawyer.

7.2-7 A lawyer must answer with reasonable promptness all professional letters and communications from other lawyers that require an answer, and a lawyer must be punctual in fulfilling all commitments.

7.2-8 Subject to Rules 7.2-9 and 7.2-10, if a person is represented by a lawyer in respect of a matter, another lawyer must not, except through or with the consent of the person's lawyer:

(a) approach, communicate or deal with the person on the matter; or

(b) attempt to negotiate or compromise the matter directly with the person.

7.2-9 Where a person is represented by a lawyer under a limited scope retainer on a matter, another lawyer may, without the consent of the lawyer providing the limited scope legal services, approach, communicate or deal with the person directly on the matter unless the lawyer has been given written notice of the nature of the legal services being provided under the limited scope retainer and the approach, communication or dealing falls within the scope of that retainer.

7.2-10 A lawyer who is not otherwise interested in a matter may give a second opinion to a person who is represented by another lawyer with respect to that matter.

Commentary

[1] Rule 7.2-8 applies to communications with any person, whether or not a party to a formal adjudicative proceeding, contract or negotiation, who is represented by a lawyer concerning the matter to which the communication relates. A lawyer may communicate with a represented person concerning matters outside the representation. Lawyers should be careful about email communications. For example, if a lawyer copies the client with an email sent to the opposing lawyer, then a response using "Reply to All" may result in an unintended communication by the opposing lawyer with the client. This rule does not prevent parties to a matter from communicating directly with each other.

[2] The prohibition on communications with a represented person applies only where the lawyer knows that the person is represented in the matter to be discussed. This means that the lawyer has actual knowledge of the fact of the representation, but actual knowledge may be inferred from the circumstances. This inference may arise when there is substantial reason to believe that the person with whom communication is sought is represented in the matter to be discussed. Thus, a lawyer cannot evade the requirement of obtaining the consent of the other lawyer by ignoring the obvious.

[3] Where notice as described in Rule 7.2-9 has been provided to a lawyer for an opposing party, the opposing lawyer is required to communicate with the person's lawyer, but only to the extent of the limited representation as identified by the lawyer. The opposing lawyer may communicate with the person on matters outside of the limited scope retainer.

[4] Rule 7.2-10 deals with circumstances in which a client may wish to obtain a second opinion from another lawyer. While a lawyer should not hesitate to provide a second opinion, the obligation to be competent and to render competent services requires that the opinion be based on sufficient information. In the case of a second opinion, such information may include facts that can be obtained only through consultation with the first lawyer involved. The lawyer should advise the client accordingly and, if necessary, consult the first lawyer unless the client instructs otherwise.

[5] In appropriate circumstances, a lawyer must assist the client in obtaining a second opinion if requested by a client. The lawyer providing the initial advice should respond in a cooperative and positive manner. For example, sufficient information must be provided to the other lawyer upon request to render the second opinion an informed one. A lawyer is not obliged to assist in obtaining a second opinion when the client is attempting to coerce the formulation of a favourable opinion or is acting unreasonably in another respect. However, the obligation to be cooperative and to review objectively and in good faith any second opinion obtained is unaffected.

7.2-11 A lawyer retained to act on a matter involving a corporate or other organization represented by a lawyer must not approach an officer or employee of the organization:

(a) who has the authority to bind the organization;

(b) who supervises, directs or regularly consults with the organization's lawyer; or

(c) whose own interests are directly at stake in the representation,

in respect of that matter, unless the lawyer representing the organization consents or the contact is otherwise authorized or required by law.

Commentary

[1] This rule applies to corporations and other organizations. "Other organizations" include partnerships, limited partnerships, associations, unions, unincorporated groups, government departments and agencies, tribunals, regulatory bodies and sole proprietorships. This rule prohibits a lawyer representing another person or entity from communicating about the matter in question with persons likely involved in the decision-making process for a corporation or other organization. If an agent or employee of the organization is represented in the matter by a lawyer, the consent of that lawyer to the communication will be sufficient for purposes of this rule. A lawyer may communicate with employees or agents concerning matters outside the representation.

[2] A lawyer representing a corporation or other organization may also be retained to represent employees of the corporation or organization. In such circumstances, the lawyer must comply with the requirements of Rule 3.4 (Conflicts). A lawyer must not represent that he or she acts for an employee of a client, unless the requirements of Rule 3.4 have been complied with, and must not be retained by an employee solely for the purpose of sheltering factual information from another party.

7.2-12 When a lawyer deals on a client's behalf with an unrepresented person, the lawyer must:

(a) advise the unrepresented person to obtain independent legal representation;

(b) take care to see that the unrepresented person is not proceeding under the impression that his or her interests will be protected by the lawyer; and

(c) make it clear to the unrepresented person that the lawyer is acting exclusively in the interests of the client.

Commentary

[1] If an unrepresented person requests the lawyer to advise or act in the matter, the lawyer should be governed by the considerations outlined in this rule about joint retainers.

[2] When dealing in a professional capacity with a non-lawyer representing another person, or with a person not represented by counsel, a lawyer has the same general duties of honesty, courtesy and good faith that are owed to professional colleagues.

[3] The reference in this rule to unrepresented party is not intended to include professional advisors or persons having special qualifications who are retained for the purposes of negotiation, such as insurance adjusters and bank managers.

[4] The lengths to which a lawyer must go in ensuring a party's understanding of these matters will depend on all relevant factors, including the party's sophistication and relationship to the lawyer's client and the nature of the matter.

Inadvertent Communications

7.2-13 A lawyer who comes into possession of a privileged communication of an opposing party must not make use of it and must immediately advise the opposing lawyer or opposing party.

Commentary

[1] Lawyers may receive privileged communications from opposing counsel or parties through inadvertence. On occasion, lawyers receive privileged communications of opposing parties as the result of the impropriety of their own clients or from third party informants.

[2] Immediately upon realizing that the communication is a privileged communication of another party, the lawyer shall not continue to read the communication and must bring it to the attention of opposing counsel, then return or destroy it, without copies having been made. Knowledge that a communication is not intended for the lawyer receiving it will be imputed if, under the circumstances, it would have been unreasonable for the lawyer to come to any other conclusion.

[3] A lawyer who innocently reads all or a portion of a privileged communication before becoming aware of its nature must advise opposing counsel of the lawyer’s possession of the communication and the extent to which the communication has been reviewed.

[4] In the event there is a genuine dispute over the nature of the communication, it shall be permissible for the receiving lawyer to secure the communication, pending resolution of the dispute. The issue of whether or to what extent the communication may be copied or its contents disclosed or used must be resolved by agreement or by the court. In the meantime, it is improper to use the communication or disclose its contents in any manner.

[5] This rule does not otherwise address the legal duties of a lawyer who has inadvertently or inappropriately received privileged communications or the remedies available to the party who seeks to assert privilege over the communication.

Undertakings and Trust Conditions

7.2-14 A lawyer must not give an undertaking that cannot be fulfilled and must fulfil every undertaking given and honour every trust condition once accepted.

Commentary

[1] Undertakings should be written or confirmed in writing and should be absolutely unambiguous in their terms. If a lawyer giving an undertaking does not intend to accept personal responsibility, this should be stated clearly in the undertaking itself. In the absence of such a statement, the person to whom the undertaking is given is entitled to expect that the lawyer giving it will honour it personally. The use of such words as “on behalf of my client” or “on behalf of the vendor” does not relieve the lawyer giving the undertaking of personal responsibility.

[2] Trust conditions should be clear, unambiguous and explicit and should state the time within which the conditions must be met. Trust conditions should be imposed in writing and communicated to the other party at the time the property is delivered. Use of the trust property constitutes acceptance and an obligation on the accepting lawyer that the lawyer must honour personally. The lawyer who delivers property without any trust condition cannot retroactively impose trust conditions on the use of that property by the other party.

[3] The lawyer should not impose or accept trust conditions that are unreasonable, nor accept trust conditions that cannot be fulfilled personally. When a lawyer accepts property subject to trust conditions, the lawyer must fully comply with such conditions, even if the conditions subsequently appear unreasonable. It is improper for a lawyer to ignore or breach a trust condition he or she has accepted on the basis that the condition is not in accordance with the contractual obligations of the clients. It is also improper to unilaterally impose cross conditions respecting one’s compliance with the original trust conditions.

[4] If a lawyer is unable or unwilling to honour a trust condition imposed by someone else, the subject of the trust condition should be immediately returned to the person imposing the trust condition, unless its terms can be forthwith amended in writing on a mutually agreeable basis.

[5] Trust conditions can be varied with the consent of the person imposing them. Any variation should be confirmed in writing. Clients or others are not entitled to require a variation of trust conditions without the consent of the lawyer who has imposed the conditions and the lawyer who has accepted them.

[6] Any trust condition that is accepted is binding upon a lawyer, whether imposed by another lawyer or by a lay person. A lawyer may seek to impose trust conditions upon a non-lawyer, whether an individual or a corporation or other organization, but great caution should be exercised in so doing

since such conditions would be enforceable only through the courts as a matter of contract law and not by reason of the ethical obligations that exist between lawyers.

[7] A lawyer should treat money or property that, on a reasonable construction, is subject to trust conditions or an undertaking in accordance with these rules.

7.3 Outside Interests and The Practice Of Law

Maintaining Professional Integrity and Judgment

7.3-1 A lawyer who engages in another profession, business or occupation concurrently with the practice of law must not allow such outside interest to jeopardize the lawyer's professional integrity, independence or competence.

Commentary

[1] A lawyer must not carry on, manage or be involved in any outside interest in such a way that makes it difficult to distinguish in which capacity the lawyer is acting in a particular transaction, or that would give rise to a conflict of interest or duty to a client.

[2] When acting or dealing in respect of a transaction involving an outside interest, the lawyer should be mindful of potential conflicts and the applicable standards referred to in the conflicts rule and disclose any personal interest.

[3] Whether the activity in question is entirely unrelated to the practice of law or overlaps with the practice to some extent, the profession through the Society must maintain an interest in its nature and the manner in which it is conducted. While the Society's primary concern is with conduct that calls into question a lawyer's suitability to practise law or that reflects poorly on the profession, lawyers should aspire to the highest standards of behaviour at all times and not just when acting as lawyers. Membership in a professional body is often considered evidence of good character in itself. Consequently, society's expectations of lawyers will be high, and the behaviour of an individual lawyer may affect generally held opinions of the profession and the legal system.

7.3-2 A lawyer must not allow involvement in an outside interest to impair the exercise of the lawyer's independent judgment on behalf of a client.

Commentary

[1] The term "outside interest" covers the widest possible range of activities and includes activities that may overlap or be connected with the practice of law such as engaging in the mortgage business, acting as a director of a client corporation or writing on legal subjects, as well as activities not so connected, such as a career in business, politics, broadcasting or the performing arts. In each case, the question of whether and to what extent the lawyer may be permitted to engage in the outside interest will be subject to any applicable law or rule of the Society.

[2] When the outside interest is not related to the legal services being performed for clients, ethical considerations will usually not arise unless the lawyer's conduct might bring the lawyer or the

profession into disrepute or impair the lawyer's competence, such as if the outside interest might occupy so much time that clients' interests would suffer because of inattention or lack of preparation.

7.4 The Lawyer in Public Office

Standard of Conduct

7.4-1 A lawyer who holds public office must, in the discharge of official duties, adhere to standards of conduct as high as those required of a lawyer engaged in the practice of law.

Commentary

[1] The rule applies to a lawyer who is elected or appointed to a legislative or administrative office at any level of government, regardless of whether the lawyer attained the office because of professional qualifications. Because such a lawyer is in the public eye, the legal profession can more readily be brought into disrepute by a failure to observe its ethical standards.

[2] Generally, the Society is not concerned with the way in which a lawyer holding public office carries out official responsibilities, but conduct in office that reflects adversely upon the lawyer's integrity or professional competence may be the subject of disciplinary action.

[3] Lawyers holding public office are also subject to the provisions of Rule 3.4 (Conflicts) when they apply.

7.5 Public Appearances and Public Statements

Communication with the Public

7.5-1 Provided that there is no infringement of the lawyer's obligations to the client, the profession, the courts, or the administration of justice, a lawyer may communicate information to the media and may make public appearances and statements.

Commentary

[1] Lawyers in their public appearances and public statements should conduct themselves in the same manner as they do with their clients, their fellow practitioners, the courts, and tribunals. Dealings with news media are simply an extension of the lawyer's conduct in a professional capacity. The mere fact that a lawyer's appearance is outside of a courtroom, a tribunal or the lawyer's office does not excuse conduct that would otherwise be considered improper.

[2] A lawyer's duty to the client demands that, before making a public statement concerning the client's affairs, the lawyer must first be satisfied that any communication is in the best interests of the client and authorized within the scope of the retainer.

[3] Public communications about a client's affairs should not be used for the purpose of publicizing the lawyer and should be free from any suggestion that a lawyer's real purpose is self-promotion or self-aggrandizement.

[4] Given the variety of cases that can arise in the legal system, particularly in civil, criminal and administrative proceedings, it is impossible to set down guidelines that would anticipate every possible circumstance. Circumstances arise in which the lawyer should have no contact with news media, but there are other cases in which the lawyer should contact the news media to properly serve the client.

[5] Lawyers are often involved in non-legal activities involving contact with the media to publicize such matters as fund-raising, expansion of hospitals or universities and programs of public institutions or political organizations. They sometimes act as spokespersons for organizations that, in turn, represent particular racial, religious or other special interest groups. This is a well-established and completely proper role for lawyers to play in view of the obvious contribution that it makes to the community.

[6] Lawyers are often called upon to comment publicly on the effectiveness of existing statutory or legal remedies or the effect of particular legislation or decided cases, or to offer an opinion about cases that have been instituted or are about to be instituted. This, too, is an important role the lawyer can play to assist the public in understanding legal issues.

[7] Lawyers should be aware that, when they make a public appearance or give a statement, they ordinarily have no control over any editing that may follow or the context in which the appearance or statement may be used or under what headline it may appear.

Interference with Right to Fair Trial or Hearing

7.5-2 A lawyer must not communicate information to the media or make public statements about a matter before a tribunal if the lawyer knows or ought to know that the information or statement will have a substantial likelihood of materially prejudicing a party's right to a fair trial or hearing.

Commentary

[1] A lawyer having any contact with the media is subject to the sub judice rule and should be aware of it. The rule is designed to ensure the fairness of the trial process to the parties involved. It may amount to contempt of court to publish a statement before or during a trial which may tend to prejudice a fair trial.

[2] Fair trials and hearings are fundamental to a free and democratic society. It is important that the public, including the media, be informed about cases before courts and tribunals. The administration of justice benefits from public scrutiny. It is also important that a person's, particularly an accused person's, right to a fair trial or hearing not be impaired by inappropriate public statements made before the case has concluded.

7.6 Preventing Unauthorized Practice

Preventing Unauthorized Practice

7.6-1 A lawyer must assist in preventing the unauthorized practice of law.

Commentary

[1] Statutory provisions against the practice of law by unauthorized persons are for the protection of the public. Unauthorized persons may have technical or personal ability, but they are immune from control, from regulation and, in the case of misconduct, from discipline by the Society. Moreover, the client of a lawyer who is authorized to practise has the protection and benefit of the lawyer-client privilege, the lawyer's duty of confidentiality, the professional standard of care that the law requires of lawyers, and the authority that the courts exercise over them. Other safeguards include mandatory professional liability insurance, the assessment of lawyers' bills, regulation of the handling of trust money and the maintenance of compensation funds.

[2] See, generally, the *Legal Profession Act of Alberta*, sections 102 – 111.

7.7 Errors and Omissions

Informing Client of Errors or Omission

7.7-1 When, in connection with a matter for which a lawyer is responsible, a lawyer discovers a material error or omission that is or may be damaging to the client regardless of whether it is capable of rectification, the lawyer must:

(a) promptly inform the client of the error or omission;

(b) recommend that the client obtain independent legal advice concerning the matter, including any rights the client may have arising from the error or omission; and

(c) advise the client of the possibility that, in the circumstances, the lawyer may no longer be able to act for the client.

Commentary

[1] A lawyer has an ethical and fiduciary duty to disclose a material error or omission to a client. The duty to inform clients of material errors or omissions is separate and distinct from the duty to report all claims and potential claims to the insurer. For example, while a lawyer is contractually required to report to the insurer any circumstance that could reasonably be expected to give rise to a claim, however unmeritorious, the ethical duty to inform a client of an error arises when the error is material and likely to affect the client's interests.

[2] When a lawyer becomes aware of an error or omission that may affect a client's interests, the lawyer must be candid and inform the client of the relevant facts which gave rise to the error or omission. This duty arises whether or not the error is capable of rectification. The lawyer should not make any statements about the lawyer's own negligence or admit liability, as an admission of liability may cause the insurer to deny insurance coverage.

[3] A lawyer should recommend that a client seek independent advice regarding the nature of the error, whether the error is capable of rectification and whether the client may have any remedies against the lawyer.

[4] If the mistake has created a problem for the client, the lawyer must advise the client to consider retaining other counsel. There may be circumstances when, at the client's request and in consultation with the insurer, it is appropriate for the lawyer to continue acting. The lawyer should recommend that the client seek independent advice before the lawyer continues to represent the client.

Notice of Claim

7.7-2 A lawyer must give prompt notice to an insurer or other indemnitor of any circumstance that may give rise to a claim so that the client's protection from that source will not be prejudiced.

Commentary

[1] In Alberta, under the lawyer's compulsory professional liability insurance policy, a lawyer is contractually required to give written notice to the insurer as soon as practicable after the lawyer becomes aware of any actual or alleged error, or of any circumstances that could reasonably be expected to give rise to a claim. The duty to report arises even if the claim does not appear to have merit.

[2] The duty to notify the insurer of a potential claim is also an ethical duty which is imposed on the lawyer to protect clients, as the failure to report a claim may prejudice coverage. In addition, a lawyer should not attempt to take corrective action without notifying or consulting the insurer, and should not admit negligence or liability for damages. The insurer may deny coverage if the lawyer takes steps which prejudice the insurer's ability to successfully engage repair counsel or to otherwise defend the lawyer.

Code of Conduct Amendments

October 10, 2023 **(/resource-centre/latest/)**

Back to Latest

The Benchers approved amendments to the Law Society of Alberta's Code of Conduct Rule 6.3, which addresses discrimination and harassment issues, and created new Rules 5.1-2A and 5.1-2B addressing *ex parte* communications and appearances.

The approved amendments and new Rules are the result of several years of extensive consultation across the country by the Federation of Law Societies of Canada (FLSC), the law societies and the legal profession. The amendments to the FLSC **Model Code of Professional Conduct (https://flsc.ca/what-we-do/model-code-of-professional-conduct/)** (Model Code) were approved by FLSC Council and adopted in October 2022.

The FLSC developed the Model Code to synchronize, as much as possible, ethical and professional conduct standards for the legal profession across Canada. First implemented by FLSC Council in 2009, the Model Code has been adopted as the basis for ethical rules in 11 of 14 provincial and territorial law societies, including the Law Society of Alberta.

As an FLSC member, the Law Society of Alberta strives to ensure that the Code of Conduct largely follows the Model Code. However, the Benchers will make amendments to the Model Code and Rules as deemed appropriate for the legal profession in Alberta.

Rule 6.3: Discrimination and Harassment

The amendments to Rule 6.3 reflect current discrimination and harassment law. The commentary provides guidance on these obligations but is not intended to be an exhaustive list.

New Rules 5.1-2A and 5.1-2B: *Ex Parte* Communications and Appearances

The new Rules now address the issue of counsel communicating with courts and tribunals in the opposing party's absence and without their knowledge.

In Rule 5.1-2A, lawyers must act in good faith and inform the tribunal of all material facts, including adverse facts, known to the lawyer that will enable the tribunal to make an informed decision. Rule 5.1-2B makes clear that, except where authorized by law, and subject to Rule 5.1-2A, a lawyer must not communicate with a tribunal in the absence of the opposing party or their lawyer (when they are represented) concerning any matter of substance, unless the opposing party or their lawyer has been made aware of the content of the communication or has appropriate notice of the communication.

View the **Code of Conduct (https://documents.lawsociety.ab.ca/wp-content/uploads/2017/01/14211909/Code.pdf)** and **Code Amendment History (https://documents.lawsociety.ab.ca/wp-content/uploads/2017/01/14212637/Code_Amendment_History.pdf)** for full details.

This is Exhibit " H " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

"My Experience" Project

Consultation has concluded

During the Fall of 2020, the Law Society's "My Experience" Project invited lawyers and students to share their stories where racial discrimination or stereotyping impacted their legal career.

The experiences shared by participants are concerning and paint a disappointing picture of how discrimination and harassment continue to impact Alberta lawyers and students. Participants who consented to let us share their experiences had their experiences released through weekly eBulletins from April through June 2021. Further experiences that are submitted after the end of June will be included in materials for the Equity, Diversity and Inclusion Committee and posted to this site.

When reading these experiences, you may experience different emotions or reactions. We encourage you to use the self-reflection questions to better understand your own feelings and instances where you have faced, witnessed or even contributed to similar experiences. We know that reviewing these stories can be uncomfortable or stressful; if you need to talk to someone or need support, we encourage you to reach out to the Alberta Lawyers' Assistance Society (Assist).

You can contemplate the self-reflection questions on your own or submit them below. By anonymously submitting your self-reflections to the Law Society, you are providing helpful information to further guide our work.

If you have a similar experience to share, we are also re-opening the "My Experience" Project for further submissions. We hope the experiences already courageously shared, empower others to come forward and allow us to continue learning. Share your experience here.

Self Reflection Questions

So far, the “My Experience” Project has relied on the participants bravely and generously sharing their experiences of discrimination or harassment in the legal profession. We want to make a shift and share the responsibility amongst the legal profession, the Law Society and others in the legal community to address these experiences and the issues they have brought to light. The self-reflection questions provide a basis for acknowledging the shared responsibility we all have going forward.

Questions adapted from http://www.jphighered.com/the-journey/

CLOSED: This survey has concluded.

Shared Experiences

- Submission 1 (279 KB) (pdf)
- Submission 2 (81.4 KB) (pdf)
- Submission 3 (75.6 KB) (pdf)
- Submission 4 (81.1 KB) (pdf)
- Submission 6 (75.4 KB) (pdf)
- Submission 8 (82.3 KB) (pdf)
- Submission 9 (78.1 KB) (pdf)
- Submission 11 (79.2 KB) (pdf)
- Submission 13 (93.7 KB) (pdf)
- Submission 14 (78.8 KB) (pdf)
- Submission 16 (130 KB) (pdf)

Submission 17 (81.9 KB) (pdf)

Submission 18 (76.9 KB) (pdf)

Submission 19 (84.9 KB) (pdf)

Submission 20 (90.6 KB) (pdf)

Submission 23 (271 KB) (pdf)

Submission 24 (115 KB) (pdf)

Submission 25 (81.7 KB) (pdf)

Submission 26 (97.9 KB) (pdf)

Submission 27 (82.5 KB) (pdf)

Submission 28 (59.8 KB) (pdf)

Submission 29 (86.2 KB) (pdf)

Submission 30 (86.9 KB) (pdf)

Submission 33 (84.8 KB) (pdf)

Submission 35 (58.9 KB) (pdf)

Submission 36 (260 KB) (pdf)

Submission 37 (80.7 KB) (pdf)

Submission 38 (76.3 KB) (pdf)

Submission 39 (93.2 KB) (pdf)

Submission 40 (107 KB) (pdf)

Supporting Documents

My Experience Project Submissions at a Glance.pdf (72.6 KB) (pdf)

How to Submit Your Experiences

Participants can share their experiences in either written, audio or video form and submit them to the Law Society here. Video or audio submissions can be shot using a webcam, cell phone, iPad, or any other recording device. Please ensure that the audio is clear. It is preferred that the videos be shot using a horizontal orientation.

In order to be considered for inclusion in this project, submissions must not include identifying information of any other individuals or organizations without their consent, including names, place of employment or any other identifying feature, or profanity.

Lifecycle

My Experience Project Open
This project was open for submissions Sept 30 - Oct 30, 2020.

My Experience Project Submission Review
Submissions to the My Experience project closed on October 30, 2020. The submissions are now under review.

My Experience Project Sharing
We are sharing the submissions that we have received, posing self-reflection questions and extending the opportunity to contribute new experiences.

Who's Listening

Equity, Diversity and Inclusion Bencher and Advisory Committees
Law Society of Alberta

Benchers
Law Society of Alberta

Similar Projects

- But I Was Wearing a Suit Mini Documentary
- In Their Shoes, CBA National Magazine

Resource Bank

- Reconciliation and Ethical Lawyering: Some Thoughts on Cultural Competence, Pooja Parmar
- Implicit Bias in the Courtroom, Jerry Kang, Et al.
- Inclusive Workplace Toolkit, CBA Alberta - Equality, Diversity & Inclusion Committee
- Us Too? Bullying and Sexual Harassment in the Legal Profession, International Bar Association
- The Skin We're In - CBC Gem

More..

This is Exhibit " I " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Submission #30

I was inspired to submit my story by the courage of others who have shared their stories. I am sharing my story so others feel less alone.

I do not believe that the Law Society of Alberta will help a single one of us. I believe very much that the people who treat us badly are the same people who end up in positions of power and they are not going to change. I think this project is nonsense. I hope however that my story helps someone feel less alone.

This is a list of things I as a dark skinned woman have been told in my ten years of practice:

1) I was called an assistant repeatedly on record by a senior Crown Prosecutor and a senior Provincial Court Judge during a prelim. The Crown apologized to me eight years later when I mentioned it.
2) I was told I was a “miserable bitch” once for reading a book and not smiling while I was waiting for a courtroom to open by another senior Crown Prosecutor. I had started basically bringing a book and reading before court so that particular lawyer would stop harassing and picking fights with me. I guess you can say it wasn’t successful.
3) I have only recently (this last two months) started to be called by order of call. I was always called at the end of the docket even though white lawyers were called in order of seniority. I asked if I could just come at 1 PM every day and was told that was not acceptable and I would have to wait my turn (apparently after all the white lawyers were done). I had a day when I was needed in three courtrooms at different times and the white clerk (all the clerks are white) would not call my matters. I finally interrupted and asked the judge, I have one adjournment and I am the most senior lawyer and I am now late for two courtrooms, why are junior lawyers being allowed to go ahead of me and do dispositions? And she told me I would have to talk to the clerks. This has now changed and I am now called in order of call and the judges insist on it when the clerks do otherwise. Everyone acts like I am being given a huge honor even though this is how the white lawyers are treated.
4) I was told on record by a judge that he didn’t think it was a good thing that I came back when I did from maternity leave. No one stood up for me. To be clear no other lawyer has EVER stood up for me.
5) A White QB Justice (I’ve never seen a POC as a Justice) implied I got pregnant on purpose so I wouldn’t have to run a jury trial.
6) A white lawyer gossiped about me behind my back the first time she saw me in court about a small problem with my appearance. She did not once tell me her concern, she just gossiped to other white lawyers about it. She continued to gossip about me for literal years and is still angry and hostile towards me for confronting her about it.
7) I notice how white lawyers who have had babies or are pregnant are treated and I was never treated better. I find in general I was treated worse when I was pregnant and when I had my child.
8) I find when white lawyers ask me to mention something about racism/sexism it is a trap. I was once asked why I did not like an event and after repeated questions I finally said that another lawyer had approached, come to my table and immediately said that he should be able to “punch women when they look at him funny.” I said that lawyer should not be invited to events as he made other women uncomfortable. It became a huge incident and I was blamed.

9) A white woman lawyer who is a Partner at a major firm tried to tell me that she understood about my struggle as a racialized person and I asked her why her firm only employed white lawyers. She is still very angry about it. Her firm is still all white.
10) I am repeatedly accused of having gone to Bond or one of the English law schools. I went to a Canadian law school and I wasn't accepted in a diversity category. I deserved to get in. I find it's the White lawyers who are most likely to have gotten into law schools with substandard LSATs and Grades but that they accuse any POC they see of this kind of behaviour.

This is Exhibit " J " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

“My Experience” Project Submissions Shared

March 30, 2021 **(/resource-centre/latest/)**

Back to Latest

During the Fall of 2020, the Law Society’s “My Experience” Project invited lawyers and students to share their stories where racial discrimination or stereotyping impacted their legal career.

The experiences shared by participants are concerning and paint a disappointing picture of how discrimination and harassment continue to impact Alberta lawyers and students. We are appreciative of the time and effort that participants took in providing their submissions, as this provides us with real-life examples of discrimination

and harassment that has, and is taking place, in Alberta.

Participants have consented to let us share their experiences and we will be gradually releasing the experiences through weekly eBulletins. All the experiences are also posted to the **Law Society Listens (https://www.lawsocietylistens.ca/my-experience-project)** website.

We want each experience to be shared in the way the participants intended and we want to keep the conversation going. The Privacy Officer at the Law Society redacted the experiences for privacy considerations of the participants and the possible identification of third parties. The redactions do not alter the experiences and were approved by the participants prior to posting.

A qualitative analysis of the experiences shared was conducted by an independent researcher. This analysis suggests that discriminatory culture, biased employment practices, and poor representation and distribution of Black Canadians, Indigenous Peoples and People of Colour (BIPOC) create a vicious circle in the legal profession. The summary of themes is available for your reference **here (https://www.lawsocietylistens.ca/16583/widgets/84877/documents/52676)**.

What can you do?

These are the stories of real people in Alberta's legal community. We encourage you to read and reflect on the experiences shared by the participants. We are sharing these experiences so we can all listen and learn together, raise awareness and understand how we can collectively do better.

So far, the "My Experience" Project has relied on the participants bravely and generously sharing their experiences of discrimination or harassment in the legal profession. We want to make a shift and share the responsibility amongst the legal profession, the Law Society and others in the legal community to address these experiences and the issues they have brought to light. We are including self-reflection questions on **Law Society Listens (https://www.lawsocietylistens.ca/my-experience-project)** for you to contemplate on your own, or you can submit your answers anonymously to the Law Society to further inform our future equity, diversity and inclusion (EDI) work.

When reading the experiences you may experience different emotions or reactions. We encourage you to use the self-reflection questions to better understand your own feelings and instances where you have faced, witnessed or even contributed to similar experiences. We know that reviewing these stories can be uncomfortable or stressful; if you need to talk to someone or need support, we encourage you to reach out to the **Alberta Lawyers' Assistance Society (https://lawyersassist.ca/)** (Assist).

If you have a similar experience to share, we are also re-opening the "My Experience" Project for further submissions. We hope the experiences already shared will empower others to come forward and allow us to continue learning.

What happens next?

The experiences shared make it clear that we do not all experience day-to-day life as a student-at-law or Alberta lawyer in the same way. While lawyers are advocates for fairness, this is not a constant value experienced by BIPOC lawyers and students in their interactions within the legal community. The experiences and themes identified through this project will inform the Law Society's strategic EDI work through the allocation of resources, policies, programming, and other areas within our regulatory jurisdiction.

Our mandate to serve the public interest is challenged if the profession does not reflect the population it serves, or if BIPOC lawyers and students face an uneven playing field upon entry to the profession and when providing legal services. In addition to promoting diversity in the profession, there needs to be a concerted focus on anti-racism education.

It is our intention to work alongside others in the legal community, such as the courts and law schools, to discuss the areas of concern identified within the survey and, where possible, to identify ways we can work together for meaningful change.

Safe Reporting Process

We also encourage safe reporting of complaints related to racism, discrimination and harassment in the legal profession. If you, as a lawyer, student or staff member, believe that another lawyer or articling student may have crossed a boundary related to discrimination or harassment, we urge you to contact the Equity Ombudsperson as an initial step. More information on our safe reporting process is available on our **website (https://www.lawsociety.ab.ca/lawyers-and-students/complaints/complaints-about-discrimination-or-harassment-in-the-profession/)**.

"My Experience" Project: Weekly Submissions

Each week, we will feature experiences in our **eBulletins (https://www.lawsociety.ab.ca/resource-centre/ebulletins/)** collected through the "My Experience" Project. We encourage you to read each experience in its entirety, so it is viewed the way the participant intended. To read more experiences, **complete self-reflection questions (https://www.lawsocietylistens.ca/my-experience-project?tool=survey_tool&tool_id=self-reflection-questions#tool_tab)** or **submit your own experience (https://www.lawsocietylistens.ca/my-experience-project?tool=survey_tool&tool_id=share-your-experience#tool_tab)**, visit the **Law Society Listens (https://www.lawsocietylistens.ca/my-experience-project)** website.

This is Exhibit " K " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

“My Experience” Project Submissions at a Glance

The experiences described by BIPOC professionals suggest that discriminatory culture, biased employment practices, and poor representation and distribution of BIPOC groups create a vicious circle in the legal profession.

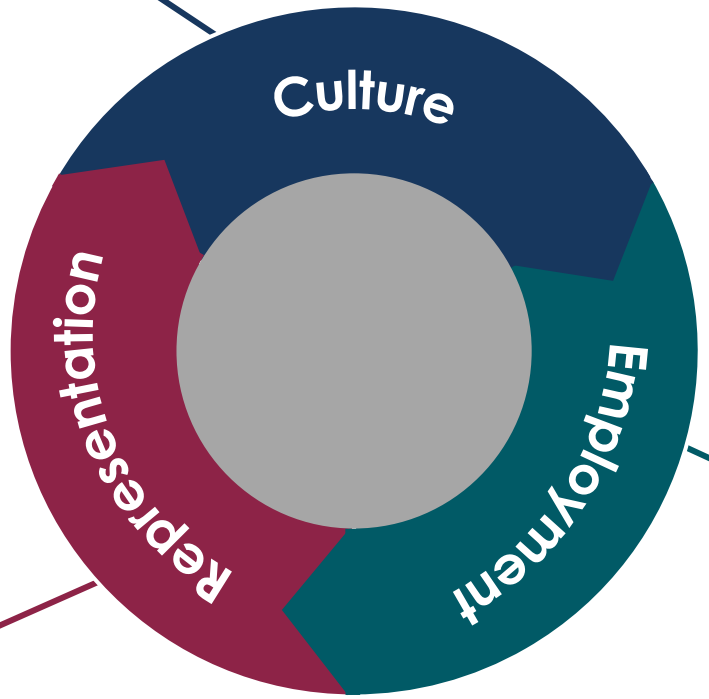
Discriminatory Culture

BIPOC professionals reported they feel:

- Perceived based on racial stereotypes
- Not fitting a stereotypical lawyer image
- Unfairly treated and policed
- A perpetual foreigner
- Socially excluded
- Assumed to be less competent
- Exposed to offensive jokes
- Threatened and harassed
- Unsupported

Poor Representation & Distribution

- Underrepresented
- Mostly in associate-level positions
- Mostly sole practitioners or in small firms



Biased Employment Practices

- Less likely to be hired due to bias from lawyers, judges and clients
- Perceived as potentially attracting only their own poor community as clients
- More grunt work and fewer opportunities

This is Exhibit " L " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

COURT OF APPEAL OF ALBERTA

COURT OF QUEEN'S BENCH OF ALBERTA

PROVINCIAL COURT OF ALBERTA

NOTICE

LAW SOCIETY OF ALBERTA "MY EXPERIENCE" PROJECT

On behalf of the Alberta judiciary, we applaud the lawyers and law students for their bravery in sharing their experiences of racial discrimination as part of the "My Experience" Project.

The experiences related contain uncomfortable but compelling truths. They put a face on bias, unconscious or otherwise, and the harmful consequences flowing from it. And they bring home to the judiciary the leadership role we must play to ensure that the justice system in this province mirrors the fair and equal treatment of all so vital to our democracy.

Training in cultural understanding and conscious/unconscious bias is now a standard component of judicial education in Canada. Clearly, there is more to be done. We have circulated the accounts received by the Law Society to members of our Courts. We have asked them to read those accounts and reflect on the steps we in the judiciary must take, individually and collectively, to make certain that bias in any form is identified for what it is and firmly rejected. The Courts are committed to providing an inclusive environment for the very lawyers we count on to safeguard access to justice for others. Our constitutional duty to protect and defend equality rights for all demands no less.

We thank the Law Society of Alberta for initiating the "My Experience" Project. All Alberta Courts look forward to working with them and others in addressing all forms of racism and discrimination. Doing so calls for vigilance always.

Catherine A. Fraser
Chief Justice of Alberta

Mary T. Moreau
Chief Justice
Court of Queen's Bench of Alberta

Derek G. Redman
Chief Judge
Provincial Court of Alberta

This is Exhibit " M " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Loading

2021 Annual Report

Law Society of Alberta

TABLE OF CONTENTS

A MESSAGE FROM

Darlene W. Scott, QC

2021-2022 PRESIDENT OF THE LAW SOCIETY OF ALBERTA

2021 saw the continuation of the global pandemic, but both the Law Society and the legal profession in Alberta also continued to demonstrate resilience and adaptability in responding to its challenges. For me personally, while my Presidency has certainly had its challenges arising from the requirement for virtual meetings, it has been a tremendously rewarding and enriching experience. We have all had to adapt to new and changing environments to learn new ways of working, but there have also been rewards and improvements in how we conduct our business. The challenge coming out of the pandemic will be not to just return to our old ways, but to continue adopting

Read Darlene Scott's Full Message

A MESSAGE FROM

Elizabeth J. Osler, QC

CHIEF EXECUTIVE OFFICER & EXECUTIVE DIRECTOR

Like many organizations, we continued to work remotely for the duration of 2021. I am proud of how our organization has performed under such challenging circumstances, remaining resilient and passionate about the work that we do while looking for new ways of doing things and finding efficiencies in our processes.

I recognize that everyone has navigated the pandemic on

both a personal and professional level and that everyone's experience has been different. It has not been an easy journey. I want to sincerely thank the staff and our Bencher table for keeping the operation of the organization running smoothly and continuing to advance our important strategic work during such uncertain times.

Our strategic work focused on furthering our lawyer competence and equity, diversity and inclusion (EDI) efforts. Our **2019 articling survey** continues to be the foundation for much of this work.

The results of the survey raised concerns about the inconsistency of articling experiences. While the reasons for inconsistency are complex, a few of the issues highlighted were the varying quality of the articling experience and a lack of training or resources for principals.

One of the strategies to address these issues was the development of a mandatory Principal Training Course. In 2021, the Benchers approved both the development of the course and the Rule amendments to allow the Law Society to apply the mandatory requirement for principals to complete the course, regardless of previous experience. We believe that investing in the principal and articling student relationship will create a positive articling experience for both groups and will provide new lawyers with a strong foundation for a successful and rewarding legal career.

We also introduced automatic enrolment in our Mentor Express program to encourage all newly admitted lawyers to

develop one or more mentoring relationships during their first year of practice. This initiative was meant to facilitate a more holistic approach to continuing personal and professional development during the critical early years of a lawyer's career. It is important to note that this program would not be possible without the commitment of the numerous volunteers who gave their time to our mentorship programs over the course of the year. We simply could not do it without you. Thank you.

I also want to recognize our other volunteers who generously gave their time to our committees and adjudication work. We sincerely appreciate your interest and engagement in our work.

Read about more of our 2021 initiatives in the **Year in Review** section below.

We are nearing the halfway point of our strategic plan, and while it is incredible to look back at all we have accomplished so far, there is still more exciting and interesting work to be done. There will be further engagement opportunities for the profession as we develop a new approach to continuing professional development (CPD). Our goal is for lawyers to be more engaged with their CPD plans and we believe the profession will benefit from the introduction of the Professional Development Profile in 2022 and the new CPD planning tool in 2023. These are important elements for the future of lawyer competence, and I encourage Alberta lawyers to share their feedback with us.

Like many other organizations, we eagerly and optimistically anticipate a transition back to working in-person in the coming year, both internally as an organization and externally with the profession and members of the public.

Wishing you all a happy and healthy 2022.

Sincerely,

Elizabeth J. Osler, QC

Chief Executive Officer & Executive Director

Back to Top

Who We Are

ABOUT THE LAW SOCIETY

The Law Society of Alberta regulates the legal profession in the public interest by promoting and enforcing a high standard of professional and ethical conduct by Alberta lawyers.

We derive our authority from the *Legal Profession Act* (the Act) and set standards through the Code of Conduct and the Rules of the Law Society of Alberta.

MISSION

Ensure high standards of professional conduct and competency through the governance and independent regulation of the legal profession.

VALUES

- **Integrity** – honest and ethical behaviour.
- **Transparency** – open, timely and clear processes.
- **Fairness** – equitable treatment of people interacting with the Law Society and the profession we govern.
- **Respect** – equity, diversity and inclusion in the profession, the Law Society and our interactions with the public.
- **Independence** – autonomous regulation of an independent legal profession and commitment to the rule of law.
- **Visionary leadership** – innovation in regulation, governance and business operations

REGULATORY OBJECTIVES

The Law Society views its core purpose as an active obligation and duty to uphold and protect the public interest in the delivery of legal services. The public interest, as it applies to the work of the Law Society, will be upheld and protected through the following regulatory objectives:

- Protect those who use legal services;
- Promote the independence of the legal profession, the administration of justice and the rule of law;
- Create and promote required standards for the ethical and competent delivery of legal services and enforce compliance with those standards in a manner that is fair, transparent, efficient, proactive, proportionate and principled;
- Promote access to legal services; and
- Promote equity, diversity and inclusion in the legal profession and in the delivery of legal services.

The Law Society will have regard for these regulatory objectives when discharging its regulatory functions.

Read the **Executive Summary – Regulatory Objectives of**

the Law Society of Alberta.

STRATEGIC GOALS

The Law Society's 2020 – 2024 Strategic Plan provided direction and focus to the board and the entire organization, including a framework for decision making, resource allocation and priority setting. The Strategic Plan guided our activities to achieve four main goals:

- **Innovation and Proactive Regulation:** Regulate the legal profession in a manner that is innovative, proactive, transparent and proportionate.
- **Competence & Wellness:** Promote a broad concept of competency and wellness in the legal profession.
- **Access:** Promote affordability of legal services and remove regulatory barriers to access where reasonable and appropriate.
- **Equity, Diversity & Inclusion:** Lead the profession to increase cultural competency and promote a profession that is representative of the public it serves.

Back to Top

BOARD MEMBERS IN 2021

The Law Society is governed by a **24-member Board**. Of the 24 Board members, also called Benchers, 20 are lawyers elected by the profession or appointed by the Bencher's pursuant to the Bencher Vacancy Policy, and four are public representatives appointed by the Alberta Minister of Justice and Solicitor General. As well, the immediate past-President serves on the Executive Committee. For 2021, this was Kent Teskey, QC.

Given the Bencher Election in November 2020, we had a new group of Benchers begin their three-year term in February 2021.

- **Darlene W. Scott, QC**, President
- **Ken Warren, QC**, President-Elect
- **Sony Ahluwalia** (joined February 2021)
- **Ryan D. Anderson, QC**
- **Arman Chak** (until February 2021)
- **Ted Feehan** (joined February 2021)
- **Corie Flett, QC**
- **Lou Cusano, QC** (joined February 2021)
- **Bill Hendsbee, QC**
- **Kene Ilochonwu** (joined February 2021)
- **Cal Johnson, QC**
- **Linda Long, QC** (until February 2021)
- **Jim Lutz, QC**

- **Bud Melnyk, QC**
- **Walter Pavlic, QC** (until February 2021)
- **Lou Pesta, QC** (until February 2021)
- **Sandra Mah** (appointed to Provincial Court of Alberta July 2021)
- **Sanjiv Parmar** (joined December 2021)
- **Corinne Petersen, QC** (until February 2021)
- **Sandra Petersson** (joined February 2021)
- **Stacy Petriuk, QC**
- **Robert Philp, QC** (until February 2021)
- **Kathleen Ryan, QC** (until February 2021)
- **Deanna Steblyk, QC**
- **Margaret Unsworth, QC**
- **Moira Váně** (joined February 2021)
- **Grant Vogeli, QC** (joined February 2021)
- **Salimah Walji-Shivji** (joined February 2021)
- **Elizabeth Hak**, Public Representative (until December 2021)
- **Barbara McKinley**, Public Representative
- **Cora Voyageur, PhD**, Public Representative (until December 2021)
- **Louise Wasylenko, CPA, CMA**, Public Representative

COMMITTEES

Major committees and liaisons conduct governance work associated with our core regulatory functions. Learn more about our committees **here**.

Board Committees

Executive Committee | Audit and Finance Committee | Equity, Diversity and Inclusion Committee | Lawyer Competence Committee | Nominating Committee | Policy and Regulatory Reform Committee | Professional Responsibility Committee

Adjudication Committees

Assurance Fund Adjudications (Finance) Committee | Complaint Dismissal Appeals Committee | Conduct Committee | Credentials and Education Committee | Practice Review Committee | Trust Safety Committee

Advisory Committees

Equity, Diversity and Inclusion Advisory Committee | Indigenous Advisory Committee | Lawyer Competence Advisory Committee

Back to Top

Year in Review

PANDEMIC RESPONSE

While the novelty of the “new normal” wore off and many of us settled into remote routines that increased efficiencies and maintained key business operations, there were still some key initiatives that the Law Society put forward to respond to ongoing pandemic-related challenges:

- The Law Society offices remained closed for the entirety of 2021, with all staff working remotely. The health and safety of staff, volunteers, the public and the legal community continues to be a priority for us.
- Virtual hearings and the Video-Conference Hearing Pilot Project Guideline was brought back in front of the Benchers for a review and an extension of the virtual hearing pilot was approved until June 30, 2022. In reviewing the experiences of virtual hearings to date, the Tribunal Office believes that while panels and parties were pushed into the virtual hearing realm out of necessity, the experience has exceeded expectations, resulting in more participation from lawyers and the

public in our virtual hearings. Thirty-seven virtual hearings were successfully held in 2021 over the course of a total of 88 hearing days.

- In response to potential impacts the pandemic might have on articling students and law firms, an amendment to Rule 56 setting the term of articles at a minimum of eight months and a maximum of 12 months was approved in April 2020. In March 2021, the Benchers confirmed that the eight to 12-month articling term would remain in place for 2021-2022 as students and employers continue to navigate the pandemic. In 2022, we will consult with articling students and principals to determine if this should be a permanent change.

FILLING BENCHER VACANCIES

The Benchers amended Rule 17 of the Rules of the Law Society of Alberta in June 2019 related to filling a Bencher vacancy. This change was made to create the opportunity to enhance the diversity of skills and experiences at the Bencher Table, allowing the Benchers to appoint lawyers that meet the table's needs at that particular point in time rather than automatically appointing the candidate who received the next-most number of votes in the previous Bencher Election (in this case, November 2020).

In February 2021, the Benchers formalized the Bencher Vacancy Policy that operationalized these Rule amendments and set out a functional process for filling Bencher vacancies. The application process was initiated in the fall, and Sanjiv Parmar was appointed to the Bencher table.

Read more about **Sanjiv Parmar** and **filling the Bencher vacancy**.

"MY EXPERIENCE" PROJECT

The “My Experience” Project, launched in 2020, continued into its next phase when we released the shared experiences to the profession through weekly eBulletins.

The experiences shared made it clear that we do not all experience day-to-day life as a student-at-law or Alberta lawyer in the same way. While lawyers are advocates for fairness, this is not a constant value experienced by lawyers and students who identify as Black, Indigenous or People of Colour in their interactions within the legal community. The experiences and themes identified through this project will inform the Law Society’s strategic EDI work through the allocation of resources, policies, programming and other areas within our regulatory jurisdiction.

Read more

THE PATH

In April, we launched the Indigenous Cultural Competency Education requirement called The Path (Alberta) — Your Journey Through Indigenous Canada.

All active Alberta lawyers have 18 months to complete the five hours of education following the launch, or effective from the date they become active. This makes the deadline Oct. 20, 2022 for most active lawyers. As well, inactive lawyers can also take the program.

The Path (Alberta) differs from the national version that some lawyers may have taken through the Canadian Bar Association or other organizations. The Law Society's Indigenous Initiatives working group, along with input from the Indigenous Advisory Committee, worked with the developers of the program to create additional Alberta-specific content, to offer an educational tool specific to Alberta lawyers.

The decision to mandate this education opportunity was

integral to our commitment and obligation to respond to the 2015 Truth and Reconciliation Commission's (TRC) Calls to Action, in particular, #27 which calls upon Canadian law societies to ensure all lawyers receive Indigenous Cultural Competency Training.

Read more

Back to Top

PRE-HEARING AND HEARING GUIDELINE

The Law Society worked diligently to update the Rules and prepared a new guideline to capture best practices, procedural fairness, efficiency and practicality. The amended Rules were approved in principle in December 2020 and the approval of the new Pre-hearing and Hearing Guideline was approved in April 2021. This new Guideline is a comprehensive tool designed to assist Adjudicators, lawyers and the public participating in all types of Law Society hearings.

LAWYER REFERRAL SERVICE ENGAGEMENT

In 2021, the Law Society wanted to better understand how Lawyer Referral Service (LRS) assists the public in finding a lawyer. We launched a survey in the spring and held a focus group in the fall to gather feedback on LRS operations, how clients are using the service and to understand if there were improvements needed.

The information gathered will assist the Law Society in examining the program for areas of improvement to further promote access to justice within Alberta.

AUTOMATIC ENROLMENT IN MENTOR EXPRESS

A recommendation coming out of the **Lawyer Licensing and Competence in Alberta Report** encourages all newly

admitted lawyers to develop one or more mentoring relationships during their first year of practice.

To implement this recommendation, we introduced a new initiative in May where all new lawyers called to the bar are automatically enrolled in the Mentor Express program for one year. Mentor Express is a non-traditional mentorship program where mentees browse an online listing of mentors and choose one-hour sessions with those they are interested in meeting. The self-match system allows mentees to seek guidance and insight relevant to their own career development with a variety of mentors in different work settings.

An expanded version of the Mentor Express program launched in September 2021 to accommodate this change.

Read More

ONGOING SUPPORT FOR INNOVATIONS IN THE PRACTICE READINESS EDUCATION PROGRAM

The Law Society provided ongoing support to the Canadian Centre for Professional Legal Education (CPLED) for innovations in delivering the Practice Readiness Education Program (PREP). Specifically, the Law Society supported CPLED in launching a 14-week accelerated bar admission program, called **Accelerated PREP**, beginning May 2021.

The accelerated format contains the same content as the standard PREP but requires students to attend full-time for 14 weeks. This means students complete their entire bar admission program before beginning their articling term with their principals. The inaugural offering of Accelerated PREP was delivered to a group of Alberta students during the summer of 2021. The Alberta students provided valuable feedback to help CPLED determine if the program delivery would be added to CPLED program offerings in the future, thus allowing for greater flexibility for students and firms to choose the delivery style that best suits their needs.

Back to Top

ASSURANCE FUND

Since 2014, the Alberta Lawyers Indemnity Association (ALIA) has provided its subscribers with mandatory coverage for lawyer misappropriation as part of its Group Policy. The Law Society is also required under the Act to maintain an Assurance Fund to respond to lawyer misappropriation claims.

The Law Society completed a review of the

Assurance Fund and the Board approved amendments to the Assurance Fund Rules in June. The amendments confirm and reinforce that ALIA's Group Policy is the primary source of recovery in the event of lawyer misappropriation. The new Rules confirm that the Assurance Fund will not respond to claims arising from theft of funds by non-lawyers who are employed by law firms. As well, the Rules clarify the Assurance Fund is to be a fund of last resort for lawyer misappropriation claims.

In addition to clarifying that the Assurance Fund is a fund of last resort, new Rules were added to address the sustainability of the Assurance Fund and to confirm some existing restrictions on recovery. The Rules were also amended to clarify hearing and appeal processes and the role of the Law Society's Tribunal Office.

Read more

MANDATORY PRINCIPAL TRAINING APPROVED

In 2019, we conducted surveys of articling students, new lawyers, principals and mentors to better understand the state of the articling system. The **results** raised concerns about the inconsistency of articling experiences from both the perspective of students and principals. While the reasons for inconsistency are complex, a few of the issues highlighted were the varying quality of the articling experience and a lack of training or resources for principals.

One of the strategies to address these issues was the development of mandatory principal training. In 2021, the Benchers approved both the development of the training and the Rule amendments to allow the Law Society to apply the mandatory requirement for principals to complete the course, regardless of previous experience.

While many principals are doing a very good job supervising and mentoring articling students, it is important that the Law Society works towards consistency in the articling experience for all students and principals.

The Law Society worked with the Legal Education Society of Alberta (LESA) to develop the Principal Training course, which includes eight lessons covering such topics as Law Society duties/requirements, how to be an effective mentor, dealing with difficult conversations and cultural competency, to name a few. Parameters on time commitment, registration fees, completion requirements and process changes were also decided.

Read more

Back to Top

CONTINUING PROFESSIONAL DEVELOPMENT

In February 2020, the Law Society **suspended the mandatory Continuing Professional Development (CPD) filing requirement** for the profession for the years 2020 and 2021. This gave the Law Society a chance to focus on building a new approach to continuing professional development that will aspire to empower and equip lawyers to provide the best legal services they can to Albertans.

In the summer of 2021, we reached out to the profession to recruit participants for a Competency Profile Development Task Force, focus groups and pilot survey participants. In October, the Board approved an extension to suspend the annual CPD filing requirement to May 2023 to allow more time to build a CPD approach that goes beyond setting a minimum standard for competence and offers an

enhanced experience for lawyers.

We want lawyers to be more engaged with their CPD plans and believe the profession will have more guidance and tools to make that happen with the introduction of the Profile in 2022 and the new CPD planning tool coming in 2023.

Read more

INNOVATION SANDBOX

In October, the Benchers approved the creation of an Innovation Sandbox, where legal service providers are encouraged to develop innovative models for the delivery of legal services that cannot currently be offered due to existing regulatory requirements.

Changes in technology, the emergence of alternative service providers and an increasingly globalized legal market has changed the legal environment in Alberta and in fact, around the world. As these changes continue to shape the future of the delivery of legal services, law and the lawyers who practise it, accessible and affordable legal services continue to be an unmet need for the public.

The Innovation Sandbox allows the Law Society to support

innovators in testing new ideas and models for the delivery of legal services in a controlled environment, with the Law Society providing active oversight.

Online applications to participate in the Sandbox opened in the first quarter of 2022.

Read more

NEW TRUST SAFETY RULES

Also in October, the Benchers approved amendments to the Rules regarding the approval and management of trust accounts by Alberta lawyers. The amended Rules went into effect on January 1, 2022.

The enhanced Rules highlight the accountability and oversight required by lawyers for any tasks delegated to firms' employees. As well, the Rules have been updated to align with modern banking practices and allow lawyers to shift their practices to a more digital environment.

You can find out more details about these changes on our website.

Read more

ARTICLING PLACEMENT PROGRAM

The Articling Placement Program was also approved at the October Bencher meeting. The program is designed to assist articling students who are in unsafe or untenable articles due to harassment or discrimination with exiting their current position and continuing their articles with a new firm. The program was developed in response to the results of the **2019 articling survey**, which showed that approximately one-third of respondents described experiencing harassment and/or discrimination during recruitment and/or articling.

Articling students have the right to be free from harassing and discriminatory behaviour and have the right to report their circumstances without fear of reprisal or negative impacts. While coming forward about these issues will always be difficult, the program is intended to reassure articling students that reporting their issues will not lead to the loss of articles. The program's default position is that articling students' experiences are believed.

The Law Society **recruited several law firms** to offer replacement articles to students through this program, and more information about how to access the program was released in early 2022. The Law Society is grateful to these roster firms for their willingness to participate in this program.

Read more

EXTENSION OF PART-TIME MEMBERSHIP FEE PILOT APPROVED

Since February 2020, the Law Society has been piloting a **part-time membership fee status** to explore if the status would help retain lawyers, particularly young female lawyers, in private practice. In December, the Benchers approved a two-year extension of the part-time membership fee pilot. The extension will allow for further analysis of the pilot and the criteria being used. Offering a part-time membership fee status is consistent with the EDI and access to justice goals in our **Strategic Plan**.

Read more

Back to Top

The Numbers

FINANCIAL REPORTS

The Law Society uses external auditors to produce financial statements annually. Our 2021 financial statements can be found on **our website**.

LAWYER FEES

The 2021 practice fee was $2,340 per active lawyer, which represented a 10 per cent reduction from the 2020 practice fee. Lawyers have the option of paying the fee in two equal installments. The 2021 part-time membership fee is $1,170.

EXTERNAL FUNDING

The Law Society provides external funding to a variety of affiliated organizations annually. In 2021, we provided $3.95 million worth of funding to six different affiliated organizations:

Canadian Centre for Professional Legal Education | **Alberta Law Libraries** | **Alberta Lawyers' Assistance Society** | **Pro Bono Law Alberta** | **Legal Archives Society of Alberta** | **Alberta Law Review**

Back to Top

LAWYER STATISTICS

As of December 31, 2021, there were **10,829 active lawyers** and **4,403 inactive or inactive-retired lawyers**. Both statistics show an increase over the 2020 numbers.

Currently, the Law Society is piloting a **part-time status**. At the end of 2021, there were **327 lawyers** electing to hold this status. Thus far, it tends to be most popular amongst more junior level female lawyers and very senior level male lawyers.

Age and Identity Breakdowns

Of the total number of active lawyers in Alberta, **approximately 43 per cent identified as female, 57 per cent identified as male, and less than one per cent identified as transgender**. Please note that the Law Society is committed to an inclusive reporting process that allows for statistically significant year-over-year reporting.

The number of lawyers that identify as male and female lawyers in both firm and in-house settings remains relatively consistent and equal for those who have 25 years of service or less, with a small percentage (<1 per cent) identifying as transgender. **However, in the senior cohort of those with over 25 years of experience, those who identify as male outnumber those identifying as female by a ratio of about three to one, with none identifying as transgender.**

Articling Students

As of December 31, 2021, **504 students were actively articling in Alberta**. This reflects a slight decrease from 2020.

The charts below provide more demographic information about articling students in Alberta.

Of the articling students in Alberta, **27 per cent were internationally trained while 73 per cent received their training in Canada**. Of the internationally trained articling students, 36 per cent were Canadians who obtained their law degree outside of Canada.

Back to Top

REGULATORY STATISTICS

Concerns about Alberta lawyers

Of the **1,254 general inquiries and complaints** about Alberta lawyers received in 2021, **815 were diverted to Early Intervention**. Early Intervention is a proactive and collaborative approach to supporting lawyer competence and the delivery of legal services to all Albertans. In this process, we provide resources and programs to help lawyers achieve reasonable standards of professional and ethical conduct.

The Conduct Department opened **236 complaint files for review** in 2021. The majority of the complaints were dismissed or resolved without a hearing. There were **19 matters referred to a hearing before a Hearing Committee**.

A combined total of **24 conduct and resignation hearings were concluded** in 2021. The disciplinary outcomes of these hearings are displayed below.

OUR DISCIPLINE PROCESSES

Hearing Committee

When the Conduct Committee directs a lawyer to a conduct hearing, the matter is heard by a Hearing Committee. If a lawyer is found guilty, one of the following sanctions are imposed:

- **Reprimand:** A formal expression of reproach, delivered orally by the Hearing Committee, which becomes part of the lawyer's disciplinary record.
- **Suspension:** A lawyer's membership in the Law Society of Alberta is suspended and the lawyer is prohibited from practising law in Alberta for a specified period.
- **Disbarment:** The lawyer's membership in the Law Society of Alberta is terminated and the lawyer is indefinitely prohibited from practising law in Alberta.

In addition to the penalties described above, a lawyer may also be required to pay a fine and/or costs to the Law Society of Alberta.

Resignation Committee

When a lawyer who is the subject of conduct proceedings wants to resign, the resignation application is heard by a panel of three Benchers. There are two types of resignations in such circumstances:

- **Resignation in the Face of Discipline:** A lawyer who faces conduct proceedings that are not likely to result in disbarment but is granted permission by a Resignation Committee to resign due to mitigating circumstances.
- **Deemed Disbarment:** A lawyer who faces conduct proceedings that would likely result in disbarment but is granted permission by a Resignation Committee to resign under s. 61 of the *Legal Profession Act*. Such resignations are considered deemed disbarments (disbarment by consent).

ADMINISTRATIVE SUSPENSIONS

When a lawyer fails to fulfil the administrative requirements imposed by the Rules of the Law Society of Alberta, such as filing annual reports and the payment of membership fees and insurance levies, the lawyer is administratively suspended until they have fulfilled their obligations. A total of 84 lawyers were administratively suspended in 2021. The majority of them resolved the issue by fulfilling their requirements and have since been reinstated.

Contact Us

The Law Society of Alberta | 700, 333 – 11th Avenue SW, Calgary, AB T2R 1L9 | lawsociety.ab.ca | feedback@lawsociety.ab.ca | 403.229.4700 or toll free 1.800.661.9003

Back to Top

Appreciate

This is Exhibit " N " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Law Society of Alberta Benchers Approve Acknowledgment of Systemic Discrimination

Acknowledgment of Systemic Discrimination

In the Fall of 2020, the Law Society of Alberta invited lawyers, articling students, law students and internationally trained lawyers (including those not yet called to the bar) to share their experiences of racial discrimination and stereotyping with us. Those who bravely shared their stories were also a voice for some who could not speak. Each submission impacted our organization and the legal profession more broadly.

The Law Society of Alberta acknowledges the existence and impact of systemic discrimination within the justice system, including within the Law Society and the legal profession. The Law Society views its core purpose as an active obligation and duty to uphold and protect the public interest in the delivery of legal services. We do this through our regulatory objectives, one of which is to **promote equity, diversity and inclusion in the legal profession and in the delivery of legal services (https://documents.lawsociety.ab.ca/wp-content/uploads/2020/01/Executive-Summary-Regulatory-Objectives-of-the-Law-Society-of-Alberta.pdf#page=6)**.

When we use the term systemic discrimination, we mean policies, procedures and practices within systems and institutions that result in disproportionate opportunities or disadvantages for people with a common set of characteristics such as age, culture, disability, gender, race, religion, sexual orientation, and/or socio-economic status. Systemic discrimination functions due to some of the inequitable principles historically embedded in our systems and institutions. Even if no individual members of the justice system engage in intentional discriminatory behaviour, the inequity embedded within the system still exists and results in disproportionate harmful impacts to those who are marginalized.

We recognize that systemic discrimination goes against principles of fairness that the legal profession values and upholds. Acknowledging that systemic discrimination exists within the Law Society, the legal profession and the justice system is a step towards improving how we protect the public interest and fulfill our regulatory objectives. Acknowledging the impact of systemic discrimination allows us to meaningfully continue the work of making the legal profession more equitable, increasing diversity and promoting inclusion. Where systemic discrimination manifests in policies, procedures and other work of the Law Society, we will identify this and address it.

The Law Society has made efforts to address issues in the legal profession and the justice system arising from historical, deep-rooted inequities. We know that many lawyers are committed to equity, diversity and inclusion in the legal profession and are taking active steps to promote those ideals. However, through initiatives such as our Exit Surveys (2005–2010), the **Articling Program Assessment Survey (https://www.lawsociety.ab.ca/2019-articling-survey-results/)** (2019), and the **"My Experience" Project (https://www.lawsocietylistens.ca/my-experience-project)** (2020–2021), we have heard the voices of those in the legal profession suffering from the disproportionate harmful impacts of systemic discrimination. We recognize and accept the need to take **further steps (#resources)** to address systemic discrimination within the Law Society, the legal profession and the justice system.

The Law Society remains committed to reducing barriers created by racism, bias and discrimination, in order to affect long-term systems changes within our legal culture. We are committed to continuing our efforts to learn, to listen, to act and to lead Alberta's legal profession by example. In collaboration with the legal profession, stakeholders and justice system partners, the Law Society will continue to work diligently towards building a more diverse, equitable and inclusive legal profession for all.

^ Moving Forward (#accordion_1_collapse_1

As part of our commitment to take further steps to address systemic discrimination, the Law Society will lead by example. We have already started this work by ensuring that our Benchers participated in training focused on unconscious bias and centering equity in their governance and decision-making roles, and by mandating that lawyers complete **Indigenous Cultural Competency Education (https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/indigenous-cultural-competency-education/)** through The Path (Alberta).

In 2022, everyone within the Law Society, Canadian Centre for Professional Legal Education (CPLED) and Alberta Lawyers Indemnity Association (ALIA) will also participate in similar training

that will be tailored to incorporate department-specific material.

The Law Society will continue to work on a variety of projects around gathering equity, diversity and inclusion data, supporting vulnerable members of the profession, making our conduct proceedings more inclusive and collaborating with stakeholders to tackle systemic barriers to inclusion and respond to the **Truth and Reconciliation Commission's Call for law societies (https://www.lawsociety.ab.ca/about-us/key-initiatives/indigenous-initiatives/truth-and-reconciliation-commission-call-to-action-27/)**. The Law Society will also continue to offer complimentary workshops on discrete issues, such as cultural competence, to the profession. The Law Society will also continue to offer resources and updates on new projects.

Through ongoing actionable work in this area, **the Law Society will continue to lead a profession that is representative of the public it serves (https://documents.lawsociety.ab.ca/wp-content/uploads/2020/01/LSA-Strategic-Plan-2020-2023.pdf#page=13)**.

Learn More (#accordion_1_collapse_2

The following initiatives highlight some stories and experiences shared by members of the legal profession in Alberta and throughout Canada.

- **"My Experience" Project** – Law Society of Alberta
- **"But I Look Like a Lawyer"** – Federation of Asian Canadian Lawyers (FACL) – BC
- **"But I Was Wearing a Suit"** – Grassroots project of a group of Indigenous lawyers, with the support of the Continuing Legal Education Society of BC and the Law Society of BC
- **"In Their Shoes"** – CBA National

We are in the process of gathering resources to assist the profession in understanding systemic discrimination, its various forms, its impact on different communities and how lawyers can combat its harmful impacts. These resources will be shared with the profession in the coming months.

The work of building a more inclusive profession is collective and as part of working together toward that goal, we invite lawyers and students-at-law to share resources that they have found helpful by sending them to our **Equity, Diversity and Inclusion (EDI) Counsel**.

Questions?

(#accordion_1_collapse_3

If you have questions about our work in this area, please contact our **Equity, Diversity and Inclusion (EDI) Counsel**.

If you are a lawyer, articling student, law student or legal staff and you have questions about discrimination and harassment in the workplace, please contact our **Equity Ombudsperson**.

If you need to talk to someone or need support, we encourage you to reach out to the **Alberta Lawyers' Assistance Society (https://lawyersassist.ca/)** (Assist).

Media contact: **Communications department**

This is Exhibit " O " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths ~~in~~ and for Alberta

Glenn Blackett
Barrister & Solicitor

SHARE:

Join Our Email List

April 25, 2022

News

LAW SOCIETY of ALBERTA

Law Society of Alberta Benchers Approve Acknowledgment of Systemic Discrimination

Acknowledgment of Systemic Discrimination

In the Fall of 2020, the Law Society of Alberta invited lawyers, articling students, law students and internationally trained lawyers (including those not yet called to the bar) to share their experiences of racial discrimination and stereotyping with us. Those who bravely shared their stories were also a voice for some who could not speak. Each submission impacted our organization and the legal profession more broadly.

The Law Society of Alberta acknowledges the existence and impact of systemic discrimination within the justice system, including within the Law Society and the legal profession. The Law Society views its core purpose as an active obligation and duty to uphold and protect the public interest in the delivery of legal services. We do this through our regulatory objectives, one of which is to promote equity, diversity and inclusion in the legal profession and in the delivery of legal services.

When we use the term systemic discrimination, we mean policies, procedures and practices within systems and institutions that result in disproportionate opportunities or disadvantages for people with a common set of characteristics such as age, culture, disability, gender, race, religion, sexual orientation, and/or socio-economic status. Systemic discrimination functions due to some of the inequitable principles historically embedded in our systems and institutions. Even if no individual members of the justice system engage in intentional discriminatory behaviour, the inequity embedded within the system still exists and results in disproportionate harmful impacts to those who are marginalized.

We recognize that systemic discrimination goes against principles of fairness that the legal profession values and upholds. Acknowledging that systemic discrimination exists within the Law Society, the legal profession and the justice system is a step towards improving how we protect the public interest and fulfill our regulatory objectives. Acknowledging the impact of systemic discrimination allows us to meaningfully continue the work of making the legal profession more equitable, increasing diversity and promoting inclusion. Where systemic discrimination manifests in policies, procedures and other work of the Law Society, we will identify this and address it.

The Law Society has made efforts to address issues in the legal profession and the justice system arising from historical, deep-rooted inequities. We know that many lawyers are committed to equity, diversity and inclusion in the legal profession and are taking active steps to promote those ideals. However, through initiatives such as our Exit Surveys (2005–2010), the Articling Program Assessment Survey (2019), and the "My Experience" Project (2020–2021), we have heard the voices of those in the legal profession suffering from the disproportionate harmful impacts of systemic discrimination. We recognize and accept the need to take further steps to address systemic discrimination within the Law Society, the legal profession and the justice system.

The Law Society remains committed to reducing barriers created by racism, bias and discrimination, in order to affect long-term systems changes within our legal culture. We are committed to continuing our efforts to learn, to listen, to act and to lead Alberta's legal profession by example. In collaboration with the

legal profession, stakeholders and justice system partners, the Law Society will continue to work diligently towards building a more diverse, equitable and inclusive legal profession for all.

Moving Forward

As part of our commitment to take further steps to address systemic discrimination, the Law Society will lead by example. We have already started this work by ensuring that our Benchers participated in training focused on unconscious bias and centering equity in their governance and decision-making roles, and by mandating that lawyers complete Indigenous Cultural Competency Education through The Path (Alberta).

In 2022, everyone within the Law Society, Canadian Centre for Professional Legal Education (CPLED) and Alberta Lawyers Indemnity Association (ALIA) will also participate in similar training that will be tailored to incorporate department-specific material.

The Law Society will continue to work on a variety of projects around gathering equity, diversity and inclusion data, supporting vulnerable members of the profession, making our conduct proceedings more inclusive and collaborating with stakeholders to tackle systemic barriers to inclusion and respond to the Truth and Reconciliation Commission's Call for law societies. The Law Society will also continue to offer complimentary workshops on discrete issues, such as cultural competence, to the profession. The Law Society will also continue to offer resources and updates on new projects.

Through ongoing actionable work in this area, the Law Society will continue to lead a profession that is representative of the public it serves.

Learn More

The following initiatives highlight some stories and experiences shared by members of the legal profession in Alberta and throughout Canada.

- **"My Experience" Project** – Law Society of Alberta
- **"But I Look Like a Lawyer"** – Federation of Asian Canadian Lawyers (FACL) – BC
- **"But I Was Wearing a Suit" (Part I and II)** – Grassroots project of a group of Indigenous lawyers, with the support of the Continuing Legal Education Society of BC and the Law Society of BC
- **"In Their Shoes"** – CBA National

Questions?

If you have questions about our work in this area, please contact our Equity, Diversity and Inclusion (EDI) Counsel.

If you are a lawyer, articling student, law student or legal staff and you have questions about discrimination and harassment in the workplace, please contact our Equity Ombudsperson.

If you need to talk to someone or need support, we encourage you to reach out to the Alberta Lawyers' Assistance Society (Assist).

Visit the webpage

STAY CONNECTED

This is Exhibit " P " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA
700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Approved Bencher Public Minutes

Public Minutes of the Five Hundred and Eighth Meeting of the Benchers of the Law Society of Alberta (the "Law Society")

April 21, 2022

In person in Calgary, AB, and by videoconference

8:30 am

ATTENDANCE	
Benchers:	Ken Warren, President Bill Hendsbee, President-Elect Sony Ahluwalia Ryan Anderson Lou Cusano Ted Feehan Kene Ilochonwu Cal Johnson Barb McKinley Bud Melnyk Sandra Petersson (by videoconference) Sanjiv Parmar Stacy Petriuk Ron Sorokin Deanna Steblyk Margaret Unsworth Moira Váně Louise Wasylenko
Executive Leadership Team:	Elizabeth Osler, CEO and Executive Director Cori Ghitter, Deputy Executive Director and Director, Policy and Education Nadine Meade, Chief Financial Officer (by videoconference) Andrew Norton, Chief Information Officer and Director, Business Operations David Weyant, President and CEO, Alberta Lawyers Indemnity Association (by videoconference)
Staff:	Susannah Alleyne, Equity, Diversity & Inclusion Counsel Barbra Bailey, Manager, Education Nancy Bains, Tribunal Counsel and Privacy Officer Denise Bjerkseth, Business Technology (by videoconference) Colleen Brown, Manager, Communications and Stakeholder Engagement

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

ATTENDANCE	
	Ruth Corbett, Governance Administrator Shabnam Datta, Manager, Policy (by videoconference) Jennifer Freund, Policy & Governance Counsel (by videoconference) Nicholas Maggisano, Manager, Conduct (by videoconference) Amanda Miller, Policy Counsel Kendall Moholitny, Senior Manager, Professionalism (by videoconference) Stephen Ong, Business Technology Christine Schreuder, Governance Coordinator Rebecca Young, Education Counsel (by videoconference)
Guests: (all guests attended via videoconference)	Carla Caro, Program Director, ACT Loraine Champion, Executive Director, Alberta Lawyers' Assistance Society Amanda Lindberg, Vice-President, Canadian Bar Association Alberta Patricia Muenzen, Director, ACT Nonye Opara, Executive Director, Pro Bono Law Alberta Robert Philp, Indigenous Advisory Committee Bencher Liaison Kathleen Ryan, Chair, Equity Diversity and Inclusion and Lawyer Competence Advisory Committees Christine Sanderman, Executive Director, Legal Education Society of Alberta
Regrets:	Corie Flett Jim Lutz Grant Vogeli Salimah Walji-Shivji

Secretary's Note: All attendees were in person unless otherwise stated. The arrival and/or departure of participants during the meeting are recorded in the body of these minutes.

	Item
Call to Order	**Mr. Warren called the meeting to order at 8:35 a.m. and welcomed everyone to the first in-person Bencher meeting since February 20, 2020. He congratulated Mr. Sorokin on his appointment as a Bencher. Mr. Hendsbee delivered the Indigenous land acknowledgement statement for Alberta.**
1	**Opening Remarks from the President** Mr. Warren commented on how much the Law Society has accomplished over last two years during the pandemic environment. He added congratulations to Nancy Carruthers on her Judicial appointment.
2	**Leadership Report** Documentation for this item was circulated with the materials prior to the meeting. Ms. Osler added the following updates: - The theme of the Jasper Retreat is "*Spotlight on the Public Interest*". Ms. Osler provided an overview of the retreat program.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
	- The official return to office date is May 2, 2022. Staff will be required to return at least one day per week until June, when two days per week will be mandatory until September. The voluntary hybrid pilot will then be reviewed. - The Law Society initiated the summer student program for 2022. - Ms. Osler publicly recognized Nancy Carruthers' Judicial appointment and acknowledged her distinguished career, both in private practice and at the Law Society. On behalf of all her friends and colleagues at the Law Society, Ms. Osler thanked Ms. Carruthers and wished her good luck in her new role.
3	**Professional Development Profile** Documentation for this item was circulated with the materials prior to the meeting. Ms. Steblyk, Chair, Lawyer Competence Committee (LCC), provided introductory remarks, highlighting the LCC's in-depth work to direct the development of the proposed Professional Development Profile (the "Profile"). Ms. Bailey provided a high-level overview of the purpose of the Profile and, if approved, next steps. Ms. Bailey introduced ACT representatives Patricia Muenzen and Carla Caro, who then made a detailed presentation on the development process, including: the roles of the LCC, the Internal Stakeholder Group, and the Task Force; surveys and consultations; the development of the proposed domains, competencies, and performance indicators based on the survey results; ratings; emerging themes; and the purpose and approach to validating the Profile. The Benchers discussed the following: - The importance of having visual representation of the different elements of the Profile was noted and ACT confirmed this work is underway. The overall final representation, including the messaging, educational resources, and overview of the rollout plan will be presented to the Benchers once finalized. This representation and messaging are critical to ensure lawyers understand the aspirational nature of the Profile. The Continuing Professional Development (CPD) planning tool is scheduled to launch in 2023. - Challenges associated with rolling out the Profile before educational resources and the CPD planning tool are launched were discussed. However, support was expressed for proceeding as planned, since many lawyers are now waiting for this new program. - The Benchers requested that the "Competency Framework Glossary" be renamed the "Professional Development Profile Glossary". - The suggestion to reference substantive legal knowledge as an important aspect of development, where possible, was an issue that the LCC also debated. Ms. Bailey explained that the LCC ultimately determined that the Profile should approach legal practice skills and knowledge more broadly, and that the messaging and CPD planning tool will provide guidance on this and that lawyers are still encouraged to pursue CPD in their practice areas as well. - The Law Society's intention is to support lawyers throughout their chosen development programs, not to discipline or overwhelm. The Benchers recognized that the Profile is an

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
	aspirational guide and that the purpose of the messaging, educational resources and CPD planning tool is to assist lawyers to self-direct their own professional development. **Motion: Steblyk/Ilochonwu** **That the Benchers approve the Professional Development Profile, as written.** **Carried unanimously** Ms. Muenzen and Ms. Caro left the meeting at 10:07 a.m.
4	**Audit and Finance Committee Report and Recommendations** Documentation for this item was circulated with the materials prior to the meeting. Ms. Steblyk, Vice-Chair, Audit and Finance Committee (AFC), provided introductory remarks and confirmed that the AFC was satisfied that the financial statements properly reflect the Law Society's financial position for the 2021 fiscal year. Ms. Meade provided a high-level overview of the financial statements, highlighting the variances to budget, the surplus, income, and expenses. In summary, the Law Society is in a healthy financial position and positioned for long-term sustainability. Ms. Meade responded to questions from Benchers about accounts receivable, external funding, and pension costs. **Motion: Steblyk/Melnyk** **That the Benchers approve the Law Society of Alberta's audited financial statements for the year ended December 31, 2021, as circulated.** **Carried unanimously**
5	**Bencher Election Rules** Documentation for this item was circulated with the materials prior to the meeting. Ms. Miller provided an overview of the history of the election process and the work of the Bencher Election Task Force and Bencher Election Working Group to review the 2020 election business processes and inform improvements for the next election. Ms. Miller highlighted the issues in the current rules and the rationale for the proposed new rules. She confirmed that all feedback and comments from the Policy and Regulatory Reform Committee were incorporated. In response to Benchers' questions and comments, Ms. Miller clarified the following: - The proposed specified timeline for the nomination period (proposed Rule 10.1 (1)) would provide time for the Law Society to check the nominations. Ms. Miller confirmed that candidates are not permitted to campaign until after the nomination period closes. - It was suggested that, in future, the Law Society might consider areas where the Rules might have discriminatory perceptions. For example, temporary status changes which exclude some lawyers from participating and voting in an election might be reviewed. - It was noted that the election results are of interest to the profession and public and will continue to be published. Ms. Miller clarified that the language in 16 (2) regarding

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
	notification of the results is intended to cover candidates who are acclaimed, not only the number of votes cast. - The proposed shortening of the voting period was discussed, it was noted that most voting occurs during the first and last days of the voting period, and whenever the Law Society sends out a reminder. A scan of other law societies indicated an average of 10 days for paper-based elections. Therefore, the rationale was that a shorter voting period would make sense for an online election. Additionally, the specificity of the voting period timeline in the Rules is intended to enable the Law Society and candidates to prepare and plan. - The District Rule uses municipal boundaries. The proposed Rule for Eligibility was discussed, particularly with respect to the location of a member's residence. However, the Benchers determined no changes were required. **Motion: Wasylenko/Ahluwalia** **That Rules 7 through 17 of the *Rules of the Law Society of Alberta* and their headings be struck out and replaced with the proposed headings and proposed Rules 7 through 17.** **Carried unanimously**
6	**Bencher Vacancy Policy and Rule 27 Amendments** Documentation for this item was circulated with the materials prior to the meeting. Mr. Warren presented the proposed amendments. The Benchers expressed their appreciation for the work that went into the proposed revisions to the Bencher Vacancy Policy to respond to concerns expressed by some Benchers about the process. **Motion 1: McKinley/Unsworth** **That the Benchers approve the amendment of the Rule 17 Bencher Vacancy Policy (February 2021) as set out in the Bencher Vacancy Policy (April 2022) as proposed in Appendix B of the meeting materials.** **Carried unanimously** **Motion 2: Wasylenko/Feehan** **That the Benchers approve the amendment of Rule 27(1) as proposed in Appendix A of the meeting materials.** **Carried unanimously**
7	**Appeal from Complaint Dismissal Guideline Amendments** Documentation for this item was circulated with the materials prior to the meeting. Ms. Miller and Ms. Bains presented the proposal for amendments to the Guideline to clarify and more accurately reflect current practice. **Motion: Wasylenko/Johnson**

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
	That the Benchers approve the amended Appeal from Complaint Dismissals Guideline, as proposed. **Carried unanimously**
8	**Acknowledgment of Systemic Discrimination** Documentation for this item was circulated with the materials prior to the meeting. Ms. Alleyne presented the proposed Acknowledgment of Systemic Discrimination (the "Acknowledgement"), providing background information and highlighting the goal of the Acknowledgement to respond to learnings from the "My Experience" Project. Ms. Alleyne outlined: the survey results; the drafting and review process, including the roles of the Equity, Diversity and Inclusion Committee (EDIC), the Equity, Diversity and Inclusion Advisory Committee (EDIAC) and the Indigenous Advisory Committee (IAC); and the communications plan. Ms. Alleyne added the following recent updates since the meeting materials were circulated: - The draft Acknowledgment was shared with the Courts and positive feedback was received from the Court of Appeal and the Court of Queen's Bench. - The EDIC and EDIAC provided feedback on the list of supporting resources and, as a result, this list will be shortened on the supporting sections of the website when the Acknowledgment goes live. The Benchers' comments and discussion focused on the way that the Acknowledgment is presented. The Benchers directed that the text be appropriately highlighted to clarify that the first paragraph leads into the formal Acknowledgment, which starts at the second paragraph. Ms. Osler commended Ms. Alleyne for her work and thanked the members of EDIC, EDIAC, IAC, and the Benchers for their input. Ms. Osler noted that it was important to take time to do the work to ensure the result will meaningfully benefit the organization and the profession. **Amended Motion: Johnson/Wasylenko** **That the Benchers approve the *Law Society of Alberta's Acknowledgment of Systemic Discrimination*, as proposed *in the first six paragraphs on pages 127 and 128 of the Diligent Board meeting materials, with the first sentence of paragraph two appropriately highlighted* ~~Appendix A~~.** **Carried unanimously** *The amendment to the above motion is reflected in italics and strikethrough.*
9	**Equity, Diversity and Inclusion Committee Update** Documentation for this item was circulated with the materials prior to the meeting.
10	**Lawyer Competence Committee Update** Documentation for this item was circulated with the materials prior to the meeting.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
11	**CONSENT AGENDA** Documentation for this item was circulated with the materials prior to the meeting. There were no requests to remove any items from the consent agenda and the items were approved concurrently. **Motion: Ahluwalia/Petriuk** **11.1 To approve the February 24, 2022 Public Bencher Meeting Minutes;** **11.2 That the Benchers approve the amendments to Rules 47(e), 107.2, 153.1 and 159.01, as proposed in Appendix A of the meeting materials; and** **11.3 That subrule 53(7) and subrule 53(8) be amended as proposed in the meeting materials.** **Carried**
12	**AGENCY REPORTS** The following Agency reports were circulated with the materials prior to the meeting: 12.1 Alberta Law Foundation Report 12.2 Alberta Law Reform Institute Report 12.3 Alberta Lawyers' Assistance Society Report 12.4 Canadian Bar Association Report 12.5 Federation of Law Societies of Canada Report 12.6 Legal Education Society of Alberta Report 12.7 Real Estate Practice Advisory Liaison Report
	Other Business There being no further business, the public meeting was adjourned at 12:12 pm.

This is Exhibit " Q " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

MY PERSONAL EXPERIENCE WITH SYSTEMIC PREJUDICE AND RACISM WITHIN THE LEGAL PROFESSION

My name is Leighton Grey. I am Indian No.3780270401. My great Grand-Father, Burrell Grey Eyes, was Hereditary Chief of the Carry The Kettle or "Jack" Band at Sintaluta SK. His daughter was my Grandmother. She and her sister survived the Great Depression while at the notorious Brandon Indian Residential School in Manitoba. I can still recall the sweet aroma of fresh bannock made in her kitchen in Regina when I was just a boy. She passed away in 2018 at the age of 98. Her only son is my father. In addition to suffering physical and sexual abuse while at IRS, my grandmother was also disenfranchised in 1940 by the *Indian Act* because she married a white man. That wrong was finally righted in 1985, when Bill C-31 amended the *Act* far too late to make any difference to my father' s prospects in life. Growing up, he was taught to be proud of his native heritage, but not to use it as an excuse. This in turn became an enduring principle of my own life. I excelled at athletics and academics and was granted early acceptance into the Faculty of Law at the University of Alberta based solely on merit. I did not apply as a native student. I was raised to be a staunch conservative, and to earn everything rather than claim entitlement to privileges based upon membership in an oppressed group. I have since endeavored to pass on these same conservative values to my own children, and to as far as possible help them to resist the siren song of socialism being sung in our public schools today.

I first became a Member of the Law Society as an Articling Student, back in 1992. I have always felt grateful for the privilege of being a lawyer. The most honest, ethical, generous, and conscientious people I have ever known are the lawyers, judges, clerks, and paralegals who spend their days and sometimes long nights serving the legal needs of Albertans. In my practice, I have been primarily a litigation lawyer in the various Courts of our Province. In all of that time, I have not witnessed a single instance of racist treatment of an individual by our Courts. Even during my time as a lawyer representing claimants with Indian Residential School Claims, I cannot recall anyone being treated prejudicially based upon their race. Based upon this experience, I do not accept for a moment that the legal profession in Alberta is systemically racist; nor, for that matter, is our country.

There is but a singular situation where I experienced systemic racism and discrimination. It was this past June, and was at the hands of leftist colleagues. An activist lawyer named Tom Engel conspired with the NDP and a non-practicing lawyer named Rachel Notley and the CBC to discriminate against me in the form of a cancel culture attack. Our own Law Society later participated in this discrimination. it was designed to destroy my reputation and leave me unable to support my family. Because I re-posted a message via social media that "All Lives Matter", I was branded a racist. Because I had the temerity to criticize George Soros, I was labelled antisemitic. Because I posted that Judges in this Province should be selected solely upon merit, and not based upon inclusion, diversity, or any other progressive grounds, I was labelled unfit to serve on a prestigious Judicial Selection Committee to which I had been recently appointed. Because I questioned Covid-19 lockdowns as governmental power grabs that violated our *Charter* rights, I was called a conspiracy theorist. Rachel Notley repeatedly scorned me on her FaceBook page, even questioning the veracity of my claim to indigenous status. Under such intense public pressure from the political left, I was forced to resign from the Judicial Selection Committee. When I

needed its support the most, The Law Society Benchers instead piled on, summarily dismissing me from its list of adjudicators in Disciplinary Hearings without so much as even asking me to state my side of the case. Curiously, I was the only indigenous member of that Judicial Selection Committee; I was not the only conservative appointed, but was the only one who was forced to resign. When the leftist mob came, they had no regard for my racial/cultural heritage or the many public contributions that I had made over the course of my career. There was instead only blind prejudice, hatred, and the ad hominem attack that invariably comes from the left, launched to gain power by destroying the public reputations of all who dare to disagree with the mob.

The real systemic discrimination in our society and our profession has nothing to do with race. Racism is a simplistic answer to complex problems, subscribed to only by the ignorant. The government of the Law Society of Alberta has chosen to subscribe to the leftist, post-modernist, deconstructionist concepts of inclusion and diversity. To those who understand politics, these are nothing more than code words used to exclude certain persons with the wrong views from positions of power. The Law Society now appears to have gone a step further by subscribing to critical race theory and asks the membership to supply anecdotal evidence in support. It is truly a pity that The Law Society sees its primary function to be the regulator of lawyers. Not just of what they do, but of what they think, of who they hire, and of even how they run their law businesses. All of this at a time and place in history when our Western Civilization has never been more peaceful, more tolerant, and more free. We can be well assured that no one cares about inclusion, diversity, or critical race theory in China, North Korea, or in Saudi Arabia, where public beheadings are still commonplace.

To my mind, the purpose of the Law Society is three fold: to provide guidance and support to its membership, to safeguard the public reputation of the Profession, and to ensure that lawyers act ethically. The Law Society has no Orwellian mandate to police the private thoughts or political views of its members, or even to try to shape such views. Lawyers need not endure indoctrination with a social justice agenda or to be bombarded by virtue signaling e-mails. We deserve sufficient respect to not be labeled systemically racist or subjected to compulsory racial re-education to purge our collective white privilege. In short, the Benchers of the Law Society are entitled to their own moral, social, and political views, but these cannot become the basis for regulation of the Membership at large. Lawyers in Alberta are entitled to keep their own counsel, so long as they respect the law, the public, the profession, and just as importantly, each other.

> "The best way to avenge yourself is not to be like your enemy."
>
> --Marcus Aurelius

This is Exhibit " R " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

Rules Amendment History

May 1, 2023

Rules of The Law Society of Alberta
Amendment History from November 2001

Amendment Table – 2023_V5

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
67.2 and 67.3	Reinstatement of Rules following the expiration of the extension of the suspension made on October 1, 2023.	October 1, 2021	May 1, 2023	Bencher Meeting	

Amendment Table – 2023_V4

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
53 and 110	Terminology amendments – “Provincial Court” to “Alberta Court of Justice” and “Provincial Court Act” to “Court of Justice Act”.	April 27, 2023	April 27, 2023	Bencher Meeting	
67.2 and 67.3	Amendments to Continuing Professional Development Rules to modernize language, adjust submission deadline, shorten retention period, and implement review process.	April 27, 2023	April 27, 2023	Bencher Meeting	

Amendment Table – 2023_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
33	Return of subrule(3)(k) to its previous form following the expiration of the variation made for the Special Meeting of February 6, 2023.	February 5, 2023	February 6, 2023	Bencher Email Ballot	

Amendment Table – 2023_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
33	Variation of subrule (3)(k), to extend the limits of debate, for purposes of the Special Meeting of February 6, 2023, with the variation expiring at the adjournment of the meeting.	February 5, 2023	February 5, 2023	Bencher Email Ballot	

Amendment Table – 2023_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
56	Amendments to the articling term coming into force.	September 29, 2022	January 1, 2023	Bencher Meeting	

Amendment Table – 2022_V6

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
33	Amendments to facilitate electronic attendance at Annual General Meetings and Special Meetings	November 14, 2022	November 14, 2022	Bencher Email Ballot	

Amendment Table – 2022_V5

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
115, 119.59, 145.1, 149.5, 149.6, 149.7, 149.8, 149.9, 160, 162, 164, 165, 165.1, 167, 168	Amendments to implement mandatory cyber coverage.	September 29, 2022	September 29, 2022	Bencher Meeting	
Various Rules	Executive Director authorized a formatting correction to move the amendment month and year from the end of any subrule where it appears to the end of the Rule, in accordance with the stated formatting practice.	October 13, 2022	October 13, 2022	Executive Director	

Amendment Table – 2022_V4

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
1, 16.1, 53, 67, 68, 110, 115, 117 and 159	Terminology amendments – “Queen” to “King” and “Masters” to “Applications Judges”.	September 29, 2022	September 29, 2022	Bencher Meeting	
56	Amend the articling term.	September 29, 2022	January 1, 2023	Bencher Meeting	
114	Amendment to include amounts owing to ALIA in clause (2)(e).	September 29, 2022	September 29, 2022	Bencher Meeting	
145.2	Amendment to remove duplication of responsibilities.	September 29, 2022	September 29, 2022	Bencher Meeting	

Amendment Table – 2022_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
1	Amendment to add definition of "virtual hearing".	June 3, 2022	June 3, 2022	Bencher Meeting	
2.5	Amendments to replace "video-conference" with "virtual hearing" and to continue virtual hearings.	June 3, 2022	June 3, 2022	Bencher Meeting	
90.1 and 90.2	Amendments to correct typographical errors.	June 3, 2022	June 3, 2022	Bencher Meeting	

Amendment Table – 2022_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
7 through 17	Amendments to the Bencher election Rules to substitute them with updated Rules.	April 21, 2022	April 21, 2022	Bencher Meeting	
27(1)	Amendments to change the constitution of the Nominating Committee.	April 21, 2022	April 21, 2022	Bencher Meeting	
47(e), 107.2, 153.1 and 159.01	Amendments to insert new position titles.	April 21, 2022	April 21, 2022	Bencher Meeting	
53(7)	Amendments to correct the reference to legislation.	April 21, 2022	April 21, 2022	Bencher Meeting	
53(8)	Amendment to the qualification requirements.	April 21, 2022	April 21, 2022	Bencher Meeting	

Amendment Table – 2022_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
118.1 through 118.11; 119.17; 119.26; 119.38; 119.39	Amendments to the Rules for Client Identification and Verification, Cash Transactions, Acting in a Representative Capacity and Prohibition on the Use of Trust Accounts coming into force.	October 1, 2021	January 1, 2022	Bencher Meeting	
119 through 119.16; 119.18 through 119.25; 119.27 through 119.37; and 119.40 through 119.46	Amendments to the Trust Accounting Rules coming into force.	October 1, 2021	January 1, 2022	Bencher Meeting	

1(1), 75(3), 115(1), 115(1.3). 138(3), 149.7(6), 165.1(1), and 167(1)	Consequential amendments resulting from the amendments to Part 5 of the Rules coming into force.	October 1, 2021	January 1, 2022	Bencher Meeting	

Amendment Table – 2021_V7

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
33(2)	Removal of (k) to (v) following their expiration.	November 15, 2021	December 2, 2021	Bencher Email Ballot	
55, 57	To require mandatory principal training.	December 2, 2021	December 2, 2021	Bencher Meeting	
48.4, 57.3	Amended as a consequence of the amendments to Rules 55 and 57.	December 2, 2021	December 2, 2021	Bencher Meeting	
142.1(1)	Amended to insert “of the claimant and member concerned” following “notice of the right” and before “to request an oral hearing”.	December 2, 2021	December 2, 2021	Bencher Meeting	

Amendment Table – 2021_V6

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
33(2)	To vary the provisions of subrule 33(2) for the Law Society of Alberta Annual General Meeting, to be held December 2, 2021 at 11:00 a.m. through the addition of paragraphs (k) through (v), as proposed, with this variation to expire at the adjournment of the meeting.	November 15, 2021	November 15, 2021	Bencher Email Ballot	
33(2)	Amend clauses (b), (g) and (h) to improve clarity.	November 15, 2021	November 15 , 2021	Bencher Email Ballot	

Amendment Table – 2021_V5 and V5a

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
67.2,67.3	To extend the current two-year suspension of the operation of the CPD Rules, 67.2 and 67.3, pursuant to Rule 3, for an additional one-year period, ending May 2023.	October 1, 2021	October 1, 2021	Bencher Meeting	
2,42	Amendment to move certain law firm reporting obligations out of Rules regarding Duties of Law Firms and into Rules regarding Records of the Society.	October 1, 2021	October 1, 2021	Bencher Meeting	

69,92	Update to terminology to reflect Trust Accounting reporting requirements.	October 1, 2021	October 1, 2021	Bencher Meeting	
118.1 through 118.11; 119.17; 119.26; 119.38; 119.39	Amendments to the Rules for Client Identification and Verification, Cash Transactions, Acting in a Representative Capacity and Prohibition on the Use of Trust Accounts.	October 1, 2021	January 1, 2022	Bencher Meeting	
119 through 119.16; 119.18 through 119.25; 119.27 through 119.37; and 119.40 through 119.46	Amendments to the Trust Accounting Rules to substitute them with updated Rules.	October 1, 2021	January 1, 2022	Bencher Meeting	
1(1), 75(3), 115(1), 115(1.3). 138(3), 149.7(6), 165.1(1), and 167(1)	Consequential amendments resulting from the amendments to Part 5 of the Rules.	October 1, 2021	January 1, 2022	Bencher Meeting	

Amendment Table – 2021_V4

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
1(1)(q.1), 137, 138.1, 139, 139.1, 140, 141.1, 141.2, 141.4, 142, 142.1, 142.2, 143	To be amended, and a new Rule created, as a result of a review of the current Assurance Fund Rules.	June 18, 2021	June 18, 2021	Bencher Meeting	

Amendment Table – 2021_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
2.5	To conduct hearings by video-conference until June 30, 2022.	June 2, 2021	June 2, 2021	Bencher Meeting	

Amendment Table – 2021_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
2.4, 2.5, 48.5, 49, 86, 90, 90.1, 90.2, 90.3, 90.4, 90.5, 90.6, 90.7, 90.8, 91, 94, 95, 96, 97, 100.2, 103, 104, 119.15, 142.1,	To update and clarify the Law Society's Rules regarding hearing processes.	April 15, 2021	April 15, 2021	Bencher Meeting	

26, 115	To make required corrections.	April 15, 2021	April 15, 2021	Bencher Meeting	

Amendment Table – 2021_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
89.2	To provide authority and detail for the abeyance process.	February 25, 2021	February 25, 2021	Bencher Meeting	
164(5), 165.1(1), 167(1)(b)	To make required corrections.	February 25, 2021	February 25, 2021	Bencher Meeting	

Amendment Table – 2020_V5

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
1, 75, 79, 147, 149.2, 161, 163, 164, 164.1, 165, 165.1	To provide the authority, within the Rules, to permit the annual fee payment to be made by installment, as an option in addition to the current annual fee lump sum payment. Additionally, to clean up and clarify the fee payment Rules.	December 3, 2020	December 3, 2020	Bencher Meeting	
119.33, 149.5, 149.6, 149.7, 160, 162, 164, 165, 165.1, 168	To provide Rules to implement a Transaction and Filing Levy	December 3, 2020	December 3, 2020	Bencher Meeting	
67.4	To provide the authority to mandate education for lawyers.	December 3, 2020	December 3, 2020	Bencher Meeting	
33	Removal of (k) to (v) following their expiration.	November 17, 2020	December 3, 2020	Bencher Email Ballot	

Amendment Table – 2020_V4

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
33	To vary the provisions of subrule 33(2) for the Law Society of Alberta Annual General Meeting, to be held December 3, 2020 at 4:00 p.m., through the additions of paragraphs (k) through (v), as proposed, with this variation to expire at the adjournment of the meeting.	November 17, 2020	November 17, 2020	Bencher Email Ballot	
Part 4 Division 1 Heading	Executive Director authorized a correction of a typo to the Part 4 Division 1 heading to change REASONS to PERSONS.	October 27, 2020	October 27, 2020	Executive Director	

1, 2.4, 48.5, 90.1, 93, 111, 112	To define "hearing" to include all adjudicated Law Society proceedings; to establish that all Law Society hearings will be con ducted by video-conference for the next year, unless otherwise directed by the Benchers, in order to avoid delay; to establish exemptions to the requirement that all hearings be conducted by video-conference, as well as processes for applying to vary the mode by which the hearing will be conducted; to clarify when and how pre-hearing conferences will be held; and to remove references to appearing at hearings in person.	June 26, 2020	June 26, 2020	Bencher Meeting	

Amendment Table – 2020_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
1, 2.4, 48.5, 90.1, 93, 111, 112	To define "hearing" to include all adjudicated Law Society proceedings; to establish that all Law Society hearings will be con ducted by video-conference for the next year, unless otherwise directed by the Benchers, in order to avoid delay; to establish exemptions to the requirement that all hearings be conducted by video-conference, as well as processes for applying to vary the mode by which the hearing will be conducted; to clarify when and how pre-hearing conferences will be held; and to remove references to appearing at hearings in person.	June 26, 2020	June 26, 2020	Bencher Meeting	

Amendment Table – 2020_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
47, 47.1, 56, 59, 60, 61, 62, 63, 63.1, 63.2, 64, 64.1, 64.3, 64.4, 64.5, 64.6, 64.7, 64.8, 64.9, 64.10, 65	To remove outdated definitions and add new definitions; to remove references to appeals in the CPLED Program and to facilitate CPLED's appeal process for PREP; and, to accommodate students who are in the transition phase from the CPLED Program to PREP.	May 14, 2929	May 14, 2020	Bencher Meeting	
67.2 and 67.3	To suspend the operation of Rules 67.2 and 67.3 for a period of two years.	May 14, 2020	May 14, 2020	Bencher Meeting	
145.1	To clarify that the ALIA Board is not limited to making investigations and recommendations to the Benchers regarding only any form of insurance, but	May 14, 2020	May 14, 2020	Bencher Meeting	

	may also do so with regards to any form of indemnity as well..				
150	To provide clear authorization to ALIA to make payments, in appropriate circumstances, of all or part of the indemnification payable in respect of a claim under the indemnity program in its entirety, not specifically limited only to the group policy.	May 14, 2020	May 14, 2020	Bencher Meeting	

Amendment Table – 2020_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
50.1, 50.2, 56 and 57	To update the types of documents that will be accepted for providing proof of a law degree for an application for admission as a student-at-law, to provide for the option of a shorter articling term for those enrolled as students-at-law after January 1, 2019, and to clarify the requirements for supervisors during articling secondments.	April 6, 2020	April 6, 2020	Bencher Meeting	

Amendment Table – 2019_V7

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
39, 40, 40.1	To update the content of the roll and the register, and the Lawyer Directory.	December 5, 2019	December 5, 2019	Bencher Meeting	
1, 44, 45, 154 and 159.1	To update provisions regarding disclosure of Law Society records.	December 5, 2019	December 5, 2019	Bencher Meeting	
88	To clarify and streamline the processes of the Conduct Committee.	December 5, 2019	December 5, 2019	Bencher Meeting	
26	To clarify the eligibility of the past president as a member of the Executive Committee.	December 5, 2019	December 5, 2019	Bencher Meeting	
106, 107	To update the publication of decisions, orders and notices.	December 5, 2019	December 5, 2019	Bencher Meeting	

Amendment Table – 2019_V6

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
118.1 to 118.11 119(1)	To update rules for client identification and verification, cash transactions, and permitted uses of lawyers' trust accounts.	April 25, 2019	September 30, 2019	Bencher Meeting	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
119.17 119.26 119.38					

Amendment Table – 2019_V5

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
85	To incorporate and acknowledge the current work of the Early Intervention Department in the complaints process.	September 26, 2019	September 26, 2019	Bencher Meeting	
100, 100.1, 100.2, 100.3, 100.4 and 102	To ensure that appeals move forward so that they may be concluded in a timely manner.	September 26, 2019	September 26, 2019	Bencher Meeting	
48(1), 57.3(3), 115(1), 115(1.3), 165.1, 167 and 168	To correct references to Rules that have been identified as incorrect.	September 26, 2019	September 26, 2019	Bencher Meeting	
47(e), 107.2, 153.1 and 159.01	To reflect Membership department recent restructuring.	September 26, 2019	September 26, 2019	Bencher Meeting	
148(2)	To correct an identified indemnity gap.	September 26, 2019	September 26, 2019	Bencher Meeting	
67.3(1), 119.30(15), and 165(1)	To ensure that a lawyer cannot be suspended prior to the deadline for a required regulatory action.	September 26, 2019	September 26, 2019	Bencher Meeting	

Amendment Table – 2019_V4

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
1; 2.3(1)(d); 38.1; 39(1)(a)(vi); 72(2); 72.5(1)(d)(i); 75(3)(e)(i); 114(2)(b) and 114(2)(c); 115(2)(e), 115(2)(f) and 115(2.1);119.1.1, 119.4(b) and 119.4(c); 137(2), 138.1(a) and 138.1(c); 145.1; 145.2; 146; 147; 148(1), 148(5)(b)(ii) and 148(6); 149.1; 149.2; 149.4; 150(2)(c); 151(3); 153(1) and 153(2); 159.2(b)(i); 159.3(c)(i); 159.4, 159.7(3)(d); 160(a); 162; 164(2); 165(3) 168(1); and 171(1.1), as well as the headings to Part 7 Division 1 and Division 1.1	To facilitate amendments to the Indemnity program delivered by ALIA including: strike all references to ALIEX; change “Alberta Lawyers Insurance Association” to “Alberta Lawyers Indemnity Association”; change “Advisory Board” to “ALIA Board”; change “insurance” to “indemnity”; change “trust safety” indemnity to “misappropriation” indemnity	June 12, 2019	July 1, 2019	Bencher Meeting	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
1(1)(i.1)(a); 139 (d); 141.2(6)(b); 149.4; 146(3); 149.1(3); 150(2); 152(1)(b); 168(1)(c); 153; 165(3); 165.1(1); 167(1)(b); and 166	To correct typographical errors, to amend a position title, to clarify and improve wording and to correct the accuracy of the Rules	June 12, 2019	June 12, 2019	Bencher Meeting	
147(2)(c); 149.2(2)(c); 148(1); 148(2); and 148(3)	To clarify Rules and to amend a position title.	June 12, 2019	July 1, 2019	Bencher Meeting	

Amendment Table – 2019_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
17	To allow the Benchers greater flexibility in the process to fill vacancies and permit the expansion of the process to consider factors beyond past election results.	June 6, 2019	June 6, 2019	Bencher Meeting	

Amendment Table – 2019_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
45.1	To clarify that business contact information can be shared with the Courts, the Federation of Law Societies of Canada and digital signature providers for business purposes and also requires a restriction on the information shared with Bencher election candidates.	April 25, 2019	April 25, 2019	Bencher Meeting	
119.33	To expand the definition of law firm to allow the auditors the ability to review a trust account used but not held by the lawyer and to permit the auditors to review the accounts of other lawyers working within a co-located office arrangement, as necessary, to address office-wide concerns.	April 25, 2019	April 25, 2019	Bencher Meeting	
118.1 to 118.10 119(1) 119.17 119.26 119.38	To update rules for client identification and verification, cash transactions, and permitted uses of lawyers' trust accounts.	April 25, 2019	September 30, 2019	Bencher Meeting	

Amendment Table – 2019_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
2(1) 2(2) 2(3)	To amend the definition of Law Firm to expand it to capture approved legal services providers	February 21, 2019	July 1, 2019	Bencher Meeting	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
2(4) 119(1)(o) 2.1 2.2	To establish designated representative and registration requirements for Law Firms. Note that the current Rule 2.1 has been renumbered to 2.3.	February 21, 2019	TBD	Bencher Meeting	
147 148 149.2 149.3 115(1) 115(1.3) 119.1.1 119.2 119.4 137(2) 151(3) 165(3) 165.1(1) 167(1) 168(1) 171(1.1)	To clarify the insurance rules to better describe exemptions and to clarify coverage for exempt lawyers who volunteer with approved legal services providers. Consequential amendments made to address renumbering and terminology.	February 21, 2019	July 1, 2019	Bencher Meeting	

Amendment Table – 2018_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
85	To delegate the powers of the Executive Director under section 53 of the Act to Law Society staff lawyers engaged in the review of lawyer conduct; amend the wording of the rules dealing with obtaining written statements and managing information obtained from complainants and lawyers during the review process.	November 29, 2018	November 29, 2018	Bencher Meeting	
86	To amend wording of the rule governing the appeal of a complaint dismissal.	November 29, 2018	November 29, 2018	Bencher Meeting	
87	To amend the wording of notice provisions in the rule governing investigations.	November 29, 2018	November 29, 2018	Bencher Meeting	
88	To amend wording of the rule governing proceedings of the Conduct Committee.	November 29, 2018	November 29, 2018	Bencher Meeting	
89.1	To permit staff lawyers to notify members when the Practice Review Committee directs a general review and assessment of a member's conduct and when members are required to answer inquiries or produce records.	November 29, 2018	November 29, 2018	Bencher Meeting	

Amendment Table – 2018_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
119.30	To clarify the Executive Director's authority to prescribe forms and filing methods for the self-report form. To confirm the obligation for lawyers to provide a written authorization to obtain law firm bank account information. To confirm that lawyers may not refuse to provide privileged records. To confirm that disclosure of privileged information to the Society is not a waiver of privilege. To confirm that the Society will not use privileged information for purposes other than the administration of the trust safety program or conduct proceedings. Consequential renumbering of subparagraphs and cross-references.	September 27, 2018	September 27, 2018	Bencher Meeting	
119.33	To confirm the obligation for lawyers to provide a written authorization to obtain law firm bank account information. To confirm that lawyers may not refuse to provide privileged records. To confirm that disclosure of privileged information to the Society is not a waiver of privilege. To confirm that the Society will not use privileged information for purposes other than the administration of the trust safety program or conduct proceedings. Consequential renumbering of subparagraphs and cross-references.	September 27, 2018	September 27, 2018	Bencher Meeting	

Amendment Table – 2017_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
119 119.3 119.30 115 165.1 167	Establish a uniform annual report filing date and late filing fee for Trust Safety	June 10, 2017	June 10, 2017	Bencher Meeting	

Amendment Table – 2017_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
47.1 48 48. 4 49	To delegate authority to the Executive Director, clarify appeals and Committee process, amend the process for evaluating other law degrees, and clarify proceedings under Division 3	April 6, 2017	April 6, 2017	Bencher Meeting	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
50.2 64 64.8					

Amendment Table – 2017_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
39, 40, 40.1, 42. 45, and 118	To improve Lawyer Directory: Member Roll and Student-at-Law Register	February 3, 2017	February 3, 2017	Bencher Meeting	
7, 8, 10, 11.1, 12.1, 13.1, and 15	To facilitate the Bencher election process and clarify the election rules	February 3, 2017	February 3, 2017	Bencher Meeting	
23.1	To set the same restrictions on non-bencher adjudicators as set on non-bencher committee members and Benchers	February 3, 2017	February 3, 2017	Bencher Meeting	
149.4	To clarify the distinction between ALIA and the LSA and their files	February 3, 2017	February 3, 2017	Bencher Meeting	
51(1), 51.1, 57, 57.2(1), 57.2(2), 58, 65(2), 66(1), 66(8), 66.1(1), 67(3), 67(4), and 67(5)	To amend the articling application process to work towards moving processes online	February 3, 2017	February 3, 2017	Bencher Meeting	

Amendment Table – 2016_V5

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
88.1 (10)	To broaden the pool of decision makers when necessary	December 1, 2016	December 1, 2016	Bencher Meeting	
119.46	To allow law firms to use bank drafts and money orders with minimal effort	December 1, 2016	December 1, 2016	Bencher Meeting	

Amendment Table – 2016_V4

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
67.2 67.3 165.1(1) 167(1)(b)	Change timing of the CPD planning process	September 29, 2016	September 29, 2016	Bencher Meeting	
68(3)	Transfer the decision making process to the Executive Director for any exemption to the 25 year requirement	September 29, 2016	September 29, 2016	Bencher Meeting	
119.15	Clarity issue of provision of additional materials	September 29, 2016	September 29, 2016	Bencher Meeting	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
88.1	Include a review of materials before the Executive Director	September 29, 2016	September 29, 2016	Bencher Meeting	
90.1 97	Clarify and improve the process for conducting pre-hearing conferences	September 29, 2016	September 29, 2016	Bencher Meeting	

Amendment Table – 2016_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
86 (7)	Modify standard of review	June 11, 2016	June 11, 2016	Bencher Meeting	
119.2, 119.5, 119.7, 119.8, 119.9, 119.10, 119.12, 119.13, 119.15 and 119.34	Amendments to improve the application and approval process for lawyers to receive Responsible Lawyer Status and for law firms to receive approval to open, operate and maintain a Trust Account	June 11, 2016	June 11, 2016	Bencher Meeting	
119.6 and 119.14	Revoked	June 11, 2016	June 11, 2016	Bencher Meeting	

Amendment Table – 2016_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
47.1, 64.2, 64.5, 115, 116, 118	Revise the reinstatement process	April 7, 2016	April 7, 2016	Bencher Meeting	
29	Re-establish the Professional Responsibility Committee	April 7, 2016	April 7, 2016	Bencher Meeting	

Amendment Table – 2016_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
Repeal rules 29, 30, 31, 36, 37.1, 37.2 and 38 Amend rules 49.1, 35, 35.1, 35.2, 35.3, 35.4, 35.5, 35.6, 22 (3), 98 (3), 99 (1)(b), 99 (1)(f), 99 (3), 102 (1)(c), 102 (1)(h), 102 (2), 159.7 (4), 162 (1)(a), and 170 (2)	To implement the new committee structure	February 4, 2016	February 4, 2016	Bencher Meeting	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
Rule 67.2	To clarify the timing of the CPD plan	February 4, 2016	February 4, 2016	Bencher Meeting	
Rule 45.1	To permit the publishing of email addresses, of either a firm or business or of an individual lawyer, within the new Lawyer Directory	February 4, 2016	February 4, 2016	Bencher Meeting	
Add rule 165.1 Amend rules 79, 163, 164, 164.1, 165, 147, 148, 149.2, 149.3, 115, and 167	To streamline and simplify the reinstatement process for lawyers on administrative suspension for non-payment of fees	February 4, 2016	February 4, 2016	Bencher Meeting	

Amendment Table – 2015_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
4, 32, 42(5) and 43	Allow the Law Society to select the most appropriate method of service for the document it is required to send.	November 26, 2015	November 26, 2015	Bencher Meeting	
87.1 to 87.3	Establish and define role of Office of Independent Counsel for Section 53 reviews.	November 26, 2015	November 26, 2015	Bencher Meeting	

Amendment Table – 2015_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
28(3)(b)	Deleted	September 24, 2015	September 24, 2015	Bencher Meeting	
49.3 (3)	Change summer student recruitment period	September 24, 2015	September 24, 2015	Bencher Meeting	
67.2	Wording clarified	September 24, 2015	September 24, 2015	Bencher Meeting	

Amendment Table – 2015_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
85(7) 86	Appeals of complaint dismissals to be dealt with by way of an appeal in writing with the Appeal Committee having the sole discretion to request oral submissions.	June 6, 2015	September 1, 2015	Bencher Meeting	

Amendment Table – 2014_V5

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
4(1)(e) 83 90.1	Expand the role of pre-hearing conferences with respect to readiness and alternative measures.	December 4, 2014	December 4, 2014	Bencher Meeting	

Amendment Table – 2014_V4

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
119.5 (1) 119.9 (1) 119.24 (3) 119.27 (1) 119.30 (2) to (4) 119.46 (1)	To enable the Manager, Trust Safety to require law firms to file required forms in a prescribed method	September 18, 2014	September 18, 2014	Bencher Meeting	
119.30 (12)	To enable the Manager, Trust Safety to require law firms to provide required accounting information electronically	September 18, 2014	September 18, 2014	Bencher Meeting	
119.33 (3)(c)	To enable the Manager, Trust Safety to require law firms to grant authorization to allow the LSA to obtain law firm banking records directly from a law firm's financial institution	September 18, 2014	September 18, 2014	Bencher Meeting	

Amendment Table – 2014_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
119.30 (4) 119.30 (11)	To enable the Manager, Trust Safety to exempt law firms from filing requirements	June 7, 2014	June 7, 2104	Bencher Meeting	
Interpretation 35.2 37.1 to 38.1 55 (5)(b) 92 (2) 111 (1)(e) 114 (2)(b) 115 119.4 138.1 145 to 153 160 162 164 165 (3) 166 168 (1)	To commence operations of the new indemnity program through ALIEX on July 1, 2014	June 7, 2014	June 7, 2104	Bencher Meeting	

Amendment Table – 2014_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
10 to 13.2	Delete references to the paper ballot process and refine the online voting process	April 11, 2014	April 11, 2014	Bencher Meeting	
62	Enable a student to retake up to three CPLED modules	April 11, 2014	April 11, 2014	Bencher Meeting	

Amendment Table – 2014_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
164.1(1) & (3) 166	Dispense with $100 administrative penalty for late filing of Member Information Update Form, and requirement of receipt prior to issuance of membership card	February 6, 2014	February 6, 2014	Bencher Meeting	

Amendment Table – 2013_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
119.1.1 119.2 119.4 (b)	To enable in-house counsel to operate a trust account	December 4, 2013	December 4, 2013	Bencher Meeting	
50 (2) 50 (4) 50.1 (1) 50.2 (1)	Amendments regarding approval of common-law degrees	December 12, 2013	December 12, 2013	Bencher Fax Ballot	

Amendment Table – 2013_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
22(3) 35.2(1)(c) 35.4(b), (c), (d) 36.1 and 36.2 37.1 and 37.2 38 98(3) 99(1) and 99(3) 102 159.7(4) 160 162(1) 170(2)	Establish the Budget and Financial Affairs Committee, and assign to it the work previously carried out by the Finance Committee regarding budget and financial oversight	June 5, 2013	June 5, 2013	Bencher Meeting	
49.1 to 49.3	Update student recruitment rules	June 5, 2013	June 5, 2013	Bencher Meeting	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
140(3.1) 140(4) 143(3)(a)(ii)	Assurance Fund service rules modified for dispensing with service	June 5, 2013	June 5, 2013	Bencher Meeting	

Amendment Table – 2012_V4

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
119.20(3)	For consistency of wording	November 29, 2012	November 29, 2012	Bencher Meeting	
119.22(1)(b)	To enable a law firm to issue a cheque to cash when required to return cash as per rule 119.38	November 29, 2012	November 29, 2012	Bencher Meeting	
119.23	So that it is consistent with the requirements under rule 119.42 electronic banking withdrawals regardless of the amounts received. Previous payments exceeding $25 million could not be processed by cheque and a specific rule had been enacted. The two rules are now harmonized regarding electronic trust withdrawals as the process is the same	November 29, 2012	November 29, 2012	Bencher Meeting	
119.30(5)(b)	To clarify what is being remitted to the Law Society	November 29, 2012	November 29, 2012	Bencher Meeting	
119.42(1)	To simplify electronic banking withdrawals	November 29, 2012	November 29, 2012	Bencher Meeting	
120	Deleted as the transitional effects of the January 2011 rule have since expired	November 29, 2012	November 29, 2012	Bencher Meeting	

Amendment Table – 2012_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
34	To change the fiscal period end for each of Law Society of Alberta and ALIA to December 31	June 6, 2012	June 6, 2012	Bencher Meeting	

Amendment Table – 2012_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
119.3 (1)	To enable more than one lawyer to act as a responsible lawyer	April 12, 2012	April 12, 2012	Bencher Meeting	
119.43 (1)	To enable a law firm to obtain a confirmation with a new or file number	April 12, 2012	April 12, 2012	Bencher Meeting	

Amendment Table – 2012_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
119.17.1	Amendment regarding benefiting from trust money	April 12, 2012	April 12, 2012	Bencher Meeting	

Amendment Table – 2011_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
2.1, 10, 31.1, 31.2, 57.1, 73, and 73.1	Update references to the Code of Conduct		November 1, 2011		

Amendment Table – 2011_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
11 to 13.2	To facilitate an electronic voting process	August 5, 2011	August 5, 2011	Benchers	

Amendment Table – 2010_V4

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
119 to 136	Rules repealed	November 25, 2010	January 1, 2011	Bencher Meeting	
119 to 119.46	New Trust Safety Rules	November 25, 2010	January 1, 2011	Bencher Meeting	
120	Trust Safely transition matters	November 25, 2010	January 1, 2011	Bencher Meeting	
1	Rule amendment for Trust Safety	November 25, 2010	January 1, 2011	Bencher Meeting	
39	Rule amendment for Trust Safety	November 25, 2010	January 1, 2011	Bencher Meeting	
57.3	Rule amendment for Trust Safety	November 25, 2010	January 1, 2011	Bencher Meeting	
72.1	Rule amendment for Trust Safety	November 25, 2010	January 1, 2011	Bencher Meeting	
75	Rule amendment for Trust Safety	November 25, 2010	January 1, 2011	Bencher Meeting	
88	Rule amendment for Trust Safety	November 25, 2010	January 1, 2011	Bencher Meeting	
105	Rule amendment for Trust Safety	November 25, 2010	January 1, 2011	Bencher Meeting	
138	Rule amendment for Trust Safety	November 25, 2010	January 1, 2011	Bencher Meeting	
148	Rule amendment for Trust Safety	November 25, 2010	January 1, 2011	Bencher Meeting	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
167	Rule amendment for Trust Safety	November 25, 2010	January 1, 2011	Bencher Meeting	

Amendment Table – 2010_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
49.1 to 49.3	Amendments and additions to recruitments rules	June 3, 2010	June 3, 2010	Bencher Meeting	

Amendment Table – 2010_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
133(6)-(9)	Change adjudication mechanism dealing with small amounts of undisbursable trust funds	April 15, 2010	April 15, 2010	Benchers	
122.1(1)	Amended to remove the text “Effective April 1, 2010”	April 15, 2010	April 15, 2010	Benchers	

Amendment Table – 2010_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
119(1)(d) 119(1)m)(i) 122.1(1)	Amended to prohibit the use of trust account where no legal services provided	February 4, 2010	February 4, 2010	Benchers	

Amendment Table – 2009_V5

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
26(2)(c), 27(1)(d), 27(2)(a) and (c), 27(3)	Amendments regarding election timing and process	December 3, 2009	December 3, 2009	Benchers	

Amendment Table – 2009_V4

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
26(2), 27, 28(3)	Amendments regarding election timing and process	September 25, 2009	September 25, 2009	Benchers	

Amendment Table – 2009_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
51.1 (1) & (2) 67 (7) 114 (2)(b)	Rules amended regarding change to citizenship requirement (TILMA)	May 11, 2009	May 11, 2009	Benchers	

Amendment Table – 2009_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
148(2) & (2.1)	Amendment of Rules to approve a new pro bono provider	April 2, 2009	April 2, 2009	Benchers April 2009 Meeting	
155(2) and 159	Amendment of Rules to comply with change to the Alberta Business Corporations Act	April 2, 2009	April 2, 2009	Benchers April 2009 Meeting	

Amendment Table – 2009_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
Rules 49.2(1), (2), (3), & (4)	Recruitment Rules amended to create clarity on recruitment activity	February 5, 2009	February 5, 2009	Bencher's February 2009 Meeting	
118.1 to 118.9	Align Client Identification and Verification Rules with the Model Rule from the Federation of Law Societies of Canada	February 5, 2009	December 31, 2008	Bencher's February 2009 Meeting	

Amendment Table – 2008_V8

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
67.1 and 67.2	New rules for Continuing Professional Development	November 29, 2008	November 29, 2008	Bencher's November 2008 Meeting	

Amendment Table – 2008_V7

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
59 to 63.2	Rules amended to reflect revisions to CPLED Program Requirements	October 2, 2008	October 2, 2008	Bencher's October 2008 Meeting	

Amendment Table – 2008_V6

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
88 (1.1)	New rule on appointment of panels to the Conduct Committee to be consistent with Rule 48(2)	October 2, 2008	October 2, 2008	Bencher's October 2008 Meeting	
Part 5 Division 1 118.1 to 118.9	New rules for client identification and verification	October 2, 2008	December 31, 2008	Bencher's October 2008 Meeting	

Amendment Table – 2008_V5

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
45.1 (2) (d)	Permits the Society to disclose business contact information to candidates standing for election for the purpose of communicating with members eligible to vote	June 6, 2008	June 6, 2008	Benchers June 2008 Convocation	
1 (1) (i) 164 (3)	Corrected reference to Rule 68 (3)	July 14, 2008	July 14, 2008	Executive Director	

Amendment Table – 2008_V4

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
148 (2) & (2.1)	Amend list of pro bono providers and exemptions	April 10, 2008	April 10, 2008	Benchers April 2008 Convocation	

Amendment Table – 2008_V3

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
143(4)(c)	Correcting inadvertent error: Appeal hearings are public.	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	

Amendment Table – 2008_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
45.1 (3)	Extended the list of non-profit organizations eligible to receive business contact information	December 6, 2007	December 6, 2007	Benchers December 2007 Convocation	

Amendment Table – 2008_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
47.1	Additional delegations added to address matters referred by the Executive Director	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
48(1)	Amended to list all transactions for panel determination	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
48.1	Original rule on “Panels of Inquiry” has been deleted. This Rule now details the process for review and determination of applications by the Executive Director.	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
48.2	New rule for determination process	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
48.3	No change (formerly Rule 49)	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
48.4, 48.5, 49	New rules for hearing process and decision obligations	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
50(5)	Amended to change the primary decision maker from the Committee to the Executive Director	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
51.1	Amended to permit the Executive Director to make the initial decision	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
51.2	Deleted	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
54	Amended to permit the Executive Director to deal with applications for back-dating articles, with no right of appeal	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
55	Amended to permit the Executive Director to determine the suitability of a principal	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
55(5)	Amended for clarification	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
56(1)(c)	Amended to permit the Executive Director to impose conditions and extend time to complete articles	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
57.2(2)	Amended to permit the Executive Director to approve/refuse assignment of articles to a judge	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
57.3	Amended to permit the Executive Director to terminate articles in specified circumstances	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
58(4)	Amended to permit the Executive Director to waive requirement of forms and permit admission of student	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
66(9)	Amended to permit the Executive Director to make initial determination	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
66.1(2)(c)	Reference to Committee deleted	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
66.2	Amended to delegate Bencher authority to Committee	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
66.3	Amended to permit Executive Director to make initial determination	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
67(2)	Amended to delegate appeal from Benchers to Committee	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
67.1	Deleted	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
139(e)	Added definition for “Application for compensation”	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
139(2)	Deleted	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
140	Amended to incorporate additional methods of service	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
141 to 142.2	Rules restructured and wording modified	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
143	Appeal process changed to twin hearing process through rule reference.	February 7, 2008	February 7, 2008	Benchers February	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
				2008 Convocation	
144	Amended so that claim may be paid out immediately, and mandatory documents left to direction of panel or discretion of the Executive Director	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	
148(2)(c)	Exempt two more positions at the Legal Aid Society from mandatory ALIA coverage	February 7, 2008	February 7, 2008	Benchers February 2008 Convocation	

Amendment Table – 2007_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
148(2.1)	Revised rule 148(2.1) – added Lethbridge Legal Guidance	April 12, 2007	April 12, 2007	Benchers April 2007 Convocation	

Amendment Table – 2007_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
47(n) & (o)	(n) and (o) added to the Interpretation and Authority of Territorial Mobility Agreement Rule 47	February 1, 2007	February 1, 2007	Benchers February 2007 Convocation	
47.1	Amendments to authority delegated to Credentials and Education Committee	November 30, 2006	November 30, 2006	Benchers November 2006 Convocation	
50(2)	Amendments to Academic Requirements	November 30, 2006	November 30, 2006	Benchers November 2006 Convocation	
61	Amended with changes to CPLED program	November 30, 2006	November 30, 2006	Benchers November 2006 Convocation	
63(1)	Clarification of Rule on Supplemental Attempts	November 30, 2006	November 30, 2006	Benchers November 2006 Convocation	
66(4)(a)	Amended for Territorial Mobility Agreement	February 1, 2007	February 1, 2007	Benchers February 2007 Convocation	

Amendment Table – 2006_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
148(2.1)	Revised rule 148(2.1) – added the Central Alberta Community Legal Clinic	September 28, 2006	September 28, 2006	Benchers September 2006 Convocation	

Amendment Table – 2005_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
115(1) & (2)	Added Rules (1.2) & (2.1) – to provide pro bono exemptions on reinstatement	December 2, 2005	December 2, 2005	Benchers December 2005 Convocation	Form 9-1
115(2)(e)	Amended subrule regarding assurance fund levy	December 2, 2005	December 2, 2005	Benchers December 2005 Convocation	
137(1)(a) & (b)	Added subrule to provide pro bono exemption from assurance fund assessment	December 2, 2005	December 2, 2005	Benchers December 2005 Convocation	
171(1.1)	Added Rule (1.1) provide pro bono exemption from library assessment	December 2, 2005	December 2, 2005	Benchers December 2005 Convocation	

Amendment Table – 2005_V1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
7	Added subrules (1) & (2) which permits the Executive Director to send pre-notification of election	April 8, 2005	April 8, 2005	April 2005 Convocation	
9(3) & 9(4) deleted	Added subrules 3 (a) & (b) regarding term limits for Benchers and recognizes the change from 2-year to 3-year terms	April 8, 2005	April 8, 2005	April 2005 Convocation	
10(1)(c)	Amended to remove the fixed date for receipt of nominations and provide discretion to the Executive Director	April 8, 2005	April 8, 2005	April 2005 Convocation	
10(2)(a)	Amended to allow a photograph or likeness of the candidate	April 8, 2005	April 8, 2005	April 2005 Convocation	
10(2)(b)	Amended to prohibit campaign promise	April 8, 2005	April 8, 2005	April 2005 Convocation	
10(2.1)(a) & (b)	Added Rule allowing President to veto inappropriate photograph or statement	April 8, 2005	April 8, 2005	April 2005 Convocation	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
11(1)	Amended to remove the fixed date for sending out ballots and giving discretion to the Executive Director	April 8, 2005	April 8, 2005	April 2005 Convocation	
11(2), (3) &(4)	Amended to give the Executive Director discretion to print election documents and determine date for eligibility to vote	April 8, 2005	April 8, 2005	April 2005 Convocation	
13(1)	Allows the Executive Director to remove the ballot envelopes from the return envelopes	April 8, 2005	April 8, 2005	April 2005 Convocation	
13(2)(c)	Deleted Subrule (c)	April 8, 2005	April 8, 2005	April 2005 Convocation	
13(3)(a)	Amended to reflect corrections resulting from previous changes to the election rules	April 8, 2005	April 8, 2005	April 2005 Convocation	
66(3)	Amended to include time worked as an articling student in calculating 12 of 48 months	October 1, 2004	October 1, 2004	October 2004 Convocation	
72.3(4),(5)	Correction of Rule reference from 61 to 66	November 2, 2004	November 2, 2004	Content Management	
87.1(1)(a)(b), (2)	Process for Section 53 proceedings against Benchers and Law Society staff added	November 25, 2004	November 25, 2004	November 2004 Convocation	
88(5)	Subrule added to require written dismissal of complaints and letters in every case	November 25, 2004	November 25, 2004	November 2004 Convocation	
88.1(1) – (9)	Providing for re-examination following dismissal pursuant to Section 57 of the LPA	November 25, 2004	November 25, 2004	November 2004 Convocation	
92(10)	Amended to require Executive Director to comply with Section 78 of the LPA	June 5, 2004	June 5, 2004	June 2004 Convocation	
118(1)(a)(ii)(B)	Amended to include time worked anywhere in Canada in calculating 12 of 48 months	October 1, 2004	October 1, 2004	October 2004 Convocation	
122(2)(a)(e)	Amended to include the method by which money is received	April 8, 2005	April 8, 2005	April 2005 Convocation	
122(2) (k)(l) & 122(7)	Added new subrules containing recordkeeping requirements for cash transactions	April 8, 2005	April 8, 2005	April 2005 Convocation	
125.1(1) – (5)	Added new rules regarding obligations related to cash transactions	April 8, 2005	April 8, 2005	April 2005 Convocation	
139(1)(d)	Amended to include Director of Insurance any other person designated by the Executive Director	November 26, 2004	November 26, 2004	November 2004 Convocation	
141.1(9)(a)(b)	Amended to include Director of Insurance	November 26, 2004	November 26, 2004	November 2004 Convocation	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
165(3)	Suspensions for instalment payments of Professional Liability Insurance	February 3, 2005	February 3, 2005	February 2005 Convocation	

Changes listed in this table are ones made to Version "2004_V2" of the Rules. Where an amendment to the substance of a rule or subrule has been made since June 3, 2001, the amendment month and year are marked at the end of the Rule. Amendments made prior to June 3, 2001 are not marked in this document.

Amendment Table – 2004_2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
110 2(a) & (b)	Removing wording “by ordinary mail” from Rule 110 2 (a) & (b)	August 13, 2004	August 13, 2004	BenchersFax Ballot	

Changes listed in this table are ones made to Version "2004_1" of the Rules. Where an amendment to the substance of a rule or subrule has been made since June 3, 2001, the amendment month and year are marked at the end of the Rule. Amendments made prior to June 3, 2001 are not marked in this document.

Amendment Table – 2004_1

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
2.1	Authorization for the collection, use and disclosure of information added	December 24, 2003	December 24, 2003	Fax Ballot	
13(1)	Amended to permit the opening of return envelopes on receipt	November 13, 2003	November 13, 2003	Fax Ballot	
45(5), (8)	Authority to respond to requests for information changed from the Executive Committee to the Executive Director, Information Officer and others	February 5, 2004	February 5, 2004	February 2004 Convocation	
45.1	Rule for disclosure of business contact information added	February 5, 2004	February 5, 2004	February 2004 Convocation	
46	Amended so that the Executive Director may designate another employee to issue Certificates of Standing	February 5, 2004	February 5, 2004	February 2004 Convocation	Form 1-4, signature line
46.01 to 81 (Part 2)	Reorganization of divisions, subdivisions and rules; rule numbering changed; rules for CPLED program added; other revisions as identified below	February 5, 2004	February 5, 2004	February 2004 Convocation	Part 2 forms – rule number references change
47	Definitions of “committee”, “CPLED”, “CPLED program” and “old bar admission course” added	February 5, 2004	February 5, 2004	February 2004 Convocation	
47.1(a)	Delegation from Benchers to Credentials and Education Committee amended to reflect the change to the CPLED program	February 5, 2004	February 5, 2004	February 2004 Convocation	

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
47.1(d) and 48(1)(c)	Amended to refer to any decisions made by the Executive Director under Part 2, rather than specific rules	February 5, 2004	February 5, 2004	February 2004 Convocation	
49	Amended to authorize the Executive Director to refer any matter arising under Part 2 of the rules to the committee	February 5, 2004	February 5, 2004	February 2004 Convocation	
50(2) and (5)	Amended so that an applicant to become a student-at-law must obtain approval if his/her law degree is more than three years old	February 5, 2004	February 5, 2004	February 2004 Convocation	Add to committee guideline and Forms 2-1 Instructions
50.3(1)	Amended by substituting the specific date when this rule came into effect	February 5, 2004	February 5, 2004	February 2004 Convocation	
50.4	Authority to impose additional requirements on student-at-law applicants added	February 5, 2004	February 5, 2004	February 2004 Convocation	Add to committee guideline
51(1)(g)	Requirement to provide a certificate of standing added	February 5, 2004	February 5, 2004	February 2004 Convocation	Amend Form 2-1 instructions
51(2) to (4)	Requirement for student-at-law applicants to submit all documentation at least 30 days before proposed commencement of articles	February 5, 2004	February 5, 2004	February 2004 Convocation	Amend Form 2-1 instructions
52	Conditions precedent to providing legal services as a student-at-law clarified	February 5, 2004	February 5, 2004	February 2004 Convocation	Amend Form 2-1 instructions
52(6)	Duty to identify student-at-law as such added	February 5, 2004	February 5, 2004	February 2004 Convocation	
54(3), 57(1), 57.2(5), 57.3(4)(b)	Requirement to submit forms in triplicate removed	February 5, 2004	February 5, 2004	February 2004 Convocation	
55(1)	Re-worded to focus on qualifications for becoming a principal rather than on Articles of Clerkship	February 5, 2004	February 5, 2004	February 2004 Convocation	
55(6)	Requirement for committee to provide directions as to approved articling commencement date in certain circumstances added	February 5, 2004	February 5, 2004	February 2004 Convocation	Add to committee guidelines
55(7)	Duty to advise applicant and principal added where Law Society approval of the principal is in issue and certain conditions are met	February 5, 2004	February 5, 2004	February 2004 Convocation	
56(1)	Required articling term clarified for NWT students and students articling with courts referred to in the Act; credit for articles served in another province increased; and credit for articles served with a court not referred to in the Act permitted	February 5, 2004	February 5, 2004	February 2004 Convocation	Add to committee guidelines
56(2)	Requirement to serve entire articling term within two years of application for enrolment added	February 5, 2004	February 5, 2004	February 2004 Convocation	Add to committee guidelines

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
56(3)	Credit for in-person portion of CPLED program added	February 5, 2004	February 5, 2004	February 2004 Convocation	
57(1)	Requirement for Executive Director to endorse approval on documents removed	February 5, 2004	February 5, 2004	February 2004 Convocation	Amend forms accordingly
57.1	Duty to notify the Society of a change in working arrangements added	February 5, 2004	February 5, 2004	February 2004 Convocation	
58.1(1)	Three year limit on registration as a student-at-law, subject to extension, added	February 5, 2004	February 5, 2004	February 2004 Convocation	Add to committee guidelines
59-63.2	CPLED program rules added	February 5, 2004	February 5, 2004	February 2004 Convocation	Amend committee guidelines
64-64.10	Appeal rules amended to reflect CPLED program changes	February 5, 2004	February 5, 2004	February 2004 Convocation	Add to committee guidelines
65(1)	Enrolment requirements clarified	February 5, 2004	February 5, 2004	February 2004 Convocation	
66(3)	Transfer applicants required to meet the same academic requirements required of other applicants for enrolment, subject to an exception	February 5, 2004	February 5, 2004	February 2004 Convocation	Amend Form 2-15 and 2-24 Instructions
67.1	Authority to impose additional requirements on applicants for enrolment added	February 5, 2004	February 5, 2004	February 2004 Convocation	Add to committee guidelines
69(1)	Process for application to resign where conduct hearing has been directed clarified	February 5, 2004	February 5, 2004	February 2004 Convocation	
69.1	Rule re returning to practising status added	February 5, 2004	February 5, 2004	February 2004 Convocation	
69.2	Rule re provision of legal services by students-at-law pending enrolment added	February 5, 2004	February 5, 2004	February 2004 Convocation	
70(2)	Authority to grant permission to practise added where visiting lawyer is applying to transfer as corporate counsel	February 5, 2004	February 5, 2004	February 2004 Convocation	
70(5)	Time limit on articling pending completion of transfer application removed	February 5, 2004	February 5, 2004	February 2004 Convocation	
73.2(5), (7)	Authority to share information regarding former members, students-at-law and visiting lawyers added	February 5, 2004	February 5, 2004	February 2004 Convocation	
107.2	Authority for Executive Director to designate others to perform duties under Part 4 (reinstatement) added	February 5, 2004	February 5, 2004	February 2004 Convocation	
108(1) & (3)(a), (b), (c) & (e); 110(2)(d)(i) & (f)(i); 111(1)(f); & 114(4)(b)	Amended so that the reinstatement process that applies to disbarred lawyers also applies to those who resigned when a conduct hearing had been directed prior to resignation	February 5, 2004	February 5, 2004	February 2004 Convocation	Amend committee guidelines

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
115(1)(d)	Reinstatement application requirement for students-at-law wanting to resume articling or practise added	February 5, 2004	February 5, 2004	February 2004 Convocation	Amend committee guidelines
118(1)(a)(ii)	Amended so that there is no mandatory referral to the Credentials and Education Committee where the reinstatement applicant has practised law or worked as an articling student for 12 out of the last 48 months	November 27, 2003	November 27, 2003	November 2003 Convocation	Amend committee guidelines
118(1)(a)((ii)(A)	Changed so that mandatory referrals only required where applicant seeks status that permits practice	February 5, 2004	February 5, 2004	February 2004 Convocation	Amend committee guidelines
153.1	Authority for various staff members to perform the functions of the Executive Director regarding PCs added	February 5, 2004	February 5, 2004	February 2004 Convocation	
159.01	Authority for various staff members to perform the functions of the Executive Director regarding LLPs added	February 5, 2004	February 5, 2004	February 2004 Convocation	
160(b)	Authority for various staff members to perform the functions of the Executive Director regarding fees added	February 5, 2004	February 5, 2004	February 2004 Convocation	

Changes listed in this table are ones made to Version "2003_1" of the Rules. Where an amendment to the substance of a rule or subrule has been made since June 3, 2001, the amendment month and year are marked at the end of the Rule. Amendments made prior to June 3, 2001 are not marked in this document.

Amendment Table – 2003_1

Rules Modified	Description of Change	Version #	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
8(2) & (3)	Extend Calgary & Edmonton city district boundaries	2003_1	June 6, 2003	June 6, 2003	June 2003 Convocation	
11(1)(e),(2) - (4), 12(1)(c) & 2(a), 13(1)-(4)	Change to Bencher election procedures	2003_1	June 6, 2003	June 6, 2003	June 2003 Convocation	Forms 1-2 & 1-3
39 (1)	Changes to the Roll	2003_1	June 6, 2003	July 1, 2003	June 2003 Convocation	
40	Changes to the Register for Students-at-Law	2003_1	June 6, 2003	July 1, 2003	June 2003 Convocation	
70(4)	Repealed universal requirement to return Certificates of Enrolment	2003_1	June 6, 2003	June 6, 2003	June 2003 Convocation	
46.01	Mobility Definitions	2003_1	June 6, 2003	July 1, 2003	June 2003 Convocation	Form 2-15 Amended

61, 61.1, 68(d), 71, 72, 72.1, 72.2, 72.3, 72.4, 72.5, 72.6, 73, 73.1, 73.2, 73.3	Implementation of National Mobility Agreement	2003_1	June 6, 2003	July 1, 2003	June 2003 Convocation	
105	Visiting lawyer added to those required to self report	2003_1	June 6, 2003	July 1, 2003	June 2003 Convocation	
107.1	Modify members' duty to indicate Restrictions	2003_1	June 6, 2003	July 1, 2003	June 2003 Convocation	
118 (6)	Modify conditions to be entered in the roll	2003_1	June 6, 2003	July 1, 2003	June 2003 Convocation	
Changes listed in this table are ones made to Version "2003_0" of the Rules. Where an amendment to a rule or subrule has been made since June 3, 2001, the amendment month and year are marked at the end of the rule. Amendments made prior to June 3, 2001 are not marked in this document.						

Amendment Table – 2003_0

Rules Modified	Description of Change	Version #	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
23.1 & 23.2	Rules regarding representation in Society proceedings added	2003_0	February 2003	February 2003	February 2003 Convocation	
34, 35, 35.1-35.5, 36, 36.1, 36.2, 37	Changes to Finance and Audit Committee terms of reference	2003_0	February 2003	February 2003	February 2003 Convocation	Terms of Reference
124 (4) & 124(5.1)	Added Electronic Funds Transfer	2003_0	February 2003	February 2003	February 2003 Convocation	
166	Content of annual certificate to be set by Executive Director	2003_0	February 2003	February 2003	February 2003 Convocation	
170(1) – (7)	Permits Law Library to charge fees for services	2003_0	February 2003	February 2003	February 2003 Convocation	Finance Committee to set Fees
Changes listed in this table are ones made to Version "2002_1" of the Rules. Where an amendment to a rule or subrule has been made since June3, 2001, the amendment month and year are marked at the end of the rule. Amendments made prior to June 3, 2001 are not marked in this document.						

AMENDMENT TABLE – 2002-1

Rules Modified	Description of Change	Version #	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
4(1)(d), (e) & (2)	Added service by courier and fax.	2002-1	November 29, 2002	November 29, 2002	November 2002 Convocation	
26(2)(e), 27(2)(a) & (4) & 28(3)(b)	Added one Bencher to Executive Committee	2002-1	November 29, 2002	February, 2003	November 2002 Convocation	
39(1)(n) & 40(b)	Add the business name to the roll.	2002-1	November 29, 2002	November 29, 2002	November 2002 Convocation	
42(1)(a), (4.1), (5), (6)	Requires members to provide business name, phone, fax and email address.	2002-1	November 29, 2002	November 29, 2002	November 2002 Convocation	Member Information Update Form
48(1.2)	Changed to allow two years to complete articles	2002-1	October 4, 2002	October 4, 2002	October 2002 Convocation	
47, 51(2)(b), (3) & (4)(b), 52(3) & (4), 54(3) & (4), 55(1)(b), 61.1(4)	Removed reference to the Education Plans and Articling Subcommittee	2002-1	October 4, 2002	October 4, 2002	October 2002 Convocation	
52(3), 55(1)(b), 61.1 (4)	Added reference to Executive Director	2002-1	October 4, 2002	October 4, 2002	October 2002 Convocation	
68 (d)	Added rule references 52(3), 55(1)(b), and 61.1(4)	2002-1	October 4, 2002	October 4, 2002	October 2002 Convocation	
115(1.1), (2)(a) & (b)	Requires payment of reinstatement fee.	2002-1	November 29, 2002	November 29, 2002	November 2002 Convocation	Amend Reinstatement Guideline
118 (2.1)	Adds discretion to order costs in reinstatement proceedings	2002-1	October 4, 2002	October 4, 2002	October 2002 Convocation	Amend Reinstatement Guideline
118 (8)	Allows appeal from order for costs	2002-1	October 4, 2002	October 4, 2002	October 2002 Convocation	Amend Reinstatement Guideline

118 (8)(c)	Added authority to order for costs on reinstatement appeals	2002-1	October 4, 2002	October 4, 2002	October 2002 Convocation	Amend Reinstatement Guideline
164.1 & 166	Requires member to complete and return Member Information Update Form	2002-1	November 29, 2002	November 29, 2002	November 2002 Convocation	Member Information Update Form
This table lists amendments that have been made to Version 1.0 of the Rules up to and including the November 2002 Convocation (November 29, 2002).						

Amendment Table – 1.0

Rules Modified	Description of Change	Version #	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
Contact Records Department of Law Society for schedule of numbering changes	Update of all references to LPA due to changes made in R.S.A. 2000	1.0	November 30, 2001	January 1, 2002	November 2001 Convocation	Consequential changes throughout Forms and Guidelines (references to LPA)
26 27 28	Restructuring of Executive Committee	1.0	January 16, 2002	February 7, 2002	Fax Ballot	
45 45.1	Combined Rule 45.1 into Rule 45, and Reorganized	1.0	February 8, 2002 (changes of form)	February 8, 2002	February 2002 Convocation	
46.3 46.5	Added juris doctor degree	1.0	February 8, 2002	February 8, 2002	February 2002 Convocation	Consequential changes to Admission Forms
48(1.2)	Moves articling requirement from LPA to Rules	1.0	December 17, 2001	December 17, 2001	Fax Ballot	Allows LSA to determine articling requirements
115(1)	Added requirement to submit Form 4-1.1	1.0	February 8, 2002	February 8, 2002	February 2002 Convocation	Form 4-1.1
118	Clarified right of appeal; changed quorum on appeal from 12 to 7 Benchers	1.0	February 8, 2002	February 8, 2002	February 2002 Convocation	Consequential changes to guidelines

	reorganized subrules					
142(6)	Clarified privacy of information and proceedings	1.0	February 8, 2002	February 8, 2002	February 2002 Convocation	Consequential changes to guidelines
143(2) 144(1)(a) and 144(2)	Added reference to the Executive Director	1.0	February 8, 2002	February 8, 2002	February 2002 Convocation	Consequential changes to guidelines
148(2.1)	Added reference to Edmonton Centre for Justice	1.0	February 8, 2002	February 8, 2002	February 2002 Convocation	
148(2)	Adds Reference to Edmonton Centre for Equal Justice	1.0	November 30, 2001	November 30, 2001	November 2001 Convocation	
161	Added Schedule of Fees	1.0	November 30, 2001	November 30, 2001	November 2001 Convocation	Form 9-1 added Original Form 9-1 becomes Form 9-2

This is Exhibit " S " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA
700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Approved Bencher Public Minutes

Public Minutes of the Four Hundred and Ninety-Eighth Meeting of the Benchers of the Law Society of Alberta (the "Law Society")

May 14, 2020

Videoconference

9:00 am

Benchers present	Kent Teskey, President Darlene Scott, President-Elect Ryan Anderson Arman Chak Corie Flett Elizabeth Hak Bill Hendsbee Cal Johnson Linda Long Jim Lutz Barb McKinley Bud Melnyk Walter Pavlic Lou Pesta Corinne Petersen Stacy Petriuk Robert Philp Kathleen Ryan Deanna Steblyk Margaret Unsworth Cora Voyageur Ken Warren Louise Wasylenko
Executive Leadership Team members present	Elizabeth Osler, CEO and Executive Director Cori Ghitter, Deputy Executive Director and Director, Professionalism and Policy Paule Armeneau, Director, Regulation, and General Counsel Nadine Meade, Chief Financial Officer

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Andrew Norton, Director, Business Technology David Weyant, President and CEO, Alberta Lawyers Indemnity Association
Staff present	Barbra Bailey, Policy Counsel Nancy Bains, Associate General Counsel Colleen Brown, Manager, Communications Nancy Carruthers, Manager, Professionalism and Ethics Ruth Corbett, Governance Administrator Shabnam Datta, Policy Counsel Stephen Ong, Business Technology Christine Schreuder, Governance Coordinator
Guest present:	Carsten Jensen, Federation of Law Societies of Canada

Secretary's Note: The arrival and/or departure of participants during the meeting are recorded in the body of these minutes.

	Item
1	**Opening Remarks from the Chair** Mr. Teskey called the public meeting to order at 9:10 am. Mr. Teskey commended the Law Society's Communications department and Nancy Carruthers, Senior Manager for their responsiveness to the profession and the public in the face of the challenges created by the COVID-19 pandemic. Mr. Teskey outlined the meeting procedures and noted that a 2/3 majority is required for all votes taken at meetings held remotely.
2	**Big Issues and Engagement Timelines** Documentation for this item was circulated with the meeting materials. Ms. Osler advised the Benchers that the timelines were updated to reflect changes since the Law Society's office closure. The transition to remote operations went smoothly and business is continuing uninterrupted.
3	**2020 Bencher Election Date** Documentation for this item was circulated with the meeting materials. Ms. Osler provided the rationale for a November 16, 2020 election date. **Motion: Petriuk/Scott** **That the Benchers set the Bencher Election date as November 16, 2020** **Carried unanimously**

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Mr. Ong left the meeting.

4 Rule Amendments for Ex Gratia Payments

Documentation for this item was circulated with the meeting materials. Ms. Freund presented the proposal for Rule changes to clarify the Rules for ex gratia payments, which was requested by the ALIA Board in response to a claim that is not barred by the indemnity program.

The Benchers discussed the types of situations in which ex gratia payments would be considered. Mr. Weyant provided examples of scenarios and clarified that ex gratia payments are allowed within the program; however, are outside ALIA's Group Policy.

Motion: Hendsbee/Melnyk
That the Benchers amend Rule 150(2)(a) to strike out the words "group policy" and insert the words "indemnity program" in their place; and
That the Benchers amend Rule 145.1, to insert the words "indemnity or" prior to "insurance".

Carried unanimously

5 Continuing Professional Development (CPD) Rule Suspension

Documentation for this item was circulated with the meeting materials. Ms. Freund introduced the proposal for the suspension of two Rules to operationalize the Benchers' February 20, 2020 decision to suspend the mandatory CPD filing requirement for 2020 and 2021. Ms. Freund confirmed that the CPD program will continue to be available for lawyers who want to complete their plans.

Motion: Philp/Wasylenko
That the Benchers suspend the operation of Rules 67.2 and 67.3 for a period of two years.

Carried unanimously

6 Alberta Lawyers Indemnity Association (ALIA) Board Appointments

Documentation for this item was circulated with the meeting materials. Ms. Osler presented the proposal for reappointments to the ALIA Board recommended by the ALIA Executive Committee.

Motion: Long/Philp
RESOLVED AS A RESOLUTION OF THE BENCHERS OF THE LAW SOCIETY OF ALBERTA:

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

1. **The following persons are re-appointed to the ALIA Board and the ALIEX Advisory Board effective June 11, 2020 for terms as indicated, or their sooner resignation or removal from office:**
   Diane Brickner – 1 year, expiring June 12, 2021;
   Linda Vennard – 2 years, expiring June 13, 2022;
   Rob Armstrong – 3 years, expiring June 14, 2023; and
   Michael Thompson – 3 years, expiring June 14, 2023.
2. **This resolution shall be effective only if passed by the affirmative votes of at least 2/3 of the Benchers so voting and the Benchers so voting constitute a majority of the Benchers.**

Carried unanimously

Ms. Osler highlighted the accompanying report on ALIA activities submitted by Mr. Raby, ALIA Board Chair. Ms. Osler acknowledged Mr. Weyant's leadership and swift response to the Law Society's request that ALIA consider changes to the levy payment options in light of the pandemic. The resulting change was significant and had a meaningful impact on the profession.

Mr. Weyant commended the ALIA Board members for their expertise in dealing with the restructuring of the indemnity program over the past year; and, on April 22, 2020, approving a material reduction in the levy for 2020/2021, including a special reduction due to the pandemic.

7 Audit and Finance Committee ("AFC") Report and Recommendation - Law Society Audited Financial Statements for the Year Ended December 31, 2019

Mr. Warren, AFC Chair, presented the AFC's recommendation for approval of the annual financial statements. Mr. Warren advised the Benchers that AFC met with the auditors with and without staff present. The auditors expressed their opinion that the financial statements fairly represent the Law Society's financial position and complimented staff for their cooperation during the audit.

Motion: Wasylenko/Philp
That the Benchers approve the Law Society of Alberta's audited financial statements for the year ended December 31, 2019.

Carried unanimously

8 Rule Changes for the Legacy Canadian Centre for Professional Legal Education (CPLED) Program and the Practice Readiness Education Program (PREP)

Documentation for this item was circulated with the meeting materials. Ms. Datta presented the proposal, reviewed and recommended by the Policy and Regulatory Reform Committee,

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

for Rule changes for the legacy CPLED Program and the new PREP program. Highlights and discussion included the following:

- Despite the participating provinces' law societies each having different rules, policies and procedures in place regarding requirements for the bar admission course, the law societies collaborated to find a consistent and uniform process and policy for PREP.
- Rule changes are required to remove references to appeals in the legacy CPLED Program because the PREP program will have its own internal appeals process. The Law Society will maintain oversight and jurisdiction over admission and enrolment matters.
- Rule changes are also required to accommodate students caught in the transition phase between CPLED and PREP. The Benchers discussed the possible scenarios and Ms. McKay confirmed that students who are currently enrolled in and successfully complete the requirements of the legacy CPLED program are deemed to have successfully completed PREP for the purposes of enrolment with the Law Society. Ms. McKay also confirmed that the students who begin articling after commencing PREP and finishing the modules will not have to repeat the foundational modules.
- CPLED may use the Law Society's adjudicator training program for training the PREP adjudicators.
- The appointment of lawyers from each jurisdiction to the PREP Appeal Committee was discussed and it was noted that it is not yet confirmed if the member appointed to the Appeal Panel from the appellant's home jurisdiction will be a Bencher.
- The proposed motions include the rescission of the Law Society's guideline for CPLED appeals as it is no longer relevant or applicable.

Motion: Melnyk/Warren
That the Benchers approve the amendments to the Rules as proposed in Appendix A of the meeting materials; and
That the Benchers rescind the Appeal Guidelines for the CPLED Program, Transfer Examinations and Reinstatement Examinations, in Appendix B.
Carried unanimously

9 Leadership Report

Documentation for this item consisted of the Leadership Report and a Report on the Law Society's COVID-19 Pandemic Response. Ms. Osler highlighted the following:

- Ms. Osler commended the Communications team and the Policy group for their work in preparing and publishing the significant amount of information for the public and the profession since the beginning of the pandemic.
- Ms. Osler commended all staff for their commitment to their jobs and the work of the Law Society, which enabled the Law Society to transition to remote operations in less than a week.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	- Since the decision was made to close the office and operate remotely, the Law Society's work has focused on budget, stakeholder engagement, and assessing organizational capacity. - The collaboration and sharing of information among law societies and other regulators continues to be of positive mutual benefit. - On March 5, 2020 a Law Society email account was subjected to a phishing attack. Mr. Norton and his team successfully dealt with the situation and applied enhanced security measures to the email service. A Bencher commented that in his discussions with lawyers, there is a clear sense of satisfaction with the Law Society's response to the present circumstances.
10	**Access to Justice – Lawyer Referral Service** Documentation for this item was circulated with the meeting materials. Ms. Ghitter advised the Benchers that the Law Society's Customer Service Team, with help from Business Technology and Communications, successfully launched the Lawyer Referral Service on schedule on March 30, despite the transition to remote operations on March 16. Ms. Ghitter confirmed that there are plans to evaluate the program and identify gaps. In the meantime, the team has observed that there is a renewed interest in the program from the membership.
11	**Bencher Election Task Force ("BETF") Report** A Communications Implementation Timeline was circulated with the meeting materials. Ms. Petriuk noted that the election timeline was minimally impacted by the pandemic. Ms. Petriuk provided an oral report on recent activities, including a review and status report on the BETF's mandate. Highlights and the Benchers' discussion included the following: - Increasing the diversity of candidates continues to be a primary focus; however, is a complicated issue that requires a multi-pronged solution. The BETF is using materials from the Law Society of Saskatchewan's media campaign, which was effective in increasing candidate diversity. - The Communications Plan includes strategies for increasing voter engagement and turnout and Bencher candidate education and orientation. - The BETF reviewed a mock-up of the campaign website. Ms. Petriuk clarified that there will be parameters around campaign materials and all content will be vetted. - The Benchers suggested that issues and questions around special interest groups might be worthwhile for the BETF to address.
12	**Equity, Diversity and Inclusion ("EDI") Committee Report** Documentation for this item was circulated with the meeting materials. Ms. Wasylenko, Chair of the EDI Committee, added that she and Mr. Johnson, Vice-Chair, were invited to the first

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	EDI Advisory Committee ("EDIAC") meeting. The feedback and broad range of perspectives from this group of engaged lawyers will be valuable to the EDI Committee's work.
13	**Lawyer Competence Committee ("LCC") Report** Documentation for this item was circulated with the meeting materials. Mr. Warren, Chair, LCC, added background on the LCC's recommendation that the indigenous training should not be mandatory. Subsequently, Mr. Warren met with the Lawyer Competence Advisory Committee ("LCAC") whose members presented a different view. This issue will be discussed further by the LCC; however, in the meantime, the Benchers were asked to approve the revised mandate to remove the mandatory requirement. **Motion: Warren/Petriuk** **That the Benchers adopt the amended mandate of the Lawyer Competence Committee, as proposed.** **Carried unanimously** Mr. Warren then provided his report on the LCC's activities, noting that the pandemic has provided an opportunity for the LCC to look at articling, lawyer formation, competence, wellness and principal training. Jordan Furlong has been retained to work with the LCC on these issues. Bencher comments and questions were mainly around the importance of indigenous cultural competency training and when and how this will be addressed. Ms. Ghitter advised that a training course is currently being developed and more information will be available in the fall. The Benchers can also expect a report from the Indigenous Advisory Committee in the fall.
14	**Advisory Committees Report** Documentation for this item was circulated with the meeting materials. Ms. Ryan provided highlights from first meetings of the LCAC and EDIAC. For LCAC, the question of indigenous cultural competency training and the concept of subject matter expert advisors are priorities. EDIAC's first meeting focused on the safe reporting process and the Federation of Law Societies of Canada's Model Code of Professional Conduct consultation. The high level of engagement, knowledge and expertise on the advisory committees was noted and Ms. Ryan commended the Law Society for engaging the profession in this way.
15	**Consent Agenda** The consent agenda items were circulated with the materials and approved concurrently.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Motion: Philp/Scott

15.1 To approve the February 20, 2020 Public Bencher Meeting Minutes;

15.2 To approve the April 6, 2020 Public Bencher Meeting Minutes;

15.3 To Disband the Pension Committee, effective immediately;

15.4 To approve the Law Society of Alberta Board and Regulatory Committees Terms of Reference, as circulated; and

15.5 To appoint Walter Pavlic, QC, to the Legal Education Society of Alberta Board of Directors, to fill the vacancy due to Cori Ghitter's resignation. The appointment is effective immediately and expires in September 2021.

Carried unanimously

16 Reports for Information

16.1 Alberta Law Foundation report
16.2 Alberta Law Reform Institute report
16.3 Alberta Lawyers' Assistance Society report
16.4 Canadian Bar Association report
16.5 Federation of Law Societies of Canada report
16.6 Legal Education Society of Alberta report
16.7 Pro Bono Law Alberta report

17 Other Business

Mr. Johnson provided an oral update on the work of the Corporate Commercial Liaison to address an issue concerning a resident Canadian Director requirement for Limited Liability Companies incorporated in Alberta and the competitive disadvantage that creates for those types of incorporation in Alberta. Mr. Johnson reported a preliminary communication from a representative from the Corporate Registry which suggests that the Government may be favourably disposed to including an amendment to the Alberta legislation (by way of some miscellaneous statute amendments) that may come forward in the next sitting of the Legislature.

There being no further business the public meeting was adjourned at 11:40 am.

This is Exhibit " T " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA
700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Approved Bencher Public Minutes

Public Minutes of the Five Hundred and Fifth Meeting of the Benchers of the Law Society of Alberta (the "Law Society")

October 1, 2021

Videoconference

8:30 am

ATTENDANCE	
Benchers:	Darlene Scott, President Ken Warren, President-Elect Sony Ahluwalia Ryan Anderson Lou Cusano Ted Feehan Corie Flett Elizabeth Hak Bill Hendsbee Kene Ilochonwu Cal Johnson Jim Lutz Barb McKinley Bud Melnyk Sandra Petersson Stacy Petriuk Deanna Steblyk Margaret Unsworth Moira Vánë Grant Vogeli Cora Voyageur Louise Wasylenko
Executive Leadership Team:	Elizabeth Osler, CEO and Executive Director Cori Ghitter, Deputy Executive Director and Director, Policy and Education Nancy Carruthers, General Counsel and Director, Regulation Nadine Meade, Chief Financial Officer Andrew Norton, Chief Information Officer and Director, Business Operations

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

ATTENDANCE	
	David Weyant, President and CEO, Alberta Lawyers Indemnity Association ("ALIA")
Staff:	Sharon Allard, Executive Assistant to the Deputy Executive Director and Director, Policy and Education Susannah Alleyne, Equity, Diversity & Inclusion Counsel Barbra Bailey, Manager, Education Nancy Bains, Tribunal Counsel and Privacy Officer Catherine Bennett, Executive Assistant to the Executive Director Colin Brandt, Senior Communications Advisor Colleen Brown, Manager, Communications Bernadette Charan, Manager, Trust Safety, Finance Ruth Corbett, Governance Administrator Shabnam Datta, Manager, Policy Kate Fiori, Governance Assistant Jennifer Freund, Policy & Governance Counsel Sharon Heine, Senior Manager, Regulation Tina McKay, Senior Manager, Business Operations Amanda Miller, Policy Counsel Stephen Ong, Business Technology Christine Schreuder, Governance Coordinator Chioma Ufodike, Senior Manager, Trust Safety and Compliance, Finance Rebecca Young, Education Counsel
Guests:	Loraine Champion, Executive Director, Alberta Lawyers' Assistance Society Carsten Jensen, Law Society of Alberta representative to the Federation of Law Societies of Canada Amanda Lindberg, Vice-President, Canadian Bar Association Alberta Nonye Opara, Executive Director, PBLA Bob Philp, Indigenous Advisory Committee Bencher Liaison Kathleen Ryan, Chair, Equity Diversity and Inclusion Advisory Committee and Lawyer Competence Advisory Committee
Regrets:	Salimah Walji-Shivji

Secretary's Note: The arrival and/or departure of participants during the meeting are recorded in the body of these minutes.

	Item
1	**Opening Remarks from the President** Ms. Scott called the meeting to order at 8:32 am. Ms. Voyageur delivered the land acknowledgement statement for Alberta. Ms. Scott's opening remarks included:

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

- The Law Society was honoured to host guest speaker Eugene J. Creighton, QC, and over 380 attendees for a virtual event to commemorate National Day for Truth and Reconciliation.
- Congratulations went to Kene Ilochonwu for being named one of Canada's Top 25 most Influential Lawyers and to Cori Ghitter for receiving a Women in Law Leadership Award for Leadership in the Profession (Broader Roles).

2 Leadership Report

Documentation for this item was circulated with the materials prior to the meeting. Ms. Osler highlighted the Jasper Retreat summary and thanked the Communications staff for creating an interactive format.

3 Articling Placement Program

Documentation for this item was circulated with the materials prior to the meeting. Ms. Ghitter provided introductory remarks and Ms. Datta presented the recommendation from the Equity, Diversity and Inclusion Committee (EDIC).

The Benchers' discussion included the following:

- In response to a suggestion that there could be a risk of reputational damage to principals, Ms. Scott advised that the EDIC discussed and concluded that the default position should be presumptive belief because often there is no other evidence. Ms. Datta added that the eligibility criteria provide parameters.
- Ms. Ghitter clarified that the draft amendments to the Model Code Provisions in Appendix A of the materials only provide context for the Articling Placement Program and cannot be approved by the Benchers. Amendments to the Model Code will be debated by the Benchers in the future as part of the Federation of Law Societies of Canada's process. However, the Benchers are approving the inclusion of Appendix A in the Articling Placement Program.
- It was suggested that the language in the eligibility criteria for Roster Firms could be stronger with respect to principal behaviour/failure to protect. It was also suggested that the website definition of confidentiality might be more appropriate in the document.

Motion: Wasylenko/Johnson

That the Benchers approve the Articling Placement Program.

Carried

One Bencher voted against the motion.

Ms. Vánë joined the meeting at 9:30.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

4 Innovation Sandbox

Documentation for this item was circulated with the materials prior to the meeting. Ms. Datta presented the proposal for the establishment of an Innovation Sandbox and corresponding eligibility criteria, as recommended by the Policy and Regulatory Reform Committee ("PRRC"). Ms. Datta's presentation covered background on the work; the rationale for and benefits of an Innovation Sandbox; the proposed eligibility criteria; framework; risk management; and the status of innovation in other jurisdictions.

The Benchers' discussion included the following:

- In response to questions about the application process, Ms. Datta advised that the number and types of applications can't be predicted and there is no plan to limit the number of applications of the same type of service; however, the applications will be reviewed to monitor and evaluate the implementation of all delivery models during the pilots.
- The purpose to support the strategic goal to promote access was discussed, particularly whether the criteria might be too broad to advance access effectively. Ms. Datta advised that the PRRC also debated this issue and concluded that the focus of the Innovation Sandbox should be broad and that new delivery models that benefit the public will facilitate access to justice.
- Aspects of the program such as insurance needs, required Rule changes, and the application process, will evolve over time and return to the Benchers for approval as required.
- Ms. Datta clarified that the framework is an operational document to provide guidance to the application process and is for information for the Benchers at this time.

Motion: Hendsbee/Melnyk

That the Benchers approve the establishment of an Innovation Sandbox, and the eligibility criteria in Appendix A of the meeting materials.

Carried unanimously

5 Trust Safety Rule Amendments

Documentation for this item was circulated with the materials prior to the meeting. Ms. Ufodike and Ms. Charan introduced the proposed Trust Safety Rule Amendments as recommended by the PRRC, highlighting the mandate of the Trust Safety Department and the key components and overall purpose of the proposed amendments. Ms. Freund then provided a detailed overview of the changes and Mr. Brandt summarized the communications plan.

Ms. Freund, Ms. Ufodike and Ms. Charan provided clarification in response to a question about the Rule amendment for cheque authorization. The Benchers agreed to vote on the four motions concurrently.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Steblyk/ Ahluwalia

Motion 1:

That the Trust Accounting Rules 119 through 119.16; 119.18 through 119.25; 119.27 through 119.37; and 119.40 through 119.46 and all headings in Part 5 of the Rules of the Law Society of Alberta be struck out and replaced with the proposed headings and proposed Rules 119 through 119.18; 119.20 through 119.43; and 119.59 through 119.63, with these amendments taking effect on January 1, 2022.

Motion 2:

That the Rules related to Client Identification and Verification, as well as Cash Transactions, Representative Capacity and Prohibition on the Use of Trust Accounts, be amended, as detailed, so that:

(a) Rules 118.1 through 118.11: i. are renumbered as Rules 119.45 through 119.55,

ii. are amended as proposed, and iii. have "- National Rule" added to each of their headings:

(b) Rule 119.17 is renumbered as Rule 119.19 and has "- National Rule" added to its heading;

(c) Rule 119.26 is renumbered as Rule 119.44 and amended as proposed;

(d) Rule 119.38: i. is divided into two Rules, separating subrule (1) from subrules (2), (3), (4) and (5), and renumbered as Rules 119.56 and 119.57, ii. is amended as proposed, and iii. has "- National Rule" added to each of the headings; and

(e) Rule 119.39 is renumbered as Rule 119.58 and amended as proposed, with these amendments taking effect on January 1, 2022.

Motion 3:

That Rules 2,42, 69 and 92 be amended, as proposed, with immediate effect.

Motion 4:

That subrules 1(1), 75(3), 115(1), 115(1.3). 138(3), 149.7(6), 165.1(1), and 167(1) be amended, as proposed, with these amendments taking effect on January 1, 2022.

Carried unanimously

6 Continuing Professional Development (CPD) Filing Requirement Suspension

Documentation for this item was circulated with the materials prior to the meeting. Ms. Bailey presented the proposal to extend the current two-year suspension of the CPD filing requirement

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	for an additional one-year period, ending May 2023, on the recommendation of the Lawyer Competence Committee (the "LCC"). Ms. Bailey explained that since the Benchers' February 2020 decision to suspend the CPD filing requirement, it has become clear that it would not be possible to meet the targeted completion date of February 2022, due to time required to complete the foundational work of the competency profile. In response to a concern about the continued delay in implementing a new CPD program, Mr. Warren, LCC Chair, advised Benchers that the LCC discussed the same concerns; however, concluded that it is important that the work is done well to ensure that the new program serves the profession and the public in today's environment. Ms. Bailey added that there are many ongoing development opportunities within law firms currently and within the profession at large, and the evidence shows that lawyers are seeking out learning opportunities. The Law Society will continue to emphasize the importance of CPD in its communications with the profession and any lawyers who wish to continue using the 'old' CPD tool are welcome to do so. **Motion: Warren/Petersson** **That the Benchers extend the current two-year suspension of the operation of Rules 67.2 and 67.3, pursuant to Rule 3, for an additional one-year period, ending May 2023.** **Carried** One Bencher voted against the motion.
7	**Access to Justice Update** Documentation for this item was circulated with the materials prior to the meeting.
8	**Audit and Finance Committee Update** Documentation for this item was circulated with the materials prior to the meeting.
9	**Equity, Diversity and Inclusion Committee Update** Documentation for this item was circulated with the materials prior to the meeting.
10	**Indigenous Initiatives Liaison Update** Documentation for this item was circulated with the materials prior to the meeting.
11	**Lawyer Competence Committee Update** Documentation for this item was circulated with the materials prior to the meeting.
12	**Tribunal Office Update**

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Documentation for this item was circulated with the materials prior to the meeting.
13	**CONSENT AGENDA** Documentation for this item was circulated with the materials prior to the meeting. There were no requests to remove any items from the consent agenda and the items were approved concurrently. **Motion: Melnyk/Sony** **13.1 To approve the June 2, 2021 Public Bencher Meeting Minutes.** **13.2 To approve the following Bencher meeting dates:** **February 23 - 24, 2023** **April 27 - 28, 2023** **June 7 - 11, 2023 – Jasper** **October 5 - 6, 2023** **November 9, 2023 – Budget review via videoconference (1 - 4 pm)** **November 30 - December 1, 2023** **All meetings will be held in Calgary unless otherwise indicated, or, if necessary, such other date and time and place (or means) as the CEO and Executive Director of the Law Society may determine.** **13.3 That paragraph 233 of the Pre-Hearing and Hearing Guideline be amended to replace "76(8)" with "78(6)".** **Carried unanimously**
14	**AGENCY REPORTS** 14.1 Alberta Law Foundation Report 14.2 Alberta Lawyers' Assistance Society Report 14.3 Canadian Bar Association Report 14.4 Federation of Law Societies of Canada Report 14.5 Legal Education Society of Alberta Report 14.6 Pro Bono Law Alberta Report
	Other Business There being no further business, the public meeting was adjourned at 11:50 a.m.

This is Exhibit " U " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA
700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Approved Bencher Public Minutes

Public Minutes of the Five Hundredth Meeting of the Benchers of the Law Society of Alberta (the "Law Society")

October 1, 2020
Videoconference
8:30 am

Benchers present	Kent Teskey, President Darlene Scott, President-Elect Ryan Anderson Corie Flett Elizabeth Hak Bill Hendsbee Cal Johnson Linda Long Jim Lutz Barb McKinley Bud Melnyk Walter Pavlic Lou Pesta Corinne Petersen Stacy Petriuk Robert Philp Kathleen Ryan Deanna Steblyk Margaret Unsworth Ken Warren Louise Wasylenko
Regrets	Arman Chak Cora Voyageur
Executive Leadership Team members present	Elizabeth Osler, CEO and Executive Director Cori Ghitter, Deputy Executive Director and Director, Policy and Education Nancy Carruthers, General Counsel and Director, Regulations Nadine Meade, Chief Financial Officer Andrew Norton, Chief Information Officer and Director, Business Operations David Weyant, President and CEO, Alberta Lawyers Indemnity Association

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Staff present	Barbra Bailey, Policy Counsel Nancy Bains, Tribunal Counsel & Privacy Officer Colleen Brown, Manager, Communications Ruth Corbett, Governance Administrator Shabnam Datta, Policy Counsel Jennifer Freund, Policy Counsel Tina McKay, Senior Manager, Business Operations, Membership Andrea Menard, Indigenous Initiatives Liaison Kara Mitchelmore, CEO, Canadian Centre for Professional Legal Education Stephen Ong, Business Technology Len Polsky, Manager, Legal Technology and Mentorship Katie Shea, Membership Counsel Christine Schreuder, Governance Coordinator
Guests present	Loraine Champion, Executive Director, Alberta Lawyers' Assistance Society Jordan Furlong, Consultant Bianca Kratt, Vice-President, Canadian Bar Association Alberta Nonye Opara, Executive Director, Pro Bono Law Alberta Sandra Petersson, Executive Director, Alberta Law Reform Institute Christine Sanderman, Executive Director, Legal Education Society of Alberta

Secretary's Note: The arrival and/or departure of participants during the meeting are recorded in the body of these minutes.

	Item
1	**Opening Remarks from the President** Mr. Teskey called the public meeting to order at 8:35 a.m. and delivered the Indigenous land territorial acknowledgement statement for Alberta. Mr. Teskey welcomed guests Jordan Furlong and Bianca Kratt to the meeting. Mr. Ong left the meeting.
2	**Leadership Report** The Leadership Report included a memo on the Law Society's COVID-19 pandemic response, Big Issues and Engagement timelines, an updated Law Society organizational chart, and a Membership Statistics Update Memo. Ms. Osler thanked Benchers for their support of the Law Society as it pivoted in response to the pandemic to keep the strategic work moving forward. Ms. Osler thanked staff for their commitment to advancing the operational and strategic work in the face of additional pandemic-related work, in particular, members of the Executive Leadership Team (ELT) and Dr. Kara Mitchelmore for stepping up in countless ways over the last six months. Ms. Osler highlighted the following items from the Leadership Report: - Organizational changes: ELT has been looking ahead to identify the challenges and opportunities and the resources required to meet the Law Society's strategic goals and objectives in the next few years. The resulting reorganization demonstrates the Law

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Society's commitment to excellence and strength within the leadership groups. Ms. Osler outlined the updated organizational changes, in particular introducing and welcoming Ms. Carruthers to her new role as General Counsel and Director of Regulation. The following changes were announced:

- A new Education division has been formed under the Policy department to support the strategic goal of competence and wellness. Accordingly, Ms. Ghitter's title has changed to Deputy Executive Director and Director, Policy and Education. Len Polsky has assumed the new role of Manager, Legal Technology and Mentorship in the Policy and Education department. Newly created positions to be filled are for a Manager, Education and Manager, Policy.
- The reorganization in the Regulation department reflects the Law Society's commitment to proactive regulatory reform. The newly-titled Professionalism and Practice Advisors division comes under the direction of General Counsel and Director, Regulation. Ms. Osler thanked Sharon Heine for stepping in as acting General Counsel. Ms. Heine will continue as Senior Manager, Regulation. Kendall Moholitny will assume the role of Senior Manager, Professionalism.
- The Practice Advisors will join the Regulation group and will report directly to Ms. Carruthers.
- In the Finance and Accounting department, Chioma Ufodike has accepted the new role of Senior Manager, Risk and Compliance. Ms. Ufodike has been tasked with a special project to review and enhance the billings process in response to the increasing complexity of the risk and compliance work. Ms. Ufodike will report to the CFO with a dotted line to General Counsel and Director, Regulation. The new Manager, Trust Safety will be Bernadette Charan, previously Supervisor, Trust Safety.

- Membership Statistics Memo from Tina McKay, Senior Manager, Membership: steps are being taken to address the impact of the cancellation of the National Committee on Accreditation exams on internationally trained lawyers.
- Return to Office: the Law Society continues to be guided by the Alberta government's updates on COVID-19.

Ms. Osler advised the Benchers that her goal for the Law Society is to show resilience as it moves forward with its strategic work during these unprecedented times.

3 Lawyer Competence Committee ("LCC")

Documentation for the following two items was circulated with the meeting materials.

3.1 Lawyer Licensing and Competence in Alberta Report

Mr. Warren, LCC Chair, introduced Mr. Furlong's report, noting that it will provide the Law Society with an opportunity to lead in this area. Mr. Furlong then presented preliminary observations, the categories of lawyer licencing, new lawyer development, and continuing lawyer learning, and finally a series of recommendations for the Law Society's discussion.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Summary of the Benchers' discussion:

- In response to a concern expressed about the diminishing supply of articling positions and decreasing demand for legal services, Mr. Furlong advised that in his conversations with law school Deans, there was recognition that not everyone with a law degree will become a licenced lawyer. The report is intended not only to help the Law Society begin to deal with significant issues of imminent importance, but also to consider how to approach the licensing of lawyers, including an understanding of what a lawyer is.
- The significant cost of some of the proposals contained in the report was discussed, particularly the "Possibilities of a Teaching Law Firm", although this was recognized as an aspirational target.
- The Benchers discussed how to prioritize the recommendations. The report suggested that the recommendation that the Law Society develop new pathways into the profession is a top priority. Mr. Furlong advised that although implementation is not an immediate requirement, the Law Society should begin working on this as soon as possible to plan for the challenging times ahead.
- As well as the consideration of alternatives to articling, it will be important to improve the current articling system and the Law Society's budget will provide for this work to begin. The need to create opportunities in a fair and equitable manner will be important to the public, students, and the government.
- The recommendation that the Law Society require solo practitioners to submit a business continuity plan was discussed, particularly audit and compliance, and how to ensure resources are provided to the profession in a non-discriminatory manner. Ms. Ghitter advised that the Law Society's intention would be assistive not punitive, and that providing resources and requiring compliance would start in a small way.
- Discussions at the LCC Advisory Committee revealed a variety of different experiences and priorities that were helpful and informed the final report.
- It was suggested that the Law Society is well-positioned to begin work on short term projects immediately. Longer-term initiatives would be shaped by regular Bencher conversations.
- The Benchers commended Mr. Furlong on his report and the LCC on the work done. The opportunity for the Law Society to begin addressing these issues was recognized and there was broad support for continuing with the next phase of the work.

Mr. Furlong left the meeting.

3.2 Indigenous Cultural Competence Training

Mr. Warren introduced the proposal for Indigenous Cultural Competence Training through NVision's online video-based course, "The Path". He advised that the discussions at LCC and the LCC Advisory Committee revealed strongly held views on both sides of the question of whether the course should be mandatory. The ensuing discussion at the Bencher table revealed a similar divergence of views.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Ms. Bains joined the meeting.

Summary of Benchers' perspectives:

- Some Bencher members of the LCC found that their thinking evolved as they participated in the discussions and the training. They found the course engaging, informative and easy to complete. Moreover, there was a substantial amount of information they hadn't been aware of which informed their final view on the matter.
- It was suggested that legal aspects of the course would need to be relevant in Alberta.
- Some Benchers felt that forcing the membership to take the course could be contentious and they questioned the view that some lawyers wouldn't take the course voluntarily. It was suggested that the course should be promoted as a choice and that a variety of resources could be utilized to inform members of its importance and encourage participation.
- The February 21, 2020 Bencher resolution to create competence programs on Indigenous issues to meaningfully address the Law Society's obligation arising from the Calls to Action in the Truth and Reconciliation Reports was suggested to be an important consideration in support of making the course mandatory.
- Regardless of whether the course is mandatory or not, Benchers recognized that communications would be key to ensuring the membership understands the importance of the training.

Mr. Teskey advised the Benchers that the vote would normally require a simple majority if taken at an in-person meeting; however, the 2/3 rule was adopted for votes at meetings by virtual means.

Motion: Warren/Ryan
That the Benchers mandate Indigenous cultural competency training for all Active Alberta lawyers.

Carried by a 2/3 majority

Ms. Sanderman, Ms. Menard and Ms. Shea left the meeting.

4 ALIA Civil Litigation Filing Levy

Documentation for this item was circulated with the meeting materials. Mr. Weyant presented ALIA's initiative to pilot a levy for civil litigation files. He advised the Benchers that consultation meetings with key stakeholders have been productive so far, with overall support for the initiative and helpful suggestions for its implementation.

The Benchers' comments and questions mirrored those at the consultation meetings, namely on issues of disbursement; areas of exclusion/inclusion; the anticipated impact on the base levy; whether the revenue can be counted before the levy is collected; how compliance will be

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	handled; and that clear communications will be key to successful implementation of the pilot project.
5	**Access to Justice Update** Documentation for this item was circulated with the meeting materials.
6	**CPLED Update** Documentation for this item was circulated with the meeting materials.
7	**Equity, Diversity and Inclusion Committee Report** Documentation for this item was circulated with the meeting materials.
8	**Indigenous Initiatives Liaison Report** Documentation for this item was circulated with the meeting materials.
9	**Tribunal Office Update** Documentation for this item was circulated with the meeting materials.
10	**Consent Agenda** The consent agenda items were circulated with the materials. There were no requests to remove any items from the consent agenda. **Motion: Warren/Scott** **10.1 To approve the June 26, 2020 Public Bencher Meeting Minutes; and** **10.2 To approve the 2022 Bencher Meeting Dates.** **Carried**
11	**Reports for Information** 11.1 Alberta Law Foundation report 11.2 Alberta Law Reform Institute report 11.3 Alberta Lawyers' Assistance Society report 11.4 Canadian Bar Association report 11.5 Legal Education Society of Alberta report 11.6 Pro Bono Law Alberta report
12	**Other Business** There being no further business the public meeting was adjourned at 1:00 pm.

This is Exhibit " V " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

SHARE:

Join Our Email List

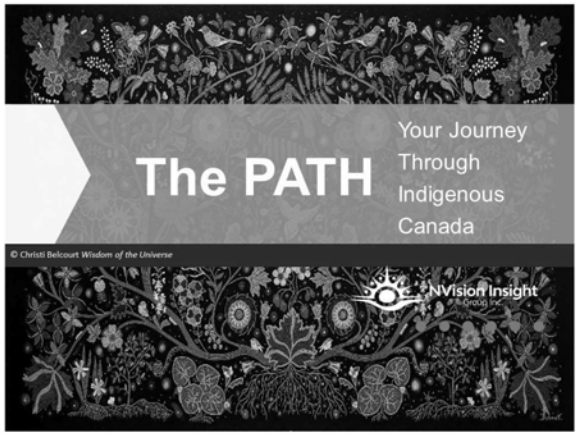
April 19, 2021

News

LAW SOCIETY of ALBERTA

Indigenous Cultural Competency Education Launching April 21

Beginning on Wednesday, April 21, Alberta lawyers can begin taking the Indigenous Cultural Competency Education called The Path (Law Society of Alberta) — Your Journey Through Indigenous Canada. This educational requirement was approved at the October 1, 2020 Bencher meeting.



All active Alberta lawyers have 18 months to complete the five hours of education following the launch, or effective from the date they become active. Lawyers can complete the five module course in segments, allowing for flexibility of learning pace, but must complete the program within the 18-month time frame allotted. As well, inactive lawyers can also take the program. Those who complete the program while inactive will meet the requirements of the education upon reinstating to active status.

Specifics about how to register for The Path (Law Society of Alberta), program details and exemption criteria will be provided to you by email on April 21.

The Path (Law Society of Alberta) differs from the national version that some lawyers may have taken through the Canadian Bar Association or other organizations. The Law Society's Indigenous Initiatives Liaison, along with input from the Indigenous Advisory Committee, worked with the developers of the program to create additional Alberta-specific content, to offer an educational tool specifically for Alberta lawyers. The Path (Law Society of Alberta) is not meant to be in depth and cover all the issues or perspectives on the topic, but to provide a baseline understanding for all Alberta lawyers.

The decision to mandate education is integral to our commitment and obligation to respond to the 2015 Truth and Reconciliation Commission's (TRC) Calls to Action, in particular, #27 which calls upon Canadian law societies to ensure all lawyers receive Indigenous Cultural Competency Training. This decision is also consistent with our 2020 – 2024 Strategic Plan, where we have made Equity, Diversity and Inclusion, along with Lawyer Competence, two of the four strategic goals.

Providing Alberta lawyers with shared Indigenous Cultural Competency Education is part of our social responsibility to educate ourselves on issues relevant to the communities where we live and practise law.

Some exemptions are available to lawyers who have equivalent Indigenous Cultural Competency Education. However, regardless of exemption eligibility, all Alberta lawyers are still welcome to complete The Path (Law Society of Alberta). More information about eligibility and how to request an exemption will follow on Wednesday.

Watch for an email on April 21 for instructions on accessing and beginning The Path.

STAY CONNECTED

This is Exhibit " W " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Indigenous Cultural Competency Education

Beginning on Wednesday, April 21, 2021, Alberta lawyers can begin taking the Indigenous Cultural Competency Education called The Path (Law Society of Alberta) – Your Journey Through Indigenous Canada. This course has five modules and takes approximately five hours to complete. Alberta lawyers can do the course all at once or in stages. All active Alberta lawyers have 18 months to complete The Path (Law Society of Alberta) or certify eligibility for an exemption. All Alberta lawyers who were active when the requirement was introduced have until **Thursday, Oct. 20, 2022**, to complete the course or certify eligibility for an exemption. You can confirm your deadline in the Lawyer Portal under Mandatory Education.

Inactive lawyers can choose to take The Path (Law Society of Alberta) through the Law Society at no additional cost. Those who complete the program while inactive will meet the requirements of the education upon reinstating to active status.

This mandatory educational requirement was approved at the October 1, 2020 Bencher meeting. Specifics about how to register for The Path (Law Society of Alberta), program details and background information are outlined below.

Read this How-To-Guide (https://documents.lawsociety.ab.ca/wp-content/uploads/2021/04/20173225/How-To-Guide-The-Path-Law-Society-of-Alberta.pdf) for instructions on registration and beginning the course. There are important steps included to help you receive your certificate of completion and ensure your course completion is logged in the Lawyer Portal.

General Information About the Course

1. What is The Path (Law Society of Alberta)? (#accordion_1_collapse_1

The Path (Law Society of Alberta) is an educational course developed by Indigenous consulting firm, **NVision Insight Group, Inc. (https://nvisiongroup.ca/)**, based in Ottawa, Ontario. The course was designed to help Canadians increase their Indigenous cultural understanding in a Canadian context. Topics include:

- the cultural and historical differences between First Nations, Inuit, and Métis;
- the evolution of the relationship between Canada and Indigenous people from pre-contact to yesterday's headlines;
- stories of social and economic success, reconciliation and resilience;
- understanding intercultural communication in the workplace;
- and much more.

The Law Society's Indigenous Initiatives Counsel worked with NVision to create additional, Alberta-specific content to enhance the course for Alberta lawyers. The Law Society's Indigenous Advisory Committee, as well as other Alberta Indigenous law experts, were consulted in the development of this content.

The course includes Inuit, First Nations and Métis stories from coast to coast to coast. All course content has been vetted by First Nations, Inuit and Métis advisors and an Indigenous lawyer. The course addresses various Truth and Reconciliation Commission's (TRC) **Calls to Action (http://www.trc.ca/assets/pdf/Calls_to_Action_English2.pdf)**, in particular, #27 which calls upon Canadian law societies to ensure all lawyers have received appropriate cultural competency training, "which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal – Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism."

2. Why did the Law Society specifically choose The Path program for Indigenous Cultural Competency Education? (#accordion_1_collapse_2

The Path (National) is well-regarded across Canada and has the endorsement of the Canadian Bar Association (CBA).

The Path (National) was vetted by Indigenous lawyers and by our Indigenous Advisory Committee. Within the Law Society, it was also vetted by the Lawyer Competence Committee, and the Law Society's Indigenous Initiatives Counsel. As with all programming that we either purchase or develop in-house, we consider the resource implications and whether the work is in accordance with our strategic goals **(https://documents.lawsociety.ab.ca/wp-content/uploads/2020/01/LSA-Strategic-Plan-2020-2023.pdf)**.

Taking The Path (Law Society of Alberta)

---

3. How do I register to take The Path (Law Society of Alberta)? (#accordion_2_collapse_1

We have prepared a How-To-Guide **(https://documents.lawsociety.ab.ca/wp-content/uploads/2021/04/20173225/How-To-Guide-The-Path-Law-Society-of-Alberta.pdf)** for lawyers, that walks you through how to create an account and begin the course. There are important steps included to help you receive your certificate of completion and ensure your course completion is logged in the Lawyer Portal.

---

4. How is The Path (Law Society of Alberta) delivered and how long will (#accordion_2_collapse_2

it take to complete?

The Path (Law Society of Alberta) is a five-hour series of online modules with videos and quizzes. You need a computer or mobile device with speakers or headphones. Closed captioning is also available.

Lawyers can complete the course in segments, allowing for flexibility of learning pace, but must complete the program within the 18-month time frame allotted. You can pause anytime and resume later by logging into your account.

---

5. What are the modules and topics and how long will each take to complete? (#accordion_2_collapse_3

The modules and topics are **attached (https://documents.lawsociety.ab.ca/wp-content/uploads/2022/04/04091650/The-Path-module-descriptions-for-website.pdf)**, along with the length of each respective video. Please keep in mind that you will need additional time within each module to take the quizzes. The entire course should take approximately five hours to complete.

---

6. What if I am interrupted and do not complete an entire module? Will it track where I left off? (#accordion_2_collapse_4

Page content — Yes. On returning to the module, you will be asked whether "you want to start at the last page you saw?"

Video — No. You cannot bookmark a specific spot in the video. However, you can restart a video and fast forward to the spot where you left off.

To the right of each lesson is a box with dotted lines. When a lesson is completed successfully, a checkmark displays in the box.

Note: For security purposes, your session will timeout if inactive on the website after three hours. You will need to log back in to resume from the last page you saw.

7. Is The Path (Law Society of Alberta) accessible to those using access technology? (#accordion_2_collapse_5

NVision has reviewed the course for accessibility with those using assistive devices. Much of the content is via video with closed captioning, for which there is also a downloadable narration file.

The written content and quiz questions are accessible with text to voice and screen readers. There are also downloadable resources such as a glossary of terms. These resources are usually PDF files but are also available as Microsoft Word files, upon request. While all core content is covered in the audio narration of the videos, there are also written scripts (one master, and separate files for each video) that describe any breaks in narration or text in the video that is not narrated.

8. How will my completion of The Path (Law Society of Alberta) be tracked? (#accordion_2_collapse_6

Upon completion of The Path (Law Society of Alberta), you are prompted to input your Member ID, your first and last name, and your email address. This is followed by some short questions about the course. This step must be completed to receive your certificate and to have your course completion recorded correctly in the Lawyer Portal. **If you do not complete this step, the Law Society cannot confirm you completed The Path and you could face administrative suspension.** Please use the same email address you used to register for the course.

Upon completion of the questions, a certificate of completion is issued through the NVision website. Keep the certificate to verify course completion. You should not have to produce this certificate unless requested by the Law Society.

There is a new area in the CPD section of the Lawyer Portal for **active lawyers** that displays your status related to completion of the education. These steps are available in the **How-To-Guide (https://documents.lawsociety.ab.ca/wp-content/uploads/2021/04/20173225/How-To-Guide-The-Path-Law-Society-of-Alberta.pdf)**. **Your status will not be changed to completed automatically, however we are doing manual updates several times a day**. If your status is not updated within a business day of course completion, contact the **Law Society's Education department**.

Note: The Law Society will have a record of course completion for **inactive lawyers** but this cannot be seen in the Lawyer Portal unless the lawyer reinstates. Inactive lawyers should retain a copy of their course completion certificate for verification.

9. If I have previously taken The Path (National), is there a way for me to take only the new Alberta content? (#accordion_2_collapse_7

Elements of the Alberta content are incorporated throughout The Path (Law Society of Alberta), in addition to having two focused Alberta modules. If you have previously completed The Path (National) there is no way to complete only the new Alberta content as it is woven throughout the course.

10. How do I receive an exemption? (#accordion_2_collapse_8

Regardless of exemption eligibility, all Alberta lawyers are encouraged to complete The Path (Law Society of Alberta) as it contains new Alberta-specific content. Before certifying you are eligible for an exemption, check with your law firm or organization as we were advised that some

firms/organizations are not permitting exemptions. **Details about exemption eligibility are provided in Question 25 – 28.**

Individual lawyers are relied on to assess their prior education and experiences in Indigenous cultural competency. If you believe you qualify for an exemption, certify this through the Lawyer Portal.

Read this **How-To-Guide (https://documents.lawsociety.ab.ca/wp-content/uploads/2021/04/20173225/How-To-Guide-The-Path-Law-Society-of-Alberta.pdf)** to follow the steps for certifying for an exemption through the Lawyer Portal.

---

11. Is my exemption automatically approved? (#accordion_2_collapse_9

Your exemption status is automatically approved and registered in the Lawyer Portal. However, please note that exemptions are subject to a random follow-up to confirm eligibility.

A Law Society staff member may contact you to verify details. The Education department, in consultation with the Law Society's Indigenous Initiatives Counsel, will be involved in confirming exemption eligibility.

If, as a result of the follow-up, the Law Society determines you are required to take The Path (Law Society of Alberta), you must complete the education in the original 18-month timeframe. **For this reason, if you intend to certify that you are exempt, you are encouraged to do so as soon as possible.** If you do not complete the course on time, you will face administrative suspension.

---

12. How do I request an extension? (#accordion_2_collapse_10

Lawyers may request an extension to the 18-month completion requirement of The Path (Law Society of Alberta) through the Lawyer Portal. Extensions may only be requested in the event of maternity/parental leave or medical leave/illness. Please follow the steps provided in this **How-To**

Guide (https://documents.lawsociety.ab.ca/wp-content/uploads/2021/04/20173225/How-To-Guide-The-Path-Law-Society-of-Alberta.pdf) to request an extension.

13. I am not an Alberta lawyer but would like to take The Path (Law Society of Alberta). How do I do so? (#accordion_2_collapse_11

The Law Society has negotiated preferred pricing and group rates for non-lawyer members of law firms, organizations, government, educational institutions, and the judiciary. Please contact NVision directly for details at thepath@nvisiongroup.ca (mailto:thepath@nvisiongroup.ca).

14. In taking The Path (Law Society of Alberta), I have found some of the content to be upsetting, where can I access support or additional resources? (#accordion_2_collapse_12

Throughout The Path (Law Society of Alberta), there are topics covered that occurred in Canada that are disturbing to some viewers. If you need to talk to someone, or need support, we encourage you to reach out to the Alberta Lawyers' Assistance Society (https://lawyersassist.ca/) (Assist).

15. How do I raise questions or concerns about The Path (Law (#accordion_2_collapse_13

Society of Alberta) course content?

The majority of the course is the work of NVision and the Law Society has purchased the right to provide this material to Alberta lawyers. The Law Society's Indigenous Initiatives Counsel, along with input from the Indigenous Advisory Committee, worked with the developers of the program to add Indigenous Alberta-specific content, to offer cultural competency specifically for Alberta lawyers.

Feedback about The Path (Law Society of Alberta) course content can be provided in the completion questions at the end of course. Feedback or questions about Alberta-specific content can also be directed to the **Law Society's Education department**.

Technical questions about navigating The Path website should be directed to **technicalhelp@nvisionthepath.ca (mailto:technicalhelp@nvisionthepath.ca)**.

---

16. What do I do if I forget my password to The Path (Law Society of Alberta)? (#accordion_2_collapse_14

Follow the password recovery steps available within The Path website.

---

17. I am sharing my information (email and name), how is my confidentiality protected? (#accordion_2_collapse_15

Your information is stored within the learning management system (LMS) database which is as secure as the password you create. By default, The Path requires a strong password be created, but individuals can create a more complex password. Only course administrators can access any content

such as email addresses and they cannot see passwords.

Program Details

18. As an active lawyer, how long do I have to complete The Path (Law Society of Alberta)? (#accordion_3_collapse_1

Active lawyers have 18 months to complete The Path (Law Society of Alberta), from April 21, 2021. This applies to all active statuses (e.g., part-time, pro bono, non-practising, out of province, over 50 years) and practice areas.

The 18-month timeline applies to all lawyers who become active or change to active status following the launch of The Path (Law Society of Alberta), effective from the date they become active. For instance, students-at-law called to the Bar following the launch of The Path (Law Society of Alberta) will have 18 months after the effective date of their active lawyer status to complete the program. This date will be displayed in your Lawyer Portal.

19. Are lawyers expected to pay for this education? (#accordion_3_collapse_2

There is no additional cost to active or inactive Alberta lawyers to take The Path (Law Society of Alberta) through the Law Society.

20. Am I required to take this training as a part-time, non- (#accordion_3_collapse_3

practising/not engaged or pro bono lawyer?

Yes, the requirement to complete The Path (Law Society of Alberta) within 18 months applies to all active statuses, regardless of practice area.

---

21. As an inactive lawyer, can I complete The Path (Law Society of Alberta), and will the Law Society cover the cost?

(#accordion_3_collapse_4

Inactive lawyers can choose to take The Path (Law Society of Alberta) through the Law Society at no additional cost. Those who complete the program while inactive will meet the requirements of the education upon reinstating to active status.

---

22. As a suspended lawyer, can I complete The Path (Law Society of Alberta), and will the Law Society cover the cost?

(#accordion_3_collapse_5

Suspended lawyers can take The Path (Law Society of Alberta), but the costs are not covered by the Law Society. Those who complete the program while suspended will meet the requirements of the education upon reinstating to active status.

---

23. As a lawyer planning to transfer to Alberta, when can I complete The Path (Law Society of Alberta)? (#accordion_3_collapse_6

You will be required to take The Path (Law Society of Alberta) within 18 months of becoming a member of the Law Society of Alberta. **While we appreciate some are eager to complete this education, you are not eligible to take the course until you are a member of the Law Society of Alberta.** We are unable to track completion of transferring lawyers before you have a Member ID.

---

24. As a student-at-law, can I complete The Path (Law Society of Alberta) before I am called to the bar? (#accordion_3_collapse_7

As an Alberta student-at-law, you are required to take The Path (Law Society of Alberta) within 18-months of being granted active status following your call to the Bar. **While we appreciate some are eager to complete this education, you are not eligible to take the course until you are a member of the Law Society.** We are unable to track completion of students-at-law before you have a Member ID.

---

25. I have already taken Indigenous Cultural Competency Education through another provider. Do I still have to take The Path (Law Society (#accordion_3_collapse_8

of Alberta) delivered by the Law Society?

Some exemptions are available to lawyers who choose to certify they have equivalent Indigenous Cultural Competency Education. However, Alberta lawyers who are exempt are still encouraged to complete The Path (Law Society of Alberta) as it contains Alberta-specific content.

---

26. I completed the 2018-2019 or 2019-2020 CPLED Program do I qualify for an exemption? (#accordion_3_collapse_9

All Alberta Lawyers are encouraged to take The Path (Law Society of Alberta) as it contains Alberta specific content. We recognize that students who completed the 2018-2019 or 2019-2020 CPLED program took the University of Alberta's Indigenous Canada Course as part of their completion in the program. Lawyers who have completed the Indigenous Canada Course at the University of Alberta are eligible to certify they are exempt from taking The Path (Law Society of Alberta) and can choose to certify an exemption using this ground in their lawyer portal.

---

27. I completed the Practice Readiness Education Program (PREP), do I qualify for an exemption? (#accordion_3_collapse_10

All Alberta lawyers are encouraged to take The Path (Law Society of Alberta) as it contains Alberta specific content. While completion of the Practice Readiness Education Program (PREP) was not one of the original exemption grounds, since the launch of The Path the Law Society has reviewed PREP content and determined the education sufficiently addresses the Truth and Reconciliation Commission's Call to Action #27. Rather than ask each lawyer who completed PREP in Alberta to

take steps to certify an exemption through the lawyer portal, the Law Society will automatically change the status for these lawyers so that they are exempt from the requirement to complete The Path. The automatic change in status does not apply to lawyers who completed PREP outside Alberta; these lawyers who choose to certify they are exempt will need to take steps to certify their exemption through the lawyer portal.

Lawyers who have completed PREP in Alberta but choose to take The Path will have their statuses changed to "completed" once NVision notifies the Law Society of the course completion.

---

28. What are the exemptions if I choose to certify I have equivalent Indigenous Cultural Competency Education? (#accordion_3_collapse_11

Alberta lawyers who have completed The Path (National) through the Canadian Bar Association (CBA) or another organization, or who have completed the Indigenous Canada program through the University of Alberta, are considered to meet the education requirements and may choose to certify that they are exempt from taking The Path (Law Society of Alberta) through the Law Society.

We also understand that lawyers could receive Indigenous education in many other ways, and this adds complexity to making exemptions. We know others have experiences with Aboriginal law and Indigenous law or legal traditions. **This experience may also be gained through personal cultural experiences and Indigenous identity or ancestry**.

While the Law Society will not pre-emptively evaluate or accredit individual programs or experiences, lawyers may choose to certify that they are exempt based on the third ground, that they have other previous education or knowledge that sufficiently addresses the Truth and Reconciliation Commission's Call to Action #27. Lawyers who certify they are exempt under this ground must ensure that their previous education or knowledge included training in intercultural competency, conflict resolution, human rights and anti-racism. As well, it should be sufficient to address Truth and Reconciliation Call to Action #27 which includes:

- History and legacy of residential schools

- United Nations Declaration on the Rights of Indigenous Peoples
- Treaties and Aboriginal rights
- Indigenous law (Indigenous legal traditions)
- Aboriginal-Crown relations

Lawyers may want to review the modules and topics addressed in The Path, outlined at question 5, when self-assessing whether they have previous education or knowledge that sufficiently addresses the Truth and Reconciliation Commission's Call to Action #27.

29. I have already taken The Path (National) through another organization. Will I be reimbursed for this expense? (#accordion_3_collapse_12

Alberta lawyers who have completed The Path (National) through other organizations or learning institutions will not be reimbursed for the cost of the program.

30. What happens if lawyers do not complete the Indigenous Cultural Competency education? (#accordion_3_collapse_13

As per the Rules of the Law Society of Alberta (see Rules 67.4), lawyers who do not complete the Indigenous education within the 18 months will be **administratively suspended.**

31. Where can I access information about further Indigenous resources (#accordion_3_collapse_14

or education?

The Law Society has **additional resources (https://can01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.lawsociety.ab.ca%2Fabout-us%2Fkey-initiatives%2Findigenous-initiatives%2Findigenous-cultural-competency-resources%2F&data=04%7C01%7C%7Ce9d0e82ca2dd4c61a5fd08d916e8a6a3%7Cd99a524** for education and self-reflection available on our website.

Approval of Mandatory Education

---

32. Why has the Law Society of Alberta mandated Indigenous Cultural Competency education for all active Alberta Lawyers?

(#accordion_4_collapse_1

The decision to mandate education is integral to our commitment and obligation to respond to the 2015 Truth and Reconciliation Commission (TRC) **Calls to Action (http://www.trc.ca/assets/pdf/Calls_to_Action_English2.pdf)**, in particular, #27 which calls upon Canadian law societies to ensure all lawyer receive Indigenous cultural awareness training. This decision is also consistent with our **2020 – 2024 Strategic Plan (https://documents.lawsociety.ab.ca/wp-content/uploads/2020/01/LSA-Strategic-Plan-2020-2023.pdf)**, where we have made Equity, Diversity and Inclusion, along with Lawyer Competence, two of the four strategic goals.

While in many contexts we do believe lawyers should exercise their own judgement when choosing education for their own professional development, there are some competencies where it is appropriate that the Law Society mandate education. Indigenous cultural competency is one of those unique areas where mandatory education is important.

Other reasons for the decision can be found in our **October Board Recap video (https://www.lawsociety.ab.ca/about-us/board-and-committees/board-**

meetings/october-2020-board-recap-video/).

33. The Law Society suspended the mandatory Continuing Professional Development (CPD) requirement for Alberta lawyers until 2023, but has now implemented a mandatory education course? Why now? (#accordion_4_collapse_2

The Law Society has **suspended the mandatory Continuing Professional Development (https://www.lawsociety.ab.ca/leading-a-new-era-of-lawyer-competency/)** filing requirement for the profession until 2023. When the decision to suspend the CPD filing requirement was first made we also announced that we would be establishing an Indigenous Cultural Competency Program for all Alberta lawyers.

We always anticipated launching the Indigenous Cultural Competency Education while we developed the new competence program. The Lawyer Competence Committee and the Indigenous Advisory Committee worked with Law Society staff to create a competence program that focuses on Indigenous issues that meaningfully address our obligation arising from the TRC Calls to Action.

Providing Alberta lawyers with shared Indigenous Cultural Competency Education is part of our shared social responsibility to educate ourselves on issues relevant to the communities where we live and practise law.

34. We are amid a pandemic where lawyers may be struggling financially. Is this really a priority given the current economic uncertainty? (#accordion_4_collapse_3

We recognize that the cost of professional development and time constraints can be a barrier for some, so there will be no additional cost to active or inactive Alberta lawyers to take The Path (Law Society of Alberta). Lawyers have at least 18 months to complete the five hours of education. Additionally, lawyers can spread out the five hours as the education can be done in segments, allowing lawyers to set their own learning pace.

35. I do not have Indigenous clients, why is this important to me? (#accordion_4_collapse_4

Whether a lawyer's practice involves Indigenous clients or not, lawyers have an ongoing obligation to educate themselves on the issues that are relevant to the communities where they live and practise law.

We know Indigenous people are over-represented in the justice system. Alberta has one of the largest Indigenous populations **(https://open.alberta.ca/dataset/0c91afae-9640-4ef7-8fd9-140e80b59497/resource/7d5fa9fa-0525-4619-9d3e-1b5a5145b6a3/download/2016-census-aboriginal-people.pdf')** in the country. The Path (Law Society of Alberta) will allow Alberta lawyers to gain a basic understanding of Indigenous history and issues in Canada, and Alberta.

36. Is all future continuing professional development going to be mandated in the same way? (#accordion_4_collapse_5

Work is currently underway to rebuild a CPD model that aspires to empower and equip lawyers to provide the best legal services they can to Albertans. Our goal with rebuilding the CPD program is to establish a program that considers experience, existing education programs and stage of career. We also know that many firms and organizations have developed CPD programming for lawyers.

While in many contexts we believe lawyers should exercise their own judgement when choosing education for their own professional development, there are some competencies where it is appropriate that the Law Society mandate education.

While Rule 67.4 was amended to allow the Benchers to mandate specific continuing professional development requirements, any future education under this rule would be fully vetted by the Benchers. The Benchers can apply this rule if they deem an area of competency as fundamental to the core of lawyer competency requirements.

---

37. Will the Law Society be mandating other cultural competency education for lawyers? (#accordion_4_collapse_6

At this time, no decisions have been made on any other elements of the new CPD program or any other mandatory education.

---

38. When will more details be shared about other changes to future professional development requirements? (#accordion_4_collapse_7

The Lawyer Licensing and Competence in Alberta report was approved by the Benchers in December 2020. The Law Society has spent time prioritizing the recommendations in the report and is considering potential timelines for implementation. This was a necessary step as we plan to resource this work and develop a comprehensive engagement plan to gather ongoing feedback and input from the profession.

More information about this report is available in this separate **FAQ document (https://documents.lawsociety.ab.ca/wp-content/uploads/2020/02/Path-Forward-on-Lawyer-Competence-FAQ.pdf)**.

This is Exhibit " X " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LSA-VERSION MASTER SCRIPT

November 17, 2021

Contents

Module 1 What's in a Name?

Module 1 Topic 1 Indians, Inuit, and Métis

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

Welcome on this path of Indigenous cultural awareness. This course is intended to be a broad overview of First Nations, Inuit and Métis history across this land now called Canada. You will listen to stories and hear perspectives that we all should have learned in history class but never did.

[Module 1, Topic 1 Indians, Inuit and Métis]

Cultural awareness is the first step on this journey of reconciliation, so let's begin this journey by talking about some important words.

While Indigenous peoples in Canada have lived here for thousands of years, we're going to begin with three words from the Canadian Constitution that you may have heard: "Indian". "Inuit". "Métis". "The Aboriginal people of Canada".

So, let's look behind those words.

What IS an "Indian"?

There are many stereotypes out there about Indigenous peoples, but they are just that; stereotypes or ill-informed perceptions. Whether it's a drunk on the street; a wise Elder, an Indian princess, a road-blocking warrior, or someone on welfare on a reserve. This course will help you see beyond these stereotypes to the real stories.

Because Indigenous peoples do have their own stories; and they don't begin with the word "Indian." In fact, that word is the result of one of history's biggest mistakes.

You probably learned in school that "in fourteen hundred and ninety two, Columbus sailed the ocean blue". Columbus was looking for a trade route to India. And when he arrived in the Caribbean, he assumed that the people living there must be "Indian".

Well...no. They were actually the Arawaks, and they were just one of the hundreds of nations inhabiting what Columbus called a 'new world'. His "new world" had been home to Indigenous peoples for thousands of years. But thanks to his error, it's been "Indians" ever since.

[marching band music]

Long before Europeans came to Canada, there were people living in this country from coast to coast to coast. Research has confirmed that were between half a million, perhaps up to 2 million people.They spoke more than 70 different languages within a dozen language groups, and lived as distinct nations and communities, with their own treaties and trade agreements.

The term 'Indian' is referenced in different British and colonial legislation, starting in 1763 and is included in the British North America Act of 1867. All acts were consolidated when Parliament passed the first Indian Act in 1876. Suddenly the government got to define what it meant to be Indian. In order to be what the Act called a 'status' Indian, you had to be 'a male of Indian blood reputed to belong to a particular band; or a child of such a person; or a woman who is or who was married to such a person'. If you met these criteria, you were put on a list or roll called the Indian Registry and gained status. The idea that a government could decide whether you were Indian or not underscores the racist, discriminatory and patriarchal nature of Canadian law and policies towards First Nations, Inuit and Métis. We'll talk about the Indian Act in another module. And we'll discuss what the term 'treaty Indian' means. We'll occasionally use the word "Indian" in this course when referring to specific historical documents; but generally, we've replaced the word "Indian" with the term "First Nation". So now, let's turn to Inuit.

[music]

While most First Nations lived in southern Canada, the Arctic was dominated by Inuit. Until about 10,000 years ago, much of the Arctic was a gigantic glacier. As the glaciers receded and animal and plant life emerged, the ancestors of the Inuit slowly moved east in a series of waves, beginning with the ancient people called the Tuniit.

[map of northern Canada with the text: 5,000 to 4,000 years ago ancestors of the Tuniit (Dorset Culture) cross Bering Strait and move eastward). 1,000 years ago Thule (North Alaska Inuit) move eastward, displacing Tuniit.]

Today, in Canada, Inuit occupy a region they refer to as Inuit Nunangat – “our homeland”.

They also refer to Inuit Nunaat, the broader Inuit homeland across the circumpolar areas of Canada, Alaska, Greenland and Russia.

[map of circumpolar world with names of Inuit regions: From east to west Nunatsiavut, Kalaalit, Nunavik, Nunavut, Inuvialuit, Inupiat, Yupik.]

That unique history means that Inuit are culturally very distinct from their First Nations neighbours to the south.

More than 85% of the population of Nunavut is Inuit. There are also large Inuit populations in the Northwest Territories particularly in the Inuvialuit Settlement Region, in northern Quebec or Nunavik, and in northern Labrador or Nunatsiavut. Many cities across southern Canada have growing Inuit populations too, especially Ottawa, Yellowknife, Edmonton, Montreal, St. John's and Winnipeg.

What these people share is a common language, Inuktut, and a common identity. They are Inuit – a word that in their language means simply ‘the people’.

[Inuit song then Métis fiddle music]

And who are the Métis? Some think the term comes from the Spanish word mestizo, used in Latin America to describe people with both Indigenous and European ancestry. Others trace it to the Latin term mixtus, or to an old French word, Mitif - something that is half one thing and half another.

The Métis emerged as a distinct people with the emergence of the fur trade in Canada. Europeans loved their fur, particularly their beaver hats, but by the 17th century beavers were pretty well extinct in Europe. So French, Scottish and British traders came to Canada, travelled along waterways and existing trade routes and made alliances with First Nations, often through marriage or economic partnerships.

The First Nations partners would know where and how to find, trap and skin the animals—mostly beaver but also mink, muskrat, fox and marten. The European traders ensured the furs got back to Europe. And furs were traded for European goods such as knives, tools, cloth and beads.

Many of these traders and voyageurs, some of whom were First Nations themselves, married First Nations women. These children of the fur trade were originally called Halfbreeds. Today, the common term is Metif or Métis or sometimes Michif, though Michif is most often used to refer to the Métis language.

Some people reserve the term “Métis” for those who can trace their heritage back to these communities. Others feel that anyone of mixed ancestry should be called Métis; they point out that many waterways in eastern and northern Canada saw intense fur trade activity and the emergence of half-breeds, including the Great Lakes, Hudson Bay, the Mackenzie river and Great Slave Lake.

The descendants of Inuit women and European men in central and southern Labrador, the NunatuKavut, refer to themselves as the Labrador Métis Nation, and are now in land claim negotiations for their homeland.

Métis rights have now been recognized in the Constitution. The debate about the nature and extent of those rights continues. A recent Supreme Court decision ruled that Métis are to be considered Indians under federal jurisdiction. We'll be looking at these issues more closely in further modules.

Today each of the four groups is represented nationally at the highest political level by its own distinct organization. For Inuit, that organization is Inuit Tapiriit Kanatami or ITK. For Métis it's the Métis National Council or MNC, though there continues to be discussion about who is Métis and who represents them. And First Nations are represented by the Assembly of First Nations, or AFN. The AFN is a Chiefs organization that advocates for First Nations citizens, most of whom are status Indians living on reserves. The Congress of Aboriginal Peoples, or CAP, promotes the rights and interests of non-status and off-reserve Indians, as well as Métis not affiliated with MNC. Yes, this does seem convoluted; but the complexity is a consequence of distinctions created and imposed over a century of government policy and legislation.

[music]

But the important point to remember is that Inuit, Métis, and the people Columbus once called "Indians" have lived and continue to live in every region of this country:

[Métis fiddle music]

[pow wow music]

on reserves, in hamlets, in towns and in cities. They have been defining themselves, asserting their inherent rights and sustaining their distinct cultures and languages for generations.

And that's really what this is all about. Indigenous peoples will tell you that they don't need a government agent or a federal department to tell them who they are. Indigenous people know who they are, and they've known that for all the centuries they've been in existence.

They also have their own words to describe themselves. There's been a lot of stereotyping and demeaning terminology used to identify Indigenous people over the years, there's still confusion about the "right" words. So that's our next topic, Name Calling.

[music]

[rolling credits for module 1, topic 1

Director	Jennifer David
Writers	Jennifer David
	Terry Rudden
Editor	Richard Bujold
Narrator	Jennifer David
Instructional Designers	Manon Lamontagne
	Terry Rudden
	Michelle Turpin
Graphic Designer	Fe Wyma
Researcher	Angela Day
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	"The Wisdom of the Universe" by Christi Belcourt
Music in Opening Sequence	"Our People" by Noel Habel

Images, Videos, Music/Audio	Ansgar Walk
	Assembly of First Nations
	Bahman
	C.W. Mathers / Canada. Dept. of Interior
	Cattroll Photo Associates
	cjuneau
	CP Images
	Flotilla Facts
	Frances Anne Hopkins
	George M. Dawson
	Glenbow Archives
	HiMYSYeD
	Inuit Tapiriit Kanatami
	Jessica Rockeman
	Jon Kolbert
	Métis National Council
	Noel Habel
	Nunatukavut.ca
	nunavuttourism.com
	NVision Insight Group Inc.
	Open Government License Canada
	P199
	Parks Canada
	Robert Bell
	Saskatchewan Archives
	The Congress of Aboriginal Peoples
	Tribal Nations Map
Produced by	NVision Insight Group Inc.]

Module 1 Topic 2 Name Calling

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

[Module 1, Topic 2 Name Calling]

A lot of words have been used over the years to describe Indigenous people. Most have been inaccurate, and many have been unflattering.

[text on screen: Indian, Eskimo, Halfbreed, Native, Aboriginals]

Image of film poster with text “On the Trails of the Hollywood Indian Reel Injun”. Cover of National Geographic magazine with text “Canada’s Indigenous Peoples”. Cover of magazing Cowboys and Indians with text Michael Greyeyes Beyond Stereotypes].

They reflect stereotypical ideas about who Indigenous people are, what they think, what they believe. These popular misconceptions still define the way Indigenous peoples are seen, and the way that their stories are framed in headlines and in Hollywood.

Wab Kinew is a musician, journalist, writer, and currently a Member of the Legislative Assembly in Manitoba. In this short video, he talks about some of the stereotypes that he’s encountered.

There’s five things you’re going to have to stop saying about my people. First thing, Alcohol, the big thing that separates us here isn’t the alcohol, it’s the poverty. ‘Cause when a non-Native person passes out they do it at a curling club, or at a Nickelback concert. When a Native person does, they do it on the street. Which is shameful, but oh so comfortable. Then there’s this whole idea of ‘Get over it.” “You know, why don’t you guys just get over it?” You know what, I am over it. My dad was raped in a residential school by a nun, I’m over it but it doesn’t mean that we should forget it. Then there’s the long hair thing. You know some Aboriginal people do wear their hair long as a symbol of cultural pride. Those are the Natives with beautiful long straight hair. With curly haired Ojibway’s such as myself, hair clippers have been the greatest invention of the white man since the mirror. Then, I often hear this question, “What are you guys doing with the 7 billion dollars, 7 billion dollars we give Indian affairs, what are you guys doing with it? You know what? That money has to pay for a population the same size as New Brunswick. You know what New Brunswick spends on their population? Eight billion dollars. Yet I never hear Canadians ask, “Hey New Brunswick, what are you doing with your eight billion dollars?” Finally, one of your favourites, taxes, guess what? I’m a status Indian, I pay income tax, I pay sales tax, I once even paid a land transfer tax, ironic. It’s all part of a much larger stereotype, that Aboriginal people in Canada are getting a free ride. A hundred and forty years after the treaties we’re still waiting for the things that were promised in those agreements to share the land. So, I ask you “Who’s really getting the free ride?

Wab Kinew pointed out some of the most common stereotypes. Let’s look at a few others-- where they come from, and why they’re wrong.

They should just get off welfare and get a job.

Actually, more and more people are. The number of Indigenous people in the labour force has been climbing for years. And that’s despite the fact that for over a century, laws and policies were designed to make Indigenous people dependent on the government, particularly on reserves and in Inuit hamlets.

These policies stripped away language, culture, self-confidence, pride, jobs, and the ability to provide for their families.

[image of stop sign with two street signs Queen Street and Petawabano Street with names in Cree syllabics underneath].

And while there were no reserves set up for Inuit or Métis, the effect of colonial policies has been the same. That's a legacy that will take generations to overcome.

Picking up on what Wab Kinew said, here's one:

You guys get everything for free and you don't even pay any taxes.

First of all, Inuit and Métis don't receive any special benefits or tax breaks. Only First Nations individuals with Indian status are eligible in *some* circumstances for tax exemptions, or housing assistance or tuition support.

First, let's talk about income tax.

[image of a certificate of Indian status]

The Indian Act has very specific and limited conditions for tax exemptions. It's true that Status Indians do not pay taxes on their personal property, including goods, services and income. But they have to earn that income on a reserve or buy products and services on a reserve. So now we're talking about a very small number of people.

Then there's sales tax. Again, only First Nations individuals with a status card can claim a partial tax exemption. Policies differ by province; retailers in some provinces provide a tax exemption but ONLY on the provincial portion of the sales tax.

And while First Nations receive education funds as part of their treaty rights, it's never enough to cover the full tuition of all of the students who apply. The same applies to housing. On reserve, because all land is held in trust under the Indian Act, a homeowner doesn't hold title to the lot they build on. They can get a certificate of possession from the band council but they cannot use it as collateral in the same way as other Canadians can. It comes with restrictions set out in the Indian Act, which we'll discuss later in the course.

You may have heard some people ask; "Why should my tax dollars go to pay for Indians on reserves who are getting a free ride?"

Those people are usually surprised to learn that the funds sustaining First Nation communities and programs doesn't come from their taxes, but from First Nations funds the government already holds. When the treaties were originally signed, the funds due to the First Nations were set aside by the Crown as "Indian Trusts". Over the years, as part of the agreements, those funds received a portion of the revenues generated by natural resources extracted from First Nations territories. This is not "government" or "taxpayer" money; this is First Nations money, held in trust under the ***Indian Act*** by the government. A small fraction of it is doled out every year in bits and pieces, through convoluted channels with heavy reporting requirements. These same funds pay the salaries of thousands of bureaucrats in what is currently called the federal Crown-Indigenous Relations and Northern Affairs department. To put it simply: it's not the taxpayers who are paying for First Nations: it's the First Nations who are forced to pay for a bureaucracy to administer the funds they already own.

Another stereotypical view goes like this:

Why do they hate development? You know, like, they're always blockading roads and stuff?

That's not quite right either. Not all Indigenous communities are opposed to development. In fact, some of Canada's biggest natural resource projects were developed in partnership with Indigenous corporations and entrepreneurs. Some communities see resource development as a key to their own economic futures and many are creating green energy companies too.

They DO insist that communities must be involved in decision-making about how their lands and resources are used. Projects must respect their treaties and land claims, they must provide a fair share of jobs, training and contracting opportunities to the community. And increasingly, a stake in company ownership. These communities believe that development can benefit their people while respecting and protecting the land, the wildlife and the waters that sustain them. Of course, some Indigenous people and communities oppose resource development. There's

debate and discussion within and between communities; on the question of development, or on most other issues, it's important to remember that not all Indigenous people think the same way.

And while we're debunking stereotypes, here's one more.

If things are so bad, why don't they just leave the reserve?

Statistics show that about half of all First Nations individuals live off reserve, and growing numbers of Inuit are moving from the Arctic to southern Canada for various reasons. But many others remain connected to their territory and to the land that their ancestors occupied for centuries. It's home. It's where their families live, where people still speak the language, live their culture and pass on traditions and ways of life to future generations.

This is not an "Indigenous" problem. There are fishing villages in the Maritimes and farming towns in Saskatchewan that are struggling to stay viable in the modern world. But the answer lies in education, mobility, and the creation of new, self-sustaining economies, not in simply telling people to leave.

All of this is not to downplay the very real issues like poverty, social problems, and violence but it may have surprised you to hear that some Indigenous communities are thriving; that many are engaged in major development projects; that more people are working, have higher education and are participating in the economy. Those facts don't fit the stereotypes.

[cartoon of two people walking. One person has a thought bubble with stereotypical images of a football helmet with the Washington redskins, Pocahontas, tomahawk, Indian on a horse. He says "Really? You don't look like an Indian…"

And conventional media – even the best of them – sometimes perpetuate those stereotypes by printing and broadcasting the most provocative and negative stories.

[Pan down of cover of Maclean's magazine with headline 'They call me a stupid squaw, or tell me to go back to the Rez]

To get beyond the misconceptions and the clichés, check out the way that Indigenous people tell their own stories. Read Indigenous newspapers and magazines. Investigate some of the excellent new films, radio and television programming from award-winning Indigenous journalists and writers.

[images and logos: WindSpeaker, Aboriginal Peoples Television Network, Muskrat Magazine, Terres En Vues, imagineNATIVE, National Film Board]

You'll gain a different perspective, and you'll quickly understand why those stereotypes are inaccurate.

[cartoon of three men. Indigenous person in the middle says "If he's East Indian you a West Indian does that make me a Middle East Indian?"]

So, we're left with the question that started this topic. What are the "right" words to describe Indigenous peoples?

Well, we've already ruled out "Indians". We've agreed that Columbus got it wrong: there ARE Indians in the world, but they mostly live in India. Yes, that word is still in the Canadian constitution; and yes, it's a term that some people still use to refer to themselves. But it's no longer considered appropriate or accurate.

"Native" is another description that's well past its best-before date. It was often used as a collective word for all Indigenous people. But it's vague, and a little ambiguous. What does it mean if you said you are a native of Montreal? And when you sing that Canada is our home and native land, are you really celebrating our Indigenous past? Perhaps it would be best to avoid that word altogether.

What about Aboriginal? That one's been popular for the last few years. Many organizations have that word in their name. The problem is, it's a generic term that bundles First Nations, Inuit and Métis together as if they are all the same. As you learned in the first topic, they're not. If

you want to include all three groups, you can use the word Aboriginal. There's an entire segment of Canada's legal system called Aboriginal law, so it *is* used in that context. But calling someone Aboriginal is like referring to a Norwegian as a European. It's true, but it's not a useful or precise distinction.

And then there's First Nation. We're getting closer. A First Nation is actually just that: one of the original, distinct nations in Canada, often a particular reserve or community, like Moose Cree First Nation or Frog Lake First Nation. It's not a term that includes Inuit or Métis. But First Nation is a term that has no actual legal meaning, and it's often misused. For example, a First Nation is not a person: it's a place. You will often see the word First Nations used to describe individuals and it can be found in the names of some organizations like the First Nations Child and Family Caring Society and Assembly of First Nations. This encompasses those who belong to one of the more than 600 First Nations across Canada.

You've all heard the word "Eskimo". This was once the common term for Inuit. But it's not a word Inuit use to describe themselves; in fact, no-one's really sure where it came from. It may be derived from the Algonkian word awassimew, meaning 'one who laces snowshoes'. Or it may come from the Cree words 'askawa' or 'askipiw', meaning 'to eat something raw.' The word is sometimes still used in other circumpolar regions, but Inuit consider it derogatory, and it's no longer used in Canada.

Finally, there's the word Indigenous. That's now widely used instead of the term Aboriginal, and refers to all First Nations, Inuit and Métis. It has meaning in international contexts, in particular the United Nations Declaration on the Rights of Indigenous Peoples or UNDRIP, and has been generally accepted as a term to refer to First Nations, Inuit and Métis, collectively.

That's the word that'll be used throughout these modules. And when we refer to a group of Indians, we will say First Nations. There are many other terms and words that you may have heard. See the Glossary called What's in a Name? for more information.

But what's the best word? Here's the bottom line: call people what they want to be called. Inuit and Métis use those words to describe themselves, and prefer those terms. As for the folks-formerly-known-as-Indian, most affiliate themselves with whatever First Nation, or group of Nations they belong to. So be as specific as possible. You may be speaking to someone who is Anishnaabe, or Heiltsuk or Cayuga, or Mi'kmaq. It's a little more complicated than just Indian or First Nations. But if you use the same word that any particular individual uses for themselves, you'll be right every time.

So, let's conclude module 1 with some thoughts from Patricia Monture, a Haudenosaunee lawyer, educator and activist who passed away in 2010. We'll give Dr. Monture the final word on wording to describe Indigenous peoples.

"I want to talk a little bit about language and ah, we had a great debate earlier on, actually I've had this great debate in a whole bunch of about who are we? What do we call ourselves? You know, are we Aboriginal? Are we Indians? That's the one I like, I'm kind of claiming it back, I'm taking it for my own. Are we First Nations? Are we Native? Are we Indigenous? Going on and on and on the list goes. It's one of the first questions student asks, students asks me, particularly non-Indigenous students in class. What's the right word? There isn't one. Unless you are going to use Onkwehonwe or Haudenosaunee. They come from the Six Nations Confederacy. Those are right words, that's who I am. You know? All of those other words First Nations, Aboriginal, Indigenous, Native, Indian, they're all imposed words. None of them are our words. None of them express who we are. So I'm not going to engage in a debate about which imposition is less wrong. They're all wrong. They're all colonial. They all put you in the position of saying not 'I am' in a proud, strong way. But I am not really an Indian. I'm really Haudenosaunee."

[end credits for Module 1, Topic 2

Director	Jennifer David
Writers	Jennifer David

	Terry Rudden
Editor	Richard Bujold
Narrator	Jennifer David
Instructional Designers	Manon Lamontagne
	Terry Rudden
	Michelle Turpin
Graphic Designer	Fe Wyma
Researcher	Angela Day
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	“The Wisdom of the Universe” by Christi Belcourt
Music in Opening Sequence	“Our People” by Noel Habel
Images, Videos, Music/Audio	Aboriginal Peoples Television Network
	Algonquin Nation Kijicho-Manito
	Assembly of First Nations
	Athabasca Chipewyan First Nation
	Biswarup Ganguly
	bluecorncomics.com
	Canadian Geographic
	Cattroll Photo Associates
	CBC Licensing
	Centre for First Nations Governance
	Cowboys & Indians Magazine
	Dene Nation
	Emmanuel Huybrechts
	Everett Soop
	First Nations Child & Family Caring Society of Canada
	Frog Lake Energy Resources Corp.
	Frog Lake First Nation
	Fungus Guy
	Good Free Images
	Heidi Langille
	imagineNative
	imcharmingyou.com
	Jennifer David

John Duffy

K'omoks First Nation

Leech Lake Band of Ojibwe

Macleans

Matthew G. Bisanz

Michelle Turpin

Mikisew Cree First Nation

Monica Lamb-Yorski

Moose Cree First Nation

Mushuau Innu First Nation

Muskrat Magazine.com

Neil Diamond, Rezolution Pictures Inc.

Noel Habel

Nuu-Chah-Nulth Tribal Council

NVision Insight Group Inc.

Olthuis Kleer Townshend LLP

Open Government License Canada

Patricia

Philippe Morin

Pjposullivan

Red Lake Nation

Sagkeeng First Nation

Samson Cree Nation

Sayisi Dene First Nation

Terres en vues / Land InSights

Uyvsdi

Wikicommons

Wikimedia Commons

Windspeaker.com

Produced by NVision Insight Group Inc.]

Module 2 Defining Moments in History

Module 2 Topic 1 History: Pre-Contact to the Mid Nineteenth Century

[black screen with the following disclaimer text: This video is for instructional purposes only. This video is not intended to provide a full, in-depth historical overview of Indigenous peoples in Alberta, nor a full, in-depth overview of provincial and Canadian legislation, policy and laws that have occurred over time. This video briefly summarizes history and law and is only to be used as general background knowledge to begin your journey towards Indigenous cultural competencies in Alberta.]

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

[Module 2, Topic 1 History: Pre-Contact to the Mid-Nineteenth Century]

We all tell stories about where we came from.

[music]

Some are creation stories from our own particular cultural traditions; some are the stories we call “science”, or “evolution”, or “immigration”. They all answer the same question – where does the story of our people begin?

[Quote on screen: “When we were created, we were given our ground to live on and from this time, these were our rights. This is all true. We were put here by the Creator – I was not brought from a foreign country and did not come here. I was put here by the Creator.” Chief Weninock, Yakima, 1915.]

As a Tshimshian elder once explained, “I have lived here since the world began.” The phrase usually translated into English as since time immemorial’ reflects the idea that Indigenous peoples have no stories, no memories of journeying to this place called Canada from another place.

And so origin stories are the starting point for the beliefs that Indigenous peoples have about home, about who they are, where they came from and how to live. For First Nations, Inuit and Métis, Canada IS home. There’s no ‘mother country’ or “land of the ancestors” across the sea somewhere. Their past, their history, their connections are all here, in Canada.

Indigenous peoples tell many creation stories, all rooted in a particular place and territory. The Mi’kmaq tell the tale of the Great Spirit or Gee-soolg who made everything, including Glooscap, the first human, who brought fire to his people.

The Haida creation story starts with Raven, who released humans from a giant clamshell.

For Inuit, it all began with Sedna, whose fingers were chopped off by her angry father. As they floated to the bottom of the ocean, they became sea animals and fish.

Listen to this Mohawk creation story about Skywoman. Have you ever heard the term ‘turtle island’? It came from this story.

In our creation story, there was a woman that came from another world. And at one time that world came close to this planet, and that woman came here during that time. She is our great-great-grandmother for humans. She had different names, one was “Ajinjagaayonh” which means a matured flower, sometimes we call her Sky Woman. When Sky Woman came here this planet had no land. It was a planet of water and she was aided by the birds to get here safely. And the turtle came up and they put the woman on that turtle’s back. And she brought things from that other world when she came here. Strawberries and raspberries and peaches. So,

when she was on the turtle, the animals went after the dirt that's under the water and they all died except one. But they brought that dirt up and they put it on the turtle. And Sky Woman walked counter clockwise around that turtle's back. And that's what made the miracle of birth happen. That's what made seeds turn into humans and what made a little tiny corn get to be a tall corn stalk. And as she went around counter clockwise she chanted songs that came from that other world. Some people say that's where our feather dance came from. That's what she was doing. And as she went further, that miracle of birth was multiplied, and the turtle turned into the earth, this continent and the ground multiplied and grew. So that's why in all our longhouse ceremonies we keep going in our circle that way, so the corn and beans will keep growing and the trees will keep growing because she made it grow. And she told us, that's the way it's done where she came from. Since that time, we never stop going around in a sacred circle, counter clockwise following our grandmother. In Ojibway or Lakota country they go the other way, clockwise. But my Elders taught me to respect that, because when the Creator talked to the Ojibway and Lakota he told them what to do and I cannot question that. So, when I go to Ojibway or Lakota country I follow how they go with no questions, with complete respect. They dance clockwise and if they ask me to dance I go right with them. And when the real Ojibway or Lakota come here, they're the same. They dance our way with us, no hesitation. This is the way we were told to do it by our Elders. With respect.

Like the story of Adam and Eve, Indigenous accounts of creation are expressions of spiritual and cultural truth. They reflect a way of looking at the world.

Science and history tell the human story from another perspective. So what does science say about the arrival of Indigenous peoples in North America?

Evidence from sites like the Yukon's Bluefish caves suggest that the ancestors of some of today's Indigenous peoples crossed the Bering land bridge more than 20,000 years ago as the glaciers retreated. Then, over time, they moved south and east. The ancestors of the Inuit crossed the Bering land bridge about 3 or 4,000 years ago, they stayed in the north and moved east.

[map of North America with arrows from north to south: Inland Migration route through the ice-free corridor. Pacific coast migration route (on foot or by watercraft)].

But there's a growing school of thought that believes some parts of North America have been inhabited for longer than the current theory suggests. New discoveries, theories and evidence lend credence to multiple possible points of origin.

We can look at science and at origin stories as simply different ways to describe where we've come from.

Now, let's fast forward a few thousand years. We'll talk in another module about how Inuit were the first to encounter Europeans in the 10th century but other Indigenous peoples on the east coast of Canada first saw Europeans in the 15th century. What was it like on this continent, just before those encounters? Charles C. Mann's book 1491 provides a fascinating glimpse of pre-contact life in the western hemisphere.

We've been using the word 'Canada' to describe the land we know today. But of course, prior to European contact, First Nations and Inuit had their own words for their territories. The word "Canada" is actually derived from a Haudenosaunee word Kanata (Ga-NAW-ga) meaning settlement or village.

Canada was not 'terra nullius', a land occupied by no one. There were thriving Indigenous societies and communities here, with hundreds of languages and distinct cultures.

While there have always been skirmishes, battles and hostilities between and among Indigenous peoples, there were also many alliances, trade agreements and treaties. One such treaty between Anishnaabe and Haudenosaunee is called the "Dish with One Spoon".

This wampum belt depicts a 'dish' which represents shared territories and hunting grounds. The spoon symbolizes the need for all parties to respect the territory and take on the responsibility of caring for the land and animals in order to live in peace and harmony.

There were many different laws, governance systems and social structures in place across Canada. These outlined the roles and responsibilities of every person in a family and community, and described detailed systems of law, order, punishment, healing circles, and justice.

Oral history and storytelling were crucial to maintaining these systems and societies. Although there were no formal written languages, some written records exist in the form of wampum belts, images on tree bark, or rock carvings and petroglyphs.

The Nlakapamux First Nation in BC has replicated a round house to show visitors what it was like prior to European contact.

The kitchen that you're in right now is probably the normal size.

It can hold fairly good size family and clothes and accommodates the grandfathers, grandmothers, grandchildren, or children.

So, it's quite a good setting as our people live in this dwelling from October to springtime.

And during that course they use it as storytelling and teaching time for young people.

So, one central area for cooking.

And we use fur balls or cedar balls for bedding; provides a good aroma to the dwelling and also, when you close the door, the smoke naturally goes up.

So, it's a natural funnel for the smoke to come out.

So, we're hoping that we have more villages like this in the future so to share our culture and our language and our language and their traditions.

And that's very important to share that because that's what enabled us to survive the many generations that we have today.

As mentioned, it’s estimated that there were as many as 2 million people, and some say even more, in North America, prior to European contact. But with the first wave of explorers and settlers came smallpox, measles, scarlet fever, and other common European diseases. Indigenous people had no immunity, and died in large numbers. Scientists estimate that between 50 and 90 percent of the Indigenous population was wiped out over the course of a few generations.

Despite these devastating losses, those who were left behind adapted and carried on with their ways of life and traditions. And this is what it would have looked like as you travelled across Canada.

If you began your trip on the East coast, in Atlantic Canada, you would meet the Mi’kmaq and the Passamaquoddy, the Wolastoquyik and the Beothuk. You would have been impressed at the ingenuity in their use of materials and resources around them to create and build things like snowshoes and the birchbark canoe.

Had you landed further north, you would have encountered Inuit in northern Labrador and Innu in central Labrador.

As you travelled down the river now called the St. Lawrence, and along the shores of the Great Lakes, you would encounter the Haudenosaunee, the ‘people of the longhouse’. They were a powerful confederacy of several nations that created sophisticated military and political alliances and developed a constitution they called the Great Law of Peace, which inspired Benjamin Franklin when writing the Declaration of Independence. The Haudenosaunee were a matriarchal society. They invented the unique agricultural practice of planting corn, beans and squash together – crops they called the Three Sisters.

They shared Ontario and Quebec with the Huron, who established villages and sophisticated social and community structures. As you travelled west, you’d meet two of the largest nations in Canada; the Anishnaaabe (including the Algonquin, Chippewa, Odawa, Potawatami, Mississaugas), and the Cree (who were known by various names like inninew and nēhiya

depending on the region). The people of these two important nations were widely dispersed across a vast territory where they harvested for fish and animals such as moose, deer, rabbit and, in the western regions, bison.

They moved seasonally with the animals, creating and telling stories of Nanabush or Nanabozho and Weesakechak, and adapting to their environment.

Across the Prairies there were dozens of nations, many relying on the buffalo and mastering the use of horses.

[pow wow music].

As we move across the Prairies, we'll pause and delve a bit more into what it would have been like here in Alberta prior to European contact.

Here were the Cree, Saulteaux, Sioux or Stoney, Blackfoot who are Siksika, Piikani, Kainai, and the Dene who are the Tsuut'ina. These societies existed with their own laws, cultures, and languages.

In Alberta, the Dene Tha' or Slavey resided in the far north along with the Chipewyan and Cree and Dane-Za or Beaver people near the Northwest Territories border.

The Cree stretched from northern Alberta into the central region while the Siksika, the Kainai and the Piikani, all part of the Blackfoot Confederacy, were in the south. The Tsuut'ina were descended from the Beaver people who moved south during the 19th century.

The Stoney Nakoda moved west into the region next to the Rocky Mountains. The Métis also moved into Alberta during the 19th century.

There was trade and relationships between the nations but, there was also conflict, violence and warfare. However law and governance between nations also brought truces, alliances, and peace and friendship treaties.

Blackfoot were particularly known as fierce warriors and had a powerful alliance system and a series of traditional societies such as the Horn Society, the Warrior Society, the Buffalo Women's Society, and others, each with specific teachings and responsibilities, including medicine bundles.

All of the nations had a history of oral storytelling which was the tradition of passing the laws, cultures and teachings down from one generation to the next.

The Nations also developed various sophisticated rock art including at Aisinai'pi in southern Alberta where you can find thousands of rock art images in Writing-on-Stone Provincial Park.

In the Blackfoot language Áísínai'pi means "it is pictured" or "it is written." Painted and carved onto sandstone cliffs, most of the art was created by the Blackfoot Nation around 1050 BCE.

Taken together, these images represent the largest concentration of Indigenous rock art in the North American plains. Áísínai'pi was designated a National Historic Site in 2004, and a UNESCO World Heritage Site in 2019.

Two methods were used to make the ancient images at Áísínai'pi. In some cases, the soft bedrock was carved or etched. These are called petroglyphs. The other method was to paint images onto the rock surface with red ochre. These images are called pictographs.

Áísínai'pi is a sacred place for the Blackfoot Nation.

Bison, frequently referred to as buffalo, was a significant resource for First Nations across the prairies for food and raw materials.

For the Blackfoot and the Cree, the Plains Bison was a supplementary food source when caribou was unavailable. They hunted large herds across the open prairie. For the Dene, it was small, scattered herds of woodland bison which they hunted in the boreal region.

Several techniques were used in the hunt for plains bison, all with the aim of driving the bison into corrals, and canyons or over cliffs and bluffs – anywhere the bison would have difficulty

escaping. The Cree would drive the herd into marshes in summer and into deep snow or ice in winter where the herd would then flounder.

Every part of this process required a high level of technical expertise, group organization and coordination to be successful.

Head-Smashed-In Buffalo Jump Interpretive Centre is a UNESCO-designated World Heritage Site that preserves and interprets over 6,000 years of Plains Buffalo history and traditional First Nations hunting practices here in Alberta.

Now let's continue on this imaginary journey across the country as you move towards the west coast, home to the greatest number and diversity of nations in the country including the Haida, the Heiltsuk, the Nuu-chah-nulth, the Ktunaxa and dozens of other nations, many isolated by mountains and water and living in their own unique ways. Because fish, wildlife, and building material was so abundant, coastal peoples were able to build permanent structures and adopt a more settled lifestyle. You would have been struck by their intricate works of art, from totem poles to ornate canoes to ceremonial masks and objects, and by the richness of their ceremonial practices, and elaborate traditions, including the potlatch.

If your imaginary voyage had taken a northern turn across the Yukon and the Northwest Territories, you would meet more unique nations like the Tlingit, the Gwichi'in, the Dene. These northern peoples lived off the land, often following the animals, especially caribou, and hunting, trapping and fishing. They created and mastered copper tools, sharing and sustaining their cultures and spirituality through oral stories passed from generation to generation.

[music]

Travelling east across the North, from what is now called the Inuvialuit Settlement Region of the Northwest Territories, through Nunavut, Nunavik and Nunatsiavut, you would have encountered several populations of Inuit, each with its own dialect of Inuktut, their common language. They also shared technology and tools that helped them survive the world's harshest climate - snow goggles and kayaks, igloos and inuksuit, sealskin clothing and kamiiks, all reflecting a deep knowledge of their land and its wildlife.

[Métis fiddle music].

As you learned in the first module, the Métis came into existence after the arrival of Europeans, with the emergence of the fur trade. And there would have been no fur trade without the Métis who played a key role bridging two worlds. The homeland of the Métis Nation is in west-central North America. See the Resource List for more information on the Métis Nation and the ongoing debates and controversies regarding the rise of Métis organizations in eastern Canada. Over the years, Métis established and practiced their own culture, traditions, ways of life and language.

[Inuit music].

In the next topic, you'll learn more about Inuit history. Then we'll look at some of the moments that have shaped Indigenous peoples, communities and nations since the arrival of Europeans in what we now call Canada including a topic on Indigenous history of Alberta.

[closing credits for Module 2, Topic 1

Director	Jennifer David
Writers	Andrea Menard
	Jennifer David
	Terry Rudden
Producer	Andrea Menard
Editor	Richard Bujold

Narrator	Jennifer David
Instructional Designers	Manon Lamontagne
	Terry Rudden
	Michelle Turpin
Graphic Designer	Fe Wyma
Researchers	Angela Day
	Andrea Menard
	Raj Atkar
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	“The Wisdom of the Universe” by Christi Belcourt
Music in Opening Sequence	“Our People” by Noel Habel
A special thanks to	Cora Voyageur
	Darcy Lindberg
	Hadley Friedland
	Koren Lightning-Earle
	Margaret Unsworth
	The 2020 Indigenous Advisory Committee, Law Society of Alberta
Images, Videos, Music/Audio	Allen Memorial Art Museum, Oberlin College, Ohio, Gift of Mrs. Jacob D Cox, 1904
	Amanda Hukill
	Archives of Manitoba (N18824)
	Fenimore Art Museum Library, Cooperstown, New York
	Flickr: Eileenmak
	Helena Katz
	Kade Ferris
	Laura Golebiowski
	Library and Archives Canada / C-019089
	Metis Nation of Alberta
	Running Thunder Singers: Adrian LaChance, Bronson Lachance, Kihew Lachance
	Shutterstock: Arina P. Habich; David P. Lewis; Ronnie Chua; Vivid Pixels
	Smithsonian American Art Museum / URL: http://edan.si.edu/saam/id/object/1985.66.414
	State Historical Society of North Dakota (1952-05031)

State Historical Society of North Dakota (1952-05136-2)

Stock Photo: Image ID: FPW23M / Classic Stock / Almay

United States Library of Congress

Produced by NVision Insight Group Inc.]

Module 2 Topic 2 Inuit Across the North

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

[Module 2, Topic 2 Inuit Across the North]

People have lived in various regions of the Arctic for thousands of years.

It's believed that Inuit originally settled in what is now northwestern Alaska and that's where the roots of Inuit culture first emerged. Inuit lived on the seacoast and tundra, where they fished and hunted primarily seals, walrus, whales, polar bears and caribou.

Starting about a thousand years ago, the ancestors of Inuit, called Thule, began to move east across the north, 20 or 30 people at a time, over hundreds of years. The Thule brought with them the core elements of Inuit culture; an economy that depended on seals, caribou and fish; dwellings made of sod, or animal skins stretched over whalebones, or blocks of snow known as igloos; and of course the evolving Inukttut language. Gradually, distinct Inuit groups settled across the Arctic coast of North America including the Inupiat, Inuvialuit and Inuit.

[music]

Europeans and Inuit probably met for the first time about eight hundred years ago in Greenland, when Vikings settled on the West Coast. That was about 500 years before Columbus reached the Caribbean; so the very first contact Europeans had with Indigenous peoples in North America may well have been with Inuit. Inuit also came into contact with First Nations along the treeline to the south; oral histories include many stories about meetings with other people.

By the mid-1800s, whaling fleets and naval explorers were plying northern waters, and contact and trade between Europeans and Inuit became common. Inuit continued to live, move and hunt in small family groups. But the fur trade brought the Royal Canadian Mounted Police and the Anglican and Roman Catholic churches to the far North in the first half of the 20th century. And while Inuit were content to maintain their way of life, government intervention began to bring about rapid changes that devastated families and an ancient way of life; changes whose impacts are still felt to this day.

For years Inuit had been protected by their isolation. But accelerating resource development and the Cold War brough a huge surge of non-Inuit to the far north. To assert its sovereignty over the Arctic and to monitor Soviet activity on the other side of the North Pole, the Canadian government set up a network of airstrips, military sites and radar stations right across the north. At the same time, southern developers and speculators were flocking north to investigate rich gas, oil and mineral deposits in the region.

To exercise greater control and provide services to Inuit, the government began to move widely dispersed Inuit families into permanent settlements centred on established Hudson Bay posts (later Northern stores), RCMP detachments, churches or federal government facilities. The result in many cases was broken-up families jammed into poorly built houses that quickly became overcrowded, leading to outbreaks of disease, particularly tuberculosis.

This trend culminated in a number of forced relocations of Inuit, to be discussed in Module 3.

Settlement life did not suit the qimmiit either, which were the sled dogs used by Inuit to go hunting and fishing on the land. The dogs died from disease, were abandoned by owners and shot by hunters and the RCMP. This challenged Inuit self-reliance and forced them to depend on government welfare, learn a foreign language, and adopt a foreign lifestyle.

Governments couldn't pronounce or spell the names of the Inuit that they were intent on assimilating. They first tried to standardize the spelling of names, then attempted mass fingerprinting, and eventually imposed new first and last names on people. In 1941, the government introduced the Inuit tag system; each Inuk was assigned a number, printed on a

leather disc that Inuit had to wear at all times. This dehumanizing practice was in place for more than 30 years before being phased out.

Despite these attempts at assimilation and social annihilation, Inuit managed to maintain their worldview and culture, and remained practical and resourceful. Realizing the need to assert their rights and take charge of their own futures, in the early 1970s, Inuit began to meet and strategize. Their approach would lead, over the next four decades, to the signing of four major land claims agreements and the creation of a brand new territory.

John Amagoalik, one of the early Presidents of the national Inuit political organization, Inuit Tapirisat of Canada (now called Inuit Tapiriit Kanatami), appeared on a TV show called Front Page Challenge to talk about the roots and goals of the emerging Inuit movement. As you watch, you'll two very different ideas about land and rights, which we'll discuss in the next module.

Our guest is the director of the Inuit Tapirisat of Canada. Welcome please John Amagoalik.

"What kind of pressure are you getting then?"

"Well uh, I guess the pressure is to uh extract the wealth of the North as fast as possible and to get it to southern Canada where people think they need it."

"No development of the north has ever helped the Native peoples that I know of, it's always helped the southern peoples. Is this not right?"

"Yes, that's true."

"What do they really want? Is it money?"

"Before Columbus, before Martin Frobisher, before those people came. We want to protect as uh as much as possible with what we have left uh, before these people came."

"Do you think that is a possibility?"

"It seems uh, it seems like a very difficult thing to do but uh, you know when you people are fighting for something which is very precious to them it's very difficult not to try it."

"If someone were to say, alright we recognize this claim how much do you want for it. What kind of figure would you put on it and how would that be paid?"

"I'm not sure what you mean by being paid."

"Well, if you say that you have claim to this amount of land and you want some compensation for it,"

"Yeah"

"How much do you want for it?"

"Over the past few years people seem to think that we're after money we're after uhm, services but the original intent was very simply survival of our people as a unique race in Canada we want to save our language our heritage our philosophy our whole way of life."

"Would you say that perhaps your land isn't for sale?"

"You cannot really sell your heritage you know it's ah we don't look at land as something to be owned, something to be given away or to be sold. Heritage is something inside you."

Each Inuit region took its own, slightly different approach to creating that new relationship. The Inuvialuit and the Inuit of Nunavik now live under a provincial or territorial framework, with a Land Claims Agreement that defines the benefits their communities receive in return for allowing Canada to use their land. The Inuit of Nunavut went even further, and negotiated a whole new territory which came into being in 1999 and it was the first major change in the structure of Canada, in half a century. In Labrador, the Inuit of Nunatsiavut have taken over many of former provincial powers in their communities, in areas like education and health care.

Each of these new political arrangements reflects the history of Inuit in that specific region. However, they share a few common traits. Most significantly, they are largely independent of traditional Canadian political parties. While some Inuit are active in federal politics, each Inuit region created a unique political and governance structure, from the public governments of Nunavut and Nunavik to regional governments in Nunatsiavut and the Inuvialuit Settlement Region.

Inuit today are fully engaged in contemporary society whether they live in the North or in southern cities across Canada but many Inuit remain very close to their roots, and to the values that persisted for thousands of years are still very much part of their daily lives. And the key element of Inuit culture and tradition revolves around hunting.

Inuit culture has always been and continues to be a hunting culture. Meat and fish made up a significant portion of their diet. While Inuit have accepted southern food in their diets (often with devastating results), there is still a desire and a need for food from the land. Just look at these food prices.

[image of grocery shelves. Apples for $16, Broccoli for $7.43.]

Since most Inuit communities can't be reached by road at any time of year, the cost of southern food and goods is astronomical. Most families depend on seal, caribou and fish to supplement their diet. Hunting is so typical that it's not unusual to see people taking a lunch break and going out hunting on the land. This was a bit alarming to the RCMP who were guarding Prime Minister Trudeau on a visit to Iqaluit in 2016 as they saw people walking down the street with rifles.

But Inuit culture persists in deeper, subtler ways, even among the most educated and urbanized Inuit. It shows itself daily in family life. Elders are still highly respected; and while many of us in the south are raised to focus on education and career above all else, for Inuit family obligations always come first.

Decision-making was also very different in the Inuit world. As in most hunting societies, Inuit made decisions based on consensus. People with special skills, like a respected hunter, an elder or someone with special gifts, could be asked for their opinion on a particular issue, but their advice was never binding. Major decisions affecting the group would be discussed among the adults; people would voice their views, and compromise to reach a final decision – a decision that had to be accepted by everyone.

As you can see, this is a very different approach to authority and its impact is felt at every level of Inuit society, in day-to-day personal interactions, in the workplace, and even in the operation of the Nunavut and Nunatsiavut governments, which aim for consensus rather than strict majority rule.

Let's finish this section with the answer to everyone's favourite question about Inuit. According to staff at the Canadian National Exhibition's featured Inuit pavilion, the number one query received was: "Is it true that you guys have four hundred words for snow? Well, actually there are only about a dozen root words for snow. In fact, if you think about all the English words for snow – like "snowflakes", "drift", "slush", "powder" – there are probably about the same number.

As you've seen, Canada's original people, Inuit and First Nations (or the people Columbus called the Indians), could be found in every region of Canada. And following contact, the Métis emerged as a new Nation. These Indigenous peoples continued to live in their territories, trade and form alliances with the new immigrants.

But wave after wave of Europeans arrived, spreading north and west, and they were hungry for land and resources.

In the next module, we'll discuss how and why, by the middle of the 19th century, tensions began to grow between Indigenous peoples, the recent settlers, and the new Canadian government.

And life for Indigenous people would never be the same again.

[Credits for Module 2, Topic 2

Director	Jennifer David
Writers	Jennifer David
	Terry Rudden
Editor	Richard Bujold
Narrator	Jennifer David
Instructional Designers	Manon Lamontagne
	Terry Rudden
	Michelle Turpin
Graphic Designer	Fe Wyma
Researcher	Angela Day
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	“The Wisdom of the Universe” by Christi Belcourt
Music in Opening Sequence	“Our People” by Noel Habel
Images, Videos, Music/Audio	1491 Productions Inc.
	Adialla
	Ansgar Walk
	Canadian Museum of History
	CBC Licensing
	Emmanuel Boutet
	Floyd Davidson
	George M. Dawson
	Google.com
	HiMYSYeD
	Inuit Tapiriit Kanatami
	J.C. Jackson / Library and Archives Canada
	Jerzystrzelecki
	L.D. Livingstone / Canada. Dept. of Indian and Northern Affairs / Library and Archives Canada
	Library and Archives Canada
	National Film Board of Canada. Phototheque / Library and Archives Canada
	netnewsledger.com
	Nunavut Sivuniksavut
	NVision Insight Group Inc.

NWT Archives/Robert C. Knight

Open Government License Canada

Pond Inlet Community Group

Provincial Archives of Alberta

Qyd

Richard Harrington / Library and Archives Canada

Saffron Blaze

Sam

Thomas Rohner

Wikimedia Commons

Produced by NVision Insight Group Inc.]

Module 3 More Defining Moments in History

Module 3 Topic 1 A Colonial History

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

[Module 3, Topic 1 A Colonial History]

In this module, you'll learn about some of the defining moments that shaped the relationship between Indigenous peoples and Canada today.

John A, Macdonald, as Canada's First Prime Minister, has many progressive achievements to his credit but his policies and stance regarding Indians and Métis is not one of them.

In 1876, the new Canadian government consolidated all existing legislation regarding Indians into the *Indian Act*, which had an immediate impact on every Indian living on a reserve in Canada. It set out restrictive and repressive regulations that dictated all the ways in which Indians on reserve were expected to live.

[Words on screen: Indian Act 1876

- Defined who is a Status Indian
- Forced people to give up status of they wanted to attend university or vote
- Banned cultural practices like the potlatch
- Forbade Indians from hiring lawyers
- Took control of reserve lands
- Set up Indian Agents
- Denied some women status]

Indians were seen as wards of the Crown, and the government's goal was to "civilize" them, and eventually to assimilate them. Sir John A. and his colleagues felt that Indians couldn't fend for themselves; so they needed help from the government.

Those attitudes persisted into the twentieth century.

This is from a 1921 letter sent from the federal department of Indian Affairs to a local Indian agent.

I have therefore to direct you to use your utmost endeavours to dissuade the Indians from excessive indulgence in the practice of dancing. You should suppress any dance which causes waste of time, interferes with the occupations of the Indians, unsettles them for serious work, injures their health or encourages them in sloth and idleness. You should also dissuade and if possible, prevent them from leaving their reserves for the purpose of attending fairs, exhibitions et cetera when their absence would result in their own farming and other interests being neglected.

The Indian Act was implemented by Indian Agents from the federal Department of Indian Affairs. Other systems of control included the Pass System, which restricted the movements of people on and off their reserve. A permit system limited anyone on reserve who sought to sell goods, food or livestock. This protected the market share for British colonists (and later for Canadians), while limiting the economic opportunity for First Nations to become self-sufficient through entrepreneurship.

During the 1870s, another government policy dealt a severe blow to Indigenous peoples, through the creation of the Indian Residential school system. Here's what John A. MacDonald had to say in 1879 when he was also the head of the department of Indian Affairs.

When the school is on the reserve the child lives with its parents who are savages. And although he may learn to read and write, his habits and training mode of thought are Indian. He is simply a savage who can read and write. It has been strongly impressed upon myself as head of the department that Indian children should be withdrawn as much as possible from the parental influence. And the only way to do that would be to put them in central training industrial schools where they will acquire the habits and modes of thought of white men.

By the **early** 1880's the federal government developed policies that Indian children on reserve were required to attend one of these regional schools; eventually parents would be threatened with imprisonment if they refused to hand over their children. The residential schools were set up by the government, but run by various churches, particularly the Catholic, Anglican and United churches. More than 150,000 children attended one of 139 residential schools across Canada where more than 6,000 of these children died. This is not ancient history: the last one closed in 1996.

These schools formed a key part of the government's assimilationist policies. Children were assigned and often spoken to by numbers rather than their names. They were punished for speaking their language, or practicing their culture and way of life. Many suffered from neglect, and from verbal, physical and sexual abuse. Stories have emerged of torture, malnutrition, disease and medical experiments. Children were often sent to schools far from their home communities, with little or no access to their families.

Here's a story about one such child. You are about to see two videos that you may find disturbing and upsetting, viewer discretion is advised. Please contact your employer's support program if you are triggered by what you see. If you are a survivor of residential schools, there is a 24-hour national crisis line at 1-866-925-4419.

Chanie wanted to go back home, but it was 1,000 kilometres away. They forced him to go to the Indian residential school. More than 150,000 of us children had to go. They wanted to change us. (In the background: our Father in heaven, hallowed be your name. Thy kingdom come; thy will be done.) Kill the Indian in the child. It has been called "cultural genocide". I survived Residential School. My brother Chanie did not.

Chanie Wenjack was one of thousands of children who died due to Canada's residential school system. More than 80,000 survivors and their families still live with its legacy today.

The story of Chanie Wenjack was originally told in a Maclean's magazine story in the 1960s and was the inspiration for Gord Downie's book and album, 'Secret Path'.

These children became young adults, then parents, then grandparents, carrying with them those memories. The trauma they experienced in those schools left many with serious emotional scars, and that inter-generational trauma continues to impact the lives of Indigenous peoples today. Here is what one survivor said while giving testimony to the Truth and Reconciliation Commission about his experience.

Paul Vaudrach

I thought I would be brave to face the demons that haunted me for forty-nine years. But I see today and since Monday that it still affects me. For the things that happened through the forty nine years that I kept hidden in me. I left home and I didn't know why or where I was going but I went into a plane with my sister and brother back in back in 1960-62-61-62. And then we came to this building that used to sit across here. And then they separated us, I don't know why they separated us but like stories I've heard, their clothes were taken mine was taken as well. My parents bought me some clothing before I came to Grollier Island. It was taken from me and I had to wear what they had given to me. My winter clothes also was taken. Never did see them again. After our separation from my sister and brother I wasn't able to speak to them again. My mom come to visit me at one time and I couldn't even see her. And I was taken from my bed with my mouth covered and into the and I don't remember going into the room, his room. I developed a scab between my crotch from my from my below my belly button right down through my inner thighs. I don't know how long I was like that but I had to walk with my legs spread and I was too scared to go see the sister, the nun or the nurse because I didn't know

what to say. Somehow it got healed but I carried that that sexual abuse and assault for forty nine years . And that's what impacted that residential, not the residential school but the person impacted my life until I was forty nine, my first wife passed away in two thousand seven, she never knew about this. But I, but I contemplated suicide in nineteen eighty nine. But it's by the grace of God that I sit here today. It's by the grace of God that he stopped me from going to the rifles in the porch when I was going to. And I stopped. I thought what are my children and my wife is going to say? How are they going to live? Seeing their Dad dead in the porch. I no longer live by the number 142. I am Paul Voudrach and I have the right to live, and I have the right to be happy, because I know I deserve it and my children if they can hear me, they have the right to come say "Dad, we didn't like what you did." And I can say "I know and I'm sorry." And I thank this gathering here for listening to my story. It hasn't been an easy road but we are not alone in it. Thank you.

In addition to residential schools, Inuit were subjected to other government colonial practices. In the early 20th century, the Canadian government wasn't very interested in the North. Canada claimed sovereignty over the arctic islands, set up RCMP stations and sent out scientific expeditions; but the harsh environment kept most southerners away. Inuit legal status within Canada was undefined.

For that reason, Inuit received little or no assistance from the government in times of need. In the 1930s, during a period of hunger and scarcity, many Inuit turned to the Hudson's Bay Company for help, and local Bay managers often extended welfare credit or food to Inuit. At a certain point, the Bay turned to the government of Quebec for support and reimbursement. Quebec refused, declaring that Inuit were a federal responsibility. The federal government also refused: "Eskimos" were not entitled to the same supports extended to "Indians". This legal wrangling went all the way to the Supreme Court, which in 1939 ruled that the term "Indian" in the *BNA Act* did, in fact, include "Eskimos". Of course, no one asked the Inuit what they thought about all of this.

As discussed in the previous module, after World War 2, Canada began to force Inuit to relocate to hamlets, disrupting a way of life that had sustained them for thousands of years.

During the Cold War of the 1950s, the military was deployed across the Arctic to protect the northern border with radar sites, air bases and northern air defenses; remote communities were suddenly exposed to southern media, technology, and a huge influx of non-Inuit.

All of this happened very quickly, and the lives of Inuit were completely transformed in just a few years. And nowhere was the transformation more sudden and complete than in the northern relocations.

[map highlighting community of Inukjuak in northern Quebec with arrows pointing north to high arctic communities of Grise Fiord and Resolute.]

In 1953, 87 Inuit men, women and children from several families were moved by the RCMP from Inukjuak in Quebec to the desolate settlements of Grise Fiord and Resolute in the high arctic.

The government of the time claimed the relocations were a humanitarian gesture. But Inuit have always insisted that they were treated like human flagpoles so the government could prove that people lived in the far north.

The government said the move was voluntary. The Inuit say the move was compulsory. The real reasons for the relocation are still a source of controversy.

What we DO know is that these families were shipped two thousand kilometers north to a completely different region, with a different climate, different ecosystem, different animals, with a month of darkness in the winter and a month with no darkness in the summer. They were not provided with enough food or clothing or supplies to establish themselves. Several died; and the survivors faced much hardship and starvation until they learned to adapt.

Here's what one woman had to say about her family's experience.

[Woman speaks Inuktitut. This is the English translation as it appears on the screen:

My parents were deeply unhappy, but despite their anguish, we were not to know.

They kept it secret from us that they were longing to return to their distant families.

I'm sorry

No need to apologize

One really felt for them

I want to express my thanks for the chance to speak up about these things.

It takes a load off me.]

After mounting pressure and legal challenges in the 1980s, the federal government supported 40 Inuit who wanted to move back south. And in 2010, the government issued a formal apology for the relocations.

There were also relocations in Labrador; to communities like Hebron and Nutak. The federal and provincial governments wanted to centralize services to Inuit from remote coastal settlements, so in the 1950s, they forced them to move to other Inuit communities farther south. The Inuit families were not consulted or given adequate reasons why. These families were often separated and again, struggled to survive and adapt.

Dispossession and relocation were key tools of the colonial and Canadian governments in their dealings with Métis and First Nations too. Lakes were drained for farmland, rivers were dammed for electricity; pipelines, roads, canals, parks have been built without consent or compensation, and people were forced off prime agricultural land across the Prairies to make way for European settlers and farmers. Of all the territory used and occupied by First Nations across the country since time immemorial, the current land base of all reserves in Canada now only equals 0.2 percent of the total land area of Canada.

Indigenous peoples had no immunity to the infectious diseases that the Europeans brought to North America. At least half of the entire Indigenous population of the Americas was wiped out immediately after their first contact with Europeans. But there have been many other epidemics since.

One of the most deadly was an outbreak of smallpox in Fort Victoria in the 1860s. Colonists in the community were familiar with the disease, and scrambled to get vaccinated against it. That protection was not always offered to the First Nations in and around the community. When they were expelled after showing signs of the disease, they unwittingly brought it back to their families and communities. It is estimated that nearly 14,000 First Nations people died as smallpox spread across what is now British Columbia.

Tuberculosis, or consumption as it was then called, is an infectious disease that attacks the lungs, caused by bacteria and easily transmitted in closed spaces. Inuit were hit particularly hard; in 1861, Arctic explorer C.F. Hall noted that "…consumption had killed more Inuit than all other diseases put together."

The overcrowded, poorly constructed, badly ventilated houses built for Inuit across the North proved a perfect environment for the spread of TB. By the 1950's, 1 in 7 Inuit was living in a southern sanitorium. Often their families were not told where their loved ones were taken. Some died and were buried in unmarked graves. Some had to live in the South for years; and struggled to adapt when or if they finally made it back home. Some simply disappeared.

While TB has been eradicated in many parts of the world, it continues to be a serious health issue in the North. The rate of TB among Inuit is more than 300X that of the rest of Canada. Contributing factors include persistent poverty and ongoing challenges associated with housing, food security, mental wellness, and availability of health services.

In 2019, the Prime Minister formally apologized for the government's policy on tuberculosis and its treatment of Inuit, calling it colonial, purposeful and racist.

First Nations were also decimated by TB. The government set up hospitals to isolate TB patients but soon these Indian hospitals, as they were called, became simply racially-segregated institutions, another tool used to assimilate Indigenous peoples.

Established in the 1940s, there were more than 20 Indian hospitals across the country; the last one was still in operation until the 1980s.

A class action lawsuit is currently asking the government to acknowledge its negligence in the operation of these hospitals. It notes that facilities were understaffed and overcrowded, and some patients were physically and sexually abused.

Indian Hospitals, TB Sanatoriums, forced relocations, residential schools, the Indian Act. All part of the government's policies to assimilate or eliminate Indigenous peoples.

Another is the Sixties Scoop.

The term is meant to refer to a time when First Nations, Inuit and Métis children were 'scooped' from their reserves and communities and placed into foster homes or adopted by non-Indigenous families, often far from their original communities.

"It was a direct attempt to try to take the Indian out of the Indian. Uhm, while I was raised in a family that supported me to be Indian, uhm, a lot of things that were uhm, were, taken away from me such as language, culture, ah, not fitting in, the ridicule, uhm, substance abuse, there's a number of things. So ah uhm, in a way I kind of feel that the uhm sixties scoop has kind of won. Because, I'm still struggling with a lot of those issues that I just talked about and uhm, I'm taking steps, taking steps in trying to come back to who I am and where I belong. And that whole idea of what coming full circle again. Coming back to, you know, what I'm supposed to be, where I'm supposed to be."

Raven Sinclair, a Cree academic from Saskatchewan, said it well: *"The white social worker, following on the heels of the missionary, the priest and the Indian agent, was convinced that the only hope for the salvation of the Indian people lay in the removal of their children."*

This didn't just happen in the 1960s; it began many years before, and continues to this day.

The Indian Act, the Residential School System and the Sixties Scoop unfolded over the first century of Canada's existence. They all had one thing in common: they were laws, policies and regulations imposed on indigenous peoples by government, designed explicitly to eradicate languages, cultures, and societies, and to absorb Indigenous peoples – and eventually their lands – into mainstream Canada.

As long as there have been newcomers to this land, Indigenous peoples have protested, petitioned and tried to stand against the waves of interference, assimilationist policies and cultural genocide.

Since the 1960s, Indigenous peoples have organized to oppose federal policies and fight for self-determination. We'll talk in greater depth about land claims and legal challenges in the next module; but here is an example of this growing resistance

It all came into sharp, focus in the summer of 1990 in a little Quebec town called Oka.

You may remember Oka as a standoff about a golf course. But the real story began in 1717. The Governor of New France gave Mohawk land to a Roman Catholic seminary. The Mohawks protested.

1869. After repeated attempts to get the land back, a group of Mohawks attacked the seminary and were held back by authorities.

In 1936, the seminary sold the land to a developer. The Mohawks protested.

1961. The City of Oka built a private nine-hole golf course on part of the land. The Mohawks protested.

1977. Mohawks filed a land claim which was accepted, but then rejected nine years later for 'failing to meet key legal criteria.' Mohawks protested.

1989. Mayor of Oka announces that 'The Pines' would be cleared to expand the golf course and build luxury condos. There was no consultation with the Mohawks, no environmental review, no consideration for historical preservation or the desecration of a burial ground in that location. So, once again, the Mohawks protested. But this time, their actions caught the attention of all of Canada. But Canadians watching the nightly news saw only the stereotype of the angry Indians wearing bandanas and burning cars. Very few actually knew what the protest was about or bothered to understand the history or listen to the stories of the people of Kahnasetake. Ultimately, the golf course expansion was halted, and the community got some of its land back. But now, 30 years later, there's still unsettled land claims and tensions in the region.

There have been many other protests. You may remember Ipperwash Provincial Park in Ontario when Dudley George died. Or the logging protests in Clayquot Sound in BC. Or the James Bay Cree protests against a massive hydroelectric project. Or the land disputes in Caledonia, Ontario, or the fishing crisis in Burnt Church, or the current Unist'o'ten camp in British Columbia. And many of the other road and rail closures and blockades.

And so Indigenous peoples continue to resist and protest and assert rights and seek self-determination. Canada's colonial legacy is still alive. And nowhere is that clearer than in the treatment of Indigenous people within the Canadian Justice system.

It's clear when you look at the overall numbers. While Indigenous people make up about 5% of Canada's population, they represent 27% of its prison population[1]. The number of incarcerated Indigenous women in federal custody increased more than 75% in the past decade.[2]

[graphic on screen with other statistics: Rate of self-reported sexual assault is 3x higher in Indigenous population, High school diploma rate non-Indigenous people 89%, Indigenous people 68%, First Nation youth, age 15 to 24 are 3 times more likely to commit suicide, childhood poverty: general population, 19%, First Generation immigrants and refugee children 33%, Métis, Inuit, off-reserve First Nations children, 27%, On reserve First Nations children, 62%]

But the challenging intersection of the justice system with Indigenous peoples is seen in close up, in stories like that of Tina Fontaine, whose body was found in the Red River in Winnipeg, which exposed the tragedies of the child welfare system and whose killer has never been brought to justice.

Or in the death of Colton Boushie in Saskatchewan, and the not guilty verdict for his killer Gerald Stanley that sparked fury and unrest across Canada.

Or the decade long series of unexplained murders, disappearances and deaths, particularly of First Nations youth, that finally led to two public inquiries and the replacement of the Thunder Bay police services Board for systemic racism.

Or the years of inadequate and discriminatory child welfare services provided to First Nations children, a gap that led to a Human Rights tribunal ruling against the Canadian government – a ruling that the government challenged.

These and other events have exposed the racism, the discrimination, the unfair treatment and the inequality built into Canadian law, policies, and structures.

It's no wonder that many Indigenous peoples wonder when Canada will listen to them.

Jacob Dayfox

"It's hard to say how we can fix something like this because the world is so it's one sided.

---

[1] https://www.washingtonpost.com/news/worldviews/wp/2018/07/01/canadas-indigenous-population-is-over-represented-in-federal-prisons-and-its-only-getting-worse/

[2] https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2018/march01.html

A lot of the times, you know, we're forced to live in this Western society and like, the only time when we get hurt is when we've created protests.

But of course, there's the stimulation of the racism and like, just to put them in the box of like, 'Oh, is this the Indian getting mad again, or they're just crying about this?'

Nobody wants to hear us. So, this message will you listen?

How many of you will actually listen to what we have to say?"

In the next topic, we'll hear stories from First Nations and Métis in Alberta and their encounters with colonial and Canadian governments.

[music]

[credits for Module 3, topic 1

Director	Jennifer David
Writers	Jennifer David
	Terry Rudden
Editor	Richard Bujold
Narrator	Jennifer David
Instructional Designers	Manon Lamontagne
	Terry Rudden
	Michelle Turpin
Graphic Designer	Fe Wyma
Researcher	Angela Day
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	"The Wisdom of the Universe" by Christi Belcourt
Music in Opening Sequence	"Our People" by Noel Habel
Images, Videos, Music/Audio	Ademoor
	al Jazeera
	antiquehistory.net
	Arctic Defenders/John Walker Productions/Unikkaat Studios Inc.
	Arctichistorian01
	Benoit Aquin
	Beth Brown / Nunatsiaq News
	Bud Glunz / National Film Board of Canada. Photothèque
	Canada. Dept. Indian and Northern Affairs
	Canada. Dept. of Interior
	Cattroll Photo Associates
	CBC Licensing
	CMAJ News
	CP Images
	Crystal Luxmore
	D.B. Marsh

Dave Brosha

Douglas Wilkinson / National Film Board of Canada

Elektryk4

First Nation Issues

Gar Lunney / National Film Board of Canada. Photothèque.

George Hunter / National Film Board of Canada. Phototheque

George P. Roberts

Glenbow Archives

Gord Downie and Jeff Lemire

Government of Canada

Health and Welfare Canada

Historica Canada

I, Ademoor

Inuit Tapiriit Kanatami

J.L. Robinson

Jacob Dayfox

John Woodruff / Canada. Dept. of Mines and Resources Collection

Kevin Gallagher

L.T. Burwash

Library and Archives Canada

Library and Archives Canada/National Film Board fonds

Macleans

Media Co-op

Mike McGregor

Moxy

National Film Board of Canada. Phototheque.

Nishnawbe Aski Nation

Noel Haberl

Notman Studio

Nunavut Tunngavik

NVision Insight Group Inc.

Open Government License Canada

P199

Paul Voudrach /National Centre for Truth and Reconciliation Archives

Paula E. Kirman

Pearl Achneepineskum

PrideinMadness

Public Domain

r.a. paterson

Renegade98

Rob Smith

Roy Tash

Timkal

Unist’ot’en Camp

Wayne Mousseau-Pheasant / OPSEU

William James Topley

Windspeaker.com

Yukon Archives

Produced by NVision Insight Group Inc.]

Module 3 Topic 2 Indigenous History in Alberta

[black screen with the following disclaimer text: This video is for instructional purposes only. This video is not intended to provide a full, in-depth historical overview of Indigenous peoples in Alberta, nor a full, in-depth overview of provincial and Canadian legislation, policy and laws that have occurred over time. This video briefly summarizes history and law and is only to be used as general background knowledge to begin your journey towards Indigenous cultural competencies in Alberta.]

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

[Module 3, Topic 2 Indigenous History in Alberta]

In the last video, you learned about some defining moments in Canada's history. Now, here are some defining moments in Alberta's history including the signing of Treaties 6, 7 and 8 as well as the impact that Canadian laws and policies had on First Nations and Métis across the province.

As we discussed in Module 2, the fur trade was the impetus for the birth of the Métis.

[Section Title: The Métis]

[Text on map: Fur Trade Routes and Trading Posts]

The fur trade became prominent in Alberta not only because of the furs, but also because the mighty Assiniboine, Peace, Athabasca and Saskatchewan rivers made it easier to travel. Many people came from all points to meet and trade a variety of goods that ranged from food sources like pemmican for the traders, to tools and accessories for the First Nations and Métis.

While the First Nations were the original traders, the Métis also became instrumental in the fur trade as interpreters, guides, and traders.

[text on screen of tipis and carts: Métis Camp, 1873]

First Nations and Métis women were an integral part of the fur trade. Whether at forts or in settled communities, at the rendezvous, or on hunts, women had highly revered knowledge of the land and waters, as well as close social networks to make the fur trade successful.

Women were also seen as the primary producers of the fur trade: they trapped the smaller marten for its fur, and they made the moccasins, snowshoes, canoes, and other equipment necessary for travel on winter hunts and prepared the pelts for use as hats and clothing destined for Europe.

As previously discussed, the Hudson's Bay Company and the North West Company were the lead trading companies in Rupert's Land during the 17 and 1800s. The rival fur trade companies established trading posts along the major rivers across Western Canada, until their merger in 1821.

By the end of the fur trade era, there were 35 forts in Alberta. Some of the earliest forts included Fort George and Buckingham House that were competing trading posts and operated side by side between 1792 and 1800. These two sites are now a provincial historic site located near St. Paul, Alberta.

One of the largest and most profitable was Fort Edmonton, founded in 1795 and relocated several times along the banks of the North Saskatchewan River. It became the Hudson's Bay Company's headquarters for the North Saskatchewan region.

Throughout the 1800s, as people began to settle across Alberta, the Dominion Lands Act enticed people from eastern Canada, the United States and Europe with 160 acres of free land and encouraged them to settle and cultivate the prairies. If they cultivated at least 40 acres and

built a permanent dwelling within three years, they met the condition of “proving up the homestead” and confirmed Settler title to land.

While settlement encroached upon the Prairies, the 1876 Indian Act was created which gave the federal government complete control over most aspects of First Nations’ lives: status, land, natural resource restrictions, education, healthcare, and management of their governance.

When Canada became a country, the Métis (along with First Nations allies), were also actively resisting the imposition of Canada’s new laws and policies aimed at Indigenous peoples.

By 1885, there were Métis in Alberta who had been there since the early days of the fur trade along with Métis who had been displaced after the Northwest Resistance.

The new federal government decided to impose a land registration process on Métis, rather than sign Treaties.

This process was called Scrip.

Starting in 1885, the Northwest Half-breed Commission was sent across the Prairies to grant land lots to the Métis via the Scrip system which was a certificate or coupon, either for money or land.

But records show that only about 10% of scrip in Alberta actually went to the Métis themselves; the other 90% ended up with chartered banks, private dealers, land speculators and fraudsters.

As a result of this process, Métis on the Prairies slowly faced dispossession, abandonment and poverty.

Due to what the government saw as an uprising as part of the Northwest Resistance, Prime Minister John A. MacDonald wanted Métis to suffer.

[colourized image of group of men. Text on screen: Métis Resistance Prisoners, 1885]

They were not “Indian enough” to be allowed to live on reserve, nor were they “white enough” to be allowed to live in the townships.

As a result, the Métis began to build shacks on the small spaces between land lots and the road ways and railway lines and eventually became known as “the Road Allowance People.”

One example is a community called St. Paul des Métis founded in 1896. It was founded as a Métis farm colony by Father Lacombe, a Roman Catholic missionary as an experiment in the late 1890’s to see if Métis would work as farmers and in the lumber industry. Each Métis family was given 80 acres of land and other benefits under a 99-year lease from the Canadian government.

They experienced some success but as a result of several natural disasters, the colony failed and the lease was terminated after only 12 years.

This village was incorporated as St. Paul des Métis in 1912.

When French immigrants came looking for available land, they were allowed to take over the land that the Métis had cultivated. Many of the Métis, meanwhile, were forced to move to their summer fishing camp in order to survive.

[Text on screen: Blake Desjarlais, Director of Public and National Affairs, Métis Settlements General Council National Office]

So, this began a very triggering moment for the Métis being displaced yet again, very similar to what had happened in the Red River and very similar to what had happened in Batoche. And here in Alberta again in St, Paul des Métis. We had no option but to leave our community, leave our houses, leave our leave everything and so we were forced to migrate away. And that's what happened. Many Métis people fled St. Paul de Métis went into the North, further into the district of Athabasca at that time and found a way to continue their life in lands that were unsettled.

Five men, known as the Métis Famous Five (Malcolm Norris, Peter Tompkins, Joseph Dion, Jim Brady and Felix Calliou) petitioned the Alberta government to recognize Métis rights. This led to

the 1934 Ewing Commission which documented the realities of the Métis who were ‘dispossessed of their land, lacking in health, education and opportunities to make a living.’

The Commission recommended the establishment of farm colonies and the provincial government enacted The *Métis Population Betterment Act* in 1938 that allocated land for Métis.

Twelve land allotments, that came to be called Métis Settlements, were mapped out with the idea of creating ongoing cooperation between the Métis and Alberta to improve the quality of life for the Métis.

The Métis organized and created the Métis Settlements General Council as their governance structure. The organization also holds the fee simple interest on all Métis Settlement lands which means they have full ownership of land with certain limited rights of the Crown.

Métis Settlement lands are unlike First Nations reserves which, in turn are not to be confused with First Nations’ traditional lands which are much larger territories than just reserve lands.

Throughout the subsequent decades, citizens of the Métis Settlements successfully advocated for the creation of their own governance. In 1990, the Métis advocated for more control and the following legislation was passed: the Métis Settlements Act, the Métis Settlements Land Protection Act, and the Métis Settlements Accord Implementation Act as well as the creation of their own Land Registry.

The Métis Settlements also have their own Appeals Tribunal. Its mission is to promote self-governance, certainty, and respect through adjudication, mediation and education. The Tribunal presides over land and membership disputes and amends rights of entry orders for oil and gas activities on Settlement lands. It may resolve other matters as called for in Métis Settlements General Council policies, and local Settlement by-laws.

[Section Heading: Treaties]

[pow wow music]

Now, back to First Nations and land, specifically the Numbered Treaties that were signed in Alberta: 6, 7 and 8 and parts of 4 and 10.

Treaty 6 was signed at Fort Pitt near the Alberta/Saskatchewan border in 1876 then later, also at Fort Carleton.

Listen to Professor Sylvia McAdam, from University of Windsor, Faculty of Law, as she speaks about gender discrimination during this treaty-making process.

[Cree-language introduction]

I will talk about the treaties and the women that were involved at the time of treaty making. These women were called [Cree-language word]. In the Treaty 6 territory, when the treaty-making was happening, it was a very, very powerful time.

The women have authority over the land. But when they try to talk to the treaty Commissioner about the land, the treaty Commissioner wouldn't speak to the women because the Europeans at that time did not speak to the women. So, the women stayed in a background. There was a particular group of women called (Cree-language word). There is no English word to describe these women. The closest terminology is “clan mothers”, “warrior women”. These women were the law keepers of the Cree Nation.

But instead, the Commissioners met with the male Chiefs, and signed Treaty 6 in September 1876. Mistahimaskwa or Big Bear, however, was away hunting during the Treaty negotiations.

Upon his return, he told his people that he met other First Nations that had signed Treaty and that they were losing their freedom, their rights and their control over land and resources. Mistahemaskwa was angry that the other leaders did not wait for him before signing. He refused to sign the treaty and held out for nearly six years. However, his community faced starvation and he reluctantly signed an adhesion to Treaty 6 in 1882.

Treaty 6 introduced a new element to the list of treaty promises -- a medicine chest. This was understood by the First Nations who signed, as medical care and relief in times of ‘famine and pestilence’.

Treaty 7 is sometimes called the Blackfoot Treaty and was signed by the Kainai, Siksika, Piikani, as well as the Stoney-Nakoda Nations and the Tsuut’ina Nation. It covers the southern portion of Alberta.

The Crown thought the Treaty was about land surrender. The First Nations thought it was about sharing the land. The Crown did not speak Blackfoot and the Blackfoot did not speak English.

Listen to Elder Wilfred Yellow Wings talk about the oral remembering of this Treaty.

So they chose this interpreter form the Blackfeet. His name was Raring Bear. He didn’t know much about sign language. He didn’t know the old Blackfeet. More leaders used some high language in Blackfoot and this interpreter couldn’t repeat it! He said the most common, he figured the saying was….Mr. Laird, at the treaty, got up. He turned to the sun, he pointed to the sun. As long as the sun gives light, as long as the rivers flow, as long as the green grass grows, the treaties are going to be held strong. And we’re still holding ours. The British Empire moved home. Canada took over. So where’s our Treaties?

Treaty 8 has the second largest expanse of land in Canada stretching across north-eastern BC, northern Alberta and the southern portion of the Northwest Territories, it has 840,000 square kilometres and has 23 First Nations signatories who are Cree, Dunneza (or Beaver) and Chipewyan.

Canada was initially reluctant to enter into Treaty negotiations in the north because the land was not as suitable for agriculture, and was not seen as valuable; that is, until gold was found on the Klondike river in Yukon and then around the Great Slave Lake region in the NWT.

As well, the government may have finally agreed to sign this Treaty because they didn’t want the Indigenous peoples to realize how valuable their land really was, and that they could exert their inherent rights.

The Cree and Dené Nations originally refused to sign Treaty 8 after hearing the terms. They wanted the same benefits as what they heard about in Treaty 6, namely that there would be a medicine chest and that nothing would interfere with their way of life.

These promises were made orally and then the Chiefs signed.

Unfortunately, the Crown did not keep some of these oral promises. They immediately fell behind on treaty payments, adequate food and health care was not provided, and the government introduced provincial laws that regulated hunting, fishing and trapping.

Nations protested and demanded the government honour the Treaty and outstanding land claim issues remain unresolved to this day.

[Section Heading: Natural Resources, Hunting, Fishing and Trapping]

In 1930, the Canadian government transferred administrative control of natural resources to four western provinces: British Columbia, Alberta, Saskatchewan, and Manitoba in the Natural Resources Transfer Agreement.

As a result, it extinguished the commercial aspect of the Treaty hunting, fishing and trapping rights for First Nations but opened up the area available for hunting, fishing and trapping to the entire province, rather than just the treaty area.

The Supreme Court of Canada and Alberta courts have consistently confirmed the validity of the Natural Resources Transfer Agreement over the validity of Treaty rights. This has a restrictive impact on First Nations communities in terms of constitutionally protected rights. The NRTA is also a constitutional document, so it is a ‘balance’ between the two constitutional rights here in Alberta.

Hunting, fishing and trapping rights of the Métis in Alberta are controversial because they are not considered Indians in the NRTA.

However, Alberta implemented the 2019 Métis Harvesting in Alberta Policy which stipulates that they must have an ancestral connection to an historic Métis community to have the right to hunt, fish and trap in the area based on the 2003 Supreme Court decision in Powley.

They must obtain a Métis Harvester's licence from the Government of Alberta to exercise their constitutional right to hunt, fish and trap for food in a particular area.

Canada also infringed upon First Nations rights through the Indian Act, as well as practices such as the Pass System.

[Section Heading: the Pass System]

This measure was intended to keep First Nations people across the Prairies away from settlers by confining them to the reserves. To leave the reserve they required a special travel permit, called a Pass, that was issued by the Indian Agent.

It was not a coincidence that the Pass System was introduced in 1885, after the North-West Resistance. It remained in force for more than 60 years across the Prairies. Many First Nations people caught off their reserves without a Pass were returned to their reserve or imprisoned.

The Pass System made it impossible for First Nations to make a living from their own Treaty rights such as hunting, fishing and trapping because they were often not allowed to leave the reserve without permission.

As Sylvia McAdam explains in her book, "Nationhood Interrupted":

I sat with my nohkom eating gopher soup in the quiet of her little house down the road from the house I grew up in on the Whitefish Lake Reserve #118. I was about nine years old at the time when I asked her, "Why do you like gopher soup nohkom?" She said, "We were not allowed to leave the reserve, we couldn't hunt the moose or other animals, we had no choice but to eat gophers or we would die, so now I like how it tastes." So I sat there with her enjoying our gopher soup, not understanding she was referring to the pass and permit system that imprisoned my people for so long on our reserve lands. My brothers and I would hunt gophers for her; my most peaceful memories are connected to the lands and waters.

First Nations also suffered under the Permit System which made it impossible for them to sell produce, livestock or farms successfully in Alberta as all sales went through the Indian Agent who set the prices far lower than the non-Indigenous farmers and ranchers received for their goods.

These systems had a traumatic impact on many First Nations families, even forcing some of them to leave their reserves altogether to set up homes away from the oppression of the Indian Act. It was incredibly hard to start over. As Dr. Winona Wheeler describes:

My grandparents decided that they'd had enough of the oppressive policies, the Pass System, the prohibition on selling farm produce off reserve, and just the fact that the Indian agent was in their face almost every day, and they decided to leave the reserve. But they did it under the cover of darkness. They packed up their wagon, their horses and a few cows and all their kids, took what they could out of their home but they left behind a fully functioning farm, complete with a two-story home, and a barn and animals, livestock and gardens to be free from the oppressive restrictions of the reserve that they experienced under the Indian agent under those policies and regulations.

These policies and practices successfully stifled economic self-determination and agricultural potential.

[Section heading: Indian Hospitals, Voting and Residential Schools]

Indian hospitals, also had a traumatic impact on First Nations, Inuit and Métis.

Here in Alberta, in 1945, the Charles Camsell was converted to a tuberculosis hospital, specifically to treat First Nations, Inuit and Métis patients. It was a segregated hospital.

Indigenous children were taken away from their homes and stayed in the hospital -- sometimes not seeing their parents or loved ones for many years, or not at all.

There are stories of staff members who subjected patients to illegal and inhumane treatment including experimental surgeries, drug testing, forced sterilization, shock treatment, assaults, isolation, food deprivation, torture and medical experiments.

Some former Camsell patients joined the recent $1.1 billion class action lawsuit against Canada that alleges that "systemic failures created a toxic environment in which physical and sexual abuse was rampant."

First Nations were also excluded from Canada's political system. First Nations and Inuit were excluded from the Citizenship Act of 1947 and were only included in 1956. While First Nations individuals in Alberta were not allowed to vote in federal elections until 1960, they could not vote in provincial elections until 1965.

Canada also used the education system to try to implement what the TRC called 'cultural genocide' through the Indian Residential School system, as you learned about in the previous topic video.

There were 25 Anglican, United Church and Roman Catholic residential schools across Alberta. First Nations and Métis children attended residential schools as well as day schools. Survivors talk of abuse, deprivation, and misery at these schools.

For example, Blue Quills Residential School began operations outside St. Paul in 1931 with children being taken there from 12 reserves in the region.

There are records and stories from survivors of this school who talk about verbal, emotional, physical and sexual abuse.

Once it fell into disrepair in 1970, the federal government planned to close Blue Quills and sell it to the Town of St. Paul for one dollar.

However, Alice Makokis, Stanley Red Crow, and fellow supporters formed the Blue Quills Native Education Council and asked the federal government to transfer control of Blue Quills over to the Council instead of selling it. The Department of Indian Affairs refused.

In protest, the Blue Quills sit-in began in July 1970. They occupied the school and demanded that they be given control of their children's education.

The protest soon grew to 300 advocates and gained national attention.

After 17 days, the then-Minister of Indian Affairs, Jean Chrétien agreed to transfer the operation to the Blue Quills Native Education Council and they assumed effective control in 1971.

It is now called Blue Quills University. It offers various programs and degrees, including courses in the Cree language. Most of the faculty and staff are Indigenous.

[music]

Next, we will learn about the impacts of this history in Alberta and across the country and some of the milestones on this bumpy road as we try to move beyond colonialism.

[credit roll for Module 3, Topic 2

Director	Jennifer David
Writers	Andrea Menard
	Jennifer David
	Terry Rudden

Producer	Andrea Menard
Editor	Richard Bujold
Narrator	Jennifer David
Instructional Designers	Manon Lamontagne
	Terry Rudden
	Michelle Turpin
Graphic Designer	Fe Wyma
Researchers	Angela Day
	Andrea Menard
	Raj Atkar
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	“The Wisdom of the Universe” by Christi Belcourt
Music in Opening Sequence	“Our People” by Noel Habel
A special thanks to	Cora Voyageur
	Darcy Lindberg
	Hadley Friedland
	Koren Lightning-Earle
	Margaret Unsworth
	The 2020 Indigenous Advisory Committee, Law Society of Alberta
	The Grandmothers
	The Elders
	Our Ancestors
	The Land, Water, Air and Animals
Images, Videos, Music/Audio	Alex Williams, “The Pass System”
	Adrian LaChance
	Amy Quintal
	Andrea Menard
	Archives of Manitoba, N16092
	Blaine Campbell
	Blake Desjarlais
	Brianna Lizotte
	Calgary Public Library
	Canadian Museum of History, Ottawa, ON
	Courtesy of Glenbow Archives, NA-949-34
	Courtesy of Glenbow Archives, NA-334-7

Courtesy of Glenbow Archives, NA 949-18

Courtesy of Glenbow Archives, NA-949-28,

Courtesy of Glenbow Archives, NA-949-87,

Courtesy of Glenbow Archives, PA-2218-109

Courtesy of Glenbow Collection, Archives and Special Collections, University of Calgary "Group of Blackfoot Confederacy Natives", mid 1880s, [NA-2968-4-6]

Courtesy of Glenbow Collection, Archives and Special Collections, University of Calgary "Group of French journalists visiting Poundmaker in Stony Mountain penitentiary, Manitoba", 1886, [NA-448-6]

Courtesy of Glenbow Collection, Archives and Special Collections, University of Calgary "Judge Albert F. Ewing, Edmonton Alberta", 1931, [ND-3-5662A] by McDermid Studio, Edmonton Alberta

Courtesy of Glenbow Collection, Archives and Special Collections, University of Calgary, "Jimmy McLean family, St. Paul, Alberta", 1890-1910, [NA-4584-5], is used under Public Domain.

Courtesy of Provincial Archives of Saskatchewan, R-B12457-31

Courtesy of Provincial Archives of Saskatchewan, S-B9721

Courtesy of Provincial Archives of Saskatchewan, S-B9752

Courtesy of Provincial Archives of Saskatchewan, S-E19, file 35.a

Courtesy of the Provincial Archives of Saskatchewan (S-B8956)

Courtesy of Provincial Archives of Saskatchewan, R-B12457-30

Courtesy of Provincial Archives of Alberta, Photo A10924

Courtesy of Provincial Archives of Alberta, Photo A5569

Courtesy of Provincial Archives of Alberta, Fort Dunvegan, Photo B2828

Courtesy of Provincial Archives of Alberta, Photo P129

Courtesy of Provincial Archives of Alberta, Photo PR1991.0383.0150

Courtesy of Provincial Archives of Alberta, Photo PR1991.0383.0285

David Bloom

Evelyn Steinhauer

Fenimore Art Museum Library, Cooperstown, New York

Harold Robinson

Hudson Bay Company Corporate Collection – “Woman canoeing on South Indian Lake, 1936”, Bill Gowans Collection,

Heather Shillinglaw, artist, “Bear”

Historical Atlas of Canada vol.II: The Land Transformed (1993) Atlas of Canda 1st Ed. (1906)

Jordan Thaxter

Kade Ferris

Laura Golebiowski

Lauren Taylor

Leroy Schulz

Library and Archives Canada

Library and Archives Canada / C-005389

Library and Archives Canada / C-007475

Library and Archives Canada / e007140504

Library and Archives Canada / Geological Survey of Canada / PA-050811

Library and Archives Canada / Nick Nickels / e011308523

Library and Archives Canada / O.B. Buell / C-001873

Library and Archives Canada / PA-012854

Library and Archives Canada / PA-066877

Library and Archives Canada / Charles Horetzky / D.M. Beach Old & Rare Books Collection / E-011156712

Library and Archives Canada / William James Topley, / PA-011282

Metis Nation of Alberta

Northwest Museum of Arts and Culture

Piikani Nation, Treaty 7

Shutterstock: Christine van Reeuwyk; EB Adventure Photography;
Josef Hanus; Setta Sornnoi; ShyLama Productions; Susan Law Cain; SeventhDayPhotography

Shingwauk Residential Schools Centre, Algoma University, Sault Saint Marie, ON

State Historical Society of North Dakota (A4365)

State Historical Society of North Dakota (ND-00019-0001)

State Historical Society of North Dakota (SHSND 0009-26)

State Historical Society of North Dakota (SHSND 0009-26)

Sylvia McAdam, Professor, University of Windsor, Faculty of Law

Sylvia McAdam, "Nationhood Interrupted: Revitalizing nêhiyaw Legal Systems", 2015

Granger Historical Picture Archive, Brooklyn, New York

The United Church of Canada Archives / 93.049P/873

United States Fish & Wildlife Service

United States Library of Congress

University of Alberta

Produced by NVision Insight Group Inc.]

Module 3 Topic 3 Milestones Along the Path

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

[Module 3, Topic 3 Milestones Along the Path]

Successive colonial and Canadian governments have not been able to conquer, assimilate or annihilate Indigenous peoples. But their laws, policies and regulations have left deep and lasting scars. It’s no surprise that there are clear links between our colonial history and the poor health and well-being of First Nations, Inuit and Métis individuals, families and communities.

This post-colonial legacy can be seen in:

lower life expectancy,
higher rates of childhood poverty,
a much higher likelihood of committing suicide,
sky-high rates of diabetes,
an active tuberculosis rate among Inuit that's 400 x higher than the Canadian population,
Disproportionate numbers of Indigenous peoples who are victims of violence, who are murdered or go missing.
High rates of substance abuse.
Poorer education.
Lower levels of employment outcomes.
And the list goes on.

Yet Indigenous people have shown incredible resilience for centuries. And while much remains to be done, there are signs over the past 40 years that point to a new era of healing and reconciliation. Let’s talk about a few examples.

As a result of the Oka Crisis, in 1992, the Federal government launched the Royal Commission on Aboriginal Peoples to improve the relationship between Indigenous and non-Indigenous people. Commissioners set off for meetings across the country to document the realities of Indigenous life.

The Commission's final report in 1996 took up five volumes and more than 4,000 pages. It began with a simple and eloquent declaration: the Commissioners stated that there can be no peace or harmony unless there is justice.

In order to achieve that justice, the Commission made 440 recommendations in areas that included self-governance, treaties, health, housing, the north, economic development and education.

Ten years after the Report was tabled, the Assembly of First Nations took the government to task for failing to implement even a fraction of those recommendations.

And now, twenty years later, the promise of Canada’s longest and most expensive Royal Commission remains unfulfilled.

But the Commission brought Indigenous issues to the foreground of Canadian political awareness, and galvanized a new generation of Indigenous groups and communities working towards recognition, justice and reconciliation.

In 2012, then Prime Minister Stephen Harper introduced a number of bills that proposed sweeping changes, including deregulation of Canada's waterways and changes in rules about protection of land and forests. Indigenous peoples saw these as a violation of their rights and sovereignty. Three Indigenous women created a grassroots movement called Idle No More. While the movement was created to protest specific bills, it gained momentum across the country as Indigenous people held rallies, protests, sit-ins and round dances against pipelines, against the lack of funding for education, the unfair treatment of Indigenous children, and

against other laws and regulations that infringed on treaty and Indigenous rights. The movement drew national attention to First Nations, Inuit and Métis issues. Attawapiskat First Nation Chief Theresa Spence went on a hunger strike in 2012 in protest. Here's what she had to say about it.

"It is the leadership's responsibility to plan for the children's future. Not the Prime Minister, not even the crown. You know like, we have our ways, we had our ways, we had our own laws, we had our own laws for the land, we had our own laws for justice, we even had our own ways teaching our children. You know, we need to maintain our cultural way to survive, so that was the purpose of the treaty, you know, to be partners, but the way it is right now, we feel like we are more like a slave to the Minister, not a partner."

In module 4, we'll talk more about legal issues. But there's good news. In recent years, Indigenous peoples have seen major victories in the Canadian courts. Métis are now under federal jurisdiction, and have had their constitutional rights acknowledged; important powers and authorities are being transferred from Canada to Indigenous governments through land claims and self-government agreements; the federal government has introduced principles to improve its relationship with Indigenous Peoples; and there are now more legal requirements for industry and governments to consult and accommodate Indigenous peoples regarding resource development projects on their territories.

The Truth and Reconciliation Commission is another milestone in Canadian history. The TRC was created as a requirement out of the Indian Residential Schools Settlement Agreement. Led by now Senator Murray Sinclair, the TRC travelled the country, collecting testimony from people who attended the schools, and talking to the churches and individuals who worked at or managed them. Commissioner Marie Wilson, talks about how all Canadians can be part of reconciliation.

"I think that the more we know about what has happened, and indeed what we as a society have done, in order to get the advantage over Indigenous peoples, to get the advantage in rounding up children so that we could manoeuvre to have access to more lands and more resources, the more we understand how those things fit together, the more I think we can start to be noble in our response to some of the very contemporary issues that we have. About a fair share of resources, about equitable funding for education, about equitable funding for child welfare services. None of which are in fact realities in Canada right now. And uh, at what point do we stand up and speak up to our own values which says, "that's not right" It wasn't right in the past and it's certainly not right in the present."

A National Centre for Truth and Reconciliation was set up in Winnipeg. Their web site provides a vast collection of documents, oral history and other records on this dark chapter in our history.

The TRC issued 94 Calls to Action to redress the legacy of residential schools in areas such child welfare, health and justice. The federal government has established the National Council for Reconciliation to ensure the Calls to Action are being implemented.

[Scrolling text on screen: Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal Rights, Indigenous law and Aboriginal-Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.]

The fact that you're taking this course today is a response to several Calls to Action that urge employers in various sectors including the corporate sector, the legal profession, health care professionals and all levels of government, to provide cultural competency training to employees.

The murder of Tina Fontaine and subsequent court case was a catalyst that prompted calls for a National Inquiry into Missing and Murdered Indigenous Women and Girls. The intergenerational trauma caused by colonial policies such as residential schools has led to a crisis of violence against Indigenous women and girls, which is 3 and a half times higher than for non-Indigenous women. The National Inquiry was launched in 2017 to address these high numbers. The Inquiry

has three goals: Finding the truth, Honouring the truth and giving life to the truth as a path to healing. The Commission held more than 20 hearings and statement gathering events across Canada and issued its report in 2019 with 231 Calls for Justice directed at governments, institutions, social services providers, industries and all Canadians.

There is some movement in Canada's justice system as well. The 1989 Royal Commission on the Wrongful Conviction of Donald Marshall Jr, Manitoba's 1991 Aboriginal Justice Inquiry, and the review of Ontario's jury system in 2013 all recommended systemic changes to better support Indigenous peoples.

The inquiries into the police in Thunder Bay after multiple deaths and disappearances of First Nations youth led to an overhaul of police procedures and oversight and a replacement of their police services Board. Oher cities are now considering similar changes.

The Supreme Court has ordered a new trial for the man accused of killing Cindy Gladue.

Changes are underway in the area of jury selection and increasing the number of Indigenous judges in Canadian courts, after the Gerald Stanley verdict.

The Canadian government has finally agreed to compensate First Nations children for inadequate child welfare services.

Some Sixties Scoop survivors and Indian Day School survivors have received or are in the process of applying for compensation. In 2018, the Federal government adopted 10 Principles Respecting the Government of Canada's Relationship With Indigenous Peoples, and the Department of Justice now advises its lawyers to move from a denial of rights to a recognition of rights.

It's sometimes a case of two steps forward, one step back. But Indigenous peoples are commanding attention and seeking redress for historical and ongoing injustices. And in some cases, Canada is listening and willing to work together with Indigenous peoples.

We are also seeing real progress on the economic front as well. In fact, the Indigenous segment of the economy represents a rapidly growing and increasingly lucrative consumer market for all Canadian businesses.

There's the Osoyoos Indian Band in BC that rose from poverty and poor management into a prosperous community with multi-million-dollar businesses including a resort, a winery and a golf course.

Or Membertou First Nation, in Nova Scotia, with a population of around 800 people on reserve. Membertou has become a business powerhouse in the region with a gaming centre, an international convention centre, a data centre and extensive real estate holdings.

Then there's the Grand Council of the Crees in northern Quebec, a thriving group of communities that jointly own an airline, a construction company, and food distribution companies among others.

In fact, Indigenous people have been and are winning awards and accolades in all spheres of Canadian life. Can you name any of these people?

In politics, there's Jody Wilson-Raybould, Elijah Harper, Romeo Saganash and others. There's Mary Simon, Sheila Watt-Cloutier raising the profile of Inuit issues on the international stage,

In hockey, look at Carey Price, Ted Nolan, Jordin Tootoo and others

Artists such as Alex Janvier, Bill Reid, Norval Morriseau and Christi Belcourt are well-known across Canada and internationally.

There's world-renowned architect Douglas Cardinal.

In film and television: Adam Beach, Zacharias Kunuk, Tantoo Cardinal

Former Mrs. Universe, Ashley Callingbull

Musicians Buffy Ste. Marie, Tanya Tagaq, Robbie Robertson, Jeremy Dutcher.

And award-winning authors Richard Wagamese, Thomas King and others.

And the lists keep growing.

There's still a big gap in Canada between Indigenous and and non-Indigenous peoples in areas like income, education and health.

[graphic on screen: First Nations people with a certificate, diploma or degree-2001 24%, 2011-44%. Aboriginal population with a post secondary qualification: 1996-5%, 2011 40%. Youth as a representative of the total population: Aboriginal 18.2% Non-Aboriginal, 12.9%, median age Inuit 23 years, First Nations, 26 years, Métis 31 years, Non-Aboriginal 41 years]

But today we're seeing greater life expectancy, lower infant mortality, better access to clean water and housing, more people with higher levels of education, more and more successful Indigenous businesses and employment outcomes. There is definitely hope for the future.

There is also a growing recognition of Indigenous rights. In the next topic, you'll learn what these rights are, how they were won through treaties and through the courts, and why recognizing and affirming these rights is critical to moving forward as a country. You'll see that land claims and treaties are not modern inventions. In fact, it all began more than three centuries ago, when a British king signed a Royal Proclamation.

[Credit roll for Module 3, Topic 3

Director	Jennifer David
Writers	Jennifer David
	Terry Rudden
Editor	Richard Bujold
Narrator	Jennifer David
Instructional Designers	Manon Lamontagne
	Terry Rudden
	Michelle Turpin
Graphic Designer	Fe Wyma
Researcher	Angela Day
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	"The Wisdom of the Universe" by Christi Belcourt
Music in Opening Sequence	"Our People" by Noel Habel
Images, Videos, Music/Audio	Amnesty International
	Ashley Callingbull
	Bruce Reeve
	By 松林 L
	Calvin411
	Cattroll Photo Associates
	CBC Licensing
	Codesmith

D. Gordon E. Robertson

Darren Kirby

Department of Justice Canada

Dr. George MacDonald / Simon Fraser University

Drpeterstockdale

Eric Eggertson

Erich Saide

Eviatar Bach

Flickr

Friendoh

Gerda Selway

glassghost

Grassy Narrows Public Album Archive

I, Truejustice

Keiron Flamand

Kelly Nigro

Lisa Gansky

Mathieu Côté

Matt Jiggins

McKay Savage from London, UK

Mennonite Church USA Archives

Michael Miller

Moxy

National Centre for Truth and Reconciliation

Noel Habel

Nomo michael hoefner

NVision Insight Group Inc.

N'We Jinan

onewatchman

Open Government License Canada

Paula E. Kirman

Phoe

Rainforest Action Network

Saffron Blaze

Shane Belcourt

Sue & Martin Curtis

Taxiarchos228

The Office of the Independent Police Review Director

Themightyquill

TheSilentPhotographer at English Wikipedia

Thompson Rivers University

University of Manitoba

UserBuchanan-Hermit

Verne Equinox

Victorgrigas

Wikimedia Commons

Wikipedia

World Economic Forum

Zacharias Kunuk

Produced by NVision Insight Group Inc.]

Module 4 It’s the Law!

Module 4 Topic 1 Understanding Historical Treaties and Métis Assertion of Rights

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

[Module 4, Topic 1 Understanding Historical Treaties and Métis Assertion of Rights]

[text on black screen: Rights…!! Indigenous Rights, Métis Rights, Treaty Rights, Inherent Rights, Inuit Rights]

First Nations and Inuit have always asserted their inherent rights to the land they have occupied for time immemorial. Canadian governments usually respond by denying rights, then demanding that Indigenous peoples prove them. Alternatively, they may acknowledge the rights, but simply fail to respect them.

Ever since the arrival of Europeans on this land, Indigenous peoples traded with, fought and protested against, worked with, resisted and many tried to accommodate the new arrivals, all while trying to maintain their own ways, and continuing to insist on recognition and implementation of their rights. Let’s start by looking at how First Nations first sought to assert their rights through historical treaties.

First, what is a treaty? It’s a Formal agreement between two or more nations - in this case, between First Nations, or Indian tribes as they were often referred to, and the British Crown. A treaty spells out rights, responsibilities and relationships between these two nations. Let’s take a chronological look at the types of treaties signed between First Nations (and later, some Métis) and the British Crown (later the Canadian government.)

In the early days of settlement, a number of Peace and Friendship Treaties were signed in eastern Canada. These were not about surrendering land, but about strengthening the relationship, ending hostilities, forming military alliances and encouraging peaceful co-existence between the First Nations, particularly the Mi'kmaq, Wolastiqiyik and Passamaquoddy and the British in the early 18th century.

Also prior to the 18th century, there were various treaties between First Nations and Europeans in what is now southern Ontario and northern US states. One was called Guswhenta or the two row wampum treaty between the Haudenosaunee and the Dutch.

They created this wampum belt to record the agreement; one purple row symbolized the Haudenosaunee canoe and the other was the Dutch ship, each travelling in the same direction but not interfering with each other. The three white rows represented peace, friendship and respect.

At the Great Peace of Montreal in 1701, nearly 40 First Nations signed a peace treaty with the French, suspending decades of conflicts over the fur trade. Dozens of wampum belts were exchanged at that event too.

1763 saw the emergence of a new kind of treaty relationship. In that year, King George III issued a Royal Proclamation. Britain had just won the Seven Year’s War and acquired all of the French territory along the east coast of North America. It did not mean that they conquered the Indians.

The Proclamation is seen by some as an early legal recognition of First Nations rights. It acknowledged that Indians had rights to their land; it could not be taken without their consent. The Proclamation forbade colonists from settling west of the Appalachian divide and stated that it was only the British Crown that could buy or make agreements regarding Indian lands. This

created a huge uproar among the 13 American colonies, and it is one of the catalysts that led to the American Revolution and the creation of the United States. The remaining British colonies would eventually become the country of Canada.

Listen to current National Chief of the Assembly of First Nations, Perry Bellegarde, viewing the original Proclamation document, in 2009 in Britain as he speaks about its importance.

"Royal Proclamation of 1763 was our Magna Carta, in a way, because it opened up all these countries for settlement. Because it paved way for treaties. This paved the way for the treaty making process and it recognized our sovereignty and nationhood. That's a big thing. So that's why when we say we're not ethnic minorities. We might be four percent of the population in Canada but we might be low in numbers but that doesn't make us ethnic minorities we're Indigenous peoples with again our own land, laws, and languages. And our own identifiable people. And here and right, t's recognized here. This informs part of Canada's constitution. It's a reference to this part of Canada's constitution."

But there is disagreement over the extent to which the Royal Proclamation applied beyond those territories. And for one thing, it's not clear what gave the British Crown the right to negotiate all land agreements on behalf of First Nations. Nevertheless, one year later, this Proclamation was in effect, ratified at the Treaty of Niagara in 1764, where nearly 2000 leaders representing more than 20 First Nations entered into a treaty of peace and friendship with the British.

This was a very formal meeting and many silver coins as well as wampum belts were exchanged. These beaded belts represented the formal written record of the agreement, a number of which still exist to this day. The use of coins made of silver was partly because they could tarnish and had to be occasionally polished; this signified that the treaty partners would occasionally need to meet and re-affirm their treaty commitments.

While that seemed to be a good start to the treaty-making process in what would become Canada, things went downhill soon after that.

[music]

After the American Revolution and the War of 1812, many British loyalists sought refuge in Canada. They needed land. And the British assumed they could simply sign a treaty, or take it or buy it from First Nations with a few coins and gifts.

Between the late 1700s and the mid 1800s, dozens of land surrenders were signed. For First Nations, the agreements meant sharing land with the British, while continuing to hunt, fish, trap and live in peace, as they always had.

That wasn't how the British saw things, however. However poorly documented or hastily written, the British viewed these agreements as outright land purchases; once completed, the land was theirs, to do with whatever they chose. So of course, they did.

From the Robinson Huron and Robinson Superior treaties in north central Ontario

To the Douglas land purchases on Vancouver island.

To the Upper Canada Land Surrenders which saw all of what is now southern Ontario become rich farming land and populous cities and towns.

All while pushing First Nations onto small tracts of land called Indian reserves.

Once Canada became a country in 1867, the new government wanted to open up even more land to development and settlement so it was anxious to sign treaties. Canada bought Rupert's Land from the Hudson's Bay Company in 1869 and signed 11 treaties, known as the numbered treaties with dozens of First Nations, between 1871 and 1921.

Treaty 1 promised that a school would be built on every reserve. It never happened; instead, the government established American-style regional or 'residential' schools - training centres rather than educational facilities. One residential school survivor likened the schools to labour camps.

Treaty 6 was initially resisted by strong Cree leaders like Poundmaker and Big Bear. The treaty, however, was signed in 1876, in part because the government supported the mass extinction of bison and withheld needed food rations, counting on the subsequent starvation to help coerce cooperation. Read ***Clearing the Plains*** by James Daschuk to understand more. Treaty 6 is the only treaty to include provisions for a medicine chest, intended to help with medical aid and famine relief.

The century old dispute over what "Medicine Chest" really means underscores the difficulty of establishing real agreement, in good faith, when documents are negotiated, written, edited and amended in English, to be signed by First Nations leaders who mostly did not speak English or have a written language of their own, and who had to take the word of interpreters about what the treaties contained.

And it was all based on the European idea of land ownership, a concept foreign to First Nations. Both sides wanted clarity and a legal agreement for sharing the land, but First Nations never imagined they were signing away all of their rights and all of their land. During Treaty 6 negotiations, Poundmaker famously opposed the treaty and said "This is our land. It isn't a piece of pemmican to be cut off and given in little pieces back to us. It is ours and we will take what we want."

First Nations did not agree to sign away their rights for a handful of goods and one-time treaty payments. Even when the governments, in order to avoid paying large lump sums, introduced annuities, or annual treaty payments, they simply kept those payments at the original amounts. These annuities could be funded by revenue earned from the surrendered land. But although Britain, and later Canada, earned billions of dollars on First Nations land from mining, forestry and resource development, the annuities have never increased.

In 2019, the signatories of the Robinson Huron treaty took the Ontario government to court to assert that the original $4 annuity was supposed to increase as revenues increased. The judge agreed.

[text on black screen: A $4 per person cap suggests that the treaties were a one-time transaction…as the historical and cultural context demonstrates, this was not the case; the parties were and continue to be in an ongoing relationship. Justice Patricia Hennessy]

The final land surrender in what are called the historical treaties was signed in 1923 with seven First Nations in central Ontario. These First Nations spent decades in court fighting for the land and harvesting rights promised in the treaty. They finally settled and signed an agreement in 2018. Many other First Nations that signed historical treaties have gone to court or through the Specific Claims tribunal to make sure Canada holds up its part of the treaty.

Métis have also spent many years fighting injustice and asserting their rights. In Ontario, some individual Métis, or halfbreeds as they were called back then, signed treaties. And several joined with their First Nations relations to push back against developers in Mica Bay, near Sault Ste Marie, Ontario. But the biggest showdowns would be on the Prairies.

At the time of Confederation, the Hudson's Bay Company owned a vast swath of the country, known as Rupert's Land. Canada wanted to buy the land, create new provinces, and open up the region to settlement and development. By 1869, surveyors were spreading out across the territory, ready to stake out townships as soon as Canada bought and owned the land. Their survey targets included settlements made up mostly of Métis, including the Red River settlement near what is now downtown Winnipeg.

A young, educated Métis man named Louis Riel helped a Métis farmer chase away some surveyors who had come to his farm. Riel realized that if Canada bought Rupert's Land, Métis rights and land would be in jeopardy. He gathered a group of other Métis and took over Fort Garry, the administrative centre of the Hudson's Bay Company, imprisoning some of the residents who threatened violence. He compiled a list of the Métis rights and demands, formed a provisional government and negotiated agreement with the federal government, setting the stage for the creation of the new province of Manitoba.

But the hanging of one of the Fort Garry prisoners resulted in outrage and calls for Riel's execution, mostly in English protestant Ontario. The promising leader who had brought Métis to the brink of province hood had to flee to the United States. Most of the government's promises were broken, and Riel's vision for Manitoba was never realized. No treaties were ever signed directly with Métis; but a Supreme Court decision in 2013 acknowledged that the government failed to provide land to Métis as set out in the Manitoba Act of 1870. This opens the door to Métis land claims negotiations.

After 1870, most Métis scattered, moving to eastern and western Canada. At the same time, in Saskatchewan, another key Métis leader was emerging. Gabriel Dumont was the chief of the Métis buffalo hunters but with the demise of the buffalo, he turned to other pursuits. He opened a ferry service called Gabriel's Crossing and a general store. He became president of the St. Laurent Council and advocated for Métis rights. By 1884, frustrated by federal government indifference and inaction, he suggested bringing Louis Riel to Batoche, to bring their grievances to the government. So a delegation of Métis travelled to Montana, where Louis Riel was exiled, and asked him to come back and once again help them fight for their rights.

Events forced the Métis to resist local authorities and create their own local government and another bill of rights. When an armed battle broke out in 1885 near the village of Duck Lake in what is now Saskatchewan, the Canadian government called it a rebellion, while the Métis called it a resistance, Further battles ensued; and in the final conflict, near Batoche, groups of Métis, Cree and other First Nations lost to the Canadian government. Most of the fighters were sent to prison or were hanged, including Louis Riel. Many Métis moved farther west and north.

The government refused to recognize Métis land title or rights. Instead of signing treaties or establishing reserves, they created something called Half-Breed or Métis Scrip. Starting in the 1870s, Scrip Commissioners (called the Northwest Half-Breed Commission) travelled throughout much of the Prairies and gathered Métis together to fill out application forms for their entitlements. This was done on an individual, not a community basis, and continued until the 1930s. When a Métis accepted scrip, they extinguished their Aboriginal title and ceded title to any lands they occupied. They were given a certificate which could be redeemed for either land or money. If they met the criteria, they were often given their certificate immediately.

The process was bureaucratic and deeply flawed. Many Métis simply didn't participate. Others accepted scrip without understanding what they were giving up – many were illiterate and the term 'extinguishment of title' does not appear anywhere in the application. Those who DID accept scrip had to apply to a Dominion Lands Office to search for available land, get a patent to that land (often far away from their current home), wait for approval, and then move to and occupy that piece of land. Every step was complex and unfamiliar to Métis families and communities; and while some did try to follow the patent process, most could not. The process was further tarnished by government indifference, unscrupulous speculators, and out-and-out swindlers.

Scrip was a policy designed to implement the legislative extinguishment of Métis land rights. However, given the legal complexity of the scrip system, government delay and mismanagement in the administration of it, and compounded by unscrupulous land speculators, this resulted in Métis children and families not receiving their entitlements.

Dispossessed of their land, impoverished and discriminated against, many Métis began to deny their heritage in order to survive. They were, as one Métis said, 'hidden in plain sight'. There is one area of the country, however, where Métis were recognized and this is the Métis settlements in Alberta, to be discussed more in the next topic.

Here's Mary Wells talking about the importance of these settlements.

"When we first moved to Elizabeth Settlement when it opened it was in 1939. I was only five years old at that time. It was very, very exciting for us because my dad said "great at last we'll have a place to live of our very own. Where no one is going to send us away."

A map of Canada after the last historical treaty was signed in 1923 shows vast areas of Quebec, British Columbia and the far North where no treaties were signed. This is referred to

as unceded territory. This map would remain like this for the next 50 years, until we entered the era of modern treaty-making, our next topic.

[credit roll for Module 4, Topic 1

Director	Jennifer David
Writers	Jennifer David
	Terry Rudden
Editor	Richard Bujold
Narrator	Jennifer David
Instructional Designers	Manon Lamontagne
	Terry Rudden
	Michelle Turpin
Graphic Designer	Fe Wyma
Researcher	Angela Day
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	“The Wisdom of the Universe” by Christi Belcourt
Music in Opening Sequence	“Our People” by Noel Habel
Images, Videos, Music/Audio	Aboriginal Peoples Television Network
	Berlin-George
	Bibliothèque et Archives Canada
	Canada Post
	Canada. Dept. of Indian Affairs and Northern Development
	Canada. Dept. of Interior
	Canada. Dept. of Mines and Technical Surveys
	Cattroll Photo Associates
	Department of Citizenship and Immigration / Library and Archives Canada / Department of Indian Affairs and Northern Development fonds
	Film Board of Canada. Photothèque
	James Qaschuk
	Jon Platek
	Kevin Chief
	Library and Archives Canada
	Manitoba Historical Maps
	McCord Museum
	Mennonite Church Canada
	Métis Settlements General Council

Noel Habel

NVision Insight Group Inc.

O.B. Buell / Library and Archives Canada

Oneida Indian Nation

Parkin & Co / N. Omer Coté collection

Peter Winkworth Collection of Canadiana

Provincial Archives of Alberta

Qyd

Rice Studio

Royal Engineers

SamuelS777

Valere Macdonald

Wikimedia Commons

Produced by NVision Insight Group Inc.]

Module 4 Topic 2 Understanding Aboriginal Rights, Title and Modern Treaties

[black screen with the following disclaimer text: This video is for instructional purposes only. This video is not intended to provide a full, in-depth historical overview of Indigenous peoples in Alberta, nor a full, in-depth overview of provincial and Canadian legislation, policy and laws that have occurred over time. This video briefly summarizes history and law and is only to be used as general background knowledge to begin your journey towards Indigenous cultural competencies in Alberta.]

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

[Module 4, Topic 2 Understanding Aboriginal Rights, Title and Modern Treaties]

The 1960s were a time of political upheaval in North America with the Civil rights movement, the anti-war movement and the American Indian movement. In Canada, Inuit were allowed to vote starting in 1950 but status Indians only gained the right to vote in 1960. The Indian Act was also amended so it was no longer illegal for First Nations to hire lawyers to fight land claims. Two events were about to galvanize Indigenous peoples and lead to the first modern treaty in the country.

The first occurred in 1967. Chief Frank Calder, on behalf of the Nisga'a Nation sued the province of British Columbia, declaring that their title to their lands had never been given up or extinguished. The case went all the way to the Supreme Court which ruled that yes, Aboriginal title existed in Canadian law.

The second pivotal event happened in 1969. Pierre Trudeau was prime minister, Jean Chretien was Minister of Indian Affairs, and Canada was entering a period of radical constitutional reform. Chretien proposed a White Paper that laid out a drastic redefinition of the country's relationship with First Nations. He proposed to get rid of the Indian Act, strip Indians of any existing Indigenous rights or title, eliminate Indian status, transfer responsibility of Indian affairs to provinces, and convert reserves to private land. In essence, he proposed to renege on all of Canada's treaties and agreements.

To some Canadians, this sounded reasonable. To Indigenous people, it represented a shocking negation of more than a century of uneasy negotiation. Angry response to the White Paper galvanized Indigenous people across the country, and led directly to the creation of many of the Indigenous political organizations that we see today.

Listen to Harold Cardinal, a young Cree activist being interviewed by CBC radio at the time. He doesn't mince words as he talks about how this White Paper was seen.

"The policy paper is probably one of the most clever pieces of documentation that I've ever seen politically. It's aimed at the white people who are bigoted, who hate Indians. They'll be able to turn around and say all those damn Indians will stop getting everything for nothing now. It's aimed I think and here is where it's more dangerous at the small L white liberal Canadians because there's this phraseology of freedom and equality that gets thrown in and it's pretty difficult for a person to, especially a white person, to argue against this type of thing because this places him in a position of being a reverse racist type of thing. I think the phraseology of equality and phraseology of freedom is used much like the Nazi's used the music of Beethoven as they were marching the Jews into the gas chambers. The documentation here that was presented to the House of Commons is one that accomplishes what the government could not have accomplished legally. If they had a legal way and in a way a which they could justify their action, I think they would have shot every Indian to death in this country this year. But since they could not do this morally, they resorted to a legal means of cultural genocide."

The White Paper never became law even though successive Canadian governments, from Brian Mulroney's Buffalo Jump plan of 1985 to Stephen Harper's Indigenous policies to Justin Trudeau's approval of a pipeline, have all tried to infringe on Indigenous inherent rights. But Indigenous peoples continued to fight for their rights. Now more organized politically, more educated and with the Supreme Courts' Calder ruling that Aboriginal title existed, the stage was set for modern treaty-making.

The first modern treaty was the James Bay Northern Quebec Agreement in 1973. It provided the Cree and Inuit in the region with decision-making authority over their own lives, land and territory. They asserted their rights and the agreement paved the way for new Cree and Inuit entities to oversee health, education, justice and other areas of life.

The Nisga'a Nation, on the heels of its historic Supreme Court acknowledgement, entered treaty negotiations in 1976. It would take more than 20 years before their final agreement was signed in 2000, making it the first modern treaty signed by a First Nation in British Columbia.

The first Inuit-specific modern treaty was signed by Inuvialuit, Inuit who live along the northern coast of the Northwest Territories. That agreement, signed in the mid 1980s, led directly to the expansion of the oil and gas industries, and to increased employment, training and business development in the Inuvialuit communities on the coast of the Beaufort Sea.

With Claims settled to the East in Quebec and to the West in the Northwest Territories, the priority shifted to that big chunk of land in the middle. The Inuit who occupied the centre of Canada's north had something bigger in mind; their goal was to divide the Northwest Territories and create a brand new territory with a large Inuit majority. It took almost twenty five years to negotiate, but on April 1st, 1999, Nunavut was born.

Here's Tagak Curley, one of the key Inuit negotiators and leaders talking about the importance of this agreement. He's standing in the Nunavut legislature.

"I have to say this, never in my wildest imagination when I was a youngster that I ever thought that Nunavut legislature would become a reality. But it's kind of hard to believe that it is now real and you know when I was a youngster out on the land, I would see a mirage and you sort of hope for it but is it real? I think it's real now. Good to be here."

The Nunavut Agreement made Inuit one of the largest private land holders in the world, and remains the biggest Land Claims Agreement in Canadian history. Although not all of Nunavut is Inuit-owned land, the territory is so big that it is divided into three regions: Baffin or Qikiqtaaluk region in the east, the Kivalliq Region in the middle, and the Kitikmeot in the west.

That left only the Inuit of Labrador or Nunatsiavut. Their final agreement, ratified in 2005, included many of the benefits established in the other Inuit agreements, but it also created the Nunatsiavut Government. This gives Inuit in Labrador a whole new level of control over their health, education and cultural affairs.

Other modern treaties have been signed with First Nations in the Yukon, with the Gwich'n, Sahtu and Tlicho and Dene in western Northwest Territories, and in parts of British Columbia including Maa-nulth First Nation, Tsawwassen First Nation and Tla'amin Nation.

And there are many other First Nations negotiating modern treaties from the Innu in Labrador, to the Atikamekw in Quebec, to Algonquins in Ontario, and more than 50 communities in British Columbia.

Add to this another term, "specific claim" which refers to any breach of the Crown's lawful and fiduciary duties such as historic breaches under the Indian Act, treaty obligations, failure to provide reserves or other historic breaches, whereas a comprehensive claim refers to a modern treaty and comprehensive land claim obligations.

Let's take a few minutes to highlight some Indigenous land claims and self-government agreements in Alberta.

The Government of Canada, Alberta and Indigenous Nations are negotiating to address several different types of land-related disputes.

As you may know, Alberta plays a large role in relation to Treaty Land Entitlement Claims because of its obligations to the federal government under the Natural Resources Transfer Act (NRTA) of 1930.

While land claims are a federal responsibility, Alberta has a constitutional obligation under this Act to transfer back to Canada unoccupied Crown lands necessary to allow Canada to settle claims with Indigenous Nations.

[music]

Here's an example from 2010.

This is Bigstone Cree Nation territory. Of course, we know today is a very historic event. We are here today to sign the largest land claim settlements in the history of Alberta and one of the biggest settlement agreements in the history of Canada.

Big Stone Cree Nation (which includes Calling Lake and Chipewyan Lake) and Peerless Trout First Nation (which includes Trout Lake) reached a Treaty Land Entitlement Claim with a settlement agreement of more than $250 million. Alberta committed to building elementary schools and water treatment plants. Canada agreed to improve housing and build infrastructure in the communities as well as provide land for new reserves.

Modern treaties can also be built upon historical treaties by negotiating land claims and self-government agreements rather than changing or displacing the original treaties.

For example, the people of Lubicon Lake Cree Nation have lived within Treaty 8 territory since the 1899 signing; except they are not signatories to that treaty.

After decades of advocacy for self government and title, in Oct of 2018 the Nation, of about 450 people, led by Chief Billy-Joe Laboucan finally reached an agreement which includes $121 million in federal and provincial funding and 246 square kilometres of land near Little Buffalo. They are also now considered part of Treaty 8.

Another term you may have heard is 'self-government'. The federal government has a specific definition of self-government; it refers to negotiated agreements that put decision-making power into the hands of Indigenous governments. The government transfers money to the Indigenous government to provide programs and services that it once provided.

For example, in 2019, the Métis Nation of Alberta signed the first ever self-government agreement between the Government of Canada and a Métis government.

The Agreement lays out the following next steps for its implementation:

- the negotiation of a fiscal and intergovernmental agreement;
- the approval of a constitution for the Métis Nation within Alberta by MNA citizens;
- the development of a transition plan; and
- the passage of federal recognition legislation.

The MNA's relationship with the Alberta government spans to the very beginning of this proud province. It is my belief that this new 10-year framework agreement will advance our relationship even further, with a stronger focus on Métis rights including harvesting and finally getting to a Métis consultation policy. More importantly, this framework agreement recognizes that we have a nation-to-nation relationship and that we need to work together to finally put a government-to-government relationship in place. The MNA is no mere association; we represent the Métis Nation with Alberta and our relationship must be on that basis.

Self-government involves parties at the negotiation table recognizing Section 35 Aboriginal rights and title under the Constitution Act, 1982 and being aware that the Crown has a duty to consult and accommodate. But it goes further than that, we also need to recognize Indigenous laws.

Here’s Cec Heron, talking about how the courts need to listen to Indigenous interpretations of treaty.

[Text on screen: Cec Heron, Strategic lands and Resource Advisor, Doig River First Nation]

The treaties to a degree mean more than just hunting, trapping and fishing. Because in the English language, that's where a lot of the communication is lost from the Indigenous languages to the English language.

So in the English language, it's only hunting, trapping and fishing, and maybe some of the little side things like the medicine chests or whatever. But it means so much more than that. It's the interpretation of the words. So if you're talking hunting, it's not just picking up a gun or whatever mechanism that you're using to kill an animal. It is ‘What is the state of the land, the air and the water that will sustain that animal or that species of animal to maintain the health of that animal.’ And in order to do that you have to have healthy water, air and land. Because this is a treaty right that can go on for as long as the sun shines, the rivers flow and the grass grows, and unless something dramatically happens to the earth, that means that that's almost forever, because those are the words and those are the interpretations.

Reconciliation requires that all three types of land claims are to be negotiated and interpreted in a reasonable and purposeful manner and in accordance with the principles enunciated by the courts in regards to Indigenous rights. Much progress has been made in the way of negotiations and settlements but we still have a long way to go.

While governments continue to drag its heels on fully implementing these Land Claims and Self Government Agreements, they have been important tools for promoting and protecting Indigenous rights. But those rights must frequently be defined, interpreted, and affirmed by the courts. The legal foundation for Indigenous rights in Canada are the 1982 Constitution and the Charter of Rights and Freedoms. Section 35 of the Constitution states that:

The Existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed.

That sounds impressive, but it still lacks clarity. The Constitution doesn't define the term ‘Aboriginal rights,’ so, in the past few decades, it's been up to the courts, particularly the Supreme Court of Canada to provide that clarity.

There are several fundamental principles shaping the way that the Crown (meaning the Canadian government) and industry deals with Indigenous people. Those include the ‘duty to consult and accommodate', the recognition of Aboriginal title, and the meaning of rights. These key concepts have all been addressed in a series of historic Supreme Court decisions. Here are some of them.

[*R*. v. *Sparrow,* 1990]

In 1990, one of the first tests of clarifying section 35 rights, the Supreme Court set out criteria for determining if a right is an 'existing' right.

[Delgamuukw v. British Columbia, 1997]

The Delgamuukw case of 1997 confirmed that aboriginal title includes rights to the land itself, not just the right to take resources from that land.

[R. v. *Marshall*, 1999]

Heated debates, clashes and angry confrontations led to the Marshall case in 1999 when the Supreme Court declared that the Mi'kmaq on Canada's east coast had a right to earn a "moderate livelihood" from commercial fishing.

[*Haida Nation* v. *British Columbia,* 2004]

In a case involving a forestry licence in BC, the Court determined that the Crown has a "duty to consult with Aboriginal peoples and accommodate their interests.

[*Tsilqot’in Nation* v. *British Columbia*, 2014]

And in Tsilqot'in Nation v. British Columbia in 2014, a landmark decision, the Supreme Court ruled, for the first time in history, that Aboriginal title was recognized. It recognized that the Tsilqot'in Nation had Aboriginal title to nearly 2000 square kilometres of land in central BC. Future cases will further define what this could mean for other First Nations.

[*Clyde River* v. *Petroleum Geo-Services Inc*., 2017]

In 2017, the Supreme Court delivered a major victory to Inuit when they said Inuit of Clyde River, Nunavut were not adequately consulted before the National Energy Board gave oil companies the green light to conduct seismic testing that would have negatively affected marine life in the area.

All of the cases just mentioned have to do with the rights of First Nations and Inuit communities, there have also been some significant decisions specific to Métis in Canada.

In 1993, Steve Powley, an Ontario Métis, was out hunting with his son near Sault. Ste Marie, Ontario. They tagged their moose with a Métis card and a note that read “harvesting my meat for winter”. They were charged with hunting without a licence. They challenged the charge on the basis that as Métis they had the Aboriginal right to harvest, protected by Section 35 of the Constitution.

[*R* v. *Powley,* 2003]

The case was ultimately decided in 2003 at the Supreme Court which ruled that the Powleys, as members of the rights-bearing historic Métis community in Sault Ste. Marie, had a constitutionally protected right to hunt for food. The Powley case became the basis for asserting similar Métis rights in other parts of Canada.

The most recent Supreme Court decision relating to Métis rights is the 2016 Daniels decision, also decided in favour of Métis as well as non-status Indians.

Canada recognizes three Indigenous groups; Indians, Inuit and Métis. But Canada’s original constitution of 1867 specified only that “status Indians” were the responsibility of the federal government. In 1939, the Supreme Court determined that Inuit were also a federal responsibility. The Daniels decision confirms that Métis and non-status Indians are also responsibility of the federal government.

Finally, some cases have delved into disputed terms such as ‘Aboriginal title’, ‘inherent rights’, ‘inherent jurisdiction.’ What are Aboriginal rights? Who confers these rights? Who decides what “Aboriginal title” means? If First Nations had rights and jurisdictions prior to European contact, how does a modern Canadian court or government get to decide how a First Nation governs itself? You can see why these complex issues will continue to be a priority for First Nations, governments and the courts for the foreseeable future.

The growing recognition of Indigenous rights is actually a worldwide phenomenon. The United Nations Declaration on the Rights of Indigenous Peoples, known as UNDRIP, sets out universal principles for Indigenous human and political rights, rights to land, and more. The Declaration is not legally binding under international law; but UN member nations are encouraged to incorporate its principles into domestic law.

Canada was one of four countries that voted against the Declaration but in 2016, Canada removed its objector status and now fully supports the Declaration.

UNDRIP includes sections on some terms you may have heard. One key principle is ‘Free, Prior and Informed Consent’ which means governments must consult with Indigenous peoples when their rights or interests are potentially affected by any measure or act, with the aim of getting their free, prior and informed consent. The application of this principle is having a real impact on specific and comprehensive land claims negotiations, and on many court cases involving Indigenous peoples.

This is a critical document for Indigenous peoples in the ongoing struggle to ensure that governments and corporations actually act on the rights that have been slowly defined and reaffirmed for centuries, from the Royal Proclamation, through the historical treaties, land claim

and self-government agreements, the courts and UNDRIP. All these have recognized Indigenous rights, but as Ellen Gabriel, Onkwehonwe (or Mohawk leader), human rights advocate and artist says, those Indigenous rights have always existed; now, they must be affirmed.

Linking Arms—Ellen Gabriel

And for me the Declaration, because of the devastating impact that colonization has had on Indigenous people, as Onkwenonwe people, and undermining, and making us, in fact, deteriorating our obligations to the land, to each other, this tiny little document that we have here, is one of the frameworks, it's one the tools that we can use for reconciliation, even amongst ourselves, because it tells us as Onkwenonwe people: we have rights.

We don't have to be ashamed any more to speak our language.

We don't have to be ashamed anymore to say 'I'm Onkwenonwe' and where I come from.

An international body with the cooperation and full participation of Indigenous peoples created the most comprehensive international human rights instruments that did not create new rights, in fact, reinforced the rights we already had before Europeans came here.

And to me that is one of the most important things about the Declaration.

Now, a word about land acknowledgments. You may have been in a meeting or an event when someone does a land acknowledgement; this is becoming a common practice to think about whose treaty territory or land you're on. This is also one small step towards reconciliation that you can practise when conducting meetings.

This video explains the importance of land acknowledgement from the perspectives of Treaty 7 Elders.

The elders will say, I, I pray that the young people will not forget the Creator, a true acknowledgement of the land. Every day. We honour our ancestors. by acknowledging treaty seven territory. We acknowledge the treaty seven nations, the Pikanii First Nation the Siksika First Nation the Kainai First Nation, the Stoney Nakota First Nations and the Tsuut'ina First Nation. We acknowledge the ancestral territory of the Siksika, the Blackfoot confederacy and the home of Métis region number three.

In the next and final module, we'll build on your knowledge of Indigenous history and present realities by discussing Indigenous worldviews, laws, and cultural values which can inform and strengthen your relationships with Indigenous peoples, communities and governments.

[credit roll for Module 4, Topic 2

Director	Jennifer David
Writers	Andrea Menard
	Jennifer David
	Terry Rudden
Producer	Andrea Menard
Editor	Richard Bujold
Narrator	Jennifer David
Instructional Designers	Manon Lamontagne
	Terry Rudden
	Michelle Turpin
Graphic Designer	Fe Wyma
Researchers	Angela Day

	Andrea Menard
	Raj Atkar
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	“The Wisdom of the Universe” by Christi Belcourt
Music in Opening Sequence	“Our People” by Noel Habel
A special thanks to	Cora Voyageur
	Darcy Lindberg
	Hadley Friedland
	Koren Lightning-Earle
	Margaret Unsworth
	The 2020 Indigenous Advisory Committee, Law Society of Alberta
Images, Videos, Music/Audio	Amy Quintal
	Andrea Menard
	Calgary Foundation
	Dene Tha' First Nation
	Government of Canada
	Helen Flamand
	Jason Franson
	Laura Golebiowski
	Metis Nation of Alberta
	Peerless Trout First Nation
	Provincial Archives of Alberta
	Ray Yellowknee
	United States Fish and Wildlife Service, United States Federal Government
Produced by	NVision Insight Group Inc.]

Module 5 Relationship-Building with Indigenous Peoples

Module 5 Topic 1 Cultural Values and Traditions

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

[Module 5, Topic 1 Cultural Values and Traditions]

In this final module, it's time to move from a discussion of historical and present realities to the ways in which those realities shape Indigenous societies and cultures today. That cultural context will help you grasp some basic elements of verbal and non-verbal communications, and help you in your interactions with Indigenous peoples.

When working in a cross cultural setting, it's important to be able to see a situation from more than one perspective. Cultural differences are just that; different, not better or worse but just another way of seeing the world.

With more than 600 First Nation communities, dozens of Inuit hamlets, Métis settlements and urban Indigenous people in every corner of this country, there's a very wide diversity when it comes to cultural beliefs and traditions. We're going to focus on a few topics, even though there are many more: we'll look at the land, family and language.

Listen to the words of some Indigenous Elders, leaders and community members as they explain the importance of the land. The quotes in this module are narrated for effect, and are not recordings of the original sources.

"We are people of the land; we see ourselves as no different than the trees, the caribou and the raven, except we are more complicated." Sahtu Dene Elder George Blondin

"We know our land have now become more valuable. The white people think we do not know their value; but we know that the land is everlasting, and the few goods we receive for it are soon worn out and gone" Haudenausonee leader Canassatego 1740.

"We do not own the freshness of the air or the sparkle of the water. How can you buy them from us?" Squamish Chief Seattle.

Across the North, the land can seem harsh and unforgiving. But for Inuit, who have learned how to thrive in this environment, the land has sustained them for many generations and the land is at the core of Inuit life.

Many Inuit across Nunavut have heard stories and legends about a figure named Kiviuq. He has supernatural powers and wanders across the land, having many adventures. The stories teach how to survive on the land and how to relate to people. Elders share many stories about the land.

"Because I heard storytelling from my grandmother, I received the strength to live and survive. If there were no stories to go by, to survive or to learn to hunt and live, there would be nothing to learn from" Eli Kimaliardjuk

The Inuit way of doing things, or traditional knowledge, is also called Cow Yee Maya Too Cahng Eat (Qaujimajatuqangit) or IQ. It spells out how Inuit see their relationship to the land and to each other. For Inuit, being grounded in IQ provides a collective cultural sense of health and wellness.

See the resources section to learn more about all of the seven IQ principles.

“The relationship between the Inuit and the land was one, like a newborn baby to her mother” Brian Aglukark

[same sentence read in Inuktitut language].

As you learned in the last module, Métis have been fighting for their land and rights to their land for a very long time. The only Métis land that is officially acknowledged consists of 8 Métis settlements in Alberta. But Métis do have a strong connection to the land.

“Apihtaw’kosisan mean a sort of half-son. This was translated into English as Halfbreed. To the Ojibway, we are mixed blood. They say wisahkotewinowak which translates to mean where the fire has gone through and burnt everything, and new shoots come up from the ground. That’s where the Métis come from, they were the new Nation, the new shoots that come up from the ground from Mother Earth.” Tom McCallum

“If you want to learn about medicines, then you have to come for a walk with me in the bush. When we go into the bush, we are going home” George McDermott, Métis Elder

Sharing is paramount among all Indigenous cultures. Indigenous people would not have survived if they did not share food, resources, land and labour. They had no concept of money but shared and traded. This led to considerable confusion when they first encountered European concepts of “ownership” and “possession”, particularly when it comes to land. But the spirit of sharing persists today.

The Land is valued and shared by all, not as a possession, but as an integral element of existence and community. It is not only the Elders who value the land; watch and listen to the words of this music video, created by the youth of Grassy Narrows First Nation as they talk about how the land 'feels like home'.

[pow wow music, song lyrics]

Keep the old ways that we've always had
it still lives inside
this is a place, where we love the land
let's work to show our pride

Keep us safe, keep us free
like it used to be
don't want to be tied down

we find love where we're from
and beat against the drums
it's a beautiful sound

From the ground up, we'll find a path home
feel pulled by the sun, wish I can go
we learned from the past now we can grow
we're promised a chance let the plans show
go big, go far, there are no limits
I want to see change so my soul lives it
they cut down our trees while we blow kisses
defend our home while they dismiss us

Gete Ishkonigan
it feels like home to me

Taapshko Endaayaan
it feels like home to me

The ways that First Nations, Inuit and Métis view families also shows a number of cultural differences.

“In our every deliberation, we must consider the impact of our decisions on the next seven generations” Great Law of the Haudenosaunee Confederacy

That philosophy was laid out in the Great Law at least 2000 years ago, but it remains just as true and relevant today. It means that leaders are not just planning for 1 year or 5 years, but for the entire foreseeable future. This is why Indigenous people speak so strongly about the protection of the environment, the land and the water; their perspective stretches beyond short term profit from development, and focuses on the need to preserve what we have for future generations.

In the Ojibway or Anishnaabe language, there is a phrase Nii'kinaaganaa or "All my relations". This is a part of a philosophy that's about the inter-connectedness of all life—the land, the animals, the people. We are all related.

Some First Nations follow a clan system. For example, in the Yukon, many First Nations include a wolf clan or moiety and a crow moiety. The Anishinaabe have seven clans or dodems. There are specific rules, stories and responsibilities that come with each clan and children grow into a unique role in the structure of that First Nation.

Among the Haudensaunee and several other nations, the clan system follows the mother's side of the family; each clan is linked by a common female ancestor. Some nations follow a hereditary leadership system, as Tom Happynook of Huu-ay-aht First Nation explains:

I was raised from birth and taught from birth about my roles and responsibilities to my community.

I'm happy to share those things I was taught.

A hereditary chief cannot be angry, you can't get mad. It's a law.

You have to be consistent; you have to be calm because you're one of the leaders of the community.

You have to be kind, you have to be gentle, you have to be caring, you have to support and nurture the young ones.

In our hereditary system, our elders watch the young people as they grew up and identified their strengths.

And those strengths were nurtured so when they became adults, they had a place in our society.

We were structured so that every family had a role to play, a responsibility that was given from the Creator to that family and that family was expected to fulfill that role and responsibilities.

And that's what made everyone in the community, every person was important.

Traditional First Nation, Inuit and Métis families are not seen as what we now call a 'nuclear family', consisting of a mother, father, and children. Traditional family structures included brothers, sisters, aunts, uncles, grandparents all living and working together, and sharing responsibility for raising children, and linked by what are referred to as "kinship bonds".

Every human language embodies a specific cultural approach to communication and understanding, and Indigenous languages are no exception. There are more than 70 different languages and dialects spoken by Indigenous peoples across Canada. Many of these languages are on the verge of extinction, although Inuktut, Innu, Anishnaabe and Cree have the greatest chance of survival, with many strong speakers still alive.

Each of these languages encapsulates a unique culture and a specific way of looking at the world.

The language, the whole culture of the Lakota, come from the song of our heartbeat. It's not something that can be quickly be put into words. It's a feeling, it's a prayer, it's a thought, it's an emotion – all of these things are in the language." Larry Swalley, Lakota

For most young Aboriginal people, culture and language have been separated. As a result, most of these young people are trying to walk in two worlds with only one language." R. Henze.

English is so hierarchical. In Cree, we don't have animate-inanimate comparisons between things. Animals have souls that are equal to ours. Rocks have souls, Trees have souls. Trees are 'who,' not 'what. [Tomson Highway]

Gabe Desrosiers explains the importance of his ancestral language:

[Translated from Ojibway; words on screen]

The Creator watches over us as we speak the language in everything that we do, in life and in the medicine lodges. It is the language that was given to us. This is the most important teaching of our people, to learn the language. This is how we are watched over and cared for as Anishinaabe.

Norman Fleury, Métis, said his grandmother taught him Michif, and reflects on what the language meant to her.

She said, "you know, God made this world and people. French people speak French, God gave them that language, and, to the people of the land, he gave Lii Kri. (the Cree). To finish this circle, that's where we come in, Michif," she said, "our language was a God-given spiritual language, a language of the land." [Norman Fleury, Métis]

Cultural values inform cultural practices and traditions. So, for example, intricate Métis flower bead and quill work represents a First Nation tradition of beading coupled with a French style of needlework and a representation of the beauty of the flowers and plants that grew in the Métis homelands.

Basket making is a traditional practice that had a practical purpose for carrying medicines, berries, wood and other needed food and material.

And an Amauti is a traditional item of clothing, made of sealskin and used by Inuit women to carry babies. These and many other cultural practices of First Nations, Inuit and Métis have been passed down through the generations and still remain relevant today.

It would take many more modules to teach the rich cultural history of all of the Indigenous nations in this country. But there is a common thread they all share. Viewed through the lens of Indigenous language, the world is not hierarchical, or linear, or divided into multiple, rigid categories. The Indigenous world view, and thus Indigenous languages, interpret experience in a holistic way. Its most powerful image is the circle, which reflects and contains all things, and links back to itself. You see this image in the teaching of the medicine wheel, or in the circle of life itself.

A Sioux leader named Black Elk summed this up beautifully, back in the early 20th century and we'll end this topic with his words:

"Everything the power of the world does is done in a circle. The sky is round, and I've heard that the earth is round like a ball, and so are all the stars. The wind in its greatest power, whirls. Birds make their nests in circles for theirs is the same religion as ours. The Sun comes forth and goes down again in a circle and the moon does the same and both are round. Even the seasons form a great circle in there changing and always come back again to where they were. The life of a man is a circle from childhood to childhood, and so it is in everything where power moves.

[credit roll for Module 5, Topic 1

Director	Jennifer David
Writers	Jennifer David
	Terry Rudden
Editor	Richard Bujold
Narrator	Jennifer David
Instructional Designers	Manon Lamontagne

	Terry Rudden
	Michelle Turpin
Graphic Designer	Fe Wyma
Researcher	Angela Day
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	“The Wisdom of the Universe” by Christi Belcourt
Music in Opening Sequence	“Our People” by Noel Habel
Images, Videos, Music/Audio	1491 Productions Inc.
	Adam Jones, Ph.D.
	Ansgar Walk
	Artizans.com
	Beverley McKiver
	Cattroll Photo Associates
	Chouch (Akulivik)
	Christopher Chen
	Cynthia Lickers
	Dave Brosha
	David Garrow
	David KK
	Denver Public Library, Western History Collection
	Floyd Davidson
	Fred the Oyster
	George M. Dawson
	Geraldine King
	Henry Isluanik / Germaine Arnaktauyok
	Jaime Morse
	Jimmy Jacquard
	Joe Mabel
	Lori Idlout
	Manitoba Archives
	Métis Settlements General Council, Federation of Métis Settlements
	Neeta Lind
	Noel Habel
	NVision Insight Group Inc.

N'we Jinan

P199

Parks Canada

Philippe Morin

Public Domain

Royal Engineers

Shelley Burke

Sten Porse

Terry Rudden

Tidridge

Tim O'Loan

Tom Happynook

Tribal Nations Map

Vancouver Public Library

Victor Tootoo

VIGNERON

whoarecanadians.wikispaces.com

Wikimedia Commons

Willow

Produced by NVision Insight Group Inc.]

Module 5 Topic 2 Relating to Indigenous Peoples Today

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

[Module 5, Topic 2 Relating to Indigenous Peoples Today]

You've just taken a quick tour through 20,000 years of Indigenous history in this place we now call Canada.

[Text on map of North America: 35,000 to 10,000 years ago: Ancestral American Indians cross land bridge from Asia. 10,000 to 5,000 years ago North American Indians move northward to tree line with retreat of glaciers. 5000 to 4000 years ago ancestors of the Tuniit cross Bering Strait and move eastward. 3000 to 2000 years ago South Bering Sea and North Pacific people become North Alaska Inuit. 1000 years ago Thule move eastward, displacing Tuniit]

We know it's a lot to absorb. But the one key learning for you is this: the past creates the present, and those twenty thousand years of history and culture define the way that First Nations, Inuit and Métis think, feel and act today. We all learn to behave in ways that our cultures tell us are appropriate; and those ways aren't always universal.

Here are some ways that you can increase what we call your IQ, or your Indigenous Quotient.

[Communication cues]

There is a difference between speaking and having something to say. Indigenous peoples tend to be more comfortable with silence. It's OK to wait a bit until they're ready to talk. And be aware that gestures, facial expressions and other subtle, non-verbal forms of communication are very much part of the way that many Indigenous peoples interact. For example, Inuit will often signal agreement by raising their eyebrows, and disagree by wrinkling their noses. Some First Nation individuals may signal direction by pointing with their lips rather than pointing with their fingers or seem awkward when offered a firm handshake. Understanding body language is important. You will also want to have a sense of humour. Indigenous peoples like to laugh, joke and tease. Even though our colonial history is dark and traumatizing, many Indigenous peoples use humour as a way to teach important truth. If they laugh at you or with you, it just may mean that you shouldn't take yourself so seriously. And if they tease you, it probably means they like you.

[Importance of Elders]

Prior to contact with Europeans, it was the Elders who took the children and taught them while the parents were busy with the practical necessities of life. Elders are revered and honoured for their wisdom and knowledge. Those Seven Generations we mentioned earlier mean that there are seven generations behind that have shaped us and continue to guide us in order to make good decisions for the seven generations ahead. To show respect, some are taught not to look Elders directly in the eye. It is important to listen and not interrupt when Elders tell stories and share knowledge. Some have been taught that it is not polite to ask too many questions; simply listen, observe, imitate and think about what you've learned. Often the lesson will come to you later, when you need it.

[Community Protocols]

You'll have to do some homework if you are building relationships with First Nations, Inuit and Métis communities and governments. Do your research so you know, for example, whether they are part of a historical treaty or a modern treaty; if they have or don't have a land base; what is their language, their population, their governance structure? Find out some basic history and ask, what are the key and current realities in the community?

You might also ask about books to read, websites to visit, people to talk to, to find out more about particular items or materials. For example, with some First Nations, you may have seen a smudge or been given tobacco to share. You may see an eagle feather being used; find out why

the eagle feather is important. Or the significance of ribbon shirts, or the Métis sash, or the Inuit qulliq. You will likely be exposed to many different practices and it's important to have an attitude of humility and a willingness to learn and understand.

Protocols are the customs and rules of the communities you work with. Some may have formal documents or processes to follow. In other communities, these protocols will be revealed once you are in relationship with that community. Find out what kind of governance system is in the community. If it's a First Nations community, do they have a hereditary chief system? Do they have an Indian Act Chief and band council? Is there a traditional leadership council? It's important to understand the leadership and authority structure.

Protocols cover things such as land acknowledgements, incorporation of insights provided by Elders, cultural requirements such as providing tobacco, or tea, fees and honoraria or other gifts. There might be a need for translation and interpretation in communities where people's first language is not English. There could be detailed protocols related to engagement and to research. It's important to research, ask and understand what each community's protocols and processes are and then follow them.

[Listening and Consensus Building]

The reason why many Indigenous groups often meet in a circle is to demonstrate that everyone's voice is important and everyone gets a chance to speak. Several nations use a talking stick, a physical item that gives one person at a time the right to be heard without interrupting. Everyone's perspectives are considered and all options are discussed. Most Indigenous nations traditionally made decisions by consensus. This requires more time and effort by all parties. You can see this in action in the consensus-based proceedings of the Nunavut and Nunatsiavut Governments which are based on Inuit principles. You may find that, in your relationships with Indigenous communities, you have to allow for a lot more time so that they can come to their own internal agreements.

[Community Capacity]

The vast majority of First Nation, Inuit and Métis communities in Canada have populations of less than 1,000 people. Yet they're under constant pressure from researchers, resource companies, governments, educational institutions and the media to respond, to engage, to be consulted.

As we've seen, many of these communities struggle with the impacts of colonialism—substandard education and infrastructure, crippling social issues, and heavy administrative and reporting burdens. They frequently lack the capacity—or simply the people—to meet all of the demands placed on them. An Indian Act band councillor on a small reserve, for example, will be required to address federal issues, provincial or territorial issues, AND fulfill a role comparable to that of a town councillor as well. Amendment to the *Indian Act* and modern treaties add even more to the governance and management burden of a reserve; and Inuit across the North have created literally dozens of co-management and oversight bodies to implement various facets of their land claims agreements. Given all that, you'll need to be patient, and recognize that the Indigenous communities you're working with are struggling with many priorities and limited capacity.

[Relationships are paramount]

One more point to ponder. A relationship is a two-way street, not a long-distance courtship. You can't build a relationship with Indigenous peoples and communities by flying in and flying out. Is the relationship just about what you need from them? Do you know anything about the history, the cultures, the current realities of the people you meet with? Do you care about their well-being?

Relationships take time and effort and a willingness to listen, on both sides. After taking this course, you can probably see why Indigenous peoples are wary, if not downright distrustful, of non-Indigenous peoples and governments. Share and learn from each other. Understand the power dynamics at play, and work to see things from the perspective of the Indigenous peoples and communities that you are building this relationship with. Incorporate Indigenous ways of thinking and doing things into the mix. With time, patience, and goodwill, you can build on your good intentions and learn to trust each other.

[Respect]

Underlying all of this is respect. Reflecting on what you've learned, consider what it means to be respectful as an individual, as a nation, as a corporation, as an organization. For example, is it respectful to name a sports team or use a mascot with a stereotypical image? To dress up as Indigenous peoples? Is it respectful to practice cultural appropriation or to ignore Indigenous inherent rights, or to deny Indigenous peoples the human rights afforded all Canadians?

Let that be your challenge. Given Canada's disturbing colonial history, and the failure of so many promises and commitments over the decades—ranging from the personal to the Parliamentary—how can you, your employer, and your government foster and demonstrate REAL respect for Indigenous partners, communities and individuals?

Coming up in the final video of this course, you'll hear Alberta stories and perspectives on how you, as a lawyer, can foster respect and be part of the way forward and reconciliation.

[credit roll for Module 5, Topic 2

Director	Jennifer David
Writers	Jennifer David Terry Rudden
Editor	Richard Bujold
Narrator	Jennifer David
Instructional Designers	Manon Lamontagne Terry Rudden Michelle Turpin
Graphic Designer	Fe Wyma
Researcher	Angela Day
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	"The Wisdom of the Universe" by Christi Belcourt
Music in Opening Sequence	"Our People" by Noel Habel
Images, Videos, Music/Audio	Adam Jones, Ph.D. Adialla Amanda PL Amnesty International Cattroll Photo Associates Chapleau Cree First Nation Cpl Roxanne Shewchuk, Rideau Hall / Office of the Secretary to the Governor General creehealth Dennis Gruending Don Burnstick Ed Maruyama Fisheries and Oceans Canada Geological Survey of Canada collection / Library and Archives Canada Inuit Circumpolar Conference Jethro Taylor Library and Archives Canada Mistissini Council Noel Habel NVision Insight Group Inc. Office of the Treaty Commissioner Philippe Morin Province of British Columbia Qalipu First Nation redmanlaughing.com Shutterstock Tessa Macintosh Timkal Tribal Nations Map Truth and Reconciliation Commission of Canada University of the Fraser Valley

Wikimedia Commons

Produced by NVision Insight Group Inc.
]

Module 5 Topic 3 Reconciliation and The Way Forward

[black screen with the following disclaimer text: This video is for instructional purposes only. This video is not intended to provide a full, in-depth historical overview of Indigenous peoples in Alberta, nor a full, in-depth overview of provincial and Canadian legislation, policy and laws that have occurred over time. This video briefly summarizes history and law and is only to be used as general background knowledge to begin your journey towards Indigenous cultural competencies in Alberta.]

[music]

[The Path: Your Journey Through Indigenous Canada]

[NVision Insight Group Inc.]

[Module 5, Topic 3 Reconciliation and the Way Forward]

We are now on the last video in this final module of *The Path.* You will hear from Alberta lawyers, judges and community members about Indigenous restorative justice practises, specialized Indigenous courts, as well as other legal initiatives in Alberta.

We also cover UNDRIP and Bill C-15.

And finally we will outline Bill C-92, *An Act respecting First Nations, Inuit and Métis Children, Youth and Families*.

[Subject Heading: The Overrepresentation of Indigenous Peoples in the Criminal Justice System]

It’s been over 20 years since the Supreme Court of Canada decided on matters in *R* and *Gladue* stating that judges should consider the systemic factors the Indigenous offender has experienced when determining an appropriate sentence.

Numerous reports on the criminal justice system over the years including the TRC, the Missing and Murdered Indigenous Women and Girls Inquiry, and several other Supreme Court cases including *Williams, Ewert*, *Ipeelee and Barton* cite systemic racism as the factor for the rise in incarceration rates of Indigenous peoples.

Reviewing the existing bail jurisprudence involving Indigenous accused persons, *Gladue* is being misapplied across the country and there remains a current crisis in the bail system in Canada that disproportionately impacts Indigenous peoples.

Here is Adam Drew, Crown prosecutor for the Calgary Indigenous Court, discussing next steps that legal professionals can consider taking in their practise towards reconciliation.

We're living now in a Post Truth and Reconciliation Commission environment. I think we've reached a point in Canadian history where there's no longer any excuse for Canadian professionals working in government, working in law enforcement, working in prosecutions and courts generally, in the legal profession. There's no excuse for any of us to be ignorant of the recommendations of the Truth and Reconciliation Commission in with relation to culture, to health and to justice.

Together, Indigenous men and women represent only about 3% of the adult population in Canada, but they are overrepresented in admissions to provincial and territorial correctional services.

In 2015-16, 38% of women admitted to provincial and territorial sentenced custody were Indigenous, and 26% of men admitted were Indigenous.

Compared to all other categories of accused persons, Indigenous people continue to be jailed younger, denied bail more frequently, granted parole less often and released later in their sentence.

They are over-represented in segregation, overrepresented in remand custody, and more likely to be classified as “higher risk offenders”.

The situation is not very different for Indigenous youth. Although Indigenous youth between the ages of 12-17 comprise only 7% of all adolescents in Canada, in 2014-15, about 35% of youth admitted to correctional services were Indigenous.

The proportion of Indigenous youth admissions to custody has grown over time, especially for girls. In 2011-12, 48% of Indigenous female youth involved in the correctional system were admitted to custody; in 2014-15, that number had grown to 52%.

[The Honourable Judge Evan M.L. Ladouceur, Provincial Court of Alberta]

It's time for the court to take a real drastic transformative change to try to help people and change their objective from punishment to a healing court, because you know, we are, we as Indigenous people are where we are today because of what has been done to us by the non-Indigenous people using their system to directly try to destroy our people, and we need to use the system to try to change it in a positive way.

The principles articulated by the Supreme Court of Canada in *Gladue* and re-iterated in *Ipeelee* are being interpreted and implemented at the bail phase in a manner that exacerbates, rather than ameliorates the systemic failures of the criminal justice system in its dealings with Indigenous peoples.

Judicial consideration of *Gladue* and bail has not alleviated this crisis. There must be a more robust framework for the interpretation of *Gladue* in judicial interim release proceedings as well as in sentencing.

The focus on *Gladue* and how the courts interpret their obligations under this regime is a means of uncovering bias and a means of moving forward to ensure the criminal justice system minimizes the harm to Indigenous peoples in Canada.

[Subject Heading: Indigenous Courts in Alberta]

Indigenous Courts have been operating across Canada for the last 20 years since *Gladue*. There are several in Alberta.

The first urban Indigenous Court in Alberta was established in 2019 based in downtown Calgary. This Court provides a culturally relevant, restorative, and holistic approach to bail and sentencing by incorporating *Gladue* factors, as well as prioritizing traditional Indigenous ways of addressing the crime and healing.

The Judge, Crown, Duty Counsel, Police, Probation Officers and support workers are either Indigenous, or have taken extensive Indigenous cultural competency training and understand the trauma-informed therapeutic model.

[text on screen from the film Homefire: Ending the Cycle of Family Violence, March 2015, Native Counselling Services of Alberta]

So when we talk about implementing restorative practices from a traditional perspective in Canada today, there's this view that it's almost a get out of jail free card.

[Allen Benson, CEO, Native Counselling Services of Alberta]

That there's an easy way, if you go the Aboriginal way to dealing with crime. The easy way is to take someone out of the community and put them in a Federal Correctional system. If we look at a restorative process, that's harder than any jail time. It's hard when you have to look back at your life all the way to childhood and say ‘what happened to me?’. That's hard work emotionally, spiritually, mentally, when you have to sit with your victim, your family, your community, your elders, and talk about what happened to you. That's a tough journey.

In the Calgary Indigenous Court, there is a special ventilation system to allow for the burning of sweetgrass. Sweetgrass is sometimes used in Indigenous prayer, smudging and purifying ceremonies, but it is entirely dependent upon each Indigenous Nation’s laws and customary

practises whether this sacred practise occurs. On the Prairies it is usually used, and in Calgary Indigenous Court, it is burned at the beginning of the court day to cleanse the room and prepare the participants in a good way.

A Blanket Ceremony is held for the Indigenous person when they've completed their Healing Plan. Their Elder and supporters offer a blanket as a symbol of protection which the person carries with them into their new life.

The Tsuu'tina Peacemaking Court and the Sisksika Court in Treaty 7 territory were established and presided over by then-provincial court judge Tony Mandamin from 1999 to 2007. The Tsuu T'ina Peacemaking Court was the first Indigenous Court of its kind in Canada and is a marriage of two separate systems: the Alberta Provincial Court and the Peacemaker process, which work together in a unique way.

At the Siksika Nation, the Provincial Court of Alberta sits on the reserve and has been served since 1998. This arrangement permits the Crown prosecutor to form a close working relationship with the Nation and supports the provision of culturally sensitive prosecution services.

These courts are still going strong today, as is Justice Mandamin's return back to Alberta after presiding as a federal court judge for the past 12 years. Now, he is helping Indigenous courts across the province by consulting with communities and building more robust ways to instill Indigenous restorative justice measures and practises in court.

[The Honourable Leonard S. Mandamin]

It seems to me that you need the Indigenous community to be involved in this process for it to work. It can't be delivered by the justice system itself…If I could characterize my role as a judge working with Tsuu' tina and Siksika, it was more a process of making room for them to become involved and deliver restorative justice, than controlling the situation.

Examples of Indigenous restorative justice services that are connected to provincial courts in Alberta are:

- the Kainai Peacemaking Program in Treaty 7
- Saddle Lake Restorative Justice in Treaty 6
- Yellowhead Tribal Community Corrections Society in Treaties 6 &7
- Big Stone Cree Nation Restorative Justice in Treaties 6 & 8
- Native Counselling Services Association of Alberta
- And Calgary Legal Guidance

These court-connected services are vital for Indigenous peoples as they try and navigate their way through the complicated and often trauma-inducing court processes.

In Treaty 8 territory in northern Alberta, **Bigstone Cree Nation** has developed their own Restorative Justice program that also serves their three communities of Wabasca, Calling Lake and Chipewyan Lake.

Justice Technician, Helen Flamand, comments on how being trauma-informed is vital to the legal profession and to her practise of guiding a person to recovery.

[Helen Flamand, Bigstone Restorative Justice]

We deal with the problem behind the problem. Alcohol and drugs are the symptoms. We know that probably 95 percent of crimes that are on our weekly docket are alcohol or drug related. We know that our people are hurting. We know that our people are in a state of constant trauma. And with that in mind, we deal with that trauma. We deal with the people, as a person who's in conflict with themselves who are out of balance, as we say, and move forward from a trauma informed perspective.

Sandra Christiansen-Moore who is the Crown Prosecutor for the region, connected with the Bigstone Cree Nation's Restorative Justice program and now advocates for more Indigenous-informed, restorative justice processes in the court.

[Sandra Christiansen-Moore, Crown Prosecutor, Fort Saskatchewan Office]

And it can have an impact with how a file is resolved, whether it be whether it can have an impact on sentencing, or it can impact how the Crown operates with certain types of elections or on some of the lot more, or pardon me some of the less serious files. It can be a full diversion program, but ultimately, it's assisted the Crown Prosecution Service in getting to know the community to understanding Indigenous culture and heritage and also just to provide better, more local service to individuals.

Here is Judge Ladouceur also discussing the merits of incorporating restorative justice.

[The Honourable Judge Ivan M.L. Ladouceur, Provincial Court of Alberta]

You know, it's very simple for the person to come to court before me and enter a guilty plea. I give them 30 days jail. And he goes away for 21 and comes back and the nothing has been done. It's just a repetitive cycle. But once you put them through the restorative justice program, you can really see what's going on with the family, you can see the pain, you can see the suffering, you can see the trauma that they've suffered all their lives. And that's what we're trying to do. We're trying to heal that. And if we can heal one family and stop that behavior, their children will then start to have a different behavior and a positive way instead of following the same old destructive cycle that their parents have followed for years, and that's what we're trying to do so and it's slowly working.

[Image of a brick wall with words from bottom up: Assumptions, savage, heathen, uncivilized, royal proclamation, Indian Act, Canadian Constitution, Gradual civilization act, assimilation. Voice of Allen Benson, CEO, Alberta Counselling Services of Alberta. This next segment is from the Homefire video].

The challenge that we've been under, is that we actually through the (our) justice system, encourage conflict, through divorce, separation, restraining orders, peace bonds.
So, we have all of these laws and processes in place to separate people. What we don't have is a full understanding of who we're dealing with.

[Rachelle MacDonald, Executive Director, Aseniwuche Winewak Nation]

We recently did a research project in our community, it was looking at traditional legal principles in our elders identified over and over again, that people that hurt other members of our community need to be held accountable for what they've done. But just as important, they need the opportunity to reconcile what they've done.

Here, the elders always saying, 'we're gonna deal with this in a good way, without the ridicule without the ostracization, because they're still family. You don't leave them out in the cold or you don't let them go hungry.'

[Subject Heading: United Nations Declaration on the Rights of Indigenous Peoples]

The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the United Nations in 2007 and endorsed in Canada in 2016.

The UN Declaration or 'UNDRIP' forms a part of cultural competency education outlined in TRC Call to Action #27. Here is international human rights lawyer, advocate and educator, James Sakej Youngblood Henderson explaining why UNDRIP was initially created:

What we encountered in the constitutional battles in Canada, is that when we wanted to apply human rights to Indigenous people, the government said, 'you don't have human rights because you're the wrong kind of people'. And that stood us as a shock, but it's part of the discrimination that we've had to endure. So we had to go to the General Assembly. And what we had to do was get a declaration that basically said that Indigenous people have the same human rights as any other people.

UNDRIP confirms that Indigenous peoples are “peoples” in international law, and entitled to the same human rights as everyone else.

[Cover of Special Report: UNDRIP Implementation Braiding International Domestic and Indigenous Laws]

[Cover of Special Report: UNDRIP Implementation More Reflections on the Braiding of International, Domestic and Indigenous Laws]

The UN Declaration does not create new or special rights just for Indigenous peoples. Rather, the UN Declaration is necessary to rectify the ongoing denial and violation of Indigenous peoples’ existing and inherent human rights.

In the past, Canadian courts have repeatedly affirmed the duty of governments to consult with First Nations before making decisions, however it has been a narrow interpretation. Larry Chartrand, professor emeritus of law at the University of Ottawa and the author of ***Métis Treaties in Canada: Past Realities and Present Promise*** explains this in more detail:

[Larry Chartrand, Academic Director, Native Law Centre of Canada, University of Saskatchewan College of Law].

Canada has never yet recognized an Aboriginal right to self-government, unlike, for example, in the United States.

And the reason is because the court has interpreted Aboriginal rights so narrowly -has to be a custom, tradition or practice - and that an argument that you have an Aboriginal right to self-government is seen as too broad in scope for the court to be prepared to recognize because they've defined the rights so narrowly.”

In December, 2020 David Lametti, Federal Justice Minister and Canada’s Attorney General, introduced Bill C-15 which sets out a framework for the federal government’s possible interpretation of UNDRIP.

Bill C-15 represents an important step forward in our collective reconciliation journey- rooted in the recognition of Indigenous rights, respect, cooperation and partnership. [David Lametti, Attorney General, Canada]

Dr. John Borrows – Professor and Canada Research Chair in Indigenous Law at the University of Victoria, Faculty of Law comments on the benefits of incorporating UNDRIP into Canadian federal laws and policies.

As with any law, there are unknowns, there’s unknowns with our Constitution. There’s unknowns with UNDRIP. But the fact that this has got a process to work through those unknowns is better than the free-for-all we have right now.

The federal government has already taken action to reflect UNDRIP in other legislation; including *An Act Respecting First Nations, Inuit and Métis children, Youth and Families* which we will cover next.

[Subject Heading: Child Welfare Law in Canada and Alberta]

The first five Calls to Action by the TRC relate to child welfare, including Call to Action #4 which calls upon the federal government to enact Aboriginal child-welfare legislation.

{Image of Dr. Cindy Blackstock and her title Executive Director, First Nations Child and Family Caring Society of Canada].

According to the 2016 Census, Indigenous children represented 52% of children in foster care in private homes in Canada, despite accounting for only around 8% of the overall population of children under 15. This is a crisis in Canada.

In June 2019, the recognition that Indigenous peoples have inherent self-governing rights in relation to law-making for Indigenous children and families, became a reality when Bill C-92 became law.

First Nations and other Indigenous governing bodies can take steps to enact their own Indigenous laws regarding Child and Family Services. The law sets out national minimum standards for Child and Family Services Delivery as called for by the TRC. This includes First Nations living on and off reserve, non status Indians, Inuit and Métis children. These minimum standards introduce the concept of the Best Interest of the Indigenous Child.

Samson Cree member, Koren Lightning-Earle, founder of Thunderbird Law, is a lawyer at the Wahkohtowin Law and Governance Lodge at the University of Alberta. She was part of the Bill C-92 initiative:

So this legislation creates a process for Indigenous communities to create their own child welfare law. And if they follow the proper process, and provided in the law, their law will supersede provincial law and federal law. But they still have to keep the national standards. But they can their law, they can have a law that would supersede provincial law.

So there's the possibility for lots of various legislation in Canada regarding child welfare, but very unique to the specific needs of the child.

[Subject Heading: The Trauma-Informed Lawyer]

Myrna McCallum is a Métis Cree lawyer from Treaty 6 territory, and the host of the podcast, “The Trauma Informed Lawyer” that’s developed with the Canadian Bar Association. This podcast serves to educate listeners on trauma-informed lawyering and cultural humility in Canada and why it is important to transform your practise in order to avoid doing further harm to Indigenous peoples.

A trauma-informed lawyer connects a person’s behavior to their trauma response rather than isolating their actions to the current circumstances and assuming a character flaw.

A trauma-informed system also focuses on how services are delivered, and how service-systems are organized. These approaches in the therapeutic context have begun to profoundly inform the delivery of other types of human and social services, such as child welfare, law enforcement, and the courts as we demonstrated earlier with examples of restorative justice projects and specialized courts.

We can say that Indigenous court, court connected Indigenous services and the recent *Act Respecting First Nations, Inuit and Métis children, Youth and Families* all come from a trauma-informed perspective.

Teaching trauma-informed practice as part of client-centered lawyering improves the client’s experience of representation, by encouraging lawyers to consider the non-legal aspects of a client’s situation (like colonialism, systemic discrimination, historic trauma, loss of culture, poverty, and a mistrust of government systems), as well as place a higher value on the lawyer’s understanding of a client’s perspectives, emotions, and values. It can also reduce recidivism.

[Wahkotowin Law and Governance Lodge]

The Wahkohtowin Lodge is located at the University of Alberta, Faculty of Law on Treaty 6 territory. The Lodge responds to the expressed needs of Indigenous communities and organizations that want effective strategies to identify, rebuild and develop law and governance structures that resonate with their own legal and governance traditions.

The Lodge was created out of the TRC *Call to Action* #50, which calls for the creation of Indigenous Law Institutes for the development, use and understanding of Indigenous laws.

Dr. Hadley Friedland, professor, and co-lead at the Wahkotowin Lodge along with Dr. Shalene Jobin, talks about the importance of knowing the difference between Indigenous Law and Aboriginal Law.

Indigenous laws should be recognized as law. They can be ancient, d ancient, deeply rooted, and sourced in the sacred or they may be, recent, drafted as Treaty, Agreements, Bylaws, or Legislation. Indigenous laws may draw on elements from both Indigenous legal traditions and other sources of law. [Dr. Hadley Friedland]

For example, just as the Province of Alberta has hunting and fishing regulations, Cree communities have their own Indigenous Laws and legal traditions around hunting and fishing. Koren Lightning-Earle talks about her young daughter who is an avid fisher:

When my daughter goes fishing with her grandpa, she is aware she has 2 sets of laws to follow, Fish and Game regulations and Cree protocol regarding fishing. We teach her the value of both laws and how to honour her Cree legal traditions around hunting and fishing and how to respect provincial regulations. Laws are laws. Cree laws are laws. Our Cree Laws around hunting and fishing were taught to me by father and I'm hoping I can pass those laws down to my daughter.

Indigenous laws have been passed down through generations; however colonialism has severely damaged that process. The Lodge at the University of Alberta, Faculty of Law was created to support and revitalize the process.

Here's Professor Val Napoleon from the University of Victoria, Faculty of Law, commenting on how to start thinking about utilizing Indigenous laws and why it matters.

[music]

[Dr. Val Napoleon, Director, JD/JID program, Associate professor Law Foundation Chair of Indigenous Justice and Governance, University of Victoria, Faculty of Law].

It's something that I think that's important for Indigenous people. But you know what, it's just as important for every Canadian. Canada is multi juridical. And right now the only law that people are familiar with is civil law and common law. And there's a richness of legal history and ways of managing that are thousands and thousands of years old that can help not only just indigenous peoples today insofar as managing ourselves, but also our relationship with Canada, and that matters.

[Subject Heading: Reconciliation and the Way Forward]

There are a number of ways that you, as a lawyer or legal professional in Alberta can advance reconciliation. Here are some suggestions:

- Study Trauma-Informed approaches to lawyering;
- Understand that "Cultural competency" is just the beginning of your journey;
- reach out and familiarize yourself with Indigenous court connected services;
- Learn more about systemic discrimination by reading *Gladue* and *Ipeelee* and other Indigenous cases;
- Read books and articles by Indigenous authors, listen to Indigenous podcasts and watch Indigenous media.

The Law Society created a resource site under www.lawsociety.ab.ca under "Indigenous Initiatives" that will assist you on your path towards learning about current Indigenous legal issues, the Indigenous services and communities in your area, as well as events you can participate in.

We hope this module of 'The Path' inspires you to take steps towards getting involved in reconciliation.

[voice of Dr. Val Napoleon].

Every Canadian should have an understanding of law that allows it to be intensely democratic in terms of how they manage their families, in terms of how they manage their communities, in terms of being a part of the relations of power in Canada. It's everybody's business.

[Sarah Sinclair, Program Manager, sahwoo mokhaak tsi ma taas ("Before Being Judged" Program), Calgary]

*What I hope **The Path** and your personal educational journey shows you is that Indigenous people, clients, also come with the weight of colonialism and there's no escaping that however*

accomplished you are as an individual, the cultural way of colonialism is inescapable. For me as a lawyer, for other Indigenous lawyers, we are privileged in that we're slightly more attuned to that cultural weight when it comes to dealing with indigenous clients. But for non-Indigenous lawyers, it's incumbent upon you to educate yourself on what colonialism has done to our society and Indigenous people."

As you come to the end of your journey through the history and realities of Indigenous Canada, we'll leave you with a few thoughts on why all of this should matter to you.

When the TRC presented its report, Murray Sinclair said that we all have a part to play in reconciliation if we want to see a just and inclusive society in this country we call Canada. He said, "We have described for you a mountain. We have shown you the path to the top. We call upon you to do the climbing."

Taking this course is one step that you've now taken as part of this climbing.

For every topic video in this course, we've included a resource list to help you deepen your understanding of anything you've learned so far.

And finally: wherever you live, or work, or travel to, look around and ask yourself, 'who were the original inhabitants here, and what are their stories?' Visit a friendship centre, or explore your local history, or just chat with a knowledgeable person. That's the best way to show respect; and it will turn your world into a deeper, richer place as well.

[Image of two individuals and the following text: Vice President of the Indigenous Bar Association and lawyer Brooks Arcand-Paul with Chief Tony Alexis, Alexis Nakota Sioux Nation]

Miigwetch, hiy, quanamik, thank you, merci.

[The Path Your Journey Through Indigenous Canada NVision Insight Group Inc.]

[credit roll for Module 5, Topic 3

Director	Jennifer David
Writers	Andrea Menard
	Jennifer David
	Terry Rudden
Producer	Andrea Menard
Editor	Richard Bujold
Narrator	Jennifer David
Instructional Designers	Manon Lamontagne
	Terry Rudden
	Michelle Turpin
Graphic Designer	Fe Wyma
Researchers	Andrea Menard
	Angela Day
	Raj Atkar
Online Technical Lead	Neil Burgess
Online Participant Support	David Garrow
Artwork in Opening Sequence	"The Wisdom of the Universe" by Christi Belcourt

Music in Opening Sequence	“Our People” by Noel Habel
A special thanks to	Cora Voyageur
	Darcy Lindberg
	Hadley Friedland
	Koren Lightning-Earle
	Margaret Unsworth
	The 2020 Indigenous Advisory Committee, Law Society of Alberta
	The Grandmothers
	The Elders
	Our Ancestors
	The Land, Water, Air and Animals
Images, Videos, Music/Audio	Adam Drew
	Adam Scotti Office of the Prime Minister of Canada
	Adrian LaChance
	Adrian Wyld
	Akemi Matsubuchi
	Andrea Menard
	Angela Lightning
	Avery Stodalka
	Becky Olvera Schultz:
	https://www.powwow-power.com
	Blaine Campbell
	Blueberry Sky McCallum
	Braunson Gravelle
	Brooks Arcand-Paul
	Chief Tony Alexis, Alexis Nakota Sioux Nation, Treaty 6
	Chief Silas Yellowknee, Bigstone Cree Nation, Treaty 8
	Bryce Lamont
	Centre for International Governance Innovation
	Chelsea Boucher
	Colleen Gray, artist, “Lunar Messenger”
	Courtesy of the The University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, Pennsylvania, Image No. 149915
	David Bloom
	Frey Gander
	Gerald Laroque

Gloria Anderson

Heather Shillinglaw, artist,“Buffalo”

Hadley Friedland, Associate Professor, University of Alberta, Faculty of Law, Wahkohtowin Law & Governance Lodge

Helen Flamand

Indigenous Bar Association

Irene Jacobs

James Sákéj Youngblood Henderson

Jared Sych

Jesse Yon Fong

Jennifer Rothery

John Bigstone

John Borrows, Professor
Canada Research Chair in Indigenous Law, University of Victoria, Faculty of Law

Kade Ferris

Klinic Community Health Centre, Winnipeg, Manitoba

Koren Lightning-Earle, Wahkohtowin Law & Governance Lodge

Larry Chartrand

Laura Golebiowski

Lauren Taylor

Law Society of Alberta

Law Society of Ontario

Leroy Schulz

Les Danyluk

Lisa Ladouceur

Lorieda Crane

Lynda Levesque

Maggie Thaxter

Metis Nation of Alberta

Mike Beaver

Morley Vince Robinson

National Inquiry into Missing and Murdered Indigenous Women and Girls: Final Report and Calls for Justice

Native Counselling Services of Alberta, “The BANG You Feel”, 2008

Native Counselling Services of Alberta, “Homefire-Ending the Cycle of Family Violence”, 2015

Nicole and Gerry Paridaen

Province of British Columbia

Provincial Court of Alberta

Queens Bench of Alberta

Ray Yellowknee

Richard Lightning

Running Thunder Dancers

Sandra Christensen-Moore

Sarah Sinclair

Shalene Jobin, Associate Professor, University of Alberta, Faculty of Native Studies, Wahkohtowin Law & Governance Lodge

Shutterstock images:
BortN66; Kittirat Roekburi; napattorn686; Thawornnurak; Alamy Stock photo: M.J. Daviduik

State Historical Society of North Dakota, 2014 (P-025-0031-00448)

Teresa Amos

The Honourable Judge Ivan M. L. Ladouceur

The Honorable Leonard S. Mandamin

Tracy Boucher, artist, blue star blanket

Truth & Reconciliation of Canada, Calls to Action

Truth and Reconciliation Commission of Canada

United States Department of Defense

University of Alberta

University of Alberta, Faculty of Law

University of Victoria, Faculty of Law

Val Napoleon, artist, RAVEN IMAGE:
“Girlz Matter”; “Lovers”; “Teacher and People”

Val Napoleon, Director, JD/JID program
Associate professor, Law Foundation Chair of Indigenous Justice and Governance, University of Victoria, Faculty of Law

Vivan House

Wahkohtowin Law & Governance Lodge, University of Alberta, Faculty of Law

Produced by NVision Insight Group Inc.]

This is Exhibit " Y " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

700, 333- 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

October 23, 2023

NOTICE OF ADMINISTRATIVE SUSPENSION

NOTICE TO: All Active Members and Students-at-Law,
All Executive Directors of other Law Societies in Canada,
All Justices of the Court of Appeal and Court of King's Bench,
All Justices of the Alberta Court of Justice,
All Applications Judges,
All Clerks of the Court

Suspension

TAKE NOTICE THAT pursuant to Rule 67.3(1) the following lawyers have been administratively suspended, effective October 2, 2023, for failure to complete their 2023 Continuing Professional Development Plan. Lawyers are unable to practise law while suspended.

Stephanie Lilian Ambrose
Maureen Adrianne Bell
Keith Brian Bergner
Ashlinder Brar
Patricia Jane Brister
James Stadler Burg
Danielle Wong Yi Chu
Andrew Peter Cosgrave
Paige Coulter
Dennis Alan Dawson
Jeffrey Jerom Ellis
Jessica Dawn Ferguson
Jessica Jane Fisher
Louis Feh Fombon
Mitchell Samson Frazer
Heather Anne Frydenlund
Michael John Geoffrey Fulton
Trisha Gain
Melissa Dawn Garner
Manoj Gupta
Jennifer Elizabeth Halloran
Suzanne Marie Harbottle
Orrice Harron

Stacy Kathleen Hennings
Jaclyn Christiane Hesje
Kelly Dale Holtby
Courtney Elizabeth Hunter
Muzzamil Hussain
Connie Lynne Hykaway
Shawn Michael Johanson
Ramanjit Kaur Khabra
Sterling Gordon Koch
Kathleen Anne Kohlman
Robert Alan Kopstein
Sara Dawn Kunto
Alan Lee
Roy Edward Link
Santino Bruno Lofranco
David Regan Mark
Hind Linda Masri
Andrew David John Matthews
John Eric Joshua Merchant
Barbara Anne Mercier
Desmond Peter Mitic
Troy Darren Moller
Lewis Crary Myers
David Gordon Myrol, KC
Laaiba Nawal
Robert John Donald Palser
Dennis Franklin Pawlowski
Martha Ellen Peden
Amelia Christine Philpott
David Neil Reschke
Bradley Joseph Robitaille
Rajinder Singh Sahota
John Michael Ashley Simes
Gordon William Squire
Lauren Alexandria Brooks Storwick
Arlene Joyce Strom
Ryan Darnel Tkachuk
Maryse Trudel
Isis Ruey Tse
Mark Ryan Van De Veen, KC
Chantelle Rose Washenfelder
Kipling Blair Wiese
Glen Donald Wilson
Adrienne Samantha Wong
Adam Karl Walford Zelmer

TAKE NOTICE THAT pursuant to Rule 165(3) the following lawyers have been administratively suspended, effective October 2, 2023, for non-payment of the second

instalment of the 2023/24 Annual Active Membership fees. Lawyers are unable to practise law while suspended.

Gloria Marian Caroline Froese
Andrew Jay Goldberg
Nanditha Balchander Iyer

TAKE NOTICE THAT pursuant to Rule 67.3(1) and 67.4(3) the following lawyers have been administratively suspended, effective October 2, 2023, for failure to complete their 2023 Continuing Professional Development Plan and failure to complete the Mandatory Indigenous Cultural Competency Education (The Path). Lawyers are unable to practise law while suspended.

Phillip Andrew Malcolm Millar
Gregory Paul Nakonechny

TAKE NOTICE THAT pursuant to Rule 67.3(1) and 165(3) the following lawyers have been administratively suspended, effective October 2, 2023, for failure to complete their 2023 Continuing Professional Development Plan and for non-payment of the second instalment of the 2023/24 Annual Active Membership fees. Lawyers are unable to practise law while suspended.

Christine Margaret Burton
Ashvin Raj Singh
Ryan Marcus Taylor

Corinne L. Ghitter, KC
Deputy Executive Director & Director,
Policy and Education
Law Society of Alberta

This is Exhibit " Z " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Respondent: **Yue Song** Submitted on: Monday, 10 October 2022, 7:09 PM

The Path - Final course survey

Congratulations on completing The Path!

In order to let the Law Society know that you have completed this requirement and to receive your course completion certificate, please continue below to provide the required information.

If you do not complete this step, The Law Society will not be able to confirm that you have completed The Path, and you could face administrative suspension.

Thank you!

1 * **Enter your Member ID#**

18123

2 * **First and Last name**

Yue

3 * **Email address**

Song

4 * **The Path increased my knowledge and understanding of Indigenous Cultural Awareness.**

- ◯ Strongly agree
- ◯ Agree
- ◯ Neutral
- ◯ Disagree
- ◯ Strongly disagree

5 **Comments?**

6 * **Overall, how would you rate the course?**

- ◯ Excellent
- ◯ Very good
- ◯ Good
- ◯ Fair
- ◯ Poor

7 **Why did you give this rating?**

I gave this rating for the reasons as follows:

1. The program is mandatory with a scheme of brain washing.

To be frank and upfront, I grew up in a dictational regime of CCP in China and received programs of brain-washing education on various social, culture and political issues for my whole growth and education period in China. I do not believe that this type of mandatory education program is helpful in addressing the issues of First Nation, Inuit and Metis other than serving the purpose of being politically correct and window dressing. I am also concerned that this program will be used to create a precedent for imposing further mandatory program of culture competence on culture and social issues in the future. A typical brain washing technic I was too familiar with in China is to force people to pick only one the correct answer based on what he or she learned from the material that he or she was forced to read or listen. for example, "CCP is the savior of China. True or False?". If I picked false, I would be in deep trouble in China. I am really sick and tired of be forced into this type of learning after receiving similar type of mandatory brain washing programs in the communist China for years.

The course could be better received if it was provided as a recommended program instead of being mandatory to help lawyers to understand the issues of First Nation, Inuit and Metis in Canada and Alberta in particular.

2. **This program is imposed on LSA members under R. 67.4 of the Alberta Law Society which is *ultra vires* the *Legal Professional Act***

I say R 67.4 is ultra vires the *Legal Profession Act* (the "**Act**") because it purports to extend the Benchers' authority to administratively suspend members beyond the types of occasions actually authorized by the Act. I say section 7(g) of the Act authorizes Benchers to administratively suspend members without notice or hearing only for matters of an administrative nature. Specifically, it authorizes the Benchers to make rules imposing suspension of members without notice or hearing only when a member does not (i) pay a fee or assessment, (ii) file a document or (iii) do any other act by the time specified by or determined in accordance with the rules of LSA.

Section 7(g)(iii) of the Act is not an open-ended invitation to impose administrative suspensions on members, but must be interpreted in context to denote occasions *ejusdem generis,* i.e. administrative failures of the kind enumerated immediately prior to it. Before R 67.4, the Benchers could only suspend a member without notice or hearing for:

(i) failing to file a CPD plan by required deadline (Rule 67.3);

(ii) failing to file annual report by required deadline (Rule 119.38); or

(iii) failing to pay to the LSA various assessments, transaction and filing levy, debts owing to LSA or ALIA or annual fee by required deadline (Rules. 147, 149.2,149.7, 153 and 165).

Each of which, I say, is clearly and substantively administrative in nature.

On the other hand, a lawyer's decision not to partake of the various cultural (or other non-legal) competence courses which a given slate of Benchers may seek to promote is a poor fit for this list. Accordingly, I say Rule 67.4 is ultra vires Section 7 (g) of the Act, and the Benchers lack jurisdiction to administratively suspend members for failing or refusing to attend specific CPD programs. Such suspension without notice or hearing under Rule 67.4 is neither legal nor administrative in substance.

I completed the program by the deadline imposed by LSA under R 67.4 not because I believe that R 67.4 is legitimate under the Act but because I chose to avoid being the victim of the enforcement of an illegitimate rule and must act in the best interest of my clients. I request the Benchers to repeal R 67.4 as soon as possible for being exemplary in upholding the rule of law in stead of abusing the law.

3. **The title of the program is ironic**

In the program, I was told that it is incorrect to use the word "indigenous" to call the people of First Nation, Inuit and Metis. Ironically, the title of the program is called "the Path, your journey through **indigenous** Canada". If what I was told in the program is true, such a title of the program would be a great offense to the people of First Nation, Inuit and Metis. I wish the Benchers could do a better job to at least make the message of the program being consistent on its face.

This is Exhibit " AA " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

BY COURIER & EMAIL

January 13, 2023

Roger Song
Barrister & Solicitor
Song & Howard Law office
[redacted]

Elizabeth J. Osler,
Chief Executive Office & Executive Director
Law Society of Alberta
[redacted]

Re: Petition for a Special Meeting of the Members of the Law Society of Alberta Pursuant To s. 28(1) of the *Legal Profession Act*

Dear Ms. Osler,

It is my great honor on behalf of 51 active members of the Law Society of Alberta to enclose a petition signed by the petitioners to call a special meeting of the members of the Law Society to delete and vote on a resolution to repeal Rule 67.4 of the Rules of the Society:

1. Yue (Roger) Song (Calgary). LSA Member since 2014
2. Benjamin J. Ferland (Edmonton/St. Albert), LSA Member since 2018
3. Brian W. Conway (Calgary) LSA Member since 1988
4. Ian Carruthers (Calgary), LSA Member since 2016
5. Marty Moore (Calgary), LSA Member since 2015
6. Richard E. Harrison (Calgary), LSA Member since 2014
7. Lani L. Rouillard (Sylvan Lake), LSA Member since 2006
8. Katherine Kowalchuk (Calgary), LSA Member since 2003
9. Alan G. Warnock (Airdrie), LSA Member since 1990
10. Daniel Harder (Didsbury), LSA Member since 1994
11. Louis M H Belzil, KC, (Edmonton), LSA Member since 1990
12. Doris Reimer (Calgary), LSA Member since 2001
13. Leighton Grey, KC, (Cold Lake), LSA Member since 1993,
    First Nation: Carry The Kettle, Band registration number 378

14. James Kitchen (Airdire), LSA Member since 2017
15. Matthew Kaup (St. Albert), LSA Member since 2019
16. Martin Kaup (St. Albert), LSA Member since 1991
17. Carol Crosson (Airdrie), LSA Member since 2013
18. Cynthia Murphy (Calgary), LSA Member since 2000
19. Daniel Mol (Edmonton), LSA Member since 2006
20. David Cavilla (Lethbridge), LSA Member since 1992
21. Francoise Belzil (Edmonton), LSA Member since 1991
22. Matthew A. Pruski (Edmonton), LSA Member since 2005
23. Keith D. Pridgen (Edmonton), LSA Member since 2020
24. Ashley Garbe (Airdrie), LSA Member since 2014
25. Spencer P. Morrison (Edmonton), LSA Member since 2019
26. Patrick M. Smith (Edmonton), LSA Member since 2018
27. Dylan Morrison (Edmonton), LSA Member since 2019
28. Derek From (Airdrie), LSA Member since 2011
29. Adam Parsons (Jasper), LSA Member since 2021
30. Richard Finlay (Edmonton), LSA Member since 2000
31. Natalie Johnson (Edmonton), LSA Member since 2000
32. Steven Osmond (Lethbridge), LSA Member since 2018
33. Shawn Leclerc (Lethbridge), LSA Member since 2017
34. Kevin R Baker KC (Calgary). LSA Member since 1972
35. Chad Williamson (Calgary), LSA Member since 2017
36. Hart Spencer (Cold Lake), LSA Member since 2011
37. Chad Graham (Edmonton), LSA Member since 2020
38. Darren L Richards (Edmonton), LSA Member since 1993
39. Gleb Malinovsky (Calgary), LSA Member since 2015
40. Walter Kubitz, KC (Calgary), LSA Member since 1988
41. Peng Gong (Calgary), LSA Member since 2017
42. Lisa D. Statt Foy (Calgary), LSA Member since 2005
43. John W. Veldkamp (Edmonton), LSA Member since 1998
44. Glenn Blackett (Calgary), LSA Member since 2003
45. Imran Bhutta (Sylvan Lake), LSA Member since 2016
46. Dong Jun (June) Lee (Edmonton), LSA Member since 2014
47. Rick H. Hemmingson (Lacombe), LSA Member since 1989

48. W. K. Horwitz (Edmonton), LSA Member since 1982

49. R. M. Simpson (Edmonton), LSA Member since 1980

50. Richard A. Low (Lethbridge), LSA Member since 1981

51. Donna C. Purcell KC (Red Deer), LSA Member since 1989

Note that under Section 28(1) of the *Legal Profession Act (LPA),* Chapter L-8, you must call a special meeting of the Society within 30 days (i.e. by **February 13, 2023 Monday**) after your receipt of the written petition of 50 active members setting out the business to be discussed at the meeting. Under Section 28(2) of LPA, and at least 10 days before the special meeting (i.e. by **February 3, 2023 Friday**) you must send a notice of the meeting to each active member of the Society.

Respectfully,

Roger Song, LSA member

cc: Petitioners

cc: Benchers (distribution list attached)

Benchers of Law Society as of January 13, 2023 (List of Distribution)

1. Ken Warren, KC. Bencher since 2018
   [redacted]
2. Bill Hendsbee, KC, Bencher since 2018
   [redacted]
3. Sony Ahluwalia, KC, Bencher since 2021
   By courier: [redacted]
4. Ryan Anderson, KC. Bencher since 2018
   [redacted]
5. Lou Cusano, KC, Bencher since 2021
   Torys LLP, [redacted]
6. Ted Feehan, KC. Bencher since 2021
   Duncan Craig LLP, [redacted]
7. Corie Flett, KC, Bencher since 2018
   Muessle Flett Law LLP, [redacted]
8. Kene Ilochonwu, KC, Bencher since 2021
   Woodfibre LNG [redacted]
9. Cal Johnson, KC, Bencher since 2013
   Burnet, Duckworth & Palmer LLP, [redacted]
10. Jim Lutz, KC, Bencher since 2018
    Dartnell Lutz, [redacted]
11. Bud Melnyk, KC, Bencher since 2018
    Warren Sinclair LLP, [redacted]

[redacted]

12. Sanjiv Parmer, Bencher since 2021
    Parmar Law, [redacted]

13. Sandra Petersson, KC, Bencher since 2021
    Alberta Law Reform Institute, [redacted]

14. Stacy Petriuk, KC, Bencher since 2018
    Jensen Shawa Solomon Duguid Hawkes LLP, [redacted]

15. Ronald A. Sorokin, Bencher since 2022
    Witten LLP, [redacted]

16. Deanna Steblyk, KC, Bencher since 2018
    By courier: Alberta Securities Commission, [redacted]

17. Margaret Unsworth, KC, Bencher since 2016
    [redacted]

18. Moira R. Vane, Bencher since 2021
    By courier: Public Prosecution Service of Canada [redacted]

19. Grant Vogeli, KC, Bencher since 2021
    Lawson Lundell LLP [redacted]

20. Salimah Walji-Shivji, KC, Bencher since 2021
    By courier: AgeCare, [redacted]

21. Louise Wasylenko, Lay Bencher since 2015
    By courier: Law Society of Alberta
    [redacted]

22. Glen Buick, Lay Bencher since 2022

By courier: Law Society of Alberta
[redacted]

23. Levonne Louie, Lay Bencher since 2022
[redacted]

24. Mary Ellen Neilson, Lay Bencher since 2022
By courier: Law Society of Alberta
[redacted]

000001

STATUTORY DECLARATION

CANADA	)	In the matter of the petition for a Special Meeting of the Members of the Law Society of Alberta Pursuant to s. 28(1) of the *Legal Profession Act* submitted to the Law Society of Alberta
	)	
PROVINCE OF ALBERTA	)	
	)	
TO WIT:	)	

I, YUE (ROGER) SONG of the City of Calgary, in the Province of Alberta and an active member of the Law Society of Alberta since 2014

DO SOLEMNLY DECLARE THAT:

1. The document of three pages attached hereto and marked as **Exhibit "A"** to this my statutory declaration is a true copy of a petition (the "**Petition**") signed by 51 active members of the Law Society of Alberta (the "**Society**") for a Special Meeting of the Society to debate and vote on a resolution to repeal Rule 67.4 of the Rules of the Society.

2. The document of two pages attached hereto and marked as **Exhibit "B"** to this my statutory declaration is a true copy of the letter of Roger Song and Benjamin Ferland to the members of the Society of July 13, 2022 seeking endorsements of the Petition.

3. The document of sixty-three pages attached hereto and marked as **Exhibit "C"** to this my statutory declaration are true copies of the signatures of the said 51 active members to the Petition.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Alberta Evidence Act*.

DECLARED before me at Calgary, in the Province of Alberta, this 13th day of January 2023.

A Commissioner for Oaths in and for the Province of Alberta

MENGYA WANG
A Commissioner for Oaths
in and for Alberta
My Commission expires September 10, 2025
Appointee No. 0757884

YUE (ROGER) SONG

This is **Exhibit "A"** to the

Statutory Declaration of

YUE (ROGER) SONG

Declared on January 13, 2023

MENGYA WANG
A Commissioner for Oaths
in and for Alberta
My Commission expires September 10, 2025
Appointee No. 0757884

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Petitioners (signatures on file, all petitioners are the active members of LSA based on LSA's website):

1. Yue (Roger) Song (Calgary). LSA Member since 2014
2. Benjamin J. Ferland (Edmonton/St.Albert), LSA Member since 2018
3. Brian W. Conway (Calgary) LSA Member since 1988
4. Ian Carruthers (Calgary), LSA Member since 2016
5. Marty Moore (Calgary), LSA Member since 2015
6. Richard E. Harrison (Calgary), LSA Member since 2014
7. Lani L. Rouillard (Sylvan Lake), LSA Member since 2006
8. Katherine Kowalchuk (Calgary), LSA Member since 2003
9. Alan G. Warnock (Airdrie), LSA Member since 1990
10. Daniel Harder (Didsbury), LSA Member since 1994

11. Louis M H Belzil, KC, (Edmonton), LSA Member since 1990
12. Doris Reimer (Calgary), LSA Member since 2001
13. Leighton Grey, KC, (Cold Lake), LSA Member since 1993
14. James Kitchen (Airdire), LSA Member since 2017
15. Matthew Kaup (St. Albert), LSA Member since 2019
16. Martin Kaup (St. Albert), LSA Member since 1991
17. Carol Crosson (Airdrie), LSA Member since 2013
18. Cynthia Murphy (Calgary), LSA Member since 2000
19. Daniel Mol (Edmonton), LSA Member since 2006
20. David Cavilla (Lethbridge), LSA Member since 1992
21. Francoise Belzil (Edmonton), LSA Member since 1991
22. Matthew A. Pruski (Edmonton), LSA Member since 2005
23. Keith D. Pridgen (Edmonton), LSA Member since 2020
24. Ashley Garbe (Airdrie), LSA Member since 2014
25. Spencer P. Morrison (Edmonton), LSA Member since 2019
26. Patrick M. Smith (Edmonton), LSA Member since 2018
27. Dylan Morrison (Edmonton), LSA Member since 2019
28. Derek From (Airdrie), LSA Member since 2011
29. Adam Parsons (Jasper), LSA Member since 2021
30. Richard Finlay (Edmonton), LSA Member since 2000
31. Natalie Johnson (Edmonton), LSA Member since 2000
32. Steven Osmond (Lethbridge), LSA Member since 2018
33. Shawn Leclerc (Lethbridge), LSA Member since 2017
34. Kevin R Baker KC (Calgary). LSA Member since 1972
35. Chad Williamson (Calgary), LSA Member since 2017
36. Hart Spencer (Cold Lake), LSA Member since 2011
37. Chad Graham (Edmonton), LSA Member since 2020
38. Darren L Richards (Edmonton), LSA Member since 1993
39. Gleb Malinovsky (Calgary), LSA Member since 2015
40. Walter Kubitz, KC (Calgary), LSA Member since 1988
41. Peng Gong (Calgary), LSA Member since 2017
42. Lisa D. Statt Foy (Calgary), LSA Member since 2005
43. John W. Veldkamp (Edmonton), LSA Member since 1998
44. Glenn Blackett (Calgary), LSA Member since 2003
45. Imran Bhutta (Sylvan Lake), LSA Member since 2016
46. Dong Jun (June) Lee (Edmonton), LSA Member since 2014

47. Rick H. Hemmingson (Lacombe), LSA Member since 1989
48. W. K. Horwitz (Edmonton), LSA Member since 1982
49. R. M. Simpson (Edmonton), LSA Member since 1980
50. Richard A. Low (Lethbridge), LSA Member since 1981
51. Donna C. Purcell KC (Red Deer), LSA Member since 1989

000006

This is **Exhibit "B"** to the

Statutory Declaration of

YUE (ROGER) SONG

Declared on January 13, 2023

MENGYA WANG
A Commissioner for Oaths
in and for Alberta
My Commission expires September 10, 20 25
Appointee No. 0757884

July 13, 2022

To Our Fellow Members of the Law Society of Alberta:

Re: Call for a Special Meeting of the LSA pursuant to Section 28(1) of the *Legal Profession Act*, concerning Rule 67.4 (mandatory specific CPD)

Dear fellow Members,

We invite you to join us in calling for a special meeting of LSA pursuant to Section 28(1) of the *Legal Profession Act* (Alberta) (the "**Act**"), concerning Rule 67.4 (mandatory specific CPD) of the *Rules of the Law Society of Alberta* (the "**Rules**").

On October 1, 2020, the Benchers carried a motion by a 2/3 majority to mandate Indigenous cultural competency training for all Active Alberta lawyers. However, under the Rules as of October 1, 2020, the Benchers did not have any power to mandate any cultural education on Alberta lawyers. And so, on December 3, 2020, the Benchers amended the Rules to expand their authority by adopting Rule 67.4.

Rule 67.4 authorizes the Benchers to (a) prescribe, from time to time, "specific continuing professional development requirements to be completed by members, in a form and manner, as well as time frame, acceptable to the Benchers", and (b) administratively suspend the practice of any member "who does not comply within the specified time frame" imposed by the Benchers.

Using Rule 67.4, the Benchers are requiring all Alberta lawyers who do not qualify for an exemption to complete the "Indigenous Cultural Competency Education" course known as "The Path" (the "**Path**") within 18 months from April 21, 2021 or by October 20, 2022. According to the Law Society's website, "As per the Rules of the Law Society of Alberta (see Rule 67.4), lawyers who do not complete the Indigenous education within the 18 months will be administratively suspended".

We believe the Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission. Under Rule 67.1 (3), each lawyer has the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (1) and (2) and therefore qualifies as continuing professional development (CPD). Under Rule 67.2, each member must prepare and make a record of a plan for his or her CPD during the twelve-month period commencing October 1 of each year and make a declaration, no later than September 30 of each year, confirming compliance with the above requirement. Under Rule 67.3, each active member who does not comply with the requirement of CPD plan under Rule 67.2 will be administratively suspended.

We believe this is as it should be, given the diversity of the practice of more than 10,000 lawyers who practice law in the province and the Benchers' inability to know the specific needs of individual lawyers and firms. However, the Benchers suspended Rules 67.2 and 67.3 from February

20, 2020 until May 2023, adopted Rule 67.4 on December 3, 2020 and imposed a deadline for complying with a mandatory cultural education by October 2022.

To be clear, we do not oppose Rule 67.4 based on a belief that understanding Indigenous culture is unimportant. Rather, we oppose it because we do not believe the Benchers have or should have the power to mandate cultural, political, or ideological education of any kind on Alberta lawyers as a condition of practice. We believe the profession and our clients are best served by an approach to CPD recognizing that individual lawyers and firms, not the Benchers, are best situated to understand and address their CPD requirements and professional needs.

We seek your endorsements of our attached petition for a Special Meeting to debate and vote on a resolution to repeal Rule 67.4. Please contact either of the writers directly to confirm your endorsement on the enclosed petition by emailing or faxing to us a copy of the petition you have signed.

Yours very truly,

Yue (Roger) Song, LSA Member, JD (U of Calgary), LL.M (New York University), LLB and LLM (Peking University)
[redacted]

Benjamin Ferland, LSA Member, JD (U of Alberta)
[redacted]

This is **Exhibit "C"** to the

Statutory Declaration of

YUE (ROGER) SONG

Declared on January 13, 2023

MENGYA WANG
A Commissioner for Oaths
in and for Alberta
My Commission expires September 10, 2025
Appointee No. 0757884

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:

000310

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Brian W. Conway

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Ian Carruthers

brenda@songhowardlaw.com

From: Ian Carruthers [redacted]
Sent: Wednesday, July 13, 2022 3:16 PM
To: roger.[redacted]
Subject: RE: Call for a Special Meeting of the LSA pursuant to Section 28(1) of the Legal Profession Act, concerning Rule 67.4 (mandatory specific CPD)
Attachments: Pages from Rule 67.4 petition (Ian Carruthers).pdf

Hi Roger,

Thanks for putting this together. Here is my signed petition.

I have been looking at the memo but apologize I didn't finish my review in time. I fully agree with your position. I had no problem taking the Indigenous training course and probably would have done so voluntarily. But it concerns me what other "cultural awareness" courses I could be required to take to be allowed to practice.

Best regards,

Ian Carruthers
Barrister & Solicitor
Carruthers Law
[redacted]

From: roger.[redacted]>
Sent: July 13, 2022 11:18 AM
To: Ian Carruthers[redacted]
Cc: [redacted]
Subject: FW: Call for a Special Meeting of the LSA pursuant to Section 28(1) of the Legal Profession Act, concerning Rule 67.4 (mandatory specific CPD)

Hi Ian,

Please see the attached. I will appreciate it if you could also forward the letter to other LSA Members that you have contact with.

Please feel free to call me if you would like to have a chat on this petition.

Regards,
Roger

Yue (Roger) Song

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Marty Moore, 18786 LSA#, JD (Calgary)

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Richard E. Harrison

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Lani Rouillard

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Katherine Kowalchuk,
LSA Member, LL.B (Calgary/
Strathmore)

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name ALAN G. WARNOCK
Barrister And Solicitor
Notary Public
LSA Member, J.D. (Alberta)

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:
DANIEL HARDER

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Louis M H Belzil, QC

LSA no. 8374

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Doris E. Reimer
Barrister and Solicitor
Member #12194

000021

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:
Leighton B.U. Grey, Q.C.
B.A. With Distinction, LL.B.
Barrister & Solicitor

Band Registration #378
Carry The Kettle Band

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:

James S. M. Kitchen
Barrister & Solicitor

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Matthew Kaup (St. Albert)

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

M. Kaup

Print Name: Martin Kaup (St. Albert)

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Carol Crosson, LSA Member, Airdrie

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:

Cynthia A. Murphy
Barrister & Solicitor

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:
DANIEL J. MOL
BARRISTER & SOLICITOR

006628

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

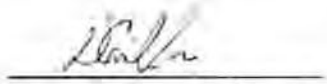
> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:



Print Name: DAVID CAVILLA, Lethbridge

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Francoise H Belzil

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:
Matthew A. Pruski, LSA Member, JD (Edmonton)

000031

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: KEITH PRIDGEN
BARRISTER & SOLICITOR

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Ashley Gaube, LSA Member, JD (Airdrie)

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:

Spencer P. Morrison
Barrister & Solicitor

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:
Patrick M. Smith, LSA Member, JD (Edmonton)
since 2018

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:

Dylan S. Morrison
Barrister & Solicitor

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta.

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Derek From LSA Member, JD

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Adam Parsons, Jasper, Alberta

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:

RICHARD A. FINLAY
BARRISTER AND SOLICITOR
NOTARY PUBLIC/COMMISSIONER FOR OATHS
IN AND FOR ALBERTA

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:
Natalie L.A. Johnson LSA Member, LL.B. (Edmonton)

000040

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:

Steven G. Osmond
Barrister & Solicitor

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:

Petition letter to LSA for signing

000042

Final Audit Report 2022-09-20

Created:	2022-09-19
By:	Roger Song [redacted]
Status:	Signed
Transaction ID:	CBJCHBCAABAAvpjlme4ukxEHAu9tMJZhK2jKLA14pRux

"Petition letter to LSA for signing" History

Document created by Roger Song [redacted]
2022-09-19 - 11:55:40 PM GMT- IP address: 96.51.133.44

Document emailed to shawn [redacted] for signature
2022-09-19 - 11:58:20 PM GMT

Email viewed by shawn [redacted]
2022-09-20 - 3:02:59 AM GMT- IP address: 70.65.92.41

Signer shawn [redacted] name at signing as Shawn Leclerc
2022-09-20 - 3:05:44 AM GMT- IP address: 70.65.92.41

Document e-signed by Shawn Leclerc [redacted]
Signature Date: 2022-09-20 - 3:05:46 AM GMT - Time Source: server- IP address: 70.65.92.41- Signature captured from device with phone number XXXXXXX9100

Agreement completed.
2022-09-20 - 3:05:46 AM GMT

Adobe Acrobat Sign

Signature: Kevin R Baker

Email: kbaker@baycorcapital.com

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

BJFerland

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature: Kevin R Baker

Print Name: Kevin R. Baker KC

Petition letter _to Kevin

Final Audit Report 2022-09-27

Created:	2022-09-27
By:	Roger Song [redacted]
Status:	Signed
Transaction ID:	CBJCHBCAABAAQTklpquv50ySMRYGDlB0riKxKOqS0VgD

"Petition letter _to Kevin" History

Document created by Roger Song [redacted]
2022-09-27 - 5:50:23 PM GMT- IP address: 96.51.133.44

Document emailed to [redacted]
2022-09-27 - 5:51:31 PM GMT

Email viewed by [redacted]

Signer kbaker[redacted].com entered name at signing as Kevin R Baker
2022-09-27 - 8:15:43 PM GMT- IP address: 184.71.36.166

Document e-signed by Kevin R [redacted]
Signature Date: 2022-09-27 - 8:15:45 PM GMT - Time Source: server- IP address: 184.71.36.166

Agreement completed.
2022-09-27 - 8:15:45 PM GMT

Adobe Acrobat Sign

Signature: Chad Williamson

Email: chad@williamson.law

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature: Chad Williamson

Print Name: Chad Williamson

petition letter _ to Chad

039046

Final Audit Report 2022-09-27

Created:	2022-09-27
By:	Roger Song [redacted]
Status:	Signed
Transaction ID:	CBJCHBCAABAAyTRC2uldkq5PslhCp4eQg4o5-PZxL1F1

"petition letter _ to Chad" History

Document created by Roger Song ([redacted])
2022-09-27 - 5:52:25 PM GMT- IP address: 96.51.133.44

Document emailed to [redacted] for signature
2022-09-27 - 5:52:43 PM GMT

Email viewed by chad[redacted]
2022-09-27 - 5:52:46 PM GMT- IP address: 66.249.92.64

Signer chad[redacted] entered name at signing as Chad Williamson
2022-09-27 - 6:02:43 PM GMT- IP address: 23.17.60.39

Document e-signed by Chad Williamson ([redacted])
[redacted]

Agreement completed.
2022-09-27 - 6:02:45 PM GMT

Adobe Acrobat Sign

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature: Hart Spencer (Oct 5, 2023 12:51 MDT)

Print Name: Hart Spencer

petition letter _ to Hart

Final Audit Report 2022-10-05

Created:	2022-10-05
By:	Roger Song ([redacted]
Status:	[redacted]
Transaction ID:	CBJCHBCAABAATr1uLnGUwJ0rZC_BNCNQq9K1AZoe6dUk

"petition letter _ to Hart" History

Document created by Roger Song ([redacted]
2022-10-05 - 6:04:50 PM GMT- IP address: 96.51.133.44

Document emailed to [redacted]ca for signature
2022-10-05 - 6:05:04 PM GMT

Email viewed by [redacted]a
2022-10-05 - 6:48:30 PM GMT- IP address: 23.17.169.140

Signer h[redacted] entered name at signing as Hart Spencer
2022-10-05 - 6:51:18 PM GMT- IP address: 23.17.169.140

Document e-signed by Hart Spencer [redacted]a)
Signature Date: 2022-10-05 - 6:51:19 PM GMT - Time Source: server- IP address: 23.17.169.140

Agreement completed.
2022-10-05 - 6:51:19 PM GMT

Adobe Acrobat Sign

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Chad W Graham, LSA Member, JD

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: DARREN L RICHARDS

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Glob Malinovsky

Print Name:

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature: Walter Kubitz KC
Walter Kubitz KC (Oct 13, 2022 13:23 MDT)

Print Name: Walter Kubitz, KC

petition letter _ to Walter

000053

Final Audit Report 2022-10-13

Created:	2022-10-13
By:	Roger Song [redacted]
Status:	Signed
Transaction ID:	CBJCHBCAABAA8DeDVvjs0R-TrKK6mJFQrgXxNwbtckkW

"petition letter _ to Walter" History

Document created by Roger Song (r[redacted]
2022-10-13 - 5:33:36 PM GMT- IP address: 96.51.133.44

Document emailed to w[redacted] for signature
2022-10-13 - 5:33:53 PM GMT

Email viewed by [redacted]

Signer [redacted] name at signing as Walter Kubitz KC
2022-10-13 - 7:23:34 PM GMT- IP address: 68.147.28.93

Document e-signed by Walter Kubitz [redacted]
Signature Date: 2022-10-13 - 7:23:35 PM GMT - Time Source: server- IP address: 68.147.28.93

Agreement completed.
2022-10-13 - 7:23:35 PM GMT

Adobe Acrobat Sign

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature: Peng Gong (Oct 13, 2023 12:17 MDT)

Print Name: Peng Gong

petition letter _ to Peng

Final Audit Report 2022-10-13

Created:	2022-10-13
By:	Roger Song [redacted]
Status:	Signed
Transaction ID:	CBJCHBCAABAAOrTUcHhlIWUHp7sjBV-yEE-4C78TTfQa

"petition letter _ to Peng" History

Document created by Roger Song [redacted]
2022-10-13 - 5:58:02 PM GMT- IP address: 96.51.133.44

Document emailed [redacted]
[redacted] GMT

Email viewed by [redacted] ca
2022-10-13 - 6:03:33 PM GMT- IP address: 66.249.84.75

Signer info [redacted] entered name at signing as Peng Gong
2022-10-13 - 6:17:48 PM GMT- IP address: 70.77.74.148

Document e-signed by [redacted]
[redacted] address: 70.77.74.148

Agreement completed.
2022-10-13 - 6:17:50 PM GMT

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Lisa Statt Foy
Lisa Statt Foy (Oct 14, 2022 14:27 MDT)

Print Name: Lisa Statt Foy

Petition letter_L Foy

Final Audit Report 2022-10-14

Created:	2022-10-14
By:	Roger Song [redacted]
Status:	Signed
Transaction ID:	CBJCHBCAABAArVh_HvMRCnzFFQnsPoZXv04suDxvmBBz

"Petition letter_L Foy" History

Document created by Roger Song [redacted])
2022-10-14 - 8:25:08 PM GMT- IP address: 96.51.133.44

Document emailed [redacted] for signature
2022-10-14 - 8:25:35 PM GMT

Email viewed by [redacted]
2022-10-14 - 8:26:05 PM GMT- IP address: 104.47.75.190

Signer [redacted]m entered name at signing as Lisa Statt Foy
2022-10-14 - 8:27:54 PM GMT- IP address: 216.138.193.162

Document e-signed by Lisa Statt [redacted]
Signature Date: 2022-10-14 - 8:27:56 PM GMT - Time Source: server- IP address: 216.138.193.162

Agreement completed.
2022-10-14 - 8:27:56 PM GMT

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: John W. Veldkamp, LSA Member since 1996, LLI

Petition letter_Veldkamp

Final Audit Report 2022-10-14

Created:	2022-10-14
By:	Roger Song [redacted]
Status:	Signed
Transaction ID:	CBJCHBCAABAAgfRnJUvHvPidr2U3KHDazMZ5b-GUrZk5

"Petition letter_Veldkamp" History

Document created by Roger Song [redacted]
2022-10-14 - 8:20:25 PM GMT- IP address: 96.51.133.44

Document emailed [redacted]ca for signature
2022-10-14 - 8:20:58 PM GMT

Email viewed [redacted]
[redacted]

[redacted]ca entered name at signing as John Veldkamp
2022-10-14 - 8:24:10 PM GMT- IP address: 207.229.3.97

Document e-signed by John Veldkam[redacted]
Signature Date: 2022-10-14 - 8:24:12 PM GMT - Time Source: server- IP address: 207.229.3.97

Agreement completed.
2022-10-14 - 8:24:12 PM GMT

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Glenn Blackett

Signature: Imran Bhutta

Email: imran@rouillardlaw.ca

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (~~Roger~~) Song, LSA Member, JD (Calgary)

BJFerland

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature: im

Print Name: Imran A. Bhutta

petition letter _ to Imran

Final Audit Report 2022-11-18

Created:	2022-11-18
By:	Roger So[redacted]
Status:	Signed
Transaction ID:	CBJCHBCAABAA9_DnyrotrLoll668ZfWMkoKWDnNg23lB

"petition letter _ to Imran" History

Document created by Roger S[redacted]
2022-11-18 - 6:15:44 PM GMT- IP address: 96.51.133.44

Document emailed to [redacted] signature
2022-11-18 - 6:16:02 PM GMT

Email viewed by [redacted]
2022-11-18 - 6:32:15 PM GMT- IP address: 184.71.230.102

Document e-signed [redacted]
Signature Date: 2022-11-18 - 6:32:45 PM GMT - Time Source: server- IP address: 184.71.230.102

Agreement completed.
2022-11-18 - 6:32:45 PM GMT

000063

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:

brenda@songhowardlaw.com

From: roger.song[redacted]
Sent: Thursday, November 17, 2022 5:07 PM
To: brenda[redacted]
Subject: FW: Petition for a special meeting of LSA members to repeal R 67.4 of LSA
Attachments: petition_form for signature.pdf

Please print and keep in file and update the list of petitioners

Yue (Roger) Song
宋岳律师
Barrister & Solicitor
[redacted]

SONG & HOWARD LAW OFFICE
宋岳律师事务所
S[redacted]

From: Dong Jun [redacted]
Sent: Thursday, November 17, 2022 4:23 PM
To: roger.song[redacted]
[redacted]
Subject: RE: Petition for a special meeting of LSA members to repeal R 67.4 of LSA

Hi Roger,

I've attached the signed petition. Thank you for all your work.

Sincerely,
Dong Jun (June) Lee
[redacted]

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name:

RICK H. HEMMINGSON
BARRISTER & SOLICITOR
5019 - 50 Street
LACOMBE, AB CANADA T4L 1X9
PH: 403-782-6320 FAX: 403-789-1012

PETITION FOR A SPECIAL MEETING
OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA
Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: Bill Horwitz (WILLIAM K. HORWITZ)

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

> *WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;*
>
> *AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;*
>
> *AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;*
>
> *AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;*
>
> *THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.*

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature:

Print Name: ROBERT M. SIMPSON
DUROCHER SIMPSON KOEHLI & ERLER LLP
Member of Alberta Bar since Sept. 1980

000068

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (~~Roger~~) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature: Richard Alan Low
Richard Alan Low (Nov 23, 2022 11:52 MST)

Print Name: Richard A. Low

petition letter _ to Richard A. Low

000069

Final Audit Report [redacted]

Created:	2022-11-23
By:	Roger Song [redacted]
Status:	Signed
Transaction ID:	CBJCHBCAABAAF5Jp8iryc9142eEROK0Am3caBGxitQHB

"petition letter _ to Richard A. Low" History

Document created by Roger Song [redacted]
2022-11-23 - 6:45:04 PM GMT- IP address: 96.51.133.44

Document emailed to [redacted] for signature
2022-11-23 - 6:45:19 PM GMT

[redacted]
[redacted] 66.249.84.83

[redacted] name at signing as Richard Alan Low
2022-11-23 - 6:52:45 PM GMT- IP address: 184.68.120.246

Document e-signed by Richard Alan [redacted]
[redacted] 184.68.120.246

Agreement completed.
2022-11-23 - 6:52:47 PM GMT

Adobe Acrobat Sign

000070

PETITION FOR A SPECIAL MEETING

OF THE MEMBERS OF THE LAW SOCIETY OF ALBERTA

Pursuant to s. 28(1) of the Legal Profession Act

To Our Learned Friend, Elizabeth J. Osler, Executive Director of the Law Society of Alberta,

WE THE UNDERSIGNED DO HEREBY PETITION that you call a Special Meeting of the Society within 30 days of receiving this written petition of no less than 50 active members. The business to be conducted at the special meeting is to present, debate and vote on the following resolution:

WHEREAS Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD) including cultural, political, or ideological education on Members as a condition of practice;

AND WHEREAS Rule 67.4 unnecessarily diminishes and hinders professional autonomy in the area of CPD to the detriment of the profession and the public;

AND WHEREAS the Legal Profession Act only authorizes the Benchers to establish and prescribe an education course called the "bar course" for persons required to pass a bar admission and does not authorize the Benchers to prescribe and mandate any specific CPD including any specific cultural, political, or ideological education on Alberta lawyers;

AND WHEREAS under Rule 67.1(3) each lawyer possesses both the freedom and the responsibility to determine whether a learning activity meets the criteria of Rule 67.1 (2) and therefore qualifies as CPD;

THEREFORE, IT IS HEREBY RESOLVED THAT Rule 67.4 be repealed.

Respectfully,

Yue (Roger) Song, LSA Member, JD (Calgary)

Benjamin J. Ferland LSA Member, JD (Edmonton/St.Albert)

Adding signature: Donna Purcell (Nov 24, 2022 10:51 MST)

Print Name: Donna C. Purcell KC

petition letter _ to Donna C. Purcell KC

Final Audit Report 2022-11-24

000071

Created:	2022-11-18
By:	Roger [redacted]
Status:	Signed
Transaction ID:	CBJCHBCAABAAXs3p6Oybd68q08RKON7XVN0U3L5atXxV

"petition letter _ to Donna C. Purcell KC" History

Document created by Roger Song [redacted]
2022-11-18 - 6:05:30 PM GMT- IP address: 96.51.133.44

Document emailed to Donna Purcell ([redacted] signature
2022-11-18 - 6:05:47 PM GMT

Email viewed by Donna Purcell [redacted]
2022-11-18 - 6:20:10 PM GMT- IP address: 104.28.116.13

Document e-signed by Donna Purcell [redacted]
Signature Date: 2022-11-24 - 5:51:23 PM GMT - Time Source: server- IP address: 174.0.133.0

Agreement completed.
2022-11-24 - 5:51:23 PM GMT

This is Exhibit " BB " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

roger.song@songhowardlaw.com

Subject: FW: LSA Special Meeting on R 67.4

From: roger.song@songhowardlaw.com [redacted]
Sent: Wednesday, January 25, 2023 11:39 AM
To: 'Elizabeth Osler' <[redacted]
Subject: LSA Special Meeting on R 67.4

Dear Ms. Osler,

Further to your email of confirmation of January 21, 2023, I wanted to make a few proposals to ensure members have full information and opportunity to consider the merits for and against the motion. To that end I suggest:

- That I chair the meeting;
- That the meeting be held by Zoom for 1 hour;
- That the President or nominated Bencher and at least 4 other members each be given the opportunity to speak for up to 5 minutes against the petition (total 20 minutes);
- That I and at least 4 other petitioners and members each be given the opportunity to speak for up to 5 minutes in support of the petition (total 20 minutes);
- That the chat function be left completely open;
- That the notice package include
  - my Statutory Declaration including the petition;
  - my contact information; and
  - a request that anyone who wishes to speak for or against the motion contact me at least 3 days prior to the meeting so I can ensure that a fair representation of voices is able to speak;
- That voting be done by Zoom poll.

I will appreciate it if you could kindly confirm.

Kind Regards,
Roger

Yue (Roger) Song
宋岳律师
[redacted]

SONG & HOWARD LAW OFFICE
宋岳律师事务所
[redacted]

This is Exhibit " CC " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

roger.song@songhowardlaw.com

From: Elizabeth Osler <E[redacted]
Sent: January 26, 2023 2:13 PM
To: [redacted]
Cc: Catherine Bennett
Subject: RE: LSA Special Meeting on R 67.4

Hello Roger,

Thanks for your inquiry. As this is a Special Meeting of active members of the Law Society, it will be run in accordance with the Rules of the Law Society of Alberta and Chaired by the President of the Law Society, Ken Warren, KC, as that role presides over all Bencher and Special Meetings.

We are using Zoom Webinar as the platform for the meeting as it will accommodate the greatest number of active lawyers. In accordance with Rule 33, as you are the primary petitioner, you will be deemed to have "moved" the motion and will be given preference to speak. You will have 2 minutes to speak to the motion. After that, the motion will be open to all meeting participants to debate. Participants wanting to speak will use the 'raise hand' icon. This feature will put speakers into a line up in the order in which they raised their hands. The Chair will give permission to speak in the order that the names appear. To ensure that both sides of the debate are given equal opportunity to speak, the Chair will ask the speaker if they are 'for' or 'against' the motion and will alternate between the two points of view until the time set for the meeting concludes.

In terms of the duration for the meeting, we will make a motion at the start of the meeting to extend the time to debate the motion beyond the 20 minutes set out in the Rules. This motion must be approved by 2/3 of those voting on the motion.

The chat function will be enabled but will only be viewable to the staff supporting the meeting in accordance with the meeting procedures that will be established at the beginning of the meeting by the Chair.

This is a Special Meeting to debate a policy decision made by the Benchers. What is set out in the Special Meeting notice is prescribed in the Rules and we will not be providing your contact information or a request for active lawyers to reach out to you. Lastly, the voting will be done by Zoom Webinar Poll.

Thanks for your engagement for this process. The Special Meeting Notice will be going out shortly.

Kind regards,
E.

[redacted]

This is Exhibit " DD " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

January 26, 2023

Notice

LAW SOCIETY of ALBERTA

Special Meeting

A Special Meeting of the Law Society of Alberta will be held on:
MONDAY, FEBRUARY 6, 2023
By Zoom Webinar
commencing at 11:00 a.m.

Please note this notice is being reissued to include the full text of Rule 67.4.

For this meeting, please find:

- The agenda for the Special Meeting.
- A copy of the petition received by the Law Society of Alberta pursuant to Section 28 of the *Legal Profession Act* initiating the meeting.

On January 13, 2023, the Law Society of Alberta received a petition signed by 50 active lawyers to call a Special Meeting of the Society (Special Meeting) to vote on a resolution to repeal Rule 67.4 of the Rules of the Law Society of Alberta. Rule 67.4 of the Rules of the Law Society of Alberta provides:

67.4 (1) Independent of Rules 67.1 through 67.3, the Benchers may, from time to time, prescribe specific continuing professional development requirements to be completed by members, in a form and manner, as well as time frame, acceptable to the Benchers.

(2) The continuing professional development requirements of subrule (1) may apply to all members or a group of members, as determined by the Benchers.

(3) Every active member required to complete requirements under subrule (1) who does not comply within the specified time frame shall stand automatically suspended as of the day immediately following the deadline.

(4) Rule 165.1 shall apply to any suspension under subrule (3).

To attend the Special Meeting, you must pre-register here by 11:00 a.m. Friday, February 3, 2023.
Registration is now open.

Once registered, you will receive an email from "Law Society Communications <no-reply@zoom.us>" on Friday, February 3, 2023 with your unique meeting link. If you do not receive your email meeting link, please check your junk mail or spam folders and if you still cannot find it, contact Special Meeting Support as soon as possible.

Please review the Special Meeting rules in the Rules of the Law Society of Alberta, Rule 33, in advance of the meeting. **Note that the Special Meeting is only open to active lawyers.**

IMPORTANT: Lawyers must log in by 10:45 a.m. on Monday, February 6, 2023, to attend the meeting and have an opportunity to vote. Proxy votes are not permitted.

Yours truly,

Elizabeth J. Osler, KC
Chief Executive Officer & Executive Director

Register

STAY CONNECTED

This is Exhibit " EE " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

GLENN BLACKETT LAW
Barrister

January 30, 2023

via email

The Law Society of Alberta
[redacted]

Benchers of the Law Society of Alberta
[redacted]

Members of the Law Society of Alberta

Dear: Ms. Osler, Benchers and Colleagues

Re: Rule 67.4 is *Ultra Vires*

INFORMED DECISION-MAKING

At the Law Society of Alberta (the "**LSA**") annual general meeting on December 1, 2022, President, Ken Warren K.C., advised members that the LSA had obtained an opinion that *Rule* 67.4 was *intra vires*. Following the meeting I requested a copy of that opinion. The LSA refused, citing solicitor-client privilege. The LSA did outline the opinion to me in a letter dated December 6, 2022, which is attached.

On February 6, 2023, members will be attending a special meeting for the sole purpose of considering a motion to recommend the repeal of *Rule* 67.4 on the basis, *inter alia*, that it is *ultra vires*.

Given that the opinion is directly on point, providing it to members in advance of the meeting would, of course, provide very important information to members for their consideration of the motion.

By email to Roger Song of January 26, 2023, (also attached) the LSA declined Mr. Song's various suggestions for a meeting format that would permit reasonable discussion. Instead, the LSA has selected the "bare minimum" format outlined in Rule 33(3) (as amended effective January 1, 2023) including a maximum of 2 minutes *per* person speaking and a maximum 20 minutes for the entire meeting (by comparison, the annual general meeting lasted 25 minutes with no members speaking). Further, the LSA has declined to organize representative speakers in advance. Instead, precious meeting minutes will be expended asking each person who is called-on whether they are speaking for or against the motion. The LSA has even indicated it will disable the ability of members to speak by chat function during the meeting.

Even though it was Mr. Song who had requested a format that would permit a more reasonable discussion, the LSA has indicated that it will make a motion at the beginning of the meeting to expand the format.

Given all this, I strongly encourage the LSA to, at least, waive any solicitor-client privilege and deliver a copy of the opinion and this letter to the membership in advance of the meeting.

In addition, I would encourage the LSA to circulate Mr. Song's letter of today's date to the members as well.

[redacted]

[redacted]

RULE 67.4 IS ULTRA VIRES

In *Green* v. *Law Society of Manitoba* [2017] 1 S.C.R. 360, the Supreme Court of Canada found that the Law Society of Manitoba (and, by extension, other law societies in Canada operating under substantially similar legislation) have the power to automatically suspend members who do not report continuing professional development ("**CPD**") hours.

Green is not, however, authority for the proposition that the LSA's Rule 67.4 is *intra vires*. There are a number of key distinguishing features.

In *Green,* the court focused on the following parts of Manitoba's *Legal Professions Act* ("**MB *Act***"):

1. A rule expressly authorizing continuing professional development ("**CPD**"):

   > 43 The Benchers may
   > …
   > (c) establish and maintain, or otherwise support, a system of legal education, including the following:
   > …
   > (ii) a continuing legal education program,

   The AB Act contains no such power.

2. A broad purposive clause:

   > 3 (1) The purpose of the society is to uphold and protect the public interest in the delivery of legal services with competence, integrity and independence.

   Alberta's *Legal Professions Act* ("**AB *Act***") contains no such provision, although the LSA's broad purposes are the protection of the public in the delivery of legal services and the protection of its professional members.[1]

3. A broad rule-making power to pursue that express purpose:

   > 4(5) In addition to any specific power or requirement to make rules under this Act, the benchers may make rules to manage the society's affairs, pursue its purpose and carry out its duties.

   The AB *Act* contains no such provision. Both the AB *Act* and the MB *Act* contain a broad rule-making power for the benefit of the law society itself, but that rule was not relied on in *Green* (it was mentioned in *obiter dicta*).[2]

In its outline, the LSA does not consider any of these key statutory distinctions.

In the absence of the legislative provisions supporting the finding in *Green*, the LSA asserts authority under sections 6, 7(1), 7(2)(g) and (v).

[1] See, for example, *Dechant* v. *Law Society of Alberta*, 2010 ABQB 656; *Singh* v. *Law Society of Alberta*, 2000 ABCA 260 at para 23; *Black* v. *Law Society of Alberta*, 1984 CanLII 1197 at paras 61, 71, 138.
[2] AB *Act* s. 6(n), MB *Act* s. 4(5)

[redacted]

1. Section 6 contains various specific authorizations which are not relevant. For example, the power to establish libraries (6(h)) and obtain insurance (6(k)). The broadest provision is subsection 6(n) (mentioned above) is also not relevant. It is a power to make rules for the benefit of the Law Society of Alberta itself. A similar provision in the MB *Act* (s. 4(5)) was not relied on in *Green*.

2. Section 7(1) is broad authority to make rules "… for the exercise or carrying out of the powers and duties conferred or imposed on the Society or the Benchers under this or any other Act." However, unlike the MB *Act*, the AB *Act* contains neither a purposive clause (MB *Act* s. 3(1)) nor express authorization to impose CPD (MB *Act* s. 43(c)(ii)).

3. Section 7(2)(g) relates to automatic suspensions. *Green* is fairly clear authority for the proposition that, if it had the power to impose CPD, the LSA would also have the power to automatically suspend members for failing to comply. This is not in issue – which is not to suggest that automatic suspension is appropriate.

4. Section 7(2)(v) relates to "information required" and is not relevant.

The LSA also seems to rely, as authority to impose "the Path", on Truth and Reconciliation Commission of Canada ("**TRC**") Call to Action #27. The TRC's Calls to Action are not legal authorizations.

The LSA does not consider two other key distinguishing features of *Green*.

1. In *Green* the Law Society of Manitoba had not mandated specific CPD content. At issue was only a broad obligation to report having completed CPD.

2. The Court in *Green* referred to the purpose of CPD as the enhancement of "skills, integrity and professionalism."[3] The Path's purpose is "cultural competency" which includes history, sociology, philosophy, and politics. That is not CPD. Indeed, while the LSA imposes substantive requirements for self-reported CPD under Rule 67.1, any CPD mandated by the LSA under Rule 67.3 is "independent" of those substantive requirements.

Finally, the LSA makes no reference to the constitutional dimensions of the Path. Given its historical, sociological, philosophical and political content, the Path, as a condition to practice, infringes on fundamental freedoms guaranteed to members under the *Canadian Charter of Rights and Freedoms* including:

> 2 Everyone has the following fundamental freedoms:
>
> (a) freedom of conscience …
>
> (b) freedom of thought, belief, opinion and expression …

[3] *Green* at para 3.

[redacted]

It is my respectful submission that the LSA's opinion is mistaken and neither *Rule* 67.4 nor its use to mandate the Path is within the statutory power of the LSA, nor compliant with the *Charter*.

While many members likely share the LSA's view that the Path is a constructive step towards indigenous reconciliation, that does not render it legal.

No matter how compelling the Path may be to members of the bar, personally and ethically, the rule of law in Canada depends entirely on the impartial application of law. For this reason, members are required to swear upon being called to the bar an oath that includes:

> I will as a Barrister and Solicitor conduct all causes and matters faithfully and to the best of my ability. I will not seek to destroy anyone's property. I will not promote suits upon frivolous pretences. I will not pervert the law to favour or prejudice anyone, but in all things will conduct myself truly and with integrity. I will uphold and maintain the Sovereign's interest and that of the public according to the law in force in Alberta.

Sincerely,

Glenn Blackett
Barrister & Solicitor

[redacted]

LAW SOCIETY of ALBERTA

[redacted]

December 6, 2022

Via Email: [redacted]

Mr. Glenn Blackett
[redacted]

Dear Mr. Blackett,

Re: Authority to Mandate Continuing Professional Development Education

Thank you for your question following the Law Society's Annual General Meeting. We will not be distributing the opinion we received as it is protected by solicitor client privilege, however we are pleased to outline our position to you.

As you know, the Law Society's core purpose is to uphold and protect the public interest in the delivery of legal services. Part of our active obligation is to create and promote required standards for the ethical and competent delivery of legal services and enforce compliance with those standards in a manner that is fair, transparent, efficient, proactive, proportionate and principled.

The *Legal Profession Act* (sections 6, 7(1), 7(2)(g) and (v)) and the Rules of the Law Society of Alberta (sections 67.4(1), (2) and (3)) provide the Law Society its authority to mandate continuing professional development (CPD). The role of Canadian legal regulators in mandating legal education was also confirmed by the Supreme Court of Canada (SCC) in *Green v. Law Society of Manitoba*, 2017 SCC 20 (CanLII), where the court noted that CPD programs serve the public interest and "enhance confidence in the legal profession by requiring lawyers to participate, on an ongoing basis, in activities that enhance their skills, integrity and professionalism. CPD programs have in fact become an essential aspect of professional education in Canada."[1]

In addition, Canadian law societies are working to respond to the Truth and Reconciliation Commission of Canada (TRC) Calls to Action. Specifically, Call to Action 27 provides:

> We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of resident schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Taken together, the SCC decision and the TRC Calls to Action resulted in careful consideration of what our obligations were, which included obtaining legal advice as President Ken Warren, KC, referred to in the AGM.

[1] At para. 3.

As the standards for what constitutes ethical and competent practice will evolve over time, the Law Society will continually evaluate the emerging needs and mandate CPD education as appropriate and will continue to ensure that all CPD requirements fall within the authority of the Benchers. Further, the decision to mandate any requirement for Alberta lawyers is not taken lightly. The Path (Law Society of Alberta) was designed in a way that was easy for Alberta lawyers to comply, within a reasonable period of time. Having completed The Path (Law Society of Alberta), you are aware of the format, which gave Alberta lawyers the option to stop and start the program at their leisure so that they can easily fit it in around their practices. Lastly, as the requirement to file a CPD plan is currently suspended, completion of the Path (Law Society of Alberta) was the only CPD requirement for Alberta lawyers in 2022.

Sincerely,

Elizabeth J. Osler, KC
Chief Executive Office & Executive Director
Law Society of Alberta

From: Elizabeth Osler [redacted]
Sent: Thursday, January 26, 2023 2:13 [redacted]
[redacted]
Subject: RE: LSA Special Meeting on R 67.4

Hello Roger,

Thanks for your inquiry. As this is a Special Meeting of active members of the Law Society, it will be run in accordance with the Rules of the Law Society of Alberta and Chaired by the President of the Law Society, Ken Warren, KC, as that role presides over all Bencher and Special Meetings.

We are using Zoom Webinar as the platform for the meeting as it will accommodate the greatest number of active lawyers. In accordance with Rule 33, as you are the primary petitioner, you will be deemed to have "moved" the motion and will be given preference to speak. You will have 2 minutes to speak to the motion. After that, the motion will be open to all meeting participants to debate. Participants wanting to speak will use the 'raise hand' icon. This feature will put speakers into a line up in the order in which they raised their hands. The Chair will give permission to speak in the order that the names appear. To ensure that both sides of the debate are given equal opportunity to speak, the Chair will ask the speaker if they are 'for' or 'against' the motion and will alternate between the two points of view until the time set for the meeting concludes.

In terms of the duration for the meeting, we will make a motion at the start of the meeting to extend the time to debate the motion beyond the 20 minutes set out in the Rules. This motion must be approved by 2/3 of those voting on the motion.

The chat function will be enabled but will only be viewable to the staff supporting the meeting in accordance with the meeting procedures that will be established at the beginning of the meeting by the Chair.

This is a Special Meeting to debate a policy decision made by the Benchers. What is set out in the Special Meeting notice is prescribed in the Rules and we will not be providing your contact information or a request for active lawyers to reach out to you. Lastly, the voting will be done by Zoom Webinar Poll.

Thanks for your engagement for this process. The Special Meeting Notice will be going out shortly.

Kind regards,
E.

From: roger.song@[redacted]
Sent: Wednesday, January 25, 2023 11:39 AM
To: Elizabeth Osler <Elizabeth.Osler@[redacted]
Subject: LSA Special Meeting on R 67.4

CAUTION EXTERNAL EMAIL : This email originated from outside of the organization.
Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Osler,

Further to your email of confirmation of January 21, 2023, I wanted to make a few proposals to ensure members have full information and opportunity to consider the merits for and against the motion. To that end I suggest:

- That I chair the meeting;
- That the meeting be held by Zoom for 1 hour;
- That the President or nominated Bencher and at least 4 other members each be given the opportunity to speak for up to 5 minutes against the petition (total 20 minutes);
- That I and at least 4 other petitioners and members each be given the opportunity to speak for up to 5 minutes in support of the petition (total 20 minutes);
- That the chat function be left completely open;
- That the notice package include
    - my Statutory Declaration including the petition;
    - my contact information; and
    - a request that anyone who wishes to speak for or against the motion contact me at least 3 days prior to the meeting so I can ensure that a fair representation of voices is able to speak;
- That voting be done by Zoom poll.

I will appreciate it if you could kindly confirm.

Kind Regards,
Roger

Yue (Roger) Song
宋岳律师
Barrister & Solicitor
[redacted]

SONG & HOWARD LAW OFFICE
宋岳律师事务所

This is Exhibit " FF " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

SONG & HOWARD LAW OFFICE
宋岳律师事务所
[redacted] AB T[redacted]
[redacted]

Yue (Roger) Song
Barrister & Solicitor
宋岳律师
[redacted]

January 31, 2023

To Benchers of the Law Society of Alberta
(List of Distribution)

Cc: Elizabeth J. Osler,
Chief Executive Office & Executive Director
Law Society of Alberta
[redacted]

Dear Mr. or Madam Benchers,

Re: **Rule 67.4 of the Rules of the Law Society of Alberta**

Thank you for your services as the Benchers of the Law Society and your positive contribution to the profession. I enclose a memo of January 27, 2023, explaining why I will vote in favor of the motion to repeal R 67.4 of the Rules of the Law Society of Alberta at the Special Meeting scheduled for February 6, 2023.

Under R 67.4, the Benchers may prescribe specific education requirements for the active members, in a form, manner, and time frame all prescribed by the Benchers. Any active member who does not comply with such requirement shall be automatically suspended after the deadline.

R 67.4 is about the power to impose mandatory education on active members.

I am an immigrant from communist China. When I was a student in China, I had to take a course called "Competence of Communist Ideology". For that course, I had to study the speeches of Communist Party leaders, and read the textbooks, watch the videos, and answer the questions with the correct answers and within the deadlines all as prescribed by political authorities. If I refused to take that course or failed it, I would *not* be admitted into the schools, university, or law school and I would not have been able to teach law at the law school of Peking University for 5 years. I lived and worked under this regime for more than 22 years after I started my primary school education in China.

My experience in China makes it easy for me to see that R 67.4 is a very similar type of mandatory ideological indoctrination similar in both form and content. This kind of mandatory education constitutes an insult to freedom of thought, belief, opinion, and expression. It amounts to a use of power to impose propaganda and politics.

R 67.4 is not about education of First Nations culture or history.

I am not against any education program that would help Alberta lawyers to better understand various important issues and challenges of our society including the culture and history of our First Nations if it is not for mandatory indoctrination or not under the penalty of suspension. Alberta lawyers can participate in any program voluntarily like the Path, a leaning activity that may help them to enhance

their cultural competence on the First Nations based on their professional needs under R 67.1. The absence of R 67.4 will not prevent lawyers from engaging any Continuing Professional Development on the First Nations relevant to their professional needs or long term interests.

We are not racists.

Our petition on R. 67.4 has nothing to do with any motivation against the people of First Nations but has everything to do with the Charter rights and freedoms of every Alberta lawyer including the First Nations lawyers.

None of the petitioners on R 67.4 is a racist. Some people recently labeled some of the petitioners as a racist in public or private media. Such accusation is both groundless and an infringement of the freedom of opinion and expression of the petitioners.

R 67.4 is ultra virus the Legal Profession Act (LPA).

I firmly disagree with the Law Society's condemnation of the Canadian justice system as a system of "Systemic Discrimination" on its website. As an immigrant from China, I was able to attend the University of Calgary Law School at the age of 46, get my J.D. degree at the age of 49 and be called to the bar at the age of 50. I worked at Canada's top law firm as an articling student and associate lawyer for five years and now run my own legal practice in Canada. I do not believe that the Benchers have the power under LPA to make rules to force me to submit to indoctrination on so-called "systemic discrimination" or any cultural, political or ideological subjects and force me to condemn Canada's justice system, nor do I believe that the Benchers have the power under LPA to make rules to suspend my license to make a living because I would refuse to participate in such indoctrination or condemnation.

Canada is my sweet home. May God Bless Canada!

Roger Song[1], LSA Member since 2014

cc. LSA Members

Enclosure: Memo from Roger Song to LSA members of January 27, 2023

[1] The opinions expressed in this letter are those of the author only. The author takes full responsibilities and penalties, if any, for organizing the petition on R 67.4 if they are imposed on the author publicly by due process and under the rule of law.

Benchers of Law Society as of January 13, 2023 (List of Distribution)

1. Ken Warren, KC. Bencher since 2018
[redacted]

2. Bill Hendsbee, KC, Bencher since 2018
Cummings Andrews Mackay LLP, [redacted]

3. Sony Ahluwalia, KC, Bencher since 2021
By courier: Crown Prosecutor's Office, [redacted]

4. Ryan Anderson, KC. Bencher since 2018
[redacted]

5. Lou Cusano, KC, Bencher since 2021
Torys LLP, [redacted]

6. Ted Feehan, KC. Bencher since 2021
Duncan Craig LLP, [redacted]

7. Corie Flett, KC, Bencher since 2018
Muessle Flett Law LLP, [redacted]

8. Kene Ilochonwu, KC, Bencher since 2021
Woodfibre LNG Limited [redacted]

9. Cal Johnson, KC, Bencher since 2013
Burnet, Duckworth & Palmer LLP, [redacted]

10. Jim Lutz, KC, Bencher since 2018
Dartnell Lutz [redacted]

11. Bud Melnyk, KC, Bencher since 2018
Warren Sinclair LLP, [redacted]

12. Sanjiv Parmer, Bencher since 2021
Parmar Law, [redacted]

13. Sandra Petersson, KC, Bencher since 2021

Alberta Law Reform Institute [redacted]

14. Stacy Petriuk, KC, Bencher since 2018
Jensen Shawa Solomon Duguid Hawkes LLP, [redacted]

15. Ronald A. Sorokin, Bencher since 2022
Witten LLP, [redacted]

16. Deanna Steblyk, KC, Bencher since 2018
By courier: Alberta Securities [redacted]

17. Margaret Unsworth, KC, Bencher since 2016
By courier: Justice and [redacted]

18. Moira R. Vane, Bencher since 2021
[redacted]

19. Grant Vogeli, KC, Bencher since 2021
[redacted]

20. Salimah Walji-Shivji, KC, Bencher since 2021
By courier: AgeCare, [redacted]

21. Louise Wasylenko, Lay Bencher since 2015
By courier: Law Society of Alberta
[redacted]

22. Glen Buick, Lay Benc[redacted]

23. Levonne Louie, Lay Bencher since 2022
[redacted]

24. Mary Ellen Neilson, L[redacted]

SONG & HOWARD LAW OFFICE
宋岳律师事务所
[redacted]

Yue (Roger) Song
Barrister & Solicitor
[redacted]

MEMORANDUM

Date: January 27, 2023
To Members of LSA
From Roger Song

Re: Why will I vote for the motion to pass a resolution to repeal Rule 67.4 of the Law Society of Alberta (LSA) at the Special Meeting of LSA scheduled for 11 AM February 6, 2023?

- **Background**

R 67.4 of LSA[1] did not exist until December 3, 2020 when it was adopted by the Benchers at a Benchers meeting.

Before R 67.4 being adopted and on October 1, 2020, the Benchers carried a motion by a 2/3 majority at the Bencher Meeting to mandate Indigenous cultural competency training for all active LSA members

On April 20, 2021, LSA launched the Path (Law Society of Alberta) and required all members of LSA with certain exemptions to complete the Path, an education program dictated by the Benchers, by an arbitrary deadline of October 20, 2022 or face automatic suspension under R 67.4.

In its announcement of April 20, 2021, LSA disclosed to the LSA members that the mandatory educational requirement was approved at the Benchers meeting of October 1, 2020. But it did not tell LSA members that when the mandatory education requirement was approved on October 1, 2020, R 67.4 did not even exist, and the Benchers lacked the authority to carry such motion at the time.

- **Questions each LSA member must ask himself or herself**

Under R 67.4 the Benchers would have the authority to impose on more than 10,000 LSA members whatever education as the Benchers shall dictate in terms of form, manner, and time frame, and suspend the membership of any active members without a notice or hearing for refusing or failing to take such education as the Benchers shall dictate.

---

[1] 67.4 (1) Independent of Rules 67.1 through 67.3, the Benchers may, from time to time, prescribe specific continuing professional development requirements to be completed by members, in a form and manner, as well as time frame, acceptable to the Benchers.
(2) The continuing professional development requirements of subrule (1) may apply to all members or a group of members, as determined by the Benchers.
(3) Every active member required to complete requirements under subrule (1) who does not comply within the specified time frame shall stand automatically suspended as of the day immediately following the deadline.
(4) Rule 165.1 shall apply to any suspension under subrule (3).

Under the Act, the Benchers is only a governing body of the Society.[2] The Benchers shall consist of no more than 20 active members by election and no more than 4 lay benchers by appointment.[3]

As such, LSA members must ask themselves:

(a) whether R 67.4 is compatible with other provisions of the LSA Rules.

(b) whether R 67.4 is reasonable.

(c) whether R 67.4 is *ultra vires* the Act.

(a) R 67.4 is incompatible with the other provisions of the LSA Rules.

R 67.4 is incompatible with and violates R 67.1.

R 67.1 (1) and (2) provided a definition and requirement of Continued Professional Development (CPD).[4] R 67.1 (3) requires LSA members to take the responsibilities and excise the corresponding rights and autonomy to determine whether a learning activity he or she would engage meets these criteria and therefore qualifies as continuing professional development[5].

R 67.4, effectively takes away the responsibilities and the corresponding rights of the LSA members under Rule 67.1 to determine what learning activities they want to engage or what courses, seminars videos, material, or questions they want to take to satisfy the requirement of CPD.

(b) R 67.4 is unreasonable.

R 67.4 is unreasonable. Because it effectively opens the gate and provides unrestrained license for the Benchers to engage political, cultural, or ideological propaganda on LSA members, and forces LSA members to take such education that would potentially violate the freedoms of religious belief, thoughts and conscience that each LSA member has under the Charter.

In *Green v. Law Society of Manitoba*, 2017 SCC 20 [*Green*], the Supreme Court determined that certain impugned rules of the Law Society of Manitoba are reasonable in light of the Law Society's statutory mandate. However, the impugned rules in *Green* only require all practising lawyers in Manitoba to complete CPD hours (one hour per month of practice for a total of 12 hours a year). [6]

---

[2] *Legal Profession Act* (Alberta), Section 5(1).

[3] Legal Profession Act (Alberta), Sections 10, 11 & 12

[4] 67.1 (1) "**Continuing professional development**" is any learning activity that is:
(a) relevant to the professional needs of a lawyer;
(b) pertinent to long-term career interests as a lawyer;
(c) in the interests of the employer of a lawyer or
(d) related to the professional ethics and responsibilities of lawyers.
(2) Continuing professional development must contain significant substantive, technical, practical or intellectual content.

[5] 67.1(3) It is each lawyer's responsibility to determine whether a learning activity meets these criteria and therefore qualifies as continuing professional development.

[6] 2-81.1(8) Commencing January 1, 2012, and subject to subsection (10), a practising lawyer must complete one hour of eligible activities for each month or part of a month in a calendar year during which the lawyer maintained active practising status. . . .

Green can not be used to justify R 67.4 which would allow the Benchers to (a) impose whatever education that the Benchers shall dictate in terms of form, manner or time frame and (b) automatically suspend any active member for failing to complete the education the Benchers shall dictate.

Law Society is a corporation consisting of its members.[7] It is not an education institution nor do the Benchers have any expertise to dictate education that each LSA member must undertake under R 67.4. It is unreasonable to give such broad and unrestrained power to the Benchers on education of more than 10,000 active members of LSA.

It is also unreasonable for R 67.4 to have more than 10,000 LSA member become the subject of an administrative rules suspension under R 165.1 for matters that are not administrative by nature such as education.

Before R 67.4 being adopted, the subjects of an administrative rules suspension under R 165.1 only include members suspended by operation of

(i) Rule 67.3 (failing to file a CPD plan by required deadline),

(ii) Rule 119.38 (failing to file annual report by required deadline),

(iii) Rule 147 (failing to pay a professional liability indemnity assessment within deadline),

(iv) Rule 149.2 (failing to pay a misappropriation indemnity assessment within deadline),

(v) Rule 149.7 (failing to pay Transaction and Filing Levy within deadline),

(vi) Rule 153 (failing to pay retroactive assessment within deadline) or

(vii) Rule 165 (failing to pay annual fee under rule 163 or library assessment under rule 171)

Each of the above rules is clearly and substantively administrative in nature and within the authority that the Benchers has under Section 7(2)(g) of the Act[8].

On the other hand, automatic suspension for failing to take education as the Benchers shall dictate in terms of form, manner and time frame is a poor fit for all the other matters of administrative nature under R 165.1.

(c) R 67.4 is ultra vires the Act.

R 67.4 is ultra vires the Act. Because under Section 73(1) of the Act[9], a Hearing Committee of the Law Society has the power to make an order imposing a course or courses of study specified by the Practice Review Committee only on a suspended member after the Hearing Committee -

---

[7] *Legal Profession Act* (Alberta), Section 2.

[8] 7(2) Without restricting the generality of subsection (1), the Benchers may make rules ... (g) respecting the imposition of a pecuniary penalty on a member or student-at-law or the suspension of the membership of a member or the registration of a student-at-law, without notice or hearing, if the member or student-at-law does not pay a fee or assessment, file a document or do any other act by the time specified by or determined in accordance with the rules

[9] 73(1) If the Hearing Committee determines that the conduct of the member arose from incompetence and makes an order of reprimand under section 72(1)(c) in respect of that conduct, the Hearing Committee, in addition to making the order of reprimand and any other order under section 72(2), may make one or more of the following orders:

(a) completing a hearing of the conduct of the member[10];

(b) finding that the member is guilty of conduct deserving of sanction;[11]

(c) determining that the conduct of the member arose from incompetence and making an order of reprimand under section 72(1)(c) in respect of that conduct;[12] and

(d) making an order suspending the membership of the member until the course or courses are completed to the satisfaction of the Practice Review Committee.[13]

The Act never grants the Benchers any power to impose any specific education on any active LSA members and suspend the membership of any active member who would refuse to take such education as the Benchers shall dictate in terms of form, manner, and time frame.

- **How to repeal Rule 67.4?**

If LSA members do not agree that the Benchers shall impose any further education as the Benchers shall dictate in terms of form, manner, and time frame on them and automatically suspend their membership without notice or hearing for refusing or failing to take such education, they may repeal Rule 67.4 under the procedures provided by the Act as follows:

(1) A minimum of 50 active LSA members sign a petition to call a special meeting of the Society.

The Executive Director must call a special meeting of the Society within 30 days after his or her receipt of the written petition of 50 active members setting out the business to be discussed at the meeting.[14] 20 active members shall constitute a quorum at a special meeting of the Society.[15]

(2) LSA members pass a resolution to repeal the Rule 67.4 at the special meeting of the Society.

(3) The Benchers must consider the resolution at its next Benchers meeting but would not be bound by the resolution.[16]

(4) If the Benchers fails to implement the resolution and repeal R 67.4 at their next Bencher meeting after the resolution is passed at the special meeting of LSA, at least 50 active members may sign another petition requesting the Benchers to have a mail vote of all active

---

(a) an order suspending the membership of the member or imposing conditions respecting the member's practice as a barrister and solicitor until
(i) the member has completed, to the satisfaction of the Practice Review Committee, a course or courses of study specified by that Committee, ...

[10] *Legal Profession Act* (Alberta), Section 72(1)
[11] *Legal Profession Act* (Alberta), Section 73(1)
[12] *id*
[13] *id*
[14] *Legal Profession Act* (Alberta), Section 28(1)
[15] *Legal Profession Act* (Alberta), Section 27(4)
[16] *Legal Profession Act* (Alberta), Section 29 (1)

members taken on the resolution. If at least 2/3 of those voting vote in favour of the resolution, the Benchers must implement the resolution and repeal R 67.4.[17]

[17] *Legal Profession Act* (Alberta), Section 29(2)

This is Exhibit " GG " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

SHARE:

Join Our Email List

January 31, 2023

News

LAW SOCIETY of ALBERTA

Letter from the Benchers to the Profession

**** The following letter is sent on behalf of the Law Society of Alberta's Benchers ****

The **Benchers have issued a letter to the profession** regarding the Special Meeting and their position on the matter.

Read the Letter from the Benchers

Frequently Asked Questions about the Special Meeting

On Jan. 13, 2023, the Law Society of Alberta's Executive Director received a petition signed by 50 lawyers to call a Special Meeting of the Society (Special Meeting) to vote on a resolution to repeal Rule 67.4 of the Rules of the Law Society of Alberta.

A Special Meeting of the Law Society will be held on Monday, Feb. 6, 2023 by Zoom Webinar, commencing at 11 a.m.

We encourage those looking for more information on the Special Meeting and the Law Society's mandate and authority regarding Rule 67.4 to **view our FAQ**.

Please note that the Special Meeting is only open to active lawyers. Notice of the Special Meeting, the accompanying petition and registration was sent to active lawyers on Thursday, Jan. 26. Active lawyers must pre-register using the information included in the notice by no later than Friday, Feb. 3 at 11

a.m. The virtual meeting room door opens at 10 a.m. on Feb. 6 and will close at precisely 10:45 a.m. so registered active lawyers are strongly encouraged to log in early.

Active lawyers attending the Special Meeting will vote on the resolution from the petition. Proxy voting is not permitted.

The Law Society of Alberta is dedicated to protecting the public interest by promoting and enforcing standards of professional and ethical conduct by Alberta lawyers. We are committed to ensuring a fair and transparent meeting format.

Read the FAQ

STAY CONNECTED

This is Exhibit " HH " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

[redacted]

Dear Colleagues,

Re: Resolution at February 6, 2023 Special Meeting

We write to you to ask your support in opposing a resolution before the Law Society of Alberta. The resolution is the subject of a petition challenging the Law Society's Benchers' ability to mandate specific continuing professional development and ultimately the Law Society's role as a self-regulating body. A Special Meeting of the Law Society will take place for active Alberta lawyers on Monday, February 6, 2023, when the resolution from the petitioners will be debated and voted on.

The privilege of self-regulation is at the heart of the upcoming Special Meeting. The Law Society of Alberta must continue to uphold the expectations that come with self-governance.

The Law Society has been operating as an independent regulator since 1907. In consideration of this authority, the Law Society must regulate in the public interest, which includes promoting and enforcing a high standard of professional and ethical conduct by Alberta lawyers.

Continuing professional development (CPD) programs serve the public interest by strengthening public confidence in Alberta's legal profession. Alberta lawyers are required to participate in activities that enhance their skills, integrity, knowledge and professionalism. CPD programs have, in fact, become an essential aspect of professional education in Canada. Most law societies and regulators of other professions across the country have implemented compulsory CPD programs from time to time. While we have no plans for other compulsory programs like The Path, having the ability to think critically and make thoughtful decisions is an essential role of the Benchers.

Next week, we will hear a motion submitted by 50 Alberta lawyers. They believe that the Law Society should not have the authority to mandate specific continuing professional development programming, including the recent Indigenous cultural competency course called The Path. Completion of The Path was mandated following the findings and recommendations of the Truth and Reconciliation Commission.

This motion comes as self-regulating professions face intense scrutiny. Policy makers, along with the general public, are paying close attention to whether organizations like the Law Society are focused on the public interest or on member interests. If we value self-regulation, we must ensure that we continue to discharge our duties using the lens of the public interest in everything we do, including continuing professional development. We believe that Rule 67.4 serves the public interest and should not be repealed.

We ask that you take the time to think about these important issues carefully and if you haven't already done so, please register for the February 6th meeting, join the debate and vote against the motion, supporting the Law Society in upholding its professional commitments and continuing in its role as a self-regulating body.

As a reminder, in order to participate in the meeting on February 6th at 11 a.m., interested active lawyers must register for the meeting by no later than Friday, February 3rd at 11 a.m. Once registered, you will receive a unique meeting link that will grant you access to the meeting and the right to vote. Lastly, please note that because this meeting is being held virtually, you must log in to the meeting by 10:45 a.m. on February 6th. The virtual meeting 'door' will open at 10 a.m. and will then automatically lock at precisely 10:45 a.m., preventing further admission to the meeting regardless of whether you registered or not. Please give yourself ample time to log in before the door locks at 10:45 a.m.

If you are looking for more information on the Special Meeting or the issue at hand, we encourage you to review the Law Society's FAQ.

Signed,

Law Society of Alberta Benchers

Ken Warren, KC, President
Bill Hendsbee, KC, President-Elect
Sony Ahluwalia, KC
Ryan D. Anderson, KC
Glen Buick, Lay Bencher
Lou Cusano, KC
Ted Feehan, KC
Corie Flett, KC
Kene Ilochonwu, KC
Cal Johnson, KC
Levonne Louie, Lay Bencher
Jim Lutz, KC
Bud Melnyk, KC
Mary Ellen Neilson, Lay Bencher
Sanjiv Parmar
Sandra Petersson, KC
Stacy Petriuk, KC
Ronald A. Sorokin
Deanna Steblyk, KC
Margaret Unsworth, KC
Moira Váně
Grant Vogeli, KC
Salimah Walji-Shivji, KC
Louise Wasylenko, CPA, CMA, Lay Bencher

This is Exhibit " II " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

From: Elizabeth Osler [redacted]
Sent: February 1, 2023 5:20 PM
To: roger.song [redacted]
Cc: Catherine Bennett
Subject: Re: Rule 67.4 of the Rules of the Law Society of Alberta _ with a revised memo

Thank you for your email, Mr. Song. As you have seen, we have distributed the letter that accompanied your petition. Like all lawyers interested in/participating in this Special Meeting, you are free to distribute your letters and that of the other petitioners through your personal and professional channels. The Law Society does not intend to distribute your January 31, 2023, letter to the Benchers to all members.

Kind regards,
E.

Elizabeth J. Osler, KC (she/her)
Chief Executive Officer & Executive Director
Law Society of Alberta

From: roger.song@songhowardlaw.com <[redacted]
Sent: Wednesday, February 1, 2023 4:48:34 PM
To: Elizabeth Osler <Elizabeth [redacted] ca>
Subject: FW: Rule 67.4 of the Rules of the Law Society of Alberta _ with a revised memo

Dear Ms. Osler.

I refer to the letter from the Benchers to the profession I received on January 31, 2023. In their letter, the Benchers asked the lawyers of Alberta to support in opposing a resolution before the Law Society of Alberta. The Benchers characterized the resolution as a petition challenging the Law Society's Benchers' ability to mandate specific continuing professional development and ultimately the Law Society's role as a self-regulating body.

For the record, please be advised that the petition is to repeal R 67.4 of the Rules of the Law Society of Alberta as specified in our petition that law society sent to the profession. It is not a petition "challenging the Law Society's Benchers' ability to mandate specific continuing professional development and ultimately the Law Society's role as a self-regulating body."

I respectfully request the Benchers to reissue their statement and delete their misinformation and misrepresentation on the petition to the profession.

In their letter, the Benchers also provided their reasons on why the active members shall support the position of the Benchers at the Special Meeting.

On the same day, the Benchers received my letter with my outline on why I will support the motion to repeal R 67.4. However, the Benchers took advantage of their power and position to only provide their side of the position and reasons without sharing with the profession the positions and reasons of the organizer of the petition that the Benchers received on the same day.

I hereby respectfully request that the Law Society send my letter the Benchers received on January 31, 2023 in its entirety to the profession today February 1, 2023 including my legal memo of January 27 on Rule 67.4 attached to my letter to the Benchers as well.

I believe the Law Society would agree with me that it is important for each Alberta lawyers to be informed of the positions and arguments of both side of the motion to repeal R 67.4 I am confident that the Benchers of the Law Society will graciously grant my request given the high reputation and status that each of them has in the profession and their confidence in the validity of their positions.

Yours truly,
Roger

Yue (Roger) Song
宋岳律师
Barrister & Solicitor
[redacted]

SONG & HOWARD LAW OFFICE
宋岳律师事务所
[redacted]

This is Exhibit " JJ " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Email of January 31, 2023 from Leighton B.U. Grey, K.C. to Roger Song and others on the subject of the Path and Reconciliation

---

Good evening.

Speaking as someone whose Great Grandfather was a Chief of The Carry The Kettle Band, as one who was involved in settlement of the original IRS class action, as one who represented hundreds of IRS claimants in that action, as one who continues to conduct similar actions today, as one who has represented thousands of indigenous people in the Courts of this Province since becoming a lawyer 30 years ago, and as one who has actually read the entire 3400 page Sinclair Commission Report, my issue with what the Law Society of Alberta has done is that it is not based upon data. It is instead based upon political ideology. I completed the Path and found it to be rife with inaccuracy and skewed by a post-modernist history of indigenous peoples in Canada. Most importantly, it presents a distorted interpretation of what the TRC report actually says, as opposed to the summary, which everyone so often quotes to support the trope of systemic racism in Canada.

I would encourage all of my colleagues to take the time to actually read the entire TRC report. If you have not yet done so, then I dare say that you will be astonished by what it actually says, versus what is portrayed in the mass media and by the Trudeau Government. I also highly recommend a book written by Dr. Rodney Clifton & Mark DeWolf entitled “From Truth Comes Reconciliation: An Assessment Of The Truth And Reconciliation Report”. My foreword to that book reads as follows:

“I may disagree with what you say, but shall defend to the death your right to say it.”

--Voltaire

Having reflected carefully upon “From Truth Comes Reconciliation”, I am convinced that it is an important historical work. I say this for three principal reasons. Firstly, it pays tribute to the many dedicated men and women who worked at Indian Residential Schools throughout much of the last century, the vast majority of whom did no harm to any of the children in their care. The many lifetimes of service made by these individuals are unjustly overshadowed by the now well-known atrocities committed against IRS students.

Secondly, the book questions the binary thinking about Indian Residential Schools. My own grandmother spent much of her childhood at the Brandon IRS. She passed away at the fine age of 98, although having been born on 29 February 1920, she would have insisted that she was still in her prime and not yet 25. Grandma credited the staff at IRS with educating her, providing her with proper morals, and even training her to become a nurse, a vocation in which she served during World War II until she met and married my Grandfather in 1940. Stories like hers are far from unique and may in fact be far more representative of the reality of the IRS experience than the victimhood narrative that is foundational to the Truth & Reconciliation Report.

Finally, this book is an expression of free speech that will offend people. In so doing, it will challenge their preconceived ideas about Indian Residential Schools, about Truth, and about the meaning of Reconciliation. If there is to be restoration to friendly relations, or the making of

one view or belief compatible with another, then we must first abandon the post-modernist infatuation with the pretence of taking moral responsibility to make amends for the past.

Reconciliation is not about laying blame or demanding that the other side take a knee. That is capitulation, not reconciliation. In order for there to be true reconciliation in the proper sense of the word, there must first be understanding, and a respect for a diversity of opinions and viewpoints about the legacy of Indian Residential Schools. Only through examination of all sides of the question can we reach a true understanding of what occurred and why; and it is from that intellectual and historical plateau that we may yet see our way clear to Truth and Reconciliation."

Respectfully,

Leighton B.U. Grey, K.C.

BA(Distinction) LLB, MBA, PhD (Philosophy)

Member of AB (1993), SK (2004), & BC (2015) Law Societies

Senior Partner | Licenced Mediator | Grey Wowk Spencer LLP

[redacted]

This is Exhibit " KK " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

roger.song@songhowardlaw.com

Subject: FW: Natives

---------- Forwarded message ---------
From: **Charles McKee** [redacted]
Date: Sun, Feb 5, 2023 at 11:49 AM
Subject: Natives
To: <kenneth.warren[redacted]
Cc: Roger Song <roger.son[redacted]

Sir:

I am a retired BC lawyer. I have 2 grandchildren and 17 nieces, nephews and grands who are Métis. While researching how to get them status and on the gravy train I reviewed a bit about the Truth & Reconciliation Commission and its report. I discovered the following:

1) The 3 final commissioners were 2 native males and 1 left wing female political activist married to a politically active native.

2) The final Commission Counsel was a native.

3) The report is a one sided legal brief prepared to justify payment of reparations.

4) The report has many lies, exaggerations and "PR" words.

5) No so called "unmarked grave" has produced a body, not one, and the only search was in Halifax and there GPR hits did not contain the body of any child.

6) The Furlong case was the only one to actually have proper procedure applied. Three people sued Furlong in the wake of the article, claiming to have been sexually abused former students. One later withdrew her claim and two others were dismissed after the claimants were proven not to have attended the school where Furlong worked.

7) A good Métis friend of mine whose father and aunt attended the Kamloops school told me they had better food clothing and accommodation than at home on the reserve, got an education and were very unhappy when they could not go back.

I am sure some abuse occurred at these schools and I wish it had been investigated properly. It has not and I have neither the time or money necessary to do so. The T&RC Report is of no value and it's too bad the Law Societies in Canada did not bother to read and understand its history before adopting it without question..

Charles H. McKee

Charles H. McKee

B.Comm, LL.B., J.D.

[redacted]

This is Exhibit " LL " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Calgary · Opinion

Shameful backlash to lawyers' Indigenous culture course shows why we need it

Ignorance is inexcusable. Lawyers must confront inequities in the legal system

Daniel Song · for CBC Opinion · Posted: Feb 04, 2023 2:00 AM MST | Last Updated: February 4

Judge's bench at the Edmonton courthouse. The Law Society of Alberta will hold a meeting Monday in response to a petition to remove the rule that mandates education, in the wake of a new Indigenous course. (Jason Franson/The Canadian Press)

This column is an opinion from defence lawyer Daniel Song. For more information about CBC's Opinion section, please see the FAQ.

Several Alberta lawyers have publicly questioned the existence of systemic discrimination against Indigenous people in Canada. As a member of the legal profession, I am ashamed of their public statements.

The petitioners to the Law Society of Alberta characterize their challenge to a mandatory Indigenous course in largely neutral terms; their wish is to eliminate the rule enabling mandatory education. However, the heart of the motion is unquestionably a direct attack on the Law Society's Indigenous cultural competency course called "The Path," as revealed by the petitioners' comments in a CBC article.

I offer no opinion on the Law Society's power to mandate training and education. Any honest debate about the scope of the Law Society's authority should be welcomed by a profession that prides itself in embracing independence, autonomy, and democratic values.

What is *not* up for debate, however, is the history of disadvantage that Indigenous people in this country have endured for centuries.

Wokeness?

Some petitioners declare they do not believe Canadian justice has a history of systemic discrimination. One described the Law Society's mandated course on Indigenous cultural competency as "political indoctrination" into "a brand of wokeness called decolonization."

These lawyers had the privilege of receiving a post-secondary legal education in Canada. Having benefited from higher education at accredited law schools, lawyers should be educating the public about the inequities engendered by our legal institutions.

- **Mandatory Indigenous course at risk after group of lawyers aims to change Law Society rule**

The assertion that Canada has no history of systemic discrimination and that "The Path" is an insipid offshoot of "wokeness," ranks with the belief that the Holocaust was imaginary, that cigarettes do not cause cancer, and that no one landed on the moon.

These petitioners' public statements are embarrassingly irresponsible and inexcusably ignorant.

The Path is a required course for all Alberta lawyers. On Monday there will be a vote as a group of 50 Alberta lawyers attempts to repeal the Law Society of Alberta rule which allows the governing body to mandate educational courses. (lawsociety.ab.ca)

Systemic discrimination against Indigenous people in Canada *is a fact*. Indigenous people make up less than five per cent of the Canadian population; yet they comprise more than 30 per cent of the inmate population in federal prisons.

Unless we harbour the indefensible belief that Indigenous people are born with a chromosome for criminality, then we must accept that the overincarceration of

Indigenous people is a product of systemic bias.

Indeed, the Supreme Court of Canada has impelled lower courts to take "judicial notice" of *the fact* that our history of colonialism and displacement has translated into lower educational attainment, lower incomes, and higher rates of substance abuse and violence for Indigenous people.

Courts take "judicial notice" of facts (without the need for further evidence) when those facts are "(1) so notorious or generally accepted as not to be the subject of debate among reasonable persons, or (2) capable of immediate and accurate demonstration by resort to readily accessible sources of indisputable accuracy."

Are these legally trained individuals seriously saying that they will close their eyes and thumb their noses at the Supreme Court and the rule of law?

Slow to embrace change

Indigenous communities do not deserve this assault on their dignity. As lawyers, we have the responsibility to advocate for those who cannot always fend for themselves.

Indigenous people are often the most vulnerable individuals paraded through our courts. We cannot allow this myopic petition to become emblematic of the legal profession's reputation of being slow to embrace change.

But I am confident that a large majority of my colleagues will resoundingly vote down this petition — because the petitioners' public statements *underscore* the need for the Law Society of Alberta to mandate culturally sensitive training for these very lawyers.

CBC Calgary welcomes your ideas for short opinion articles. Do you have a strong opinion that could add insight, illuminate an issue of concern to Calgary and Alberta readers? We want to hear from you. Send us your pitch at CalgaryOpinions@cbc.ca

This is Exhibit " MM " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

https://raventrust.com/alberta-lawyers-say-canada-has-no-history-of-oppression-proving-indigenous-justice-training-desperately-needed/

Alberta lawyers say “Canada has no history of oppression”, proving how desperately they need Indigenous justice training

ANDREA PALFRAMAN | FEBRUARY 7, 2023 | NEWS

Talk about entitlement.

It’s disgusting and shameful that 50 lawyers in Alberta have been trying to wriggle out of taking a free, five-hour course on Indigenous cultural competency. The resistance of a handful of litigators to simply learn about Indigenous realities shines a light on the racism and arrogance that Indigenous Nations often face when they engage with a legal system that is, too often, slanted against them.

Alberta’s Law Society requires, as do most across the country, that lawyers annually take professional development courses. Until 2020 in Alberta, there has been no prescribed content, but **in response to the Truth and Reconciliation Commission’s Call to Action #27, this course was proposed** as mandatory to every member of the Law Society of Alberta (LSA). The minority of the members of the LSA who voted against having all members take the course, called “The Path”, are deeply out of step with the heartbeat of this country.

Their tantrum comes at a time when six out of ten bestsellers on Canadian bookseller’s shelves are by Indigenous authors. It comes at a time when, in just

three weeks, over 2000 people have signed up for RAVEN's *Home on Native Land* – a free, online learning program similarly, designed to respond in part to the Truth and Reconciliation Commission Calls to Action. And it's come at a time when other responsible businesses are taking to heart the TRC call (#27) to step up and educate their teams about the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal– Crown relations.

RAVEN's own Board president, Lax Kw'alaams lawyer Jeffrey Nicholls, shares his support for that Call to Action.

"RAVEN wholeheartedly supports education on issues of Indigenous rights and law. We have promoted Indigenous-focussed education for lawyers, judges and really anyone – and it's a necessary component for the practice of lawyers."

We'd dismiss Alberta's resistant lawyers as the dinosaurs they are if they didn't, unfortunately, hold so much influence. After all, many of these so-called professionals practice law on behalf of the very governments and corporations who routinely face down First Nations in court.

We've seen their hand in the notorious delay and outspend tactics that are employed to exhaust Indigenous claimants – many of whom are forced to abandon the pursuit of justice simply because they can't sustain expensive and lengthy litigation.

We've also seen paternalism and contempt in the way Alberta (and Canada) have nickel-and-dimed Beaver Lake Cree Nation, forcing them to turn out their pockets before the court to delay granting Advance Costs that the Nation sorely needs to access justice.

Ditto the torturously slow progress of litigation through the courts. For instance, had it not been for the resilience and blazing courage of the Louis Bull Tribe, the Nation would not, today, be finally replacing a dysfunctional child welfare regime with their own tribal system.

So **it's disturbing, to say the least, that a privileged bunch of lawyers sitting on Alberta's benches are crying foul because they are now being 'forced' to confront some of the horrors of our past.** It's obscene that one of their leading voices, Calgary-based lawyer Roger Song, denies that genocide occurred, claiming Canada has no history of discrimination.

We are heartened though by the many other lawyers who are doing great work to advance Indigenous rights (shout out to the amazing folks on our Legal Advisory Team!!). It's also a great relief to see that more than 400 lawyers roundly trounced LSA's vocal and racist minority, and voted to uphold keeping to TRC Call to Action #27 by teaching "The Path".

The fact is, while they talk tough lawyers like Song —who initiated the petition to scrap the course — are undermined by the rise of Indigenous legal power. **They're behaving like schoolyard bullies who know that the smartest people in the room pose a threat to their unfair dominion, and they're lashing out.**

Tom Flanagan – another Albertan who tried to get this country to take great leaps backwards in its relationships with Indigenous Nations – warned industry years ago that if an alliance of environmentalists, progressives, and Indigenous peoples should form, it would present an unstoppable obstacle to the province's petrocrats and oily-garchs.

Well, Tom: we're here, and, as Heiltsuk's Jess Housty puts it, **"There is no force in the country more powerful than the movement we're building."**

https://raventrust.com/alberta-lawyers-say-canada-has-no-history-of-oppression-proving-indigenous-justice-training-desperately-needed/

Knowledge is power. It's good to see many other legal experts shout down the minority of Alberta lawyers who are seemingly terrified of the unstoppable Indigenous resurgence that is breaking up old institutions and remaking our country. But: there is something you can do, too, to counteract ignorance and be part of a force for change.

Sign up now for *Home on Native Land*: it's RAVEN's new self-guided course on Indigenous justice and it's free, right now. Let's demonstrate just how many ordinary people agree with the TRC – and ¾ of the Alberta Bar Association – and are willingly – no, eagerly – lining up to equip themselves with this information.

What's the best way to show a bunch of backwards bigots what real solidarity looks like? Get informed. Get involved. Visit **https://homeonnativeland.com**, click "Register", and then post on social media that you've signed up for this course. Hone your arguments so you can match sloppy, racist thinking with solid facts and smart solidarity.

This is Exhibit " NN " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

https://ricochet.media/en/3931/alberta-lawyers-refusing-mandatory-indigenous-training-is-proof-the-training-is-desperately-needed

Alberta lawyers refusing mandatory Indigenous training is proof that the training is desperately needed

Fifty lawyers decry it as ‘political indoctrination’ and ‘wokeness’

Opinion by

Andrea Palframan

FEBRUARY 15, 2023

Photo: Depositphotos

This month, 50 members of the Law Society of Alberta tried to wriggle out of taking a free, five-hour course on Indigenous cultural competency. Using tropes borrowed from the American far-right, a vocal minority of LSA members denounced mandatory training as “political indoctrination” and “a brand of wokeness.”

Alberta’s law society requires, as do most across the country, that lawyers take professional development courses annually. The Truth and Reconciliation Commission’s Call to Action #27 asks lawyers to learn about the history and legacy of residential schools, UNDRIP, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. So, the LSA proposed that every member take a free course, called “The Path: Your Journey into Indigenous Canada” or face penalty of suspension.

The Path “was designed to help Canadians increase their Indigenous cultural understanding in a Canadian context,” according to the law society’s website.

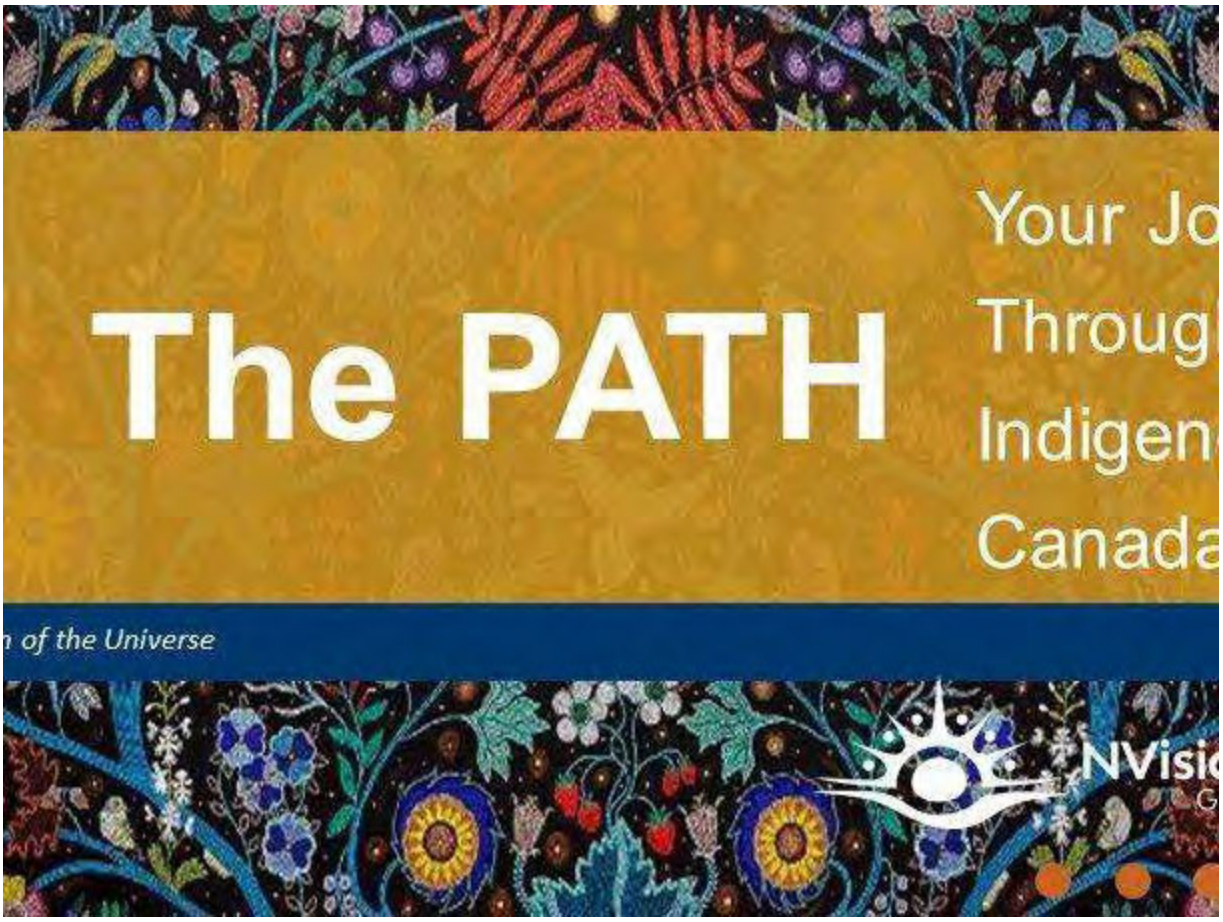
The resistance of a handful of litigators to learn about Indigenous realities shines a light on the racism and arrogance that Indigenous nations often face when they engage with a legal system that is, too often, slanted against them.

Meanwhile, more than 400 lawyers and other Albertans with law-related backgrounds wrote a letter in support of maintaining the cultural competency requirement.

In a vote, 2,609 lawyers roundly trounced the LSA’s racist minority of 864, voting to uphold mandating its members educate themselves.

They may be vocal, but there are positive signs that their beliefs and values are deeply out of sync with the heartbeat of this country.

https://ricochet.media/en/3931/alberta-lawyers-refusing-mandatory-indigenous-training-is-proof-the-training-is-desperately-needed



The Truth and Reconciliation Commission's Call to Action #27 asks lawyers to learn about the history and legacy of residential schools and Indigenous law. So, the law society of Alberta proposed that every member take a free course, called "The Path: Your Journey into Indigenous Canada."
LSA

Just this year, more than 2,000 people signed up to deepen their understanding of Indigenous rights in Canada through RAVEN's Home on Native Land learning series. This series is part of RAVEN's education mandate, which supports their efforts to level the playing field by fundraising for legal defence funds to provide access to justice for Indigenous Nations who are in court to protect land, air and water for future generations.

RAVEN's President Jeff Nicholls said that RAVEN wholeheartedly supports public education, and education within the legal profession, especially on issues of Indigenous rights and law. "RAVEN has promoted Indigenous-focused education for lawyers, judges, and really anyone through our Home on Native Land learning series," he said. "Thanks to the advocacy of Indigenous peoples and their supporters, the law of Canada has changed; the legal

profession needs to change with it to embrace the new reality of reconciliation and respect for Indigenous laws."

We'd dismiss Alberta's resistant lawyers as colonial antiques, however, we can't forget they wield influence. Many of these professionals practice law on behalf of the very governments and corporations who routinely face down Indigenous nations in court.

We've seen their hand in the notorious delay and outspend tactics that are employed to exhaust Indigenous claimants — many of whom are forced to abandon the pursuit of justice simply because they can't sustain expensive and lengthy litigation.

Take the experience of our partners, Beaver Lake Cree Nation. Since they filed their original statement of claim in 2008, the Alberta nation has faced motions to strike, a steep climb through three levels of court, and an appeal, all before spending even one day at trial making their arguments in support of their groundbreaking Defend the Treaties challenge.

It's disturbing, to say the least, that lawyers sitting on Alberta's benches are crying foul because they are now being "forced" to confront some of the horrors of our past. It's disturbing that one of their leaders, Calgary-based lawyer Roger Song, denies that genocide occurred, claiming Canada has no history of discrimination.

The unstoppable Indigenous resurgence that is breaking up old institutions and remaking our country may terrify some. But, RAVEN's success is an indicator that there are many more individuals, educators, and businesses who are ready to take on the important work of building better Indigenous-settler relationships. Through interviews with some of the finest legal minds in the country, together with illustrative cartoons and lessons, taking up Home on Native Land equips an active majority to loudly participate in the courageous conversations that are clearly still needed in this country — and reveal how great the support for Indigenous justice and an inclusive future really is.

Andrea Palframan is a climate activist and director of communication and engagement with RAVEN

This is Exhibit " OO " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

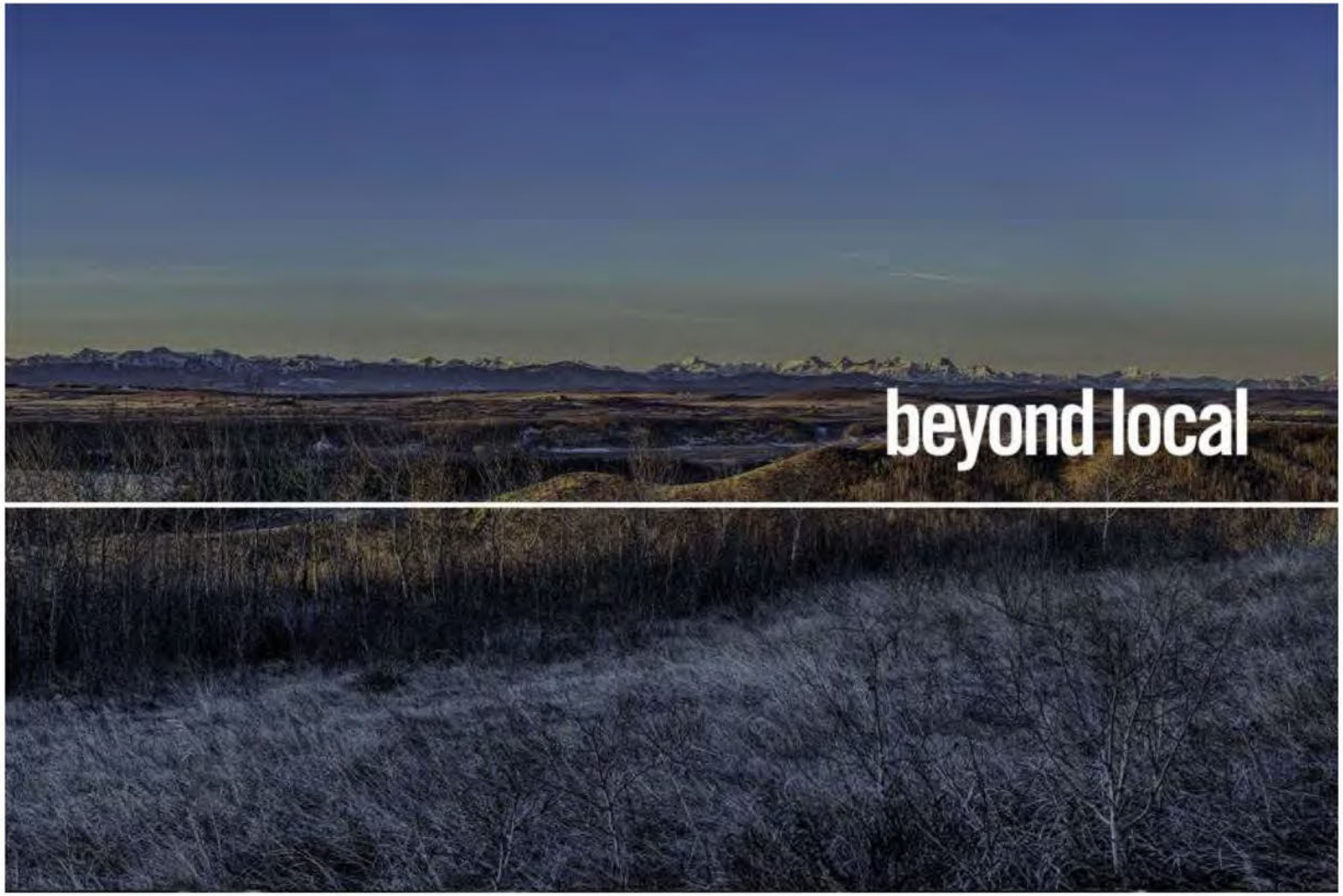
A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

St. Albert Gazette

Small group of Alberta lawyers challenge mandatory Indigenous training course

Jeremy Appel, Local Journalism Initiative Reporter, Alberta Native News
Feb 6, 2023 1:00 PM



Listen to this article
00:06:01

(ANNews) - A group of 50 lawyers has written a petition to the Law Society of Alberta (LSA) protesting a mandatory free five-hour training course in Indigenous culture, setting the stage for a special law society meeting on Feb. 6, where the rule that allows the society to mandate certain types of training will be put to a vote.

Meanwhile, on Feb. 2 it was reported that 400 active members of the Law Society of Alberta, along with 124 others, including non-active LA members, legal academics, articling students, law students and legal organizations, have signed a letter to express support for the existing Indigenous cultural competency requirement.

The letter of petition is framed around opposition to the society's Rule 67.4, which was enacted in 2020 and allows the LSA to establish "continuing professional development requirements" for members. The only requirement implemented since the rule's inception has been for lawyers to take an Indigenous cultural competency course The Path, or face suspension.

The Truth and Reconciliation Commission's Call to Action 27 specifically asks the Federation of Law Societies of Canada "to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations."

The LSA represents 11,100 lawyers across the province. Since the free course launched on April 21, 2021, 26 lawyers have been suspended for failing to take it within 18 months, CBC News reported.

Calgary-based lawyer Roger Song, who initiated the petition, told the CBC that he believes mandating a specific "education program" reminds him of Communist China, where he was born and raised.

"That type of regime is wrong," Song said, denying Canada has any history of discrimination.

Glen Hackett, a Calgary-based lawyer with the right-wing Justice Centre for Constitutional Freedoms, called the course a form of "re-education, or indoctrination, into a particular brand of wokeness called "decolonization" in a blog post for the Dorchester Review, a publication which frequently engages in residential school denialism.

"Through a combination of post-modern ideology and a clumsy, distorted and lopsided history, the main lesson intended for Alberta lawyers seems to be that Canadian history, as it relates to our

indigenous people, is entirely one of racism and genocide — evils which somehow remain inherently lodged in Canadian law and legal structures," he wrote.

David Khan, a Calgary-based lawyer with Ecojustice Canada who focuses on Indigenous Treaty rights, strongly objected to this characterization of the course, arguing that its opponents display "an arrogant entitlement and a willful ignorance of the colonial history of Canada."

"Lawyers are at the pinnacle of society. We wield unparalleled legal, political and economic power. We have a responsibility to inform ourselves about Canada's history of colonialism and systemic racism against Indigenous people — a history that inordinately benefits us today — and a duty to address our past, reduce inequality today and foster a fair, just and equitable Canada in the future," he wrote in an email to Alberta Native News.

Edmonton-based lawyer Avnish Nanda said on Twitter that the LSA is in the midst of a "culture war over what our duty ... is to the public interest."

Song released a statement on Feb. 1, which quoted Leighton Grey, an Indigenous signatory to his petition, at length. Grey resigned from a provincial judicial vetting committee in 2020 after the CBC revealed his pattern of making racist, antisemitic comments online.

In the quote, Grey recommends a book on the TRC, which he says "pays tribute to the many men and women who worked at Indian Residential Schools throughout much of the last century, the vast majority of whom did no harm to any of their children in their case."

Koren Lightning-Earle, legal director atA Wahkohtowin Law and Governance Lodge at the University of Alberta, told Windspeaker that she "started the ball rolling" on mandating Indigenous cultural competency as the LSA's Indigenous initiatives liaison.

She said the petition signatories "really need to take a look at why they are not comfortable about taking this training."

"Sometimes when we learn about things that are foreign to us, it makes us feel uncomfortable. And reconciliation isn't about putting blame. But your feelings, when you're learning this information, [are] going to come up, so I think people really need to take some time and explore why they feel that way," Lightning-Earle said.

Chad Haggerty, a Metis lawyer in Calgary, told the CBC the letter's signatories ""reflect anti-Indigenous sentiments that are prevalent in Canada," but added he isn't sure making the course mandatory outside of law schools is the correct approach.

"You can't mandate common sense or compassion ... because opening closed minds is next to impossible," he said.

The Canadian Bar Association issued a Jan. 30 statement saying regulatory bodies "should have the authority to determine which learning activities are necessary to maintain a high professional standard and the integrity of the legal profession as one that serves the public interest."

The LSA's Benchers, or board, wrote a Jan. 31 open letter to its members, urging them to attend the Feb. 6 meeting and vote against the petitioners' motion, framing the vote as one that challenges the "privilege of self-regulation [and] the expectations that come with self-governance."

"Policy makers, along with the general public, are paying close attention to whether organizations like the Law Society are focused on the public interest or on member interests," the letter said.

"If we value self-regulation, we must ensure that we continue to discharge our duties using the lens of the public interest in everything we do, including continuing professional development.

Comments (0)

This is Exhibit " PP " referred to
in the Affidavit of
Yue Song
Sworn before me this 6 day
of December 2023

A Commissioner for Oaths in and for Alberta
Glenn Blackett
Barrister & Solicitor

Alberta lawyers vote 75% in favour of mandatory education, including Indigenous cultural competency

Province's legal regulator holds meeting to debate resolution to remove rule mandating The Path

A motion to remove a Law Society of Alberta resolution mandating continuing professional education, including an Indigenous cultural competency course, was defeated by a 75 percent to 25 percent margin, with close to 3,500 provincially licenced lawyers casting votes.

At the end of a meeting lasting about two hours, in which the motion was vigorously debated for an hour, 864 “Yes” votes were cast to repeal the rule allowing the LSA to mandate CPD, and 2,609 “No” votes were cast to preserve the status quo.

To adopt the resolution 1,737 votes were needed. The final count showed 24.9 percent voted yes and 75.1 percent voted no.

After the vote, LSA benchers said in a statement they are"grateful" to Alberta lawyers for demonstrating their support. Maintaining the rule "allows the law society to continue to uphold the expectations that come with self-governance."

The statement added the LSA "must regulate in the public interest, which includes promoting and enforcing a high standard of professional and ethical conduct by Alberta lawyers." There is a balance to achieve between setting standards of competence to protect the public interest and allowing lawyers to choose their own continuing professional development.

Interest in the meeting was high, with more than one-third of the approximate 11,000 licenced Alberta voters participating in the Zoom webinar. The attendance at the virtual meeting "showed an unprecedented level of engagement that reflects well on our profession," the statement from the benchers said.

Votes taken during the meeting, including the final vote on the resolution, were done anonymously via Twitter's "Twitter Poll" feature, despite a call from some that the vote should be recorded "in the public interest."

On Oct. 1, 2020, LSA benchers carried a motion by a two-thirds majority to mandate Indigenous cultural competency training for all active Alberta lawyers. To do this, the benchers amended its rules to expand its authority by adopting Rule 67.4, which says the society can mandate Continuing Professional Development courses if it chooses.
Adopting Rule 67.4 allows the LSA to mandate a free, five-hour online course, The Path, which teaches Indigenous cultural competency. It was developed by NVision Insight Group. The LSA set an 18-month deadline for completing the course, ending on October 20, 2022. Since then, dozens of lawyers have been suspended for not completing the course.

Recently, 51 lawyers signed a petition asking for the removal of the rule, leading to Monday's special meeting of the LSA. In an accompanying letter, opponents of this rule argue that benchers are only allowed to mandate an education course called the "bar course" as part of the process for being admitted to the bar. They say that under rule 67.1 (3), each lawyer has the freedom and the responsibility to determine whether a learning activity qualifies as continuing professional development.

While *Canadian Lawyer* and other media organizations were locked out of the meeting, those on the webinar used Twitter to describe what was happening in real time. This included Dennis Buchanan, an Alberta and Ontario labour and employment lawyer and blogger based in Edmonton.

For this meeting, LSA benchers amended the rules for motion consideration to 60 minutes from 20 minutes, with a maximum of two minutes per person.

One society member, Lubos Pesta, objected to the panel at the meeting, alleging "apprehension of bias." The Chair of the meeting, Gowlings lawyer and LSA president Ken Warren, KC, said that was not a point of order but an allegation of impropriety.

Speakers at the meeting were recognized in alternating order, depending on whether they declared themselves for or against the resolution.

Organizers of the petition claimed in their letter that they “do not oppose it based on a belief that understanding Indigenous culture is unimportant.” Instead, “we oppose it because we do not believe the benchers have or should have the power to mandate cultural, political, or ideological education of any kind on Alberta lawyers as a condition of practice.”

Calgary Lawyer Roger Song, the first name on the petition and one of the petition organizers, spoke first, as he was regarded as the mover of the motion for this meeting. He called mandatory CPD “a dark path,” comparing it to mandatory communist indoctrination in China, adding that it is *ultra vires* and against the public interest.

The mandatory course is a direct response to the Truth and Reconciliation Commission of Canada’s call to action 27, which asks the Federation of Law Societies of Canada to “ensure that lawyers receive appropriate cultural competency training.” However, Song said these calls to action are not “legally binding.”

Since enacted, Rule 67.4 has been used only to mandate The Path. "We have not identified other courses that we believe should be mandatory," the benchers' statement said. "However, the flexibility granted in Rule 67.4 is critically important so that we can thoughtfully consider whether specific education courses are necessary to protect and advance the public interest."
Glenn Blackett, another lawyer who signed the petition, said at the meeting that while he acknowledges the importance of reconciliation, mandating The Path course is wrong and will make things worse and that it is not in the regulator’s place to make it compulsory. He also argued that the new Rule adopted to make CPD courses mandatory, Rule 67.4 is “not intra vires under the Legal Professions Act.”

Kent Teskey, President of the LSA when The Path course was mandated, told those on the Zoom webinar that the law society has the right to regulate in the public interest, including taking measures to address historical injustices against the Indigenous community.

The Alberta Lawyers Indemnity Association president, David Weyant, spoke in favour of the CPD requirements and argued in his two minutes that the law society has the right to impose them.

Brooks Archand-Paul, a Cree lawyer and candidate for the NDP in the riding of Edmonton-West Henday, spoke against the motion, saying the goals of the law society include equity, diversity and inclusion. He also noted the importance of acknowledging different cultures within the legal profession. Archand-Paul added that the injustices suffered by Indigenous peoples are contemporary, not merely historical.

Other lawyers, who wanted Rule 64.7 removed, questioned why it has been maintained, even after making all members go through The Path course. They also referenced the automatic suspension for not completing the course, saying this is a heavy-handed response. Some also wondered about the efficacy of mandatory CPD, saying the system is oriented toward attendance rather than learning. Others compared mandatory CPD to sending Indigenous children to residential schools.
Caitlin Cave of the Indigenous Advisory Committee of the LSA spoke against the resolution, saying it goes beyond attacking the LSA's authority, but attacks the Path itself and is rooted in racism.

At that point, lawyer Louis Belzil, one of the lawyers who signed the petition asking for the Rule to be removed, raised a point of order about impugning the motives of the resolution. Meeting chair Warren sustained that point.

Lawyer Buchanan tweeted after the meeting, saying he was "very happy with the outcome - "not just that 'No' won, but that it wasn't close." And while there were a handful of remarks that were "appalling," it was "only a handful."

He added: "The distasteful hyperbolic characterizations of mandatory CPD was a very small part of that hour-long debate. "It's important to be aware of the existence of those views, but ALSO to remember - particularly given the result - they're not representative of the bar at large.

Buchanan also said he was happy to hear Indigenous lawyers giving their perspectives at the meeting. "Their voices need and deserve to be a major part of debates like this, but their community is very underrepresented in the profession."

Related stories

Fireworks expected at debate on Alberta regulator's mandatory Indigenous cultural competency course

Alberta law society launches mandatory Indigenous cultural competency education program

Free newsletter

The Canadian Legal Newswire is a FREE newsletter that keeps you up to date on news and analysis about the Canadian legal scene. A separate InHouse Edition is delivered on a regular basis, providing targeted news and information of interest to in-house counsel.

Please enter your email address below to subscribe.

Enter your email address here

SIGN UP

Recent articles & video

Roundup of law firm hires, promotions, departures: October 23, 2023 update

SG Chief Justice Sundaresh Menon steps down as president of the ASEAN La...

Cybersecurity incident protection becoming prohibitively expensive as...

Manitoba court upholds restrictions on growing recreational cannabis at...

Lenczner Slaght acts in $500-million commercial case

BC Supreme Court refuses to sever liability and damages in grocery store slip-and-fa...

Most Read Articles

How Reema Khawja's work at the Ontario Human Rights Commission aligns with her values

17 Oct 2023

NB, NL, PEI and Quebec announce judicial appointments

17 Oct 2023

SCC hearing case with implications for government funding of First Nations police services

17 Oct 2023

Cybersecurity incident protection becoming prohibitively expensive as threats multiply, says lawyer

20 Oct 2023

This is Exhibit " QQ " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

https://www.thestar.com/news/canada/alberta-lawyers-launch-petition-against-mandatory-course-on-indigenous-history/article_fe98c757-f19f-554f-9bca-641843bc4549.html

CANADA

Alberta lawyers launch petition against mandatory course on Indigenous history

Fifty lawyers are calling on the law society to repeal the rule, saying it's an issue of professional autonomy.

By **Omar Mosleh Staff Reporter**

Jan 31, 2023

The Law Society of Alberta's Benchers said they adopted the rule in December 2020 and made the course mandatory in response to the Truth and Reconciliation Commission's Calls to Action.
Kevin Tuong / Torstar file poto

EDMONTON—A group of lawyers in Alberta is pushing back against a rule mandating professional development, which currently only applies to a course focused on Indigenous history and contemporary issues.

The petition, signed by 51 lawyers, calls for a special Law Society of Alberta meeting to vote on repealing Rule 67.4, which requires all Alberta lawyers to take an Indigenous cultural competency course called “The Path” or face penalty of suspension.

In a statement posted online Tuesday, the Law Society of Alberta’s Benchers said they adopted the rule in December 2020 and made “The Path” mandatory in response to the Truth and Reconciliation Commission’s Calls to Action, which call for law societies to ensure lawyers undergo Indigenous cultural competence training.

“The decision to make the program mandatory was not taken lightly, particularly given that an administrative suspension was the consequence of non-compliance,” the statement said. “The Benchers appreciate the significance of mandating education for Alberta lawyers and are cautious to make sure this is done in the public interest.”

The lawyers backing the petition argue the rule “unnecessarily diminishes and hinders professional autonomy in the area of (Continuing Professional Development) to the detriment of the profession and the public.”

Roger Song, a lawyer in Calgary who headed the petition and whose name appears on it first, said he has no issues with the course in question, but is opposed to it being mandatory.

“The way they kind of compel this type of education makes me uncomfortable,” Song said.

He worries it could lead to the law society requiring him “to participate in certain education programs which I believe is … political propaganda.”

Song said he did take the course, under protest, to avoid suspension.

He added he would have no issue with the course if it was optional.

Since the petition was covered by the media, Song said his inbox has been flooded with angry emails and that people are accusing him of being racist.

“It is perfectly normal for people who have different opinions on the same subject, I think that is a healthy society,” he said. “But also some of the petitioners and myself received emails labelling us as racist. I don’t think that is fair.”

Some, such as Glenn Blackett, a Calgary-based lawyer with the Justice Centre for Constitutional Freedoms, argued in an op-ed that the course is a form of “wokeness” and compared it to indoctrination. Blackett also questions the legality of the mandate.

A website for the consulting company that developed the course describes it as an “online course on the history and contemporary realities of First Nations, Inuit and Métis in Canada.”

Koren Lightning-Earle, an Indigenous lawyer, legal director of the Wahkohtowin Law and Governance Lodge (a research unit based out of the University of Alberta) and a founding member of the law society's Indigenous advisory committee, said she was discouraged to hear of the petition.

"I'm disappointed, but I'm not surprised," Lightning-Earle said. "I live in Alberta … I've been doing this training for a long time now and there's always some sort of pushback."

She said the course covers the "bare minimum" when it comes to the history of Indigenous Peoples in Canada and the impacts of colonialism. She said it's no different from what's being taught to children in elementary schools and that it's only in the last 10 years that these conversations have been highlighted in Canadian discourse.

"My 16-year-old could teach this course … people do not understand, do not have enough education about Indigenous Peoples in Canada because our education system failed in that department."

Lightning-Earle doesn't buy the argument that those opposed are only objecting because they are being forced to take the course.

"There's more to it than just saying I don't want to be regulated … when the only regulated (Continuing Professional Development) in Alberta is cultural competency training," she said.

"People don't want to believe that these horrible things happened because then they think they have to feel guilty about it … Reconciliation isn't about feeling guilty. But it is about acknowledging and learning about what happened and

paying respect to those that it happened to," she added.

Since it was enacted, Rule 67.4 has only been applied to mandate "The Path." But the Benchers' statement says there are other specific education requirements, including the "Principal Training Course," a one-time requirement for all lawyers who want to be principals, which allows them to assign legal authority to another person (the agent).

There are also three online courses for "Responsible Lawyers," who are responsible for trust accounting and safety at law firms.

In Ontario, the Law Society of Ontario introduced a requirement in 2018 for lawyers and paralegals to complete three hours of "Equality, Diversity and Inclusion Professional Development" between Jan. 1, 2018, and Dec. 31, 2020, following by an additional hour every year thereafter.

The Alberta Benchers added that they are opposed to the petition's resolution and are urging members to vote against it.

A special meeting to vote on the petition's resolution is scheduled for Feb. 6.

Omar Mosleh *is an Edmonton-based reporter for the Star. Follow him on Twitter:* **@OmarMosleh.**

This is Exhibit " RR " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December 2023

A Commissioner for ~~Oaths in~~ and for Alberta

Glenn Blackett
Barrister & Solicitor

[redacted]

From: Anita Simaganis [redacted]
Sent: February 7, 2023 4:17 PM
To: roger.so[redacted]
Subject: Petition

You still suck as a human being & now the AB law society thinks so too. Ha ha ha

This is Exhibit " SS " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

[redacted]

[redacted] Eunice Roulette [redacted]
Sent: February 7, 2023 1:29 PM
To: roger[redacted]
Subject: Motion to scrap mandatory Indigenous 'cultural competency' training for Alberta lawyers fails

Roger Song:

What a disgusting motion you put forward. Immigrants, settlers and colonists, such as yourself came to our stolen land and were provided opportunities that were denied to First Nations people.

Again and again, our history is marginalized and you are part of it. You should be ashamed of yourself, best thing to do is go back to where you and your ancestors came from.

Eunice Roulette
Sandy Bay First Nation, Manitoba

This is Exhibit " TT " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

[redacted]

From: Tim <[redacted]
Sent: February 5, 2023 11:55 AM
To: roger.song[redacted]
Subject: Racism

Hello

I am writing to your firm to protest your refusal to take a 5 hour course. You show a lack of ethical, moral leadership by promoting a racist, intolerant and ignorant view of our Canadian history. Read a book , look at the ongoing discovery of bodies buried at residential school sites.

I was very sad to hear that a "lawyer" with a supposed educated background would be opposing such a necessary (albeit minor in scope) 5 hour course in the name of reconciliation.

You should be ashamed of yourself.

I imagine that you have kids and others who might look up to you. I urge you to do what is right for our shared future.

Your pathetic hateful refusal to take the course and to be protesting its existence is repulsive.
Do you ignore history? Did you hear about the head tax or internment camps or how about the Nazis? Should we sweep our inconvenient truths under the carpet.

Your attempt to erase history is akin to racism and I believe the judge will rule with the side of the just and proud people of this country who admit when we have wronged.

I think you might be living in the wrong country. I'm sure there is a great job for you among the haters in the US.

regards,

Tim

[redacted]

This is Exhibit " UU " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

[redacted]

From: Robert McCrank [redacted]
Sent: February 3, 2023 10:07 AM
To: roger.song[redacted]
Cc: 'Law Society of Alberta'
Subject: RE: Special Meeting of the Law Society Monday February 6, 2023 on Rule 67.4

Mr. Yue (Roger) Song (and all signatories to this Petition)

Sir:

I regard your petition as frivolous and vexatious.

There is no basis whatsoever for you to assert that "*Rule 67.4 of the Rules of the Law Society of Alberta authorizes the Benchers to prescribe and mandate specific Continuing Professional Development (CPD)* ***including cultural, political, or ideological education*** *on Members as* a *condition of practice*."

The rule contains no such authorization nor could it be implied from the text or context of the Rules as a whole.

Your "information package" contains nothing of relevance to your position.

This proceeding is a travesty of your making which is causing an enormous disruption to the working of the Benchers and administration of the Law Society, not to mention the !0,000 active members whose intervention is necessary to prevent your mischief.

Thank You

Robert D. McCrank
Barrister and Solicitor
[redacted]

From: roger.song [redacted]
Sent: February 2, 2023 3:52 PM
To: rdmlaw[redacted]
Subject: Special Meeting of the Law Society Monday February 6, 2023 on Rule 67.4

Dear members of the Law Society of Alberta,

Please see the information package for the special meeting of the Law Society of Alberta scheduled for February 6, 2023 prepared by the organizer of the petition by the link below:

https://1drv.ms/b/s!Akt6FoH3NvnXgTpcjFbFv6Mp8XVq?e=l8UMqa

Regards,

Yue (Roger) Song
宋岳律师
Barrister & Solicitor

[redacted]

SONG & HOWARD LAW OFFICE
宋岳律师事务所
[redacted]

This is Exhibit " VV " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

SHARE:

Join Our Email List

February 6, 2023

News

LAW SOCIETY of ALBERTA

Special Meeting Outcome: Resolution Defeated

On Feb 6, 2023, a Special Meeting of the Society was held for active lawyers to vote on a resolution to repeal Rule 67.4 of the Rules of the Law Society of Alberta. This resolution was defeated by a vote of 2,609 to 864, of the 3,473 votes cast.

The Law Society appreciates the interest and engagement from the profession on this issue. The Benchers have issued a statement regarding the outcome.

Since the resolution did not pass, no further action is required by the Law Society.

Read the Statement

STAY CONNECTED

This is Exhibit " WW " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

Approved 2023 Special Meeting Minutes

Special Meeting of the Law Society of Alberta ("Law Society")

February 6, 2023

Zoom Webinar

11:00 a.m.

Item

1 Call to Order

Mr. Ken Warren, Chair, called the Special Meeting (Meeting) to order at 11:00 a.m.

The Chair reported that the Meeting was called in accordance with clause 28(1)(b) of the *Legal Profession Act* (Act) in response to a petition received by the Executive Director on Friday January 13, 2023.

On January 26, 2023, the notice of the Meeting was sent to active members with the proposed agenda and the petition providing notice of a resolution that Rule 67.4 be repealed.

2 Confirmation of Quorum

There were 3748 active members present for the Meeting, as well as the Law Society's four Lay Benchers attending as guests to observe, but not participate in the Meeting.

The Chair stated that section 27 of the Act stipulates that 20 active members constitutes a quorum at a Special Meeting and therefore quorum was met.

3 Review of Meeting Special Rules and Etiquette

As is the Benchers' tradition, and as an act of reconciliation, the Chair delivered a Provincial Land Acknowledgment.

The Chair provided an overview of the meeting procedures, technology use and the Meeting Special Rules and etiquette.

4 Adoption of the Agenda

It was moved, by Ms. Margaret Unsworth, and seconded **that the proposed agenda be adopted.**

During debate the following points of order were raised:

- To request a recorded rather than anonymous vote for public interest.

The Chair responded that the technology was set to anonymous, could not be changed and that taking a roll call vote for decisions such as these is not common.

- To object to the constitution of the panel and appointment of the Chair due to bias for reasons of having pre-determined the issue and being strongly in support of one side.

The Chair ruled that the point of order was not well taken in that the objection was an allegation of impropriety by the Chair, not a point of order raising a breach of the rules. As a point of information, he advised that the Chair and Benchers were not sitting in any adjudicative capacity. The Chair was committed to fulfilling his obligation to the assembly as an impartial facilitator of the meeting including following the order of business, recognizing members who were entitled to seek the floor, to state and put to vote all questions that legitimately come before the assembly, to promote balanced debate, enforce the rules, and expedite business. The Chair does not participate in debate and assists members in completing the business of the assembly to have a balanced debate and get to a vote on the resolution.

- To request that Mr. Song's letter of January 30, 2023, in support of the motion, be circulated using the chat function.

The Chair ruled that the point of order was not well taken as it did not pertain to a breach of the rules and no additional materials would be circulated. He added that Mr. Song would have preference to speak.

It was moved, by Sebastian Anderson, and seconded **to call the previous question** on the adoption of the agenda. Voting on the motion was conducted via anonymous Zoom poll. The tellers' committee report was given by Nadine Meade as follows:

The number of votes cast 3564

The number of votes necessary for adoption (2/3) 2376

Votes for motion 2869

Votes against motion 695

The Chair announced that the motion was adopted.

Voting on the motion **that the proposed agenda be adopted** was conducted via anonymous Zoom poll. The tellers' committee report was given by Nadine Meade as follows:

The number of votes cast 3606

The number of votes necessary for adoption (majority) 1804

Votes for motion 3531

Votes against motion 75

The Chair announced that the agenda was adopted.

5 Consideration of the Proposed Resolution

The Chair confirmed that the proposed resolution **that Rule 67.4 be repealed** was moved by Mr. Yue (Roger) Song, as the submitter of the petition, and that the signatories of the petition were collectively seen as seconding the resolution.

Debate on the proposed resolution began at 11:41 a.m. and lasted until 12:41 p.m., when the 60-minute time limit for debate expired.

The Chair recognized Mr. Song as entitled to preference in speaking in debate. Debate then alternated between those speaking against and those speaking for the resolution.

Points made in debate for the resolution included:

- Mandated education is a form of indoctrination.
- Questions were raised regarding the Benchers authority to mandate education.
- Concern was expressed about potential future mandated political, cultural, social, and/or historical education.
- The petition is not about race or The Path.
- The Law Society should regulate for competence and ethics. The Path is not connected to a lawyer's practice.
- The Truth and Reconciliation call to action has been fulfilled and Rule 67.4 should be repealed.
- Education should be encouraged not imposed.

- Mandating education is an authority overreach by the Law Society.
- Suspending lawyers' livelihoods should be for serious offences and not for non-compliance of completing an education requirement.
- The rule should be replaced with one that is narrower and more balanced.

Points made in debate against the resolution included:

- Support for regulators imposing required Continuing Professional Development to protect the public by ensuring a high standard of competence.
- Self-regulation is a privilege in return for ethical and competent service as lawyers and as Benchers are elected to govern in the public interest, there must be the power to impose standards of competence and in unique circumstances to mandate the particular nature of the competence such as Indigenous Cultural Competency.
- A Law Society strategic goal is equity, diversity and inclusion and the Law Society has taken a moral approach to see, acknowledge and understand history.
- The Supreme Court decision, *R. v. Gladue*, indicates that it is incumbent on the Law Society to ensure that lawyers understand Indigenous history.
- Rule 67.4 has been used in the public interest for Trust Safety, Responsible Lawyer Training, Principal Training as a result of the Articling Survey Results and Indigenous Cultural Competency training in response to the Truth and Reconciliation Commission's Calls to Action.
- Section 7(1) of the *Act* gives the Benchers broad rule making authority for numerous purposes including how the Law Society is to fulfill the duties that are imposed on it as a self-governing profession.
- The Supreme Court of Canada decision, *Green v. Law Society of Manitoba*, provides Law Societies with independence and authority that can be broadly interpreted.
- Rule 67.4 does not refer to political, cultural or ideological education.
- If the resolution passes, self-regulation is at risk and as the legal profession is often called upon to challenge the authority of the state and protect the rights of individuals, it is incumbent on the regulator to ensure lawyers are educated and competent.

- The Path content was vetted by Indigenous advisors and implemented by the Law Society in good faith to strengthen cultural competence in the province.

During debate the following points of order were raised:

- The speaker is impugning the motives of the mover as being racist and is out of order.

The Chair ruled the point of order well taken; the remarks of the speaker were not in accordance with the meeting decorum and were regarded as being disrespectful of other lawyers.

- The use of the word Indians is offensive language and a request was made that the speaker refrain from referring to Indigenous peoples as Indians.

The Chair acknowledged that the use of the term Indian referenced in the Indian Act is appropriate, otherwise, ruled the point of order well taken with respect to other uses of the term.

- Comparing top-down approaches from the Law Society to lawyers as compared to the British or Canadian Government to Indigenous people is not a fair comparison.
- The Chair ruled the point of order not well taken because it does not relate to a procedural item. The Chair reminded the speakers of the assembly to be respectful and use appropriate language.

Voting on the resolution **that Rule 67.4 be repealed** was conducted via anonymous Zoom poll. The tellers' committee report was given by Nadine Meade as follows:

The number of votes cast 3473

The number of votes necessary for adoption (majority) 1737

Votes for resolution 864

Votes against resolution 2609

The Chair announced that the resolution was defeated.

In response to a request for information asking how secure was the vote, the Chair advised that voting was conducted in accordance with the approved technology.

6 Adjournment

It was moved, by Lindsay Amantea and seconded **to adjourn**. As there was no further business, a vote was not required and the Chair declared the meeting adjourned.

The Meeting adjourned at 12:52 p.m.

Approved by Minutes Approval Committee: February 23, 2023

Minutes Approval Committee Chair:

Cal Johnson

Secretary:

Christine Schreuder

This is Exhibit " XX " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA
700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Approved Bencher Public Minutes

Public Minutes of the Five Hundred and Thirteenth Meeting of the Benchers of the Law Society of Alberta (Law Society)

April 27, 2023

Calgary, AB and by videoconference

8:30 a.m.

ATTENDANCE	
Benchers:	Bill Hendsbee, President Deanna Steblyk, President-Elect Sony Ahluwalia Ryan Anderson Glen Buick Lou Cusano Ted Feehan Corie Flett Kene Ilochonwu Cal Johnson Levonne Louie Jim Lutz Bud Melnyk Sharilyn Nagina Mary Ellen Neilson Sanjiv Parmar Sandra Petersson Stacy Petriuk Erin Runnalls Ron Sorokin Margaret Unsworth Moira Váně Grant Vogeli Louise Wasylenko
Executive Leadership Team (ELT):	Elizabeth Osler, CEO and Executive Director Cori Ghitter, Deputy Executive Director and Director, Policy and Education Nadine Meade, Chief Financial Officer Kendall Moholitny, Director, Regulation and Professionalism Andrew Norton, Chief Information Officer and Director, Business Operations

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

ATTENDANCE	
	David Weyant, President and CEO, Alberta Lawyers Indemnity Association (ALIA) (by videoconference)
Staff:	Barbra Bailey, Manager, Education (in person) Reed Bjerkseth, Business Technology (in person) Colin Brandt, Senior Communications Advisor (in person) Colleen Brown, Manager, Communications and Stakeholder Engagement (in person) Shabnam Datta, Manager, Policy Jennifer Freund, Policy and Governance Counsel Julie James, Coordinator, Governance (in person) Andrew McGrath, Business Technology (in person) Noria Neuhart, Policy Counsel Eleanor Platt, Custodianship Counsel Christine Schreuder, Supervisor, Governance (in person) Tera Yates, Manager, Practice Management Rebecca Young, Education Counsel
Guests:	Ian Burns, Digital Reporter, The Lawyer's Daily Loraine Champion, Executive Director, Alberta Lawyers' Assistance Society Carsten Jensen, Law Society of Alberta representative to the Federation of Law Societies of Canada Kyle Kawanami, Treasurer, Canadian Bar Association Alberta Nonye Opara, Executive Director, Pro Bono Law Alberta

Secretary's Note: All Bencher and ELT attendees were in person unless otherwise stated. All staff and guests attended via videoconference unless otherwise stated. The arrival or departure of participants during the meeting are recorded in the body of these minutes.

	Item
	Call to Order Mr. Hendsbee called the meeting to order at 8:35 a.m. Mr. Parmar delivered the Alberta Land Acknowledgement statement.
1	**Opening Remarks from the President** Mr. Hendsbee welcomed the Benchers and guests.
2	**Leadership Report** Documentation for this item was circulated with the materials prior to the meeting.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
3	**Audit and Finance Committee Report and Recommendation** Documentation for this item was circulated with the materials prior to the meeting. Mr. Anderson reported on the activities at the April Audit and Finance Committee meeting where the audited financial statements were reviewed and are being recommended for approval. Ms. Meade reported that external auditors, PricewaterhouseCoopers (PwC) audited the financial statements for approval. PwC concluded that there were no material misstatements and no internal control deficiencies. Ms. Meade provided a high-level overview of the financial statements highlighting the variances to the budget, surplus, income and expenses. The Law Society is well positioned for long-term financial sustainability due to robust contingency reserves. **Motion: Anderson/Ahluwalia** **That the Benchers approve the Law Society of Alberta's audited financial statements for the year ended December 31, 2022, as proposed.** **Carried unanimously**
4	**Board Relations Guideline Amendments** Documentation for this item was circulated with the materials prior to the meeting. Mr. Hendsbee reported that the Board Relations Guideline amendments for decision reflect discussions at the Board table and at the Executive Committee. **Motion: Petriuk/Melnyk** **That the *Board Relations Guideline* be amended as proposed.** Discussion: In response to a question regarding the meaning of *Attendance Norms, b. 'When feasible…'*, Mr. Hendsbee responded that the provision is to consider situations such as whether a facilitator will lead the meeting or whether virtual attendance is technologically feasible. **Carried unanimously**
5	**Part-time Membership Status** Documentation for this item was circulated with the materials prior to the meeting. Ms. Datta provided an overview of the part-time membership status pilot program, and summarized the work completed by the Equity, Diversity and Inclusion Committee leading to the proposed part-time membership status eligibility criteria to take force once the pilot ends in December 2023. **Motion: Váně/Vogeli** **That the Benchers approve a part-time membership status option based on the recommended eligibility criteria.** The Benchers discussed the part-time membership status eligibility criteria while considering the strategic goals and the purpose of the part-time membership status. The

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
	Benchers were mostly in favour, with opposition expressed to the payor criteria due to the following reasons: - The payor criteria may be punitive to firms, agencies and bodies who want to expand part-time opportunities for lawyers, particularly those lawyers who are equity seeking. - There is potential for employers to refuse to pay full-time fees for part-time work and the financial burden may shift onto the employees. - Employers may choose to increase the employee's salary by half of the full-time fee so the lawyer may personally pay the part-time fee, which would shift the tax-free benefit to taxable income. - The burden of lawyer fees may disproportionately affect the not-for-profit sector delivering access to justice services. Part-time is part-time no matter who pays the fees. Encourage all employers to pay fees whether full or part-time. - The availability of a part-time membership status is a wellness issue. There was a question whether part-time insurance fees would be possible, and Mr. Weyant responded that insurance companies do not offer part-time insurance. The actuaries would need three to five years of data without the criteria changing to consider how part-time insurance may be offered and at what price. The following subsequent motion was made. **Motion: Flett/Váně** **To remove the payor criteria from the proposed part-time membership status eligibility criteria.** **Carried** **One opposed** The Benchers then returned to the original motion. **Motion: Váně/Vogeli** **That the Benchers approve a part-time membership status option based on the recommended eligibility criteria.** **Carried unanimously**
6	**Continuing Professional Development (CPD) Rule and Guideline Amendments** Documentation for this item was circulated with the materials prior to the meeting. Ms. Bailey provided a CPD program update which included the planned launch of a new CPD planning tool in July 2023 and related activities. The launch is dependent on the approval of the Rule amendment and adoption of the *Continuing Professional Development Program Guideline* (Guideline). Ms. Freund explained that the Rule amendments were made to modernize the language, amend the retention period from five to three years, implement a review process and general housekeeping purposes. The accompanying Guideline sets forth the CPD program's

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
	mandatory nature, requirements, and exemption and review processes. The Guideline will be published for transparency that the Law Society's goal is to coach and support lawyers in their learning. In response to a question, Ms. Bailey confirmed that there will be no exemptions for government agencies or firms that have internal employee training requirements. The tool will be useful despite potential duplication of creating CPD plans and the Tool is very easy to use. The Board was complimentary of the Education Department and Lawyer Competence Committee work which led to a CPD program encompassing a balance between accountability, commitment to professional development and self-reflection. *Secretary's note: The following motions were approved concurrently.* **Motion 1: Cusano/Melnyk** **That Rule 67.2 be amended, as proposed, and that subrule 67.3(1) be amended to insert "(1)" after "67.2" and before "(2)"; and** **Motion 2:** **That the *Continuing Professional Development Program Guideline* be adopted.** **Carried unanimously**
7	**Innovation Sandbox Update** Mr. Polsky's Innovation Sandbox update video was presented which included an applications update, jurisdictional scan, 2022 outreach, current limits and next steps. The Bencher discussion included a suggestion that the Law Society re-examine the exclusion of paralegals and more creatively meet unmet needs. The Sandbox provides an opportunity to test-drive ideas and improve access. Further work should be done to determine why some lawyers are hesitant to trust the Sandbox and how to alleviate hesitancy. Ensuring lawyer oversight of technological platforms for things such as electronic signing of documents could help reduce the perceived risk.
8	**Equity, Diversity and Inclusion Committee (EDIC) Update** Documentation for this item was circulated with the materials prior to the meeting. Ms. Wasylenko thanked the former external volunteers of the disbanded Equity, Diversity and Inclusion Advisory Committee for their contributions and recognized the participation and contributions of the three external volunteers who now sit on the EDIC. She reported that the EDIC is considering the launch of an EDI toolkit and is thinking about how it relates to the strategic plan, helps lawyers and is relevant to firms.
9	**Lawyer Competence Committee Report** Documentation for this item was circulated with the materials prior to the meeting. Mr. Cusano reported that the Lawyer Competence Committee's work has centred around the CPD planning tool and early years of practice CPD consultation phase. Staff have met with

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
	Alberta Lawyers' Assistance Society, ALIA and the Canadian Bar Association, Alberta regarding the National Well-Being Study and the Law Society's role with regards to well-being. He added that the Law Societies of British Columbia, Saskatchewan, and Manitoba will be working with the Law Society on the Western Canada Competency Profile for Entry to Practice initiative starting in June.
10	**Policy and Regulatory Reform Committee Update** Documentation for this item was circulated with the materials prior to the meeting. Ms. Petriuk expressed thanks to last year's Policy and Regulatory Reform Committee (PRRC) for the Board Relations Guideline. The current PRRC is working on discrimination, harassment and *ex parte* communications amendments to the Code of Conduct. The PRRC will consider the *Labour Mobility Act* Rule changes which will be brought to the Benchers at a future date.
11	**CONSENT AGENDA** Documentation for this item was circulated with the materials prior to the meeting. There were no requests to remove any items from the consent agenda and the items were approved concurrently.

Motion: Ahluwalia/Melnyk

11.1 That the Benchers approve the February 23, 2023 Public Bencher Meeting Minutes;

11.2 Rules and Guidelines Terminology Amendments – "Provincial Court" to "Alberta Court of Justice"

MOTION 1:
That the introductory phrase in subrules 53(5). 53(6), 53(7), and 53(8) be amended to strike "Provincial Court" and insert "Alberta Court of Justice" in its place.

MOTION 2:
That clauses 53(5)(c) and 53(6)(c) be amended to strike out "a Provincial Court" and insert "an Alberta Court of Justice" in its place.

MOTION 3:
That clause 110(2)(b) be amended to strike "Provincial Court" and insert "Alberta Court of Justice" in its place.

MOTION 4:
That paragraph 30 of the Publication and Redaction Guideline for Adjudicators be amended to strike "Provincial Court" and insert "Alberta Court of Justice" in its place.

MOTION 5:
That the Appendix to the Adjudicators Guideline – Resignations be struck out in its entirety.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
	MOTION 6: That clauses 53(3)(h) and 53(7)(e) be amended to strike "Provincial Court Act" and insert "Court of Justice Act" **11.3 Rescind Old Guiding Documents to the Profession** **MOTION:** That the Benchers rescind the following four documents: 1. Guidelines for Drafting and Implementing Bereavement Leave, Compassionate Leave and Family Responsibility Leave Policies (2003) 2. Guidelines for Drafting and Implementing a Diversity and Equality Policy in Legal Workplaces and the Sample Diversity and Equality Policy (2005) 3. Guidelines for Drafting and Implementing a Workplace Violence Policy (2004) 4. Guidelines for Equality in Employment Interviews (1998, 2012 update) **Carried unanimously**
12	**EXTERNAL REPORTS** The following External Agency Reports were circulated with the materials prior to the meeting: 12.1 Alberta Law Foundation (ALF): Ms. Váně reported that Deborah Duncan will be retiring as Executive Director and encouraged attendance at ALF's 50 Anniversary party in May. 12.2 Alberta Law Reform Institute Report 12.3 Alberta Lawyers' Assistance Society Report 12.4 Canadian Bar Association Report 12.5 Canadian Centre for Professional Legal Education Report 12.6 Federation of Law Societies of Canada Report 12.7 Legal Education Society of Alberta Report 12.8 Real Estate Practice Advisory Committee Liaison Report
	Other Business There being no further business, the public meeting was adjourned at 11:20 a.m.

This is Exhibit " YY " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

(b) information about the labour mobility applicant's right to an appeal under section 43(2) of the Act and the appeal process.

(4) A labour mobility applicant who is registered as a member has no greater rights as a member of the Society than:

(a) they had as a member of the governing body of their home jurisdiction at the time of registration as a member in the Society; and

(b) any other member of the Society in similar circumstances.

Oct2023

Continuing Professional Development

67.1 (1) "Continuing professional development" is any learning activity that is:

(a) relevant to the professional needs of a lawyer;

(b) pertinent to long-term career interests as a lawyer;

(c) in the interests of the employer of a lawyer or

(d) related to the professional ethics and responsibilities of lawyers.

(2) Continuing professional development must contain significant substantive, technical, practical or intellectual content.

(3) It is each lawyer's responsibility to determine whether a learning activity meets these criteria and therefore qualifies as continuing professional development.

67.2 (1) Every active member shall, in a form acceptable to the Executive Director:

(a) prepare a plan for their continuing professional development during the twelve month period commencing October 1 of each year; and

(b) submit the plan to the Society by October 1 of each year.

(2) Once the plan in subrule (1) has been prepared and submitted, every active member must

(a) maintain a copy of the plan for three years from the date of submission;

(b) produce a copy of the plan for review by the Society, on request; and

(c) participate in any review of the plan by the Society.

Nov2008;Sep2015;Feb2016;Sep2016;Apr2023;May2023

67.3 (1) Every active member who does not comply with Rule 67.2(1)(b) in a year shall stand automatically suspended as of the day immediately following the deadline.

(2) Rule 165.1 shall apply to any suspension under (1).

Sep2016;Sep2019;Apr2023;May2023

67.4 (1) Independent of Rules 67.1 through 67.3, the Benchers may, from time to time, prescribe specific continuing professional development requirements to be completed by members, in a form and manner, as well as time frame, acceptable to the Benchers.

(2) The continuing professional development requirements of subrule (1) may apply to all members or a group of members, as determined by the Benchers.

(3) Every active member required to complete requirements under subrule (1) who does not comply within the specified time frame shall stand automatically suspended as of the day immediately following the deadline.

(4) Rule 165.1 shall apply to any suspension under subrule (3).

Dec2020

STATUS CHANGES

Election for Inactive Membership

68 (1) An election by an active member to become an inactive member

This is Exhibit " ZZ " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

~~Before~~After amendment~~:~~ on April 27, 2023

67.2 (1) Every active member shall, in a form acceptable to the Executive Director:

(a) prepare ~~and make a record of~~ a plan for ~~his or her~~their continuing professional development during the twelve month period commencing October 1 of each year; and

(b) ~~make a declaration, no later than September 30~~submit the plan to the Society by October 1 of each year~~, confirming compliance with (a) above;~~.

~~(c)~~ (2) Once the plan in subrule (1) has been prepared and submitted, every active member must

(a) maintain a ~~record~~copy of the plan for ~~five~~three years from the date of ~~declaration; and~~submission;

(~~d~~b) produce a copy of the ~~record~~plan for review by the Society, on request; and

(c) participate in any review of the plan ~~to~~by the ~~Executive Director on request~~Society.

Nov2008;Sep2015;Feb2016;Sep2016;Apr2023;May2023

67.3 (1) Every active member who does not comply with Rule 67.2(1)(b) in a year shall stand automatically suspended as of

the day immediately following the deadline.

(2) Rule 165.1 shall apply to any suspension under (1).

This is Exhibit " AAA " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

SHARE:

Join Our Email List

May 2, 2023

News

LAW SOCIETY of ALBERTA

Continuing Professional Development: Rule Amendments

At the April 27, 2023 Board meeting, the Benchers approved amendments to the Rules of the Law Society of Alberta and documents to support the new approach to Continuing Professional Development (CPD) that will officially roll out on July 4, 2023 for Alberta lawyers.

The amendments to Rules 67.2 and 67.3 now align with the new approach to CPD for Alberta lawyers. Key highlights of the amendments and supporting documents include:

- participation in the CPD program is mandatory for all active lawyers;
- CPD plans must be prepared and submitted using the CPD Tool accessed through the Lawyer Portal;
- the deadline to submit CPD plans is now Oct. 1 in recognition of National Day for Truth and Reconciliation;
- a failure by an active lawyer to submit a CPD plan by Oct. 1 will result in an administrative suspension;
- the requirement to maintain a record of the CPD plan has been reduced from five to three years; and
- participation in the new review process will be mandatory.

The Law Society will implement the new CPD review process in early 2024. This will include random reviews on some lawyers' CPD plans to check whether they are on track with their plans and to offer coaching to assist with implementation. More information about the CPD plan review process will be shared in the coming weeks.

View the Rules for the full amendments.

New Part-Time Membership Status Eligibility Criteria Approved

Since February 2020, the Law Society has been piloting a part-time membership status to explore if it would help retain lawyers, particularly young female lawyers, in private practice. At the December 2021 Board Meeting, the Benchers approved a two-year extension of the pilot to allow for further analysis of the status and the criteria being used. The Benchers conducted an extensive review of the parameters and eligibility criteria over the course of 2022 and 2023.

At the April 27, 2023 Board Meeting, the Benchers approved a permanent part-time membership status option based on updated eligibility criteria, to be implemented in 2024. As the changes do not come into effect until 2024, lawyers who currently hold part-time membership status or who apply for part-time status in 2023 will continue to use the existing eligibility criteria.

During the review, the Benchers considered the original goal of the pilot and recognized that others in the profession could also benefit from the option of part-time status. The Benchers focused on the financial barrier that can arise for some lawyers when required to pay the full active membership fee. The goal of the part-time status option was therefore broadened to assist any lawyers facing financial barriers to practising law, which, if addressed, would enable them to continue to practise law on a part-time basis.

Offering a part-time membership status is consistent with the goals of equity, diversity and inclusion and access in our Strategic Plan.

More information will be released in the coming months about the new criteria, how it will be implemented and how this affects lawyers who currently hold part-time status.

Reminder: Feedback Required on Early Years Training Program Development

Wednesday, May 3, 2023 is the last day to complete the Early Years Training Program Development Survey.

In December 2020, the Benchers approved the development of a continuing professional development (CPD) program for lawyers in their early years of practice. The Law Society first completed work to build the Professional Development Profile for Alberta Lawyers as the foundation of its overarching CPD program, which will be essential to the development of the new early years program.

The Law Society is now working with the Legal Education Society of Alberta (LESA) to develop the early years program. As we begin this work, we are seeking input from Alberta lawyers, students-at-law and firms. The information gathered through the survey will help inform the decisions of the Law Society and LESA as content and online learning methods are developed and finalized.

Once developed, the early years training program will assist practising lawyers with their CPD planning.

Take the Survey

Red Dress Day – National Day of Awareness for Missing and Murdered Indigenous Women and Girls

Observed every May 5, Red Dress Day raises awareness about the ongoing violence against and disproportionately high rates of missing and murdered Indigenous women, girls and two-spirit individuals, as well as brings attention to the systemic issues that contribute to this ongoing crisis.

Métis artist Jaime Black's The REDress project helped make the red dress a symbol of missing and murdered Indigenous women, girls, and two-spirit people. Empty red dresses were displayed in public places to bring attention to the violence Indigenous women experience.

Check out the Government of Alberta's Red Dress Day page for local events or read the article for more information.

View the Article

Innovation Sandbox Year-in-Review

Starting in the first quarter of 2022, the Law Society began accepting applications for participation in the Innovation Sandbox. The Innovation Sandbox allows the Law Society to support innovators in testing new ideas and models for the delivery of legal services in a controlled environment, with the Law Society providing both guidance and oversight.

The types of organizations that have applied for the Sandbox are diverse, including technology, medicine, disability rights, real estate, constitutional law, immigration and corporations seeking to engage lawyers in

new business structures.

Over the past year, the Law Society has received 25 applications and continues to receive applications from interested parties.

Read the Innovation Sandbox Year-in-Review report for more details.

Read the Full Report

Court of King's Bench Announcements

New Process for Individuals Attending Remote Hearings via Video

Effective immediately, individuals attending remote hearings will no longer be required to complete and submit to the Court an Undertaking and Agreement for Non-lawyers. Instead, all persons attending a remote hearing via video will be required to certify that they have read and agree with the Court's prohibition on recording, livestreaming or broadcasting by way of an "I agree" checkbox, prior to being admitted to a hearing.

View the announcement.

Court Case Management (CCM) System Pilot Release for Previously Booked Half-Day Civil Specials in Calgary

Effective today, a pilot program will begin as part of the Court Case Management (CCM) system, which will introduce digital document delivery to the judiciary for previously booked half day civil specials in Calgary. This pilot program will enable lawyers to upload electronic materials directly to the Justice assigned to the matter, with the goal of streamlining the process and improving overall efficiency.

Counsel with an impacted matter will be contacted directly by the Court with instructions and necessary information to ensure that the transition to digital document delivery is as seamless as possible.

View the announcement.

Further Expansion of the Family and Divorce Filing Digital Service (FDS) and Mandatory Filing, Effective May 15, 2023

Effective May 15, 2023, use of the Family and Divorce filing system will be mandatory for counsel filing any Statement of Claim for Divorce in all judicial centres in Alberta. A grace period of two weeks shall be observed, until June 1, 2023, after which use of Family and Divorce Filing Digital Service for filing these materials will be strictly enforced.

View the full announcement.

Upcoming Events

But I Look Like a Lawyer screening (Calgary) | May 4, 2023

But I Look Like a Lawyer screening (Edmonton) | May 11, 2023

Visit our website for a full list of upcoming events.

Events Calendar

STAY CONNECTED

Law Society of Alberta | 700, 333 11th Ave SW, Calgary, T2R 1L9 Canada

Unsubscribe communications.support@lawsociety.ab.ca

Constant Contact Data Notice

Sent by feedback@lawsociety.ab.ca

This is Exhibit " **BBB** " referred to
in the Affidavit of

Yue Song

Sworn before me this **6** day

of **December**, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

CPD Plan Requirements and Tool

Active lawyers are required to submit a CPD plan using the CPD Tool by Oct. 1 of each year. Failure by an active lawyer to submit a CPD plan by the deadline will result in an administrative suspension, as set out in Rule 67.3 of the Rules of the Law Society of Alberta (https://documents.lawsociety.ab.ca/wp-content/uploads/2017/01/04144612/Rules.pdf).

The CPD Tool is also available to Alberta lawyers who are not required to submit an annual plan. The Law Society encourages all lawyers to take advantage of the tools and resources being offered through the new CPD approach.

While students-at-law will not have access to the CPD Tool, the Law Society still encourages students to engage in this initiative by familiarizing themselves with the resources that are being offered.

The Law Society strongly believes that learning does not stop once law school ends; like all professions, lawyers (and students) must stay up to date with technology, current issues and consumer needs. Completing professional development benefits you as a lawyer, your law firm or organization and your clients.

In addition to the below, see the CPD Tool User Guide (https://documents.lawsociety.ab.ca/wp-content/uploads/2023/06/23125746/CPD-Tool-User-Guide.pdf), CPD FAQs (https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/cpd-frequently-asked-questions/), CPD Resources (https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/cpd-resources/), CPD Plan Review Process (https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/cpd-plan-review-process/) and Guideline (https://documents.lawsociety.ab.ca/wp-content/uploads/2023/05/11084722/Continuing-Professional-Development-Program-Guideline.pdf) for further information.

CPD Plan Requirements

^ Who This Applies To (#accordion_1_collapse_1)

Only lawyers who hold active status when the CPD planning period opens on July 4 are required to submit a CPD plan for that year. **The only exception to this is for lawyers who have the status of active – non-practicing.** All lawyers are still encouraged to use the CPD Tool to access the benefits of self-assessment and creating personal goals. Lawyers can confirm whether this requirement applies to them by checking the Mandatory Education tab in the CPD section of the Lawyer Portal.

Lawyers may apply for an exemption if on parental leave, medical leave or having another circumstance that prevents them from participating in the CPD program. Generally speaking, lawyers who are actively engaged in the delivery of any legal services during the CPD year (Oct. to Sept. each year) and have active status when the CPD planning period opens on July 4 are required to submit a CPD plan. Plans can be tailored to each lawyer's individual circumstances through the competencies and learning activities selected. Whether providing legal services on a part-time basis or getting close to the end of a career, lawyers can tailor their CPD plan to fit their circumstances.

Exemption requests are submitted through the CPD section of the **Lawyer Portal (https://lsa.memberpro.net/main/body.cfm?menu=login)**. Lawyers are required to request an exemption through the Lawyer Portal in advance of and for each CPD year that their circumstances prevent them from participating in the CPD program.

Lawyers who require an exemption are strongly encouraged to apply well in advance of the Oct. 1 deadline, as exemptions are assessed by the Law Society and processing times can vary. Lawyers who have outstanding exemption applications on Oct. 1 will be at risk of administrative suspension.

Competencies (#accordion_1_collapse_2)

Lawyers are required to select at least two competencies from any of the domains contained within the **Professional Development Profile (https://documents.lawsociety.ab.ca/wp-content/uploads/2022/06/20084753/LSA-ProfessionalDevelopmentProfile_Final_June2022_Abridged_DigitalUse.pdf)** (Profile). The Profile sets out the competencies the Law Society believes are important to maintain a safe, effective and sustainable legal practice in Alberta today. It is not the expectation of the Law Society that all lawyers will be highly proficient in all areas included in the Profile. Lawyers may already possess some of the competencies or want to develop or enhance them with training and learning over time.

There are 29 competencies in the Profile that are broadly applicable to all lawyers. As CPD plans are personal to each lawyer, their practice and their learning goals, lawyers may tailor their chosen competencies to their practice through the learning activities they select and add other competencies that are not included in the Profile. Lawyers are encouraged to add competencies that are specific to their practice area(s) in addition to the competencies they are required to select from the Profile.

Learning Activities (#accordion_1_collapse_3)

Lawyers are required to select at least one learning activity to help develop or enhance each competency they selected in developing their plan, using either the drop-down menu in the CPD Tool or adding another activity or activities of their choice. Lawyers may select more than one learning activity per competency, based on what they determine to be effective for their practice and learning goals.

The Law Society has always taken a broad approach regarding the types of learning activity a lawyer can engage in for continuing professional development. The definition of "Continuing Professional Development," set out in Rule 67.1 of The Rules of the Law Society of Alberta, allows for both formal and informal learning activities to be completed provided the requirements under the Rule are met. In addition to the CPD Tool providing a drop-down menu of popular options, our website **(https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/cpd-resources/)** provides suggestions for various practice types and years at the bar and lawyers can add other types of activities not included in the drop-down menu that are appropriate to their practice and circumstances.

CPD Tool (#accordion_1_collapse_4)

The CPD Tool provides opportunities for lawyers to reflect on their professional development goals, self-assess their current levels of proficiency and prioritize competencies and learning activities to focus on each year.

The Tool also provides more opportunities for lawyers to engage with their plans throughout the year. The Tool allows lawyers to track their progress on their learning activities and reflect on whether and how each activity supported their professional development goals. **This process is**

not required but can enhance the overall learning process and help lawyers determine the types of activities that are effective for them.

The CPD Tool is accessed through the **Lawyer Portal (https://lsa.memberpro.net/main/body.cfm?menu=login)**, by selecting CPD in the drop-down menu located beside the lawyer's name.

The **CPD Tool User Guide (https://documents.lawsociety.ab.ca/wp-content/uploads/2023/06/23125746/CPD-Tool-User-Guide.pdf)** outlines instructions to access the CPD Tool and complete and submit a CPD plan.

CPD Tool Webinar Recording

41:18

Watch the recorded CPD Tool webinar as embers of the Education team introduce the tool and offer a detailed walkthrough.

This is Exhibit " CCC " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

CPD Tool User Guide

June 23, 2023

Contents

Accessing the CPD Tool

For best user experience, access the CPD Tool using a desktop and use the following steps:

1. Log in to the Lawyer Portal.
2. Select the drop-down arrow located on the top right of your home screen, located to the right of your name.
3. Select **CPD**.
4. From the menu select **CPD Tool.**
5. Access the Tool by selecting the CLICK TO LAUNCH CPD TOOL button.
6. The Tool will open in a separate tab defaulting to your dashboard. Select START NOW to begin your plan. If you have previously saved information in the Tool, select CONTINUE to be taken to where you previously left off.

Completing Your CPD Plan

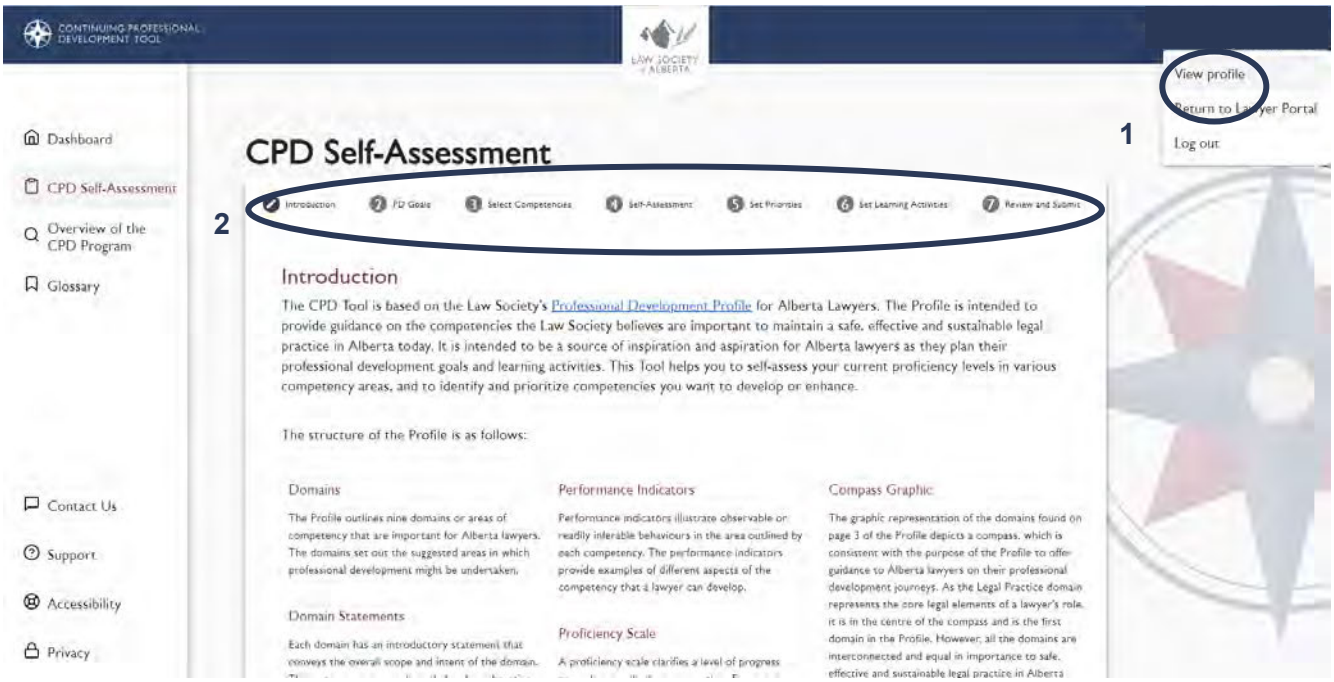
The CPD Tool will guide you through each step of the self-assessment to help meet the plan requirements. Each time you move to the next step, your progress will be saved automatically.

The CPD Tool will be timed out after 20 minutes of inactivity. Once you have completed a step, ensure you click on the next step button located on the bottom right of the page to save your work.

Once you have acknowledged and submitted your CPD plan, a pop-up message will appear that confirms your plan was successfully submitted to the Law Society and you have fulfilled your requirements under Rule 67.2 for the year. Your CPD plan will also become available for download at any time.

Navigating Within the CPD Tool

The following navigation tips can help optimize your experience in the CPD Tool:



1. The profile information that is displayed in the CPD Tool is pulled from the information you provide in the Lawyer Portal. Information on updating your contact information is available on the Law Society of Alberta website.
2. The stepper at the top of the screen displays your progress in completing the plan. Once a step has been completed the icon on the stepper will change to a blue check mark and can be selected to navigate back to a previous step. You can also navigate back to a previous step by using the button located at the bottom left corner of each page until you reach the applicable step. Incomplete steps that are a gray number cannot be selected in the stepper as that content depends on completion of earlier steps. If a step has been started but not saved, the stepper icon will be a blue pencil. On a mobile device this stepper will appear on the left-hand side with completed steps at the top of the screen and incomplete steps at the bottom.

Applying for an Exemption

1. Log in to the Lawyer Portal.
2. Select the drop-down arrow located on the top right of your home screen, located to the right of your name.
3. Select **CPD**.
4. Select Request Exemption.
5. Select a reason from the drop-down list.
6. Use the text box to provide information relevant to your exemption request.
7. Select Submit.

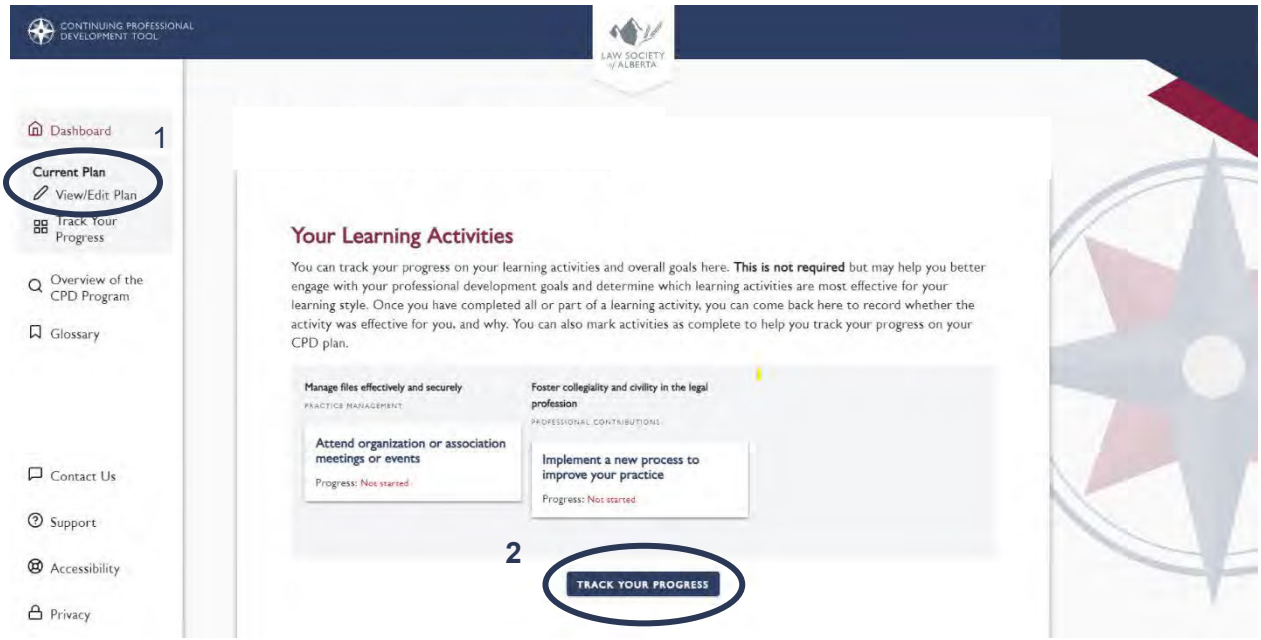
Once an exemption request has been submitted, the Law Society will assess the request and notify the lawyer by email if the request has been approved or denied. If an exemption request is denied, the lawyer will be required to submit a CPD plan by the deadline.

Checking Your Status

1. Log in to the Lawyer Portal.
2. Select the drop-down arrow located on the top right of your home screen, located to the right of your name.
3. Select **CPD**.
4. Select Mandatory Education.
5. If you are required to complete a CPD plan it will appear as incomplete under **Current Mandatory Education** at the bottom of the page.
6. Once the CPD plan has been submitted, move the toggle to show history and your CPD plan will show as complete. Once the plan appears under show history, the Law Society has been notified, and there is nothing further required.

View, Edit and Track Progress on Your Completed CPD Plan

Once you have submitted your CPD plan, your dashboard will change and appear as below (please note, on a mobile device the menu on the left-hand side is accessible by selecting the button in the top left-hand corner of the screen):



1. View/Edit Plan
    a. Current CPD plans can be downloaded from the CPD Tool dashboard by selecting **View/Edit Plan** in the Current Plan section and selecting the FULL PLAN (PDF) or SIMPLIFIED PLAN (PDF) button near the top right of the screen.
    b. CPD plans can be edited from the CPD Tool dashboard by selecting **View/Edit Plan** in the Current Plan section and selecting the EDIT MY PLAN button near the top right of the screen. CPD plans can be changed until Sept. 30 of the year following the original submission deadline.

2. Track Your Progress
    a. From the CPD Tool dashboard, select TRACK YOUR PROGRESS to track learning activities, notes and overall goals throughout the year. **This function is not required** but lawyers are encouraged to use it to assist with their overall engagement of their goals and to determine which learning activities match their individual learning style. Once an activity is marked as complete, the status of the activity will change from “not started” to “completed”.

Security Information

The security standards for Law Society databases require limited use of special characters and that the CPD Tool automatically log lawyers out of the platform after 20 minutes of inactivity. These standards are necessary to help protect lawyers' confidential information. The CPD Tool will alert you when you are at risk of being logged out.

Accessibility Information

The Law Society is committed to removing barriers to accessing our resources, programs and services. As part of that commitment, all Law Society websites and resources strive to meet Web Content Accessibility Guidelines (WCAG 2.1). WCAG 2.1 are the internationally-recognized standards to make web content more accessible to people with disabilities. The Law Society conducts regular audits of all web content for WCAG compliance and works to address any issues in a timely manner.

If you have trouble accessing our websites or resources, please contact Education for additional support.

Contact Us

If you have questions about the CPD Tool, email Customer Service or visit the Law Society of Alberta website.

If you would like support in creating your CPD plan, you can contact Education for assistance.

Additional Supports for Completing a CPD Plan

While the Law Society can offer guidance and suggestions on learning activities, it is up to each lawyer to determine how to best improve proficiency in chosen areas of professional development, depending on level of experience, practice context and goals. The following resources have been developed to assist lawyers with this process:

- The Professional Development Profile (Profile) provides guidance for lawyers about what the Law Society considers to be important areas of focus for professional development, regardless of experience or practice area. The Profile forms the framework of the CPD Tool.
- The proficiency scale, developed by Principia Assessments, Ltd. and located within the CPD Tool, is intended to help lawyers assess their current proficiency levels in the selected competencies and to set goals to improve or enhance those proficiency levels.
- The Reflective Practice course helps lawyers learn what reflective practice is, the different kinds of reflection, why it is important to lawyers, how it applies to professional development and what it takes to become a reflective practitioner.
- The Key Resources located within the Law Society's Resource Centre align with the nine domains of the Profile, to help lawyers easily locate resources relevant to their CPD plans.
- The CPD Resources located within Continuing Professional Development on the Law Society website contains information and resources that are available to lawyers when completing and implementing CPD plans; including suggestions for learning activities.
- CPD Frequently Asked Questions located within Continuing Professional Development on the Law Society website contains detailed information on CPD Program Requirements, Exemptions, Creating CPD Plans, Viewing and Downloading Plans, Editing CPD Plans, Tracking Progress on your CPD Plan and General Information.

This is Exhibit " DDD " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

CPD Frequently Asked Questions

CPD Program Requirements

1. Who is required to submit a CPD plan? (#accordion_1_collapse_1)

All lawyers who have an active status when the CPD planning period opens on July 4 are required to submit an annual plan by Oct. 1 each year. All plans must be submitted through the Lawyer Portal using the new CPD Tool (the 'CPD Tool').

The only exception to this requirement is for lawyers who have the status of active – non-practicing. These lawyers are not permitted to provide legal services and are therefore not required to submit a CPD plan. There is no need for active-non-practicing lawyers to apply for an exemption.

2. When are CPD plans due? (#accordion_1_collapse_2)

Lawyers who are required to submit a CPD plan must do so by Oct. 1 each year.

3. What happens if I don't meet the deadline? (#accordion_1_collapse_3)

A failure by an active lawyer to submit a CPD plan by Oct. 1 will result in an administrative suspension, as set out in Rule 67.3 of **The Rules of the Law Society of Alberta (https://documents.lawsociety.ab.ca/wp-content/uploads/2017/01/04144612/Rules.pdf)**.

4. If I have active status partway through the CPD year, am I required to submit a CPD plan? (#accordion_1_collapse_4)

Only lawyers who hold active status when the CPD planning period opens on July 4 are required to submit a CPD plan for that year. However, all lawyers are still encouraged to use the CPD Tool to access the benefits of self-assessment and creating personal goals. Lawyers can confirm whether this requirement applies to them by checking the Mandatory Education tab in the CPD section of the Lawyer Portal.

5. Why are CPD plans mandatory? (#accordion_1_collapse_5)

CPD activities are crucial for lawyers in fulfilling their Code of Conduct obligations respecting competent legal service delivery. Learning does not stop once law school ends. Like other professions, lawyers must stay up to date with technology, current issues and consumer needs. Completing professional development benefits you as a lawyer, your law firm or organization and your clients.

6. How does the new CPD program differ from the previous approach? (#accordion_1_collapse_6)

The requirements for CPD are largely the same from the previous program, with a requirement to submit an annual plan. The main change to the CPD program is the new CPD Tool and resources

to develop a plan.

Plans can be tailored to each lawyer's individual circumstances through the competencies and learning activities selected. Whether providing legal services on a part-time basis or getting close to the end of a career, lawyers can tailor their CPD plan to fit their circumstances.

7. Am I required to complete a minimum number of CPD hours? (#accordion_1_collapse_7)

Alberta lawyers are not required to complete a minimum number of CPD hours. The Law Society does not accredit CPD activities.

Exemptions

8. Are there any exemptions from being required to submit a CPD plan? (#accordion_2_collapse_1)

Lawyers may apply for an exemption if on parental leave, medical leave or having another circumstance that prevents them from participating in the CPD program.

Exemption requests are submitted through the CPD section of the **Lawyer Portal (https://lsa.memberpro.net/main/body.cfm?menu=login)**. Lawyers are required to request an exemption through the Lawyer Portal in advance of and for each CPD year that their circumstances prevent them from participating in the CPD program.

Lawyers who require an exemption are strongly encouraged to apply well in advance of the Oct. 1 deadline, as exemptions are assessed by the Law Society and processing times can vary. Lawyers who have outstanding exemption applications on Oct. 1 will be at risk of administrative suspension.

9. Is there an exemption for lawyers who have been at bar for 50+ years? (#accordion_2_collapse_2)

In the past, lawyers who have been at the bar for more than 50 years have not been required to submit a CPD plan. This is no longer the case. The Profile was developed to be applicable to all practising lawyers and the CPD Tool allows lawyers to create a plan that is appropriate for any practice setting, role or year of call. The learning activity types available in the Tool are broad, and lawyers can add any other activity that meets the definition of "CPD activity" in Rule 67.1. All practising lawyers must stay up to date with technology, current issues and consumer needs.

10. What if my firm or organization already has a professional development program? (#accordion_2_collapse_3)

The CPD program requirements are broad and scalable so lawyers can create a plan that takes into consideration any specific workplace professional development goals or programs.

Creating CPD plans

11. How do I access the CPD Tool? (#accordion_3_collapse_1)

The CPD Tool is accessed through the **Lawyer Portal (https://lsa.memberpro.net/main/body.cfm?menu=login)**, by selecting CPD in the drop-down menu located beside the lawyer's name.

12. What are the minimum requirements to be included in a (#accordion_3_collapse_2)

CPD plan?

Lawyers are required to select at least two competencies from any of the domains contained within the **Professional Development Profile (https://documents.lawsociety.ab.ca/wp-content/uploads/2022/06/20084753/LSA-ProfessionalDevelopmentProfile_Final_June2022_Abridged_DigitalUse.pdf)** (Profile). There are 29 competencies in the Profile that are broadly applicable to all lawyers. As CPD plans are personal to each lawyer, their practice and their learning goals, lawyers may tailor their chosen competencies to their practice through the learning activities they select and add other competencies that are not included in the Profile.

Lawyers are required to select at least one learning activity to help develop or enhance each competency they selected in developing their plan, using either the drop-down menu in the CPD Tool or adding another activity of their choice. Lawyers may select more than one learning activity per competency, based on their practice and what they determine to be effective for their learning goals.

Lawyers can choose up to 10 competencies for their plan. There are no consequences for failing to complete progress on any of the competencies or learning activities added to a lawyer's CPD plan so lawyers are encouraged to add as many competencies and activities as they think are reasonable, to support their professional development goals.

---

13. Why are competencies relating to substantive areas of law not included in the Profile? (#accordion_3_collapse_3)

Because there are so many different practice areas, the Profile does not include substantive areas of law, but broad areas of knowledge, skills and abilities that lawyers practising in all areas might look to develop or expand. As always, lawyers are encouraged to pursue CPD specific to their practice areas in addition to competencies they are required to select from the Profile.

Lawyers can do this in the CPD Tool by choosing to focus on competencies that can be tailored to their practice areas, for example, competencies from the Legal Practice, Continuous Improvement or Professional Conduct domains.

The CPD Tool also allows lawyers to add custom competencies that are specific to their practice area(s) for an even more granular focus. However, these do not count toward the two-competency minimum requirement for CPD plans.

14. What are the eligible learning activities that can be included in my CPD plan? (#accordion_3_collapse_4)

The Law Society has always taken a broad approach regarding the types of learning activity a lawyer can engage in for continuing professional development. The definition of "Continuing Professional Development", set out in Rule 67.1 of The Rules of the Law Society of Alberta, allows for both formal and informal learning activities to be completed provided the requirements under the Rule are met.

The CPD Tool provides a drop-down menu of popular options and our **website (https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/cpd-activities/)** provides suggestions for various practice types and years at the bar, however lawyers can choose other activities appropriate to their practice and circumstances.

15. What is the purpose of the proficiency scale? (#accordion_3_collapse_5)

The competencies in the CPD Tool are aspirational and are presented along with a scale that indicates increasing levels of proficiency that lawyers can use to self-assess and create personal goals. Lawyers work in many different roles and may practice in many different types of settings throughout their careers. It is not the expectation of the Law Society that all lawyers will be highly proficient in all areas included in the Profile.

The Law Society will not be able to see the proficiency self-assessments that lawyers select for themselves. The scale is a tool to provide more guidance to lawyers who want to engage in honest self-reflection about the areas they can and want to develop or enhance.

16. What supports are available to help me complete my CPD plan? (#accordion_3_collapse_6)

Please see the **CPD Resources (https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/cpd-resources/)** page for information on several supports available to lawyers to create, implement and benefit from their CPD plans.

Viewing and downloading plans

17. Why is there an option to download two different versions of my CPD plan? (#accordion_4_collapse_1)

The **full plan** covers all areas completed by the lawyer while the **simplified plan** only covers areas that are visible to the Law Society. If a lawyer is asked to produce a copy of their plan under Rule 67.2, they are only required to provide the simplified version of their plan.

18. What parts of my CPD plan are accessible to the Law Society? (#accordion_4_collapse_2)

The Education department can access a lawyer's chosen competencies, priorities, selected learning activities (simplified plan) and any progress made in completing the learning activities through the CPD Tool to assist in the **Review process (https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/cpd-plan-review-process/)**. Other Law Society departments do not have access to any plan information. Other departments that want to review a lawyer's CPD plan (such as Practice Management) will request that the lawyer produce a copy of the simplified plan.

19. What is the purpose of the full plan if the Law Society is not going to see it? (#accordion_4_collapse_3)

The CPD Tool prompts lawyers to assess their own proficiency for each selected competency and record learning activity notes to help lawyers reflect on their learning needs and develop a meaningful and effective CPD plan. All lawyers are required to complete professional development activities to maintain their competence. But there are other ways that professional development can enhance a lawyer's career and lawyers are encouraged to use all of the features of the new CPD Tool to maximize the personal and professional benefits they will receive from that engagement. This additional information that is displayed in the full plan is not accessible to the Law Society as it can be personal and sensitive in nature.

20. I forgot to save a copy of my plan when I submitted. Can I still download a copy of my plan? (#accordion_4_collapse_4)

Current CPD plans can be downloaded from the CPD Tool dashboard by selecting View/Edit Plan in the Current Plan section.

21. How do I view my previous CPD plans? (#accordion_4_collapse_5)

Editing CPD plans

22. Can I change my CPD plan after I submit it? (#accordion_5_collapse_1)

CPD plans can be changed until Sept. 30 of the year following the original submission deadline, being the end of the CPD year. Lawyers are encouraged to change and update their their plan throughout the CPD year as their learning progresses, they develop in their practice, or if their role or circumstances change.

23. How can I add, remove or edit competencies, learning activities or other information after I submit my CPD plan? (#accordion_5_collapse_2)

CPD plans can be edited from the CPD Tool dashboard by selecting View/Edit Plan in the Current Plan section. The CPD Tool will only save changes to a plan once the lawyer has submitted the new plan, and the new plan will replace the previous plan in the system. Lawyers who want to retain their previous plan need to save or print a copy before the new plan is submitted. The Tool will still recognize that the original plan was submitted before the deadline.

Tracking progress on your CPD plan

24. What happens if I do not mark all my learning activities as complete? (#accordion_6_collapse_1)

The track progress section of the CPD Tool is an optional but recommended feature to help track completion of learning activities and record notes about each activity. Marking learning activities as complete helps lawyers track the progression of their CPD plan throughout the year, including whether they believe their proficiency level has increased as a result of the activities completed, and whether their learning activities were effective. This can also help lawyers determine the learning styles that work best for them.

25. Who do I talk to if I have questions about the CPD Tool? (#accordion_7_collapse_1)

If you have questions about the CPD Tool, email **Customer Service (customer.care@lawsociety.ab.ca)** or visit our **website (https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/)**.

If you would like support in creating your CPD plan, you can contact the **Education department (mailto:education@lawsociety.ab.ca)** for assistance.

26. Is the CPD Tool accessible? (#accordion_7_collapse_2)

The Law Society is committed to removing barriers to accessing our resources, programs and services. As part of that commitment, all Law Society websites and resources strive to meet **Web Content Accessibility Guidelines (WCAG 2.1) (https://www.w3.org/WAI/standards-guidelines/wcag/)**. WCAG 2.1 are the internationally recognized standards to make web content more accessible to people with disabilities. The Law Society conducts regular audits of all web content for WCAG compliance and works to address any issues in a timely manner.

If you have trouble accessing our websites or resources, please **contact us (mailto:customer.care@lawsociety.ab.ca)**for additional support.

This is Exhibit " EEE " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

CPD Resources

In addition to the Professional Development Profile **(https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/professional-development-profile/)** and Reflective Practice **(https://learningcentre.lawsociety.ab.ca/mod/page/view.php?id=339)** course, the following information and resources are available when completing and implementing CPD plans.

Law Society Resources (#accordion_1_collapse_1)

The Key Resources **(https://www.lawsociety.ab.ca/resource-centre/key-resources/)** located within the Law Society's Resource Centre align with the nine domains of the Profile, to help lawyers easily locate resources relevant to their CPD plans.

The Law Society's Education department can offer guidance and suggestions on possible learning activities. However, it is up to each lawyer to determine how to best improve proficiency in chosen areas of professional development, depending on level of experience, practice context and goals.

Learning Activity Options (#accordion_1_collapse_2)

The Law Society has always taken a broad approach regarding the types of learning activity a lawyer can engage in for continuing professional development. The definition of "Continuing Professional Development", set out in Rule 67.1 of the Rules of the Law Society of Alberta **(https://documents.lawsociety.ab.ca/wp-content/uploads/2017/01/04144612/Rules.pdf)**, allows for both formal and informal learning activities to be completed provided they are:

- relevant to the professional needs of a lawyer;
- pertinent to long-term career interests as a lawyer;
- in the interests of the employer of a lawyer or

- related to the professional ethics and responsibilities of lawyers.

Learning activities may include a wide range of activities, such as:

- Attend a conference
- Attend a firm, organization or association meeting or event
- Be a mentor or mentee
- Create and publish/share a resource
- Implement a new process to improve your practice
- Implement a new routine or habit (practice or personal)
- Join an online forum
- Learn on the job
- Listen to a podcast
- Plan and host a learning event for your firm or organization
- Read a book
- Review a written resource
- Take a course or seminar
- Teach a conference, course or seminar
- Volunteer
- Watch a video

Lawyers can add other types of activities not listed above that are appropriate to their practice and circumstances.

Learning Activity Suggestions (#accordion_1_collapse_3)

Junior Lawyer

- Attend a LESA Practice Foundations program series in your practice area(s)
- Complete the **Law Practice Essentials (https://learningcentre.lawsociety.ab.ca/course/view.php?id=2)** course

- Develop and implement practice management skills
- Engage in a mentorship relationship with a senior practitioner
- Join and attend CBA section meetings that align with your practice area(s) and interests
- Learn about the resources and supports offered by **Assist (https://lawyersassist.ca/)**
- Regularly review your CPD goals to make your professional development a lifelong habit

Mid-Career or Senior Lawyer

- Address potential areas to improve your practice through completion of a **Practice Management consultation (https://www.lawsociety.ab.ca/lawyers-and-students/practice-management-consultations/)** or **practice management self-directed Assessment (https://www.lawsociety.ab.ca/resource-centre/key-resources/practice-management/practice-management-assessment-tool/)**
- Develop and present a CPD event for your firm or organization
- Learn new technologies that apply to your practice
- Mentor a junior lawyer
- Participate in administering **PREP (https://cpled.ca/principals-employers/how-can-lawyers-participate/)**
- Teach a seminar or course
- Volunteer for an organization, association or pro bono clinic in your community
- Write and publish a legal paper, article or resource

Sole or Small Firm Practitioner

- Address potential areas to improve your practice through completion of a **Practice Management consultation (https://www.lawsociety.ab.ca/lawyers-and-students/practice-management-consultations/)** or **practice management self-directed Assessment (https://www.lawsociety.ab.ca/resource-centre/key-resources/practice-management/practice-management-assessment-tool/)**
- Complete the **Law Business Essentials (https://learningcentre.lawsociety.ab.ca/course/view.php?id=6)** course
- Develop and implement a well-being policy for you and your staff
- Join and attend CBA Small, Solo and General Practice Section meetings
- Participate in networking opportunities

- Prepare a **Business Continuity and Succession Plan (https://www.lawsociety.ab.ca/resource-centre/key-resources/practice-management/business-continuity-and-succession-plan-guide-and-checklist/)**

Research Lawyer

- Develop a research bank in various areas of law
- Develop project management skills for large scale files
- Join and attend CBA Legal Research and Knowledge Management Section meetings
- Present a luncheon seminar at a Canadian Bar Association section meeting

In-House Lawyer

- Develop lunch and learn seminars for in-house legal department lawyers
- Join and attend relevant Canadian Corporate Counsel Association events
- Review and become updated on employment law and privacy law
- Review CBA Alberta's Legislative Update for recent legislation changes that may affect the company

Lawyers Anticipating a Career Transition or Absence

- Learn about the different **membership status options (https://www.lawsociety.ab.ca/resource-centre/key-resources/practice-management/retirement-guide/your-status-with-the-law-society/)** to determine which membership will best suit your situation
- Plan for the coverage, **succession (https://www.lawsociety.ab.ca/resource-centre/key-resources/practice-management/business-continuity-and-succession-plan-guide-and-checklist/)**, sale or **closing (https://www.lawsociety.ab.ca/resource-centre/key-resources/practice-management/retirement-guide/)** of your practice
- Review the **Practice Transition Videos (https://www.lawsociety.ab.ca/resource-centre/key-resources/practice-management/practice-transition-videos/)** and resources
- Seek appropriate advice and supports to help make important decisions

Accreditation (#accordion_1_collapse_4)

Unlike other jurisdictions, the Law Society of Alberta's CPD program does not have a mandatory minimum number of accredited hours to be counted towards CPD. Therefore, it is not necessary for lawyers to have their learning activities accredited by the Law Society.

While Continuing Legal Education (CLE) providers may develop and market activities they offer to Alberta lawyers as being activities that may be included in an Alberta lawyer's CPD plan, the Law Society does not accredit activities offered by CLE providers. Below is the suggested wording to place in your CLE marketing:

For Alberta lawyers, consider including this activity as a CPD learning activity in your annual Continuing Professional Development Plan.

This is Exhibit " FFF " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

CPD Plan Review Process

Beginning in early 2024, the Law Society will be conducting random reviews on some lawyers' CPD plans to check whether lawyers are on track with their plans and to offer coaching to assist with implementation. **Rule 67.2 (https://www.lawsociety.ab.ca/regulation/act-code-and-rules/)** requires lawyers to participate in the CPD plan review process.

Each month, lawyers will be randomly selected to have their simplified CPD plan reviewed by the Education department. The Education department will review the lawyer's competencies, priorities and selected learning activities to ensure the lawyer has met the minimum requirements (the minimum number of competencies and learning activities) for filing a CPD plan. The Education department will also determine whether the lawyer has made any progress in completing the learning activities, with a view to providing coaching and support to the lawyer in progressing through their plan and priorities, at the lawyer's request.

The competencies, type of learning activities and progress on learning activities are accessible to the Law Society Education department when conducting these reviews and when generating aggregate reports about plans. These reports will help us better understand trends and assess priorities for future resource development.

The competencies in the CPD Tool are aspirational and are presented along with a scale that indicates increasing levels of proficiency that lawyers can use to self-assess and create personal goals. These proficiency self-assessments and the notes that lawyers include in their CPD plans about their learning activities are not accessible to the Law Society.

Other Law Society departments do not have access to any plan information. Other departments that want to review a lawyer's CPD plan will request that the lawyer produce a copy of their CPD plan that only contains the information accessible to the Education department. If, however, a lawyer discloses information that causes a regulatory concern or the lawyer fails to participate in the CPD plan review process, this information may be shared with other departments of the Law Society for regulatory purposes.

This is Exhibit " GGG " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

Continuing Professional Development Program Guideline

April 27, 2023

LAW SOCIETY of ALBERTA

Table of Contents

Continuing Professional Development Program Guideline

Introduction & Purpose

1. The Law Society of Alberta (Law Society) established a mandatory continuing professional development (CPD) program and developed Rules for the implementation and administration of the program. The ability of Canadian Law Societies to establish such programs and administer them through Rules was confirmed by the Supreme Court of Canada in *Green v. Law Society of Manitoba*, 2017 SCC 20, [2017] 1 SCR 360.

2. The Law Society defines CPD, in Rule 67.1, as:

> 67.1 (1) "Continuing professional development" is any learning activity that is:
>
> (a) relevant to the professional needs of a lawyer;
>
> (b) pertinent to long-term career interests as a lawyer;
>
> (c) in the interests of the employer of a lawyer or
>
> (d) related to the professional ethics and responsibilities of lawyers.
>
> (2) Continuing professional development must contain significant substantive, technical, practical or intellectual content.
>
> (3) It is each lawyer's responsibility to determine whether a learning activity meets these criteria and therefore qualifies as continuing professional development.

3. The Continuing Professional Development Program Guideline (Guideline) provides information about the CPD program, its requirements and its administration.

4. Specific mandatory CPD requirements, in addition to those of the CPD program, may be prescribed by the Benchers, as set out in Rule 67.4. Those CPD requirements do not form part of the CPD program to which this Guideline refers and are not subject to this Guideline.

5. Nothing in this Guideline should be taken as superseding or replacing any provisions of the *Legal Profession Act* (Act) or *The Rules of the Law Society of Alberta* (Rules).

6. Access to the CPD components described in this Guideline, including a lawyer's CPD plan, the review process and the contents of any application for exemption, is restricted to specific Law Society staff. A privacy policy outlining access to the CPD plan will be maintained within the CPD Tool.

The CPD Program

7. The Law Society's mandatory CPD program applies only to lawyers with an active status, however, the program is available for all lawyers to use.

8. The CPD program is a self-assessment and self-reflection-based program, in which lawyers develop a personalized learning plan for the CPD program year.

9. Lawyers are required to reflect on their learning needs, proficiency levels and priorities and then create a plan to achieve them. They are required to submit their plans to the Law Society by October 1 of each year. Lawyers are then encouraged to implement that plan. They may adjust their plan throughout the year, if necessary, and reflect on whether their plan met their learning needs and priorities before developing the next year's plan.

10. The Law Society has developed tools to assist lawyers with both planning and reflection.

The Mandatory Nature of the CPD Program

11. Participation in the CPD program is mandatory for all active lawyers. Rule 67.2 establishes the requirements to prepare and submit a CPD plan by the deadline and to maintain a copy of the plan for three years.

12. CPD plans must be prepared and submitted using the CPD Tool accessed through the Lawyer Portal.

13. A failure by an active lawyer to submit a plan will result in an administrative suspension, as set out in Rule 67.3.

The Professional Development Profile for Alberta Lawyers

14. In February 2020, the Benchers passed a motion to:

> …create a new competence framework for the whole life of a lawyer for the Law Society of Alberta that is proportionate, effective and dynamic and includes wellness as part of that framework.

15. As an outcome from that motion, the Law Society developed new tools to provide more guidance for lawyers about what it considers to be important areas of focus for professional development. One of these tools is the *Professional Development Profile for Alberta Lawyers* (Profile).

16. The Profile sets out the competencies that the Law Society believes to be important to maintain a safe, effective and sustainable legal practice in Alberta today. It is designed to provide guidance to all lawyers, regardless of experience or practice area.

17. The Profile is not intended to be a checklist and lawyers are not required to demonstrate competency in every area of the Profile each year.

18. The Profile includes a proficiency scale to help lawyers assess their proficiency in a competency, set priorities and measure progress as they complete learning activities.

CPD Planning

19. For each year's CPD plan, lawyers are required to select a minimum of two competencies, from any of the domains contained within the Profile, on which to focus in developing their learning plan. As CPD plans are personal to each lawyer, their practice and their learning needs, lawyers may select more than two competencies from the Profile.

20. Each competency has a set of accompanying performance indicators to help lawyers assess their proficiency in that competency.

21. Lawyers may also add competencies to their plan that are not included in the Profile, such as those relating to specific practice areas, once they have selected the minimum two competences from the Profile.

22. Lawyers are required to rate their proficiency level on each of their chosen competencies and enter at least one learning activity for each of their chosen competencies, along with accompanying notes. These accompanying notes allow lawyers to provide more details or goals for each competency and learning activity.

23. There is no requirement for a minimum number of hours of CPD and lawyers can choose any appropriate learning activity, style or format to meet their learning needs, whether formal courses and conferences or informal learning activities, as long as the learning activity complies with the Law Society's definition of CPD contained in Rule 67.1.

24. Within their CPD plans, lawyers are required to include their:

    a. selected competencies;

    b. proficiency ratings;

    c. desired learning activities; and

    d. learning activity details

    and are encouraged to include their:

    e. progress in improving their proficiency in their chosen competencies, measured using the Law Society's proficiency scale; and

    f. self-reflection on the effectiveness of their CPD plan.

25. Lawyers can modify or update all of the above items throughout the year.

26. Lawyers are encouraged to select a variety of learning activities and to modify and change their learning activities not only throughout the year but for each subsequent CPD year, as their learning progresses and they develop in their practice.

27. Lawyers will not be able to submit a CPD plan that does not meet the minimum planning requirements, as detailed in the instructions contained within the CPD Tool on how to complete the CPD plan.

28. Lawyers will be able to edit their CPD plan, as well as track their progress in implementing their plan and completing their selected learning activities, until September 30 of the CPD year.

29. Lawyers will be encouraged to complete the Final Reflection activity in the CPD Tool to assess their CPD learning activities and the overall effectiveness of their plans, once they have completed all learning activities they planned to undertake for the year. These self-reflections will not be accessible to the Law Society.

CPD Plan Review

30. Rule 67.2 requires lawyers to maintain a copy of their CPD plan, as well as to produce a copy of their CPD plan on request and participate in the review process.

31. While also serving as an accountability measure, the primary goal of the review process is to support lawyers in working toward completion of their planned learning activities for the year and making progress on their professional development priorities.

Lawyer / CPD Plan Selection

32. Each month, a number of lawyers will be randomly chosen to have their CPD plan reviewed by the Law Society's Education Department.

33. Education Counsel will contact those lawyers to let them know their CPD plan has been randomly selected for review, when the review will take place, and that Education Counsel will view their plan components directly within the CPD Tool.

34. This contact will provide lawyers with advance notice of the review and permit them to track or update any progress they have made on their plans to date, if they have not already done so. They may also edit their plan if they have determined changes to their original plan are necessary. This will facilitate the review process and aid Education Counsel in providing supports, if needed.

Information To Review

35. The Education Department's CPD plan review will be conducted by Education Counsel and will include a review of:

    a. the chosen competencies,

    b. the lawyer's priorities,

    c. the selected learning activities, and

    d. any progress made in completing the learning activities.

36. This information can be accessed by the Education Department directly through the CPD Tool, without the need for a lawyer to produce a copy of their plan. As noted above, lawyers will be notified of this when contacted to let them know their CPD plan has been selected for review.

37. Information contained within the CPD Tool outside of that noted above, such as self-reflections or self-assessments completed using the proficiency scale, is not accessible to the Education Department.

38. During a review, Education Counsel may ask if the lawyer would like to share additional information, including any self-reflections or self-assessments, as part of the review process. Sharing additional information is voluntary.

Purpose of Review and Additional Support

39. The CPD plan and any additional information provided by the lawyer will be reviewed both to determine:

    a. if the CPD plan meets the minimum requirements,

    b. if the lawyer is working towards completion of their planned learning activities for the year, and

    c. if the lawyer is making progress on their professional development priorities,

and with a view to providing coaching and support to the lawyer in progressing through their plan and priorities.

40. If, during or following a review, a lawyer wants to further discuss their CPD plan or to receive ongoing coaching or other assistance from the Law Society to assist in implementing or making progress through their CPD plan, these supports will be available. This support is optional and the lawyer will not be required to further engage with the Society about their CPD plan once a review is complete.

Conclusion of Review

41. Not every step of the CPD plan review process outlined in this section will be applicable to every lawyer. A review concludes, for a lawyer, at the stage of the process when the Education Department is satisfied that the lawyer has fulfilled the minimum requirements and the lawyer does not want any further support.

Failure to Comply with Rule 67.2

42. A lawyer who

    a. fails to respond to a request to produce their CPD plan;

    b. produces an obviously inadequate or incomplete plan; or

    c. fails to participate in the review process

may be referred to another Law Society department, including Early Intervention or Conduct if the matter cannot be resolved by Education Counsel. The extent of the lawyer's failure to respond to the Law Society, to cooperate with the Law Society, and to participate in the review process, as well as the nature of the response to the request to produce their plan, will determine the department to which the lawyer will be referred.

Request to Produce CPD Plan Pursuant to Rule 67.2

43. The CPD Tool permits lawyers to download both a “simplified” and a “full” version of their CPD plan. The simplified version contains their selected competencies, priorities and learning activities. The full plan contains all of a lawyer’s CPD plan information, including their self-reflections and self-assessments.

44. If requested to produce a copy of their plan by a Law Society department, a lawyer is only required to produce the simplified version of the lawyer’s CPD plan.

45. Other information a lawyer includes in the CPD Tool, such as self-reflections and self-assessments using the proficiency scale, and shown in the full version of their plan, are not considered part of the CPD plan for the purpose of Rule 67.2. This information may be provided at the lawyer’s discretion but disclosure of this additional information is not required.

Exemption from Developing a CPD Plan

46. A lawyer may apply for and receive an exemption from developing a CPD plan for a CPD year. The following are the available exemptions:

    a. Maternity/Paternity/Parental Leave – This leave is available to lawyers who are expecting to become parents shortly before or during the CPD year and includes pregnancy, birth, surrogacy and adoption.

    b. Medical Leave – This leave is available to lawyers who have a medical condition that prevents them from participating in the CPD program during the CPD year.

    c. Other – This exemption is available to lawyers who have another circumstance that prevents them from participating in the CPD program during the CPD year.

47. Lawyers will be required to request an exemption through the Lawyer Portal in advance of and for each CPD year for which their circumstances prevent them from participating in the CPD program.

48. The Education Department will evaluate and decide upon any request for an exemption from the CPD program. This decision is final.

49. As the CPD Tool becomes active and available to lawyers on July 1 each year, the following will be given an automatic exemption:

    a. A student-at-law or a lawyer transferring from another Canadian jurisdiction who is enrolled as a member of the Law Society after July 1 in a year will not be required to develop and submit a CPD plan that year but will be encouraged to do so.

    b. An inactive lawyer who becomes active after July 1 in a year will not be required to develop and submit a CPD plan that year but will be encouraged to do so.

    c. Lawyers with an active non-practising status as of July 1 will not be required to develop and submit a CPD plan, as they are not entitled to provide legal services, though any lawyer with an active non-practising status who returns to an active practising status after July 1 in a year will be encouraged to do so.

50. An active lawyer who becomes inactive prior to October 1 in a year will not be required to develop and submit a CPD plan.

CPD Program Assessment

Data Collection from CPD Plan Review and CPD Tool

51. The Education Department will collect feedback and data that it obtains during the CPD plan review process.

52. Aggregate information about the competencies and learning activities that lawyers are selecting, identification of competencies that are consistently assigned top priority, information about whether the profession, as a whole, is showing progress on the proficiency scale through their self-assessments, and feedback about the CPD Tool and the self-assessment and planning process will be collected by the Education Department through the CPD Tool.

CPD Program Review

53. Information collected during the CPD plan review process and through the CPD Tool will be used by the Education Department to enhance the review process and inform decision-making about future compliance activities, as well as to assess any trends and inform decision-making to enhance the CPD program and supporting resources.

54. The Profile and related CPD program documentation are intended to evolve and change as the demands on lawyers evolve and change.

55. The Education Department will continuously review and assess the CPD program and monitor its effectiveness, as well as make recommendations for changes and improvements to the CPD program.

This is Exhibit " HHH " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

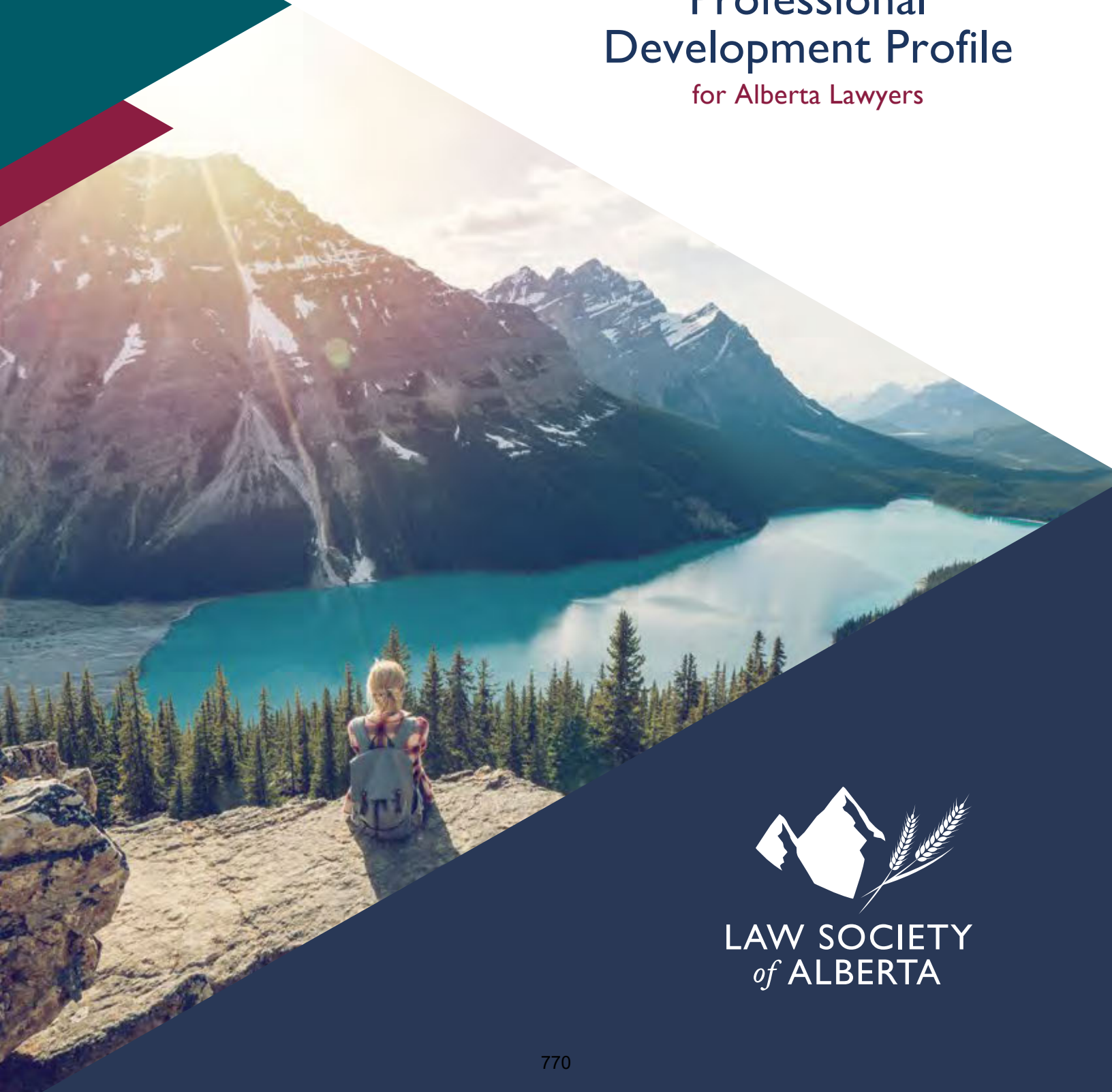
of December , 2023

A Commissioner for Oaths ~~in~~ and for Alberta

Glenn Blackett
Barrister & Solicitor

Professional Development Profile

for Alberta Lawyers



LAW SOCIETY *of* ALBERTA

Table of Contents

Foreword

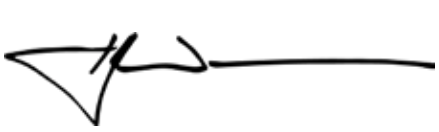
We are excited and proud to introduce the Law Society of Alberta's Professional Development Profile for Alberta Lawyers. The publication of the Profile is an achievement that reflects the vision and leadership of the Law Society of Alberta and members of the Alberta legal community. The Profile is intended to apply to lawyers after being admitted to the bar, regardless of experience or practice area. It sets out the competencies that are important to maintain a safe, effective and sustainable legal practice in Alberta today.

In 2020, the Benchers of the Law Society of Alberta set out to enhance its approach to continuing professional development (CPD). One key goal is to make the annual CPD planning process more meaningful and engaging for Alberta lawyers, by providing guidance on what the Law Society sees as important areas of focus. To achieve this, the Benchers determined a new competency framework was an integral part of the work to enhance lawyer competence and CPD. This Profile is the result.

The Profile represents a unique approach to CPD amongst Canadian legal regulators. It aims to enhance the elements of Alberta's approach to CPD that have always worked well, which includes a focus on self-reflection, self-assessment and learning outcomes. The Profile is meant to foster a holistic and innovative approach to lawyer competence for legal practice in Alberta today and in the future. It is intended to serve as a source of inspiration and aspiration for Alberta lawyers and will be the foundation for the Law Society's new approach to lawyer competence and CPD going forward.

The Profile does not include substantive areas of law, but broad areas of knowledge and skills that lawyers practising in all areas might look to develop or expand. As has always been the case, Alberta lawyers are encouraged to pursue CPD specific to their practice areas in addition to areas set out in the Profile.

The Profile is the first step in the Law Society's enhanced approach to CPD. The Law Society will continue to develop guidance and resources to support lawyers in creating meaningful and effective CPD plans. The next step is to create an interactive tool, which is currently in development, to help lawyers with this process. In the meantime, we hope lawyers will use the Profile to guide and enhance their CPD activities.



Ken Warren, QC
Law Society of Alberta President
and Project Steering Committee Chair

Elizabeth J. Osler, QC
Chief Executive Officer and Executive
Director of the Law Society of Alberta

June 2022

Purpose of the Profile

The Profile is intended for use by Alberta lawyers. All references to lawyers in this document refer to Alberta lawyers.

The purpose of the Profile is to:

- Guide lawyers in understanding what competencies are associated with safe, effective and sustainable legal practice.
- Support the CPD of lawyers through ongoing self-assessment and learning.
- Support lawyers in developing their professional identity throughout their career.
- Provide a definition of competence to offer guidance for other regulatory and educational purposes that support competency development.
- Assist employers and articling principals to develop work experiences and practices that support competency development.
- Inform continuing legal education providers about the competencies that are important to legal practice today to assist in future content development for lawyers.
- Support the Law Society's development of a professional development program for lawyers.

The Profile is not intended to:

- Be a checklist of requirements.
- Duplicate entry to practice competencies developed by other organizations.
- Address substantive legal knowledge and procedures specific to different areas of legal practice.
- Include every competency that lawyers practising law in Alberta might need.
- Create a legal standard to be used in professional negligence claims.
- Set threshold standards for purposes of discipline.

The Profile and related documentation are intended to be living documents; they are expected to evolve and change as the demands on lawyers evolve and change. This version reflects the current understanding of the demands on lawyers who have been admitted to the practice of law in Alberta.

Profile Elements

Domains: The Profile outlines nine domains or areas of competency that are important for Alberta lawyers. The domains set out the suggested areas in which professional development might be undertaken.

Domain Statements: Each domain has an introductory statement that conveys the overall scope and intent of the domain. The statements are not intended to be exhaustive and, like the rest of the Profile, are intended to be sources of inspiration and aspiration for Alberta lawyers.

Competencies: Each domain contains a number of competencies, which are areas in which a lawyer might seek to develop professionally within that domain. While these competencies have been identified as being important for safe, effective and sustainable legal practice and for continuing competence, they should be thought of as a menu of options for lawyers to pursue when creating CPD plans, rather than as a checklist of requirements. Competencies are numbered and located in the left column of the Profile.

Performance Indicators: Performance indicators illustrate observable or readily inferable behaviours in the area outlined by each competency. The performance indicators provide examples of different aspects of the competency that a lawyer can develop. Performance indicators are listed in the right column of the Profile.

Glossary: A glossary of terms is provided at the end of the Profile, with glossary terms highlighted in burgundy text wherever they are used.

Graphic: The graphic representation of the domains found on page 3 of the Profile depicts a compass, which is consistent with the purpose of the Profile to offer guidance to Alberta lawyers on their professional development journeys. As the Legal Practice domain represents the core legal elements of a lawyer's role, it is in the centre of the compass and is the first domain in the Profile. However, all the domains are interconnected and equal in importance to safe, effective and sustainable legal practice in Alberta today. To indicate this, the rest of the domains are listed in alphabetical order, both in the graphic and in the Profile. The graphic represents the Law Society's holistic and innovative approach to lawyer competence.

Proficiency Scale

A proficiency scale clarifies a level of progress towards a standard or expectation. For any given competency, different levels of proficiency are expected at various career stages and in various practice areas and contexts. The Law Society has adopted the proficiency scale below, developed by Principia Assessments, Ltd., to be used with the Profile.

The scale is intended to be used by Alberta lawyers to both self-assess current level of proficiency in a given competency and to set goals for the desired levels of proficiency in that competency. The scale may be applied to any competency in the Profile to assist Alberta lawyers in identifying professional development goals and creating annual CPD plans. There is no expectation that levels of proficiency move in lockstep across or within domains. For instance, a lawyer may be proficient at one competency (the Excel level) and just beginning to test out another competency (the Attempt level).

While the Law Society can offer guidance and suggestions, it will be up to each lawyer to determine how to best improve their proficiency in their chosen areas of professional development, depending on their level of experience, practice context and goals.

Some examples for using the Proficiency Scale in relation to the Profile include:

A lawyer in a large firm who has been called to the bar for six years is starting to draw in more of their own clients, and decides they want to start placing more focus on Lawyer-Client Relationships, specifically on fostering collaborative and trusting lawyer-client relationships. Using the Proficiency Scale, the lawyer might judge themself at the Attempt stage but would like to be performing in accordance with the description of the Excel stage. This might help the lawyer decide to focus on improving on this competency.

A lawyer who serves as in-house counsel may assess themself as being at the Pre-discovery stage with respect to Truth and Reconciliation. Because this is a newer concept for this lawyer, they may decide to place a great deal of focus on improving their knowledge in this domain, based on the guidance set out in the corresponding competencies and performance indicators.

A partner in a medium-sized law firm who has taken on some management duties may determine they want to place greater focus on supports for well-being in their firm. They determine that they are at the Discover stage of the Proficiency Scale for this competency and want to Lead in this area. Because they want to move up four stages on the Proficiency Scale, they might decide to work on all performance indicators listed for that competency and seek resources to put supports in place for all those areas.

Professional Development Profile
for Alberta Lawyers

1 Legal Practice

Lawyers can accurately identify legal issues. Lawyers employ research, analytical and problem-solving skills to formulate clear and appropriate legal strategies. Lawyers are effective communicators and advance their clients' interests within their practice-specific contexts.

Competency	Performance Indicators
1.1 Critically evaluate a matter	• Use appropriate and current substantive and procedural law applicable to one's own practice area(s) • Accurately identify relevant facts, legal issues and informational gaps or discrepancies • Gather with due diligence all relevant information • Research, interpret and correctly apply common law, statutes, regulations, rules, procedure, policy and theory to a legal issue • Seek relevant expertise on a matter when needed • Prudently assess possible courses of action, by considering the range of potential outcomes and weighing the risks of each • Create legal strategy appropriate and proportionate to client needs and means
1.2 Communicate effectively	• Express concepts clearly, precisely, logically, accurately and concisely • Use plain language where appropriate • Adapt communications appropriately to different contexts, purposes and audiences (courts, clients, lawyers, enumerated groups, other individuals)
1.3 Advance client interests	• Present well-prepared, accurate and appropriate legal argument and analysis • Use persuasive communication • Adapt legal strategy or approach and pivot as circumstances change • Take steps to protect client interests

2 Continuous Improvement

Lawyers are committed to continuous improvement of legal service delivery and to lifelong learning, with the goal of providing the highest quality legal services.

Competency	Performance Indicators
2.1 Commit to continuous improvement in the provision of services	• Proactively seek feedback and input from clients and others to identify aspects of service that could be enhanced • Demonstrate adaptability and openness to new ideas • Foster innovation and development of best practices • Develop solutions to overcome obstacles to implementation of best practices
2.2 Cultivate a growth mindset	• Engage in intentional self-reflection, goal setting, and professional development planning • Continuously identify opportunities for professional development and improvement • Engage in work or training that will expand skills, knowledge or responsibilities • Encourage and support colleagues in undertaking new learning and development

3 Cultural Competence, Equity, Diversity and Inclusion

Lawyers have an awareness of the unique experiences of the enumerated groups set out in the *Alberta Human Rights Act*. They implement strategies to meet the specific needs of individuals from these groups to achieve culturally or community-appropriate services and outcomes. Lawyers treat all people with dignity and respect and take active steps to support and advocate for members of enumerated groups.

Competency	Performance Indicators
3.1 Build intelligence related to cultural competence, equity, diversity and inclusion	• Develop understanding of enumerated groups as set out by the *Alberta Human Rights Act* • Develop self-awareness of how one's own conscious and unconscious biases affect perspectives and actions • Reduce one's own biases through continual education, self-reflection and inquiry • Recognize how systemic inequalities and barriers affect individuals and groups • Develop an awareness of the effects of individual and systemic trauma • Consider how multiple points of discrimination interact to create barriers for individuals
3.2 Incorporate equity, diversity and inclusion in practice	• Practise anti-discrimination and anti-racism • Ensure that services are accessible to all • Develop and promote a deeper understanding of sexual orientation and gender identity • Take action to accommodate visible and invisible disabilities • Implement strategies to mitigate trauma • Take action to dismantle systemic inequalities and barriers
3.3 Champion enumerated groups in professional activities	• Advance inclusion through intentional, positive and conscious efforts • Respect the diverse cultures, perspectives, backgrounds, interests and goals of clients, co-workers and colleagues • Adapt communication for enumerated groups as applicable • Advocate for those facing systemic barriers to accessing what they need or deserve • Advocate for hiring, promotion and retention in a manner consistent with enhancing diversity, equity and inclusion • Promote a healthy, safe and inclusive workplace • Increase awareness of qualifications of internationally trained lawyers

4 Lawyer-Client Relationships

Lawyers assess lawyer-client relationships, both internal and external, for suitability and clearly establish the scope of the relationships. Lawyers communicate effectively with their clients and connect with them in a professionally appropriate manner. Lawyers are mindful of and attentive to the entirety of their clients' circumstances and support clients in pursuing their goals, priorities and broader interests.

Competency	Performance Indicators
4.1 Determine suitability of lawyer-client relationships	• Accurately assess and reassess risks associated with potential and existing client relationships • Evaluate if personal considerations might impact lawyer-client relationships • Provide appropriate referrals when it is in the client's best interests
4.2 Establish lawyer-client relationships	• Clarify when providing general legal information versus legal advice which would trigger a client relationship • Listen actively to understand client expectations, build trust and foster exchange of information • Accurately identify who is authorized to give instructions and receive information • Obtain, clarify and document client instructions and confirm course of action • Clearly communicate the terms and limits of the lawyer's scope of work/retainer for the client, including fees, and act accordingly
4.3 Engage in ongoing communication with clients	• Proactively and regularly communicate to keep clients informed • Respond to client communications in a timely manner • Manage client expectations • Communicate respectfully and empathetically
4.4 Foster collaborative and trusting lawyer-client relationships	• Candidly and thoroughly inform clients of their options and potential outcomes • Ensure clients understand information and advice provided • Empower clients to act on own behalf or seek out resources when appropriate • Consider the entirety of each client's circumstances in all aspects of a matter

5 Practice Management

Lawyers employ a range of strategies and skills to support the delivery of efficient and effective legal services and internal processes. Lawyers manage and mitigate risks to their practice and use technology and innovation to improve legal services.

Competency	Performance Indicators
5.1 Use effective time management and organization skills	• Anticipate and prioritize case, project and workload needs • Verify that new assignments are within one's own capacity • Perform all work in a timely and cost-effective manner • Fully utilise practice management tools and software (e.g., checklists, diary, conflict check system) • Delegate tasks that can appropriately and efficiently be performed by others
5.2 Manage files effectively and securely	• Secure files to prevent unauthorized access • Use file management systems that support efficient file tracking, retrieval, retention and destruction • Adhere to privacy and confidentiality requirements • Ensure matters are thoroughly and clearly documented
5.3 Use effective accounting and billing procedures	• Ensure timely and regular billing practices in accordance with retainer agreements or other applicable billing guidelines • Implement practices and procedures to ensure compliance with Law Society reporting and accounting requirements applicable to practice • Access available resources related to billing and accounting when clarification or advice needed
5.4 Supervise and manage effectively	• Provide required information and relevant instructions for efficient delegation • Ensure quality of work produced by others • Provide necessary and useful support and direction to others through training and constructive feedback • Manage conflict between individuals and groups in practice and model appropriate conflict resolution behaviours • Seek and apply tools to build and enhance management skills
5.5 Assess and manage practice risks	• Implement processes for regular, thorough and honest assessment of practice risks • Create plans and strategies to mitigate identified practice risks • Engage in business continuity and succession planning
5.6 Demonstrate technological competence	• Evaluate risks and benefits of potential technological innovations to clients and to one's own practice • Advocate for the timely and appropriate adoption of technology to increase efficiency and effectiveness of legal practice • Use technology, the internet and digital platforms responsibly

6 Professional Conduct

Lawyers are honest, trustworthy and act with integrity. Lawyers execute good judgment and adhere to high standards of behaviour and accountability – to their clients, co-workers, colleagues, members of the legal profession, the courts, tribunals and the Law Society.

Competency	Performance Indicators
6.1 Act ethically	• Accurately recognize, anticipate and resolve ethical issues that arise in legal practice • Consistently and decisively make informed and reasoned decisions about ethical issues • Implement practices and procedures that ensure individual and organizational compliance with requirements related to ethical and indemnity obligations, including case law, statutory requirements, the Code of Conduct and Rules of the Law Society of Alberta • Promptly consult with others (e.g., Practice Advisors, colleagues) when it is unclear how to act ethically in a given situation
6.2 Demonstrate good character	• Continuously demonstrate integrity, honesty and trustworthiness • Consistently practise civility and respect in interactions with others • Act on a good-faith basis when dealing with clients, co-workers, colleagues, the legal profession and the public
6.3 Use sound judgement	• Make logical decisions based on all available information and potential outcomes • Seek out additional information when there are gaps in knowledge • Promptly recognize when tasks or matters fall outside one's own competence and access appropriate sources when assistance or referral is required

7 Professional Contributions

Lawyers foster professional relationships with their colleagues, opposing counsel, courts and tribunals, the Law Society, other professional groups, pro bono organizations, and generally support the administration of justice and enhancements to the legal system. Lawyers strive to strengthen the profession and, where possible, promote and improve access to legal services and access to justice.

Competency	Performance Indicators
7.1 Foster collegiality and civility in the legal profession	• Demonstrate professional courtesy, honesty, candour, respect and civility in dealings with clients, colleagues, the courts, tribunals and others • Work constructively with others to resolve issues in a timely and cost-effective manner when appropriate • Acknowledge and consider other viewpoints, and express any disagreement thoughtfully and respectfully • Work collaboratively with colleagues within the lawyer's work environment • Mentor peers and/or junior colleagues
7.2 Enhance the administration of justice	• Actively volunteer with or otherwise support professional associations and community organizations • Promote a clear and accurate understanding of the legal profession to others (e.g., the media, the public) • Foster dialogue between lawyers and the judiciary
7.3 Advance access to legal services and access to justice	• Recognize how access to justice issues impact the justice system • Enhance access to legal services for everyone • Provide pro bono services and support pro bono organizations • Ensure matters proceed effectively and efficiently • Collaborate with others to make systemic improvements to increase access to justice

8 Truth and Reconciliation

Lawyers are integral to the development, interpretation and application of laws. Alberta lawyers understand the historical and current impacts that Canadian law has on Indigenous Peoples (First Nations, Inuit and Métis) in Canada and participate in reconciliation.

Competency	Performance Indicators
8.1 Strengthen understanding of the truth regarding the experience of Indigenous Peoples in Alberta and Canada	• Recognize the history and diversity of various Indigenous communities of Alberta and Canada • Understand the terminology used to describe Indigenous Peoples and its significance at law • Acknowledge the impacts of colonization and systemic discrimination • Respect the differences among traditional lands, Treaty territories and Métis Settlements in Alberta • Acknowledge the discriminatory practices that have been applied to Indigenous Peoples in Canada • Understand the history of Indian Residential Schools and day schools and their impact on the well-being of Indigenous Peoples • Recognize the historical and ongoing impacts of Canadian and Alberta law on Indigenous Peoples
8.2 Demonstrate support for reconciliation with the Indigenous Peoples of Canada	• Apply Calls for Action and Calls for Justice applicable to Indigenous Peoples • Acknowledge and respect the traditional Indigenous territory in which the lawyer practises or lives • Incorporate Indigenous principles, laws, culture and perspectives when developing strategies for representing Indigenous clients • Recognize that Indigenous Peoples have their own restorative justice systems and use them where appropriate • Enhance access to restorative justice initiatives and options available in communities

9 Well-being

Lawyers make their own physical, mental and emotional well-being a priority in order to ensure their capacity to practise competently. They manage the stresses of practice in the ways that are effective for their individual circumstances in order to provide high-quality legal services and promote healthy workplaces. Lawyers support and foster others' well-being.

Competency	Performance Indicators
9.1 Build resilience	• Develop flexibility and adaptability in the face of adversity or stress • Mitigate effects of stress and trauma, accessing supports as needed • Approach challenges as opportunities to learn, grow and improve, where appropriate
9.2 Maintain personal health	• Practise physical, mental, and emotional self-care and health management • Strive to consistently use healthy coping skills • Identify and seek out resources for support for personal problems that might interfere with one's own ability to practise
9.3 Demonstrate self-awareness	• Recognize one's own stressors and how they manifest • Recognize impact of one's own behaviours on others' well-being • Take concrete steps to ensure work-life challenges do not have an adverse impact personally and professionally
9.4 Support well-being of others	• Encourage adoption of healthy coping skills and stress management practices • Demonstrate empathy toward others in professional settings • Strive to foster optimal health and well-being of others in professional settings • Recognize signs of distress/struggle in others • Assist others in obtaining supports for their well-being

Glossary

Access to legal services: While access to justice is a commonly used phrase, it applies primarily to access to the court system. Access to legal services includes access to all types of services a lawyer might provide, some of which do not involve the courts. Access refers to more than affordability; it includes considerations relating to geographic location, language, and health, among others.

Business continuity planning: The process of creating systems of prevention and recovery to deal with potential threats to a company. In addition to prevention, the goal is to enable ongoing operations before and during execution of disaster recovery.

Enumerated groups: Groups of people who share identities based on the characteristics set out in the *Alberta Human Rights Act*, which states that all persons are equal in: dignity, rights and responsibilities without regard to race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation.

Growth mindset: The belief that one's talents can be developed through hard work, good strategies, and input from others. Individuals who adopt more of a growth mindset are more likely to embrace lifelong learning, put in more effort to learn, view feedback as an opportunity to learn, believe failures are just temporary setbacks, willingly embrace challenges and view others' success as a source of inspiration.

Healthy coping skills: Constructive or positive ways we manage internal and external stress, and which are associated with good mental health. Some examples may include seeking out social support, establishing boundaries, practising gratitude, engaging in a hobby, getting enough sleep, exercising, spending time outdoors and journaling.

Practice risks: Threats that impact a lawyer's reputation, opportunity, operating costs or ability to carry on business. Examples of risks in legal practice may include but are not limited to ethical complaints, insurance claims, cyber-attacks, fraud, theft, staffing issues, unexpected life events and disasters.

Resilience: The process of adapting well in the face of adversity, trauma, tragedy, threats, or significant sources of stress, such as family and relationship problems, serious health problems, or workplace and financial stressors.

Development of the Profile

The Law Society retained ACT, Inc. ("ACT") to facilitate the development of the Profile. ACT is a mission-driven not-for-profit organization based in the United States. ACT's Credentialing and Career Services group provides advisory and consulting services to organizations that educate, license and certify individuals in a range of professions.

The Law Society's 2021-2022 Bencher Lawyer Competence Committee served as the project Steering Committee and provided guidance and oversight throughout. ACT led the project and ensured that all activities conformed to best practices. ACT consulted with the Steering Committee at key decision points to verify that all processes and work products aligned with the purpose of the Profile.

The Profile was created using an iterative process that involved input from over 65 individuals at different points in the development process. Drafting of the Profile was undertaken primarily by a volunteer Task Force of Alberta lawyers, with outside input and feedback collected and incorporated at several points in the development process.

The Law Society selected the Task Force members from among the volunteers who responded to a province-wide call for participation. Appointments to the Task Force were made to balance practice setting, role, location, gender and representation of equity-deserving groups among other considerations.

Drafting of the Profile elements took place across three sets of meetings. In creating its first draft, the Task Force drew upon its own expertise as well as the competencies developed by other entities including the Canadian Centre for Professional Legal Education, the Law Society of New Brunswick, the Royal College of Physicians and Surgeons of Canada and the Institute for the Advancement of the American Legal System.

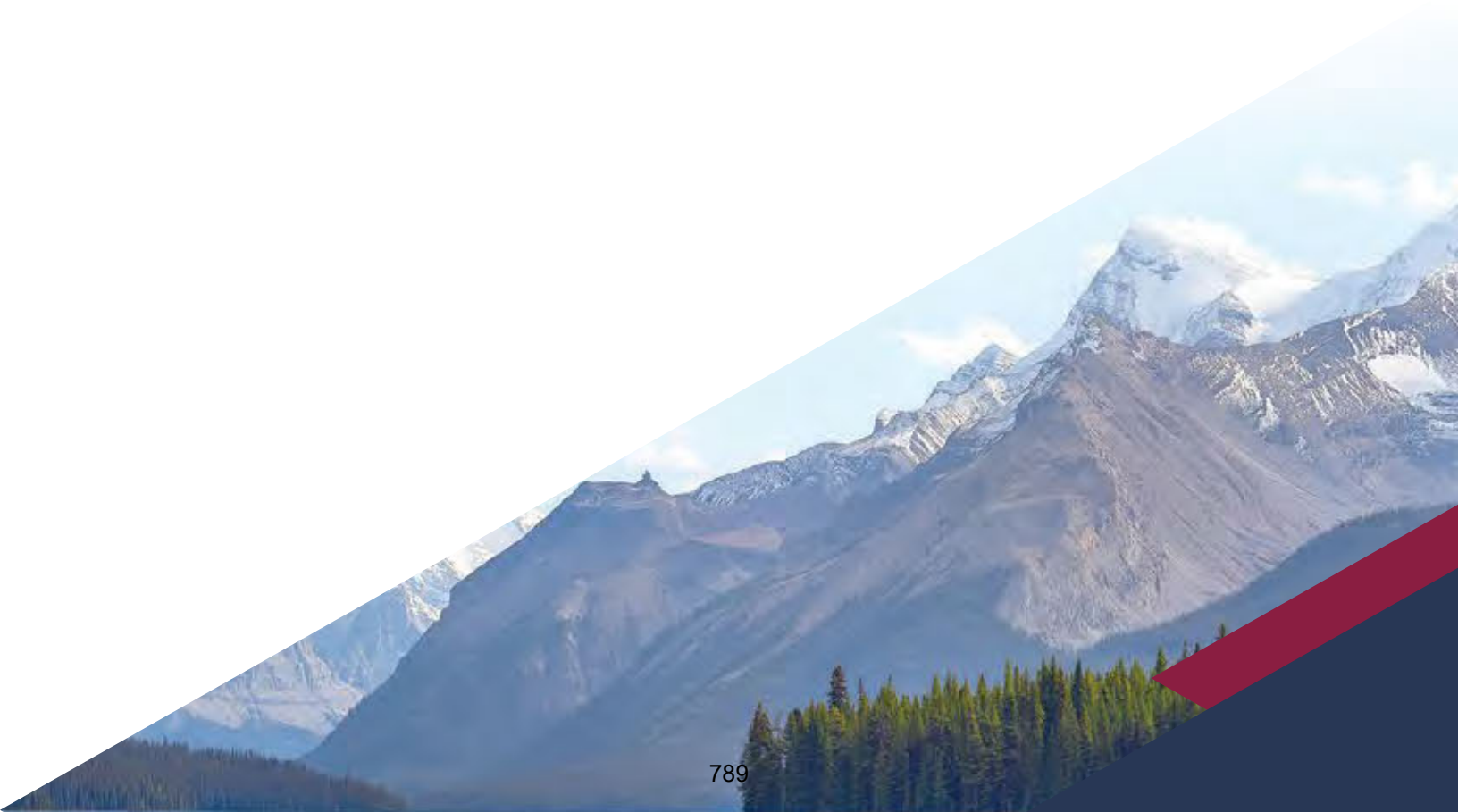
The Task Force delineated competencies and performance indicators within a preliminary set of professional development domains. The domain structure took into consideration guidance from the Steering Committee, the Law Society's strategic plan and recommendations provided by outside consultants. See the section titled Profile Elements for further description of the Profile elements.

Steering Committee and Task Force members and internal Law Society staff stakeholders reviewed and commented on the first draft of the Profile. At its second set of meetings, the Task Force incorporated feedback from the reviewers into a second draft of the Profile.

Peer consultation was subsequently undertaken via a series of facilitated focus group sessions to obtain feedback regarding the second draft. The focus groups include the Law Society's Indigenous Advisory Committee, Lawyer Competence Advisory Committee and Equity, Diversity and Inclusion Advisory Committee, as well as an external focus group assembled from among respondents to the initial call for participation. The focus groups were asked for general feedback, as well as targeted feedback applicable to their subject matter expertise.

At its third set of meetings, the Task Force made its final revisions to the Profile, considering all comments from the focus groups. The draft Profile consisted of nine professional development domains, 30 competencies and 131 performance indicators associated with the competencies. The Steering Committee approved the Task Force's final draft with only a limited number of revisions to improve clarity and readability.

ACT administered a survey to Alberta lawyers to collect validation evidence for all the elements of the Profile. Participants rated the importance of each domain and competency to effective legal practice in Alberta today and evaluated the usefulness of the performance indicators as a means of describing potential areas for professional development. The ratings made by the survey respondents validated all of the elements of the Profile. After reviewing the survey results with ACT, the Steering Committee endorsed the profile, which was subsequently approved by the Benchers of the Law Society.



Acknowledgments

Creation of the Profile was made possible through the combined efforts of numerous contributors. The Law Society's 2021–2022 Bencher Lawyer Competence Committee served as the project Steering Committee and provided guidance and oversight throughout the effort. The 11-member project Task Force worked tirelessly and thoughtfully across numerous sessions to draft and refine the Profile. Members of the Law Society staff and over 45 additional practitioners and other subject matter experts participated in focus groups and provided crucial feedback on an interim draft. All contributors to these efforts are listed on the next page. This work was completed on a short timeline, during the sometimes-challenging circumstances of the Covid-19 Pandemic. We are deeply appreciative of the time and thoughtful contributions these individuals dedicated to the development of the Profile.

We also want to thank the lawyers who completed the survey to validate the Profile elements, including those who volunteered to pilot test the survey.

Thank you to Jordan Furlong at Law21, and to Jennifer Flynn of Principia Assessments Ltd., for their guidance leading up to and throughout this project.

Finally, we are grateful to our project development partners at ACT, Inc. – Patricia Muenzen, PhD and Carla Caro, MA – for leading the project, and to Barbra Bailey, Rebecca Young and Maggie Thaxter at the Law Society for providing administrative support.

Contributors

Steering Committee

Ted Feehan
Corie Flett, QC
Bill Hendsbee, QC
Kene Ilochonwu
Barb McKinley
Bud Melnyk, QC
Darlene Scott, QC
Deanna Steblyk, QC
Margaret Unsworth, QC
Ken Warren, QC

Task Force

Uba Anya
Victoria Foster
Noren Howg
Patrick Heinsen
Glen Hickerson, QC
Kene Ilochonwu
L. Mark Jackson, QC
Melisa Luhtanen
Celena Piche
Christine Sanderman
Lisa Silver

Law Society, ALIA & CPLED Staff

Susannah Alleyne
Barbra Bailey
Colleen Brown
Cori Ghitter
Erica Green
Karen Hansen
Anna Lerch
Jesse Mackenzie
Kendall Moholitny
Len Polsky
Avery Stodalka
Maggie Thaxter
Rebecca Young

Focus Group Members

Tarim Ansari
Viviana Berkman
Agnes Bielecki
Katherine Bilson
Katelynn Cave
Sania Chaudhry
Gabriel Chen
Gideon Christian
Ashley Cox
Eugene Creighton, QC
Katrina Edgerton-McGhan
Robert Fenton
Makiko Hata
Andy Hayher
Katrina Haymond
Josh Jackson
Shetal Jas
Brian Kash
Jagatjit Kaur
Amjad Khadhair
Stefanie Kingsbury
Craig Kinsman
Lynda Levesque
Katelyn Lucas
Donald MacCannell
Stacy Maurier
Jenny McMordie, QC
Daniel McPherson
Beverly Mendoza
Donna Moore
Terri-Lee Oleniuk
Adam Pasichnyk
Ivanna Perozak
Robert Philp, QC
Michelle Plouffe
Kane Richards
Harold Robinson
Christopher Ryan
Kathleen Ryan, QC
Elena Sacluti
Charlene Scheffelmair
Sarah Sinclair
Alena Storton
Ugo Ukpabi
Dale Wispinski

Survey Pilot Testers

Wayne Barkauskas, QC
James Beaton
Keely Cameron
Suchetna Channan
Janice Colobong
Miranda Davis
Donna Derie-Gillespie
Fraser Gordon
Britta Jones Graversen
Michelle Herron
Kristy Kalin
Sarah Lulman
Karmen S. Masson
Patti Macdonald
Adeel S. Mulla
Elias Munshya
Dawn L. Nelson
Lorne O'Reilly
Akinbobola Olukayode Olugbemi
Amelia K. Pask Snook
Robert Philp, QC
Michael Swanberg
Faisel Syed
Eric Vaillant
Vita Wensel
Ania Werbeniuk

Additional Reviewers

Loraine Champion
Jennifer Flynn
Jordan Furlong
Andrea Menard
Dr. Richard Spelliscy


LAW SOCIETY
of ALBERTA

This is Exhibit " III " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

[redacted]

From: roger.song[redacted]
Sent: September 29, 2023 11:08 AM
To: catherine.Bennett[redacted]
Cc: [redacted]m
Subject: RE: DEADLINE APPROACHING – Final Reminder to Complete your Continuing Professional Development (CPD) Plan by Oct. 1, 2023

Dear Ms. Osler,

I am required by Rule 67.2 and 67.3 to submit a CPD plan through the LSA's CPD Tool on pain of automatic suspension. I dispute the LSA's jurisdiction to require this of me, the LSA's jurisdiction to automatically suspend me, and dispute the constitutionality of, both, the requirement and the Professional Development Profile upon which my CPD is to be based.

Therefore, I submit my CPD plan using the CPD Tool under protest and I hereby reserve my rights to challenge the requirement on any and all bases.

Regards,

Yue (Roger) Song
宋岳律师
Barrister & Solicitor
[redacted]

SONG & HOWARD LAW OFFICE
宋岳律师事务所
[redacted]

From: Law Society of Alberta Mentorship Team[redacted]ab.ca>
Sent: Wednesday, September 27, 2023 11:52 AM
To: roger.song[redacted]
Subject: DEADLINE APPROACHING – Final Reminder to Complete your Continuing Professional Development (CPD) Plan by Oct. 1, 2023

[redacted]

September 27, 2023

[redacted]

Final Reminder to Complete your Continuing Professional Development (CPD) Plan by Oct. 1, 2023

Dear Yue Song,

Our records indicate that you have not yet filed your 2023 CPD Plan.

All lawyers who have an active status when the CPD planning period opens are required to submit an annual plan by Oct. 1. The only exception is lawyers who have the status of active – non-practising.

If you do not submit a CPD plan by the deadline, you will be subject to administrative suspension (Rule 67.3).

Using the CPD Tool, the Law Society's new CPD Program gives lawyers the freedom to choose the CPD areas and activities that interest them.

If you qualify for an exemption, please apply by Thursday, Sept 28 so that the Law Society can assess your request in advance of the Oct.1 deadline. Exemption requests can be submitted through the CPD section of the Lawyer Portal.

How to Get Started

The CPD Tool is accessed through the Lawyer Portal by selecting CPD in the dropdown menu located beside your name. While the CPD Tool is designed to be intuitive for lawyers, the Law Society has developed a User Guide to assist with navigating the Tool, along with FAQs and more information on the CPD website.

The CPD Tool will automatically log users out after 20 minutes of inactivity. You will be alerted when you are at risk of being logged out. The Tool saves your work each time you move to a new step, so to avoid losing your work, ensure you have moved onto the next page. You will be able to go back and finish your plan or edit this information once you return.

Additional Supports

The new CPD Tool aligns with the Professional Development Profile (the Profile), which sets out the competencies to maintain a safe, effective and sustainable legal practice in Alberta today. The Key Resources section of the Law Society's website is also aligned with the Profile and can be a good starting point for resources associated with each competency set out in the CPD Tool.

The Law Society also has several new resources if you need some ideas for your CPD plan. These include:

- **New Courses in the Learning Centre**. The Learning Centre is an interactive resource that houses courses including
    - the Law Practice Essentials Course, designed to assist lawyers in learning about key areas applicable to all lawyers in private practice;
    - the Law Business Essentials Course, designed to assist lawyers in learning about key areas applicable to running a law firm; and

- the Reflective Practice Course, which helps lawyers understand what reflective practice is, the different kinds of reflection, why it is important to lawyers, how it applies to professional development and what it takes to become a reflective practitioner.

- **The Practice Management Assessment Tool**. This online assessment tool helps lawyers, firms and other legal professionals examine their practice management systems, their policies and processes. The tool also provides users with a curated list of free resources to help address gaps and manage risks.
- **Business Continuity and Succession Planning resources**. These resources include information to consider when developing your plan, a checklist that identifies possible information to include in your plan and action items to implement your plan. It also includes resources where you can find additional information and templates to assist with developing and customizing a plan that meets your unique circumstances. There are also retirement planning resources to assist lawyers who are considering retirement or winding up their practice.

Our office will be closed on Monday Oct. 2, 2023 for National Day for Truth and Reconciliation. We encourage you to use the How-To-Guide to get started but if you have any questions, please contact Customer Service during business hours, and they will be happy to help

Learn More

Visit the Lawyer Portal

STAY CONNECTED

This is Exhibit " JJJ " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

700, 333- 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

October 23, 2023

NOTICE OF ADMINISTRATIVE SUSPENSION

NOTICE TO: All Active Members and Students-at-Law,
All Executive Directors of other Law Societies in Canada,
All Justices of the Court of Appeal and Court of King's Bench,
All Justices of the Alberta Court of Justice,
All Applications Judges,
All Clerks of the Court

Suspension

TAKE NOTICE THAT pursuant to Rule 67.3(1) the following lawyers have been administratively suspended, effective October 2, 2023, for failure to complete their 2023 Continuing Professional Development Plan. Lawyers are unable to practise law while suspended.

Stephanie Lilian Ambrose
Maureen Adrianne Bell
Keith Brian Bergner
Ashlinder Brar
Patricia Jane Brister
James Stadler Burg
Danielle Wong Yi Chu
Andrew Peter Cosgrave
Paige Coulter
Dennis Alan Dawson
Jeffrey Jerom Ellis
Jessica Dawn Ferguson
Jessica Jane Fisher
Louis Feh Fombon
Mitchell Samson Frazer
Heather Anne Frydenlund
Michael John Geoffrey Fulton
Trisha Gain
Melissa Dawn Garner
Manoj Gupta
Jennifer Elizabeth Halloran
Suzanne Marie Harbottle
Orrice Harron

Stacy Kathleen Hennings
Jaclyn Christiane Hesje
Kelly Dale Holtby
Courtney Elizabeth Hunter
Muzzamil Hussain
Connie Lynne Hykaway
Shawn Michael Johanson
Ramanjit Kaur Khabra
Sterling Gordon Koch
Kathleen Anne Kohlman
Robert Alan Kopstein
Sara Dawn Kunto
Alan Lee
Roy Edward Link
Santino Bruno Lofranco
David Regan Mark
Hind Linda Masri
Andrew David John Matthews
John Eric Joshua Merchant
Barbara Anne Mercier
Desmond Peter Mitic
Troy Darren Moller
Lewis Crary Myers
David Gordon Myrol, KC
Laaiba Nawal
Robert John Donald Palser
Dennis Franklin Pawlowski
Martha Ellen Peden
Amelia Christine Philpott
David Neil Reschke
Bradley Joseph Robitaille
Rajinder Singh Sahota
John Michael Ashley Simes
Gordon William Squire
Lauren Alexandria Brooks Storwick
Arlene Joyce Strom
Ryan Darnel Tkachuk
Maryse Trudel
Isis Ruey Tse
Mark Ryan Van De Veen, KC
Chantelle Rose Washenfelder
Kipling Blair Wiese
Glen Donald Wilson
Adrienne Samantha Wong
Adam Karl Walford Zelmer

TAKE NOTICE THAT pursuant to Rule 165(3) the following lawyers have been administratively suspended, effective October 2, 2023, for non-payment of the second

instalment of the 2023/24 Annual Active Membership fees. Lawyers are unable to practise law while suspended.

Gloria Marian Caroline Froese
Andrew Jay Goldberg
Nanditha Balchander Iyer

TAKE NOTICE THAT pursuant to Rule 67.3(1) and 67.4(3) the following lawyers have been administratively suspended, effective October 2, 2023, for failure to complete their 2023 Continuing Professional Development Plan and failure to complete the Mandatory Indigenous Cultural Competency Education (The Path). Lawyers are unable to practise law while suspended.

Phillip Andrew Malcolm Millar
Gregory Paul Nakonechny

TAKE NOTICE THAT pursuant to Rule 67.3(1) and 165(3) the following lawyers have been administratively suspended, effective October 2, 2023, for failure to complete their 2023 Continuing Professional Development Plan and for non-payment of the second instalment of the 2023/24 Annual Active Membership fees. Lawyers are unable to practise law while suspended.

Christine Margaret Burton
Ashvin Raj Singh
Ryan Marcus Taylor

Corinne L. Ghitter, KC
Deputy Executive Director & Director,
Policy and Education
Law Society of Alberta

This is Exhibit " **KKK** " referred to
in the Affidavit of

Yue Song

Sworn before me this **6** day

of **December**, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Key Resources

Our key resources have been aligned with the nine domains of the Professional Development Profile (https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/professional-development-profile/), making it easier for lawyers to locate resources relevant to CPD plans. Within each domain, lawyers can filter resources by competency, practice setting and format.

(https://www.lawsociety.ab.ca/resource-centre/key-resources/legal-practice/)

Legal Practice

(https://www.lawsociety.ab.ca/resource-centre/key-resources/continuous-improvement/)

Continuous Improvement

(https://www.lawsociety.ab.ca/resource-centre/key-resources/cultural-competence-equity-diversity-and-inclusion/)

Cultural Competence & Equity, Diversity and Inclusion

(https://www.lawsociety.ab.ca/resource-centre/key-resources/practice-management/)

Practice Management

(https://www.lawsociety.ab.ca/resource-centre/key-resources/professional-contributions/)

(https://www.lawsociety.ab.ca/resource-centre/key-resources/lawyer-client-relationships/)

Lawyer-Client Relationships

(https://www.lawsociety.ab.ca/resource-centre/key-resources/professional-conduct/)

Professional Conduct

(https://www.lawsociety.ab.ca/resource-centre/key-resources/truth-and-reconciliation/)

Professional Contributions

(https://www.lawsociety.ab.ca/resource-centre/key-resources/well-being/)

Truth and Reconciliation

Well-Being

This is Exhibit " LLL " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Our Glossary

A-E F-K L-O P-T U-Z

When discussing racism and speaking out against it, it is important to be as specific and clear as possible about the terms we use because:

- Racism is often expressed in blanket statements, generalities, and misinformation, coupled with often-intense emotions
- Your ability to identify and counter problematic assumptions, statements and dynamics will be enhanced by your familiarity with appropriate and current terms and their definitions

The CARED Collective maintains a glossary with definitions of key terms related to your work in anti-racism. These terms are crucial to the system of thought that works to combat individual, institutional and systemic racism. This list is by no means exhaustive. Moreover, history has shown us that terminology tends to shift over time, particularly as marginalized groups and individuals are increasingly heard.

You will notice that our citations (in blue) will either link to the online resource or can be found in the footnotes. You will also find additional readings, resources and related terms marked by the following symbol: ➢

➢ See CARED's sections on "The Basics: Level 1" and "The Basics: Level 2"

A - E

Ableism: "The pervasive system of discrimination and exclusion that oppresses people who are differently abled, including differences in mental, cognitive, emotional, and/or physical abilities, through attitudes, actions, or institutional policies" (UC Davies Retrieved 9/14/20).[1] Castañeda and Peters (2000)[2] define the term as "a form of discrimination or prejudice against individuals with physical, mental, or developmental disabilities that is characterized by the belief that these individuals need to be fixed or cannot function as full members of society" (qtd. in Smith, Foley & Chaney, 2008, p. 304).[3]

➢ Click here to see Smith, Foley and Chaney's full article "Addressing Classism, Ableism, and Heterosexism in Counselor Education"

[1] University of California, Davis. LGBTQIA Resource Centre Glossary.
[2] Castañeda, R., & Peters, M. L. (2000). Ableism. In M. Adams, W. J. Blumenfled, R. Castañeda, H. W. Hackman, M. L. Peters, & X. Zúñiga (Eds.), *Readings for diversity and social justice* (pp. 319–323). New York: Routledge.
[3] Smith, L., Foley, P. F., & Chaney, M. P. (2008). Addressing classism, ableism, and heterosexism in counselor education. Counselling & Development, 86, 303-309.

Aboriginal Peoples: A collective name for the diverse Indigenous peoples—the original inhabitants—of Canada. The term was enshrined in the Constitution Act of 1982, and refers to First Nations (which includes Status and non-Status Indians), Inuit, and Métis peoples. While the collective term has offered a sense of solidarity among Indigenous communities, the term has also functioned to erase the distinct histories, languages, cultural practices, and sovereignty of more than fifty nations that lived here prior to European colonization. As such, its usage is often debated, with communities preferring their own terms of self-identification. Recently, the term Indigenous has become more prevalent, as it is the term adopted in the UN Declaration on the Rights of Indigenous Peoples. The Constitution Act affirmed the rights of Aboriginal peoples, but did not define them explicitly, leaving this process to the courts.

➢ See *First Nations*, *Indian*, *The Indian Act*, *Indigenous*, *Métis*, *Native*, *Status/non-Status Indian* & *Inuit*

➢ **Suggested Reading**: *Cultivating Canada: Reconciliation Through the Lens of Cultural Diversity*; Click here to see the full PDF (It may take a moment to load)

Acceptance: "Affirmation and recognition of those whose race, religion, nationality, values, beliefs, etc. are different from one's own. Acceptance goes beyond 'tolerance' which represents a "coming to terms" with difference rather than an embrace or approval of it" (CRRF Retrieved 8/13/20).[4]

Affirmative Action: "An active effort to improve the employment or educational opportunities of members of minority groups and women through explicit actions, policies or programs" (CRRF Retrieved 8/13/20). These explicit actions refer not only to inclusion in the hiring process, but are meant to change how a place of work or learning functions, perhaps in regards to decision making or communication.

➢ See *Employment Equity*

Ageism: "The belief in the intrinsic superiority of people within a certain age range, often accompanied by prejudice, stereotyping, and discrimination on the basis of age, usually against old people" (Colman, 2015).[5] Although ageism most commonly refers to the elderly, it can also be directed towards children, youth, young adults (i.e. any group outside of one's own). Essentially, it is about assuming someone is inferior and less capable due to his/her age or perceived age.

Ally: "A member of a different group who works to end a form of discrimination for a particular individual or designated group" (CRRF Retrieved 8/13/20). For example, a more privileged group or individual may work to end a form of oppression that gives him/her privileges; this could be men who work to end sexism or white individuals who engage in anti-racist work.

Anglocentrism: Centred on or considered in terms of either England/Britain, or the English language. As English is the dominant language in Canada, English-speakers may tend to assume

[4] Canadian Race Relations Foundation (CRRF)

[5] Colman, A. (2015). ageism. In A Dictionary of Psychology. Oxford University Press.

that the English language is both the "norm" and "ideal." People who are Anglocentric may not see that language creates and carries culturally specific perspectives/world views, and may assume that the world views produced through English are universal.

Anti-Black Racism: "Anti-Black racism is prejudice, attitudes, beliefs, stereotyping and discrimination that is directed at people of African descent and is rooted in their unique history and experience of enslavement and its legacy. Anti-Black racism is deeply entrenched in Canadian institutions, policies and practices, to the extent that anti-Black racism is either functionally normalized or rendered invisible to the larger White society. Anti-Black racism is manifest in the current social, economic, and political marginalization of African Canadians, which includes unequal opportunities, lower socio-economic status, higher unemployment, significant poverty rates and overrepresentation in the criminal justice system" (Gov't of Ontario, "Glossary" Retrieved 9/28/20).

Anti-Indigenous Racism: "Anti-Indigenous racism is the ongoing race-based discrimination, negative stereotyping, and injustice experienced by Indigenous Peoples within Canada. It includes ideas and practices that establish, maintain and perpetuate power imbalances, systemic barriers, and inequitable outcomes that stem from the legacy of colonial policies and practices in Canada. Systemic anti-Indigenous racism is evident in discriminatory federal policies such as the Indian Act and the residential school system. It is also manifest in the overrepresentation of Indigenous peoples in provincial criminal justice and child welfare systems, as well as inequitable outcomes in education, well-being, and health. Individual lived-experiences of anti-Indigenous racism can be seen in the rise in acts of hostility and violence directed at Indigenous people" (Gov't of Ontario, "Glossary" Retrieved 9/28/20).

Anti-Oppression: "Strategies, theories, and actions that challenge social and historical inequalities/injustices that have become part of our systems and institutions and allow certain groups to dominate over others" (CRRF Retrieved 8/13/20).

Anti-Racism: "An active and consistent process of change to eliminate individual, institutional and systemic racism" (CRRF Retrieved 8/13/20). This process involves examining and challenging societal structures and individual biases/beliefs that uphold racism and its power imbalances.
➢ To learn more, visit our page Anti-Racism Defined

Anti-Racist Education: "Anti-racist education is based in the notion of race and racial discrimination as being embedded within the policies and practices of institutional structures. Its goal is to aid students to understand the nature and characteristics of these discriminatory barriers, and to develop work to dismantle them" (CRRF Retrieved 8/13/20). However, a focus on anti-racism does not necessarily mean that other forms of oppression are considered or addressed.
➢ See *Multiculturalism*, *Diversity* & *Intersectionality*

Anti-Semitism: "The body of unconscious or openly hostile attitudes and behaviour directed at Jewish people (individually or collectively), leading to social, economic, institutional, religious,

cultural, or political discrimination. Anti-Semitism has also been expressed through acts of physical violence and through the organized destruction of entire communities" (Henry & Tator, 2006, p. 347).[6]

Appropriation: "The claiming of rights to language, subject matter, and authority that are outside one's personal experience. The term also refers to the process by which members of relatively privileged groups 'raid' the culture of marginalized groups, abstracting cultural practices or artefacts from their historically specific contexts" (Henry & Tator, 2006, p. 347).[7] The term also applies to the economic exploitation of marginalized groups (particularly Indigenous peoples) by producing and selling cultural/intellectual property. In such cases, the communities from which the practices/items originate are neither consulted nor given any share of the profits. This is often the case with dream catchers, Inukshuks, soapstone carvings, inappropriate/unauthorized use of images on clothing or furniture.

➢ **Suggested Reading:** Loretta Todd's "Notes on Appropriation"

Assimilation: "The full adoption by an individual or group of the culture, values and patterns of a different social, religious, linguistic or national ethos, resulting in the diminution or elimination of attitudinal and behavioural characteristics of the original individual or group. Can be voluntary or forced" (CRRF Retrieved 8/13/20).

Bias: "A subjective opinion, preference, prejudice, or inclination, often formed without reasonable justification, which influences the ability of an individual or group to evaluate a particular situation objectively or accurately" (CRRF Retrieved 8/13/20). Biases (particularly implicit biases) are built into and perpetuated by societal structures. It is therefore important to examine our biases on an individual level. These biases might be against others' race, gender, weight, disability, sexuality, skin-tone, age, culture or religion.

➢ Click here to take one of Harvard's "Project Implicit" quizzes on implicit bias

Binary Thinking: A Western, capitalist form of perceiving the world that conceives of things only in terms of oppositions: either/or, good/bad, right/wrong, winner/loser, for/against. Binary thinking can be a form of denial or resistance; it supposes that there are only 2 mutually exclusive options and nothing in between. For example, when it comes to Indigenous sovereignty, non-Indigenous individuals may feel that if such a group gains rights, they themselves are automatically losing something (perhaps their home or vacation property) when in reality, someone else's gain is not their loss.

BIPOC: An acronym that stands for "Black, Indigenous, and People of Colour." Some see the term as inclusive as it acknowledges that "POC" (People of Colour) alone does not accurately represent the disparate ongoing and historical experiences of both black and Indigenous people. On the other hand, some argue that using an all-encompassing term like "BIPOC" is lazy, homogeneous and a "product of colonialism" (Luger qtd. in Garcia).[8] The term can be used

[6] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.
[7] ibid.
[8] Sandra E. Garcia. 2020. "Where Did BIPOC Come From?" New York Times.

generally to represent the non-white experience, however, many "BIPOC" individuals agree that using specific language when referring to racialized groups or experiences is ideal.
➢ **Suggested Reading:** Sandra E. Garcia's article "Where Did BIPOC Come From?"

Black Lives Matter (BLM): A Black-centered political movement founded by Alicia Garza, Patrisse Cullors, and Opal Tometi in 2013 (Black Lives Matter, "Herstory" Retrieved 8/14/20). The movement was created in response to the acquittal of George Zimmerman who brutally murdered 17-year-old Trayvon Martin as he was walking home (unarmed) from the store (ibid.).

"Black Lives Matter is an ideological and political intervention in a world where Black lives are systematically and intentionally targeted for demise. It is an affirmation of Black folks' humanity, [their] contributions to this society, and [their] resilience in the face of deadly oppression" (ibid.).

Since 2013, BLM has gained worldwide momentum in its "fight to end State-sanctioned violence, liberate Black people, and end white supremacy" (ibid.).
➢ **Suggested Resources:** Black Lives Matter, BLM in Canada (huffingtonpost.ca) & BLM News (rabble.ca)

Classism: The cultural, institutional and individual set of practices and beliefs that assign value to people according to their socio-economic status. In classism, those in the "upper" and "middle" classes are considered more valuable than those of "lower" classes, such that those in the upper classes are taken more seriously and seen as contributing "more" to society at the expense of recognizing that the class structure is based on exploitation of the labour of the so-called lower classes. Based in capitalist economics and imperialism, classes have been racialized, and can be seen in both local, national, and international contexts: "First World" and "Third World," for example.

Colonialism/Colonization: "Colonialism is defined as a policy or set of policies and practices where a political power from one territory exerts control in a different territory. It involves unequal power relations" (FemNorthNet, 2016, p.1). "Colonialism in Canada may best be understood as Indigenous peoples' forced disconnection from land, culture and community by another group. It has its roots in Canada's history but it is alive and well today, too. In Canada's north, governments offer support to industries that take over northern land for resource extraction and remove Indigenous peoples from it" (ibid.).
➢ **Suggested Reading:** The Truth and Reconciliation Commission of Canada's report What We Have Learned: Principles of Truth and Reconciliation. Click here for the TRC's full list of findings
➢ See *Imperialism* & *Neocolonialism*

Colour-Blindness: Colour-blindness (or colour evasion) is the insistence that one does not notice or see skin colour or race. Annamma, Jackson and Morrison state that colour-blindness "conflates lack of eyesight with lack of knowing. Said differently, the inherent ableism in this term equates blindness with ignorance" (2017, p. 154).[9] Gotanda asserts that this

[9] Annamma, S., Jackson, D., & Morrison, D. (2017). Conceptualizing color-evasiveness: using dis/ability critical race theory to expand a color-blind racial ideology in education and society. *Race Ethnicity and Education*, 20(2), 147-162.

"[n]onrecognition [of the significance of race] fosters the systematic denial of racial subordination and the psychological repression of an individual's recognition of that subordination, thereby allowing such subordination to continue" (Gotanda, 1991, p. 16).[10]
➢ **Suggested Readings**: "The Paradox of Power and Privilege: Race, Gender and Occupational Position" & *White Women, Race Matters: The Social Construction of Whiteness*

Culture: The aspects of individual and group identities that include language, religion, race, gender, experience of migration/immigration, social class, political affiliations, family influences, age, sexual orientation, geographic origin, ethnicity, experience or absence of experience with discrimination or other injustices.

"The totality of the ideas, beliefs, values, knowledge, and way of life of a group of people who share a certain historical, religious, racial, linguistic, ethnic, or social background. Manifestations of culture include art, laws, institutions, and customs. Culture is transmitted and reinforced, and it changes over time" (Henry & Tator, 2006, p. 349).[11]

In Canada, some aspects of complex cultural processes of Indigenous communities and communities of colour (culturally specific foods, clothing, music, art practices etc.) have been assumed by white people to equal "culture"; this happens in conjunction with the exoticizing of difference. Ideally, "culture" should be considered a verb, an action, a process, a way of living.

Cultural Racism: "Portrayal of Aboriginals, Blacks, people of colour and different ethnicities in the media, school texts, literature as inherently "inferior", "savage", "bad", "primitive". The premise by a host society that devalues and stereotypes minority populations" (CRRF Retrieved 8/14/20).

Cultural Sensitivity: The awareness of and responsiveness to the cultural values, beliefs, behaviours of people whose cultural backgrounds are different from our own.
➢ See *Acceptance*

Cultural Values: Ideas that do not require external or outside evidence to be accepted as true. Groups of individuals share more or less similar values or beliefs that help them to communicate with one another and explain their similarities and differences. These values become a yardstick for groups to measure to what degree individuals belong to the group. Groups with different value systems are likely to experience conflict or disagreement because they will experience the same event from the viewpoint of contrasting assumptions.

Decolonization: "Decolonization once viewed as the formal process of handing over the instruments of government, is now recognized as a long-term process involving the bureaucratic, cultural, linguistic and psychological divesting of colonial power. … Decolonization is about shifting the way Indigenous Peoples view themselves and the way non-Indigenous people view Indigenous Peoples. Indigenous Peoples are reclaiming the family, community, culture, language,

[10] Gotanda, N. (1991). A critique of 'our constitution Is colour-blind.' Stanford Law Review, 44 (1), 1-68.
[11] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.

history and traditions that were taken from them under the federal government policies designed for assimilation. Some communities are reclaiming control via self-government agreements, treaties, or other negotiated agreements" (Indigenous Corporate Training Inc., "A Brief Definition of Decolonization and Indigenization" Retrieved 8/18/20).

"Decolonization requires non-Indigenous Canadians to recognize and accept the reality of Canada's colonial history, accept how that history paralyzed Indigenous Peoples, and how it continues to subjugate Indigenous Peoples. Decolonization requires non-Indigenous individuals, governments, institutions and organizations to create the space and support for Indigenous Peoples to reclaim all that was taken from them" (ibid.).
➢ **Suggested Reading**: *Unsettling the Settler Within: Indian Residential Schools, Truth Telling, and Reconciliation in Canada* by Paulette Regan; Click here to read the first 30 pages

Denial: "Refusal to acknowledge the societal privileges … that are granted or denied based on an individual's ethnicity or other grouping" (Institute for Democratic Renewal and Project Change Anti-Racism Initiative, *A Community Builder's Tool Kit*, p. 32).

Discrimination: "The denial of equal treatment and opportunity to individuals or groups because of personal characteristics and membership in specific groups, with respect to education, accommodation, health care, employment, access to services, goods, and facilities. This behaviour results from distinguishing people on that basis without regard to individual merit, resulting in unequal outcomes for persons who are perceived as different. Differential treatment that may occur on the basis of any of the protected grounds enumerated in human rights law" (CRRF Retrieved 8/18/20). There are three kinds of discrimination: **overt discrimination, unequal treatment, and systemic discrimination:**

- **Overt discrimination:** the granting or denying of certain rights to certain groups of individuals.

- **Unequal treatment:** the differential treatment of one group in comparison with another because of certain characteristics (i.e. paying lower wages to women in comparison to men for work of equal value).

- **Systemic discrimination:** the policies and practices entrenched in established institutions that result in the exclusion or promotion of designated groups.

Diversity: "A term used to encompass the acceptance and respect of various dimensions including race, gender, sexual orientation, ethnicity, socio-economic status, religious beliefs, age, physical abilities, political beliefs, or other ideologies" (CRRF Retrieved 8/18/20).

Unfortunately, in discourses of privilege/racism, the recognition of diversity has been used, falsely, as evidence of genuine equality, social justice, and the end of racism. In other words, "diversity training" has, at times, devolved into a simplistic recognition of "differences" with little attention to racism, systemic/institutional racism, unequal distribution of power/authority, and little change in attitudes or actions of the most privileged.

Dominant Culture: In Canada, Dominant culture results from patterns of learned behaviors and values that are shared among members of a group, and are transmitted to group members over time; these behaviors and values distinguish the members of one group from another. Even with the extent of racial and ethnic diversity in Canada, the prevailing cultural values are of European (Western) origin and are perceived as the norm. **Euro-Canadian** is a term used to refer to predominantly white Canadians of European descent and encompasses their cultural values, attitudes and assumptions. It refers to the group of people that is largest in number and "successfully controls other groups through social, economic, cultural, political, or religious power. In Canada, the term has generally referred to White, Anglo-Saxon, Protestant males" (Henry & Tator, 2006, p. 327).[12] The term "mainstream" is often used to describe or refer to dominant culture.

➢ See *Culture*

Employment Equity: "A program designed to remove barriers to equality in employment for reasons unrelated to ability, by identifying and eliminating discriminatory policies and practices, remedying the effects of past discrimination, and ensuring appropriate representation of the designated groups (women; Aboriginal peoples; persons with disabilities; and visible minorities). Employment Equity can be used as an active effort to improve the employment or educational opportunities of members of minority groups and women through explicit actions, policies or programs" (CRRF Retrieved 8/18/20).

Environmental Racism: "A systemic form of racism in which toxic wastes are introduced into or near marginalized communities. People of colour, indigenous peoples, working class, and poor communities suffer disproportionately from environmental hazards and the location of dangerous, toxic facilities such as incinerators and toxic waste dumps. Pollution of lands, air and waterways, often causes chronic illness to the inhabitants and change in their lifestyle" (CRRF Retrieved 8/18/20). Indigenous communities are at particular risk, as is their ability to perform their traditional roles as custodians of the land.

Equality: Equal treatment is valued as one of the central concepts (along with tolerance and freedom of expression) in liberal democracies. Often the discourse of equality is used to perpetuate discriminatory practices because there is a focus on same or equal treatment, which is perceived as fair by dominant culture. Therefore, the focus remains on the treatment and not on the result. If the treatment does not result in equality or the balancing of power, then equality has not been achieved. Keeping the focus on equal treatment is a form of denial and promotes a lack of knowledge by being unwilling to consider how dominant institutions may not meet the needs of racialized people and how they are structured to exclude certain groups (Bolgatz, 2005[13]; Henry & Tator, 2006[14], 2009[15]; Howard, 2006[16]; Sefa Dei et al. 2000[17]).

[12] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.
[13] Bolgatz, J. (2005). Talking race in the classroom. New York, NY: Teachers College Press.
[14] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.
[15] Henry, F., & Tator, C. (Eds.). (2009). Racism in the Canadian university demanding social justice, inclusion, and equity. Toronto, ON: University of Toronto Press.
[16] Howard, G. R., (2006). We can't teach what we don't know: White teachers, multiracial schools (Second Edition). New York: Teachers College Press.
[17] Sefa Dei, G. J., Zine, J., Karumanchery. L. L., James-Wilson, S., & James, I. M. (2000). Removing the margins: the challenges and possibilities of inclusive schooling. Toronto, ON: Canadian Scholars' Press Inc.

➢ See *Systemic/Institutional Racism*

Substantive equality or equity stipulates that differences among individuals and groups be taken into account and accommodated for institutional policies, practices and laws. In the context of human rights law, equality does not necessarily mean equal treatment, but rather equal consideration. As such, the result may be the same treatment in some cases and special consideration or treatment in other cases (Kallen, 2003).[18]

Equity: "A condition or state of fair, inclusive, and respectful treatment of all people. Equity does not mean treating people the same without regard for individual differences" (CRRF Retrieved 8/18/20). The claim (often by white, middle-class people) that one treats everyone "the same" is not only false, but is not the goal of anti-racism.

Ethnicity: "The multiplicity of beliefs, behaviours and traditions held in common by a group of people bound by particular linguistic, historical, geographical, religious and/or racial homogeneity. **Ethnic diversity** is the variation of such groups and the presence of a number of ethnic groups within one society or nation" (CRRF Retrieved 8/18/20).

The word "ethnic" is often used to denote non-dominant or less-powerful cultural identities in Canada. In Western Canada (e.g., Alberta), "ethnicity" is typically, and problematically racialized as non-white (as in "ethnic food" aisles in grocery stores). However, communities of white people comprise ethnic communities (e.g., Irish Canadian).

Ethno-Cultural Group: A group of people who share a common distinctive heritage, culture, social patterns and a sense of belonging.

Ethnocentrism: The tendency to view others through the filters and assumptions of one's own group/practices and to see one's own group as "the norm," the best, or the ideal to which others should conform. In anti-racism work in Canada, the term, particularly in terms of what is seen as "the norm," most often and appropriately applies to white, middle-class, Christian, straight people. Belief in the superiority of one's own ethnic group may be a "natural human tendency that advances the notion of dissimilarity between two ethnic groups. Each group evaluates the other as to how similar or different the group is from its own. The more similar they are, the greater the acceptance. The more dissimilar the other group is the more negative stereotyping will occur. This stereotyping can then lead to misunderstandings and possibly hostility" (Leong & Bhagwat, 2001).[19]

Eurocentrism: The tendency to view others through the filters and assumptions of European (primarily Northern European) perspectives, and to assume European practices and perspectives to be the best, the ideal, the norm. One need not be of European ancestry to be Eurocentric. A

[18] Kallen, E. (2003). Ethnicity and human rights in Canada (3rd ed.). Don Mills, ON, Canada: Oxford University Press.
[19] Leong, F. T.L., & Bhagwat, A. (2001). Challenges in "unpacking" the universal, groups, and individual dimensions of cross-cultural counseling and psychotherapy: Openness to experiences as a critical dimension. In D. B. Pope-Davis & H. L. K. Coleman (Eds.), The intersection of race, class and gender in multicultural counseling (pp. 241-266). Thousand Oaks, CA: Sage.

Eurocentric view considers history according to European experiences and paradigms (i.e., the assumption that history in Canada "began" with the arrival of Europeans).

F - K

Feminism: Actions, perspectives, and historical movements aimed at challenging and eliminating sexism. Some forms of feminism, particularly "mainstream" feminism in North American and Europe, have been criticized appropriately for their erasure of race and class dynamics and cultural specificity. For example, these movements might claim a "universal sisterhood" to unite black African women and North American middle-class women without consideration of how white middle-class women may be complicit in racism, classism, and the First World's exploitation of Third World peoples.

First Nations, First Peoples, Aboriginal People: "In Canada, [refers to] status Indians, non-status Indians, Inuit and Métis" (Henry & Tator, 2006, p. 325).[20] Indigenous peoples of North America, recognizing that in both pre-and post-contact with European civilizations, indigenous peoples are not a single entity or a single nation. This term also recognizes, in a contemporary Canadian context, not just that people lived in the geographic space before Western contact, but that their nations preceded the formation of Canada's current political nation-state. The term is sometimes used interchangeably with "Aboriginal," "Native," and "Indigenous," or by more specific nation/band affiliations (e.g. Sikskia, Stoney, Peigan). Depending on self-and group-identification, some aboriginal people might include themselves in the designation "people of colour" [although this is controversial]. The most important distinction to make here is that non-aboriginal people of colour, along with white people, come from immigrant ancestors: "The evidence of racism in Canada is most graphically manifested in the 400-year relationship between a white racist society and oppressed Aboriginal indigenous peoples. … The relationship of aboriginal peoples to the state is significantly different from its relationship to racial minorities" (Henry & Tator, 2006, p. 5).
➢ Click here to see an excerpt from *The Colour of Democracy: Racism in Canadian Society* 4th Edition

First Nations: A term used to refer to the original inhabitants of the territories overlain by Canada, which came into popular usage in the 1980s. It refers to the 50+ specific, autonomous and sovereign Indigenous nations that existed and flourished prior to European colonization (and that continue to do so). The term has been adopted as a collective term among Indigenous communities in Canada, particularly as it asserts both custodianship/occupancy of the land prior to colonization, as well as inherent sovereignty. It has also been taken up by one of the national bodies representing Indigenous peoples in Canada: The Assembly of First Nations.

"First Nations" (plural) refers to more than one of these communities, while "First Nation" (singular) refers to one community/nation. Many communities will self-identify using their

[20] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.

traditional terminology (e.g., Piikani, Tsuu T'ina, Siksika, Kainai).

The term should not be confused with or be considered to include Métis or the Inuit, as these are culturally, linguistically, and in the case of the Inuit, distinct from First Nations peoples.
➢ Click here to learn more about First Nations

Freedom of Expression: In Canada, the right to freedom of thought, belief, expression and opinion, including freedom of the press, and other media, as guaranteed by section 2 of the Charter of Rights and Freedoms. Dissemination of hate propaganda and genocide, however, is a crime under the Criminal Code, although this has recently been appealed successfully in a Supreme Court decision.

There are limits placed on this freedom by the Human Rights Act(s) of various provinces. It is a criminal offense in Canada to promote hatred or advocate genocide or distribute hate propaganda. According to the United Nations definition, genocide can involve mass murder (Rwanda, The Holocaust) as well as assimilationist practices such as the removal of children from their homes/communities with the express intent to destroy their culture (cultural genocide).
➢ See *Genocide*

Genocide/The UN Convention on the Prevention and Punishment of the Crime of Genocide: Passed in New York in 1948, this convention declares genocide a crime under international law. The convention defines genocide as any act committed with the idea of destroying in whole or in part a national, ethnic, racial, or religious group. According to Article II, this includes acts such as:

- Killing members of the group;
- Causing serious bodily or mental harm to the group;
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- Forcefully transferring children of the group to another group.

A Royal Commission into the separation of Indigenous Australian children from their families (entitled *Bringing Them Home*) identified the practice as genocide under the UN definition. Canada's Indian Residential School System, by removing children and placing them in boarding schools with an assimilationist agenda, is considered by Indigenous communities and their allies in Canada as a form of attempted genocide.

The convention declares that there is no immunity from being prosecuted for committing genocide: those found guilty of genocide will be punished for their crime, regardless of whether they are or were legally constituted ruler, public officials, or private individuals. According to Article VI, anyone charged with genocide will be put on trial by either:

- a competent court of the country where the act was committed; or
- an international court that has jurisdiction over the people and crimes concerned

(United Nations Human Rights. "Convention on the Prevention and Punishment on the Crime of Genocide").

Harassment: "Harassment is a form of discrimination. It involves any unwanted physical or verbal behaviour that offends or humiliates you, whether subtle or overt. Generally, harassment is a behaviour that persists over time. Serious one-time incidents can also sometimes be considered harassment" (CRRF Retrieved 8/21/20).

Hate Group Activity: "An organization that – based on its official statements or principles, the statements of its leaders, or its activities – has beliefs or practices that attack or malign an entire class of people, typically for their immutable characteristics. These organizations spread propaganda intended to incite hatred toward certain groups of people; advocate violence against certain groups on the basis of sexual orientation, race, colour, religion etc.; claim that their identity (racial, religious etc.) is 'superior' to that of other people; do not value the human rights of other people" (CRRF Retrieved 8/21/20). Individuals who promote hatred will often insist that they have the right to do so as a right of freedom of speech. Dissemination of hate propaganda is an offense under the criminal code.

Heterosexism: "[T]he privileged and dominant expression of sexuality in most known societies, which is often regarded as the 'natural' form of human sexual desire. In Western culture, heterosexuality has been normalized and prioritized over all other forms of human sexuality via institutional practices, including the law and social policy" (Henry D. Jary & J. Jary, 2006).[21] In other words, the normalization of heterosexuality denies, denigrates and stigmatizes non-heterosexual forms of behaviour, identity, relationship or community.

It is also referred to as "normative heterosexuality" and "compulsory heterosexuality" and is a foundational assumption of both Western patriarchy and fundamentalist Christianity, whose strong hold on Alberta remains.

Many Indigenous communities in Canada traditionally have celebrated and often venerated "two-spirited" people as having particular gifts relating to their understanding of male and female perspectives. These individuals cannot be defined by the narrow, Western tendency to classify individuals by sexual orientation alone. In other words, to equate homosexuality/ bisexuality/ transgender with Indigenous "two spiritedness" is inadequate to the breadth of "two-spiritedness."

➢ See *Two-Spirited People*

Homophily/Racial Homophily: Homophily "is the principle that a contact between similar people occurs at a higher rate than among dissimilar people" (McPherson, Smith-Lovin & Cook, 2001, p. 416).[22] Thus, racial homophily is "the preference for associating with individuals of the same racial background" (Wimmer & Lewis, 2010, p. 583).[23] Although homophily is often perceived to

[21] Jary, D., & Jary, J. (2006). heterosexuality. In Collins Dictionary of Sociology (4th ed.). HarperCollins.
[22] McPherson, M., Smith-Lovin, L., & Cook, J. M. (2001). Birds of a Feather: Homophily in Social Networks. Annual Reviews, 27, 414-444.
[23] Wimmer, A., & Lewis, K. (2010). Beyond and Below Racial Homophily: ERG Models of a Friendship Network Documented on Facebook. American Journal of Sociology, 116(2), 583-642.

be a neutral concept of group formation, racial homophily and other forms of homophily have been criticized as subtle forms of systemic discrimination.

Moreover, Vicki Smith explains how homophily "contributes to occupational race and sex segregation, a leading cause of the race and sex gaps in pay. One common way that workers learn about new employment opportunities is through their social networks. Job-finding networks tend to be race and sex homophilous. As a result, minorities and women, who are segregated into minority-dominated and female-dominated occupations and workplace networks, pass along job information to other minorities and women, channeling them into segregated jobs as well. Employers who rely on referral-based hiring also contribute to the maintenance of occupational race and sex segregation because employees tend to refer socially similar job applicants, reproducing the race and sex composition of the current labor force" (*Sociology of Work: An Encyclopedia*, 2013).[24]

Homophobia: "Negative attitudes towards homosexual people and homosexuality which may be manifested in discrimination, hostile behaviour, or hate crimes. … The use of 'phobia' has been criticized as implying a pathological and irrational fear rather than a form of prejudice analogous to racism. … Internalized homophobia is reflected in laws, policies, practices, and the history of invisibility of gay people in the mass media" (Chandler & Munday, 2016).[25] This fear/prejudice of gay, lesbian, bisexual and transgendered people is rooted in the desire to maintain the heterosexual social order.

Human Rights: "In Canada, human rights are protected by federal, provincial and territorial laws. The Canadian Human Rights Act and provincial/territorial human rights codes protect individuals from discrimination and harassment in employment, accommodation and the provision of services. The *Canadian Charter of Rights and Freedoms* protects every Canadian's right to be treated equally under the law. The Charter guarantees fundamental freedoms such as (*a*) freedom of conscience and religion; freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; freedom of peaceful assembly; and freedom of association" (CRRF Retrieved 8/21/20).

On 10 December 1948, the United Nations adopted and proclaimed The Universal Declaration of Human Rights (UDHR).
➢ Click here to see the full Declaration

Ideology/Ideological Racism: "A complex set of beliefs, perceptions, and assumptions that provide members of a group with an understanding and an explanation of their world. Ideology influences how people interpret social, cultural, political, and economic systems. It guides behaviour and provides a basis for making sense of the world" (Henry & Tator, 2006, p. 350).[26]

Idle No More: "With roots in the Indigenous community, Idle No More began in November 2012 as a protest against the introduction of Bill C-45 by Stephen Harper's Conservative government.

[24] Smith, V. (Ed). (2013). Sociology of Work: An Encyclopedia. Sage Publications.
[25] Chandler D., & Munday, R. (2016). homophobia. In A Dictionary of Media and Communication. Oxford University Press.
[26] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.

Idle No More activists argued that the Act's changes diminished the rights and authority of Indigenous communities while making it easier for governments and businesses to push through projects without strict environmental assessment. The movement quickly gained supporters from across Canada (and abroad), and grew to encompass environmental concerns and Indigenous rights more generally" (Tabitha Marshall. "Idle No More," *The Canadian Encyclopedia Online*, Retrieved 9/8/20).
➢ Click here to learn more about Idle No More

Immigrant: "One who moves from their native country to another with the intention of settling permanently for the purpose of forging a better life or for better opportunities. This may be for a variety of personal, political, religious, social or economic reasons" (CCRF Retrieved 9/8/20). This term is sometimes used incorrectly to refer to people of colour. The term "**New Canadian**" has emerged more recently, partly in resistance of this misuse of the term and the assumption that a "true" Canadian is white.

Imperialism: "While 'colonialism' … is used to refer to the domination and control of non-European places/people by Europeans settled in that space, imperialism is the principle behind the colonial project. But the term also gestures at the organization of the colony and territories into a profitable economic and political system, with attempts at cultural homogenization as well" (Nayar, 2015, p. 94).[27] In other words, imperialism is the ideological foundation that justifies and normalizes domination and exploitation of people and territories (i.e. racism, capitalism), while colonization/colonialism refer to the material practices, policies, and actions of dispossession and domination (e.g., war, enslavement, dispossession/dispersal of people through violence as well as ideology, Christianization, and so on).
➢ See *Colonialism*

Implicit Bias: "Thoughts and feelings are "implicit" if we are unaware of them or mistaken about their nature. We have a bias when, rather than being neutral, we have a preference for (or aversion to) a person or group of people. Thus, we use the term "implicit bias" to describe when we have attitudes towards people or associate stereotypes with them without our conscious knowledge. A fairly commonplace example of this is seen in studies that show that white people will frequently associate criminality with black people without even realizing they're doing it" (Perception Institute. "Implicit Bias," Retrieved 9/8/20).
➢ Click here to test your implicit bias in regards to race, age, countries, skin-tone, gender, weight or sexuality

Inclusive Education: "Education that is based on the principles of acceptance and the inclusion of all students. Students see themselves reflected in their curriculum, their physical surroundings, and the broader environment, in which diversity is honoured and all individuals are respected" (CRRF Retrieved 9/8/20).

In recent years, the term "inclusive" has proven problematic, insofar as its practitioners and

[27] Nayar, P. K. (2015). The Postcolonial Studies Dictionary. Chichester, SXW: John Wiley & Sons, Ltd.

proponents have falsely assumed that an increase in representations of diversity (a wider range of students seeing their communities reflected in the curriculum) somehow automatically equals anti-racism education. This is because the diversity of representations (and even increases in the hiring of teachers of colour and Indigenous teachers) does not automatically change how the system functions, nor does it in itself change the power dynamics that continue to grant power and authority to whiteness/white people and dominant methods. Instead, an "add-on" approach to education has been adopted, in which the system remains fundamentally unchanged in its practice and assumptions, with representations of people of colour and Indigenous people added on to an unchanged, dominant, center. This leaves Indigenous people and people of colour in a difficult position: the increase in diverse representation is pointed to by white people as evidence that inclusiveness has already been achieved, while they are left in periphery of the decision-making process.

Inclusive Language: "The deliberate selection of vocabulary that avoids the explicit or implicit exclusion of particular groups and that avoids the use of false generic terms, usually with reference to gender" (CRRF Retrieved 9/9/20). An example of inclusive language is the use of the word "partner" in place of "husband/boyfriend" and "wife/girlfriend," both of which reinforce heterosexuality as norm.

Indian: The term widely used until very recently by Europeans and Euro-Canadians to identify (and erase the differences among) the Indigenous peoples of South, Central, and North America. It is believed to have originated with Christopher Columbus, who thought he had arrived in Asia when he arrived in the Caribbean. Indigenous communities have continued to assert and fight for the formal recognition of their own traditional terms of self-identification (in their traditional languages), and the term "Indigenous" has become generally accepted as an appropriate term for referring collectively to Indigenous peoples. The term "Indian" has been recognized as derogatory and incorrect in its history and usage, but its use in Canada persists because of the continuing legislated definitions of "Indian" contained in The Indian Act (1876) and more recently, in the enshrinement of Aboriginal Rights under the Canadian Constitution Act of 1982. While some Indigenous people in Canada do self-identify as "Indian," the use of the term "Indian" by non-Indigenous people is generally confined to discussions of legislative definitions and concerns.

"The Canadian Constitution recognizes three groups of Aboriginal peoples: Indians (more commonly referred to as First Nations), Inuit and Métis. These are three distinct peoples with unique histories, languages, cultural practices and spiritual beliefs" (Indigenous and Northern Affairs Canada Retrieved 9/8/20). Indians are categorized as "status" (also referred to as registered), non-status, and Treaty Indians. According to the Indian Act, a status Indian is registered as an Indian under the Indian Act and a non-status Indian is not registered under the Act. A Treaty Indian is a person who belongs to a First Nation that signed a treaty with the Crown.

As with the Indian Act, the legislated definition of an "Indian" person in Canada is fraught with the ideologies and material realities of colonialism, and profoundly affects eligibility for a

person's rights, access to voting privileges, and funding within a band/reserve/community. Indeed, it is used to determine band membership, though First Nations have fought strenuously for the right to determine their own membership. One example of the colonial foundation of the Act is its history of the stripping of Indigenous women of any Indian status if she married a non-Indian person, which affected the status of her children. Bill C-31, which was passed in 1985, only partly addressed this problem (as it conflicted with human rights legislation), as it restored status for the individual women but placed limits on the status of her children and grandchildren.
➢ **Suggested Reading:** "Indian Act and Women's Status Discrimination via Bill C31 and Bill C3"

The Indian Act (Canada): First passed by the Canadian government in 1876 as an amalgamation of existing colonial legislation, policies, and ideologies, and still in existence today, the Indian Act essentially gives the federal government power/jurisdiction over Indigenous people and affairs in Canada. It is the only legislation in Canada that defines individuals and groups according to imperialistic definitions of "race." The Act defines who is or is not an Indian and who is eligible for specific rights, access to resources, and funding. The Act has granted the government the authority to ban traditional ceremonial practices such as the Potlatch, (and to imprison practitioners), to grant Indian Agents virtually complete authority over reserve communities, to create the Indian Residential School system, and to strip Indigenous women of "status" for marrying non-Indigenous men.

While many of the most offensive provisions of the Indian Act were removed in 1951, Indigenous communities and their allies view the Act as the mechanism by which the federal government has been able to serve its own interests in terms of the acquisition of and power over land, resources, and Indigenous people. At the same time, Indigenous communities are hesitant to abolish the Indian Act because: *a)* the Act does by implication recognize some inherent Indigenous rights (even if it does so by actively denying these rights) and *b)* for justified fears that abolishing the Act would be a move towards assimilation rather than recognition of Indigenous sovereignty.
➢ Click here to learn more about the Indian Act

Indigeneity: *"*[T]he state or quality inherent to an indigenous group—or individual, that exemplifies their position as an original people who inhabit and were born, or produced naturally, in a given land or region, including their descendants and relations thereof*"* (Mexikayotl, "The Problem with Indigeneity").

Indigenization: To "[m]ake indigenous; subject to native influence. … [According to Indigenous Corporate Training:]

- Indigenization recognizes validity of Indigenous worldviews, knowledge and perspectives
- Indigenization identifies opportunities for indigeneity to be expressed
- Indigenization incorporates Indigenous ways of knowing and doing

Indigenization requires non-Indigenous people to be aware of Indigenous worldviews and to respect that those worldviews are equal to other views. Indigenization is about incorporating

Indigenous worldviews, knowledge and perspectives into the education system, right from primary grades to universities.

It must be acknowledged that there is not a homogenous Indigenous worldview, and that each Indigenous nation or community will have their own worldview. There may be similarities and common points but it is a frequently made assumption that they are all the same. Therefore, when an organization, say a school district, makes a commitment to indigenize their curriculum they need to consult with the Indigenous community on whose land the schools stand for input on how to incorporate their knowledge and ways of doing into the curriculum" (Indigenous Corporate Training Inc., "A Brief Definition of Decolonization and Indigenization" Retrieved 9/8/20).

Indigenous: According to The United Nations' "Permanent Forum on Indigenous Issues," Indigenous peoples are the descendants "of those who inhabited a country or a geographical region at the time when people of different cultures or ethnic origins arrived. The new arrivals later became dominant through conquest, occupation, settlement, or other means." Indigenous peoples practice unique traditions and "retain social, cultural, economic, and political characteristics that are distinct from those of the dominant societies in which they live. It is estimated that there are more than 370 million Indigenous peoples spread across 70 countries worldwide" (The United Nations, "Who are indigenous peoples?").

According to the UN, the most fruitful approach is to "identify rather than define Indigenous peoples. This is based on the fundamental criterion of self-identification as underlined in a number of human rights documents." A contemporary understanding of this term is based on the following:

- Self-identification as Indigenous, at the individual level, and accepted as such by the community as their member
- Historical continuity with pre-colonial and/or pre-settler societies
- Strong link to territories and surrounding natural resources
- Distinct social, economic, or political systems
- Distinct language, culture and beliefs
- Form non-dominant groups of society
- Resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities

"There are 370 million indigenous persons living in the world today. Of those, there are more than 5,000 distinct groups in more than 70 countries. Although representing 5 per cent of the world's population, indigenous peoples represent 15 per cent of the world's poorest people" (The United Nations, "Durban Review Conference," Geneva 2009).

Indigenous Rights in Canada: "It is difficult to generalize about definitions of Indigenous rights because of the diversity among First Nations, Métis and Inuit peoples in Canada. Broadly speaking, however, Indigenous rights are inherent, collective rights that flow from the original

occupation of the land that is now Canada, and from social orders created before the arrival of Europeans to North America. For many, the concept of Indigenous rights can be summed up as the right to independence through self-determination regarding governance, land, resources and culture" (Catherine Bell & William B. Henderson. Rev. Gretchen Albers. "Rights of Indigenous Peoples in Canada," *The Canadian Encyclopedia Online*, Retrieved 9/8/20).

"Indigenous peoples have traditionally pointed to three principal arguments to establish their rights: international law, the Royal Proclamation of 1763 (as well as treaties that have since followed) and the common law as defined in Canadian courts. …

On the national stage, the Royal Proclamation of 1763 has historically been viewed as the constitutional basis for Indigenous treaties and a source of legal rights. Affirmed by section 35 of the Constitution Act, 1982, the legal principles of the Royal Proclamation are still applied in modern-day treaties.

The inclusion of section 35 in the Constitution signaled a new era of judicial and political opinion on the question of Indigenous rights. This section protects a spectrum of different Indigenous and **treaty rights**, including legal recognition of customary practices such as marriage and adoption, the site-specific exercise of food harvesting and other rights that do not involve claims to the land itself, and assertions of ownership of traditional lands" (ibid.).

Individual Racism: "The beliefs, attitudes and actions of individuals that support or perpetuate racism. Individual racism can occur at both a conscious and unconscious level and can be both active and passive. Examples include telling a racist joke, using a racial epithet or believing in the inherent superiority of whites" (Adams, Bell & Griffin (eds.). *Teaching for Diversity and Social Justice: A Sourcebook*, qtd. in Racial Equity Resource Guide).

Individual Racism is learned from broader socio-economic histories and processes and is supported and reinforced by systemic racism. Because we live in such a culture of individualism (and with the privilege of freedom of speech), some people argue that their statements/ideas are not racist because they are just "personal opinion." Here, it is important to point out how individualism functions to erase hierarchies of power, and to connect unrecognized personal ideologies to larger racial or systemic ones. That is, individualism can be used as a defensive reaction. This is why it is crucial to understand systemic racism and how it operates.
➢ To learn more, visit our page "Individual Racism vs. Systemic Racism"

Intergenerational Trauma: "Historic and contemporary trauma that has compounded over time and been passed from one generation to the next. The negative effects can impact individuals, families, communities and entire populations, resulting in a legacy of physical, psychological, and economic disparities that persist across generations" (Gov't of Ontario, "Glossary" Retrieved 9/28/20).

Internalized Racism (Dominance): Internalized dominance "describes and explains the experience and attitudes of those who are members of dominant, privileged, or powerful

identity groups" (Tappan, 2006, p. 2116).[28] Griffin explains how "members of the [dominant] group accept their group's socially superior status as normal and deserved" (qtd. in Tappan, 2006, p. 2116).[29]

Internalized Racism (Oppression): Stuart Hall defines internalized racism as "the 'subjection' of the victims of racism to the mystifications of the very racist ideology which imprison and define them" (qtd. in Pyke, 2010, p. 552).[30] More specifically, the term can be defined as "the individual inculcation of the racist stereotypes, values, images, and ideologies perpetuated by the White dominant society about one's racial group, leading to feelings of self-doubt, disgust, and disrespect for one's race and/or oneself" (Pyke, 2010, p. 553).[31] It must be noted that this internalized racism is not the fault of the oppressed individual and that "[p]lacing responsibility on the oppressed to solve the problem suggests it is of their own making, which easily leads to blaming the victims for internalized racism" (Pyke, 2010, p. 554).[32]

Additionally, "[i]nternalized racism is the situation that occurs in a racist system when a racial group oppressed by racism supports the supremacy and dominance of the dominating group by maintaining or participating in the set of attitudes, behaviors, social structures and ideologies that undergird the dominating group's power. It involves four essential and interconnected elements:

• *Decision-making* — Due to racism, people of color do not have the ultimate decision-making power over the decisions that control our lives and resources. As a result, on a personal level, we may think white people know more about what needs to be done for us than we do. On an interpersonal level, we may not support each other's authority and power — especially if it is in opposition to the dominating racial group. Structurally, there is a system in place that rewards people of color who support white supremacy and power and coerces or punishes those who do not.

• *Resources* — Resources, broadly defined (e.g., money, time, etc.), are unequally in the hands and under the control of white people. Internalized racism is the system in place that makes it difficult for people of color to get access to resources for our own communities and to control the resources of our community. [They] learn to believe that serving and using resources for [themselves] and [their] particular community is not serving "everybody."

• *Standards* — With internalized racism, the standards for what is appropriate or "normal" that people of color accept are white people's or Eurocentric standards. [They] have difficulty naming, communicating and living up to [their] deepest standards and values, and holding [themselves] … accountable to them.

[28] Tappan, M. B. (2006). Reframing Internalized Oppression and Internalized Domination: From the Psychological to the Sociocultural. Teachers College Record, 108(10), 2115-2144.
[29] ibid.
[30] Pyke, K. D. (2010). What is Internalized Racial Oppression and Why Don't We Study It? Acknowledging Racism's Hidden Injuries. Sociological Perspectives, 53(4), 551-572.
[31] ibid.
[32] ibid.

• *Naming the problem* — There is a system in place that misnames the problem of racism as a problem of or caused by people of color and blames the disease — emotional, economic, political, etc., on people of color. With internalized racism, people of color might, for example, believe [they] are more violent than white people and not consider state-sanctioned political violence or the hidden or privatized violence of white people and the systems they put in place and support" (Racial Equity Resource Guide, "Glossary" Retrieved 9/8/20).
➢ See *Implicit Bias, Privilege* & *Internalized Racism/Oppression*

In *Teaching/Learning Anti-Racism: A Developmental Approach*, Derman-Sparks and Brunson Phillips discuss the "psychological dilemma of conflicting judgments about one's value as a member of a racial and cultural group" (p. 58).[33] This dilemma (to either accept, reject or ignore the negative identity ascribed to them by society) often leads the individual to "implicitly accept the negation of their humanness and [they] are thus forced to question their own basic worth. This strategy for reducing contradictions creates new conflicts and tensions, for, by buying into the belief that people of color are "bad," they are left with the problem of how to be "of color" and "good" at the same time. The preservation of self-esteem, then, becomes the source of tension. In order for individuals to be of basic worth, they must resist accepting the fact that they belong to the inferior group. Consequently, they try to become less like their own people and more like the admired group. In other words, accepting society's view pushes these individuals to locate themselves outside of the racial/ethnic group" (Derman-Sparks & Brunson Phillips, 1997, p. 58).[34]

Importantly, it is possible for oppressed individuals to "reject racism's false picture of their people. [These individuals] hold on dearly to what they know to be true: the reality of oppression against people of color, the importance of recapturing the characteristics of their cultural history, the need to articulate the racist practices of White society" (ibid.).[35]
➢ See *Internalized Racism (Dominance)* & *Implicit Bias*

Intersectionality: "The experience of the interconnected nature of ethnicity, race, creed, gender, socio-economic position etc., (cultural, institutional and social), and the way they are imbedded within existing systems and define how one is valued" (CRRF Retrieved 9/9/20). In other words, the interconnected nature of all forms of oppression against particular groups.

Inuit: "Inuit — Inuktitut for "the people" — are an Indigenous people, the majority of whom inhabit the northern regions of Canada. An Inuit person is known as an Inuk. The Inuit homeland is known as Inuit Nunangat, which refers to the land, water and ice contained in the Artic region. The term Inuit Nunangat may also be used to refer to land occupied by the Inuit in Alaska and Greenland. In 2011, using data from the National Household Survey, Statistics Canada estimated that 59,440 people in Canada, about 4.2 percent of the Aboriginal population, identified themselves as Inuit" (Minnie Aodla Freeman. Rev. Anne-Marie Pedersen, Zach Parrot & David

[33] Derman-Sparks, L., & Brunson Phillips, C. (1997). Teaching/Learning Anti-Racism: A Developmental Approach. New York, NY: Teachers College Press.
[34] ibid.
[35] ibid.

Gallant. "Inuit," *The Canadian Encyclopedia Online*, Retrieved 9/9/20).

There are eight main Inuit ethnic groups: the Labradormiut (Labrador), Nunavimmiut (Ungava), Baffin Island, Iglulingmuit (Iglulik), Kivallirmiut (Caribou), Netsilingmiut (Netsilik), Inuinnait (Copper) and Invialuit or Western Arctic Inuit (who replaced the Mackenzie Inuit). Inuktitut, the Inuit language, has five main dialects in Canada: Inuvialuktun (Inuvialuit region in the Northwest Territories); Inuinnaqtun (western Nunavut); Inuktitut (eastern Nunavut dialect); Inuktitut (Nunavik dialect); and Nunatsiavumiuttut (Nunatsiavut)" (ibid.).

"The Inuit have never been subject to the *Indian Act* and were largely ignored by the Canadian federal government until 1939, when a court decision ruled that they were a federal responsibility, though still not subject to the *Indian Act*. What followed were policies that enforced assimilation into a "Canadian" way of life. Formerly nomadic peoples were transformed, sometimes through forced relocation, into sedentary communities, and disc numbers were introduced to supersede an Inuit naming system that did not correspond to administrative needs" (Ibid.). Despite these challenges, the Inuit have demonstrated tremendous resiliency and adaptability, negotiating the land claim resulting in the creation of the Inuit territory of Nunavut in 1999 (Peter Kikkert. "Nunavut," *The Canadian Encyclopedia Online*, Retrieved 9/9/20). In 2010, Leona Aglukkaq was named the first Inuk federal cabinet minister when she became the federal minister of health (CBC News. "Inuit welcome Aglukkaq as federal health minister," Retrieved 9/9/20).
➢ Click here to learn more about the Inuit

Islamophobia: "Fear, hatred of, or prejudice against the Islamic religion or Muslims" (CRRF Retrieved 9/9/20).

L - O

LGBTQIA2S: An acronym for Lesbian, Gay, Bisexual, Trans (can be used for Transgender, Transsexual, Transitioning, Transman and Transwoman), Queer/Questioning, Intersex, Asexual and Two-Spirit. Other possible acronyms include LGBTQ2S, LGBT, LGBTQ, LGBTQA, TBLG. (LGBTQ2S Toolkit Retrieved 9/14/20). "Although all of the different identities within "LGBT" are often lumped together (and share sexism as a common root of oppression), there are specific needs and concerns related to each individual identity" (ibid.).
➢ **Suggested Resources:** The University of Technology Sydney's terminology, The University of California Davis' LGBTQIA Resource Center Glossary & LGBTQ2S Terms and Definitions (Canadian Context)
➢ See our definitions for *Transgender*, *Transexual*, *Queer* & *Two-Spirited People*

Liberalism/Liberal (Democratic) Racism: Democratic liberalism is distinguished by a set of beliefs that includes, among other ideals: the primacy of individual rights over collective or group rights; the power of (one) truth, tradition, and history; an appeal to universalism; the sacredness of the principle of freedom of expression; and a commitment to human rights and equality. But as many scholars observe, liberalism is full of paradoxes and contradictions and assumes different

meanings, depending on one's social location and angle of vision (Hall, 1986[36]; Goldberg, 1993[37]; Apple, 1993[38]; Winant, 1997[39]). As Parekh argues, "Liberalism is both egalitarian and inegalitarian" (1986, p. 82).[40] It simultaneously supports the unity of humankind and the hierarchy of cultures. It is both tolerant and intolerant (Henry & Tator, 2006, p. 28).[41]

Majority: "The numerically largest group within a society. The majority may be (but is not necessarily) the dominant group that successfully shapes or controls other groups through social, economic, cultural, political, military or religious power" (CRRF Retrieved 9/14/20). In most parts of Canada, the term refers to white, English-speaking, Christian, middle-to-upper income Canadians.

Melting Pot: "A term used to refer to an American monocultural society in which there is a conscious attempt to assimilate diverse peoples into a homogeneous culture, rather than to participate as equals in the society while maintaining various cultural or ethnic identities" (Oyewole, 2017).[42] The term is often used as a contrast to multiculturalism in Canada.
➢ See *Multiculturalism*

Métis: A term used in Canada to refer to people of mixed Indigenous and European ancestry who share a distinct history, culture and "nation" within Canada (that is distinct from Indigenous or European culture). That is to say, being part Indigenous and part white does not automatically make one Métis. In the Canadian Constitution Act of 1982, Métis people (along with those of "Indian" and Inuit descent) are defined as a distinct Aboriginal people.

In terms of history, the Métis National Council, explain how the "advent of the fur trade in west central North America during the 18th century was accompanied by a growing number of mixed offspring of Indian women and European fur traders. As this population established distinct communities separate from those of Indians and Europeans and married among themselves, a new Aboriginal people emerged – the Métis people – with their own unique culture, traditions, language (Michif), way of life, collective consciousness and nationhood" (The Métis Nation. "Who are the Métis?" Retrieved 9/14/20).

"Distinct Métis communities developed along the routes of the fur trade and across the Northwest within the Métis Nation Homeland. This Homeland includes the three Prairie provinces (Manitoba, Saskatchewan, Alberta), as well as, parts of Ontario, British Columbia, the Northwest Territories and the Northern United States" (ibid.).

"Consistently throughout history, the Métis people have acted collectively to protect and fight

[36] Hall, S. (1986). Variants of liberalism. In J. Donald and S. Hall (Eds.). Politics and ideology. Milton Keynes: Open University Press.
[37] Goldberg, D.S. (Ed.). (1990). The anatomy of racism. Minneapolis: University of Minnesota Press.
[38] Apple, M. (1993). Constructing the 'other': Rightist reconstructions of common sense. In C. McCarthy and W. Crichlow (Eds.), *Race, identity, and representation in education.* New York and London: Routledge.
[39] Winant, H. (1997). Behind blue eyes: Whiteness and contemporary U.S. racial politics. In M. Fine et al. (Eds.), Off white: Readings on race, power, and society (pp. 40-56). New York and London: Routledge.
[40] Parekh, B. (1986). The 'new right' and the politics of nationhood. In The new right: Image and reality. London, UK: Runnymede Trust.
[41] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.
[42] Oyewole, A. (Ed). (2017). Glossary. Black Lives Have Always Mattered, A Collection of Essays, Poems, and Personal Narratives. New York, NY: 2Leaf Press.

for their rights, lands and ongoing existence as a distinct Aboriginal people and nation within the Canadian federation – from the Métis provisional governments of Riel in Manitoba (1869-70) and Saskatchewan (1885) to contemporary Métis governing bodies. This dedication continues to exist as citizens and communities throughout the Métis Nation Homeland keep the nation's distinct culture, traditions, language and lifestyle alive and pursue their own social and economic development" (ibid.).

While the federal government formally recognizes the distinct history and culture of the Métis people, the specific determination of what constitutes Métis rights remains in process. It should be noted, however, that in Western Canada there is a history of scrip (a form of land ownership granted by the Canadian government) and a growing body of court cases recognizing Métis hunting and fishing rights.

- See also *First Nations*, *Inuit*, *Indigenous*, & *Aboriginal*
- **Suggested Reading**: âpihtawikosisân's article "Who are the Métis?"

Minority Group: "Refers to a group of people within a society that is either small in numbers and may have little or no access to social, economic, political, or religious power. [A group in a minority position does not have to be in the minority numerically.] Minority rights are protected by the Canadian Charter of Rights and Freedoms, the Human Rights Acts and Codes, and the UN Convention on the Rights of Minorities" (CRRF Retrieved 9/14/20).

Multiculturalism: A state policy announced by the federal Liberal government in 1971. It acknowledged that many Canadians with non-dominant ethnicities experienced unequal access to resources and opportunities. It urged more recognition of the contribution of those ethnicities and more equity in the treatment of all Canadians. Since 1971 there has been increasing recognition of the limitations of this concept. Firstly, because it does not explicitly acknowledge the critical role that racism plays in preventing this vision from materializing; and secondly, because it promotes a static and limited notion of culture as fragmented and confined to ethnicity (Thomas, 1987).[43]

Moreover, while multiculturalism in policy did not explicitly exclude or deny Indigenous Canadians' treaty rights and claims to territories, in practice, or in mainstream/dominant perceptions of multiculturalism, Indigenous Canadians and 'non-dominant ethnic communities' were viewed as being the 'same' under the law. The practice of multiculturalism is often about examining or celebrating surface culture. Surface culture refers to the things that bring cultures together for example events where ethnic groups are focused on in the context of food, dance or traditional dress. This is often referred to as a multicultural event or celebrating diversity. Although these types of celebrations bring people together, they do not address the political, social and economic imbalances as there is no discussion of race as a social construct, racism or power (Sleeter & Mclaren, 1995).[44] These events ignore the deeper cultural issues which often cause difficulties or conflict between cultures due to lack of understanding of deeply held

[43] Thomas, B. (1987). Multiculturalism at work: A guide to organizational change. Toronto, ON, Canada: YWCA.
[44] Sleeter, C., & McLaren, P. (1995). Multicultural education, critical pedagogy, and the politics of difference. New York, NY: SUNY.

cultural beliefs. Deep cultural beliefs that are different than mainstream beliefs are often viewed as problems or disadvantages by mainstream/white Canadians.
➢ See *Culture*

Native: "A general term for a person originating from a particular place. This term is somewhat ambiguous because many people of immigrant ancestry who have been born in North America claim to be "native" Canadians or Americans. The capitalization of the word is used to refer to the descendants of Indigenous peoples, but does not denote a specific Aboriginal identity (such as First Nations, Métis, or Inuit). In reference to Aboriginal peoples, it is generally thought of as outdated" (CRRF Retrieved 9/14/20).

Neocolonialism: "While many nations in Africa, Asia and South America acquired political independence from European nations in the 20th century, economic control over the new nations has continued. … [These] independent nations (former colonies) rarely have economic independence. Their economic policies are usually subject to scrutiny and even pressure by First World nations or supranational organizations (that are essentially controlled by First World nations). … Puppet regimes (that we have seen installed in numerous African nations through the 20th century) are usually an effective way for the First World nations to retain political and economic control over the new nation. … Exploitation of the natural resources of the former colonies continues through mining and cheap labour (sweatshops). Economic control is also very often accompanied by **cultural imperialism**. From the dominance of European languages (especially English) to consumer products to entertainment (Hollywood's empire), cultural imperialism in the age of globalization is the most visible 'face' of neocolonialism" (Nayar, 2015, p. 115).[45]
➢ See *Imperialism*

New Canadian ➢ See *Immigrant*

Non-Status Indian ➢ See *The Indian Act*

Oppression: The systemic, institutionalized or individual subjugation of one individual or group by a more dominant individual or group; it can be overt or covert. Put simply, it is an abuse of power that is justified by the dominant groups' explicit ideology. To uphold this unequal dynamic, physical, psychological, social, or economic threats or violence are often used. The term also refers to the injustices suffered by marginalized groups in everyday interactions with members of the dominant group.
➢ See *Power* & *Prejudice/Racial Prejudice*

P – T

Patriarchy: "The norms, values, beliefs, structures and systems that grant power, privilege and

[45] Nayar, P. K. (2015). The Postcolonial Studies Dictionary. Chichester, SXW: John Wiley & Sons, Ltd.

superiority to men, and thereby marginalize and subordinate women" (CRRF Retrieved 9/14/20). While patriarchy does privilege men, this privilege does not automatically extend to all men, to men of colour, Indigenous men, gay/bisexual men, men living poverty, or men with disabilities, given the intersecting operation of racism, heterosexism, classism, and ableism.

People of Colour: "A term which applies to non-White racial or ethnic groups; generally used by racialized peoples as an alternative to the term "visible minority." The word is not used to refer to Aboriginal peoples, as they are considered distinct societies under the Canadian Constitution. When including Indigenous peoples, it is correct to say "people of colour and Aboriginal peoples" (CRRF Retrieved 9/14/20).

Political Correctness: In the late 1980s and the early 1990s, minority groups argued that terms used by the mainstream to identify them were often inaccurate, inappropriate, and offensive. They urged the acceptance of their own terms of self-definition. As these terms have entered the public discourse, they have been met with a combination of relief and support, supportive uncertainty, and downright resistance. All of these responses, rather confusingly have been referred to as "political correctness."

For example, those of us who want to support a particular groups' processes of self-naming, and who want to avoid using a term that is seen by the group as derogatory, want to use the "appropriate" or "correct" term. In the case of Indigenous groups and the vast array of terminology, this can be a process of uncertainty. Change, however, typically involves resistance, and "political correctness" has also been used, increasingly negatively, as backlash against the struggle of minority peoples' rights to self-definition and the power shifts that entails. "Political correctness" has been accurately identified as a liberal or conservative (often white, middle-class) strategy that defuses the momentum of minority groups to shift power relationships in our society.

Additionally, as Paul Kivel writes, the "words we use to describe groups of people have developed within the system of racism as it has changed historically … It can be hard for white people to accept new terms because they represent challenges to long standing social relationships. Different words call forth different behaviour. We may feel less secure that we know the racial rules – what to say and how to act" (Kivel, 1996, p. 75-76).[46]

Power: "The ability to influence others and impose one's beliefs" (CRRF Retrieved 9/14/20). Basically, all power is relational, and the different relationships either reinforce or disrupt one another. The importance of the concept of power to anti-racism is clear: racism cannot be understood without understanding that power is not only an individual relationship but a cultural one, and that power relationships are shifting constantly. Power can be used malignantly and intentionally, but need not be, and individuals within a culture may benefit from power that they are unaware of.

[46] Kivel, P. (1996). Uprooting racism: How white people can work for racial justice. Gabriola Island, BC: New Society Press.

Position Power: The extent of one's authority within an organization; it is the juice that comes with your title or place in the organization. This power is usually governed by predetermined rules, policies, and procedures, and generally speaking, it is one's right to exercise various punishments and rewards that are within one's scope of the organization.

Prejudice/Racial Prejudice: To "pre-judge" an individual or group. "A state of mind; a set of attitudes held, consciously or unconsciously, often in the absence of legitimate or sufficient evidence" (CRRF Retrieved 5/17/18). Oftentimes, prejudices are not recognized as stereotypes or false assumptions and through repetition, become accepted as "common sense." When backed with power, prejudice results in acts of discrimination and oppression against groups or individuals. **Racial prejudice** refers to a set of discriminatory or derogatory attitudes based on assumptions deriving from perceptions about race/skin colour. Racial Prejudice can be directed at white people (e.g., "White people can't dance") but is not considered racism because of the systemic relationship of power.

➢ Click here to see our section "What is Racism?" and our definitions for *Racism* & *Racial Discrimination*

Privilege: Refers to unearned benefits, advantages, or rights for belonging to the perceived "normal" or "natural" state of the "mainstream" and/or dominant culture. Privilege allows for active, persistent exclusion and the devaluation of those who are "othered" or "marginalized."

"Privilege is not [only] about race or gender, but … it is a series of interrelated hierarchies and power dynamics that touch all facets of social life: race, class, gender, sexual orientation, religion, education, gender identity, age, physical ability, passing, etc." (Media Smarts. "Forms of Privilege," Retrieved 9/16/20).

There are several elements to privilege:

1. "[T]he characteristics of the privileged group define the societal norm." For example, an individual judged to succeed or fail depending on how similar their characteristics are to those who hold the privilege (the norm).
2. "Members of the privileged group gain greatly by their affiliation with the dominant side of the power system... [therefore] achievements by members of the privileged group are viewed as the result of individual effort, rather than privilege."
3. "Members of privileged groups can opt out of struggles against oppression if they choose. *Often this privilege may be exercised by silence*."
4. "The holder of privilege may enjoy deference, special knowledge, or a higher comfort level to guide societal interaction."
5. "Privilege is not visible to its holder; it is merely there, a part of the world, a way of life, simply the way things are" (Wildman & Davis, 1997, p. 315-316).[47]

[47] Wildman, S. M., & Davis, A. D. (1997). Making systems of privilege visible. In R. Delagado, R. & J. Stefancic (Eds.), Critical white studies: Looking behind the mirror (pp. 314-319). Philadelphia: Temple University Press.

➢ See *White Privilege/White-Skin Privilege*

Queer: "One definition of queer is abnormal or strange. Historically, queer has been used as an epithet/slur against people whose gender, gender expression and/or sexuality do not conform to dominant expectations. Some people have reclaimed the word queer and self identify in opposition to assimilation (adapted from "Queering the Field"). For some, this reclamation is a celebration of not fitting into social norms. Not all people who identify as LGBTQIA use "queer" to describe themselves. The term is often considered hateful when used by those who do not identify as LGBTQIA" (LGBTQIA Resource Center Glossary Retrieved 9/18/20).
➢ See *LGBTQIA2S*

Race: "'Race' is a socially constructed phenomenon, based on the erroneous assumption that physical differences such as skin colour, hair colour and texture, and facial [or other physical] features are related to intellectual, moral, or cultural superiority. The concept of race has no basis in biological reality and, as such, has no meaning independent of its social definitions" (Henry & Tator, 2006, p. 9).[48] In other words, race is a "concept which signifies and symbolizes social conflicts and interests by referring to different types of human bodies" (Omi & Winart, 1994, p. 55).[49] Although race is socially constructed, it significantly affects the lives of people of colour and Indigenous people.
➢ Click here to see our section on "Race" and our definitions for *Racism* & *Racial Discrimination*

Race Relations: "The pattern of interaction, in an inter-racial setting, between people who are racially different. In its theoretical and practical usage, the term has also implied harmonious relations, i.e., races getting along. Two key components for positive race relations are the elimination of racial intolerance arising from prejudicial attitudes, and the removal of racial disadvantage arising from the systemic nature of racism" (CRRF Retrieved 9/18/20).

Racialization: Racialization is the very complex and contradictory process through which groups come to be designated as being of a particular "race" and on that basis, they are subjected to differential and/or unequal treatment. Put simply, "racialization [is] the process of manufacturing and utilizing the notion of race in any capacity" (Dalal, 2002, p. 27).[50] It is the "process through which groups come to be socially constructed as races, based on characteristics such as race, ethnicity, language, economics, religion, culture, politics, etc." (CRRF Retrieved 9/20/20).

Racialization is also the "extension of racial meaning to a previously racially unclassified relationship, social practice or group. Racialization is an ideological process, an historically specific one. Racial ideology is constructed from pre-existing conceptual (or, if one prefers, "discursive") elements and emerges from the struggles of competing political projects and ideas seeking to articulate similar elements differently" (Omi & Winant, 1989).[51]

[48] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.
[49] Omi, M., & Winant, H. (1994). Racial formation in the United States: From the 1960s to the 1980s (Second Edition). New York: Routledge.
[50] Dalal, F. (2002). Race, Colour and the Process of Racialization: New Perspectives from Group Analysis, Psychoanalysis and Sociology. New York, NY: Brunner-Routledge.
[51] Omi, M., & Winant, H. (1994). Racial formation in the United States: From the 1960s to the 1980s (Second Edition). New York: Routledge.

➢ **Suggested Reading:** Our page on "Racialization"

Racial and Ethnic Identity: "An individual's awareness and experience of being a member of a racial and ethnic group; the racial and ethnic categories that an individual chooses to describe him or herself based on such factors as biological heritage, physical appearance, cultural affiliation, early socialization and personal experience" (Adams, Bell & Griffin (eds.). *Teaching for Diversity and Social Justice: A Sourcebook*, qtd. in Racial Equity Resource Guide).

Racial Discrimination: "Any distinction, exclusion, restriction, or preference based on" perceptions about race "that has the purpose of nullifying or impairing the recognition, enjoyment, or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life" (Henry & Tator, 2006, p. 351).[52]

It is important to note the difference between racial discrimination and racism. The Ontario Human Rights Commission describes racism as being a "broader experience" than racial discrimination.
➢ Click here to learn more on OHRC's webpage

In other words, racial discrimination can happen to anyone who is discriminated against based on their race and is usually an individual act. Racism is more pervasive as it is not only an individual behaviour or act, but a way of thinking and is institutionalized/inherent in Canada. In Canada, anyone can experience racial discrimination but only people of colour and Indigenous people can experience racism; white people, as the dominant group, benefit from a system that oppresses others on the basis of race. In this system, white people are not put at a disadvantage due to their race, thus, it is not possible for them to experience racism.
➢ Click here to learn more about the UN's *International Convention on the Elimination of All Forms of Racial Discrimination*
➢ **Suggested Reading:** Our page on "The Myth of Reverse Racism"

Racial Microaggressions: "Everyday insults, indignities and demeaning messages sent to people of color by well-intentioned white people who are unaware of the hidden messages being sent to them. [Oftentimes, white people will deny or not see that they are delivering such messages as it "assails their self-image of being good, moral, decent human beings [and instead, they must contend with the idea that] … at an unconscious level they have biased thoughts, attitudes and feelings that harm people of color" (Sue qtd. in DeAngelis).[53]

Examples: "What are you?" (often directed at mixed race individuals) "Where are you from?" "You speak good English." "When I look at you, I don't see color." "I'm not a racist. I have several Black friends." "Everyone can succeed in this society if they work hard enough." "Why do you have to be so loud/animated? Just calm down." "Why are you so quiet? We want to know what you think. Be more verbal. Speak up more." "You people…" "As a woman, I know what you go

[52] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.
[53] DeAngelis, Tori. Unmasking 'Racial Microaggressions.' APA, 2009, Vol 40, No. 2, p. 42.

through as a racial minority." A store owner following a customer of color around the store. (For more, see Examples of Microaggressions).

Microaggressions can leave the receiver feeling confused/angry due to the subtle nature of these communications, especially if the speaker denies that their words or actions are biased. Overall, these backhanded comments and behaviours can cause individuals to feel "as if they don't belong, that they are abnormal or that they are untrustworthy" (DeAngelis).
➢ **Suggested Readings:** Examples of Microaggressions & Tori DeAngelis' article Unmasking 'Racial Microaggressions'

Racial Minority: "A group of persons who, because of their physical characteristics, are subjected to differential treatment. Their minority status is the result of a lack of access to power, privilege, and prestige in relation to the majority group" (Henry & Tator, 2006, p. 351).[54]

Racial Profiling: "Any action undertaken for reasons of safety, security or public protection that relies on assumptions about race, colour, ethnicity, ancestry, religion, or place of origin rather than on reasonable suspicion, to single out an individual for greater scrutiny or differential treatment [or arrest]" (CRRF Retrieved 9/18/20).

Racism: Racism refers not only to social attitudes towards non-dominant ethnic and racial groups but also to social structures and actions which oppress, exclude, limit and discriminate against such individuals and groups. Racist social attitudes originate in and rationalize discriminatory treatment. Racism in the larger society can be seen in discriminatory laws, residential segregation, poor health care, inferior education, unequal economic opportunity and the exclusion and distortion of the perspectives of non- dominant Canadians in cultural institutions (Thomas, 1987).[55]

Racism refers to "a system in which one group of people exercises power over another on the basis of skin colour; an implicit or explicit set of beliefs, erroneous assumptions, and actions based on an ideology of the inherent superiority of one racial group over another, and evident in organizational or institutional structures and programs as well as in individual thought or behaviour patterns" (Henry & Tator, 2006, p. 352).[56]

Racism also consists of "policies and practices, entrenched in established institutions, that result in the exclusion or advancement of specific groups of people. It manifests itself in two ways: (1) institutional racism: racial discrimination that derives from individuals carrying out the dictates of others who are prejudiced or of a prejudiced society; (2) structural racism: inequalities rooted in the system-wide operation of a society that excludes substantial numbers of members of particular groups from significant participation in major social institutions" (Henry & Tator, 2006, p. 329).[57]
➢ **Suggested Reading:** Our page "What is Racism?"

[54] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.
[55] Thomas, B. (1987). Multiculturalism at work: A guide to organizational change. Toronto, ON, Canada: YWCA.
[56] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.
[57] ibid.

Reverse Racism: "The term 'reverse racism' is sometimes used to characterize 'affirmative action' programs, but this is inaccurate. Affirmative action programs are attempts to repair the results of institutionalized racism by setting guidelines and establishing procedures for finding qualified applicants from all segments of the population" (Ricky Sherover-Marcuse. "A Working Definition of Racism," p. 2).
➢ Click here to learn more about the **myth** that affirmative action takes jobs and scholarships away from white people

"The term 'reverse racism' is also sometimes used to characterize the mistreatment that individual whites may have experienced at the hands of individuals of color. This too is inaccurate. … [W]e should not confuse the occasional mistreatment experienced by whites at the hands of people of colour with the systematic and institutionalized mistreatment experienced by people of color at the hands of whites" (ibid.).
➢ Click here to see our section "Reverse Racism – Myth or Reality"
➢ **Suggested Readings**: Tim Wise's article "A Look at the Myth of Reverse Racism", Michael Harriot's article "Reverse Racism, Explained"(American context) & Manisha Krishnan's article "Dear White People, Please Stop Pretending Reverse Racism Is Real"(Canadian context)

Segregation: "The social, physical, political and economic separation of diverse groups of people, based on racial or ethnic groups. This particularly refers to ideological and structural barriers to civil liberties, equal opportunity and participation by minorities within the larger society" (CRRF Retrieved 9/18/20). Exclusive neighbourhoods and gated communities are examples of economic segregation; the fact that these neighbourhoods are predominantly white demonstrates how whiteness and middle/upper class ideologies are mutually reinforcing.

Settler Colonialism: The term is characterized by "a persistent drive to ultimately supersede the conditions of its operation. The successful settler colonies 'tame' a variety of wildernesses, end up establishing independent nations, effectively repress, co-opt, and extinguish indigenous alterities, and productively manage ethnic diversity. By the end of this trajectory, they claim to be no longer settler colonial (they are putatively 'settled' and 'postcolonial' – except that unsettling anxieties remain, and references to a postcolonial condition appear hallow as soon as indigenous disadvantage is taken into account). Settler colonialism thus covers its tracks and operates towards its self-supersession … In other words, whereas colonialism *reinforces* the distinction between colony and metropole, settler colonialism erases it" (Veracini, 2011, p. 3).[58]
➢ See *Colonialism*

Sexism: "The cultural, institutional, and individual set of beliefs and practices that privilege men, subordinate women, and devalue ways of being that are associated with women" (LGBTQIA Resource Center Glossary Retrieved 9/18/20).

Sexual Orientation: Sexual orientation can be defined as feelings of attraction towards other

[58] Veracini, L. (2011). Introducing settler colonial studies. Settler Colonial Studies, 1(1) 1-12.

people (same sex, opposite sex, both sexes etc.) and does not require sexual activity or intimacy.

Socially-Imbued Power: Is based on social identities that the society has historically (and currently) privileged. Social identities include one's gender, race, class, language, ethnicity, sexuality, physical and mental health. A high level of socially-imbued power often brings greater access to other forms of power. Generally, socially-imbued power is exercised unconsciously and influences others through the confidence that accompanies such power. When people are conscious of the dynamics of socially imbued power, they may choose to use it and/or challenge it with different consequences (Thomas, 1987).[59]

Social Justice: "A concept premised upon the belief that each individual and group within society is to be given equal opportunity, fairness, civil liberties, and participation in the social, educational, economic, institutional and moral freedoms and responsibilities valued by the society" (CRRF Retrieved 9/18/20).

Status and non-Status Indian ➢ See *The Indian Act*

Stereotyping: "A preconceived generalization of a group of people. This generalization ascribes the same characteristic(s) to all members of the group, regardless of their individual differences" (CRRF Retrieved 9/18/20). These generalizations are often based on misconceptions or false/incomplete information.

Systemic/Institutional Racism: "Racism that consists of policies and practices, entrenched in established institutions, that result in the exclusion or advancement of specific groups of people. It manifests itself in two ways: (1) institutional racism: racial discrimination that derives from individuals carrying out the dictates of others who are prejudiced or of a prejudiced society; (2) structural racism: inequalities rooted in the system-wide operation of a society that excludes substantial numbers of members of particular groups from significant participation in major social institutions" (Henry & Tator, 2006, p. 352).[60]

Tolerance: Usually meant as a supportive or open attitude towards those perceived as different from oneself, and most often referring to attitudes of white people towards people of colour and Indigenous peoples. While the term has a basis in international law, in Canada, it has developed the problematic connotation of "putting up with." That is, white Canadians may perceive themselves as "tolerant of differences" but only insofar as they are not required to think or behave in non-racist ways. "[T]oday the term acceptance is preferred" (CRRF Retrieved 9/18/20).

Transgender: Sometimes shortened to "trans," the term refers to people whose gender identity is different from the social expectations for the physical sex they were assigned at birth. It is important to note the difference between biological sex (genitals, chromosomes) and social gender (perceptions and ideologies about masculinity and femininity). Leslie Feinberg

[59] Thomas, B. (1987). Multiculturalism at work: A guide to organizational change. Toronto, ON, Canada: YWCA.
[60] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.

describes this umbrella term as encompassing "transsexuals, drag queens, butches, hermaphrodites, cross-dressers, masculine women, effeminate men, sissies, tomboys, and anybody else willing to be interpolated by the term" (Stryker & Whittle, 2006, p. 4).[61]
➢ See *LGBTQIA2S*

Transexual: Transexual refers to a person who identifies as the opposite sex they were assigned at birth. A transexual individual may undergo medical treatment to change their physical sex to match their sex identity (through hormone treatments and/or surgery). Not all transexual individuals can have, or desire, this treatment.
➢ See LGBTQIA2S

Treaty: "Indigenous treaties in Canada are constitutionally recognized agreements between the Crown and Indigenous peoples. Most of these agreements describe exchanges where Indigenous nations agree to share some of their interests in their ancestral lands in return for various payments and promises. On a deeper level, treaties are sometimes understood, particularly by Indigenous people, as sacred covenants between nations that establish a relationship between those for whom Canada is an ancient homeland those whose family roots lie in other countries. Treaties therefore form the constitutional and moral basis of alliance between Indigenous peoples and Canada" (Anthony J. Hall. Rev. Gretchen Albers. "Treaties with Indigenous Peoples in Canada," *The Canadian Encyclopedia Online*, Retrieved 9/22/20).

In 1990, the Supreme Court of Canada, in the Sioui case, determined that "treaties and statutes relating to Indians should be liberally construed and uncertainties resolved in favour of the Indians." In the same case, the court introduced into Canadian jurisprudence a principle adopted from a 19th-century ruling in the USA indicating that treaties "must therefore be construed, not according to the technical meaning of its words to learned lawyers, but in the sense in which they would naturally be understood by the Indians" (ibid.).

"In spite of the constitutional character of treaties, the non-Indigenous peoples who made and implemented them tended to see them as self-serving deals rather than sacred pacts between independent nations. Historically, non-Indigenous treaty negotiators believed treaties were inexpensive and convenient ways to strip Aboriginal title (i.e., ownership) from most of the lands in Canada so that resources could be used by settlers. … Even in modern times, the federal and provincial governments tend to interpret treaties in legalistic terms, contending that Indigenous peoples "ceded, surrendered, and yielded" their ancestral rights and titles through treaties. In other words, treaties can be seen as real estate deals by which the Crown purchased Indigenous lands and provided them with reserves and one-time or continual payments in return" (ibid.).

"This narrow view of treaties has produced a huge divide between the Canadian government's perspective and that of Indigenous peoples. On the one hand is the government's view of treaties as legal instruments that surrendered Indigenous rights. On the other is the Indigenous view of treaties as instruments of relationships between autonomous peoples who agree to

[61] Stryker, S., & Whittle, S. (2006). The transgender studies reader. New York, NY: Routledge.

share the lands and resources of Canada. Seen from the Indigenous perspective, treaties do not surrender rights; rather, they confirm Indigenous rights. Treaties recognize that Indigenous peoples have the capacity to self-govern. Bridging the gap between these two views of treaties poses a huge challenge to people and lawmakers in Canada" (ibid.).
➢ Click here to view the full article on the Canadian Encyclopedia

Two-Spirited People: "Two-Spirit, a translation of the Anishinaabemowin term *niizh manidoowag*, refers to a person who embodies both a masculine and feminine spirit. Activist Albert McLeod developed the term in 1990 to broadly reference Indigenous peoples in the lesbian, gay, bisexual, transgender and queer (LGBTQ) community. Two-spirit is used by some Indigenous peoples to describe their gender, sexual and spiritual identity" (Michelle Filice. "Two-Spirit," *The Canadian Encyclopedia Online*, Retrieved 9/22/20). The mainstream terms used for lesbian, gay, bisexual, transgendered and queer individuals are seen, in an Indigenous context, as Eurocentric, too focused on sexual orientation/gender identity alone, and, as a result, narrow and limiting.
➢ Recommended Resource: First Stories – Two Spirited. 2007. Written and directed by Sharon A. Desjarlais. 6 mins.
➢ See *LGBTQIA2S*

U - Z

United Nations Declaration on the Elimination of All Forms of Racial Discrimination: "The Declaration on the Elimination of All Forms of Racial Discrimination is a human rights proclamation issued by the United Nations General Assembly, outlining that body's views on racism. It was adopted by the General Assembly on 20 November 1963. This Declaration was an important precursor to the legally binding Convention on the Elimination of All Forms of Racial Discrimination" (*Wikipedia*, Retrieved 9/22/20).
➢ Click here to learn more about the *Declaration on the Elimination of All Forms of Racial Discrimination*

United Nations Declaration on the Rights of Indigenous Peoples (2007): "The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the General Assembly on Thursday, 13 September 2007, by a majority of 144 states in favour, 4 votes against (Australia, Canada, New Zealand and the United States) and 11 abstentions (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa, and Ukraine)" (UNDESA. "United Nations Declaration on the Rights of Indigenous Peoples," Retrieved 9/22/20).

"Years later the four countries that voted against have reversed their position and now support the UN Declaration. Today the Declaration is the most comprehensive international instrument on the rights of indigenous peoples. It establishes a universal framework of minimum standards for the survival, dignity and well-being of the indigenous peoples of the world and it elaborates

on existing human rights standards and fundamental freedoms as they apply to the specific situation of indigenous peoples" (ibid.).

United Nations International Day for the Elimination of Racial Discrimination: "The UN General Assembly resolution 2142 (XXI), adopted on 26 October 1966, proclaimed 21 March as the International Day for the Elimination of Racial Discrimination to be commemorated annually. On that day, in 1960, police opened fire and killed 69 people at a peaceful demonstration in Sharpeville, South Africa, against the apartheid "pass laws". Proclaiming the Day in 1966 which signifies the struggle to end the policy of apartheid in South Africa, the General Assembly called on the international community to redouble its efforts to eliminate all forms of racial discrimination" (United Nations, "International Day for the Elimination of Racial Discrimination," Retrieved 9/22/20).

Universalism: "The assumption that there are irreducible features of human life and experience" (Ashcroft, Griffiths & Tiffin, 2002).[62] Claims about the universality of existence, however, usually emanate from the mainstream/dominant locations, and use white, western, middle-class, straight, male experience and perspectives as holding true (or ideal) for all of humanity. An insistence on universality, or its possibility, often emerges as a response by white people to discussions of racism (e.g. "we are all the same"); the evidence that these individuals "present," however, is often vague or generalized to the point of meaninglessness in the attempt to erase the materialities of privilege and oppression (i.e., "we all love our children"). The ideology of universalism is pervasive in Canada, used to market a wide range of commodities, especially literature and film.

Visible Minority: "Term used to describe people who are not white. Although it is a legal term widely used in human rights legislation and various policies, currently the terms racialized minority or people of colour are preferred by people labelled as 'visible minorities'" (CRRF Retrieved 9/22/20).

White Fragility: "White people in North America live in a social environment that protects and insulates them from race-based stress. This insulated environment of racial protection builds white expectations for racial comfort while at the same time lowering the ability to tolerate racial stress … White Fragility is a state in which even a minimum amount of racial stress becomes intolerable [for white people], triggering a range of defensive moves. These moves include the outward display of emotions such as anger, fear, and guilt, and behaviors such as argumentation, silence, and leaving the stress-inducing situation. These behaviors, in turn, function to reinstate white racial equilibrium" (DiAngelo, 2011, p. 54).[63]
➢ **Suggested Reading:** Robin DiAngelo's article "White Fragility: Why It's So Hard to Talk to White People About Racism"

Whiteness: "A social construction that has created a racial hierarchy that has shaped all the social, cultural, educational, political, and economic institutions of society. Whiteness is linked to

[62] Ashcroft, B., Griffiths, G., & Tiffin, H. (2002). *The empire writes back: theory and practice in post-colonial literatures* (2nd ed.). New York, NY: Routledge.
[63] DiAngelo, R. (2011). White Fragility. International Journal of Critical Pedagogy, 3(3), 54-70.

domination and is a form of race privilege invisible to white people who are not conscious of its power" (Henry & Tator, 2006, p. 353).[64]

"'Whiteness,' like 'colour' and 'Blackness,' are essentially social constructs applied to human beings rather than veritable truths that have universal validity. The power of Whiteness, however, is manifested by the ways in which racialized Whiteness becomes transformed into social, political, economic, and cultural behaviour. White culture, norms, and values in all these areas become normative natural. They become the standard against which all other cultures, groups, and individuals are measured and usually found to be inferior" (Henry & Tator, 2006, p. 46-47).[65]

Ruth Frankenberg asserts that whiteness is "a dominant cultural space with enormous political significance, with the purpose to keep others on the margin. … [W]hite people are not required to explain to others how 'white' culture works, because 'white' culture is the dominant culture that sets the norms. Everybody else is then compared to that norm. … In times of perceived threat, the normative group may well attempt to reassert its normativity by asserting elements of its cultural practice more explicitly and exclusively" (qtd. in Estable et al., 1993, p. 21).[66]
➢ **Suggested Reading:** Our page on "Understanding Whiteness"

White Privilege/White-Skin Privilege: "Refers to the unquestioned and unearned set of advantages, entitlements, benefits and choices bestowed on people solely because they are white. Generally white people who experience such privilege do so without being conscious of it.

Examples of privilege might be: "I can walk around a department store without being followed." "I can come to a meeting late and not have my lateness attributed to [my] race." "Being able to drive a car in any neighborhood without being perceived as being in the wrong place or looking for trouble." "I can turn on the television or look to the front page and see people of my ethnic and racial background represented." "I can take a job without having co-workers suspect that I got it because of my racial background." "I can send my 16-year old out with his [or her] new driver's license and not have to give him [or her] a lesson [on] how to respond if police stop him [or her].'" (Peggy McIntosh. "White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences Through Work in Women Studies," qtd. in Racial Equity Resource Guide).

Peggy McIntosh explains how "[a]s a white person I realized I had been taught about racism as something which puts others at a disadvantage, but had been taught not to see one of its corollary aspects, white privilege, which puts me at an advantage. … I have come to see white privilege as … an invisible weightless knapsack of special provisions, assurances, tools, maps, guides, codebooks, passports, visas, clothes, compass, emergency gear, and blank checks. … I

[64] Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.
[65] ibid.
[66] Estable et al. (1997). Teach Me to Thunder: A Manual for Anti-Racism Trainers. Canadian Labour Congress.

began to see why we [white women] are justly seen as oppressive, even when we don't see ourselves that way. At the very least, obliviousness of one's privileged state can make a person or group irritating to be with" (McIntosh, 1997, p. 292).[67]

➢ **Suggested Readings:** Peggy McIntosh's article "White Privilege: Unpacking the Invisible Knapsack", Cory Collins' article "What is White Privilege, Really?" & Media Smarts' article "Forms of Privilege"

➢ See *Privilege* & *Whiteness*

White Supremacy: This term is often connected to extremist, right-wing hate groups. However, the term is often used in anti-racist work to force an acknowledgement of the belief systems underlying whiteness. Thus, white supremacy is seen as the ideology which perpetuates white racism. This ideology exists in both the overtly prescriptive form, i.e. the white supremacy that we attach to right-wing white power groups, and as the self-perpetuating cultural structure also know as whiteness.

Xenophobia: Refers to the "attitudes, prejudices and behaviour that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity" (qtd. in UNESCO. "Xenophobia," Retrieved 9/22/20).[68] In other words, xenophobia is "[f]ear and hatred of strangers or foreigners or of anything that is strange or foreign" (CRRF Retrieved 9/22/20).

Last Update: 9/28/20

[67] McIntosh, P. (1997). A personal account of coming to see correspondences through work in women's studies. In R. Delagado, R. & J. Stefancic (Eds.), Critical white studies: Looking behind the mirror (pp. 291-299). Philadelphia: Temple University Press.

[68] Declaration on Racism, discrimination, Xenophobia and Related Intolerance against Migrants and Trafficked Persons. Asia-Pacific NGO Meeting for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Teheran, Iran. 18 February 2001.

This is Exhibit " MMM " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor


TM

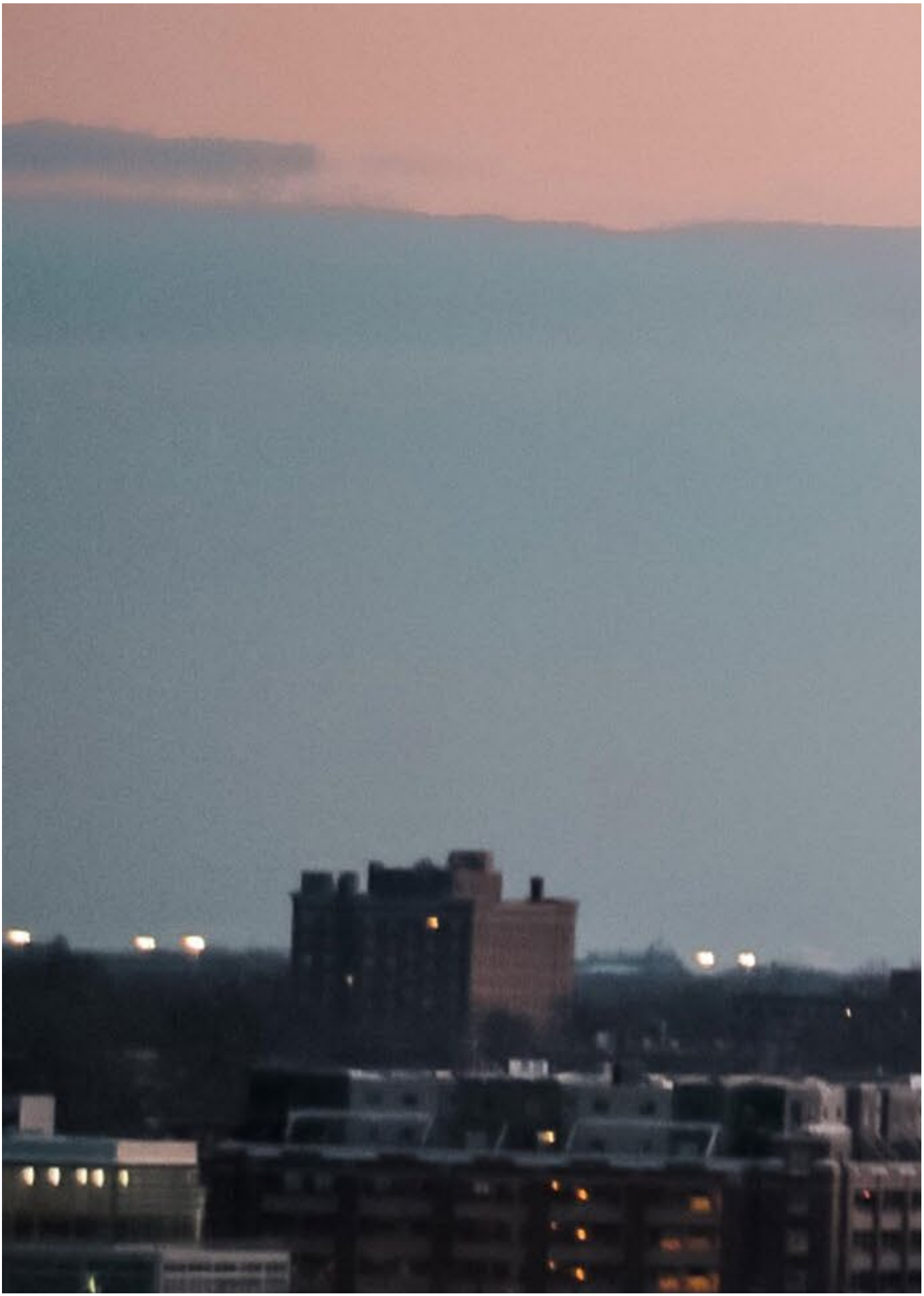
Access to Justice Acknowledgements
Youth Safe About Us Resources Contact Us Presentations Videos Alberta Events
Indigenous Land Stewardship
Rights of Nature
TFWP
Identity Theft
2024 Calendar Order Form

Search
Home About Us Contact Us Our Staff ACLRC in the News Funders and Supporters Board of Directors Job Opportunities Volunteer at ACLRC Links ACLRC Award Alberta COVID Links Our Blog Webinars and Videos Episodes Events New Events Past Conferences & Events Human Rights Education Program Human Rights Education Program Human Rights Resources Human Rights Resources Sexual Harassm't in Workplace Video Resources Anti-Racism CARED CARED Home About Us Begin The Basics: Level 1 The Basics: Level 2 Glossary Learning Actions Recommended Resources Resources Resources Enforcing Your Rights Enforcing Your Rights Access to Justice Access to Justice Acknowledgements Youth Safe Youth Safe About Us Resources Contact Us Presentations Videos Alberta Events Indigenous Land Stewardship Indigenous Land Stewardship Rights of Nature Rights of Nature TFWP TFWP Identity Theft Identity Theft Multifaith Calendar 2024 Calendar Order Form
Donate


CARED
Calgary Anti-Racism Education

About Us | Begin | The Basics: Level 1 | The Basics: Level 2 | Glossary

Learning Actions | Recommended Resources



Strategies of Liberal Racism

> "My schooling gave me no training in seeing myself as an oppressor, as an unfairly advantaged person, or as a participant in a damaged culture. I was taught to see myself as an individual whose moral state depended on her individual moral will" (McIntosh, 1997, p. 292).

In the West, what has become known as the "cult of individualism" has impacted us in such a way that it can be very difficult to understand anything outside of our own experience. We will often individualize situations rather than approach them with systemic analysis in mind (e.g., the preference for seeing racism as isolated, overt, or an extreme incident such as racial epithets, rather than an ongoing and often unintentional set of attitudes that lead to structures of domination). Individualism fosters a belief that everyone is free to choose, that our destiny is within our own control and that choice, determination, "pulling oneself up by one's boot straps," are all individually determined and ultimately achievable despite social, economic, racial and cultural circumstances.

> "Canadians have a deep attachment to the assumption that in a democratic society individuals are rewarded solely on the basis of their individual merit and that no one group is singled out for discrimination. Consistent with these liberal, democratic values is the assumption that physical differences such as skin colour are irrelevant in determining one's status. ... While lip service is paid to the need to ensure equality in a pluralistic society, most Canadian individuals, organizations, and institutions are far more committed to maintaining or increasing their own power" (Henry & Tator, 2006, pp. 2-3).

What is Liberal Racism?

Liberalism is distinguished by a set of beliefs that includes, among other ideals: the primacy of **individual rights** over collective or group rights; the power of **(one) truth, tradition, and history**; an appeal to **universalism**; the sacredness of the principle of **freedom of expression**; and a commitment to **human rights and equality**. But as many scholars observe, liberalism is full of paradoxes and contradictions and assumes different meanings, depending on one's social location and angle of vision (Hall, 1986; Goldberg, 1993; Apple, 1993; Winant, 1997). Bikhu Parekh argues that liberalism "is both **egalitarian and inegalitarian**" (1986, p. 82). It simultaneously supports the **unity of humankind and the hierarchy of cultures**. It is both **tolerant and intolerant** (Henry & Tator, 2006, p. 28).

One common way that liberal racism shows up is through **the Burden of Representation**. It manifests as follows:

1. One minority individual is assumed to represent his or her entire cultural/racial group, usually combined with the assumption that this individual/culture is "traditional."

2. A single creative (or critical) text (filmic, literary, etc.) is expected and assumed to represent an entire minority culture, or even to "contain culture" (with culture vaguely defined but assumed to be "traditional").

3. The expectation of dominant culture that minority groups or individuals "teach" the dominant majority about the minority culture, the dominant culture's misperceptions, and racism. (e.g. the expectation that Indigenous representatives should teach people about all or specific Indigenous cultures and histories; the expectation that black individuals should teach non-blacks how to be anti-racist)

4. The expectation of dominant culture to receive affirmation from minority cultures that they are "not racist" or to

> "use" those in the less privileged position as proof that they are not racist ("I have a friend who is …… therefore...")

When it comes to the representation of a particular group through some sort of medium that is external to the actual group/individual comes the issue of interpretation. Ann Marie Baldonado explains how, "[r]epresentations, then can never really be 'natural' depictions. ... Instead they are constructed images, images that need to be interrogated for their ideological content. ... If there is always an element of interpretation involved in representation, we must then note who may be doing the interpreting" On this subject, Ella Shohat asserts that "[e]ach filmic or academic utterance must be analyzed not only in terms of who represents but also in terms of who is being represented, for what purpose, at which historical moment, for which location, using which strategies, and in what tone of address" (Shohat, 1995, p. 173)

This questioning is particularly important when the representation of the subaltern (or marginalized) is involved. The problem does not rest solely with the fact that often marginalized groups do not hold the "power over representation" (Shohat, 1995, p. 170). It rests also in the fact that representations of these groups are both flawed and few in numbers. Shohat states that dominant groups need not preoccupy themselves too much with being adequately represented. There are so many different representations of dominant groups that negative images are seen as only part of the "natural diversity" of people. However, "representation of an underrepresented group is necessarily within the hermeneutics of domination, overcharged with allegorical significance" (Shohat, 1995, p. 170). The mass media tends to take representations of the subaltern (or marginalized) as allegorical, meaning that since representations of the marginalized are few, the few available are thought to be representative of all marginalized peoples. The few images are thought to be typical, sometimes not only of members of a particular minority group, but of all minorities in general.

> "The denial of aesthetic representation to the subaltern has historically formed a corollary to the literal denial of economic, legal, and political representation. The struggle to 'speak for oneself' cannot be separated from a history of being spoken for, from the struggle to speak and be heard" (Shohat, 1995, p. 173).

Strategies of Liberal Racism

There are several recognizable and frequently repeated strategies used in liberal racism that make anti-racism work difficult. Most of these strategies share common and overlapping processes: outright or masked denial, minimization, defensiveness and guilt.

- **Making invisible:** Ignoring. Failing to recognize a person of colour or Indigenous person as a "regular" Canadian.
- **Claiming "reverse racism":** This term is sometimes used in relation to anti-racism initiatives, affirmative action, or equity policies that are actually designed to rectify the results of institutionalized racism by setting guidelines and establishing procedures for findings qualified applicants from all segments of the population. The term "reverse racism" is also sometimes used to describe the mistreatment that individual whites may have experienced at the hands of people of colour. The inaccuracy here is that we should not confuse racial prejudice and other forms of mistreatment experienced by whites at the hands of people of colour with racism — the concentration of power and privilege in our society that leads to the systematic and institutionalized mistreatment of people of colour. (Sherover-Marcuse, 1988, p. 2).
- **Fear of assertiveness:** Hesitancy of white people to engage in confrontational or challenging dialogue with people of colour. The fear of making mistakes. Not holding people of colour as able. Fear of giving critical feedback to people of colour.
- **Denying differences:** Comfort of white people around people of colour who talk and act most like white people.
- **Approval seeking:** Being more "anti-racist" in the presence of people of colour. Wanting a pat on the back for positive action. "But special praise and rewards? For what? For recognizing people as equals and treating them

like human beings? ... Is applause due to those white people who acknowledge [the existence of racism]? ... I'm sorry, but that's like giving a man the Nobel Peace Prize because he doesn't beat his wife" (Burton, 1994, p. 2).

- **Assuming things are better:** Failure to recognize the perceptions of people of colour about current racial inequity. The belief that racial oppression existed in the past, not today, or somewhere else, not here.
- **Comparing oppressions:** Denying or minimizing the impact of racism by suggesting that some forms of oppression are worse than or analogous to others – "I'm more oppressed than you are." "As a woman, I identify with your oppression."
- **Colour-blindness:** Premise is that sameness is a compliment. "I don't even think of you as black." Espousing the liberal sentiment of "We're all the same under the skin."
- **Defining the other:** Defining a person of colour and what their experience is. Inability to listen to and accept their experience.
- **Stereotyping:** A fixed set of ideas often exaggerated and distorted. It is a mental picture that sees all members of a group as being the same. (Collins, 2006, p.39)

References:

- Apple, M. (1993). Constructing the 'other': Rightist reconstructions of common sense. In C. McCarthy and W. Crichlow (Eds.), *Race, identity, and representation in education.* New York and London: Routledge.
- Baldonado, A. M. "Representation. 1996.
- Burton, M. G. (1994). Never say Nigger again!: An antiracism guide for white liberals. Nashville, TN: James C. Winston Publishing Company.
- Collins, M. (2006). Responding to Diversity. The Muttart Foundation.
- Goldberg, D.S. (Ed.). (1990). The anatomy of racism. Minneapolis: University of Minnesota Press.
- Hall, S. (1986). Variants of liberalism. In J. Donald and S. Hall (Eds.). Politics and ideology. Milton Keynes: Open University Press.
- Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.
- McIntosh, P. (1997). A personal account of coming to see correspondences through work in women's studies. In R. Delagado, R. & J. Stefancic (Eds.), Critical white studies: Looking behind the mirror (pp. 291-299). Philadelphia: Temple University Press.
- Parekh, B. (1986). The 'new right' and the politics of nationhood. In The new right: Image and reality. London, UK: Runnymede Trust.
- Sherover-Marcuse, R. Revised 7/88. "A Working Definition of Racism," p. 2.
- Shohat, E. (1995). The struggle over representation: Casting, coalitions and the politics of identification. In R. De La Campa, E. A. Kaplan, & M. Sprinkler (Eds.), Late imperial culture (pp.166-178). London, UK: Verso.
- Winant, H. (1997). Behind blue eyes: Whiteness and contemporary U.S. racial politics. In M. Fine et al. (Eds.), Off white: Readings on race, power, and society (pp. 40-56). New York and London: Routledge.

2500 University Drive NW
Calgary, AB T2N 1N4

(403) 220-2505
aclrc@ucalgary.ca

Info

Mission
Volunteer
Contact
Donate

Sign up to receive news and updates.

Email Address Email Address

Sign Up

Thank you!
Alberta Civil Liberties Research Centre
University of Calgary, 2500 University Dr NW, room 2350 MFH,
Calgary, AB T2N 1N4,
Canada
403.220.2505 aclrc@ucalgary.ca
Hours
Mon 9 am to 5 pm
Tue 9 am to 5 pm
Wed 9 am to 5 pm
Thu 9 am to 5 pm
Fri 9 am to 5 pm

This is Exhibit " NNN " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

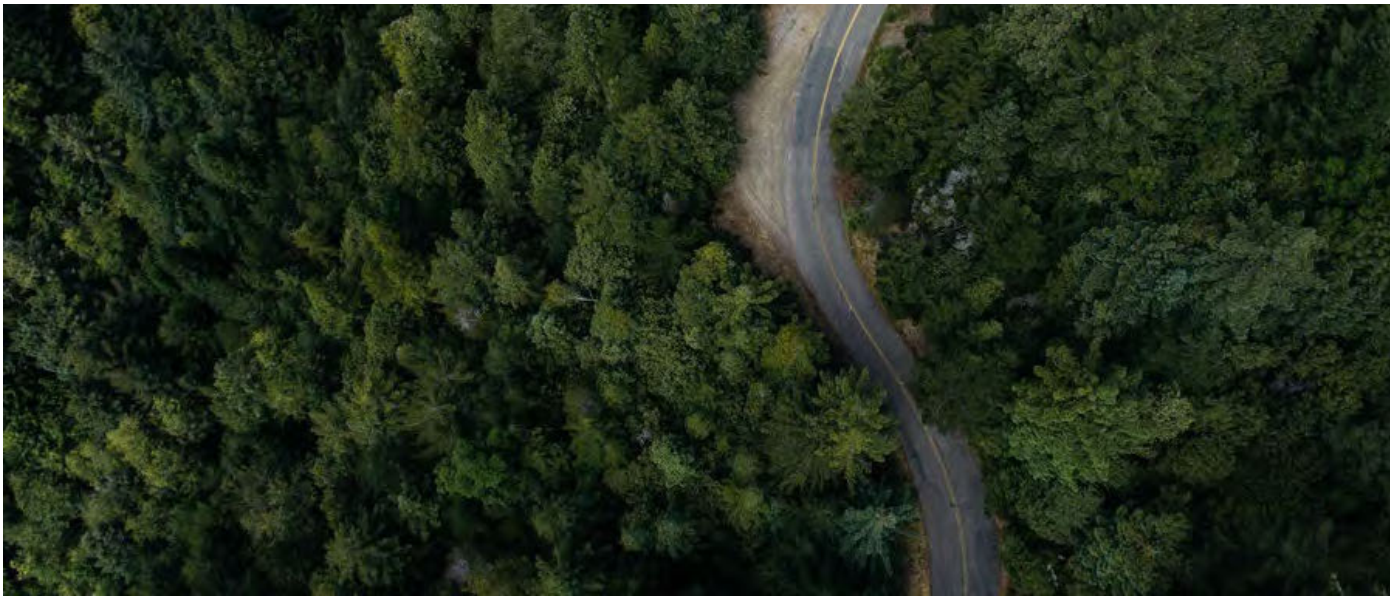
A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Home Our Blog Anti-Racism Donate
Contact Us Our Staff ACLRC in the News Funders and Supporters Board of Directors Job Opportunities Volunteer at ACLRC Links ACLRC Award
Episodes
New Events Past Conferences & Events
Human Rights Education Program
Human Rights Resources
Video Resources
CARED Home About Us Begin The Basics: Level 1 The Basics: Level 2 Glossary Learning Actions Recommended Resources
Resources
Enforcing Your Rights

Access to Justice Acknowledgements
Youth Safe About Us Resources Contact Us Presentations Videos Alberta Events
Indigenous Land Stewardship
Rights of Nature
TFWP
Identity Theft
2024 Calendar Order Form

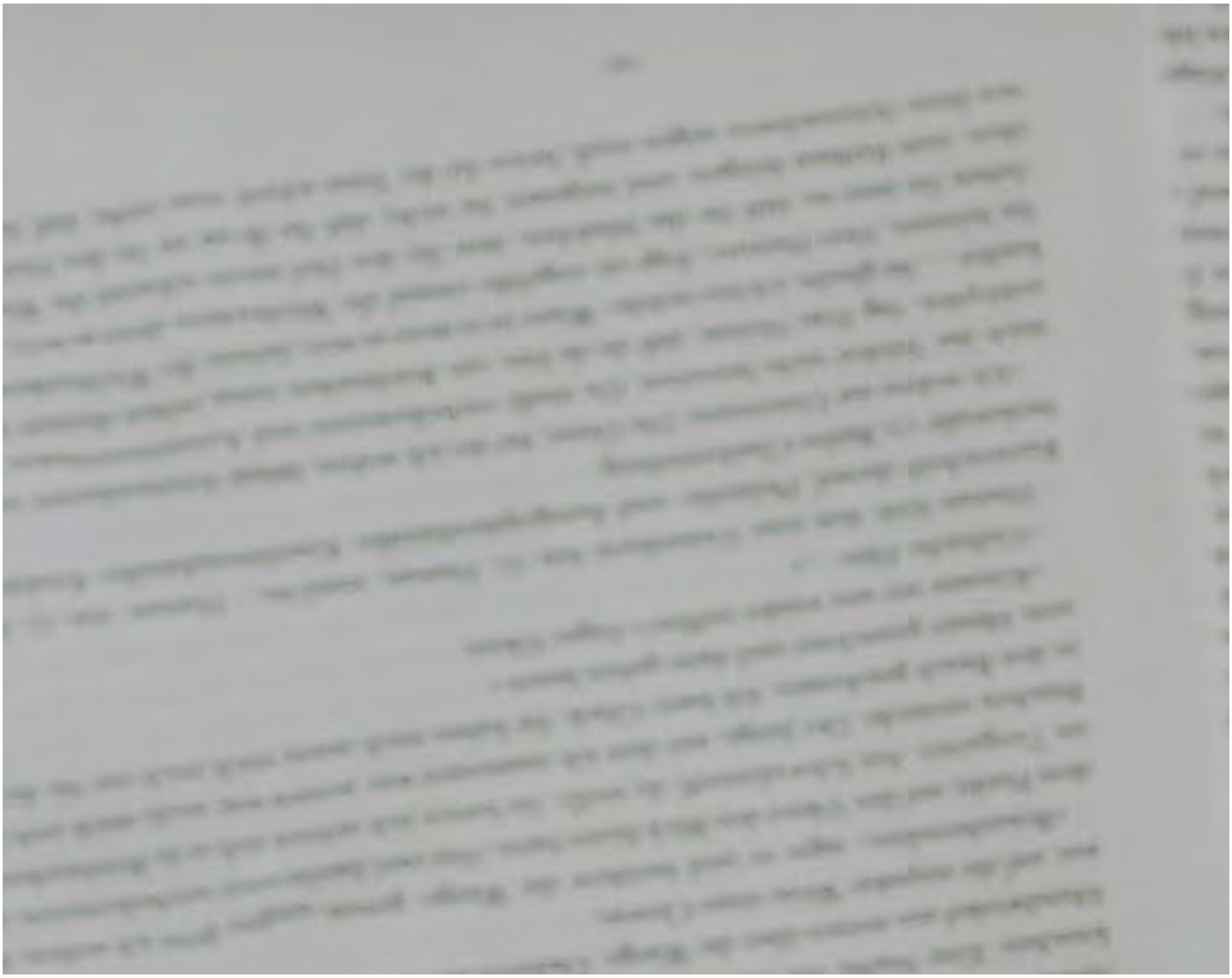
Search
Home About Us Contact Us Our Staff ACLRC in the News Funders and Supporters Board of Directors Job Opportunities Volunteer at ACLRC Links ACLRC Award Alberta COVID Links Our Blog Webinars and Videos Episodes Events New Events Past Conferences & Events Human Rights Education Program Human Rights Education Program Human Rights Resources Human Rights Resources Sexual Harassm't in Workplace Video Resources Anti-Racism CARED CARED Home About Us Begin The Basics: Level 1 The Basics: Level 2 Glossary Learning Actions Recommended Resources Resources Resources Enforcing Your Rights Enforcing Your Rights Access to Justice Access to Justice Acknowledgements Youth Safe Youth Safe About Us Resources Contact Us Presentations Videos Alberta Events Indigenous Land Stewardship Indigenous Land Stewardship Rights of Nature Rights of Nature TFWP TFWP Identity Theft Identity Theft Multifaith Calendar 2024 Calendar Order Form
Donate

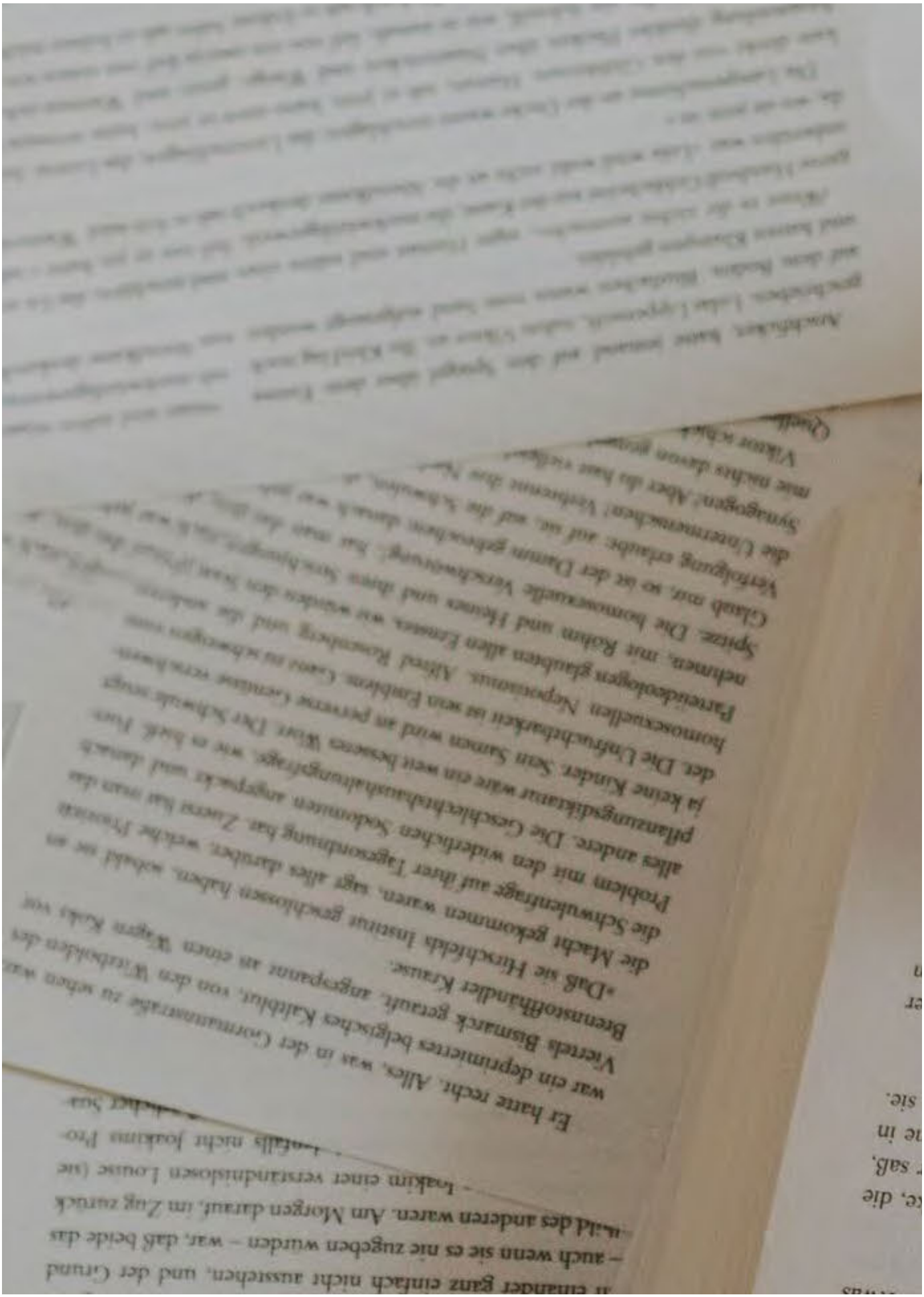


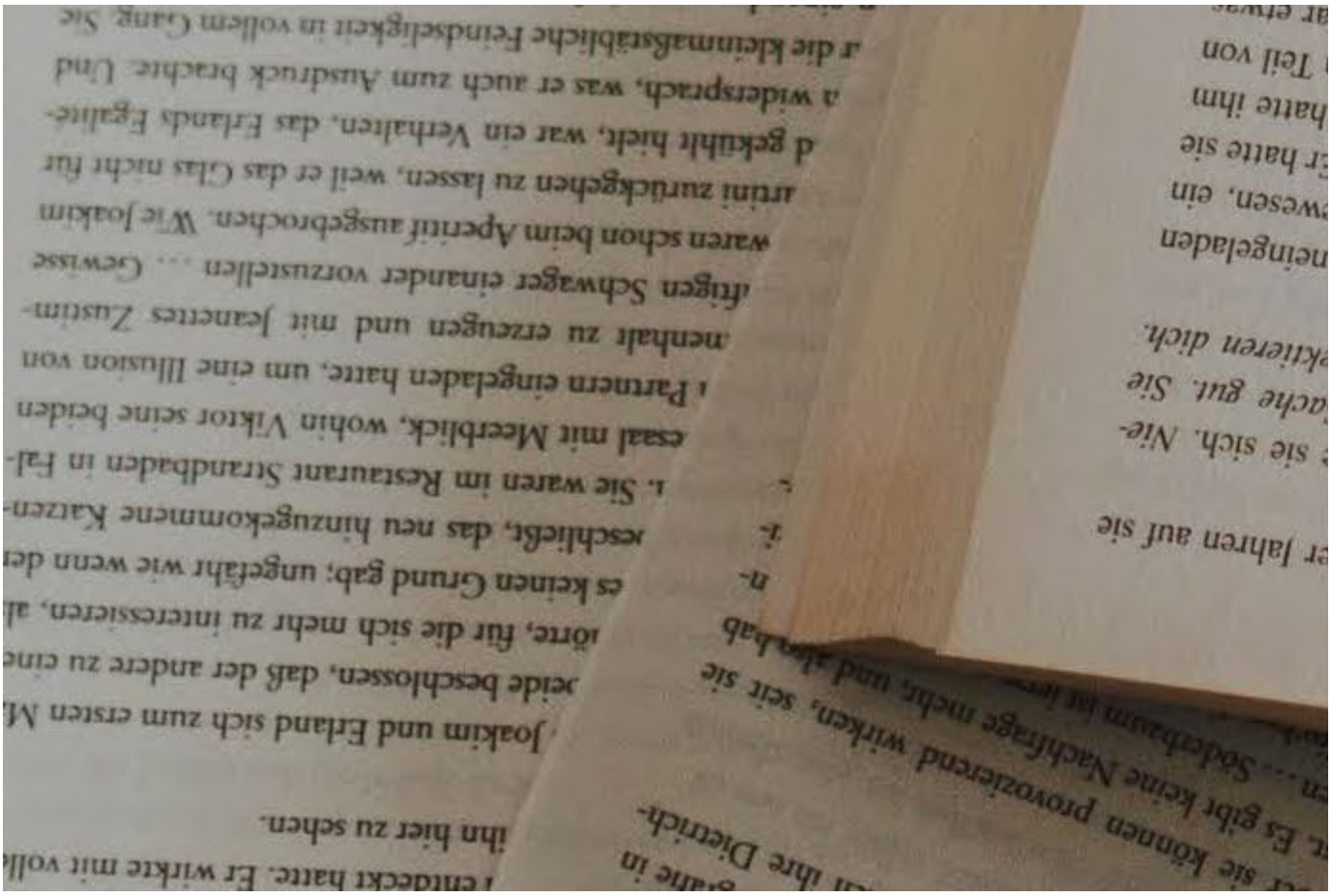

CARED
Calgary Anti-Racism Education

About Us | Begin | The Basics: Level 1 | The Basics: Level 2 | Glossary

Learning Actions | Recommended Resources







Whiteness

"a dominant cultural space with enormous political significance, with the purpose to keep others on the margin"

> "Racism is based on the concept of whiteness—a powerful fiction enforced by power and violence. Whiteness is a constantly shifting boundary separating those who are entitled to have certain privileges from those whose exploitation and vulnerability to violence is justified by their not being white" (Kivel, 1996, p.19).

What is Whiteness?

In Alberta, the word "white" is sometimes used to refer specifically to skin colour or "race." This may appear like the reinforcement of the old (and racist) categories of European imperialism, and in some cases, it may in fact be meant that way. But in our experience, we have found that when people refer to "white people" (either in self-identification or identifying individuals/groups), it is actually being used as a shorthand reference to whiteness; that is, to the social meaning that we have attached to this concept. It is used as a shorthand for the **privileges and power** that people who **appear white** receive because they are not subjected to the racism faced by people of colour and Indigenous people.

It is important to notice the difference between being "white" (a category of "race" with no biological/scientific foundation) and "whiteness" (a powerful social construct with very real, tangible, violent effects). We must recognize that race is **scientifically insignificant**. Race is a **socially constructed category** that powerfully attaches meaning to perceptions of skin colour; inequitable social/economic relations are structured and reproduced (including the meanings attached to skin colour) through notions of race, class, gender, and nation.

> Ruth Frankenberg defines whiteness as "a dominant cultural space with enormous political significance, with the purpose to keep others on the margin. ... [W]hite people are not required to

> explain to others how 'white' culture works, because 'white' culture is the dominant culture that sets the norms. Everybody else is then compared to that norm. ... In times of perceived threat, the normative group may well attempt to reassert its normativity by asserting elements of its cultural practice more explicitly and exclusively (qtd. in Estable, 1997, 21).

An example of this normative whiteness was the furor concerning Baltej Singh Dhillon's fight to wear a turban, for religious reasons, as part of his RCMP uniform. The argument that the Mountie uniform was a "tradition" that should not be changed belied white Canadians' perceptions of Sikh people and communities of colour as "threatening" their position of privilege in Canada.

↳ Click here to learn more about the Baltej Singh Dhillon Case.

Key Features of Whiteness

Whiteness is multidimensional, complex, and systemic:

- It is **socially and politically constructed**, and therefore a learned behaviour.
- It does not simply refer to skin colour, but to its **ideology** based on beliefs, values behaviours, habits and attitudes, which result in the unequal distribution of power and privilege based on skin colour (Frye, 1983; Kivel, 1996).
- It represents a **position of power** where the power holder defines the categories, which means that the power holder decides who is white and who is not (Frye, 1983).
- It is **relational**. "White" only exists in relation/opposition to other categories/locations in the racial hierarchy produced by whiteness. In defining "others," whiteness defines itself.
- It is **fluid**—who is considered white changes over time (Kivel, 1996).
- It is a **state of unconsciousness:** whiteness is often invisible to white people, and this perpetuates a lack of knowledge or understanding of difference which is a root cause of oppression (hooks, 1994).
- It shapes how white people view themselves and others, and places white people in **a place of structural advantage** where white cultural norms and practices go unnamed and unquestioned (Frankenberg, 1993). Cultural racism is founded in the belief that "whiteness is considered to be the universal ... and allows one to think and speak as if whiteness described and defined the world" (Henry & Tator, 2006, p. 327).
- Whiteness is a set of **normative privileges** granted to white-skinned individuals and groups; it is normalized in its production/maintenance for those of that group such that its operations are "invisible" to those privileged by it (but not to those oppressed/disadvantaged by it). It has a long history in European imperialism and epistemologies.
- Whiteness is distinct but not separate from ideologies and material manifestations of ideologies of class, nation, gender, sexuality, and ability.
- The meaning of whiteness is historical and has shifted over time (i.e. Irish, Italian, Spanish, Greek and southern European peoples have at times been "raced" as non-white).

↳ Click here to explore our glossary definitions of *White Fragility*, *Whiteness*, *White Privilege/White-Skin Privilege* & *White Supremacy*

References:

- Estable, A., Meyer, M., & Pon, G. (1997). Teach me to thunder: A training manual for anti-racism trainers. Ottawa, ON: Canadian Labour Congress.

- Frankenberg, R. (1993). White women, race matters: The social construction of whiteness. Minneapolis: University of Minnesota Press.
- Frye, M. (1983). On being White: Thinking toward a feminist understanding of race and race supremacy. In T. Burg (Ed.), Politics of reality: Essays in feminist theory. New York, NY: Crossing Press.
- Henry, F., & Tator, C. (2006). The colour of democracy: Racism in Canadian society. 3rd Ed. Toronto, ON: Nelson.
- hooks, b. (1994). Teaching to transgress: Education as the practice of freedom. New York, NY: Routledge.
- Kivel, P. (1996). Uprooting racism: How white people can work for racial justice. Gabriola Island, BC: New Society Press.

Recommended Resources:

- "Deconstructing White Privilege with Dr. Robin DiAngelo." General Commission on Religion and Race of The UMC. Youtube.
- "Talking About Race: Whiteness." National Museum of African American History and Culture. (American Context)

2500 University Drive NW
Calgary, AB T2N 1N4

(403) 220-2505
aclrc@ucalgary.ca

Info

Mission
Volunteer
Contact
Donate

Sign up to receive news and updates.

Email Address Email Address

Sign Up

Thank you!

Alberta Civil Liberties Research Centre
University of Calgary, 2500 University Dr NW, room 2350 MFH,
Calgary, AB T2N 1N4,
Canada
403.220.2505 aclrc@ucalgary.ca

Hours
Mon 9 am to 5 pm
Tue 9 am to 5 pm
Wed 9 am to 5 pm
Thu 9 am to 5 pm
Fri 9 am to 5 pm

This is Exhibit " OOO " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

THE CANADIAN BAR ASSOCIATION

How Lawyers Can be Good Allies – The Principles of Allyship

WHAT IS ALLYSHIP?

It's "an active, consistent, and arduous practice of unlearning and re-evaluating, in which a person of privilege seeks to operate in solidarity with a marginalized group of people." BC Teachers Federation

It is a "philosophical approach that emphasizes social justice, inclusion, and human rights by recognizing the experiences of privileged and oppressed groups and acknowledging that an individual can be in multiple groups simultaneously." Tulane University

Being an ally is about disrupting oppressive spaces by educating others on the realities and histories of marginalized people.

Allies understand the systemic racism and oppressive power structures that underpin Canada and seek to ensure their work does not perpetuate oppression.

WHAT ALLYSHIP ISN'T

- An identity or a status
- A way to align with an issue or group that is high-profile or newsworthy
- Self-defined
- Done out of a sense of guilt
- About "political correctness"
- Expecting Indigenous people to educate you on cultural awareness and history of oppression
- A way to receive special recognition or awards
- An opportunity to speak on behalf of First Nations, Inuit or Métis

HOW TO BE AN ALLY

- Listen more, speak less
- Acknowledge privilege and power and discuss these concepts
- Transfer the benefits of your privilege to those who have less
- Amplify marginalized voices
- Take guidance from the Indigenous people, communities, groups you want to work with
- Your needs are secondary to the needs of the Indigenous peoples you are working with
- Be willing to receive criticism, feel uncomfortable and be challenged
- Engage with others in positions of privilege and power to have conversations about systemic racism, oppression and allyship

QUESTIONS TO ASK ABOUT BECOMING AN ALLY

- Are we willing to invest our own time, resources and energy in addressing our power and privilege?
- Are we committed to dismantling systems of oppression in our own workplaces and with our clients?
- Are our efforts perpetuating the oppression of Indigenous peoples?
- How much space are we taking up in conversations? In rooms? In organizing?
- How do we actively improve access to our meetings? Our actions?
- How are our identities taking up space? Physically? Verbally?
- How much do we know about the people we seek to work with? What are our assumptions, and from where did they originate?
- Who are we leaving behind?"

IDEAS TO IMPLEMENT INDIGENOUS ALLYSHIP AT YOUR LAW FIRM

- Respect cultural protocols and traditions of your Indigenous clients and the territory on which your law firm's office/s sit.
- Talk about the expertise you see in your Indigenous co-workers.
- Reduce barriers for Indigenous people to apply for management or board positions
- Consider inviting Indigenous experts and thought leaders to present at company retreats, lunch and learns, conferences and events (or defer to an Indigenous colleague if you are invited to speak as an expert or thought leader)
- Advocate for Indigenous colleagues and clients who are absent or missing from important meetings, events, strategic planning opportunities.
- Create resources by and about Indigenous peoples related to your law firm's areas of practice and encourage staff to do the research and educate themselves
- Be an Upstander as opposed to a bystander: always speak up if you witness racist, discriminatory speech, bullying, microaggressions, gaslighting, etc.
- Be a mentor to Indigenous people and ask Indigenous colleagues to mentor Indigenous and non-Indigenous colleagues.
- Volunteer at a local Indigenous organization (doing something that they want or need or ask you to support)
- Financially support ongoing staff professional development in cultural awareness, cultural competency, anti-racism.

For more resources on allyship, see:

Indigenous Ally Toolkit

Ally Bill of Responsibilities

BC Teachers Federation A Guide to Allyship

The Anti-Oppression Network Allyship

So You Call Yourself an Ally: 10 Things All 'Allies' Need to Know

What is an Ally: 7 Examples

This is Exhibit " PPP " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Ally Bill of Responsibilities

Responsible Allies:

1. Do not act out of guilt, but rather out of a genuine interest in challenging the larger oppressive power structures;

2. Understand that they are secondary to the Indigenous people that they are working with and that they seek to serve. They and their needs must take a back seat;

3. Are fully grounded in their own ancestral history and culture. Effective allies must sit in this knowledge with confidence and pride; otherwise the "wannabe syndrome" could merely undermine the Indigenous people's efforts;

4. Are aware of their privileges and openly discuss them. This action will also serve to challenge larger oppressive power structures;

5. Reflect on and embrace their ignorance of the group's oppression and always hold this ignorance in the forefront of their minds. Otherwise, a lack of awareness of their ignorance could merely perpetuate the Indigenous people's oppression;

6. Are aware of and understand the larger oppressive power structures that serve to hold certain groups and people down. One way to do this is to draw parallels through critically reflecting on their own experiences with oppressive power structures. Reflecting on their subjectivity in this way, they ensure critical thought or what others call objectivity. In taking this approach, these parallels will serve to ensure that non-Indigenous allies are not perpetuating the oppression;

7. Constantly listen and reflect through the medium of subjectivity and critical thought versus merely their subjectivity. This will serve to ensure that they avoid the trap that they or their personal friends know what is best. This act will also serve to avoid the trap of naively following a leader or for that matter a group of leaders;

8. Strive to remain critical thinkers and seek out the knowledge and wisdom of the critical thinkers in the group. Allies cannot assume that all people are critical thinkers and have a good understanding of the larger power structures of oppression;

9. Ensure that a community consensus, or understanding, has been established in terms of their role as allies. Otherwise, the efforts of the people will be undermined due to a lack of consultation and agreement;

10. Ensure that the needs of the most oppressed – women, children, elderly, young teenage girls and boys, and the disabled – are served in the effort or movement that they are supporting. Otherwise, they may be engaging in a process that is inadequate and thus merely serving to fortify the larger power structures of oppression. Alternatively, their good intentions may not serve those who need the effort most. Rather, they may be making the oppression worse;

11. Understand and reflect on the prevalence and dynamics of lateral oppression and horizontal violence on and within oppressed groups and components of the group, such as women, and seek to ensure that their actions do not encourage it;

12. Ensure that they are supporting a leader's, group of leaders', or a movement's efforts that serve the needs of the people. For example, do the community people find this leader's efforts useful, interesting, engaging, and thus empowering? If not, allies should consider whether the efforts are moving in a questionable or possibly an inadequate direction, or worse yet that their efforts are being manipulated and thus undermined, possibly for economic and political reasons;

13. Understand that sometimes allies are merely manipulatively chosen to further a leader's agenda versus the Indigenous Nations', communities', or organizations' concerns, and when this situation occurs act accordingly;

14. Do not take up the space and resources, physical and financial, of the oppressed group;

15. Do not take up time at community meetings and community events. This is not their place. They must listen more than speak. Allies cannot perceive all the larger oppressive power structures as clearly as members of the oppressed group can; And finally,

16. Accept the responsibility of learning and reading more about their role as effective allies.

Chi-Miigwetch!

This is Exhibit " QQQ " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

THE CANADIAN BAR ASSOCIATION

Increasing Your IQ (Your Indigenous Quotient)

Ways to improve your relationships with Indigenous individuals, communities and governments.

COMMUNICATION CUES

There is a difference between speaking and having something to say. Indigenous peoples may be more comfortable with silence than you are. It's OK to wait a bit until they're ready to talk. And be aware that gestures, facial expressions and other subtle, non-verbal forms of communication are very much part of the way that many Indigenous peoples interact. For example, Inuit will often signal agreement by raising their eyebrows and disagree by wrinkling their noses. Some First Nation individuals may signal direction by pointing with their lips rather than pointing with their fingers or seem awkward when offered a firm handshake. Understanding body language is important. You will also want to have a sense of humour. Indigenous peoples like to laugh, joke and tease. Even though our colonial history is dark and traumatizing, many Indigenous peoples use humour as a way to teach important truths. If they laugh at you or with you, it just may mean that you shouldn't take yourself so seriously. And if they tease you, it probably means they like you.

IMPORTANCE OF ELDERS

Prior to contact with Europeans, it was the Elders who took the children and taught them while the parents were busy with the practical necessities of life. Elders are revered and honoured for their wisdom and knowledge. To show respect, some are taught not to look Elders directly in the eye. It is important to listen and not interrupt when Elders tell stories and share knowledge. Some have been taught that it is not polite to ask too many questions; simply listen, observe, imitate and think about what you've learned.

LISTENING AND CONSENSUS-BUILDING

The reason why many Indigenous groups often meet in a circle is to demonstrate that everyone's voice is important and everyone gets a chance to speak. Several nations use a talking stick, a physical item that gives one person at a time the right to be heard without interruption. Everyone's perspectives are considered, and all options are discussed. Most Indigenous nations traditionally made decisions by consensus. This requires more time and effort from all parties. You can see this in action in the consensus-based proceedings of the Nunavut and Nunatsiavut governments which are based on Inuit principles. You may find in your relationships with Indigenous communities that you have to allow for a lot more time so that they can come to their own internal agreements.

COMMUNITY PROTOCOLS

Protocols are the customs and rules of the communities you work with. Some may have formal documents or processes to follow. In other communities, these protocols will be revealed once you are in a relationship with that community. Find out what kind of governance system is in the community. If it's a First Nations community, do they have a hereditary chief system? Do they have an *Indian Act* chief and band council? Is there a traditional leadership council? It's important to understand the leadership and authority structure.

Protocols cover things such as land acknowledgements, incorporation of insights provided by Elders, cultural requirements such as providing tobacco, or tea, fees and honoraria or other gifts. There might be a need for translation and interpretation in communities where people's first language is not English. There could be detailed protocols related to engagement and to research. It's important to research, ask and understand what each community's protocols and processes are and then follow them.

You might also ask about books to read, websites to visit, people to talk to in order to find out more about particular items or materials. For example, with some First Nations, you may have seen a smudge or been given tobacco to share. You may see an eagle feather being used. Find out why the eagle feather is important. Or the significance of ribbon shirts, or the Métis sash, or the Inuit qulliq. You will likely be exposed to many different practices, and it's important to have an attitude of humility and a willingness to learn and understand.

COMMUNITY CAPACITY

The vast majority of First Nation, Inuit and Métis communities in Canada have populations of fewer than 1,000 people. Yet they're under constant pressure from researchers, resource companies, governments, educational institutions and the media to respond, to engage, to be consulted.

Most communities struggle with the impacts of colonialism – substandard education and infrastructure, social issues and heavy administrative and reporting burdens. They may lack the capacity – or simply the people – to meet all of the demands placed on them. An *Indian Act* band councillor on a small reserve, for example, will be required to address federal issues, provincial or territorial issues, AND fulfill a role comparable to that of a town councillor as well. Amendments to the *Indian Act* and modern treaties add even more to the governance and management burden of a reserve, and Inuit across the North have created literally dozens of co-management and oversight bodies to implement various facets of their land claims agreements. Given all that, you'll need to be patient and recognize that the Indigenous communities you're working with are struggling with many priorities and limited capacity.

RELATIONSHIPS ARE PARAMOUNT

Is the relationship just about what you need from them? Do you know anything about the history, the cultures, the current realities of the people you meet with? Do you care about their well-being?

Relationships take time and effort and a willingness to listen on both sides. Understand the power dynamics at play, and work to see things from the perspective of the Indigenous peoples and communities that you are building this relationship with. Incorporate Indigenous ways of thinking and doing things into the mix.

RESPECT

Underlying all of this is respect. Consider what it means to be respectful as an individual, as a nation, as a corporation, as an organization. Is it respectful to name a sports team or use a mascot with a stereotypical image? To dress up as Indigenous peoples? Is it respectful to practise cultural appropriation, to ignore Indigenous inherent rights, or to deny Indigenous peoples the human rights afforded to all Canadians?

Given Canada's disturbing colonial history and the failure of so many promises and commitments over the decades – ranging from the personal to the Parliamentary – how can you, your employer, and your government foster and demonstrate real respect for Indigenous partners, communities and individuals?

This is Exhibit " RRR " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Law Raza

Volume 4 | Issue 1 Article 2

2012

Cultural Competency: A Necessary Skill for the 21st Century Attorney

Travis Adams

The William Mitchell Law Raza Journal

The William Mitchell
Law Raza Journal

-ARTICLE-

Cultural Competency: A Necessary Skill for the 21st Century Attorney

By Travis Adams

I. INTRODUCTION

An effective lawyer must possess skills for cross-cultural engagement by developing cultural competency. Cultural competency, like other legal skills, requires a disciplined approach to viewing the world from different perspectives. When beginning law school, many first year law students are challenged to let go of the belief that "there is **one** right answer" to legal problems. Law students are typically high achievers, accustomed to good grades, correct answers, and getting problems "right." After countless hours of studying and later being corrected in lecture halls by law professors, eventually most law students succumb to their training and stop seeing the law like an algebraic equation and instead consider legal problems from different perspectives. Legal professors facilitate this by playing "devil's advocate", asking students to argue the side they disagree with, and changing fact patterns on the spot in order to increase the complexity of a legal situation. Whether Torts, Property, Contracts, Criminal, Legal Writing or Constitutional Law, students are taught how to analyze and argue the law from different perspectives.[1]

Arguing the law from different perspectives is an essential aspect of advocacy and part of our responsibility to zealously advocate for our clients. [2] Effective advocacy involves more than a mastery of the law but also a deep understanding of the client and the facts surrounding the legal matter. In a tort case for negligence, a plaintiff's attorney will tell the story of a plaintiff who was careful, vulnerable, responsible, and victimized. Using the same facts, the defense will characterize the plaintiff as clumsy, reckless, greedy, and opportunistic. A skilled attorney can tell the most compelling story using the substantive law within the rules of evidence and procedure.

Advocacy requires an ability to see different perspectives because it is by nature a cross-cultural experience.[3] Culture is the summation of an individual's ethnicity, race, gender, nationality, age, economic status, social status, language, sexual orientation, physical attributes,

---

[1] Sue Bryant & Jean Koh Peters, *Five Habits for Cross-Cultural Lawyering, in* RACE, CULTURE, PSYCHOLOGY AND THE LAW 47, 47 (Kimberly Holt Barrett &William H. George eds., 2005).
[2] ANN. MODEL RULES OF PROF'L CONDUCT R. 1.3 cmt. 1 (2011)
[3] BRYANT & PETERS, *supra* note 1, at 47.

marital status, and a variety of other characteristics.[4] The law is its own culture with values, attitudes, and norms of behavior.[5] Any law student who has tried to communicate to friends and family "how class was today" understands this cross-cultural exercise. The world of proximate cause, appellate briefs, reasonableness standards, and motion hearings create a context for a law student that is unfamiliar to the outside world. For this reason, awareness, knowledge and skills involving how to navigate cultural difference are essential to the practice of law, even when the client and the attorney come from similar social locations and cultural groups. However, when an attorney and his or her client come from different cultural groups, effective advocacy utterly depends on cultural competency. As one scholar puts it, "to be effective in another culture, people must be interested in other cultures, be sensitive enough to notice cultural differences, and then also be willing to modify their behavior as an indication of respect for the people of other cultures."[6]

This paper argues that cultural competency is an essential skillset for the 21st century attorney who seeks to deliver effective advocacy and serve justice. This paper begins by defining cultural competency and applies the definitions to the work of a lawyer. Arising from foundations of good anthropological and ethnographic practice, molded in professional standards of medicine, mental health, social work, and law, cultural competency demands self-awareness, immersion, repeated revision, open-mindedness, resistance to stereotyping, and attention to detail.[7] This paper uses Milton Bennet's Intercultural Development Continuum (IDI) as a way to discuss and measure cultural competency. The IDI, an assessment tool used to survey individuals in order to measure their ability to engage in and recognize cultural differences, is a widely respected approach to cultural competency.[8] While no tool is perfect or all encompassing, this paper's goal is to use a tool already accepted by a broad base of institutions in education, business, social services and other fields as a safe place to begin the conversation. By connecting

---

[4] *Id.* at 48.
[5] *Id.* at 47.
[6] D. P. S. Bhawuk & Richard Brislin, *The Measurement of Intercultural Sensitivity Using the Concepts of Individualism and Collectivism*, INT'L J. INTERCULTURAL REL. 413, 416 (1992).
[7] *Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases*, 36 HOFSTRA L. REV. 677, 682 (2008).
[8] Intercultural Database Inventory, *Bibliography of Publications On the IDI* available at https://www.idiinventory.com/pdf/bibliography-of-publications.pdf (Last visited May 31, 2013).

the fields of cultural competency and lawyering, I argue that there is a growing need for training law students to be culturally competent.

Next, this paper will explore four central reasons for why cultural competency is essential to the 21st century attorney. First, we will look at the social and economic realities that continually make the legal world more multicultural and globalized than ever before. Second, this paper explores the tendency of individuals and groups to prefer homogenous spaces and favor that which is similar to them. Third, this paper will explore the prevalence of cultural competency in other disciplines to demonstrate how the legal world is falling behind in this area when compared to similar professions such as social work, education and medicine. Lastly, this paper will discuss the areas of the profession best served by cultural competent advocacy.

An analysis of cultural competency would not be complete without the recognition and serious consideration of the author's social location and context. Such cultural self-awareness is considered in social science to be the key to multicultural competence, especially for an attorney, because an attorney's awareness of his or her own culture allows for a more accurate understanding of cultural forces that affect him or her as a lawyer, his or her client, and the interaction of the two.[9] I am a 26-year-old, white, heterosexual male from a middle class background. I am approaching my final year of law school and the majority of my legal training has occurred in the criminal and child protection realm. Only in the last five years have I been trained in cultural competency. I am grateful and indebted to have mentors and teachers who are culturally diverse to help me along in this journey. Without their mentorship, this paper, which marks an early checkpoint in a long journey of discovery, would not be possible.[10]

II. WHAT IS CULTURAL COMPETENCY?

A wide range of academic and professional fields have studied cultural competency. As a result the concept has generated different definitions and tools for measurement.[11] Cultural competency tools use generalized benchmarks that signify an individual's competency development stage. Culture and personal development can seem like hard to pinpoint, lofty

[9] Carwina Weng, *Multicultural Lawyering: Teaching Psychology to Develop Cultural Self-Awareness*, 11 CLINICAL L. REV. 369, 369 (2005).
[10] Thank you specifically to Lawrencina Oramalu-Mason, Shawn Moore, and Roberta Jones.
[11] This paper will use the definition and continuum created by the Intercultural Development Inventory. *See* www.idiinventory.com.

terms. The measurement tools discussed in this section will allow us to explore cultural competency and the law with a set of consistent terms and measurements.

Cultural competency[12] is the ability to accurately understand and adapt behavior to cultural difference and commonality.[13] A cultural competency tool, places individuals on a continuum that identifies their cultural competency ranging from a monocultural mindset on one end to an intercultural or global mindset on the other.[14] The Development Model of Intercultural Sensitivity (DMIS) uses "stages" in order to explain patterns that emerge from systematic observations.[15] The most important theoretical concept for cultural competency is that all experience is constructed.[16] For instance, a middle aged lawyer walking down the street who witnesses a man rob another man at gunpoint will experience that event differently than a young child. Similarly, a European American person who happens to be in the vicinity of a Hmong New Year celebration may not have anything like the same experience a Hmong person has at the same event; assuming that the European American has no "Hmong" categories in her brain to construct that experience. As a result, the European American will likely create a meaning for the Hmong New Year event using one's own cultural experience.

It is important to keep in mind that cultural knowledge is not the same as cultural competence. An American Christian may have a broad knowledge of the religious practices of an Indian Hindi but will still experience and relate to every aspect of an Indian Hindi through the cultural lens of an American Christian. The brain typically fits every experience into a familiar category.[17] The less developed a person's cultural competency level the fewer categories available to categorize and the more details of culture ignored or overgeneralized.[18] It is much like a search function on a computer. Each time we have a new experience something in our brain goes back in time and searches through our life history. When our brain finds a file that is

---

[12] This paper uses the term "cultural competency." For the purposes of this paper, "cultural competency" the same meaning as "cross-cultural competency" and "intercultural competency."

[13] Milton Bennett, Becoming Interculturally Competent, In Wurzel, J. (Ed.) (2004). Toward Multiculturalism: A Reader in Multicultural Education 62, 72 (2004).

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] Julia Ann Gold, *ADR Through A Cultural Lens: How Cultural Values Shape Our Disputing Processes*, J. DISPUTE RESOLUTION 289, 293 (2005).

[18] James W. Bagby, *Cross-Cultural Study of Perceptual Predominance in Binocular Rivalry*, 54 J. ABNORMAL AND SOC. PSYCHOL. 331, 331-34 (1957).

similar to the new experience it associates the new experience with the closest corresponding file. Then we react to the new experience accordingly.

We interact with other disciplines much the same way. Before a student enters law school he or she may read a legal case and the only "file" the student's brain uses is "law". However, after three years of law school the same student will read that same case law and create much more specific categories by which to file that case in her brain. What she once saw as just "law" will now be seen as "a Supreme Court case," "a Justice Stevens decision," "constitutional law," "First Amendment issue," "free speech," "time place manner restriction." When trained, the brain will categorize law, with greater particularity and appreciation for the distinct differences that exist within each legal situation. With respect to cultural differences, as one becomes more interculturally competent, nuances in communication style, gender roles, conflict style, perceptions of authority, ethics, and other aspects of culture become more evident. Sometimes it seems incredible "how deep the rabbit hole goes."[19]

Like the person with very few cultural "categories," an ethnocentric mindset makes sense of cultural differences and commonalities based on one's own cultural values and practices.[20] A person with this mindset would allow his or her stereotypes to make broad inferences about the situations he encounters and would have less complex perceptions and experiences of cultural difference and commonality.[21] He or she may be able to recognize cultural differences such as food and clothing but may not notice deeper cultural differences such as conflict styles or relationship statuses.[22]

On the other end of the spectrum, an ethnorelative mindset makes sense of cultural differences and commonalities based on one's own *and* other cultures' values and practices. This person does not make broad stereotypes but would notice cultural patterns in order to recognize cultural difference.[23] A truly ethnorelative mindset allows one to express their alternative cultural experience in culturally appropriate feelings and behavior.[24] These abilities make people much more likely to engage in, rather than to avoid, cultural difference.

---

[19] *The Matrix*. 1999. (Warner Brothers film 1999) (quoting Morpheus).
[20] BENNETT, *supra* note 13, at 62.
[21] *Id.* at 72.
[22] *Id.* at 63
[23] *Id.* at 68-69.
[24] *Id.* at 70.

In the legal setting, a person with a monocultural mindset would likely struggle interviewing a client who perceives time differently. For instance, a witness may not be accustomed to orienting a story based on hours, days, months, or years. If the lawyer comes from a culture where stories are told in a linear time-related manner, the monocultural mindset lawyer may perceive the client's failure to provide certain information as uncooperative, unintelligent, or untruthful.[25] A person with an intercultural mindset would be quicker to recognize how a client's cultural difference may impact the client's storytelling. A cultural competent lawyer sees organizing and assessing facts as a cultural difference and not a deficit in character or intelligence.[26]

Applying the DMIS continuum to advocacy

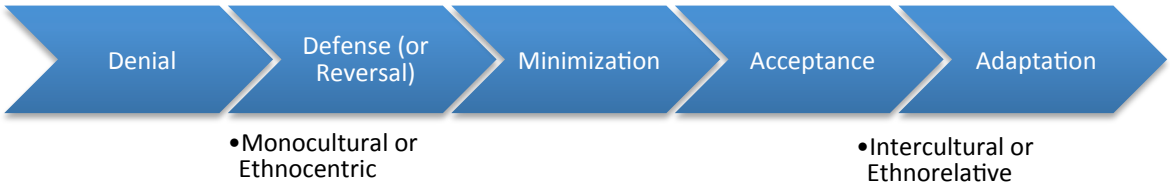


Figure 1 DMIS Continuum

The Intercultural Development Inventory creates different stages along the spectrum ranging from ethnocentric to ethnorelative.[27] In order from the most monocultural mindset to the most intercultural, the developmental stages are *Denial, Defense, Minimization, Acceptance, and Adaptation.*[28] The first three, *Denial, Defense,* and *Minimization,* are ethnocentric orientations, while people in *Acceptance* and *Adaptation* have ethnorelative orientations.[29]

Remember that to practice law inherently involves cross-cultural engagement, moving from one stage of the DMIS to the next would directly impact a lawyer's advocacy. The purpose of this paper, and more specifically this section, is to appreciate the importance of culturally

[25] GOLD, *supra* note 17, at 298.
[26] BRYANT & PETERS, *supra* note 1, at 47.
[27] BENNETT, *supra* note 13, at 62.
[28] *Id.* at 72.
[29] *Id.* at 62.

competent lawyering and to notice how advocacy strengthens as a lawyer moves up the DMIS continuum.

First, in *Denial*, one's own culture is experienced as the only real one and other cultures are ignored or vaguely identified.[30] A *Denial* lawyer may avoid focusing on aspects of the client's story that feature cultural difference or perhaps completely avoid working in fields of law or geographic areas with culturally different people. The *Denial* lawyer may see culture in very simple categories such as "race" or "deserving or undeserving" of economic inequity.[31] However, as the client's situation becomes more complex and dynamic, thus falling outside of the superficial categories created by the *Denial* lawyer, the lawyer may begin to ignore or avoid facts that fall outside of the client's experience. There is literally no field of law where ignoring cultural details would not impair an attorney's practice.

In the next stage, *Defense*, other cultures are recognized yet viewed negatively and the person's own culture is perceived as being the only one that is "normal." [32] Recently, feminist and black liberation theorists have used the term "cultural imperialism" to describe this practice of normalizing one's own cultural expressions while viewing cultural differences in others as lacking and negative.[33] In this way, a *Defense* prosecutor may have biases against people from a minority cultural group. These biases could cause the prosecutor not to trust people from this cultural group as much and seek more strenuous penalties for crimes than the prosecutor would seek for people of the prosecutor's own cultural group.[34] Unfortunately, it is very common among prosecutors to take advantage of the fact that so many people in our society are in the *Defense* DMIS stage. In one gang-related criminal case in Minnesota involving an African-American defendant, African-American defense witnesses, and an all white jury, the prosecution had accentuated its gang theory by arguing to the jury "[T]he people that are involved in this [defendant's] world are not people from your world ... these are the defendant's people. [35]

---

[30] *Id.* at 63.
[31] *Id.* at 64.
[32] Alan S. Gutterman, *Training leaders to identify and cope with cultural diversity*, in BUS. COUNSELOR'S GUIDE TO ORG. MGMT. § 44:26 (2012).
[33] Iris Marion Young, *Five Faces of Oppression*, in Diversity, MULTICULTURALISM AND SOCIAL JUSTICE 35, 42 (2002).
[34] William E. Martin & Peter N. Thompson, *Removing Bias from the Minnesota Justice System*, in BENCH & B. MINN. 16, 18, (2002).
[35] State v. Vue, 606 N.W.2d 719 (Minn. Ct. App. 2000)

Defense[36] orientations oftentimes occur much more subtly and less overtly prejudiced. Imagine a *Defense* attorney must represent her client in a business contract negotiation with another foreign business whose native culture features significantly different communication or negotiation habits from the attorney's cultural background. The foreign business representative does not exhibit behavior that the *Defense* attorney associates with politeness or friendliness even though this is exactly what the foreign business representative understands to be polite in his own cultural mindset. A *Defense* attorney would be at risk of labeling the foreign business representative as "uncivilized" or "less developed" rather than using a culturally different relational style.[37] Even worse, the attorney could likely misinterpret the foreign business as unwilling to negotiate or untrustworthy in character. This could have a negative impact on the client.

Next, individuals in *Minimization*, tend to emphasize similarity and the cross-cultural applicability of economic, political, philosophical, or even behavioral traits.[38] A person in *Minimization* may recognize superficial cultural realities such as food, language, or clothing but still utilizes one's own cultural patterns as central to an assumed universal reality. Using the business negotiation example from before, a *Minimization* lawyer may overestimate their appreciation for the home culture of the foreign business and be relatively tolerant. However, because the *Minimization* lawyer does not see her own culture clearly, if the negotiation goes poorly and conflict arises, the *Minimization* lawyer will still judge the other business's use of a different conflict resolution style as "lacking" or a poor choice.[39] This is because the *Minimization* lawyer still sees the world through an ethnocentric lens and fails to see deeper cultural differences such as philosophy, ideology, and, in this case, conflict style.[40] Lawyers involved in cross-cultural depositions, client interviews, or cross-examinations are likely to cause

[36] Within *Defense,* is a subcategory of *Reversal*. A person in *Reversal* exhibits all of the same characteristics as *Defense,* only backwards. In *Reversal,* people have negative value judgments on their own cultural group and have positive value judgments on other cultures.
[37] BENNETT, *supra* note 13, at 65.
[38] *Id.* at 67.
[39] *Id.* at 68.
[40] *Id.* at 67.

communicative misunderstandings if they view or treat people from different cultures as being "generally more similar to themselves than dissimilar."[41]

Acceptance marks the DMIS stage where an individual takes a more globalized or ethnorelative perspective and one's own culture is experienced as just one of a number of equally complex worldviews.[42] In her article on the "Five Habits of Culturally Competent Professionals" scholar Kimberly Barrett recommends taking time to review the major influences and processes in one's socialization—the role that family, friends, media, and the broader socio-historical, cultural environment have played in influencing one's views of groups other than one's own.[43] Similarly, an *Acceptance* attorney working in a child protection setting for the first time and having his first client interview with a family would likely ask very different questions than an attorney in an ethnocentric DMIS stage would ask. The *Acceptance* attorney would be aware of how his own cultural context has informed his assumptions about a family unit. As a result, the attorney would assume less about the family norms and ask questions that demonstrate a broader and more complex understanding of how families can form themselves. The *Acceptance* attorney will have significant advantages in communication as well. Instead of viewing the whole world through the prism of American cultural archetypes, the *Acceptance* attorney will remember that more than one meaning may exist for verbal and nonverbal messages communicated between people from different cultures.[44]

Unlike the *Denial* or *Defensive* attorney, the *Acceptance* attorney will be able to understand the difference between himself and the family he is interviewing while seeing them as equally human.[45] However, this does not mean the *Acceptance* attorney must lose all sense of ethics because "everything is relative."[46] Instead, by truly accepting the relativity of values within cultural context, and experiencing the world as organized by different values, the

---

[41] William Haskins, *Pitfalls in Intercultural Communication for Lawyers*, 16 TRIAL DIPLOMACY J. 71, 74 (1993).
[42] BENNETT, *supra* note 13, at 68.
[43] Kimberly Holt Barrett and William H. George, *Psychology, Justice, and Diversity: Five Challenges for Culturally Competent Professionals*, 6 (Sage Publications 1999).
[44] Nina Ivanichvili, *The Person Behind the Face: A Lawyer's Guide to Cross-Cultural Depositions Minnesota's Attorneys Are Increasingly Likely to Be Deposing Someone Whose Native Language Is Other Than English. Knowing How to Use an Interpret*, BENCH & B. MINN., 22, 26 (2004).
[45] BENNETT, *supra* note 13, at 68.
[46] *Id.* at 69.

Acceptance attorney is able to maintain an ethical commitment in the face of cultural relativity.[47] Cultural relativity does not mean ethical relativity, and an *Acceptance* attorney in the child protection scenario would be able to distinguish between how one's personal ethical commitment to protecting children and the cultural relativity of parenting styles.

A person in the last DMIS stage of cultural competency, *Adaptation*, can empathize with other cultures to the extent that he or she yields culturally appropriate perceptions and behaviors.[48] Further, in *Adaptation*, a person retains his own cultural identity without assimilating to another culture. People in *Adaptation* have the acute ability to recognize patterns of cultural behavior, enabling allow them to define themselves broadly. Milton illustrated this when he described someone in *Adaptation* as having a, "German critical, Japanese indirect, Italian ironic, African American personal in addition to a primary European Male explicit style."[49] To the extent that each behavior emerged from a real connection to the various cultures, they would all be authentically you.[50] Another excellent example comes from Christine Zuni Cruz, a self proclaimed "community lawyer" within Indigenous communities.[51] She describes how she moves in and out of cultural behaviors as an attorney,

> "The three voices I speak in: native, lawyer, and clinician provide different perspectives. As native, I speak as a native person living within my native community; as lawyer, I speak from my experience in working within the community; as clinician, I speak combining the above voices, seeking to improve the lawyering done in the name of, on behalf of, for, and with native peoples and native nations. These voices inform my discussion of community and culture. The basis of my ideas stem from my experience of being part of a distinct native community, long served by lawyers and a profession external to the community. My perspective on community comes from my work within my own pueblo, and within other pueblos both as a lawyer and a judge. My perspective on culture is closely related to community, but it is also informed by the work I engaged in over several years to revise the New Mexico Children's code to provide greater cultural protection for native children and youth."[52]

---

[47] W.P. Berry, Forms of Intellectual and Ethical Development in the College Years: A Scheme. (Jossy-Bass 1970).
[48] BENNETT, *supra* note 13, at 70.
[49] *Id.* at 71.
[50] M.J. Bennet and I. Castiglioni, *Embodied Ethnocentrism and the Feeling of Culture: A Key to Training for Intercultural Competence*, in HANDBOOK OF INTERCULTURAL TRAINING 249, 249 (2004).
[51] Christine Zuni Cruz, *(on the) Road Back in: Community Lawyering in Indigenous Communities*, 5 CLINICAL L. REV. 557, 560 (1999).
[52] *Id.*

Cruz is aware of the different cultural contexts she moves in and out of and does not place a value judgment on one community over another based upon cultural behaviors. Further, Cruz has an appreciation for how her different cultural experiences have shaped her. The awareness of one's own cultural identity is essential for moving into the ethnorelative orientations of the DMIS.

The *Adaptation* attorney is best suited for the work of a lawyer because she can function as a "cultural chameleon": recognizing cultural differences and quickly picking up on acceptable and/or advantageous behaviors.[53] The *Adaptation* attorney has the capacity to better communicate within the typical cross cultural attorney-client relationship because she can put herself "in the client's shoes".[54] Furthermore, the *Adaptation* attorney has a greater capacity to practice various legal disciplines and recognize the nuances in each field and cooperate with a variety of judges in each unique courtroom environment. He or she will more quickly observe and adapt to patterns of all kinds, something all lawyers seek to do. While all of these benefits exist within a relatively homogenous cultural world, the *Adaptation* attorney's greatest strengths and societal impact will be the result of the attorney's ability to work with a diverse range of clients and be able to perform zealous advocacy on their behalf.

Cultural competency is especially essential during depositions, a time where the *Adaptation* attorney's skills are put to the test.[55] Nina Ivanichvili is CEO of www.LanguageAlliance.com, a firm specializing in legal translation and interpretation in over 80 languages.[56] She designed a CLE called "A Lawyer's Guide to Cross-Cultural Depositions" in which she describes scenarios that test a lawyer's ability to recognize cultural difference.[57] In one scenario, Invanichvili describes an American attorney deposing a well-dressed, middle-aged, non-English-speaking woman in a civil lawsuit where the attorney is trying to establish the cost of the woman's clothing. The woman has had several jobs, is wearing decent clothing, and is middle aged. These attributes could lead the attorney to assume similarities between the woman and her American counterparts with regards to the woman's independence— financially or otherwise — from her husband. However, this woman is originally from a small, male-

[53] *See* Bennett, *Becoming Interculturally Competent*, 70.
[54] *Id.*
[55] IVANICHVILI, *supra* note 44, at 26.
[56] *Id.*
[57] *Id.*

dominated village and does not know what her articles of clothing cost because her husband makes all the purchasing decisions in the family. The *Adaptation* attorney would be slower to make assumptions of cultural similarity. The *Adaptation* attorney would instead ask questions like, "Who handles the money in your household?" or "Who in your family purchases clothes?" Furthermore, the attorney would pick up on social cues and communication patterns such as responsiveness, silence, and social taboos in order to make the otherwise potentially timid deposed woman more comfortable and honest.[58]

In the same way a law student receives training to recognize the difference between a tort law fact pattern and a contract law fact pattern, so too must a lawyer learn to identify cultural differences. The DMIS continuum assumes that contact with cultural difference generates pressure on an individual to change one's worldview. If an attorney worked at a firm where successful attorneys consistently used different approaches, it would become increasingly difficult for her to believe in only one system for drafting motions. Similarly, the more we understand how many different ways there are to live, the less ethnocentric our worldview becomes. Attorneys better serve their clients interests by understanding culturally learned differences, recognizing commonalities between themselves and others, and acting on their insight in culturally and legally appropriate ways.[59] This paper will develop this concept further in the next section where we will go beyond simply providing examples of the DMIS development stages and instead explore how cultural competency impacts the legal profession.

III. WHY SHOULD AN ATTORNEY BE CULTURALLY COMPETENT?

An attorney should be culturally competent in order to better represent his or her client and also to better serve justice. This next section will address both the practical and ideological arguments for training attorneys to be culturally competent. The ideological arguments come from the author's perspective that an attorney has the ethical responsibility to be more than just a "hired gun" who gives the client total autonomy.[60] Instead, the attorney has a role to provide ethical advice and at times become an agent of social change. The arguments presented focus on

---

[58] *Id.*

[59] Mitchell R. Hammer, *Intercultural Development Continuum*, DEVELOPING INTERCULTURAL COMPETENCE, (December 28, 2013), www.idiinventory.com.

[60] THOMAS L. SHAFFER AND ROBERT COCHRANE JR., LAWYERS, CLIENTS, AND MORAL RESPONSIBILITY 2 (6th ed. 2009).

the culturally competent attorney's enhanced advocacy skills as well as the attorney's greater capacity to serve justice.

A. *Increasingly Diverse Country; Increasingly Global World*

The economic and sociological realities of 21st century make United States more culturally and racially diverse than at any other time in history. Dramatic increases in ethnic minority populations in the United States are leading to a demographic shift that will place whites in the minority racially, while collectively, people of color will become the majority. According to the 2010 U.S. Census Bureau, non-Hispanic Whites made up 65% of the country and are projected to make up 46% in 2050. Already in 2010, whites were the minority in four U.S. states Hawaii, California, Texas, and New Mexico (New York is only 58% white and Florida is 57% white).[61]

The changing domestic demographics are not the only cause for growing diversity among an American lawyer's client base. Practicing law in the 21st century means working in a globalized economy where our world grows increasingly integrated due to the rapid exchange of information, capital, and prevalence of free trade. Most of the ten largest global law firms now have more lawyers located outside their home-country office than in their home country and all of them have offices outside their home country.[62] Moreover, it is not just U.S. lawyers who are exporting their services to other countries; foreign lawyers have imported their services into the United States in increasing numbers. For example, between 1993 and 2003, U.S. exports of legal services grew 134%, but imports grew 174%.[63] As future lawyers, law students must be familiar with the norms and ethical rules governing these foreign lawyers, as well as possess the skills to navigate working in a global practice. Our education must include perspectives on advocacy from lawyers in the global south, i.e. South Africa; the global east, i.e. China; the global north, i.e. Germany as well as here in the global west. We get a fuller picture of the different advocacy strategies and perspectives when we encounter different cultural lenses. This makes us stronger attorneys.

---

[61] Projections of the Population by Sex, Race, and Hispanic Origin for the United States: 2010 to 2050" U.S. Census Bureau. Retrieved 2010-10-24.

[62] Laurel S. Terry, *U.S. Legal Ethics: The Coming of Age of Global and Comparative Perspectives*, 4 WASH. U. GLOBAL STUD. L. REV. 463, 495 (2005) (citing The Global 100, Am. Lawyer, (2004)).

[63] Laurel S. Terry, *A, "How To" Guide for Incorporating Global and Comparative Perspectives into the Required Professional Responsibility Course*, 51 ST. LOUIS U. L.J. 1135, 1138 n.9 (2007).

The Supreme Court acknowledged the importance of creating culturally competent legal professionals amidst our changing social landscape. In *Grutter v. Bollinger*, the Court endorsed the University of Michigan's affirmative action policy because diversity is 'essential' to quality education, preparation for work in a global economy, cross-racial understanding, and decreasing prejudice.[64] A core premise of this endorsement is that 'the skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.[65] While exposure to diverse people in ideas through a diverse student body serves an essential role in developing culturally competent law students, many scholars recognize field work and service learning as an essential role in developing cultural competency and cross cultural lawyering skills. [66] Service learning, practicums, and clinic experience in culturally diverse environments must be a part of a culturally competent attorney's training.

In reality, regardless of where one lives and what type of law one practices, you clients will come from different cultural backgrounds. The way the world and our country are developing means greater cultural diversity in our pool of clients, judges, juries, co-counsels and witnesses.

B. *Cultural Competency's Prominence in Other Professional Disciplines*

Other similar professional and academic disciplines devote significantly more attention and training to cultural competency than the legal field. Today, scholars in the area of business, education, nursing and social work are all expanding their understanding of cultural competency, and seeking to build cultural competency in their professionals.[67] The legal world is similar to these other disciplines in terms of the populations served and the benefits gained from cultural competency. For example, lawyers, like a doctors, counselors, social workers, and psychologists need to identify cultural bias when it emerges and to document the influence of adverse

---

[64] 539 U.S. 306, 332 (2003).

[65] Carwina Weng, *Multicultural Lawyering: Teaching Psychology to Develop Cultural Self-Awareness*, 11 CLINICAL L. REV. 369, 370 (2005).

[66] Kathleen Kelly Janus & Dee Smythe, *Navigating Culture in the Field: Cultural Competency Training Lessons from the International Human Rights Clinic*, 56 N.Y.L. SCH. L. REV. 445, 446 (2012)(Clinicians have looked to human rights clinics, and particularly international fieldwork, as a way to advance clinical pedagogy and cross-cultural training).

[67] Annette Demers, *Cultural Competence and the Legal Profession: An Annotated Bibliography of Materials Published Between 2000 and 2011*, 39 Int'l J. Legal Info. 22, 23 (2011).

circumstances in the lives of their clients that are related to prejudice.[68] Even so, the law lags behind these other disciplines because it closely resembles dominant American culture and its value of "universalism".[69] Our court system, legal doctrines, and law schools are entrenched in the universalist belief that what is right is right, regardless of the circumstances or who is involved.[70] To a universalist, fairness means treating everyone the same, and one should not make exceptions for family, friends, or members of one's in group.[71] Furthermore, universalists believe it is important to put feelings aside and look at situations objectively and that people and systems should avoid making exceptions to rules.[72]

Social work is an example of a related field that has integrated cultural competency training as a central part of its training. The National Association of Social Workers Standards for Cultural Competence in Social Work Practice ("NASW Standards") require that "social workers shall have and continue to develop specialized knowledge and understanding about the history, traditions, values, family systems, and artistic expressions of major client groups served.[73] Standards of performance for disciplines such as social work show that the view of culture as often rooted in ethnicity and nationality but defined overall by much more—including all social groups and subgroups with which an individual associates—is now well-established in the professional world.[74] Similarly, attorneys cannot be blind to the social groups and subgroups to which their clients identify. The clients' legal issues, expectations of their attorney, communications with their attorneys, perceptions of the legal system and desired outcomes are all based on the clients' cultural identities. Lawyers, like social workers, doctors, or psychologists must be able to fully know who their client is.

---

[68] Kimberly Holt Barrett & William H. George, Psychology, Justice, and Diversity: Five Challenges for Culturally Competent Professionals, 6 (2005).
[69] GOLD, *supra* note 17, at 302.
[70] *Id.*
[71] *Id.*
[72] *Id.*
[73] Nat'l Ass'n of Social Workers, *NASW Standards for Cultural Competence in Social Work Practice, Cultural Competence*, available at http://www.naswdc.org/practice/standards/NASW CulturalStandards.pdf (Last visited Apr. 10, 2012).
[74] *See* NASW Standards, at Introduction.

C. *A Practice Area Recognizing the Need for Cultural Competency- Death Penalty Mitigation*

Death penalty mitigation is one area of legal practice with an established record of using culturally competent advocacy. Here, culturally competent advocacy typically comes in the form of telling the defendant's culturally relevant story, or what is sometimes called the defendant's social history.[75] In recent years, the Public Interest Litigation Clinic and the University of Missouri-Kansas City School of Law in cooperation with seasoned capital litigators and mitigation specialists across the United States created The Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases ("Supplementary Guidelines").[76] The Supplementary Guidelines seek to identify high standards for capital punishment defense predominantly by adding a mitigation specialist who is adept at describing the social history and cultural context of the client's worldview.[77]

These methods are becoming the norm in capital cases. For example, in *Wiggins v. Smith* the United States Supreme Court stated that trial counsel's failure to investigate the defendant's life history "fell short of the professional standards that prevailed," noting that a social history investigation was "standard practice."[78] The history of capital cases has shown that defendants are frequently cast by prosecutors to be inhumane or people who fall outside of the societal norm.[79] In fact, the Supreme Court has stated repeatedly that the Constitution requires, in all but the rarest of capital cases, that the person in charge of sentencing be allowed to consider "as a mitigating factor, any aspect of a defendant's character or record […] that the defendant proffers as a basis for a sentence less than death."[80]

Legal scholar Craig Haney argues that one of the most common successful tools to advance a capital sentence is to alienate the defendant from the jury.[81] Cultural information properly used to explain the defendant to the jury, on the other hand, presents a "reality of

---

[75] Craig Haney, *Violence and the Capital Jury: Mechanisms of Moral Disengagement and the Impulse to Condemn to Death*, 49 STAN. L. REV. 1447, 1454 (1997).
[76] Sean D. O'Brien, *When Life Depends on It: Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases*, 36 HOFSTRA L. REV. 693 (2008).
[77] *Id.*
[78] 539 U.S. 510 (2003).
[79] HANEY, *supra* note 75, at 1454.
[80] Skipper v. South Carolina, 476 U.S. 1, 4 (1986) (quoting *Eddings v. Oklahoma*, 455 U.S. 104, 110 (1982).
[81] HANEY, *supra* note 75, at 1454.

personhood."[82] Cultural information and cultural context can overcome one of the great barriers to humanizing a defendant before a jury: stereotyping. Stereotyping of the defendant is a danger whenever evidence is presented about the defendant's life.[83] However, effective advocacy that communicates the context of the defendant's upbringing, challenges, and other life details encourage jurors to understand the defendant's view of the world and his or her actions.[84]

In the context of mitigation, culturally competent investigation is more than an admirable and desirable skill—it is a standard of performance.[85] However, the advocacy practices described in the Supplementary Guidelines in Death Penalty Mitigation are easily transferred into other areas of practice.[86] According to the DMIS continuum, the less developed a person's cultural competency, the more likely a person is to view people from their own culture as "real humans."[87] The process of alienating a defendant from the jury utilizes the ethnocentric worldview, which views cultural difference as a negative rather than a value-neutral characteristic. As a result, defendants' pay the price for more than guilty conduct, but also their perceived "otherness".

D. *Ethnocentrism limits the attorney's ability to tell her client's story*

The telling of stories holds an important role, not just in capital punishment mitigation, but also in the legal system as a whole. The courts are a place where many of the activities making up social life within that society simultaneously are represented, contested, and inverted. [88] When working cross culturally, a lawyer's cultural competency will be tested when the facts may be undisputed, but the meaning of the facts offer a completely different explanation for "what happened". Two federal cases provide excellent examples of the necessity of cultural competency when it comes to telling the story of the "other".

---

[82] Craig Haney, *The Social Context of Capital Murder: Social Histories and the Logic of Mitigation*, 35 SANTA CLARA L. REV. 547, 547 (1995).
[83] *Id.* at 553.
[84] Scharlette Holdman & Christopher Seeds, *Cultural Competency in Capital Mitigation*, 36 HOFSTRA L. REV. 883, 922 (2008).
[85] *Id.* at 896.
[86] O'BRIEN, *supra* note 76, at 693.
[87] BENNETT, *supra* note 13, at 63.
[88] Gerald Torres and Kathryn Milun, *Translating Yonnondio by Precedent and Evidence: The Mashpee Indian Case*, 4 DUKE L.J. 625 (1990).

First, in *Mashpee Tribe v. Town of Mashpee*, lawyers were faced with a decision on how to tell the plaintiff's story.[89] In this case, the Mashpee Tribe filed a land claim suit against United States government to recover tribal lands alienated from them in violation of the Indian Non-Intercourse Act of 1790.[90] This Act prohibited the transfer of Indian tribal land to non-Indians without approval of the federal government. However, in order to have standing to sue the Mashpee had to first establish that they were a federally recognized Tribe.[91] While this seemed like a rather straightforward legal issue, the challenges the court faced in its efforts to define "Indian Tribe" were complex. The Mashpee's strategies in sustaining themselves as a people played against them in the court of law. These strategies included: fighting wars against the Europeans, using controlled and selective methods of assimilation into white culture, mixing with other races, and selling their land. Confusingly, the Mashpee were ruled to not be a Tribe in 1790, ruled to be a tribe in 1834 and 1842, but again were ruled not a tribe in 1869 and 1870.[92] After forty days of testimony from tribal members, historians and social scientists, the Mashpee's case was dismissed because the tribe was ruled to not have maintained a "tribal identity" throughout its history.

The challenge of establishing federal tribal recognition for the Mashpee was insurmountable for two reasons. First, the Mashpee were forced to fit the story of their tribe into a language that did not give meaning to their history and social practices. [93]Telling their legal story required using Eurocentric tools of the English language, the rules of evidence, and legal precedent. Requiring a particular way of telling a story not only strips away meaning but also causes certain culturally significant events to appear unintelligible to the culturally incompetent.[94] The Mashpee lacked the technical language to effectively communicate their tribal identity within the Western Eurocentric understanding of the community.

Second, as stated before, the facts of this case were not disputed, but their meaning was viewed entirely different. The Mashpee viewed their story as one of cultural survival and support

[89] 447 F. Supp. 940 (D. Mass.) 1978, *aff'd sub. Nom. Mashpee Tribe v. New Seabury Corp.,* 592 F.2d 575 (1st Cir.), cert. denied, 444 U.S. 866 (1979).
[90] Torres and Milun, *Translating Yonnondio by Precedent and Evidence,* 633.
[91] *Id.*
[92] *Id.* at 55.
[93] *Id.* at 54.
[94] *Id*.

that they were in fact a tribe.[95] However, to the court those same facts proved that the Mashpee no longer existed as a "separate" cultural group and as such, the Mashpee were divested from their land.[96] Regardless of whose fault it was, in the end the Mashpee lost their case because their narrative did not fit into the dominant narrative's ethnocentric legal definition of a "tribe."

In the second case, *City of Richmond v. J.A. Croson Co.,* the Supreme Court struck down a Richmond ordinance that set aside thirty percent of the subcontracting work on city construction jobs for minority firms because the ordinance denied white contractors "equal protection of the laws".[97] Legal scholar Thomas Ross describes this case as an excellent example of how judges, like all advocates, rely on storytelling to communicate one's worldview.[98] Justice Scalia's concurring opinion and justice Marshall's dissent each describe a different story, picking and choosing which facts to tell the reader, in order to communicate their ideology on affirmative action. Scalia tells a story from his cultural location, using symmetry as the standard for justice.[99] In his Eurocentric view, equal protection is the same law whether drawn for whites or blacks and that principal endures any argument of a historical reality.

Marshall's dissent, tells the story of racism.[100] He tells the story of Richmond endorsing state-sponsored racism for centuries and now it finds itself in a place in need of a remedy.[101] Marshall's opinion is deeply specific and contextual to Richmond's history and political climate.[102] However, Marshall's critique of the other Justice's opinions and their lack of empathy to the experience of racism is the most powerful aspect of his opinion. Marshall writes:

> The majority's view that remedial measures undertaken by municipalities with black leadership must face a stiffer test of Equal Protection Clause scrutiny than remedial measures undertaken by municipalities with white leadership implies lack of political maturity on the part of this Nation's elected minority officials that is totally unwarranted. Such insulting judgments have no place in constitutional jurisprudence. [103]

---

[95] *Id.* at 57.
[96] *Id.* at 58.
[97] 109 S. Ct. 706 (1989).
[98] Thomas Ross. "The Richmond Narratives". 68 TEX. L. REC. 381 (1989).
[99] *Id.* at 44.
[100] *Id*. at 49.
[101] *Id*.
[102] 109 S. Ct. 706, 742-745 (1989)(J. Marshall dissenting).
[103] *Id*. at 754.

Two Court Justices wrote entirely different opinions. One was founded on the perceived universal principal of "fairness as symmetry." The other was deeply contextual and deeply personal. Both of the opinions reflect the cultural background of the Justices. While Justice Scalia masks cultural subjectivity through claims of objective principle, Justice Marshall quite plainly speaks about the history of racism and admonishes his fellow jurists for lacking any sense of that same perspective. Seeing the most brilliant legal minds end up in such entirely different places during one opinion demonstrates the power and significance of culture. The *City of Richmond v. J.A. Croson Co.,* should serve as a reminder that while the law may seek to be neutral, our lives and worldviews are not. The culturally competent attorney is one who recognizes how our own cultural context influences one's storytelling and makes objectivity impossible.

IV. CONCLUSION

The DMIS model of understanding cultural competency provides an essential tool for attorneys in the 21st century to advocate effectively and justly. I hope this paper can be used to foster greater conversation about how the IDI, and cultural competency in general, can and should be used to train attorneys.

If the 2012 election taught us anything, it was that political power within the American democracy could not be achieved by appealing solely to the cultural plurality in this country. Other narratives are gaining systemic power by building critical mass. We are a country of many cultures, within an economy pushing us into regular interaction with the global world. We must start now to train attorneys prepared to recognize cultural difference and navigate its intersection with the law. Only with these skills can an attorney truly see a client's full humanity and advocate for his or her legal rights.

This is Exhibit " SSS " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Slaw

June 30 th 2020
Posted in: Justice Issues

From Discrimination to Systemic Racism: Understanding Societal Construction

by Patricia Hughes

INTRODUCTION

Recently RCMP Commissioner Brenda Lucki admitted she really didn't understand the term "systemic racism" and later showed she was correct when she provided an old and obvious example of indirect *discrimination* as an example of systemic racism. Here I explore the evolution from discrimination to systemic discrimination to systemic racism and why they *are* different, although related.

There's a lot of talk now about systemic or structural racism: how widespread it is and why it needs to be addressed. There are also some suggestions about how to eliminate it with many organizations and individuals explaining how they have practised systemic racism and what they will do to change. Systemic racism is inherent in institutions other than law, but it certainly involves law, both as a means to reinforcing other spheres of society and a focus in itself. Systemic racism raises questions about all aspects of law: legal institutions, its norms and practices, legislation, enforcement and interpretation, and legal education, and those who populate them.

In truth, though, it is impossible to treat law as a distinct phenomenon because systemic racism permeates the entire system, as do systemic sexism and other systemic phenomena, and all feed on each other. Despite the widespread condemnation of Commissioner Lucki's reliance on an inadequate and in a significant way inappropriate example of systemic racism, it is also important to appreciate how systemic discrimination and systemic racism relate to each other.

Before continuing, let me clarify that systemic racism is one manifestation — a serious and highly consequential one, to be sure — but one manifestation of a larger reality about our current society: that it is premised on a systemic subtext and underpinning based on relations of dominance and suppression that govern members of disempowered groups. These relations exist in most if not all other countries, as well as Canada. That is to say, there are norms and values, assumptions and premises, expectations and ways of measuring that reflect how everyone is to behave and that govern, explicitly or tacitly, how the societal goods and benefits are to be distributed. Crucially, these norms and so on too often continue to play out even if laws and policies say otherwise. At times, these underlying premises, assumptions or beliefs come out in the open as distinct examples of discrimination; more likely, they are insidious and harder to identify, found in patterns of treatment. Unlike specific examples of discrimination, they thread their way through the broadest contours of the society. They are the roots beneath the overt premises and institutional norms that govern society.

Most significantly, as the *National Post* wrote recently, "The idea of systemic racism is not about individual attitudes. It is about how society works. Good people can participate in systemic racism." Systemic racism reflects deeply embedded, hardly articulated, and often unspoken, assumptions about how the society should function and about people's roles in the society. And in this it departs from our earliest thinking about discrimination and even, in its depth and breadth, from our more recent adoption of systemic discrimination.

THE EVOLUTION OF DISCRIMINATION THEORY: FROM DIRECT TO SYSTEMIC

There are many examples of how the law, personal views and discrimination or racism have interacted (and continue to do so). I provide one from over 70 years ago, restrictive covenants on the sale or occupancy of property, with reference to two famous cases. The first is a covenant that "[l]and not to be sold to Jews, or to persons of objectionable nationality". The purchaser of property subject to the covenant, Drummond Wren, subsequently sought to have it declared invalid; no one opposed doing so. MacKay J. in the Ontario High Court of Justice, in *Re Drummond Wren* (1945) said

> If sale of a piece of land can be prohibited to Jews, it can equally be prohibited to Protestants, Catholics or other groups or denominations. If the sale of one piece of land can be so prohibited, the sale of other pieces of land can likewise be prohibited. In my opinion, nothing could be more calculated to create or deepen divisions between existing religious and ethnic groups in this province, or in this country, than the sanction of a method of land transfer which would permit the segregation and confinement of particular groups to particular business or residential areas, or, conversely, would exclude particular groups from particular business or residential areas.

> The unlikelihood of such a policy as a legislative measure is evident from the contrary intention of the recently-enacted Racial Discrimination Act, and the judicial branch of government must take full cognizance of such factors.

Although he relied on many external sources relating to non-discrimination, MacKay J. explained, "My opinion as to the public policy applicable to this case in no way depends on the terms of The Racial Discrimination Act, save to the extent that such Act constitutes a legislative recognition of the policy which I have applied."

The Racial Discrimination Act, 1944 did not address restrictive covenants, but prohibited notices or other forms of representation "indicating discrimination or an intention to discriminate against any person or any class of persons for any purpose because of the race or creed of such person or class of persons". It was originally intended to cover "employment, housing, and recreational accommodations and properties". A history of the Act on its 75th anniversary, illustrated by a 1935 ad for a Muskoka resort that subtly states it has a "restricted clientele", explains why the legislation was necessary, providing other examples of anti-Semitic practices.

The second covenant from 1933 is reproduced on the Human Rights History website here. The people targeted by the covenant were

> any person wholly or partly of negro, Asiatic, coloured or Semitic blood, …[or] any person less than four generations removed from that part of Europe lying south of latitude 55 degrees and east of longitude 15 degrees east. Relationship, however slight, to any class forbidden as aforesaid shall be deemed sufficient to prevent transfer to or occupancy by such persons of northern and western European descent, other than Jews.

The vendor, Anna Noble, wanted to sell the land to Bernard Wolf, believed to be Jewish; other owners in the same parcel objected. Noble sought a declaration that the covenant was invalid, relying on *Re Drummond Wren* Both the Ontario Supreme Court and the Ontario Court of Appeal held the covenant to be valid and enforceable. At the Supreme Court of Canada, the covenant was found to be invalid, as not running with the land and as a restraint on alienation; in part because it was not possible "to set such limits to the lines of race or blood as would enable a court to say in all cases whether a proposed purchaser is or is not within the ban" and was thus void for uncertainty (Rand J., *Noble* v. *Alley*, p.70).

Although the majority on the SCC held the covenant was invalid, there was a dissent that held it was valid. Furthermore, six other judges, one in the Ontario Supreme Court and five on the Ontario Court of Appeal, also held it was valid. Restrictive covenants and the challenges to them illustrate how personal bigotry, legal principles and the role played by individuals in law (rather than the law itself) can feed on each other. They show how ostensibly neutral legal principles can reinforce the personal bigotry and how recognizing and transcending discrimination is a chancy thing.

(For those interested in how these cases relate to each other and in how much McKay J. was ahead of his time in his analysis, see a 1951 Canadian Bar Review comment by C.B. Bourne here. I realize that for some, these developments may seem a long time ago, with the assumptions underlying the covenants long past, although they are, of course, part of the historical underpinning of the claims of systemic racism today. However, I often find that time is an elusive concept and for me the "nearness" of *Noble* v. *Alley* is highlighted by the fact that J.J. Robinette, K.C., who represented Noble, represented one of the parties in an appeal case in which I was involved as an articling student.)

In 1950, the *Conveyancing and Law of Property Act* prohibited restrictive covenants. Its original and current wording 70 years later in section 22 is as follows: "Every covenant made after the 24th day of March, 1950, that but for this section would be annexed to and run with land and that restricts the sale, ownership, occupation or use of land because of the race, creed, colour, nationality, ancestry or place of origin of any person is void and of no effect."

Section 22 of the *Conveyancing and Law of Property Act* codified the actual result in *Noble* v. *Alley*. It sits among several Ontario statutes that addressed discrimination in different contexts that operationalized the move towards human rights following World War II.

The *Universal Declaration of Human Rights*, a general statement, was proclaimed in 1948. Other international human rights instruments are designed to combat discrimination against particular groups, including discrimination against indigenous peoples, migrants, minorities, people with disabilities, women, race, religion, sexual orientation and gender identity (these are listed here). Other context-specific rights are to be "exercised without discrimination" (see, for example, Article 2(2) of the *International Covenant on Economic, Social and Cultural Rights*).

These international instruments, premised on the concept of discrimination, led to the enactment of a number of statutes across Canada also employing the anti-discrimination model, beginning in the 1950s. They prohibited discrimination in specific contexts and against specific protected groups.

In Ontario, the *Fair Employment Practices Act, 1951* prohibited discrimination based on "race, creed, colour, nationality, ancestry or place of origin" in employment; the *Female Employees Fair Remuneration Act, 1951* which prohibited an employer from discriminating by "paying a female employee at a rate of pay less than the rate of pay paid to a male employee employed by him for the same work done in the same establishment"; and the *Fair Accommodation Practices Act, 1954*, which provided as follows: "No person shall deny to any person or class of persons the accommodation, services or facilities available in any place to which the public is customarily admitted because of the race, creed, colour, nationality, ancestry or place of origin of such person or class of persons." This statute also included the prohibition in relation to signage that had been the subject of the *Racial Discrimination Act, 1944*, which it repealed.

In 1969, Vancouver enacted a by-law affecting persons operating a business under a municipal licence prohibiting racial discrimination in the selling of goods or providing a service or accommodation "by reason only of [a] person's race, creed or colour". And it was not until 1970 that legislation prohibited discrimination against women on grounds of sex and marital status in employment (see *The Women's Equal Employment Opportunity Act, 1970*, which also included provisions relating to pregnancy), and even then the statute applied to both men and women (somewhat akin to prohibiting anyone from sleeping under bridges).

(Most federal and provincial statutes relating to non-discrimination on several grounds are helpfully listed on the Canada's Human Rights History website, with links to the legislation.)

These statutes were important in acknowledging discrimination and in providing a means to challenge and penalize it. But they reflect an attempt to address particular kinds of discrimination, not necessarily by government, but by private entities, whether restaurant owners, employers, landlords or others.

By the late 1960s, all Canadian provinces and the federal level had enacted comprehensive human rights or anti-discrimination legislation (the territories did so at later dates). I refer to Ontario's *Human Rights Code* ("the Ontario Code" or "the Code") as an example of how these statutes operate. (Again, all Canadian human rights statutes, federal and provincial, can be found on the Human Rights History website.) The current Code has been expanded since it was first enacted in 1962 when it effectively brought together some of the existing anti-discrimination legislation. It applied then to "signs, services, facilities, public accommodation, employee and trade union membership" and the protected grounds were no broader than those in the existing statutes (that is, race, creed, colour, nationality, ancestry and place of origin).

The current Ontario Code, which applies to both private and government entities, protects people against discrimination in the provision of services, accommodation and employment and vocational associations, such as trade unions on the grounds of "race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability" (receipt of public assistance is also a protected ground for accommodation). It also prohibits harassment in relation to accommodation and employment on the same grounds and sexual harassment in these areas on the grounds of "sex, sexual orientation, gender identity or gender expression". There are a number of provisions that relate specifically to disability or to other grounds. The Code also incorporates the purpose of the *Racial Discrimination Act* respecting notices (although not limited to race), including the protection of expression of free opinion (Code, s.13).

The Code also reflects some of the tension that exists between the rights it provides. For example, it permits infringement of the right to marry if the refusal to solemnize a marriage or provide "sacred space" for a marriage to take place is based on religious belief (Code, s.18.1).

The original focus in anti-discrimination legislation was on the intention of the individual claimed to have discriminated. That was reflected in the early statutes and in the human rights legislation. And certainly there were sufficient cases to show that this was a legitimate requirement, that an employer refused to hire a Black person because they were Black, for example. This approach made it easy to blame failure to abide by human rights expectations or specific legislative requirements to "bad apples" who were not following the rules.

Thus a major development in human rights legislation was the recognition that a finding of discrimination did not require intention, it could be unintentional or indirect, if the effect was to discriminate. It did not matter if an individual refused to hire a Black person if the result of applying the employer's practices of relying on personal connections for references was a failure to hire Black applicants. In *Ont. Human Rights Comm'n v. Simpsons-Sears*, the Supreme Court of Canada discussed

cases determined by previous inquiry boards and lower courts (as well as the SCC) that determined not only that intention was not required, but also that the Code also prohibited indirect, adverse effect or impact discrimination, despite lack of wording to that effect. As McIntyre J., for the Court, explained,

> [Adverse effect discrimination] arises where an employer for genuine business reasons adopts a rule or standard which is on its face neutral, and which will apply equally to all employees, but which has a discriminatory effect upon a prohibited ground on one employee or group of employees in that it imposes, because of some special characteristic of the employee or group, obligations, penalties, or restrictive conditions not imposed on other members of the work force. (*Simpsons-Sears*, para.18)

However, in the case of indirect discrimination, McIntyre J. ruled, the offending rule is not struck down but the parties must accommodate the person against whom there has been discrimination up to the point of undue hardship for the party discriminating (*Simpsons-Sears*, para. 23).

Section 11 of the Ontario Code does now prohibit indirect discrimination, which it terms "constructive discrimination", unless "the requirement, qualification or factor is reasonable and *bona fide* in the circumstances".

It is this indirect or adverse effect discrimination that Commissioner Lucki referenced in her testimony.

The Supreme Court subsequently held in the 1999 case of *British Columbia (Public Service Employee Relations Commission)* v. *BCGSEU* (*Meiorin*) that there should be no distinction between direct and indirect discrimination. The boundaries between them are vague and it is unrealistic to make the distinction (that is, it is too easy to disguise direct discrimination as indirect discrimination). The other reason is that the distinction "may, in practice, serve to legitimize systemic discrimination, or 'discrimination that results from the simple operation of established procedures of recruitment, hiring and promotion, none of which is necessarily designed to promote discrimination'" (*Meiorin*, para. 39, citing *Canadian National Railway Co.* v. *Canada (Canadian Human Rights Commission* (1987)). Furthermore, McLachlin J. (as she then was) explained that while permitting accommodation, the conventional analysis relating to indirect discrimination has not permitted striking down the offending provisions.

Writing for the Court, McLachlin J. cited an important passage from Shelagh Day and Gwen Brodsky's "The Duty to Accommodate: Who Will Benefit?":

> 'The difficulty with this paradigm is that *it does not challenge the imbalances of power, or the discourses of dominance, such as racism, ablebodyism and sexism*, which result in a society being designed well for some and not for others. It allows those who consider themselves "normal" to continue to construct institutions and relations in their image, as long as others, when they challenge this construction are "accommodated".
>
> Accommodation, conceived this way, appears to be rooted in the formal model of equality. As a formula, different treatment for "different" people is merely the flip side of like treatment for likes. *Accommodation does not go to the heart of the equality question, to the goal of transformation, to an examination of the way institutions and relations must be changed in order to make them available, accessible, meaningful and rewarding for the many diverse groups of which our society is composed*. Accommodation seems to mean that we do not change procedures or services, we simply "accommodate" those who do not quite fit. We make some concessions to those who are "different", rather than abandoning the idea of "normal" and working for genuine inclusiveness.
>
> In this way, accommodation seems to allow formal equality to be the dominant paradigm, as long as some adjustments can be made, sometimes, to deal with unequal effects. Accommodation, conceived of in this way does not challenge deep-seated beliefs about the intrinsic superiority of such characteristics as mobility and sightedness. In short, accommodation is assimilationist. Its goal is to try to make "different" people fit into existing systems.' (*cited in Meiorin*, para. 41 [my emphasis])

Systemic discrimination, referring to rules or practices, goes beyond the impact on an individual; a challenge to discriminatory practices that are systemic raises a need to assess rules and policies across an institution to bring about change. Systemic discrimination complaints may still be limited to a particular entity, such as a particular employer, or a broader study of practices that are common in comparable entities may result in broader change. For example, the Abella Commission (reporting in 1984) was given the task of inquiring into the practices of 11 Crown and government-owned corporations to develop remedies to promote "equality in employment for … women, native people, disabled persons, and visible minorities" (*Equality in Employment: A Royal Commission Report* ["Abella Report"], p.v). Two aspects of

determining the reasons for disadvantage stand out and to developing remedies: the first is that it was necessary to understand the societal context in which the corporations functioned; and the second is that systemic discrimination results from "the inexorable, cumulative effect on individuals or groups of behaviour that has an arbitrarily negative impact on them[that] is more significant than whether the behaviour flows from insensitivity or intentional discrimination", requiring systemic remedies such as employment equity and affirmative action that respond to "patterns of discrimination" (*Abella Report*, p.9).

We have used the concept of systemic discrimination in the human rights field and in *Canadian Charter of Rights and Freedoms* analysis for many years. Indeed, Charter interpretation imported it, as it did much else in relation to section 15, the equality guarantee, from human rights anti-discrimination analysis, beginning with the first section 15 case, *Andrews* v. *Law Society of British Columbia*: "In general, it may be said that the principles which have been applied under the Human Rights Acts are equally applicable in considering questions of discrimination under s. 15(1)", with some exceptions of which systemic discrimination is not one. Justice McIntyre referred to the 1987 decision of the Canadian Human Rights Commission in *Canadian National Railway Co.* v. *Canada (Canadian Human Rights Commission)*, which in turn relied on the discussion of systemic discrimination in the Abella Report on employment equity.

The 1992 report of the Ontario *Human Rights Code* Review Task Force, chaired by Mary Cornish, recommended that a human rights commission have the authority, among other things, to "examine and inquire into systemic issues of discrimination throughout the Province including laws, policies and practices of the Provincial Government" and "where necessary, the Commissioner will initiate systemic claims before the Tribunal" (Task Force Report, p.35). The preamble to the Code should acknowledge "historic systemic discrimination has been practised against members of certain groups in Ontario because of their [the grounds then protected by the Code]" (Task Force Report, p.48). The Commission today has authority to undertake research into systemic problems and bring cases to the Hearing Tribunal (in deciding whether to address an issue, it considers, among other factors, whether it will have "a broad, systemic impact") (on the Commission, see here).

THE LIMITATIONS OF THE DISCRIMINATION APPROACH: MOVING TO SYSTEMIC RACISM

Even with the acceptance of indirect discrimination and systemic discrimination, which have played an important role in the development of more equitable workplaces in particular, as well as other contexts, the discrimination approach has limitations. It applies to a specific circumstance in a specific context. The evidence of discrimination may cut across similar entities and it may cut across different kinds of entities, but discrimination complaints still have to be addressed within the confines of a particular entity. This is limiting for addressing "the imbalances of power, or the discourses of dominance, such as racism, ablebodyism and sexism" to which Day and Brodsky refer. It also permits those who act in a discriminatory manner to blame the ostensibly neutral rules.

In 1999, I made a presentation at the Feminism and Law Summer Workshop at Cornell University entitled "Why the Discrimination Model is Inadequate for Equality Practice" ("Equality Practice"). My purpose at the time was to explain the limited nature of the discrimination model because it requires a comparison with how someone else (in the majority group) was being treated. This was the case whether addressing discrimination against women or racialized women or against any other marginalized group. It requires finding a specific circumstance in which a member of the majority group had been treated better or differently in a positive way from someone analogous in a disadvantaged group (a man being appointed a principal while a woman was not, a white person approved to rent an apartment when a black person was refused; the rules governing selection for employment or admission to a school reflect the knowledge and experience gained by people in the middle class, disproportionately white). Although systemic discrimination allows a more thorough and richer analysis of impugned rules or conduct, it nevertheless is still limited to particular entity boundaries.

"Equality Practice" discussed the integration of anti-discrimination analysis under human rights legislation into the interpretation of the equality guarantee under section 15 of the *Canadian Charter of Rights and Freedoms*, which is drafted as an anti-discrimination provision. I wrote:

> While human rights legislation based on the anti-discrimination model has been important in redressing particular situations of discrimination, it is best suited to certain contexts: it does not provide an adequate basis for a substantive equality theory which must be more flexible and far-reaching to address the subtle and deep-rooted practices of inequality in Canada. (p.2)

Systemic discrimination as defined has never quite captured the comprehensive notion that bias, bigotry, unfairness, brutality against people because of their race — or their sex, sexual orientation, gender, disability and other circumstances — is a reflection of the subtext underlying societal assumptions and norms.

That the individual police officer shoots a black man in the back or kneels on his neck for 8 minutes and 46 minutes does not alone constitute systemic racism, although these actions are clearly wrong, regardless of the victim; rather it is that such actions are seen as permissible, that the police officer feels free to do it, that the underlying assumptions and norms and the organizational practices built on them will allow the police officer to act with impunity (or suffer a relatively mild penalty). And this is so whether the individual is a "bad apple" who flouts the rules or whether they are following rules that are abusive (it's okay to kneel on suspects' necks for extended periods) or applied disproportionately to members of a particular group (somehow, it's almost always a black neck on which the officer kneels). And, of course, systemic racism isn't only about these cases, it is about a slew of cases, private and public. It isn't about one act, horrendous though it is, it is about innumerable acts that are linked together and that cross the boundaries from entity to entity, from context to context.

Similarly, systemic misogyny or systemic homophobia permits leeway in how organizations and individuals are allowed to treat women or LBGTQ+ people. In fact, we can think about systemic ill treatment of many individuals or groups with particular characteristics. Although the form of treatment may be different and the particular assumptions about the members of the maligned group may be different (or similar, such as those relating to intelligence levels, for example), the underlying assumptions about how society should be organized and how that organization is maintained are the same.

Systemic racism stems from a country's history, from early formalizing of relations of oppression and exclusion from the power to determine how society functions. In New France, Nova Scotia and Prince Edward Island, enslavement (see a history here), immigration policies and laws are among the established ways in which the conditions even prior to Canada's becoming a country constituted systemic racism and the roots of today's systemic racism; for Indigenous peoples, the Indian Act, reserves, outlawing of potlatches, exclusion from voting and other policies created the reality of systemic racism then and the roots of systemic racism today. For a discussion of systemic racism in Quebec, see here in response to Premier Legault's statement that there is no systemic discrimination in Quebec.

As Senator Murray Sinclair states in *The Globe and Mail*, "Systemic racism is when the system itself is based upon and founded upon racist beliefs and philosophies and thinking and has put in place policies and practices that literally force even the non-racists to act in a racist way." It is manifested in ways we might describe as discrimination, but even systemic discrimination inadequately addresses the interrelationship of societal elements. See, for example, five charts showing how persons of colour are disadvantaged; these dramatically show the *surface* of systemic racism, the outcomes, but they do not show the subterranean links among them or with other aspects of society.

The focus over the last weeks has been on systemic racism in police enforcement, in the United States and Canada; however, the immediate responses have been relevant to other aspects of society (changing packaging and casting the voices of cartoon characters, ending police shows that are unrealistic because the police are all heroes). Some are institutional: the Stratford Festival "issued a statement that was unprecedented in admitting its 'complicity in unjust systems' and upholding 'white supremacy'", handing over its social media channels to Black artists, who expressed their own concern that despite being able to voice their views and experiences, "then white folks determine what to do".

Toronto City Council has approved changes to the police department that have been discussed or recommended for some time, including responding to mental health calls differently and the wearing of body cameras. Minneapolis announced it would disband its police department, but as it considers how to proceed, the nature of the replacement body is not clear.

I mention the above because they illustrate the range of actions (and there are many more) that have responded to the protests about systemic racism. While some may make light of removing Aunt Jemima from pancake mix boxes, the continued existence of this memento of slavery, especially in her original form, actually reflects how deep-seated the continued impact of racism is.

Yet even the most obvious responses may be at least slightly more complicated than they first appear. For example, the family of Lillian Richard, who portrayed Aunt Jemima, are not pleased they were not consulted, since "[a]ll of the people in my family are happy and proud of Aunt Lillian and what she accomplished", although it does not appear they actually object. Others, however, are sure about the rightousness of removing her visage (see, for example, here).

It is far more difficult to respond substantively to systemic racism than to address specific instances of discrimination. Yet even systemic discrimination leaves well-established norms and values and institutions intact in fundamental ways. Once the initial responses to the protests are fading, as they will likely do, it will be necessary to unearth not only the specific instances of historical and current wrongdoing, but also how they are linked together: what exactly are the assumptions and organizational arrangements that underlie various forms of structural relations of dominance and exclusion? who controls these assumptions and organizational arrangements? how are they communicated? how are they manifested, probably in a variety of ways, in society's arenas? to what extent are "ordinary" people complicit in this, to what extent do they simply

absorb these assumptions and simply take for granted the organizational arrangements? How do the answers to these questions play out in different institutions in society and to what extent do they reflect and reinforce each other?

We know in law that more people of colour and Indigenous people are in jail, compared to their numbers in the population generally; we know that judicial decision-making is based on legal principles and premises and rules that have developed in a white society over the history of Canada and have been imported from England; we know that Indigenous women suffer from domestic violence disproportionately to other women; and we know a great deal more about the interaction of people of colour and Indigenous peoples with the legal system. We know that some of this is kneaded and merged with class and gender and other factors. And we know, too, how some of that relates to the economic, social and educational realms and their institutional racism. These are things we know and have known, yet they continue. Finding solutions requires substantive analysis and change that manages to affect the network of systemic racism tying all these circumstances together.

This is a giant task, one I confess I have simplified. And we will continue to use anti-discrimination tools to address and change specific circumstances of racism, as well as make legal changes outside the human rights system. However, unless these actions are related to the more fundamental and deep-rooted premises underlying systemic racism, they will have only a limited — albeit not unimportant — impact. Radical change requires more, including changes to the legal system even as it is used as a tool to achieve transformation.

Comments

Tim Kirby
November 23rd, 2020 at 11:10 pm

Patricia. Thank you for this paper on the evolution from discrimination to systemic discrimination to systemic racism. It helped me greatly in the understanding of where we are here in Canada on this issue. I am totally for eliminating or at best minimizing the influence of systematic discrimination. My family came from the US because of this in the area they lived. I and my family have been immensely influenced by this. What I have experienced is being accidently in a position where the ones claiming discrimination were the ones who threatened my life and the life of my family. My concern is where is the balance point before the ones discriminated against becoming the discriminator within the legal system and of course life itself? Also, what part in discrimination does multi-culturalisms play in the division of humanity and the racial tension between each of the many ethic groups of Canada?
Again thank you.

This is Exhibit " TTT " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

THE EPOCH TIMES

CANADA

'It's Going to Transform the Legal System': Lawyer Discusses 'Wokeness' in Canadian Law Societies

A file photograph of a judge's gavel. (Andrew Harnik/Pool/Getty Images)

By Tara MacIsaac

7/19/2023 Updated: 7/21/2023

A A Print

The Law Society of Alberta (LSA) has developed new measures of "competency" for lawyers that some, including Calgary-based lawyer Glenn Blackett, say could undermine the Canadian legal system.

Of particular concern, he says, are the "cultural competency" standards presented by the LSA.

Included are statements to the effect that Canada's legal system is racist and lawyers should be actively "anti-racist," thus pitting lawyers against the laws they are meant to uphold, Mr. Blackett said in an interview with The Epoch Times.

The LSA's policies on discrimination also appear to violate the "innocent until proven guilty" rule, said Mr. Blackett, who is a civil rights lawyer affiliated with the Justice Centre for Constitutional Freedoms. LSA policy says that if an articling student reports discrimination or harassment, the LSA's "default position is that articling students' experiences are believed."

"The Law Society, for the purpose of discrimination complaints, has just done away with that innocence rule. But the innocence rule is a very important legal concept and an aspect of our legal system," Mr. Blackett said.

Mr. Blackett is one of many lawyers expressing concern. He was one of 30 Alberta lawyers who signed a July 17 letter calling on the LSA to stop "politicizing" the organization. The letter likened its "cultural competency" initiatives to "cultural indoctrination" experienced by lawyers and others under the communist regime in China.

Also signing the letter were Ontario lawyers who have opposed similar "indoctrination" in the Law Society of Ontario.

'Cultural Competency'

The idea of "cultural competency" for lawyers is spreading within the LSA and other law societies across the country.

In 2021, the LSA joined its B.C. counterpart in mandating indigenous cultural training for all members. It suspended about 30 lawyers who refused to comply. On Feb. 24 of this year, an unusually high number of lawyers turned up for an LSA meeting to vote on a motion to stop the training. About 3,500 of Alberta's 11,000 lawyers voted.

Although 75 percent of them voted in favour of the training. Mr. Blackett said the 864 lawyers who voted against it may be representative of a larger portion of the LSA membership.

The Law Society of Manitoba will mandate the same training starting Oct. 1, 2023.

The LSA is currently developing a Western Canada Competency Profile (WCCP), along with the law societies of B.C., Saskatchewan, and Manitoba, due to be released in 2024. The LSA could not say to what extent its own take on cultural competency will inform the western profile.

"The WCCP is still in development," Elizabeth J. Osler, CEO and executive director of the Law Society of Alberta, told The Epoch Times via email. Regarding the July 17 letter decrying LSA's "politicization," she said only that the LSA will consider it and "reply in due course."

Optional for Lawyers, Says LSA

Ms. Osler defended the LSA's take on cultural competency, saying much of it remains optional for lawyers and they will not be disciplined for not meeting requirements.

But Mr. Blackett is worried that the competency standards entrench a certain ideology in the Law Society. And a new, mandatory continuing professional development tool the LSA released on July 4 may be used to "blacklist" lawyers who don't share that ideological perspective.

Ms. Osler said the information gathered by the tool—including any self-reported information on competency in equity, diversity, and inclusion—will be shared with the Law Society's education department. The LSA may choose to initiate a review of a lawyer's professional development plan and lawyers are required to cooperate with the review.

She said the tool allows lawyers to select their preferred areas of continued professional development. "There is no requirement for

Alberta lawyers to choose Equity, Diversity and Inclusion (EDI) in their professional development plan," she said.

However, the LSA's competency profile strongly encourages a strong approach to EDI.

It says a competent lawyer is one who takes “active steps to support and advocate for members of enumerated groups.” He or she should “incorporate equity, diversity, and inclusion in practice” including taking “action to dismantle systemic inequalities and barriers.” He or she should “practise anti-discrimination and anti-racism.”

Its resources on cultural competence include Calgary Anti-Racism Education, or CARED, an anti-racism activist collective founded in 2009.

Mr. Blackett pointed out that this resource says equal treatment before the law is considered to "perpetuate discriminatory practice." Colour-blindness, defined as "the insistence that one does not notice or see skin colour or race," is also said to perpetuate discrimination.

"I think the Law Society's conduct threatens the rule of law, which is that you have laws that are created by a legislature, and those are created by the people, for the people. They're supposed to be applied equally to everyone," he said.

"I think that 'woke' law would see laws applied unequally, ostensibly to achieve an equal result. That's a very different approach than much of our legal system currently takes on these things."

When asked about such content in the resources and a lawyer's freedom to disagree with these statements, Ms. Osler said the resources provided "are not required reading and lawyers can choose their own resources."

She did not respond directly to questions about Mr. Blackett's concerns that LSA materials regarding systemic racism in the legal system could undermine the system.

Instead, she noted that the LSA's approach to continued professional development is more flexible than other Canadian jurisdictions as it allows lawyers "more flexibility and the ability to self-direct their own learning."

Regarding Mr. Blackett's point that LSA policy essentially makes a lawyer "guilty until proven innocent" when it comes to discrimination accusations, Ms. Osler said, "If there is a breach of the Code of Conduct, the Law Society will follow the conduct process set out in the Legal Profession Act (LPA) and the Rules before any disciplinary steps are taken."

She said the code of conduct, not the competency profile, is used to judge when a lawyer should be disciplined. The competency profile is "an aspirational guide," she said.

The July 17 letter, which was addressed to LSA president Bill Hendsbee and Ms. Osler, and copied Alberta Justice Minister Mickey Amery and Premier Danielle Smith, says the Law Society “has assumed a political objective which is a threat to the rule of law.”

“In gross violation of our constitutional order, the LSA, as the regulator of Alberta lawyers with the power to sanction and suspend, has itself adopted a political ideology of its own choosing: social justice,” it said.

“As an immediate and inevitable consequence of adopting this political ideology, the LSA is now using its regulatory power to compel all lawyers to salute and pursue the same political ideology.”

Tara MacIsaac
Author

Tara MacIsaac is a senior reporter with the Canadian edition of The Epoch Times.

Author’s Selected Articles

'Snow Angels' Platform Connects Canadians With Elderly in Need of Shovelling Help
Oct 20, 2023

Hockey Canada's Change Room Rule Is 'Political Nonsense,' Says Independent League President
Oct 19, 2023

ANALYSIS: Can Canadians Stop Paying Union Dues Over Ideological Differences?
Oct 18, 2023

IN DEPTH: City Bylaws Increasingly Used to Prohibit 'Offending' People in Canada
Oct 17, 2023

RELATED TOPICS

law society of alberta Law Society of Ontario

THE EPOCH TIMES

This is Exhibit " UUU " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Committees

Committees, advisory committees and liaisons conduct governance work associated with our core regulatory functions. View members and mandates for t following committees:

- **Assurance Fund Adjudications (Finance) Committee** (#accordion_1_collapse_1
- **Audit and Finance Committee** (#accordion_1_collapse_2
- **Complaint Dismissal Appeals Committee** (#accordion_1_collapse_3
- **Conduct Committee** (#accordion_1_collapse_4
- **Credentials and Education Committee** (#accordion_1_collapse_5
- **Equity, Diversity and Inclusion Committee** (#accordion_1_collapse_6

The mandate of the Equity, Diversity and Inclusion Committee is to:

- Examine discrimination and harassment issues arising out of the Articling survey including developing recommendations on safe reporting;
- Examine broader issues of Equity, Diversity and Inclusion in the legal profession including questions around retention in private practice including the implementation of entity regulation;
- Consider the intersection with the Law Society Response to the Truth and Reconciliation Commission, the work of the Indigenous Initiatives Liaison and the Indigenous Advisory Committee;
- Develop recommendations to address barriers to EDI in the legal profession considering both the proactive and reactive role of the Law Society;
- Liaise with the EDI Advisory Committee; and
- Report to the Benchers and make recommendations in response to their findings.

Members:

Louise Wasylenko, CPA, CMA, C	Levonne Louie
Sanjiv Parmar, VC	Erin Runnalls
Kene Ilochonwu, KC	Moira Váně
Cal Johnson, KC	***Ex-officio:*** Bill Hendsbee, KC; Deanna Steblyk, KC

Volunteers:	*Staff Support:*
Lola Antonius	Susannah Alleyne
Bryan Hunter	Barbra Bailey
Jeffrey Westman	Colin Brandt
	Karly Walker

Executive Committee (#accordion_1_collapse_7

Lawyer Competence Committee (#accordion_1_collapse_8

Nominating Committee (#accordion_1_collapse_9

Policy and Regulatory Reform Committee (#accordion_1_collapse_10

Practice Review Committee (#accordion_1_collapse_11

Professional Responsibility Committee (#accordion_1_collapse_12

Strategic Plan Task Force (#accordion_1_collapse_13

Trust Safety Committee (#accordion_1_collapse_14

This is Exhibit " VVV " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

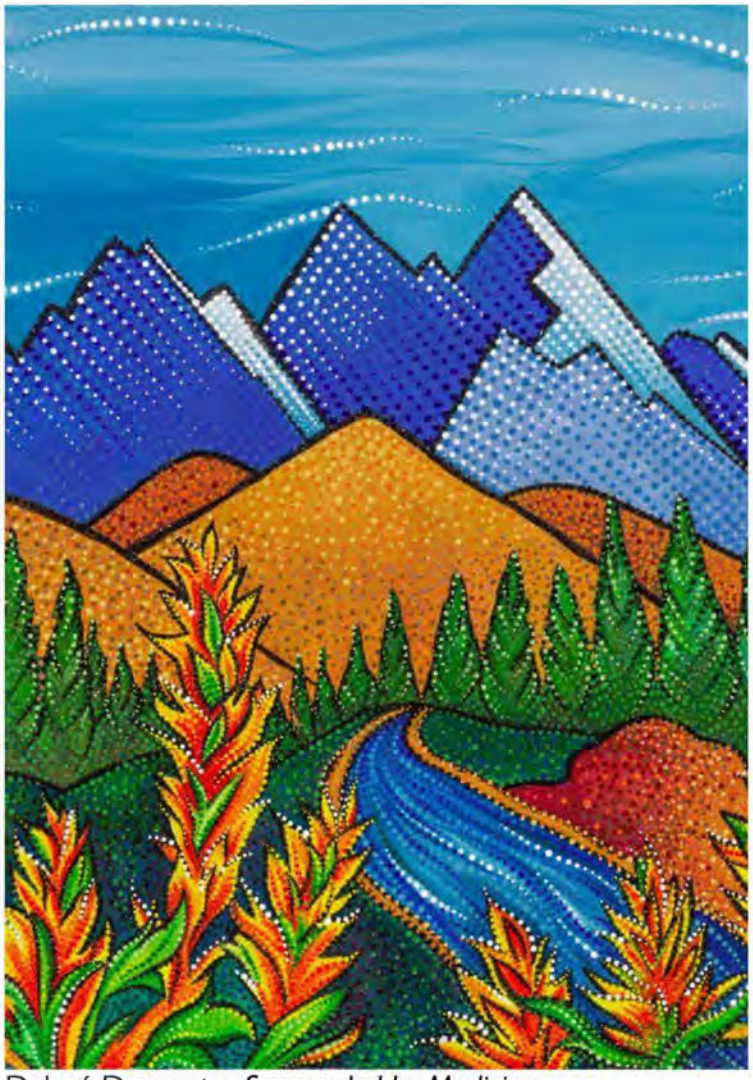
of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Indigenous Land Acknowledgements

The Law Society of Alberta has over 200 self-identified Indigenous lawyers and serves the Indigenous Peoples of Alberta. We acknowledge that our office is located on the traditional territories of the peoples of the Treaty 7 region and Métis Nation of Alberta, Region 3.



Delreé Dumont – *Surrounded by Medicine*

Land acknowledgements are traditional protocol used to give thanks and to pay respect to the peoples and the land for which you are a visitor upon. The following land acknowledgments recognize the traditional territories that the Law Society of Alberta serves. To follow the path of reconciliation, Law Society conferences and events should be opened with a land acknowledgment. Lawyers may also wish to use the following land acknowledgments for their own events, to demonstrate that they are actively thinking about what happened in the past and creating a space for Indigenous reconciliation to happen in the present and for the future.

> "Spanning generations, acknowledgement of the land is a traditional custom of Indigenous peoples when welcoming outsiders onto their land and into their homes. To build respectful relationships, acknowledging the land is an important part of reconciliation. It honours the authentic history of North America, its original people and tells the story of the creation of this country that has historically been missing." – The Calgary Foundation

A helpful resource to better understand land acknowledgements in Alberta is called **Acknowledging Land and People (https://www.teachers.ab.ca/SiteCollectionDocuments/ATA/For%20Members/ProfessionalDevelop**

WT-17c-TreatyMap.pdf) and was put together by the Alberta Teachers Association. Another resource for **Finding Your Personal Land Acknowledgment (https://teaching.usask.ca/curriculum/indigenous_voices/land-acknowledgements/module.php)** is available through a series of video blogs from the University of Saskatchewan.

Treaty 6

Basic Land Acknowledgement (#accordion_1_collapse_1

Extended Acknowledgement (#accordion_1_collapse_2

Pronunciation (#accordion_1_collapse_3

Treaty 7

Basic Acknowledgement (#accordion_2_collapse_1

Extended Acknowledgement (#accordion_2_collapse_2

Pronunciation (#accordion_2_collapse_3

Treaty 8

Basic Land Acknowledgement (#accordion_3_collapse_1

Extended Land Acknowledgement (#accordion_3_collapse_2

Pronunciation (#accordion_3_collapse_3

Alberta

Alberta Land Acknowledgement (#accordion_4_collapse_1

Pronunciation (#accordion_4_collapse_2

This is Exhibit " WWW" referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Articling Placement Program

The Articling Placement Program (the program) is a Law Society program in place to assist articling students who are in unsafe or untenable articles due to harassment or discrimination. The program supports the articling student with exiting their current position and continuing their articles with a new firm/organization.

Articling students have the right to be free from harassing and discriminatory behaviour and have the right to report their circumstances without fear of reprisal or negative impacts. While coming forward about these issues will always be difficult, the program is intended to reassure articling students that reporting their issues will not lead to the loss of articles. The program's default position is that articling students' experiences are believed.

The program is not an avenue for students who are unhappy in their articling positions due to other reasons or who are unable to find an articling position. It is intended as a "911" response to those facing discrimination or harassment.

Program Steps

1. The articling student contacts the Law Society's Equity Ombudsperson for an initial, confidential conversation to discuss their experience of harassment or discrimination. During these confidential conversations, the articling student can ask questions, discuss their concerns and gather information on possible next steps. The Articling Placement Program may be raised as an option available to the student.
2. The Equity Ombudsperson will determine whether the criteria for establishing harassment or discrimination have been met given the information provided by the articling student.
3. Once the student agrees to enter the program, , the Equity Ombudsperson will work with the student to terminate their articles and find replacement articles at one of the available **roster firms/organizations (https://www.lawsociety.ab.ca/lawyers-and-students/become-a-lawyer/articling/articling-placement-program/articling-placement-program-roster-firms-organizations/)**.

4. The Equity Ombudsperson will advise the respective roster firm/organization that the articling student has met the eligibility criteria of the program without providing any identifying information about the student. Once the roster firm/organization confirms they can provide replacement articles, the roster firm/organization will be provided with information about the student including what the student has accomplished so far in their articles. The roster firm/organization will not be provided with any detailed information about what occurred during the student's previous articles.
5. After a student has been placed in new articles, the Equity Ombudsperson will check in with the articling student and the new principal, to offer support, see how the student is faring and provide opportunities for feedback.
6. Throughout the term of the placement, the Equity Ombudsperson will remain available as a resource for students and principals participating in the program.

Roster Firms/Organizations

Firms/organizations who meet the eligibility requirements of a roster firm/organization and are willing to offer replacement articles to articling students on short notice are encouraged to **apply to become a roster firm/organization (https://www.lawsociety.ab.ca/lawyers-and-students/become-a-lawyer/articling/articling-placement-program/articling-placement-program-application-form/)**. View a full list of the **participating roster firms (https://www.lawsociety.ab.ca/lawyers-and-students/become-a-lawyer/articling/articling-placement-program/articling-placement-program-roster-firms-organizations/)**.

Program Contact

If you are an articling student wanting to find out more about whether your circumstances qualify for the Articling Placement Program, please reach out to our **Equity Ombudsperson (https://www.lawsociety.ab.ca/lawyers-and-students/equity-ombudsperson/)** for an initial, confidential conversation.

- Phone: 587.391.6596
- **Email (https://www.lawsociety.ab.ca/lawyers-and-students/equity-ombudsperson/)**

Frequently Asked Questions

What is the Articling Placement Program? (#accordion_1_collapse_1)

The Articling Placement Program assists articling students who are in untenable or unsafe articles due to harassment or discrimination with exiting their current position and finding replacement articles.

The program is not an avenue for students who are unhappy in their articling positions due to other reasons or who are unable to find an articling position. It is intended as a "911" response to those facing discrimination or harassment. If you are an articling student wanting to find out more about whether your circumstances qualify for the program, please reach out to the Law Society's **Equity Ombudsperson (https://www.lawsociety.ab.ca/lawyers-and-students/equity-ombudsperson/)** for an initial, confidential conversation.

Why did the Law Society implement the Articling Placement Program? (#accordion_1_collapse_2)

The program was developed in response to the results of the **2019 articling survey (https://documents.lawsociety.ab.ca/wp-content/uploads/2019/09/LSA-Articling-Program-Assessment-Final-Report_September-27_2019.pdf)**, which revealed that approximately one-third of respondents reported experiencing harassment and/or discrimination during recruitment and/or articling.

However, many of these articling students do not report the behaviour and continue in their articling positions because of:

- a perceived lack of support in the firm/organization;
- no safe reporting structure in the firm/organization;
- a fear that raising these issues or formally reporting them within the firm/organization may negatively impact their reputation;
- the power imbalance between lawyers and articling students; and/or
- the potential loss of the articling position and future call to the bar.

Articling students have the right to be free from harassing and discriminatory behaviour and have the right to report their circumstances without fear of reprisal. While coming forward about these issues will always be difficult, the program is intended to reassure articling students that reporting their issues will not lead to the loss of articles.

How can I get more information about the program if I think I am in an unsafe or untenable article? (#accordion_1_collapse_3)

An articling student or anyone seeking information about the program can contact the Equity Ombudsperson at the Law Society for an initial, confidential conversation to discuss their experience of harassment or discrimination, or the program.

The Equity Ombudsperson may be contacted at:

Phone: 587.391.6596

Email **(https://www.lawsociety.ab.ca/lawyers-and-students/equity-ombudsperson/)**

Is my initial conversation with the Equity Ombudsperson confidential? (#accordion_1_collapse_4)

Yes, initial conversations with the Equity Ombudsperson are confidential. During these confidential conversations, the articling student can ask questions, discuss their concerns and gather information on possible next steps. It is an opportunity for an articling student to understand the resources and supports that are available to them, as well as assess their options.

The articling student's principal will not be contacted at this stage.

Will my previous principal be contacted?

The articling student's previous principal will not be contacted unless the student indicates that they would like the Law Society to do so, or the Law Society proceeds with a complaint. The circumstances which would lead to the principal being contacted include:

- The student indicates they want the Law Society to terminate their articles on their behalf;
- The Principal has not certified the articles for the time the student spent at their firm, and the student would like the Law Society to intervene; or
- The Law Society proceeds with a complaint against the previous principal or requires the previous principal to engage in additional training or education.

Under any of the above circumstances the student would be contacted to notify them of the next steps being taken by the Law Society, including the Law Society's decision to proceed with a complaint or require the previous principal to engage in additional training or education.

Where the student has asked the Law Society to terminate their articles, contact with the previous principal would not occur until it is determined that their experience has met the program criteria and the student has agreed to participate in the program.

What happens to confidentiality if I decide to engage the program? (#accordion_1_collapse_5)

By engaging the program, the articling student consents to the Equity Ombudsperson sharing information about their experience with other necessary Law Society staff. This also protects the articling student from having to re-tell their story multiple times.

What are the next steps after engaging the program? (#accordion_1_collapse_6)

Once the articling student decides to engage the program, the Equity Ombudsperson will request any outstanding information from the student and begin searching for replacement articles at one of the roster firms/organizations.

The Articling Placement Program process includes coordination with our Membership department and roster firms/organizations. There may be times where the student won't hear from the Equity Ombudsperson for a few days and at times the process may move rather quickly.

We understand that this might be an uncertain time for the student as they await responses from our office. During this time placing the student with one of our roster firms/organizations remains a top priority for us and the Equity Ombudsperson will keep the student updated as they are able.

What is the timeline from engaging in the program to being placed at a roster firm/organization? (#accordion_1_collapse_7)

There is no guaranteed timeline for placement; however, the Equity Ombudsperson and roster firms do work as quickly as possible to accommodate students awaiting placement.

What is the criteria for establishing harassment or discrimination? (#accordion_1_collapse_8)

The Model Code of Professional Conduct, developed by the Federation of Law Societies of Canada, includes definitions of harassment and discrimination. Recently, the Federation has shared proposed amendments to these definitions. Our program is using these amended definitions as the basis for establishing whether harassment or discrimination has occurred.

While the criteria reference the behaviour of the principal, the program includes other lawyers at the firm/organization as well.

The criteria for establishing harassment include:

- the principal displayed an improper and offensive behaviour;
- the principal's behaviour was directed at the articling student;
- the principal's behaviour, while not directed at the articling student, created an environment for the articling student that was untenable or unsafe;

- the articling student was offended or harmed, including the feeling of being demeaned, belittled, personally humiliated or embarrassed, intimidated or threatened;
- the behaviour occurred in the workplace or at any location or any event related to work, or through communications; and
- there was a series of incidents or one severe incident that had a lasting, negative impact on the articling student.

The criteria for establishing discrimination include:

- the articling student has a personal characteristic that is listed as a prohibited ground of discrimination under human rights legislation;
- the articling student was treated differently than others in the firm/organization, or if the articling student was treated the same way as others, the treatment of the articling student put that student in a different position or had a different impact on that student because of their personal characteristic;
- the treatment had a negative impact on the articling student (or put them at a disadvantage compared to others); and
- there is evidence to show a link between the treatment or the impact that the articling student experienced and their personal characteristic.

If our Equity Ombudsperson concludes that the articling student's experience has met the criteria, the Law Society will work with the student to end their current articles.

Do I have to stay at my articles until the Equity Ombudsperson has found replacement articles? (#accordion_1_collapse_9)

The student is not required to continue in their current articles until replacement articles are confirmed; however, the student is encouraged to contact the Equity Ombudsperson before leaving their articles.

Can I participate in the program if I have already left my articling position? (#accordion_1_collapse_10)

This will be determined on a case-by-case basis. If you believe you were in an unsafe or untenable articling position and have already terminated your employment, you are encouraged to reach out to the Equity Ombudsperson for a consultation as soon as possible.

What happens if I don't have evidence of the discriminatory or harassing behaviour? (#accordion_1_collapse_11)

An articling student reporting the behaviour of their principal or of another lawyer to the Law Society is taking a difficult step and we do not take that lightly. Importantly, the default position of the program is that articling students are believed.

In many instances, the articling student may not have objective proof of the harassment or discrimination they experienced. In these situations, the Equity Ombudsperson will make reasonable inferences and conclusions from the information provided.

The Equity Ombudsperson has experience dealing with issues involving articling students and principals or other lawyers. They bring considerable expertise to the program.

What happens if my experience does not meet the criteria for accessing the program? (#accordion_1_collapse_12)

If the Equity Ombudsperson concludes that a student does not meet the requirements of the program, they will work with the student to connect them with resources and supports to address their current concerns. Where the articling student is amenable, the option to address these

matters through mediation efforts to help preserve the principal-student relationship may be made available. Whether mediation is an appropriate option will be determined on a case-by-case basis.

What further steps may the Law Society take regarding the previous principal? (#accordion_1_collapse_13)

The Law Society may determine that the previous principal is unable to have future articling students until they take and complete training or education to address the underlying issues.

If the situation warrants the involvement of the conduct process, the Law Society will carefully review all the information provided by the articling student to determine the appropriate next steps. The Law Society may determine that it is necessary to proceed with a complaint against the principal and/or the other lawyer, either at the articling student's or the Law Society's initiative. This may occur:

- to prevent harm to future articling students;
- when there is a potential risk to the public; and
- when the principal's and/or the other lawyer's behaviour is of such a nature that it harms the standing of the legal profession.

Before a complaint is opened the Equity Ombudsperson will connect with the student to identify if they would like to be involved in the complaints process. The student's wishes will be considered.

What are roster firms/organizations? (#accordion_1_collapse_14)

Roster firms/organizations are law firms/organizations that meet specific eligibility criteria and are willing to offer replacement articles to articling students through the program. View the list of roster firms/organizations.

If your law firm or organization is interested in being added to the roster, you can **apply (https://www.lawsociety.ab.ca/lawyers-and-students/become-a-lawyer/articling/articling-placement-program/articling-placement-program-application-form/)** or reach out to the Equity Ombudsperson for more information.

What are the responsibilities of roster firms/organizations? (#accordion_1_collapse_15)

To be included as a roster firm/organization, they must meet specific eligibility criteria including:

- can offer replacement articles on short or little notice.
- must provide a principal who can fully meet the duties required by the Law Society.
- relies on the Law Society's conclusion that the articling student has met the program's eligibility criteria.
- must pay the articling student's salary for the duration of the articles with the firm/organization. The salary must be commensurate with the salary paid to the firm/organization's other articling students, if applicable. Please note that the replacement firm/organization is only responsible for salary once the articling student begins their employment with them. The Law Society does not pay the articling student's salary.
- must pay the articling student's CPLED fees if:
    - The student has not taken PREP (the bar admission course) but will during their articles with the roster firm/organization.
    - The student has begun PREP (the bar admission course) and paid the course fees out-of-pocket but the student has not completed the course and will be continuing to take the course or completing the course during their articles with the roster firm/organization.
    - The student has begun PREP (the bar admission course) and their former firm is seeking reimbursement for all or part of the course fees but the student has not completed the course and will be continuing to take the course or completing the course during their articles with the roster firm/organization.

Note: All of the above is only applicable if the roster firm/organization pays the CPLED fees for the firm/organization's other articling students. If the student is completing composite articles at the roster firm/organization, the roster firm/organization is only responsible for the fees incurred for the

portion of PREP that is completed by the student during their composite articles at the roster firm/organization. The Law Society does not pay the articling student's CPLED fees.

How do you decide which replacement firm/organization I will be placed with?

(#accordion_1_collapse_16)

The Equity Ombudsperson will work with the articling student to identify:

- where they are located; and
- what area(s) of law they have experience in or are interested in.

The Equity Ombudsperson will use this information to identify available roster firms that align with the students experience and interests. If there are certain area(s) of law or work environments the student is not interested in, they are encouraged to discuss that with the Equity Ombudsperson.

Where the student is placed is dependant on the firms that are available at the time the student requires articles. As a result, we can not guarantee placement at a specific firm. The Equity Ombudsperson will do their best to find a firm that best aligns with the students experience and interests.

All placements through the program will be subject to conflicts checks between the student's previous firm and the roster firm/organization. Students must identify whether they are aware of any existing or possible conflicts with firms/organizations on the **roster (https://www.lawsociety.ab.ca/lawyers-and-students/become-a-lawyer/articling/articling-placement-program/articling-placement-program-roster-firms-organizations/)** and indicate this to the Equity Ombudsperson as soon as possible.

Will information about my experience in my previous articles

(#accordion_1_collapse_17)

be shared with my new replacement firm/organization?

The Law Society will advise the roster firm/organization that the articling student has met the eligibility criteria of the program but will not provide any detailed information about what occurred during the student's previous articles. The Law Society will provide the roster firm/organization with information regarding what has been accomplished so far in the student's articles and a copy of the student's resume. The roster firm/organization will require the name of the student's former firm in order to check conflicts.

The replacement firm/organization is prohibited from asking questions related to the harassing or discriminatory behaviour in the articling student's previous firm/organization.

It is up to the articling student to decide whether they or the Law Society provides any information to the roster firm/organization regarding their experience during their previous articles.

What other supports can I access if I have experienced discrimination or harassment? (#accordion_1_collapse_18)

An articling student may contact Assist for information and related resources. Articling students have access to Assist's programs and peer support and can contact the organization to learn what mental health and other supports are available to them at any time.

An articling student is encouraged to contact the Equity Ombudsperson at anytime during their articles if they are experiencing discrimination or harassment. The Articling Placement program is only one of many supports that the Equity Ombudsperson offers. The Equity Ombudsperson is available for confidential advice and will work with the student to identify any supports or resources that may help them navigate their concerns.

Articling students are welcome to contact Assist for information and resources. ASSIST provides lawyers and articling students with a variety of resources around well-being including counselling services and peer support. You can read more about their offerings on their website **Counselling and Support for Alberta Lawyers 24/7 ASSIST (https://lawyersassist.ca/)**. They can

also be reached by phone at the following numbers:

24/7 CRISIS COUNSELLING: **1-877-498-6898**
(tel:1%E2%80%91877%E2%80%91498%E2%80%916898)
Professional Counselling Services: **1-877-498-6898**
(tel:1%E2%80%91877%E2%80%91498%E2%80%916898)
Peer Support Program: **1-877-737-5508**
(tel:1%E2%80%91877%E2%80%91737%E2%80%915508)

This is Exhibit " XXX " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

Federation of Law Societies of Canada

Fédération des ordres professionnels de juristes du Canada

Model Code of Professional Conduct

As amended **October** 20**22**

6.3 DISCRIMINATION AND HARASSMENT

Discrimination

6.3-1 A lawyer must not directly or indirectly discriminate against a colleague, employee, client or any other person.

Commentary

[1] Lawyers are uniquely placed to advance the administration of justice, requiring lawyers to commit to equal justice for all within an open and impartial system. Lawyers are expected to respect the dignity and worth of all persons and to treat all persons fairly and without discrimination. A lawyer has a special responsibility to respect and uphold the principles and requirements of human rights and workplace health and safety laws in force in Canada, its provinces and territories and, specifically, to honour the obligations enumerated in such laws.

[2] In order to reflect and be responsive to the public they serve, a lawyer must refrain from all forms of discrimination and harassment, which undermine confidence in the legal profession and our legal system. A lawyer should foster a professional environment that is respectful, accessible, and inclusive, and should strive to recognize their own internal biases and take particular care to avoid engaging in practices that would reinforce those biases, when offering services to the public and when organizing their workplace.

[3] Indigenous peoples may experience unique challenges in relation to discrimination and harassment as a result of the history of the colonization of Indigenous peoples in Canada, ongoing repercussions of the colonial legacy, systemic factors, and implicit biases. Lawyers should take particular care to avoid engaging in, allowing, or being willfully blind to actions which constitute discrimination or any form of harassment against Indigenous peoples.

[4] Lawyers should be aware that discrimination includes adverse effect and systemic discrimination, which arise from organizational policies, practices and cultures that create, perpetuate, or unintentionally result in unequal treatment of a person or persons. Lawyers should consider the distinct needs and circumstances of their colleagues, employees, and clients, and should be alert to unconscious biases that may inform these relationships and that serve to perpetuate systemic discrimination and harassment. Lawyers should guard against any express or implicit assumption that another person's views, skills, capabilities, and contributions are necessarily shaped or constrained by their gender, race, Indigeneity, disability or other personal characteristic.

[5] Discrimination is a distinction, intentional or not, based on grounds related to actual or perceived personal characteristics of an individual or group, which has the effect of imposing burdens, obligations or disadvantages on the individual

or group that are not imposed on others, or which withhold or limit access to opportunities, benefits and advantages that are available to other members of society. Distinctions based on personal characteristics attributed to an individual solely on the basis of association with a group will typically constitute discrimination. Intersecting grounds of discrimination require consideration of the unique oppressions that result from the interplay of two or more protected grounds in a given context.

[6] The principles of human rights and workplace health and safety laws and related case law apply to the interpretation of this Rule and to Rules 6.3-2 to 6.3-4. A lawyer has a responsibility to stay apprised of developments in the law pertaining to discrimination and harassment, as what constitutes discrimination, harassment, and protected grounds continue to evolve over time and may vary by jurisdiction.

[7] Examples of behaviour that constitute discrimination include, but are not limited to:

a. harassment (as described in more detail in the Commentary to Rules 6.3-2 and 6.3-3);
b. refusing to employ or to continue to employ any person on the basis of any personal characteristic protected by applicable law;
c. refusing to provide legal services to any person on the basis of any personal characteristic protected by applicable law;
d. charging higher fees on the basis of any personal characteristic protected by applicable law;
e. assigning lesser work or paying an employee or staff member less on the basis of any personal characteristic protected by applicable law;
f. using derogatory racial, gendered, or religious language to describe a person or group of persons;
g. failing to provide reasonable accommodation to the point of undue hardship;
h. applying policies regarding leave that are facially neutral (i.e. that apply to all employees equally), but which have the effect of penalizing individuals who take parental leave, in terms of seniority, promotion or partnership;
i. providing training or mentoring opportunities in a manner which has the effect of excluding any person from such opportunities on the basis of any personal characteristic protected by applicable law;
j. providing unequal opportunity for advancement by evaluating employees on facially neutral criteria that fail to take into account differential needs and needs requiring accommodation;
k. comments, jokes or innuendos that cause humiliation, embarrassment or offence, or that by their nature, and in their context, are clearly embarrassing, humiliating or offensive;
l. instances when any of the above behaviour is directed toward someone because of their association with a group or individual with certain personal characteristics; or

m. any other conduct which constitutes discrimination according to any applicable law.

[8] It is not discrimination to establish or provide special programs, services or activities which have the object of ameliorating conditions of disadvantage for individuals or groups who are disadvantaged for reasons related to any characteristic protected by applicable laws.

[9] Lawyers are reminded that the provisions of this Rule do not only apply to conduct related to, or performed in, the lawyer's office or in legal practice.

Harassment

6.3-2 A lawyer must not harass a colleague, employee, client or any other person.

Commentary

[1] Harassment includes an incident or a series of incidents involving physical, verbal or non-verbal conduct (including electronic communications) that might reasonably be expected to cause humiliation, offence or intimidation to the person who is subjected to the conduct. The intent of the lawyer engaging in the conduct is not determinative. It is harassment if the lawyer knew or ought to have known that the conduct would be unwelcome or cause humiliation, offence or intimidation. Harassment may constitute or be linked to discrimination.

[2] Examples of behaviour that constitute harassment include, but are not limited to:

a. objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome, including comments and displays that demean, belittle, intimidate or cause humiliation or embarrassment;
b. behaviour that is degrading, threatening or abusive, whether physically, mentally or emotionally;
c. bullying;
d. verbal abuse;
e. abuse of authority where a lawyer uses the power inherent in their position to endanger, undermine, intimidate, or threaten a person, or otherwise interfere with another person's career;
f. comments, jokes or innuendos that are known or ought reasonably to be known to cause humiliation, embarrassment or offence, or that by their nature, and in their context, are clearly embarrassing, humiliating or offensive; or
g. assigning work inequitably.

[3] Bullying, including cyberbullying, is a form of harassment. It may involve physical, verbal or non-verbal conduct. It is characterized by conduct that might

reasonably be expected to harm or damage the physical or psychological integrity of another person, their reputation or their property. Bullying includes, but is not limited to:

a. unfair or excessive criticism;
b. ridicule;
c. humiliation;
d. exclusion or isolation;
e. constantly changing or setting unrealistic work targets; or
f. threats or intimidation.

[4] Lawyers are reminded that the provisions of this Rule do not only apply to conduct related to, or performed in, the lawyer's office or in legal practice.

Sexual Harassment

6.3-3 A lawyer must not sexually harass a colleague, employee, client or any other person.

Commentary

[1] Sexual harassment is an incident or series of incidents involving unsolicited or unwelcome sexual advances or requests, or other unwelcome physical, verbal, or nonverbal conduct (including electronic communications) of a sexual nature. Sexual harassment can be directed at others based on their gender, gender identity, gender expression, or sexual orientation. The intent of the lawyer engaging in the conduct is not determinative. It is sexual harassment if the lawyer knew or ought to have known that the conduct would be unwelcome. Sexual harassment may occur:

a. when such conduct might reasonably be expected to cause insecurity, discomfort, offence, or humiliation to the person who is subjected to the conduct;
b. when submission to such conduct is implicitly or explicitly made a condition for the provision of professional services;
c. when submission to such conduct is implicitly or explicitly made a condition of employment;
d. when submission to or rejection of such conduct is used as a basis for any employment decision, including;

    i. Loss of opportunity;
    ii. The allocation of work;
    iii. Promotion or demotion;
    iv. Remuneration or loss of remuneration;
    v. Job security; or

vi. Benefits affecting the employee;

e. when such conduct has the purpose or the effect of interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment;
f. when a position of power is used to import sexual requirements into the workplace and negatively alter the working conditions of employees or colleagues; or
g. when a sexual solicitation or advance is made by a lawyer who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the lawyer making the solicitation or advance knows or ought reasonably to know that it is unwelcome.

[2] Examples of behaviour that constitute sexual harassment include, but are not limited to:

a. displaying sexualized or other demeaning or derogatory images;
b. sexually suggestive or intimidating comments, gestures or threats;
c. comments, jokes that cause humiliation, embarrassment or offence, or which by their nature, and in their context, are clearly embarrassing, humiliating or offensive;
d. innuendoes, leering or comments about a person’s dress or appearance;
e. gender-based insults or sexist remarks;
f. communications with sexual overtones;
g. inquiries or comments about a person’s sex life;
h. sexual flirtations, advances, propositions, invitations or requests;
i. unsolicited or unwelcome physical contact or touching;
j. sexual violence; or
k. unwanted contact or attention, including after the end of a consensual relationship.

[3] Lawyers should avoid condoning or being willfully blind to conduct in their workplaces that constitutes sexual harassment.

[4] Lawyers are reminded that the provisions of this Rule do not only apply to conduct related to, or performed in, the lawyer’s office or in legal practice.

Reprisal

6.3-4 A lawyer must not engage or participate in reprisals against a colleague, employee, client or any other person because that person has:

a. inquired about their rights or the rights of others;
b. made or contemplated making a complaint of discrimination, harassment or sexual harassment;

c. witnessed discrimination, harassment or sexual harassment; or
d. assisted or contemplated assisting in any investigation or proceeding related to a complaint of discrimination, harassment or sexual harassment.

Commentary

[1] The purpose of this Rule is to enable people to exercise their rights without fear of reprisal. Conduct which is intended to retaliate against a person, or discourage a person from exploring their rights, can constitute reprisal. Examples of such behaviour include, but are not limited to:

a. refusing to employ or to continue to employ any person;
b. penalizing any person with respect to that person's employment or changing, in a punitive way, any term, condition or privilege of that person's employment;
c. intimidating, retaliating against or coercing any person;
d. imposing a pecuniary or any other penalty, loss or disadvantage on any person;
e. changing a person's workload in a disadvantageous manner, or withdrawing opportunities from them; or
f. threatening to do any of the foregoing.

This is Exhibit " YYY " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths ~~in and for Alberta~~

Glenn Blackett
Barrister & Solicitor

Complaints About Discrimination or Harassment in the Profession

Fostering a supportive regulatory environment for lawyers and students in the legal profession is a key element of the Law Society's Strategic Plan (https://documents.lawsociety.ab.ca/wp-content/uploads/2022/11/17114606/LSA-Strategic-Plan-2020-2023.pdf) It also contributes to the broader strategic goal of promoting wellness and competence.

Our 2019 Articling Survey Results (https://documents.lawsociety.ab.ca/wp-content/uploads/2019/09/LSA-Articling-Program-Assessment-Final-Report_September-27_2019.pdf) reported that one in three students experienced discrimination or harassment during their articles. We want to encourage lawyers and students to come forward and report these issues knowing that we have a safe reporting process in place.

If you, as a lawyer, student or law firm staff member, believe that another lawyer or articling student may have crossed a boundary related to discrimination or harassment, we urge you to contact our Equity Ombudsperson (https://www.lawsociety.ab.ca/lawyers-and-students/equity-ombudsperson/) as an initial step.

The *Occupational Health and Safety Act* (https://www.alberta.ca/ohs-act-regulation-code.aspx) requires all law firms or organizations to have a safe or respectful workplace policy in place. Review your firm or organization's policy if you have concerns about behaviour that is contrary to that policy. If your firm does not have a policy, review the Respectful Workplace Model Policy (https://documents.lawsociety.ab.ca/wp-content/uploads/2019/11/Respectful-Workplace-Policy.pdf) provided by the Law Society. It will provide guidance about acceptable standards of behaviour.

The policy should outline the procedures in place to report issues of discrimination or harassment within the firm or organization, without fear of reprisal. This policy should also include information on contacting the Law

Society to report complaints of discrimination and harassment.

For more information on what behaviour may be a form of discrimination or harassment, visit the **Alberta Human Rights Commission website (https://www.albertahumanrights.ab.ca/publications/bulletins_sheets_booklets/sheets/hr_and_employm**

Safe Reporting: Step-by-Step

1. Lawyers, students or law firm staff members may contact our **Equity Ombudsperson (https://www.lawsociety.ab.ca/lawyers-and-students/equity-ombudsperson/)** for a confidential discussion **and/or**
2. Contact our **Intake department (https://www.lawsociety.ab.ca/about-us/contact-us/)** by telephone, email or letter describing the complaint. Lawyers, students and staff members do not need to fill out an intake form to report matters of discrimination or harassment. Please note that by contacting our Intake Department, you are beginning the complaint process. Once Intake knows about a complaint, the Law Society may need to proceed with the complaint to protect the public. We will try to protect the confidentiality of the lawyer, student or staff member but it cannot be guaranteed.
3. The discrimination or harassment related complaint is directed to our designated Conduct Counsel who has a background in social work and related training. Our designated Conduct Counsel has training in handling and supporting victims of harassment and discrimination including first responder training with **Calgary Communities Against Sexual Abuse (http://www.calgarycasa.com/)**.
4. The lawyer, student or staff member reporting the complaint can discuss their options about proceeding on a confidential basis. One of the options is Rule 85(9) which allows the complaint to proceed on a confidential basis at the discretion of the Law Society. It allows the lawyer, student or staff member to come forward on a confidential basis while still receiving updates on the status of the complaint. While the Law Society will take all steps to preserve your confidentiality, at some point, your identity may become apparent from the information provided.
5. The **threshold test (https://documents.lawsociety.ab.ca/wp-content/uploads/2019/02/Threshold-Test-Guideline-Sep-2018.pdf)** is applied to determine the next steps in the handling of the complaint.
   a. If the complaint proceeds to the investigation stage, the lawyer or student who reported the discrimination or harassment issue will be interviewed. The lawyer

or student is welcome to have a support person present during the investigation interview. The designated Conduct Counsel also remains involved.

b. If the complaint is routed to the Early Intervention process, the designated Conduct Counsel remains involved throughout resolution.

c. If the Law Society determines that the complaint does not satisfy the threshold test, the complaint will be dismissed. The lawyer, student or staff member may **appeal this dismissal (https://www.lawsociety.ab.ca/regulation/hearings/complaint-dismissal-appeals/)**.

6. If the complaint meets the threshold test, the matter will either go to the Practice Review Committee and/or the Conduct Committee. The threshold does not consider the intent of the person who is the subject of the complaint. The subjective experience of the complainant, viewed through the lens of the reasonable person, establishes whether the threshold has been met.
   a. The Practice Review Committee can put conditions on someone's practice or provide guidance on courses or other client and firm management resources.
   b. The Conduct Committee can either:
      i. Direct the matter to a hearing
      ii. Send the lawyer to a mandatory conduct advisory
      iii. Send the complaint back to Conduct Counsel for further investigation
      iv. Dismiss the complaint

7. Hearings are typically public, though interested parties may apply to have all or part of a hearing held in private. Witnesses may be called to provide evidence and the lawyer, student or staff member who reported the complaint may be called as a witness. A support person can accompany the lawyer, student or staff member to the hearing.

8. The hearing panel will determine whether the lawyer or student committed the conduct deserving of sanction. In deciding whether the lawyer or student's conduct was discrimination or harassment, the hearing panel will not consider whether the lawyer or student intended to harass or discriminate. Rather, the subjective experience of the complainant, viewed through the lens of the reasonable person, establishes whether the lawyer or student is guilty of harassment or discrimination.

9. If found to have committed the conduct deserving of sanction, the lawyer or student who is the subject of the complaint could be:

a. Reprimanded
b. Fined
c. Suspended
d. Disbarred
e. Ordered to pay the costs of the hearing
f. Subject to an order that imposes conditions on the member's suspension or on the member's practice

10. If the lawyer, student or staff member believes the dismissal of their complaint is unreasonable they can **appeal the decision (https://www.lawsociety.ab.ca/regulation/hearings/complaint-dismissal-appeals/)**.

FAQs

Where/how do I report issues related to discrimination and harassment? (#accordion_1_collapse_1)

As a first step, you may choose to contact our **Equity Ombudsperson (https://www.lawsociety.ab.ca/lawyers-and-students/equity-ombudsperson/)** for a confidential discussion to assess your options. You may also go directly to our **Intake department (https://www.lawsociety.ab.ca/about-us/contact-us/)** by phone, email or letter. Please note that by contacting our Intake Department, you are beginning the complaint process. Once intake knows about a complaint, the Law Society may need to proceed with the complaint to protect the public. We will try to protect the confidentiality of the lawyer, student or staff member but it cannot be guaranteed.

Who will be my point of contact at the Law Society throughout the process? (#accordion_1_collapse_2)

Our designated Conduct Counsel who has a background in social work and related training will be your point of contact through the complaint process. Our designated Conduct Counsel has training in handling and supporting victims of harassment and discrimination including first responder training with **Calgary Communities Against Sexual Abuse (http://www.calgarycasa.com/)**.

What is my role in the complaint process? (#accordion_1_collapse_3)

Your complaint provides the foundation for how the Law Society proceeds. You provide key information including documents and the names of witnesses. Rule 85(9) may enable you to maintain confidentiality throughout the process. While the Law Society will take all steps to preserve your confidentiality, at some point, your identity may become apparent from the information provided.

If the complaint proceeds to the investigation stage, you will be interviewed. You are welcome to have a support person present during the investigation interview. The designated Conduct Counsel also remains involved.

If the matter proceeds to a hearing, you may be required to give evidence as a witness. A support person can accompany you to the hearing.

Will I have to tell my story multiple times to multiple people? (#accordion_1_collapse_4)

The Law Society attempts to receive and investigate the complaint without requiring you to repeat your story multiple times to different people. Research demonstrates that multiple repetitions of distressing stories are often harmful to the person reporting and can result in inconsistencies.

After I report my discrimination and harassment issue, is my identity kept confidential? (#accordion_1_collapse_5)

You can discuss your options about proceeding on a confidential basis with the designated Conduct Counsel.

One of the options is Rule 85(9) which allows the complaint to proceed on a confidential basis at the discretion of the Law Society. It allows the lawyer, student or staff member to come forward on a confidential basis while still receiving updates on the status of the complaint. While the Law Society will take all steps to preserve your confidentiality, at some point, your identity may become apparent from the information provided.

How will I know the status of my complaint? (#accordion_1_collapse_6)

Our designated Conduct Counsel will be your point of contact. While we will do our best to keep you informed as to the status of the complaint, some information may be confidential under the Rules of the Law Society of Alberta **(https://documents.lawsociety.ab.ca/wp-content/uploads/2017/01/04144612/Rules.pdf)** and the ***Legal Profession Act*** **(https://www.lawsociety.ab.ca/regulation/act-code-and-rules/)**.

How does the Law Society determine if the issue needs to go to a hearing? (#accordion_1_collapse_7)

The threshold test **(https://documents.lawsociety.ab.ca/wp-content/uploads/2019/02/Threshold-Test-Guideline-Sep-2018.pdf)** is applied to determine the next steps in handling a complaint. The threshold does not consider the intent of the

person complained of. Rather, the subjective experience of the complainant, viewed through the lens of the reasonable person, which establishes the threshold. If the complaint meets the threshold, the matter will either go to the Practice Review Committee and/or the Conduct Committee.

a. The Practice Review Committee can put conditions on someone's practice or provide guidance on courses or other client and firm management resources.

b. The Conduct Committee can either:
   i. Direct the matter to a hearing
   ii. Send the lawyer to a mandatory conduct advisory
   iii. Send the matter back to Conduct Counsel for further investigation
   iv. Dismiss the complaint

If my complaint goes to a hearing, would I have to attend? (#accordion_1_collapse_8)

Hearings are typically public, though interested parties may apply to have all or part of a hearing held in private. Witnesses may be called to provide evidence and, as the lawyer, student or staff member who reported the complaint, you may be called as a witness. A support person can accompany you to the hearing.

Can I bring a support person with me along the way? (#accordion_1_collapse_9)

If the complaint proceeds to the investigation phase, we welcome the lawyer or student to have an external support person present to provide comfort and encouragement. The support person can also attend the hearing along with the lawyer or student.

What kind of sanctions could the lawyer or student who is the (#accordion_1_collapse_10)

subject of the complaint face?

If found to have committed the conduct deserving of sanction, the lawyer or student who is the subject of the complaint could be:

a. Reprimanded
b. Fined
c. Suspended
d. Disbarred
e. Ordered to pay the costs of the hearing
f. Subject to an order that imposes conditions on the member's suspension or on the member's practice

Can I appeal? (#accordion_1_collapse_11)

If you believe the dismissal of your complaint is unreasonable you can **appeal the decision (https://www.lawsociety.ab.ca/regulation/hearings/complaint-dismissal-appeals/)**.

This is Exhibit " ZZZ " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

Approved Bencher Public Minutes

Public Minutes of the Five Hundred and Seventh Meeting of the Benchers of the Law Society of Alberta (the "Law Society")

February 24, 2022

Videoconference

8:30 am

ATTENDANCE	
Benchers:	Darlene Scott, Outgoing President Ken Warren, President Bill Hendsbee, President-Elect Lou Cusano Ted Feehan Corie Flett Kene Ilochonwu Cal Johnson Jim Lutz Barb McKinley Bud Melnyk Sandra Petersson Sanjiv Parmar Stacy Petriuk Deanna Steblyk Margaret Unsworth Moira Váně Grant Vogeli Salimah Walji-Shivji Louise Wasylenko
Executive Leadership Team:	Elizabeth Osler, CEO and Executive Director Cori Ghitter, Deputy Executive Director and Director, Policy and Education Nadine Meade, Chief Financial Officer Andrew Norton, Chief Information Officer and Director, Business Operations Nancy Carruthers, General Counsel and Director, Regulation

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

ATTENDANCE	
Staff:	Sharon Allard, Executive Assistant to the Deputy Executive Director and Director, Policy and Education Susannah Alleyne, Equity, Diversity & Inclusion Counsel Ryan Ancona, Business Technology Barbra Bailey, Manager, Education Nancy Bains, Tribunal Counsel and Privacy Officer Catherine Bennett, Executive Assistant to the CEO and Executive Director Colleen Brown, Manager, Communications and Stakeholder Engagement Ruth Corbett, Governance Administrator Shabnam Datta, Manager, Policy John Eamon, General Counsel and Senior Manager, Risk, Alberta Lawyers Indemnity Association ("ALIA") Kate Fiori, Governance Assistant Jennifer Freund, Policy & Governance Counsel Sharon Heine, Senior Manager, Regulation Amanda Miller, Policy Counsel Kendall Moholitny, Senior Manager, Professionalism Len Polsky, Manager, Legal Technology and Mentorship, Policy and Education Christine Schreuder, Governance Coordinator Chioma Ufodike, Senior Manager, Trust Safety and Compliance Rebecca Young, Education Counsel
Guests:	Glen Buick, Public Loraine Champion, Executive Director, Alberta Lawyers' Assistance Society Carsten Jensen, Law Society of Alberta representative to the Federation of Law Societies of Canada Amanda Lindberg, Vice-President, Canadian Bar Association Alberta Nonye Opara, Executive Director, Pro Bono Law Alberta Robert Philp, Indigenous Advisory Committee Bencher Liaison Kathleen Ryan, Chair, Equity Diversity and Inclusion and Lawyer Competence Advisory Committees Christine Sanderman, Executive Director, Legal Education Society of Alberta Dale Spackman, Corporate Secretary, ALIA
Regrets:	Sony Ahluwalia Ryan Anderson

Secretary's Note: The arrival and/or departure of participants during the meeting are recorded in the body of these minutes.

Item
Call to Order
Mr. Warren called the meeting to order at 8:30 a.m. and welcomed everyone, particularly new Bencher, Mr. Parmar. Mr. Warren delivered the Indigenous land acknowledgement statement for Alberta.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
1	**Remarks from Outgoing President** Ms. Scott provided her final remarks as President, reflecting on her years as a Bencher and President. She highlighted the Board's accomplishments and unceasing progress on initiatives in pursuit of the Law Society's strategic goals, particularly in the face of the pandemic. Ms. Scott thanked the Benchers, the Executive Leadership Team and Law Society staff for their hard work and support.
2	**Opening Remarks from the President** Mr. Warren provided his opening remarks, expressing his appreciation to Ms. Scott on behalf of the Benchers for her leadership through difficult times and for her mentorship during his term as President-Elect. Mr. Warren highlighted the importance of the Law Society's strategic goals as the focus of the Board's work and the importance of working together to achieve those goals with the overall mandate to protect the public interest. Ms. Scott left the meeting. Mr. Buick and Ms. Moholitny left the meeting.
3	**Leadership Report** Documentation for this item was circulated with the materials prior to the meeting. Ms. Osler provided comments on the following: - The materials included a link to the 2021 Year in Review Report, which highlighted some of the Law Society's most impactful projects. Ms. Osler thanked the Benchers for their commitment and engagement, and ELT and staff for their work. - The Return to Office plan commences on March 1 for managers and March 7 for employees on a temporary voluntary basis. - Plans are underway for the April Bencher meeting to be held at the office in person. - A special Bencher education session on Complaint Dismissal Appeals facilitated by Jim Casey will take place on April 8.
4	**Board Relations Guideline and In Camera Guideline Annual Review** Documentation for this item was circulated with the materials prior to the meeting. Mr. Hendsbee provided introductory remarks on the history of the Board Relations Guideline and the In Camera Guideline and outlined each Norm and its purpose. Ms. Flett joined the meeting at 9:30 a.m.
5	**ALIA Memorandum and Articles Amendments** Documentation for this item was circulated with the materials prior to the meeting. Mr. Spackman and Mr. Eamon presented the proposal for amendments to modernize the ALIA Memorandum of Association and Articles as outlined in the materials and responded to questions. Mr. Spackman emphasized that the amendments do not change the relationship

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
	between the Law Society and ALIA and do not attempt to broaden ALIA's powers with respect to the provision of products to members. **Motion: Melnyk/Cusano** **That the Benchers approve the Resolutions set out in Attachment 5 to the briefing memorandum provided for this item.** **Carried unanimously** Mr. Spackman and Mr. Eamon left the meeting at 9:38 a.m.
6	**2022 Committees, Advisory Committees, Liaisons and Other Bodies** Documentation for this item was circulated with the materials prior to the meeting. Mr. Warren advised that the high level of interest from the profession in serving on committees means that there are a number of people who could not be appointed or reappointed. A correction was noted to add the Chair of the Credentials and Education Committee to the membership slate for the Viscount Bennett Scholarship Committee. The amendment to the motion was accepted by the mover and seconder and is reflected in italics in the motion below. **Motion: Ilochonwu/Melnyk** **To appoint the 2022 Bencher committees, advisory committees, liaisons and representatives to "other bodies" as set out in the 2022 Committees, Advisory Committees, Liaisons and Other Bodies list*, subject to adding the Chair of the Credentials and Education Committee to the membership slate for the Viscount Bennett Scholarship Committee*; and** **To continue the term of appointment for any person on a 2021 committee involved in any ongoing adjudicative matter until such time as a report or decision is rendered on the matter in which they are involved.** **Carried unanimously**
7	**Statement of Investment Policies and Goals Amendments** Documentation for this item was circulated with the materials prior to the meeting and revised documents were added on February 23. Ms. Meade presented the proposed amendments and the additional changes that were made to the documents that were circulated initially. Ms. Meade highlighted the process that was followed for the investment review of the ALIA and the Law Society's portfolios and their Statement of Investment Policies and Goals ("SIP&G"). The Audit and Finance Committee ("AFC") considered a balanced approach to the asset mix, with the goal of achieving diversity and growth while preserving capital. The proposed revised SIP&G recommends a gradual transition to 15% in alternative investments such as infrastructure and real estate.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
	Ms. Petriuk, Chair, AFC, thanked AFC members for their thorough review of the asset mix and SIP&G and to the Finance department team for their hard work. Ms. Meade responded to questions from the Benchers and provided clarification on a few points. **Motion: Petriuk/Petersson** **That the Benchers approve the revised Statement of Investment Policies and Goals as presented.** **Carried unanimously** The Chair called for a recess at 10:00 a.m. and reconvened the meeting at 10:15 a.m. Ms. Ufodike and Ms. Bailey joined the meeting at 10:15 a.m.
8	**Strategic Committee Priorities** Documentation for this item was circulated with the materials prior to the meeting. Ms. Osler advised that this agenda item forms part of efforts to increase transparency of budget processes and ensure the Board's fiduciary duty and oversight of strategic work are fully supported. Priorities identified for 2022 will inform the 2023 budget and resource allocation. Ms. Ghitter presented the Strategic Committee Priorities, highlighting that the priorities and resources anticipated need to be revisited later in the year when the budget process begins. In response to a question, Ms. Ghitter confirmed that the Policy and Regulatory Reform Committee's priority for a status review will incorporate a review of all statuses, including inactive maternity leaves. The Benchers also asked whether the *Legal Profession Act* amendments are still a priority and Ms. Osler outlined the challenges associated with getting the government to prioritize legislative amendments to the Act. In the meantime, the Law Society continues to utilize the Rules to advance its work where the legislation is outdated. **Motion: Cusano/Wasylenko** **That the Benchers approve the priorities as set out in the attached Lawyer Competence Committee, Equity, Diversity and Inclusion Committee and Policy and Regulatory Reform Committee memorandums.** **Carried unanimously**
9	**Innovation Sandbox Update** Documentation for this item was circulated with the materials prior to the meeting. Ms. Ufodike and Mr. Polsky presented the update, which included a refresher on the Innovation Sandbox; outreach and key FAQs; and applications in the pipeline. The Benchers discussed the following: - It was suggested that the Law Society's mandate to protect the public interest should be emphasized.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
	- All proposals assessed by the Law Society's Innovating Regulation Group are risk rated according to the established Bencher criteria. Approved applicants in the Sandbox must enter into an agreement with the Law Society. - Issues relating to questions such as overlapping jurisdictions, for example, form part of the risk assessment of all applications on a case-by-case basis. Providers will be monitored on an ongoing basis and will be required to report regularly. - In response to a question about the risk of complaints in relation to services, Ms. Ufodike and Mr. Polsky provided information from the Utah Legal Sandbox program which experienced an extremely low ratio of harm-related complaints to services being provided. - The Law Society plans to publish all approved providers and the Benchers will receive regular updates. Ms. Ufodike left the meeting at 11:30 a.m.
10	**Access to Justice Update** Ms. Ghitter provided an oral report, highlighting the following: - Improvements to access to justice can seem intangible; however, almost all the Law Society's strategic work is viewed through the lens of access to justice, in accordance with the Strategic Plan. - The Lawyer Referral Service review is in the process of collecting data and developing options for improvements. - There have been six Access to Justice ebulletins since October 2020 and the Law Society is exploring ways to implement regular communications. Ms. Ghitter advised that the Law Society can assist clinics with request for volunteers; however, it cannot provide help with fundraising.
11	**Audit and Finance Committee Report** Documentation for this item was circulated with the materials prior to the meeting.
12	**Equity, Diversity and Inclusion Committee Update** Documentation for this item was circulated with the materials prior to the meeting. Ms. Wasylenko, Equity, Diversity and Inclusion Committee Chair, and Ms. Ghitter, responded to questions about the Continuing Professional Development Profile and confirmed a guide and education will be available to support lawyers.
13	**Lawyer Competence Committee Update** Documentation for this item was circulated with the materials prior to the meeting.

700 333 - 11th Avenue SW Phone: 1.403.229.4700
Calgary, Alberta T2R 1L9 Toll Free: 1.800.661.9003

	Item
14	**Tribunal Office Update** Documentation for this item was circulated with the materials prior to the meeting.
15	**CONSENT AGENDA** Documentation for this item was circulated with the materials prior to the meeting. There were no requests to remove any items from the consent agenda and the items were approved concurrently. **Motion: Melnyk/Steblyk** **15.1 To approve the December 2, 2021 Public Bencher Meeting Minutes;** **15.2 That the Benchers approve the date and time of the 2022 Annual General Meeting of the Law Society of Alberta to be December 1, 2022 at 4:00 p.m. at the offices of the Law Society, or such other date and time and place (or means) as the CEO and Executive Director of the Law Society may determine in their discretion; and** **15.3 That the Benchers re-appoint PricewaterhouseCoopers (PwC) as auditors for the Law Society of Alberta for the fiscal year ending December 31, 2022.** **Carried unanimously**
16	**AGENCY REPORTS** The following Agency reports were circulated with the materials prior to the meeting: 16.1 Alberta Law Foundation Report 16.2 Alberta Law Reform Institute Report 16.3 Alberta Lawyers' Assistance Society Report 16.4 Canadian Bar Association Report 16.5 Federation of Law Societies of Canada Report 16.6 Legal Education Society of Alberta Report 16.7 Pro Bono Law Alberta Report 16.8 Real Estate Practice Advisory Liaison Report
17	**Other Business** There being no further business, the public meeting was adjourned at 11:55 a.m.

This is Exhibit " AAAA " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

SONG & HOWARD LAW OFFICE
宋岳律师事务所
[redacted]

Yue (Roger) Song
Barrister & Solicitor
宋岳律师
[redacted]

By Courier & Email

July 17, 2023

Bill Hendsbee, KC
President
[redacted]

[redacted]
Chief Executive Office & Executive Director
Law Society of Alberta
[redacted]

Honourable Premier Danielle Smith
Government of Alberta
Office of the Premier
[redacted]

Honourable Minister Mickey Amery
Ministry of Justice
[redacted]

Honourable Members of Provincial Caucus
[redacted]

Dear: Mr. Hendsbee
Ms. Osler
Honourable Premier Danielle Smith
Honourable Minister Mickey Amery
Honourable Members of Provincial Caucus

Re: Rule of Law and the Law Society of Alberta

[redacted] is my great honor to enclose a petition letter on the captioned matter signed by 30 Alberta lawyers (including retired members), 16 other Canadian lawyers, and 24 other Canadians and professionals.

	Alberta Lawyers	LSA member since	Location
1	Gordon Auck (confirmed by email)	1971	Calgary
2	Andy Crooks (retired)	1979	Calgary
3	Robert M. Simpson	1980	Edmonton
4	Richard Harding (retired)	1983	Calgary
5	Clive Llewellyn	1983	Calgary
6	Marty Romonow	1986	Edmonton
7	Kathryn Carter	1986	Calgary

8	Rickard H. Hemmingson	1989	Lacombe
9	Louis M H Belzil	1989	Edmonton
10	Alan Warnock	1990	Airdrie
11	Matthew Kaup	1991	St. Albert
12	David Cavilla (confirmed by email)	1992	Lethbridge
13	Leighton Grey K.C.	1993	Cold Lake
14	Dan Harder (retired)	1994	Didsbury
15	Robert A. Fata	1997	Edmonton
16	Doris Reimer	2001	Calgary
17	Glenn Blackett	2003	Calgary
18	Katherine Kowalchuk	2003	Calgary
19	Kendall W. Waiting	2004	Calgary
20	Terry Prockiw	2006	Two Hills
21	Lani L. Rouillard	2006	Sylvan Lake
22	Yue (Roger) Song	2014	Calgary
23	Chad Williamson	2017	Calgary
24	James Kitchen	2017	Airdrie
25	Benjamin J. Ferland	2018	St. Albert
26	Spencer P. Morrison	2018	Edmonton
27	Martin Kaup	2018	St. Albert
28	Maksym Kyrychenko	2021	Calgary
29	George Craven	2021	Calgary
30	Jody Wells	2022	Kamloops

	Other Canadian Lawyers	**Bar member since**	**Location**
31	Bruce Pardy	1990	London, ON
32	Lisa Bildy	1995	London, ON
33	Charles McKee	1966	Vancouver
34	Chi-Kun Shi	1991	Toronto
35	Joseph P Hamon	1991	Combermere
36	Grace Pang	1994	St. Catharines
37	Christopher Taucar	1996	Vancouver
38	Brian L. Prill	2002	Mississauga
39	Sayeh Hassan (confirmed by email)	2007	Toronto
40	Ryan McConaghy	2009	Toronto
41	Tyler Koverko	2014	Toronto
42	Edward Choi	2017	Markham
43	Hatim Kheir	2020	Hamilton
44	Henna Parmar (confirmed by email)	2020	Brampton, ON
45	Robert Z. Donick (confirmed by email)	1995	BC
46	Samuel Bachand		Saint-Eustache, QC

	Other Canadian Professionals and Citizens	Occupation	Location
47	Tom Flanagan (confirmed by email)	Political scientist	Calgary
48	Dr. F.L. (Ted) Morton (confirmed by email)	Executive Fellow	Calgary
49	Frances Widdowson (confirmed by email)	Professor	Calgary
50	Wilfred Biederstadt	Quality Inspector	Airdrie
51	Jason Caldwell	Business Owner	Calgary
52	Dou Cameron	Consultant	Regina
53	Dennis L. Modry, MD	Surgeon	Edmonton
54	Bonnie Dyek	IT Professional	Calgary
55	Shafer Parker Jr.	Minister	Calgary
56	Percy Herring	Petroleum Landman	Calgary
57	Mary Kaechele	Retired	Calgary
58	Allan Gray	Investment Advisor	Calgary
59	Merril J Humphrey	Retired	Calgary
60	Joy Humphrey	Retired	Calgary
61	S Mark Francis	Finance Consultant	Calgary
62	Shawna Caldwell	Controller	Calgary
63	Victor Martinez	Banker	Calgary
64	Jeremy Graf	Law Student	Didsbury
65	Anneke Pingo	Assistant Litigation Director	Cochrane
66	Monica Rose Evangeline	City of Calgary Parks Volunteer	Calgary
67	John Zheng	Pastor	Calgary
68	Gordon Eshpeter (confirmed by email)	BSc Geology	Calgary
69	Koshy Thomas (confirmed by email)	High School Teacher	Calgary
70	Jonathan Goosen (confirmed by email)	Professor	Langdon, AB
71	Tessa Littlejohn (confirmed by email)	B.A. University of Calgary	Calgary

Respectfully,

Roger Song

LSA Member

Yue (Roger) Song
Barrister and Solicitor

By Courier & Email

July 17, 2023

Bill Hendsbee, KC
President
Law Society of Alberta
[redacted]

Elizabeth J. Osler,
Chief Executive Office & Executive Director
Law Society of Alberta
[redacted]

Honourable Premier Danielle Smith
Government of Alberta
Office of the Premier
[redacted]

Honourable Minister Mickey Amery
Ministry of Justice
[redacted]

Honourable Members of Provincial Caucus
[redacted]

Dear: Mr. Hendsbee
Ms. Osler
Honourable Premier Danielle Smith
Honourable Minister Mickey Amery
Honourable Members of Provincial Caucus

Re: Rule of Law and the Law Society of Alberta

The LSA has assumed a political objective which is a threat to the rule of law.

At a Special Meeting of the members of the Law Society of Alberta (the "**LSA**"), recently convened, 864 Alberta lawyers supported a resolution to repeal the LSA's Rule 67.4 which purported to give the LSA power to mandate specific "continuing professional development" ("**CPD**") including cultural "education."

As lawyers who have or had the privilege to practice law and serve the ends of truth and justice in the province of Alberta, we believe that it is our responsibility to write this letter to defend the rule of law in Canada and what it preserves: democracy, freedom, peace, health, and wealth.

A silent constitutional crisis is upon us. Fundamental cornerstones of our Western legal system, developed over centuries, are collapsing. We say this crisis is "silent" because it seems that few people are aware, fewer are speaking-out, and fewer still comprehend the existential danger this poses to our Canadian way of life.

While this crisis is nation-wide and exists across institutions including many or all professions[1], the particular focus of this letter is local, relating to Alberta law and lawyers.

Knowingly or unknowingly, the LSA has been captured by a *political movement*. The politicization of the LSA, as the regulator of lawyers whose collective responsibility it is to neutrally guard the rule of law, represents an attack on the rule of law where it is most vulnerable and the threat is most grave.

Why the Rule of Law Matters

Canada is a democracy. In a democracy, legislatures make laws including even the supreme (earthly) law, the *Constitution*.

Our *Canadian Charter of Rights and Freedoms,* which forms part of the *Constitution* begins:

> "Whereas Canada is founded upon principles that *recognize the supremacy of God and the rule of law*:"[2]

Our constitutional democracy depends on the rule of law. Democratically enacted laws must be followed by everyone and must be enforced against everyone, objectively and equally – the rich and powerful, the poor and marginalized, people of all walks of life. Good intentions are no substitute.

The rule of law is a constitutional glue that holds together all of Canada's social, political and economic progress. It has been the fundamental aspect of our constitutional order since the *Magna Carta* of 1215. The principle of rule of law was perhaps first formally enunciated by Bracton (1250), a judge and early writer on English law, who declared:

> "The King himself however ought not to be under man, but under God and under the law, for the law makes him king."

The rule of law sustains democracy. When the laws passed by the legislature are ignored or perverted, democracy is degraded or destroyed. When this happens, the power given by citizens to a democratically elected legislature is usurped by those who ignore and pervert.

The rule of law sustains minority rights. When laws are ignored, perverted or applied unequally, minority rights are invariably eroded or eliminated. Many laws expressly protect minority rights, like human rights codes and the *Canadian Charter of Rights and Freedoms*. If those laws aren't humbly respected and enforced, they become meaningless "paper barriers."

The equal application of law in itself supports minority rights. Without the equal application of law the only "minority" with effective and meaningful rights is the minority holding raw power: the ruling elite and their allies. As Peru's General Óscar Benavides is reported to have said:

> "For my friends, everything; for my enemies, the law."[3]

---

[1] See Professor of Law at Queen's University, Bruce Pardy's article entitled: *Legal Canons and Social Fables: The Law in Canada Has Never Been Perfect but Now it is Losing its Way*, C2C Journal, June 10, 2023 (https://c2cjournal.ca/2023/06/legal-canons-and-social-fables-the-law-in-canada-has-never-been-perfect-but-now-it-is-losing-its-way/).

[2] *Canadian Charter of Rights and Freedoms* (https://canlii.ca/t/ldsx).

[3] See footnote 1.

The rule of law also cultivates and sustains economic, technological and social progress because it provides predictability and limits exploitation. An investor in a company can reasonably predict their money will be used to generate returns. A company signing a contract is reasonably assured it will be paid. Its customer can reasonably predict the company will deliver its product. Employees accepting jobs are reasonably assured they will be paid and treated fairly. Inventors licensing technology have reasonable assurance their property will not be stolen. If these reasonable expectations are disappointed, the rule of law provides remedies.

The LSA agrees with much of the above. It says, for example:

> "The existence of an independent legal profession, free from government[4] influence, supports a rule of law culture which in turn supports the proper administration of justice. These are crucial elements of a free and democratic society. The rule of law requires that both government officials and citizens be bound by the law and act consistently with the law. ... It is in the public interest to have an effective legal and court system, that supports the concept of equal justice for all within an open, ordered and impartial system."[5]

Lawyers and the Rule of Law

In a liberal, constitutional democracy it is a lawyer's sacred constitutional duty to preserve and protect the rule of law, whether in private practice, in government, in organizations, or as a judge. A lawyer must be the client's zealous advocate, but that advocacy must be conducted within the law. For this reason, when an Alberta lawyer is sworn-in as a member of the bar, the lawyer swears or affirms:

> "I will not pervert the law."

A citizen with no one to advocate for and uphold his or her rights is a citizen without rights. It is, therefore, the lawyer's constitutional duty to pursue a client's rights, without risk of losing their licence to practice. Otherwise, the client's rights are effectively eliminated. It is every other lawyer's constitutional duty to likewise observe the law and ensure their fellow lawyers have that freedom and ability, or the citizen's rights are equally eliminated.

For this reason, the Honourable Justice W. Estey wrote:[6]

> "The public interest in a free society knows no area more sensitive than the independence, impartiality and availability to the general public of the members of the Bar and through those members, legal advice and services generally."

The Law Society and the Rule of Law

If, contrary to this constitutional model, a lawyer is free to subordinate the client's interests and instructions to the pursuit of *political* objectives, the client effectively loses any rights not consistent with those politics. If *all* lawyers are *compelled* by their regulator to pursue the *same* political

---

[4] We would say "*political.*"
[5] Regulatory Objectives of the Law Society of Alberta, December 5, 2019 (https://documents.lawsociety.ab.ca/wp-content/uploads/2020/01/Executive-Summary-Regulatory-Objectives-of-the-Law-Society-of-Alberta.pdf).
[6] *A.G. Can.* v. *Law Society of B.C.*, [1982] 2 SCR 307

interest, *no citizen* has rights except those which are convenient to that political interest. Rights become rights in name only.

Given this constitutional order, it is imperative that law societies, which regulate lawyers including by granting and suspending the right to practice, ensure lawyers are competent, ethical and free to give independent advice and representation.

The Law Society is Violating the Rule of Law

When the LSA's authority was created by the Legislature, it was not given unlimited power to do whatever it would like. It was granted *limited* power to pursue *only the purpose for which that power was granted*, namely, professional competence and ethics[7].

The pursuit of any purpose outside of the *Legal Profession Act* or to exercise any power not granted by the *Legal Profession Act* is a violation of the rule of law and an abuse of the power granted. No one, professionals or otherwise, is subject to *ad hoc* rule by those who wield power.

As the Honourable Justice Rand of the Supreme Court of Canada wrote in *Roncarelli* v. *Duplessis*:

> "[A]ction dictated by and according to the arbitrary likes, dislikes and irrelevant purposes of public officers acting beyond their duty, would signalize the beginning of disintegration of the rule of law as a fundamental postulate of our constitutional structure."[8]

That a public body exceeding its legislative power represents a threat to freedom and our democratic ideals is beyond doubt:

> "I know of no duty of the Court which is more important to observe, and no powers of the Court which is more important to enforce, than its power of keeping public bodies within their rights. The moment public bodies exceed their rights, they do so to the injury and oppression of private individuals."[9]

In gross violation of our constitutional order, the LSA, as the regulator of Alberta lawyers with the power to sanction and suspend, has *itself* adopted a *political ideology* of its own choosing: social justice.[10] As an immediate and inevitable consequence of adopting this political ideology, the LSA is now using its regulatory power to compel *all* lawyers to salute and *pursue* the same political ideology.[11]

By way of example, at the LSA's February 24, 2022, board meeting, the rule of law and, in particular, the legal restrictions placed on the LSA's powers (and therefore purposes) were discussed. The board raised the LSA's desire to advance its agenda regardless of perceived limitations in the *Legal Profession Act*. The LSA's CEO and Director:

---

[7] Legal Profession Act, RSA 2000, c L-8

[8] Roncarelli v. Duplessis, [1959] S.C.R. 121, per Rand J. at page 142.

[9] Lindley, M.R. *Robert* v. *Gwyrfai District Council*, (1899), L R 2 C.D., 514.

[10] See, for example, the Regulatory Objectives of the Law Society of Alberta, December 5, 2019 (footnote 5) at page 1 at (e) ("Promote equity, diversity and inclusion in the legal profession and in the delivery of legal services") and page 4 at (e)18 ("The Law Society will promote cultural competence both within the organization and in the profession"). See also the references at footnotes 14, 16 and 17.

[11] Continuing Professional Development Program Guideline (https://documents.lawsociety.ab.ca/wp-content/uploads/2023/05/11084722/Continuing-Professional-Development-Program-Guideline.pdf)

> "... outlined the challenges associated with getting the government to prioritize legislative amendments to the Act. In the meantime, the Law Society continues to utilize the Rules to *advance its work where the legislation is outdated.*"[12] [emphasis added]

The LSA has no inherent jurisdiction. Its "work" is to pursue the purposes assigned to it, with only the powers given to it, by the Legislature. The LSA was not created to pursue purposes of its choosing.

This "work" outside of its legislative mandate is undertaken even as the LSA correctly acknowledges the vital importance of professional independence:

> "There can be no functional judiciary without an independent arm of lawyers who act free of political pressure and motivations." [13]

The need to uphold the rule of law is no more or less important if the LSA's politics are substantial or trivial, provocative or popular, bad or good. Whatever its politics, democracy and the rule of law demand that all laws are made and changed transparently, in accordance with democratically derived jurisdiction, and in accordance with our constitutional order.

However, the LSA's political objectives are not trivial. According to the LSA's materials, Canadian law, policy, and legal structures are deeply corrupt.[14]

Nor are the LSA's political objectives peripheral. The LSA expressly states that, depending upon the circumstances, its political objectives may be of equal, if not higher, priority than even its objective to promote the rule of law.[15]

Nor are the LSA's political objectives necessarily congruent with generally accepted Canadian values. In one of the LSA's political resources[16] referenced on its website[17] (the "**Resource**") there are attacks on liberalism ("full of paradoxes and contradictions"), the concept of equality before the law ("used to perpetuate discriminatory practices"), and the Canadian model of multicultural racial integration.

---

[12] Minutes, Meeting of the Benchers of the Law Society of Alberta February 24, 2022 (https://documents.lawsociety.ab.ca/wp-content/uploads/2022/04/26113305/Bencher-Public-Minutes-20220224-Approved.pdf).

[13] Minutes, Meeting of the Benchers of the Law Society of Alberta February 24, 2022 (footnote 12).

[14] See, for example, https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/indigenous-cultural-competency-education/ and https://www.lawsociety.ab.ca/about-us/key-initiatives/equity-diversity-and-inclusion-initiatives/acknowledgment-of-systemic-discrimination/ and https://www.lawsociety.ab.ca/resource-centre/key-resources/cultural-competence-equity-diversity-and-inclusion/.

[15] Regulatory Objectives of the Law Society of Alberta, December 5, 2019 (footnote 5), page 2, paragraph 6: "In fact, there may be times when two or more of the regulatory objectives conflict with one another. In these cases, the Law Society will weigh the costs and benefits of aligning with each objective. See also the LSA's Acknowledgment of Systemic Discrimination (footnote 14) wherein the LSA says it is "... *centering* equity in [its] governance and decision-making roles ..."

[16] Calgary Anti-Racism Education (https://www.aclrc.com/cared).

[17] https://www.lawsociety.ab.ca/resource-centre/key-resources/cultural-competence-equity-diversity-and-inclusion/.

The LSA's "regulatory objectives"[18] implicitly include facilitating the voluntary racial segregation of lawyers and clients[19] and promoting the racial segregation of Canada's indigenous population within independent systems of indigenous law and indigenous legal systems.[20] Regardless of arguments for or against such goals, this is not the business of the LSA. The place to change these laws is the legislature.

The Resource even attacks what are, perhaps, the most beautiful words ever uttered on the subject of race:

> "I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character."[21]

Premised in Critical Race Theory, the Resource defames Martin Luther King Jr.'s dream as simple-minded white supremacy:

> "Colour-Blindness: Colour-blindness (or colour evasion) is the insistence that one does not notice or see skin colour or race. ... colour-blindness "conflates lack of eyesight with lack of knowing. Said differently, the inherent ableism in this term equates blindness with ignorance" ... "[n]onrecognition [of the significance of race] fosters the systematic denial of racial subordination and the psychological repression of an individual's recognition of that subordination, thereby allowing such subordination to continue."

One of the LSA's prescribed core purposes is to ensure an incompetent lawyer is either not admitted, receives remedial education, or is disbarred.

The LSA has described its adopted politics[22] and the obligations it has imposed on lawyers to promote the same[23] to be a matters of "professional competence".[24] In this way, the LSA is attempting to expand its jurisdiction given what it believes to be an "outdated" legislative mandate. As Professor of Law at Queen's University, Bruce Pardy, observes:

> "... competence is being reimagined through an ideological lens." [25]

The LSA is well on course to making the entire Alberta legal profession of over 10,000 lawyers share and pursue its political vision. If this is allowed to continue, the LSA will have used its

---

[18] Regulatory Objectives of the Law Society of Alberta, December 5, 2019 (footnote 5) – although titled "regulatory objectives" this document is not a statement from the government as to what the LSA's regulatory objectives are but, rather, is what the LSA intends to do with the statutory power Albertans have granted to it.

[19] See page 4 at paragraph (e)17.

[20] See the Law Society's recent mandatory re-education for lawyers called the Path (https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/indigenous-cultural-competency-education/).

[21] Martin Luther King Jr.'s "I Have a Dream" Speech delivered on August 28, 1963, on the steps of the Lincoln Memorial.

[22] Including the notion of "cultural competence" addressed at footnote 14 above.

[23] Including through the LSA's new "Professional Development Profile for Alberta Lawyers" and its continuing professional development plan requirements.

[24] Professional Development Profile (footnote 11).

[25] Bruce Pardy, *Legal Canons and Social Fables: The Law in Canada Has Never Been Perfect but Now it is Losing its Way*, C2C Journal, June 10, 2023 (footnote 1).

regulatory power to, essentially, convert Alberta lawyers into a political action group incapable or unwilling to apply the law as written by the legislature.

This is a threat to democracy and civil rights, including minority rights. As Professor Bruce Pardy further observes:

> "Patients and clients should not assume that their doctors, lawyers, accountants or psychologists are independent actors at liberty to provide informed, educated, professional opinions, rather than spokespersons for the official views of their professional overlords."[26]

Our Plea

To LSA Benchers

We respectfully request and require that you abandon this dangerous, unconstitutional adventure immediately and reject any and all politics – no matter how well-intended – from every aspect of your mandate, principles, regulatory oversight, operations, and organization. What is required is a complete shift in your organization's culture. Remember your vital role in Canada's constitutional order, and proudly return to it.

To The Honourable Premier, Danielle Smith and Members of Provincial Caucus, including the Minister of Justice, Honourable Minister Mickey Amery

Please consider immediate and decisive legislation to rein in the LSA's foray into inherently dangerous politicization.

As referenced above, we understand the LSA is seeking amendments to the *Legal Profession Act*.[27] We expect it has requested the insertion of a broad "public interest" mandate like that found in Manitoba's *Legal Profession Act*[28]. The LSA currently pursues its political objectives in reliance on such a claimed duty although absent from Alberta's *Legal Profession Act*. We believe it is clearly in the public interest that the LSA pursue its legislative mandate, namely the regulation of the competence and ethics of lawyers. However, a broad mandate to use regulatory powers to pursue the "public interest" *writ* large is an invitation for mischief, as evidenced by the LSA's politicization even in the absence of such a mandate. Therefore, the *Legal Profession Act* should not be amended to include a broad "public interest" mandate of any sort.

At a minimum, the *Legal Profession Act* should be legislatively amended to:

- Prohibit the LSA from adopting, aligning itself with, or pursuing any political, ideological or religious movement or objective or imposing any political, ideological, or religious test, obligation or standard on lawyers;

- Prohibit the LSA from imposing any specific continuing CPD or in any way monitoring the content of lawyers' continuing professional development. Remember, the LSA's first foray into mandatory education was political;[29]

---

[26] *Ibid.*
[27] See footnote 12.
[28] *Legal Profession Act*, CCSM c L107, section 3(1) and 4(5).
[29] See footnote 20.

- Prohibit LSA Rules 67.2, 67.3 and 67.4;[30]
- Expressly eliminate any aspect of "culture" or "cultural competence" from its mandate; and
- Permit the Minister of Justice from time to time to audit any aspect of the LSA's operations including providing for the power of subpoena.

We would also invite the Honourable Minister of Justice, Mickey Amery to exercise the existing right under section 5(3) of the *Legal Profession Act* to require the LSA to provide, in its annual report, detailed information to address the matters raised in this letter.

Some are likely to object to any such legislative intervention as interference with the LSA's independence. Quite the opposite. It is the LSA's current political adventure which is the threat to the independence of individual lawyers to provide advice and assistance to clients. The legislature must intervene to restore this vital independence.

The people of Alberta granted the LSA its power. The people of Alberta have every right to ensure that that power is exercised for the purpose it was granted.

Of immediate concern is the LSA's new continuing professional development ("**CPD**") program[31]. **The LSA has imposed an October 1, 2023, deadline for lawyers to comply with the new CDP program requirements**.

We request a meeting with the government to discuss our concerns and the way forward. Our primary contact is **Roger Song of Song & Howard Law Office (office: 403 205 2545; email: roger.song@songhowardlaw.com).** Mr. Song is the lawyer who initiated the above- mentioned Petition. Mr. Song is a former citizen of a totalitarian regime, China. Living in a totalitarian regime, Mr. Song experienced state mandated political re-education of legal professionals. He immigrated to Canada to live and practice in freedom. Mr. Song sees striking similarities between his experiences in China and the "continuing professional development" requirements now being implemented by the LSA. What the LSA now calls "cultural competence" looks very much like the cultural indoctrination to which Roger was subjected by the Chinese Communist Party.

Thank you all for your attention to this most important and urgent matter.

Earnestly and respectfully,

[30] The Rules of the Law Society of Alberta as of May 1, 2023 (https://documents.lawsociety.ab.ca/wp-content/uploads/2017/01/04144612/Rules.pdf).
[31] https://www.lawsociety.ab.ca/lawyers-and-students/continuing-professional-development/cpd-requirements/.

List of signatories as of July 17, 2023

#	Alberta Lawyers	LSA member since	Location
1	Gordon Auck (confirmed by email)	1971	Calgary
2	Andy Crooks (retired)	1979	Calgary
3	Robert M. Simpson	1980	Edmonton
4	Richard Harding (retired)	1983	Calgary
5	Clive Llewellyn	1983	Calgary
6	Marty Romonow	1986	Edmonton
7	Kathryn Carter	1986	Calgary
8	Rickard H. Hemmingson	1989	Lacombe
9	Louis M H Belzil	1989	Edmonton
10	Alan Warnock	1990	Airdrie
11	Matthew Kaup	1991	St. Albert
12	David Cavilla (confirmed by email)	1992	Lethbridge
13	Leighton Grey K.C.	1993	Cold Lake
14	Dan Harder (retired)	1994	Didsbury
15	Robert A. Fata	1997	Edmonton
16	Doris Reimer	2001	Calgary
17	Glenn Blackett	2003	Calgary
18	Katherine Kowalchuk	2003	Calgary
19	Kendall W. Waiting	2004	Calgary
20	Terry Prockiw	2006	Two Hills
21	Lani L. Rouillard	2006	Sylvan Lake
22	Yue (Roger) Song	2014	Calgary
23	Chad Williamson	2017	Calgary
24	James Kitchen	2017	Airdrie
25	Benjamin J. Ferland	2018	St. Albert
26	Spencer P. Morrison	2018	Edmonton
27	Martin Kaup	2018	St. Albert
28	Maksym Kyrychenko	2021	Calgary
29	George Craven	2021	Calgary
30	Jody Wells	2022	Kamloops

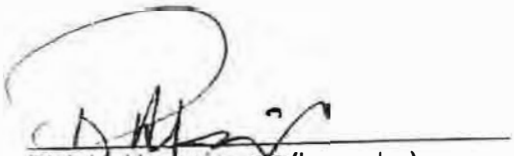
	Other Canadian Lawyers	Bar member since	Location
31	Bruce Pardy	1990	London, ON
32	Lisa Bildy	1995	London, ON
33	Charles McKee	1966	Vancouver
34	Chi-Kun Shi	1991	Toronto
35	Joseph P Hamon	1991	Combermere
36	Grace Pang	1994	St. Catharines
37	Christopher Taucar	1996	Vancouver
38	Brian L. Prill	2002	Mississauga

39	Sayeh Hassan (confirmed by email)	2007	Toronto
40	Ryan McConaghy	2009	Toronto
41	Tyler Koverko	2014	Toronto
42	Edward Choi	2017	Markham
43	Hatim Kheir	2020	Hamilton
44	Henna Parmar (confirmed by email)	2020	Brampton, ON
45	Robert Z. Donick (confirmed by email)	1995	BC
46	Samuel Bachand		Saint-Eustache, QC

	Other Canadian Professionals and Citizens	**Occupation**	**Location**
47	Tom Flanagan (confirmed by email)	Political scientist	Calgary
48	Dr. F.L. (Ted) Morton(confirmed by email)	Executive Fellow	Calgary
49	Frances Widdowson (confirmed by email)	Professor	Calgary
50	Wilfred Biederstadt	Quality Inspector	Airdrie
51	Jason Caldwell	Business Owner	Calgary
52	Dou Cameron	Consultant	Regina
53	Dennis L. Modry, MD	Surgeon	Edmonton
54	Bonnie Dyek	IT Professional	Calgary
55	Shafer Parker Jr.	Minister	Calgary
56	Percy Herring	Petroleum Landman	Calgary
57	Mary Kaechele	Retired	Calgary
58	Allan Gray	Investment Advisor	Calgary
59	Merril J Humphrey	Retired	Calgary
60	Joy Humphrey	Retired	Calgary
61	S Mark Francis	Finance Consultant	Calgary
62	Shawna Caldwell	Controller	Calgary
63	Victor Martinez	Banker	Calgary
64	Jeremy Graf	Law Student	Didsbury
65	Anneke Pingo	Assistant Litigation Director	Cochrane
66	Monica Rose Evangeline	City of Calgary Parks Volunteer	Calgary
67	John Zheng	Pastor	Calgary
68	Gordon Eshpeter (confirmed by email)	BSc Geology	Calgary
69	Koshy Thomas (confirmed by email)	High School Teacher	Calgary
70	Jonathan Goosen (confirmed by email)	Professor	Langdon, AB

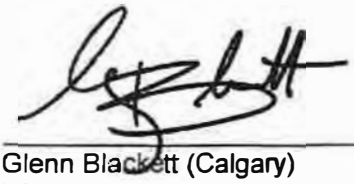
71	Tessa Littlejohn (confirmed by email)	B.A. University of Calgary	Calgary

Yue (Roger) Song, Calgary
LSA member since 2014
LLB, LLM (Peking University)
LL.M (New York University)
JD (University of Calgary)



Rick H. Hemmingson (Lacombe)
B.A., B.Ed, J.D. (dist.)
LSA member since 1989

Daniel Harder (Didsbury)
B.A. Honors, LLB
LSA member since 1994 and retired in 2022



Glenn Blackett (Calgary)
LSA member since 2003

Katherine Kowalchuk, B.A. LLB(Calgary)
LSA member since 2003

Lani L. Rouillard B.A. LLB (Sylvan Lake)
LSA member since 2006

Benjamin J. Ferland (Edmonton/St. Albert)
JD (University of Alberta)
LSA member since 2018

Other Alberta Lawyers:

Name: Andy Crooks
City: Calgary
Other: Retired 2021
LSA member since: 1979

Name: Robert M. Simpson
City: Edmonton
Other:
LSA member since: 1980

Clive Llewellyn signed
Name: Clive Llewellyn
City: Calgary
Other:
LSA member since: 1983

Name: Martin romanow
City: Edmonton
Other: Alta
LSA member since: 1986

Kathryn C. Carter
Kathryn C. Carter (Jul 10, 2023 11:35 MDT)

Name: Kathryn C. Carter
City: Calgary, Alberta
Other: B. Sc. (Honours), LLB (University of Calgary)
LSA member since: 1986

Louis M H Belzil, KC
Louis M H Belzil, KC (Jul 7, 2023 16:44 MDT)

Name: Louis M H Belzil
City: Edmonton
Other: Alberta
LSA member since: 1989

Alan G. Warnock

Name: Alan G. Warnock
City: Airdrie
Other:
LSA member since: 1990

Matthew Kaup

Name: Matthew Kaup
City: St. Albert
Other: J.D.
LSA member since: 2018

Other Alberta Lawyers:

David Cavilla

Name: David Cavilla
City: Lethbridge
Other:
LSA member since: 1992

Name: Leighton B. U. Grey K.C.
City: Cold Lake, AB
Other: Calgary
LSA member since: 1993

Robert A. Fata
Robert A. Fata (Jul 9, 2023 20:02 MDT)

Name: Robert A. Fata
City: Edmonton
Other: AB
LSA member since: 1997

Doris Reimer's

Law Society No. 12194
Year of call in Alberta: 2001

K. Waiting

Name: Kendall W. Waiting
City: Calgary
Other: B.A., JD (University of Calgary)
LSA member since: 2004

Name: Terry Prockiw
City: Two Hills, Alberta
Other:
LSA member since: 2006

K. Waiting

Name: Kendall W. Waiting
City: Calgary
Other: B.A., JD (University of Calgary)
LSA member since: 2004

Name: Chad Williamson
City: Calgary, Alberta
Other:
LSA member since: 2017

Other Alberta Lawyers:

James S M Kitchen

Name: James S.M. Kitchen
City: Airdire
Other: B.A. (Hons), J.D.
LSA member since: 2017

Name: Spencer P. Morrison
City: Edmonton
Other: B.A., J.D.
LSA member since: 2018

Matthew Kaup
Matthew Kaup (Jul 10, 2023 08:38 MDT)

Name: Matthew Kaup
City: St. Albert
Other: J.D.
LSA member since: 2018

Name: Maksym Kyrychenko
City: Calgary
Other: MHR LAW LLP
LSA member since: 2021

George Craven (Jul 7, 2023 13:45 PDT)

Name: George Craven
City: Cakgary
Other: BA (Hons) LLB MTax
LSA member since: 2021

Jody Wells (Jul 7, 2023 15:18 PDT)

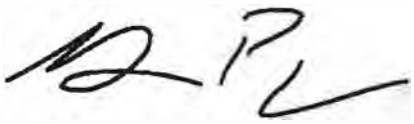
Name: Jody Wells
City: Kamloops, BC
Other: (Alberta Bar)
LSA member since: 2022

Martin Kaup
Martin Kaup (Jul [illegible])

Name: Martin Kaup
City: St. Albert
Other: Alberta
LSA member since: 1991

Name: Richard M. Harding BA, JD
City: Calgary
Other: excluding Ministerial audit and subpoena powers
LSA member since: 1983

Other **Canadian Lawyers**:



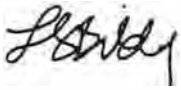
Name: Bruce Pardy
City: London ON
Other: LLB, LLM, Prof, Exec Dir Rights Probe
Bar member since: 1990 (ON)

Name: Charles H McKee
City: Vancouver
Other: BC
Bar member since: 1966

Name: Chi-Kun SHI
City: Toronto, Ontario
Other: Ontario bar
Bar member since: 1991

Name: Joseph P Hamon
City: Combermere Ontario
Other: Law Society of Ontario
Bar member since: 1991 Ontario

Name: Grace Pang
City: St Catharines, Ontario
Other: B.A., M.A., LL.B.
Bar member since: 1994 (Ontario)



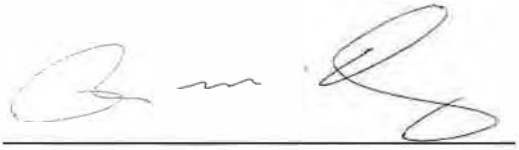
Name: Lisa Bildy
City: London
Other: Ontario
Bar member since: 1995

Name: Christopher Taucar
City: Vancouver
Other: PhD, LL.M., LL.B., B.A
Bar member since: 1996 (ON

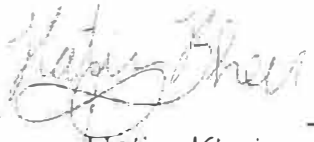
Name: Brian L. Prill
City: Mississauga
Other: BA, LLB, MBA, LLM
Bar member since: 2002 (ON), 2003 (NY

Other Canadian Lawyers:

Name: Samuel Bachand
City: Saint-Eustache, QC
Other: LL.B., JD (Osgoode Hall)
Occupation: Lawyer in Québec



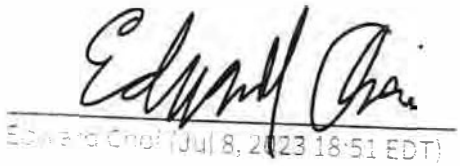
Name: **Ryan McConaghy**
City: **Toronto**
Other: **Law Society of Ontario**
Bar member since: **2009**



Name: Hatim Kheir
City: Hamilton, Ontario
Other:
Bar member since: 2020

Tyler Koverko
Tyler Koverko Jul 10, 2023 19:12 EDT

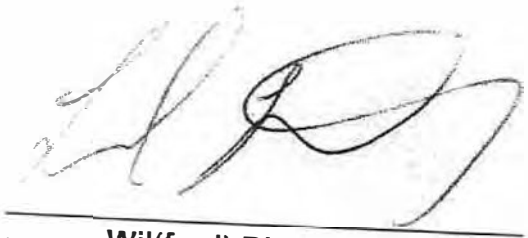
Name: Tyler Koverko
City: Toronto
Other: n/a
Bar member since: 2014



Edward Choi (Jul 8, 2023 18:51 EDT)

Name: Edward Choi, JD, LLM,LLB, BBA, BEd
City: Markham
Other: Ontario
Bar member since: 2017 Ontario (LSO)

Other Canadian Professionals and Citizens:



Name: Wil(fred) Biederstadt
City: Airdrie, Alberta
Other:
Occupation: Quality Inspector

Doug Cameron
Doug Cameron (Jul 11, 2023 18:16 MDT)

Name: Doug Cameron
City: Swift Current
Other: Regina
Occupation: Consultant

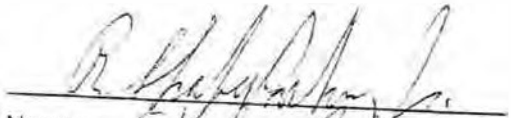
Jason Caldwell
Jason Caldwell (Jul 12, 2023 13:32 MDT)

Name: Jason Caldwell
City: Calgary, Alberta
Other: President, Ci2 Group Inc.
Occupation: Business Owner

Dennis Modry
Dennis Modry (Jul 14, 2023 16:59 MDT)

Name: Dennis L Modry, MD
City: Edmonton
Other: Alberta
Occupation: Cardiovascular & Thoracic Surgeon

Name: BONNIE DYCK
City: Calgary
Other:
Occupation: IT Professional



Name: Slater Parker Jr
City: Calgary
Other:
Occupation: Minister

Other Canadian Professionals and Citizens:

Percy Herring (Jul 8, 2023 13:34 MDT)

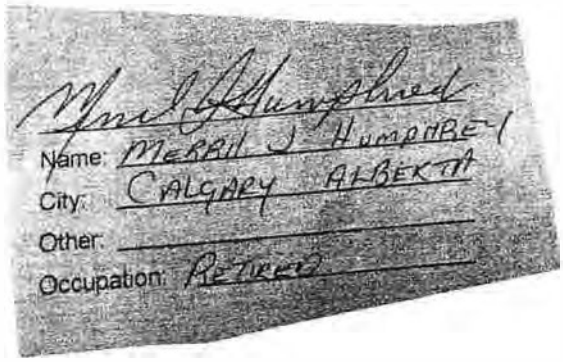
Name: Percy Herring
City: Calgary
Other: Alberta
Occupation: Petroleum Landman

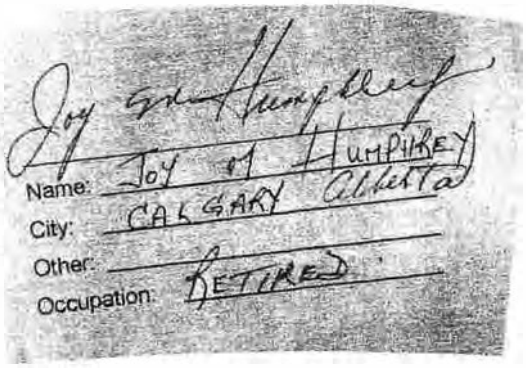
A. A. Gray
17 Harvest Oak Cove NE
Calgary, AB T3K 4S6

Name: Mary Keeble
City: Calgary
Other:
Occupation: Retired

S. Mark Francis
S MarkFrancis (Jul 14, 2023 14:51 MDT)

Name: S Mark Francis
City: Calgary
Other: citizen
Occupation: Finance Consultant





S Caldwell
Name: Shawna Caldwell
City: Calgary
Other: Small Business Owner
Occupation: Controller

Other Canadian Professionals and Citizens:

Dennis Modry

Dennis Modry (Jul 14, 2023 18:58 MDT)

Name: Dennis L Modry, MD
City: Edmonton
Other: Alberta
Occupation: Cardiovascular & Thoracic Surgeon

Name: Victor Martinez
City: Calgary
Other:
Occupation: Baker

Other Canadian Professionals and Citizens:

MREM

MREM (Jul 14, 2023 19:47 MDT)

Name: Monica Rose Evangeline
City: Calgary
Other: 13 years facing false accusation in Alberta Courts
Occupation: City of Calgary Parks and Recreation Volunteer

Name: Jeremy Graf
City: Didsbury
Other:
Occupation: Law Student

Name: Anneke Pingo
City: Cochrane, AB
Other:
Occupation: Assistant Litigation Director

This is Exhibit " BBBB " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December, 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

LAW SOCIETY of ALBERTA

[redacted]

July 27, 2023

Yue (Roger) Song
Song & Howard Law Office
[redacted]

Dear Mr. Song,

We acknowledge receipt of your letter dated July 17, 2023. Thank you for sharing your views in this way.

Kind regards,

Bill Hendsbee, KC
President
Law Society of Alberta

This is Exhibit " CCCC " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

ALBERTA
JUSTICE

Office of the Minister
MLA, Calgary-Cross

AR 57057

SEP 19 2023

Mr. Yue (Roger) Song
Song & Howard Law Office
[redacted]

Dear Mr. Song:

Thank you for your correspondence regarding amendments to the *Legal Profession Act* (LPA) and the Law Society of Alberta's (LSA) Continuing Professional Development (CPD) Program. As the Minister of Justice, I appreciate the opportunity to reply on behalf of the Government of Alberta and provide the following information.

While the LPA falls under the jurisdiction of the Ministry of Justice, the ministry does not oversee the day-to-day administration of the LSA. I fully support the primary objective of the LSA to regulate the legal profession in the public interest by promoting and enforcing a high standard of professional and ethical conduct by Alberta lawyers to protect the public from incompetence, unethical conduct, and financial fraud. The public interest, as it applies to the work of the LSA, is upheld and protected through several regulatory objectives. One objective is to create and promote required standards for the ethical and competent delivery of legal services and enforce compliance with those standards in a manner that is fair, transparent, efficient, proactive, proportionate, and principled. I think we can agree the foregoing objectives are laudable.

The Government of Alberta supports continued improvement in the regulation of the practice of law in Alberta and strives to balance the interests of the public with those of the profession. Your input is appreciated, and I have forwarded your comments to the appropriate officials to be retained for any future review of the LPA.

Thank you again for writing and for sharing your views on this matter.

Sincerely,

Honourable Mickey Amery, KC, ECA
Minister of Justice and Attorney General of Alberta

[redacted]

This is Exhibit " DDDD " referred to
in the Affidavit of

Yue Song

Sworn before me this 6 day

of December , 2023

A Commissioner for Oaths in and for Alberta

Glenn Blackett
Barrister & Solicitor

SHARE:

Join Our Email List

October 6, 2020

News

LAW SOCIETY of ALBERTA

President's Message: Introduction of Mandatory Indigenous Cultural Competency Training

In February, we suspended the mandatory Continuing Professional Development (CPD) filing requirement for the profession for the years 2020 and 2021. This will allow us to rebuild a competence model that aspires to empower and equip lawyers to provide the best legal services they can to all Albertans.

Our goal with rebuilding the CPD program is to establish a program that considers experience and existing education programs. A modern and dynamic competence framework will take time to build and that is why we have created this space to cultivate a new era of lawyer competency.

As a first step in this work, the Law Society of Alberta Board (also known as Benchers) approved the introduction of mandatory Indigenous Cultural Competency training for all active Alberta lawyers beginning in early 2021.

This decision was thoughtfully debated by the Benchers at the October Board meeting. As well, this decision to mandate training is integral to our commitment and obligation to respond to the 2015 Truth and Reconciliation Commission (TRC) Calls to Action. This decision is also consistent with our Strategic Plan for 2020-2024, where we have made Equity, Diversity, and Inclusion, along with Lawyer Competence, two of the four pillars.

Whether a lawyer's practice involves Indigenous clients or not, the Benchers believe all Alberta lawyers, as key contributors to the socio-economic fabric of society, and in particular, the justice system, have an obligation to share a baseline understanding of how Indigenous clients experience the law in our province and across Canada.

While in many contexts we do believe lawyers should exercise their own judgement when choosing training for their own professional development, there are some competencies where it is appropriate that the Law Society mandate training. Indigenous Cultural Competency is one of those unique areas where mandatory training is important.

Earlier this year, the Lawyer Competence Committee and the Indigenous Advisory Committee worked with Law Society staff to create a competence program for 2021 that focuses on Indigenous issues that meaningfully address our obligation arising from the TRC Calls to Action.

The approved mandatory Indigenous Cultural Competency training selected is called The Path. The Law Society is working with the developers of The Path program to create Alberta specific content, with the intention of offering an educational tool specifically for Alberta lawyers.

We recognize that the cost of professional development and time constraints can be a barrier for some, so the Law Society will cover the cost of this training for all active Alberta lawyers. Lawyers will have at least 18 months to complete the 6 hours of training. Additionally, lawyers can spread out the 6 hours as the training can be done in segments, allowing lawyers to set their own learning pace.

We know the profession will have many questions about this decision and about the training itself. We have created an FAQ to provide more information.

While the Law Society is considering some exemptions for lawyers who may meet specific criteria, those decisions are still being finalized. More detailed information about the program will be shared in the coming months.

We look forward to sharing more information about the implementation of this program in early 2021.

October 2020 Board Recap

Watch the latest edition of the Board Recap video as President Kent Teskey, QC and President-Elect, Darlene Scott, QC discuss:

- work underway on lawyer licensing and competence including discussion of the report *Lawyer Licensing and Competence in Alberta Analysis and Recommendations*,
- the introduction of mandatory Indigenous Cultural Competency training to Alberta lawyers,
- other equity, diversity and inclusion work including the "My Experience" project and,
- an update on the video conference hearings pilot project.

STAY CONNECTED