Middlesex Law Association Board of Trustees’ Position on Statement of Principles

In September, members of the Middlesex Law Association began voicing concerns to their Trustees regarding the Law Society of Upper Canada’s upcoming implementation of a Statement of Principles requirement for each licensee.

The Board of Trustees was asked to advance the position of its members to the Law Society in time for Convocation’s December 1 debate on the issue. Following a process of consultation and debate, the Board adopted a position, in a vote of ten for, one against, and four abstaining, supporting the principles of equality, diversity and inclusion in the Statement of Principles, but opposing its mandatory implementation by each licensee.

The Trustees did not reach this position lightly, and were alive to the complexity of the issue and the spectrum of opinion it has generated. We sought and received input from our members over several months. We spent time debating the issue at Board meetings and discussed the Board of Trustees’ role in representing its members in relation to the Law Society. The Trustees solicited and received written feedback. We held an open meeting on October 30th encouraging our membership to attend a viewing of a webcast offered by the Law Society regarding the Statement of Principles. The twenty-seven members who attended the meeting spent hours engaging in debate and engaging all viewpoints.

In the end, following a similar process of consultation and debate, a motion was carried by the Benchers of the Law Society on behalf of its members, to adopt the mandatory implementation of a Statement of Principles. That motion carried following a discussion in which the members of this Association took the opportunity to engage. The Trustees of this Association respect the Law Society’s decision and accept it as fair and fairly reached.

We urge any member of this Association who felt that their view was not represented by the position taken by the Board to contact the Board. We urge any member of this Association to submit your views to a Trustee, or put them in writing for publication in the newsletter. Your views will be acknowledged, respected, and brought to the attention of the Board for further discussion.

Should you have any questions about the nature of our process and the decision made, kindly contact Joyce Thomas, at 519-640-6370, or jthomas@lerners.ca. Ms. Thomas will field any inquiries on this issue on behalf of the Board of Trustees.

NOTE FROM THE SNAIL

Over the past year the Board of Trustees have made an effort to involve our membership in participating in our local newsletter. We encouraged members to promote their events, recognize someone in the legal community, discuss a legal issue, or put forward an idea.

The December 2017 issue received many such submissions, including reports on charitable activities, comments on law, personal opinions, and reports on CPD programs. However, the original draft of the newsletter did not provide a clear direction on length of submissions or a differentiation between news, legal opinions, MLA-produced content, and ‘letter to the editor’ type pieces from members.

Going forward, the newsletter will be adopting article sections and a policy of clarity and readability, and asking for submissions in the range of 200-500 words, with a maximum limit of 1000 words for news and opinions, and a limit of 2000 words for articles on law and legal issues. At the request of the contributor, any abridged version of an article can be published with a link to the full article to be obtained directly from the author.

The December 2017 issue of the Snail now reflects these policies, but the original draft of the edition can be found here.

We continue to encourage our membership to make use our publication to promote their events, recognize someone in the legal community, discuss a legal issue, or put forward an idea, and will continue taking steps to improving our newsletter.
Want to contribute to the next issue? The deadline is January 25, 2018

The Snail welcomes articles from MLA members, in Word format, along with photos, headshot and headline. For clarity and readability, we encourage submissions in the range of 200-500 words, with a maximum limit of 1000 words for news and opinions, and a limit of 2000 words for articles on law and legal issues. At the request of the contributor, any submissions shortened in this way can also be published with a link to the full article to be obtained directly from the author.

Potential topics for submissions include, but are not limited to:
- News, the promotion of an upcoming event, a review of a past event
- Recognition of someone in the legal community
- Discussion of a legal issue & case reviews
- Practice tips
- Opinion and letters to the editor

Send your submissions to:
Maciek Piekosz
Siskinds LLP
680 Waterloo St.,
London, ON N6A 3V8
t. 519-660-7718 f. 519-660-7719
maciek@siskinds.com

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London Criminal Lawyers Guilty of Generosity, Agree to $1,500 Sponsorship of Court House Rocks

London’s Criminal Lawyer Association is the first sponsor to commit this year to Court House Rocks, the annual fund-raising event in support of London Lawyers Feed the Hungry. At a meeting on November 21, the London Criminal Lawyers agreed to contribute $1,500 to Court House Rocks, putting it into the Gold sponsorship level, and challenged London Law firms to meet or exceed that amount.

Sponsorships and ticket sales from Court House Rocks will support 15 different community agencies in 2018, including Aids Connection, Ark Aid, Boys and Girls Club, Community Living London, Glen Cairn Community Centre, Hunger Relief Action Coalition, London Community Chaplaincy, London Family Court Clinic, London Lawyers Meal Program, My Sister’s Place, Neighbourhood Resource Association Westminster Park, South London Resource Centre, St. Joseph’s Hospitality Centre, Unity Project, and Youth Opportunities Unlimited.

Court House Rocks is the primary fundraising event for London Lawyers Feed the Hungry. Since 2003, Court House Rocks has helped to raise over $500,000 dollars to support London Lawyers Feed the Hungry and has provided funding for community organizations that provide healthy meal and food programs to those most in need in our city.

If you or your law firm are interested in sponsoring Court House Rocks 2018 and supporting London Lawyers Feed the Hungry, please contact David Kirwin, Corporate Donations Director and Fund-Raising co-ordinator at dkirwin@lawhouse.ca.

Court House Rocks ’18 GREATEST HITS

Top secret meetings are currently underway to determine the date and location of Court House Rocks 2018. This year’s theme is GREATEST HITS. In Kirwin vs Zegers, the Supreme Court of Canada ruled that Court House Rocks themes are to be given a “purposive and liberal interpretation”, and that Court House Rocks themes are subject to section 2 of the Canadian Charter of Rights and Freedoms, which recognizes freedom of expression as a fundamental freedom.

If you are interested in participating in Court House Rocks this year, please contact James Zegers or David Kirwin.
London Lawyers Feed the Hungry
Allocations Reduced

On November 9, 2017, members of the London Lawyers Feed the Hungry committee met to approve the allocation of funds raised by Court House Rocks to local community organizations.

This year the committee was only able to allocate 55% of what was allocated last year, a direct result of decreased income from Court House Rocks in 2017. Last year London Lawyers Feed the Hungry allocated $30,950 to 19 community organizations. This year, $17,180 will be allocated to 15 community organizations.


In 2016, Court Rocks raised $17,130.89 for London Lawyers Feed the Hungry. In 2017, Court House Rocks raised $12,167.60, a decrease of almost 30%.

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If you want to sponsor Court House Rocks 2018 and support London Lawyers Feed the Hungry, contact David Kirwin, Corporate Donations Director and Fund-Raising Co-ordinator at dkirwin@lawhouse.ca

<table>
<thead>
<tr>
<th>Allocation</th>
<th>2016</th>
<th>2017 Request</th>
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<td>Ark Aid</td>
<td>1100</td>
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<tr>
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<td>1100</td>
<td>1320</td>
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<td>240</td>
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<tr>
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<td>2000</td>
<td>1080</td>
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<tr>
<td>Hunger Relief Action Coalition</td>
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<td>4500</td>
<td>3720</td>
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<td>Unity Project</td>
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<td>Youth Opportunities Unlimited</td>
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<td><strong>TOTAL</strong></td>
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<td><strong>$29250</strong></td>
<td><strong>$17180</strong></td>
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</tbody>
</table>
McCarter Grespan is the leading business law boutique firm in the Region of Waterloo. Our Firm has achieved ongoing success by focusing on building a team of experienced corporate, real estate and condominium legal specialists who are dedicated to meeting and exceeding the increasingly complex needs and expectations of our clients.

To support our continued growth, we require a process-oriented and strategic-minded individual to join our management team in the role of Manager, Practice Group Support.

Our objective is to have the successful candidate become integral to the efficient operation of the Firm through two-way communication with Firm leaders relating to personnel resource utilization and capacity. This includes a role assisting with legal staff development as well as recruitment and hiring. The position will also involve managing non-personnel resources critical to the ability of the Firm to service clients efficiently and effectively.

Other key responsibilities will include:

- Associate and clerk workflow management
- Talent development and performance management
- Project management and implementation/oversight of legal resources
- Organization and maintenance of legal precedents

The ideal candidate will have 7+ years of experience working in a legal environment with either a J.D. /LLB with public practice experience or a minimum of 5+ years in a management / administrative leadership position in a Firm practicing corporate and/or real estate law. Experience with Human Resource management (including mentoring/training junior lawyers) and process improvement and implementation, while not a prerequisite, would be considered a significant asset.

The Firm’s culture is supportive of a collaborative team environment and is offering a competitive compensation package to the successful candidate.

If you believe you have the skillset and experience to succeed in this role, please submit a cover letter supporting your qualifications along with your resume and your compensation expectations to:

John Weir
Managing Director
searchcommittee@mgbwlaw.com
London Lawyers Feed the Hungry Meal

Contributed by: Marshall Mayne, Carlyle Peterson Lawyers LLP

On the fourth Sunday of every month from September to April, an eager team of over twenty local lawyers, their children, articling students, and local legal students from Western and Fanshawe prepare and serve a delicious meal of chicken, rice, vegetables, garden salad, and homemade cookies to the less fortunate in our community.

The oatmeal raisin and chocolate chip cookies that are baked onsite by volunteers are consistently rated as a highlight by our guests. At the latest meal on October 22, our volunteers served over 90 guests! The cooking and baking of the meal is supervised by head chef extraordinaire Paul Shand of McCall Dawson Osterberg Handler LLP.

The London Lawyers Feed the Hungry meal is generously supported through the fundraising efforts of the London legal community at Courthouse Rocks every year. If anyone wants to see the results of Courthouse Rocks in action, we are always on the lookout for aspiring chefs!

The next meal that will be held at St. Paul’s Cathedral at 472 Richmond Street on Sunday December 10, 2017. If you are interested in volunteering, further information will be coming in the weekly MLA update later shortly or email llfth2016@gmail.com for more information.
Library News
Contributed by: Gail Brown, Cynthia Simpson
library@middlaw.on.ca

Donations
Every time we open another no-charge invoice for Stephen N. Adams’ Annotated Ontario Business Corporations Act, we are reminded again to acknowledge the author’s generosity to the MLA Library. Stephen Adams has been providing the looseleaf updates to this popular three-volume set since its inception, and has saved the library thousands of dollars over the years. In these times of smaller budgets and increasing prices, this assistance is greatly appreciated.

COLAL Report
Gail and Cynthia attended the annual fall Conference of Ontario Law Associations Libraries at the end of October, and enjoyed meeting with our colleagues in the other county and district law association libraries across the province. The conference was organized largely by the executive members of our own Ontario Courthouse Libraries Association (OCLA) with support from staff at the LSUC.

Sessions included training on the “new” Quicklaw Advance, and a presentation on Steps to Justice with Fara Wali, Legal Content Developer and Project Manager with CLEO. Steps To Justice provides a website that addresses common legal problems of low- and moderate-income Ontarians, gives step-by-step details, integrates referral information and offers daily live chat. Law Associations are invited to imbed it on our own websites. We can also request free book marks and posters, which may be useful for giving to members of the public who come to our library.

There was also an update on the proposed Library and Information Resources Network (LIRN) with Jaye Hooper, Chair of the Federation of Ontario Law Associations (FOLA). Jaye described the history and background of LIRN, from its start to the most recent developments in September. Cheryl Siran, FOLA representative on the LibraryCo Board and past FOLA Chair 2015, and Michael Ras, Executive Director of FOLA, were also available to answer questions. Plans are developing very slowly at this point and we don’t expect to see any changes in the near future.

We also took advantage of the opportunity to tour the Toronto Law Association Library, and the Great Library at Osgoode Hall for a review of their services, management procedures and collections. Staff at the TLA demonstrated some of their software systems, and participants on the Great Library tour were able to meet the GL reference staff and view all areas of the collection. This was helpful to staff in the counties, as many of us rely on the Great Library for interlibrary loans or document delivery for items not held in our own libraries.

Well done, Middlesex Law Association!
We always knew that our membership numbers were good, but hadn’t realized just how good they were in relation to other associations. According to the 2016 statistics provided at the recent FOLA plenary, the MLA has an 84% participation rate among LSUC members eligible to belong. We are in the sweet spot as far as size of city, size of law firms and proximity to the courthouse, and out of town visitors often mention the collegiality of London lawyers. It’s probably only fair to mention that Huron County comes in at 88% with 50 out of a possible 57 members, but we think that 916 out of a possible 1,096 is still pretty good.

It’s the Most Wonderful Time of the Year!
Yes, it’s December which means it’s almost time for the Social Event of the Season, otherwise known as the MLA Library Christmas Party! This annual event featuring coffee and goodies homemade by Gail, Cynthia and Evelyn, will be all day on Thursday, December 21st and we invite all of you to stop in, enjoy some goodies and share in the spirit of the season.

New Books
Archibald & Echlin. Annual review of civil litigation 2017, Thomson Reuters
Bloom, Hy. Mental disorder and the law: a primer for legal and mental health professionals --2nd ed., Irwin Law
Hamilton Law Association. Emerging issues in real estate seminar 2017
Hamilton Law Association. Corporate commercial law seminar 2017
LSUC. Practice gems: administration of estates 2017
LSUC. Annotated partnership agreement 2017
LSUC. Practice gems: Probate essentials 2017
LSUC. Commercial real estate transactions 2017
LSUC. Advanced issues in domestic contracts in family law 2017
LSUC. Civil litigation practice basics 2017
LSUC. Twelve-minute civil litigator 2017
LSUC. Six-minute environmental lawyer 2017
LSUC. 20th annual estates and trusts summit 2017--day 1 and 2
LSUC. 18th annual employment law summit 2017
McLeod & Mamo. Annual review of family law 2016-2017, Carswell
Munoz, Alejandro. 2018 annotated Ontario Education Act, Thomson Reuters
Payne, Julien. Canadian family law -7th ed., Irwin Law
Perrin, Benjamin. Victim law: the law of victims of crime in Canada. Thomson Reuters
Witkin, Jill and Daniel Brown. Prosecuting and defending sexual offences cases: a practitioner's handbook, Emond
Wolfson, Lorne H. Settling family law cases: practical techniques for advocates and neutrals, Thomson Reuters
Young, David C., ed. Education law in Canada: a guide for teachers and administrators, Irwin Law

Missing Books

MacDonald, James. 2015 annotated Divorce Act.
n/a. The Annotated 2015 Tremeear's Criminal Code.
Rintoul, Margaret. Practitioner's guide to estate practice in Ontario -4th ed.
Steinberg, David, ed. Ontario family law practice 2015, vol. 1
Munoz, Alejandro. 2018 annotated Ontario Education Act, Thomson Reuters
Payne, Julien. Canadian family law -7th ed., Irwin Law

Will Notice

RICHARD JOHN LESLIE MUNN

67 Adelaide Street South, London, ON

Anyone having knowledge of the whereabouts of a Last Will and Testament or other testamentary documentation for Richard John Leslie Munn, who died August 13, 2017, is asked to contact:
Daniel J. McNamara, solicitor for Tereza Elliott
t. 519.434.2174
djmcnamara@execulink.com

YOUR TRUSTED MIDDLESEX COUNTY NEWS SOURCE ON ALL TOPICS LEGAL
Report on Past CPD Programs

Contributed by: Paula Puddy, MLA CPD Director

The Real Estate Luncheon

Seventy-five (a record) lawyers and clerks attended the annual Real Estate luncheon on November 1, 2017 at the London Club. Thank-you to Matthew Wilson and Sandra Van Ymeren for supporting this event and introducing the key note luncheon speaker. A big thank-you to Jeffrey Lem, Director of Titles, and Wanda Griffin, Assistant Director, for their candid comments. Thanks to Jennifer Connell and Angie from Teraview for their demonstration of the new site. It is now official! Middlesex will be in the first phase of the roll-out! Good luck!

The Middlesex Law Association was pleased to make a donation on behalf of the presenters and co-chairs to London Lawyers Feed the Hungry.

Thank-you to Title PLUS and First Canadian Title for sponsoring our real estate program this year.

The Seventh Annual Practice Management Seminar

Twenty-five lawyers attended the Seventh Annual practice management seminar on November 22, 2017. We were pleased to welcome Michael Lerner of Lerners LLP for a bencher update, Wendy Thompson of RightBrain Teams for an interesting presentation on Courageous Conversations and Stephen Ahad from the LSUC regarding the Coaching and Advisory Network.

We are pleased to make donations on behalf of our speakers to London Lawyers Feed the Hungry.

Shout-Out to CPD Online and SAVE MONEY!

Just a reminder about our partnership with CPD Online. CPD Online will be videotaping a number of our MLA programs this fall and into the future and those videos will be available for purchase on their website. Of course, my preference is that you attend our MLA CPD programs in person! However, if you cannot attend, please consider viewing the videos at www.CPDonline.ca.

The MLA receives 10% of every purchase made by our MLA members. We also share in the revenue generated from any of the MLA programs that are videotaped and posted.

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- Consumer Proposals
- Debt Restructuring
- Credit & Debt Counselling
- Bankruptcy Services

bmclennan@MandC.ca
CPD Hours for 2017 MLA CPD Programs

as of December 2017

Please note that any 'excess' Professionalism hours will be used to cover any outstanding Substantive hours as part of the CPD Requirement. Excess Substantive Hours will NOT cover any missing Professionalism Hours.

Mock Trial Exercises with PWC LLP – February 1, 2017 and February 9, 2017
This program contains 1 hour and 30 minutes Professionalism hours and is eligible for up to 4 hours and 30 minutes of Substantive Hours.
Activity type: CPD Program or Course
Area of Law: Civil litigation
Program Name: Mock Trial Exercises with PwC LLP
Provider: Middlesex Law Association
Location: London, ON
Start date: February 1, 2017
End date: February 9, 2017

The Sixth Annual Practice Management Seminar – February 22, 2017
This program contains 2.0 Professionalism hours (repeat program).
Activity Type: CPD Program or Course
Area of Law: Ethics, professional responsibility, and/or practice management
Program Name: The 6th Annual Practice Management Seminar
Provider: The Middlesex Law Association
Location: London, ON
Date: February 22, 2017

The 12th Annual Straight from the Bench conference – June 8, 2017
This program contains 3 hours and 15 minutes of Professionalism Hours and is eligible for up to 3 hours and 30 minutes of Substantive Hours.
Activity type: CPD Program or Course
Area of Law: Civil litigation
Program Name: The Twelfth Annual Straight from the Bench Conference
Provider: Middlesex Law Association
Location: London, ON
Start date: June 8, 2017
End date: June 8, 2017

This program has also been approved for a LawPRo credit.

The Third Annual Provincial Offences seminar - August 23, 2017
This program is eligible for up to 1.0 Substantive hours.
Activity Type: CPD Program or Course
Area of Law: Ontario Court of Justice - Provincial Offences Act
Program Name: The 3rd Annual Provincial Offences Seminar
Provider: The Middlesex Law Association
Location: London, ON
Date: August 23, 2017

The 10th Annual Mentoring Dinner – March 9, 2017
This program contains 45 minutes of professionalism hours and is eligible for up to 2.0 Substantive hours.
Activity type: CPD Program or Course
Area of Law: Civil Litigation
Program Name: The 10th Annual Mentoring Dinner
Provider: Middlesex Law Association
Location: London, ON
Date: March 9, 2017

The 10th Annual Small Claims Court Seminar – August 24, 2017
This program contains 0.5 Professional Hours and is eligible for up to 1.5 Substantive hours.
Activity Type: CPD Program or Course
Area of Law: Small Claims court
Program Name: The 10th Annual Small Claims Court Seminar
Provider: The Middlesex Law Association
Location: London, ON
Date: August 24, 2017

YOUR TRUSTED MIDDLESEX COUNTY NEWS SOURCE ON ALL TOPICS LEGAL  DECEMBER 2017
CPD Hours for 2017 MLA CPD Programs

as of December 2017

Please note that any 'excess' Professionalism hours will be used to cover any outstanding Substantive hours as part of the CPD Requirement. Excess Substantive Hours will NOT cover any missing Professionalism Hours.

The 13th Annual Business Breakfast – September 26, 2017
This program is eligible for up to 1.5 substantive hours.
Activity Type: CPD Program or Course
Area of Law: Corporate/commercial
Program Name: The 13th Annual Business Breakfast
Provider: The Middlesex Law Association
Location: London, ON
Date: September 26, 2017

The Twelfth Annual Wills, Estates & Trusts conference - October 12, 2017
This program contains 0.5 professionalism hours and is eligible for up to 2.5 substantive hours.
Activity Type: CPD Program or Course
Area of Law: Wills, Estates Law
Program Name: The Twelfth Annual Wills, Estates & Trusts Conference
Provider: The Middlesex Law Association
Location: London, ON
Date: October 12, 2017

The 8th Annual Real Estate Luncheon – November 1, 2017
This program contains 0.5 professionalism hours and is eligible for up to 1.25 substantive hours.
Activity Type: CPD Program or Course
Area of Law: Real Estate Law
Program Name: Real Estate Luncheon
Provider: The Middlesex Law Association
Location: London, ON
Date: November 1, 2017

The Seventh Annual Practice Management Seminar –November 22, 2017
This program contains 2.5 Professionalism hours.
Activity Type: CPD Program or Course
Area of Law: Ethics, Professional responsibility, Practice Management
Program Name: The 7th Annual Practice Management seminar
Provider: The Middlesex Law Association
Location: London, ON
Date: November 22, 2017

This program has also been approved for a LawPRo credit.

The Eleventh Annual Personal Injury Conference – November 30, 2017
This program contains 1.25 Professionalism Hours and is eligible for up to 5.0 substantive hours.
Activity Type CPD Program or Course
Area of Law: Litigation
Program Name: The Eleventh Annual Personal Injury Conference
Provider: The Middlesex Law Association
Location: London, ON
Date: November 30, 2017

This program has also been approved for a LawPRo credit.

This organization has been approved as an Accredited Provider of Professionalism Content by The Law Society of Upper Canada.
The Eleventh Annual Personal Injury Conference was held on November 30, 2017 with 95 lawyers and sponsors in attendance!

Thanks to Shauna Powell of Lerners LLP and Danielle Douek of Legate & Associates LLP for co-chairing this program.

Thank you to the following presenters at the conference:

- The Honourable Madam Justice Leitch
- Vicki Edgar of Cohen Highley LLP
- Barb Legate of Legate & Associates LLP
- Chris Beckett of Beckett Personal Injury Lawyers LLP
- Bob Ledgley of Lerners LLP stepping in for Doug Wallace of Wallace Smith LLP (he did ok Doug!)
- Erin Rankin Nash of McKenzie Lake Lawyers LLP
- Jim Virtue of Siskinds LLP and Jim Brown of Dyer Brown LLP
- The dynamic duo (or odd couple) of Brian Foster of Foster, Townsend LLP and Nigel Gilby of Lerners LLP
- David Williams of Harrison Pensa LLP
- Joni Dobson of Legate & Associates LLP
- Andrew Murray and Peter Kryworuk of Lerners LLP

Thanks to Danielle for moderating the panel discussion on efficiencies at trial thanks to Shauna for (refereeing) moderating the panel on experts.

We are pleased to make a donation to London Lawyers Feed the Hungry on behalf of the chairs and all of the speakers.


This seminar has also been approved for a LawPro credit.
Thank you to all of our 2017 CPD Volunteers!

Through its volunteers, the Middlesex Law Association delivered countless hours of continuing legal education and professional development programs to over 500 participants throughout 2017.

These programs included the following annual MLA seminars and conferences: Mock Trial Exercises with PwC LLP, the Mentoring Dinner, Straight from the Bench, the Business Breakfast, the Small Claims Court Update, the Provincial Offences seminar, the Real Estate Luncheon, the Wills, Estates & Trusts conference, the Personal Injury conference, and the Practice Management seminars.

Thank-you to our regular CPD partners for delivering the following programs in London: the Advocates’ Society’s Court House Series and the OBA’s I Have My Law Degree, Now What? (formerly known as Excelling at Articles) and the MFLA’s annual Family Law Conference.

Our success is a direct result of the generosity and enthusiasm of our volunteer members. We thank you, all of our volunteers, for your commitment to the practise of law and for sharing your skills and knowledge with the London and Southwestern Ontario bar.

In appreciation of our volunteers, we have donated over $3,000 on their behalf to London Lawyers Feed the Hungry this year.

A special thank-you to the Middlesex Law Association’s librarians, Gail Brown and Cynthia Simpson, for all of their “behind the scenes” assistance with the CPD programs – we wouldn’t have such a great program without their help!

Thank you to the 2016 and 2017 CPD committees consisting of Lakin Afolabi, Christina Martin and Laura Camarra for their input and support. Thanks to all of the MLA Trustees for their hard work and dedication to our association and its members.

Another thank-you goes to all of our participants (in Middlesex and the other counties) who attend our live programs! We appreciate your local support!

Thank-you to all of our volunteers including the presenters at the Criminal Law Association too! Feel free to forward your names to me for inclusion in this thank-you in future newsletters. My apologies to anyone we inadvertently missed from our 2017 volunteer list.

Lakin Afolabi
The Honourable
Mr. Justice LeSage
Stephan Ahad
Craig Lukassen
Leanne Andree
Dan MacDonald
Dan Ashbourn
The Honourable
Mr. Justice J. MacPherson
Sandra Barton
Christina Martin
Chris Beckett
Ron Martindale
Tony Bedard
Joe Masterson
Kathryn Bennett
Jill McCartney
Malcolm Bennett
Daniel McNamara
Heather Bracken
David Miller
Paul Brooks
Louise Mimmagh
Jim Brown
Jennifer Mitchell
Jennifer Butkus
The Honourable
Mr. Justice Victor Mitrow
Adrien Cameron
Andrew Murray
Andrew Camman
David Nash
Laura Camarra
Justyna Pawlowska
Lindsay Campbell
The Honourable
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Consumer proposals as an alternative to assignments in bankruptcy have gained popularity in recent years. I recently looked into the issue of consumer proposals and their effect on the limitation period for claims for an equalization of property in family law proceedings. This applies to married spouses, not cohabitees, as only married spouses have statutory property rights. When a husband or wife who is separated files a consumer proposal, the other spouse should be listed as a contingent creditor and notified by mail. You can obtain an Affidavit of Sending from the Trustee in Bankruptcy to prove this. I will refer to the spouses as the Proposal Spouse and the Creditor Spouse.

At this point, family law representation for the Creditor Spouse is imperative before the consumer proposal is accepted by creditors and deemed to be Court approved. This timeline moves very quickly, as a proposal filed in November can be accepted by creditors in December and deemed to be Court approved in January. The lawyer must first determine whether the Creditor Spouse is entitled to an equalization payment. If so, the next step is to determine whether or not there any valuable assets that are exempt from the proposal, such as a pension or LIRA.

Normally a spouse has six years from separation or two years from divorce (whichever comes first) to apply for equalization of net family property. If a claim hasn’t been made and a consumer proposal is filed, this affects the timeline dramatically. The Creditor Spouse must file a proof of claim and take the action outlined below before the consumer proposal is accepted and approved.

As Robert Klotz writes in Insolvency & Family Law (2nd ed. Carswell):

The BIA specifies that when a bankruptcy proposal is accepted and approved, all provable debts are released as in the case of a bankruptcy discharge, save for any monies accruing under the proposal. Approval of the proposal acts, in effect as a discharge. Unless some appropriate dispensation is granted by the bankruptcy court before the proposal is approved, this may have the effect of irretievably prejudicing the equalization claim against the pension. This, then, is another possible limitation period.

The correct action for the Creditor Spouse to take prior to approval of the proposal is to apply for leave of the Bankruptcy Court to lift the stay to pursue an equalization claim against the exempt assets. If he or she does not do so, the limitation period created when the proposal is approved will be missed.

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Greetings to the local members of the Law Society of Ontario.

Effective January 1, 2018 the Law Society of Upper Canada will be known as the Law Society of Ontario. The name that has served the profession well for 220 years has been changed but not without opposition. The name change was justified on the basis of members of the public not being able to relate to the existing "anachronistic" name and to create greater awareness in the community. There were a number of other somewhat frivolous justifications shared by benchers who supported the new name. Call me a traditionalist if you wish, but I thought that the old name ought to have been retained. The history of the profession under the Law Society of Upper Canada is notable and respected as well as being historical. While Upper Canada no longer exists it formed an important part of our history. The name is unique in Canada and distinguished us from the other law societies in the other nine provinces. I don’t know about you but any disgruntled client who has wanted to complain about me over the past 45 years has had no difficulty finding the Law Society. What names could be more confusing than the College of Teachers or the College of Physicians and Surgeons? Are these community colleges or accredited universities? If you are looking for an appellation that arguably could be controversial maybe the national police force ought to be called the Canadian Mounted Police. In any event, you will have no difficulty determining where I stood on this issue.

More importantly, given the Law Society was proposing a change in name, the consultation process was flawed. I could accept a name change had the process been transparent. On the last day of June, the Law Society publicized that it was considering a name change and asked for submissions up until the end of the first week in September. We all know governments rarely schedule elections during the months of July and August because most people’s interest is otherwise occupied. I can’t help but think that some thought was given that the calling for submissions over the summer months would attract minimal responses. Most members would be preoccupied with vacation time and enjoying the good weather. Then when the Law Society finally asked the membership for its preference as to a new name, they neglected to include, as an option, the retention of the existing name. In Convocation, I commented that while I had a preference for the old name being retained I would accept a new name provided that the consultation was transparent and that we had been accountable to the profession. It is for that reason that I opposed the motion.

If that issue were not contentious enough, we are now faced with the requirement that all lawyers in the province commit to the promotion of equality and diversity by signing a Statement of Principles. I believe those principles are adequately covered in the Ontario Human Rights Code, Canadian Human Rights Code and the Charter of Rights and Freedoms. I would have supported the recommendation had the membership been “encouraged” or that it be “recommended”. Those who have proposed the mandatory requirement are inflexible. Notwithstanding, I have supported a motion to Convocation to rescind that provision. I received comments from practitioners around the province. Most of those comments support the position I have adopted. The motion will be heard at Convocation on December 1. Remember, the public sessions of Convocation are webcast on the Law Society website. If you have any interest in this issue, you might want to tune in.

Not surprisingly, the Law Society has been served with an application asking the Superior Court to stay the implementation of the recommendation. The last thing that the Law Society can justify at this time is involvement in another protracted and expensive legal dispute. First there was TWU, followed by Sukonick and most recently Groia. In my view, the membership’s money can be better spent than having to defend a questionable mandatory requirement particularly when the issue can be resolved so easily with a simple compromise. Currently, I believe that the motion to amend the recommendation does not have the requisite support. I am hoping that between now and December 1st more of my colleagues will join me on this issue. I suggest that if you feel strongly enough, you write to the Treasurer and the other benchers.

The Law Society’s budget and the budget of a number of associated organizations were also approved at Convocation in October. There will be a fee increase of $267 to the annual fee that lawyers pay to the Law Society commencing 2018. There has been a corresponding but a lesser increase in the annual fee that paralegals pay. The fee increase is necessary to raise the compensation fund balance to a minimum threshold as well as to support a
communication plan. Some of the increase will be directed to an increase in staff salaries. The fund balance is currently $9M while the balance consistent with the funding policy should be $13M. Funds will now have to be allocated to adopt the new name of the Law Society. The budget of library was approved. Each of the county and district law associations will receive an increase of 2% in the annual grant to maintain a local library. The local library receives an annual grant of approximately $375,000 from the Law Society. There are still discussions considering a more dramatic change to the nature of local libraries but nothing has come forward for discussion.

As a member of the Fee Arrangement and Advertising Working Group, a subcommittee of the Professional Regulation Committee, I continue to be involved in ground level discussions as to the manner in which the profession ought to deal with contingency fees. Since September, there have been no less than 17 meetings in which this topic has been the only item on the agenda. The Law Society will release on Friday, November 10th its response to the contingency fee issue. The matter will be put to Convocation in December for decision. At the same time, the government has expressed a desire to get involved in the issue. On the one hand recognizing and respecting that the Law Society self-regulates the profession, the government now seems intent to intrude in the contingency fee issue. I would not be at all surprised to learn that by the time you read this report the government has already announced its proposal. My suspicion is that the government will want contingency fees to be capped which in the end will result in reduced access to justice. Hopefully, the government’s proposal will die on the order table or alternatively will not be on the agenda of any newly elected government.

The real estate bar is cautioned to be aware of SMI’s, or syndicated mortgage investments. An SMI is a complex mortgage where more than one person or group of people pool their own funds to invest in a real estate development. An SMI is a mortgage where more than one person lends money to a third person. SMI’s are typically promoted and marketed by borrowers who cannot raise funds from conventional lenders. Notice has been given to caution all practicing real estate lawyers because individuals have experienced significant financial losses by investing in SMI’s. Lawyers are often asked to get involved by promoters of such investments to try to “legitimize” the transaction. Practitioners ought to be aware that the “I didn’t know” or “How come you didn’t tell me” defences we often hear in mortgage fraud discipline cases will not fly. Lawyers should be vigilant that they meet all their professional obligations under the Rules of Professional Conduct.

I am somewhat frustrated with the number of people that have approached me to express a view on one of the many contentious issues who did not take the time or make the effort to let their views be known during the consultation process. In most cases it is too late to express support or opposition to something that has been approved in Convocation. The appropriate time to be heard is during the consultation process. While the Law Society often hears from FOLA, the Advocates’ Society and OTLA, it rarely receives submissions from individual members or from law firms, regardless of size. It is too late to vote after the ballots have been counted. Similarly, it is too late to get involved in the process after the decision has been made.

The winter session of Convocation is likely to be as controversial as the one about to conclude. Convocation is awaiting a report from the Professional Development and Competency Committee relating to licensing and competency. No doubt that issue will attract passionate discussion. Very few members of the local association attended the two information sessions last spring. At best, there were 15 members at each session. Unfortunately, the Law Society has not received what I would believe to be an appropriate response from the profession with regard to proposed dramatic changes that will significantly impact on the practice of law in years to come.

For those who might be interested, way back in May I picked the Astros to win the World Series. Unfortunately, at Convocation I am batting 0 for 2 on the two most recent controversial issues. While I am not prepared to pick the Stanley Cup winner this soon, I can assure you it will not be the Toronto Maple Leafs.

I extend my best wishes to all members of the Middlesex Law Association as the holiday season approaches. May you and your family enjoy good health, prosperity and success in the year to come.
It is rare to have the opportunity to contribute to the development of the common law using human rights principles.

Araya v Nevsun Resources Ltd., a case that I, colleagues at Camp Fiorante Matthews Mogerman LLP (CFM) and Toronto lawyer James Yap prosecute, is the rare opportunity to do so in the context of allegedly barbarous acts that, if proven, would be contrary to norms standing at the apex of our system of internationally-protected fundamental human rights. So far, the case has survived aggressive attack by the defendant, Nevsun Resources Ltd. ("Nevsun"). To borrow the words of a colleague and mentor, the case as framed is "a triumph of boldness and a sense of justice over timidity and the instinct to hold on to old doctrine, no matter how unjust."

In November 2014, three Eritrean refugees commenced a representative action in British Columbia against Nevsun. The plaintiffs allege that they were forced to labour in the development of a gold mine in Eritrea known as the Bisha mine ("Bisha"). Nevsun, a Canadian public company incorporated in British Columbia, indirectly holds a controlling interest of the mine. The gravamen of the plaintiffs’ claim against Nevsun is in forced labour and slavery. The plaintiffs allege their labour was provided to Nevsun and its operating subsidiary through two Eritrean companies related to Eritrea’s ruling party and its military. The plaintiffs allege those companies are slavers who rely on a supply of labour extorted under threat of torture, arbitrary detention, imprisonment in inhumane conditions and reprisals against family members. The action seeks to hold Nevsun accountable for its alleged role. A role, the plaintiffs plead, was conducted in Canada.

The plaintiffs assert rights of action against Nevsun in traditional common law torts (conversion, battery, unlawful confinement, negligence, conspiracy and intentional infliction of mental distress). They ground their claim in negligence on an allegation that Nevsun chose to enter into a commercial venture with the state of Eritrea, where there was a well-documented high risk of violations of human rights. They also claim that Nevsun has civil liability for complicity in forced labour, slavery, torture, cruel, inhuman or degrading treatment and crimes against humanity, all breaches of jus cogens norms of customary international law. Jus cogens norms are higher-order international law principles that have acquired the status of fundamental standards of the international community. No derogation is permitted. The plaintiffs argue, in this case, where there is no conflicting legislation, it is appropriate to recognize a new nominate tort for the alleged breaches because the amalgam of existing nominate torts does not fully capture the nature of the conduct at issue. In this respect, they rely on the principle that the common law must be incrementally adapted to reflect the expectations of the international community and the contemporary values of society.
Second, the plaintiffs advance a direct liability claim against Nevsun (a parent company) in negligence for conduct at the operations of its foreign subsidiary. The claim is based on, among other things, Nevsun's alleged control of certain policies and operations at Bisha and control over the actions of the operating subsidiary. No Canadian court has yet fully considered such a claim. In contrast, appellate courts in the UK and other Commonwealth jurisdictions have found that a duty may be owed by a parent company to a third party directly affected by the operations of a subsidiary, in certain circumstances; and, where those circumstances exist, it neither offends nor disregards the principle of separate corporate personality established by Salomon v A. Salomon & Co. Ltd to find the parent company liable.

The decision appealed: Araya v Nevsun Resources Ltd., 2016 BCSC 1865

In 2016, the BC Supreme Court heard several preliminary applications to have the plaintiffs' claims dismissed, stayed or struck. Amongst other things, Nevsun's alleged control of certain policies and operations at Bisha and control over the actions of the operating subsidiary. No Canadian court has yet fully considered such a claim. In contrast, appellate courts in the UK and other Commonwealth jurisdictions have found that a duty may be owed by a parent company to a third party directly affected by the operations of a subsidiary, in certain circumstances; and, where those circumstances exist, it neither offends nor disregards the principle of separate corporate personality established by Salomon v A. Salomon & Co. Ltd to find the parent company liable.

The appeal sought to set aside Abrioux J.'s orders. The issues engaged on the appeal were substantially the same as those addressed at first instance; namely, whether Eritrea is the more appropriate forum for the plaintiffs' claims, and the scope and application of the act of state doctrine and customary international law to the plaintiffs' claims against Nevsun.

On November 21, 2017, Newbury J. (Willcock and Dickson JJ. concurring) dismissed the appeal, concluding that the chambers judge had not erred in dismissing the three applications.

On the question of whether Eritrea was clearly the more appropriate forum, Newbury J. found no error. She reviewed the evidence on Eritrea's judicial system. This included the plaintiffs' evidence of former Eritrean judges describing executive interference in judicial function, the kidnapping and disappearances of judges, incommunicado detention of judges, expulsion from the judiciary for seeking to enforce the rule of law, the effective abandonment of the rule of law and the descent of the nation into authoritarianism. The Court agreed with the dire assessment of the court below, noting that the chambers judge "was faced with a stark choice: the expense, inconvenience and practical difficulties of mounting a trial in British Columbia concerning conduct in a faraway and inaccessible country, as against the prospects of no trial at all, or a trial in an Eritrean court, possibly presided over by a functionary with no real independence from the state (which is implicated in the case) and in a legal system that would appear to be actuated largely by the wishes of the President and
his military supporters (also implicated). Underlying all of these was the fact that grave abuses of human rights are alleged..."\(^{14}\)

In discussing the evidence considered in determining the proper forum, the Court found that the type of "social" evidence contained in various secondary reports relied upon by the plaintiffs could only be adduced by reports of this kind (for example, the Report of the United Nations Commission of Inquiry on Human Rights in Eritrea). Rejecting Nevsun’s argument that various governmental and quasi-governmental reports submitted by the plaintiffs were inadmissible, Newbury J. observed that Canadian courts have recently shown a willingness to decide admissibility on the basis of principle rather than hard and fast rules, leaving it to trial judges to assess the weight to be given.\(^{11}\) The Court further reasoned that the secondary evidence admitted had not been used to determine substantive issues at trial, but rather had been used on an interlocutory motion.\(^{11}\)

On the question of whether the act of state doctrine was engaged on the facts, the Court found that it was not applicable. Newbury J. acknowledged that the chambers judge had erred in applying the "plain and obvious" test to the question of whether the act of state doctrine applied. The Court found that the chambers judge ought to have asked whether the doctrine applied, as opposed to whether it might apply.\(^{11}\) The Court undertook its own analysis of the applicability of the act of state doctrine, finding that whichever formulation of the doctrine the Court chose, the doctrine would not apply because the plaintiffs sought to challenge neither the laws nor the effect of any act of a foreign state.\(^{15}\)

The Court further found that in the event the act of state doctrine were engaged in this case, the "public policy" exception and "Kirkpatrick limitation" to the doctrine would apply. According to the Court, the public policy exception precludes the application of the act of state doctrine where a state’s actions cannot be justified by legislation or official policy. In contemplating the public policy exception, Newbury J. reasoned that due to the grave nature of the wrongs alleged in this case, a state could not rely on the act of state doctrine to claim immunity from the consequences of violating peremptory norms of customary international law.\(^{14}\) Similarly, the Court reasoned that the "Kirkpatrick limitation"-which provides that where the effect of official action by a foreign sovereign is not at issue, the act of state doctrine does not apply-"would equally apply in this case because the plaintiffs were not attempting to undo or disregard any act of government. Rather, as the Court noted, the plaintiffs were merely trying to obtain damages from a private party who they allege were complicit in those acts.\(^{17}\)

As to the plaintiffs’ customary international law claims, the Court distinguished the plaintiffs’ case from other Canadian cases that had declined to recognize private causes of action for breaches of peremptory international norms, as those cases involved claims against foreign states. Newbury J. found that unlike Kazemi Estate v. Islamic Republic of Iran and other cases in which Canadian courts had denied such a cause of action, the plaintiffs in this case had not brought any claims against the state of Eritrea itself.\(^{18}\) The Court rejected the proposition that the plaintiffs’ claims were bound to fail, finding instead that in light of recent changes in transnational law with respect to human rights, the plaintiffs’ novel argument may form the basis of an incremental change in the common law.\(^{15}\) Newbury J. noted that "international law is ‘in flux’ and that transnational law, which regulates ‘actions or events that transcend national frontiers’ is developing, especially in connection with human rights violations that are not effectively addressed by traditional ‘international mechanisms’.”\(^{15}\)

Newbury J. also acknowledged other jurisdictions’ willingness to hold corporate actors accountable for violations of jus cogens and observed that, over time, the doctrine of act of state has been limited by public policy considerations said to form part of domestic law.\(^{11}\)

The Court’s decision is precedent setting in two key respects. It is the first Canadian appellate decision to rule on the act of state doctrine, holding it does not apply to the plaintiffs’ case. It is also the first time an appellate court in Canada has considered the question of whether a breach of peremptory norms of customary international law can give rise to a private right of action for damages. Separately, it is also an important decision in that it can be seen as part of a trend in which Canadian courts are retaining jurisdiction to determine important questions about the alleged conduct of Canadian companies abroad. Historically, cases involving overseas conduct were dismissed at a preliminary stage on the basis that it was more appropriate to determine the issues in the foreign courts.\(^{11}\)

Siskinds LLP’s humanitarian practice group, together with Vancouver law firm Camp Fiorante Matthews Mogerman LLP (CFM) and Toronto lawyer James Yap, are counsel to the plaintiffs.
Nick Baker, Siskinds LLP, Associate and co-counsel to the plaintiffs; with great thanks to Chantal deSereville, Student-at-Law, for her assistance in writing this.

Stephen Keim SC, “What Does a Human Rights Lawyer Do?” (July 31, 2013). I am grateful for Stephen’s inspiration and tireless publications. His words were used to describe the landmark decision of the High Court of Australia in Mabo v Queensland (No. 2), (1992) 175 CLR 1.

Canadian courts have declined to recognize private causes of action for breaches of peremptory norms of customary international law. However, those cases involved claims against foreign states. See, for example: Kazemi Estate v. Islamic Republic of Iran, 2014 SCC 62.


Araya v Nevsun Resources Ltd., 2016 BCSC 1856, at paras 283-284.

Id. at paras 375, 382.

Id. at para 484.

Araya v Nevsun Resources Ltd., 2017 BCCA 401.

Id. at para 118.

Id. at para 99.

Id. at para 100.

Id. at para 129.

Id. at paras 166-168.

Id. at para 169.

Id. at paras 170-173.

Id. at para 188.

Id. at paras 196-197.

Id. at para 197.

Id.

See, for example: Anvil Mining Ltd. c. Association canadienne contre l’impunité, 2012 QCCA 117, aff’d, 2012 CanLII 66221 (SCC).

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Response to the Law Society’s “Strategies to Address Issues of Systemic Racism in the Legal Professions”

Contributed by: Donald W. Kilpatrick

November 14, 2017

It is an extraordinary claim to allege that racism is “systemic” in the legal professions in Ontario. It is also an insult. An extraordinary claim requires an extraordinary amount of evidence. The Law Society provided no such evidence.

In Appendix A at the end of the Final Report appears the following:

“Similarly, 43% of racialized licensees identified ethnic/racial identity as a barrier/challenge to advancement....”

One could say, therefore, that, “Conversely, 57% of racialized licensees did not identify ethnic/racial identity as a barrier/challenge to advancement.” How can the Law Society justify vilifying most of the 58,000 lawyers and paralegals in Ontario by labelling them as racist. Anyone who has practised law in Ontario will have encountered most, if not all, of the following: difficult files, angry and hostile clients, rude and belligerent counsel, ill-tempered judges, etc. All of us must deal with these difficult situations, it is part of the job. It is a mistake to assume that these experiences are the reactions of others to one’s race, culture or ethnic origin.

The online survey of the profession was sent out in November 2013 and the Stratcom Report states as follows:

“Whereas interviews and focus groups are not expected to represent the whole population, but rather to provide qualitative insight into the concepts, narratives, ideas and experiences of the study population, the quantitative survey [was] intended to generate insights applicable to all licensees as a community and as a collection of subgroups.” [emphasis added]

Only 5.68% of licensees completed the survey. How could it possibly “generate insights applicable to all licensees as a community and as a collection of subgroups”? Have a look at these figures yourself on the Law Society website. I am not making them up.

The Law Society’s Discrimination and Harassment Counsel Program (DHC) figures show that only 16% of complaints were based on race but the Ontario Human Rights Tribunal figure three or four times higher. The Law Society concluded that “The lower proportion of race-based complaints to the DHC Program warrants a review of the DHC Program to identify possible barriers to accessing that program, more particularly by members of the racialized, indigenous and disability communities.” Is it remotely possible that the significantly lower DHC figures could be evidence that racism is not systemic in the professions?

The Recommendations of the Working Group include recommendation 3 (1), which reads as follows:

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

I am a pro-choice atheist and in favour of gay marriage but some lawyers I know are opposed to all three of these beliefs. It is not illegal in Canada to believe in God, nor should religion be the source of mockery as our new Governor General would seem to think. When the Law Society tells us “to promote equality, diversity and inclusion generally,” the corollary is that we should do nothing to refuse, delay or deny the expansion of those three concepts. The Law Society told us in November not to worry because “promote” does not mean “promote” but Recommendation 3 (1) has not been changed.

What is the basis for believing that the legal professions in Ontario should reflect the diversity of the population? Are racism and discrimination the only reasons that the legal profession does not reflect the diversity of the population? Are we even allowed to ask that question? Have a look at the recommendations for law firms. Is there any doubt about where this initiative going?

The spectre of “white privilege” was referred to by one of the persons consulted by the Working Group. Get serious. Anyone who is licensed to practice law in Ontario, is privileged, racialized or not. The real inequality and exclusion is
The wealthier one’s family is, the further one will likely go in school. The current range of annual tuition costs in Ontario law schools is from $16,863.70 to $33,104.86. That is just the tuition. We should do away with tuition.

Here is what Martin Luther King, Jr. had to say in 1963,

“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.”

That should be our goal as a profession and a society. Here is my response to diversity. “You’re black. I’m white. So what? Who cares about skin colour”.

The Law Society has not shown that racism is systemic in the legal professions in Ontario but don’t take it from me, read the Report and supporting documents.

*Author’s note - The above are excerpts of my full letter to the Middlesex Law Association and the Law Society of Upper Canada. For the complete copy of my letter kindly contact me directly at dkptrck@hotmail.com*

*Snail note - The full version of this letter appeared in the first draft of the December and January edition of this newsletter. The first draft of the newsletter can be viewed here.*

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OPINION AND LETTERS TO THE EDITOR

Publication of an article does not equal the endorsement of the Middlesex Law Association.

EDI Initiative of the Law Society of Ontario

Contributed by:

Michael A. Menear, Menear Worrad & Associates

Equity and Diversity Initiative
The Law Society of Upper Canada/
The Law Society of Ontario
130 Queen Street West
Toronto, Ontario, M5H 2N6

Dear Sirs/Mesdames:

RE: EDI Initiative of the Law Society of Ontario

Of all tyrannies, a tyranny sincerely exercised for the good of its members may be the most oppressive. To be cured against one's will and cured of 'states' [biases, prejudices] which we may not regard as disease is to be put on a level of those who have not yet reached the age of reason, or those who never will.

C.S. Lewis, God in the Dock: Essays on Theology (abridged)

I do not agree with, nor can I support, the EDI (Equality, Diversity, and Inclusion) Initiative of the Law Society of Ontario (LSO). Let me explain my reasons.

First, by this Initiative, the LSO requires me to become part of a "Culture Shift": "All lawyers and paralegals play a vital role in accelerating Culture Shift (Statement of Principles on EDI)."

I never became a lawyer to be part of a "Culture Shift." I became a lawyer to practice law using my knowledge and skills to meet the legal needs of clients. I resent being made part of such an Initiative that will be defined, monitored, and enforced by the Society.

What is this "Culture Shift?" It appears to be part of a "progressive agenda," but the agenda itself, its nature and content, is hidden. The very motivating cause and dynamic for this Initiative remains undisclosed. Surely, the Law Society has a duty to explain the ideology, the entire social philosophy, of which the proposed principles of the EDI Initiative are a part.

As a citizen, I understand I have a duty to abide by the laws of our land, which require me to refrain from discrimination and to comply with Human Rights legislation. The EDI Initiative goes far beyond these legal duties by requiring me to "get on board" with the Society's social agenda and to actively promote principles mandated by it. I am not being asked and encouraged to volunteer. I am being conscripted.

This brings me to my second point: The EDI Initiative is coercive. To practice law in Ontario, I am required to be a member of the LSO. There is no choice. This puts a heavy responsibility on the Society to be very careful what further "coercive measures" it requires of its members.

Lawyers are not teachers, social workers, or government agents (which appear to be the groups the LSO looked to in its studies). Accordingly, the Law Society should not cast itself into a mould resembling a Teachers' Federation, Government Watchdog, or a type of Union. Lawyers have a tradition of independence that bristles at authoritarian measures, and this new Initiative of the LSO is certainly that. Apart from being wrong, history teaches that coercion does not bring about real change. It produces behavioural conformity, but does not change the individual. A lawyer who signs onto the prescribed Statement of Principles (in order to practice law and to retain professional privileges) is fundamentally the same person (with the same outlook, values, and biases) after signing it. Education and persuasion are the proper prescriptions for human improvement, not mandated behaviour and group-think.

Lastly, the stated purpose of the Statement of Principles is the promotion of EDI, but there are indications in the printed materials that the real purpose of the Statement is much more than, and substantially different from, its stated purpose. The Law Society is being less than candid with its members as to what this Initiative is really all about. What do I mean? If you read the "Principles" in Template 1 suggested for adoption, it requires "an acknowledgment of my obligation to promote EDI generally, and in my behaviour towards colleagues, employees, clients, and the public." Apart from very vague definitions of Equality (in the Schedule of Definitions) and in the Royal Bank of Canada definitions of Inclusivity and Diversity in the materials provided, these vital concepts are not clear. What is clear is that the meanings of these concepts will undergo continuing revision and explanation by the Society in the future. Also, the materials are largely silent on how the Law Society expects
its members to promote these Principles. Do you not think it is incumbent on the Society to tell us these things before requiring us to “sign on?” I submit that what the LSO is putting forward is a Trojan horse: forced conformity to very general but vague and ill-defined concepts is required today, leaving it to later pronouncements to reveal what this is really all about.

Can a member see what this is leading to? There are glimpses in the materials. In Template 2, the “Principles” suggested for adoption include this:

“[That a member] cooperate and engage in any efforts of the Law Society...to advance EDI in the legal profession and in the broader community.”

Do you not see how inappropriate it is to ask members to give the Society such loyalty and obeisance?

In conclusion, this Initiative by the LSO is profoundly disturbing. Fundamentally, it lacks the transparency and integrity one would expect of one’s governing body. It has certainly awoken the spirit of vigilance in me. In my view, it requires all lawyers of conscience to oppose this initiative in order to maintain and protect the cherished independence and liberties lawyers have inherited and to which they have been entrusted.

Yours Very Truly,
MENEAR WORRAD & ASSOCIATES
Member Updates

These updates are to the new 2017-2018 Members’ Directory, sponsored this year by Davis Martindale, and featuring a white cover with blue and grey logo. If you are still using the one with the orange and white cover, you need to pick up your new copies from the MLA Practice Resource Centre.

Sandra Drozd has left Lerners and is now practicing with the Life London Life Insurance, Legal Dept. sandra.drozd@londonlife.com

Genevieve Samuels has opened her own practice at 305 Oxford St. E. London, N6A 1V3
t: 519.672.1075, f: 519.672.1292 genevievesamuels@gmail.com

Cassandra DeMelo has moved to 239 Colborne St. London, N6B 2S4. All else remains the same.

Foster Family Law has moved to 239 Colborne St. London, N6B 2S4. All else remains the same.

Barry Cleaver is now practicing with Miller Thomson.
t: 519.931.3570 bcleaver@millerthomson.com

Curtis Cleaver is now practicing with Miller Thomson.
t: 519.931.3571 ccleaver@millerthomson.com

Trevor Pellerine is now practicing with the Public Prosecution Service of Canada.
t: 519.645.7917 t: trevor.pellerine@ppsc-sppc.gc.ca

Karen Simpson is a new member at Lerners. ksimpson@lerners.ca

Vivian Lui is now Vivian Iron.
vivian.iron@siskinds.com
All else remains the same.

Heather Barnes is now Heather Bracken.
All else remains the same.

George Hamzo is now practicing with Foster Townsend.
georgeh@fostertownsend.com

Patty Malone is now the Director, Legal Services, London Police Service.
pmalone@police.london.ca

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E: Riyad.Bacchus@sykes.com

Questions & Comments?
If you have any issues or concerns regarding the Middlesex court facilities, operations, judiciary, etc., let them be known!

Send all concerns to Robert Ledgley, the current MLA Bench & Bar representative.

Robert Ledgley
519-640-6351
rledgley@lerners.ca
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