

**THE LAW SOCIETY OF UPPER CANADA**

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON MAY 22, 2014

MOVED BY:

SECONDED BY:

THAT Convocation approve the consent agenda set out at Tab 1 of the Convocation Materials.

D R A F T

MINUTES OF CONVOCATION

Thursday, 24<sup>th</sup> April, 2014  
9:00 a.m.

PRESENT:

The Treasurer (Thomas G. Conway), Anand, Armstrong (by telephone), Backhouse, Banack (by telephone), Boyd, Braithwaite, Bredt, Burd, Callaghan, Campion, Corsetti, Dickson, Doyle, Earnshaw, Epstein, Eustace, Evans, Falconer, Ferrier, Festeryga, Furlong (by telephone), Go, Goldblatt, Haigh, Hare, Hartman, Horvat, Hunter (by telephone), Krishna, Lawrie, Leiper, Lerner (by telephone), Lippa, MacKenzie, MacLean, Manes (by telephone), McDowell, McGrath, Mercer, Minor, Murchie, Murray, Pawlitza, Porter, Potter (by telephone), Pustina, Rabinovitch, Richardson (by telephone), Richer, Ross, Rothstein, Sandler, Scarfone (by telephone), Schabas, Sheff, Sikand, Silverstein, C. Strosberg, H. Strosberg (by telephone), Sullivan, Swaye, Symes, Wardle, Wright (by telephone) and Yachetti (by telephone).

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Secretary: James Varro

The Reporter was sworn.

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IN PUBLIC

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TREASURER'S REMARKS

The Treasurer welcomed Peter Festeryga, elected on April 10, 2014 as a bencher, to his first Convocation.

The Treasurer paid tribute to former ex-officio bencher The Honourable James M. Flaherty, P.C., MP who passed away on April 10, 2014 and extended condolences to his wife, Christine Elliott, MPP and sons.

The Treasurer expressed condolences to the family of former MP and Deputy Prime Minister of Canada, The Right Honourable Herb Gray, P.C., C.C., Q.C., who passed away on April 21, 2014.

The Treasurer informed Convocation that the Law Society together with LawPRO met with the Ontario Bar Association and the County and District Law Presidents' Association which together agreed to form the Real Estate Liaison Group, on which bencher Ross Earnshaw will serve and on which bencher Alan Silverstein will participate.

The Treasurer advised that the newly appointed Attorney General, The Honourable Madeleine Meilleur, MPP will be a lunch guest today.

TRINITY WESTERN UNIVERSITY ACCREDITATION

The Treasurer introduced the matter of the Trinity Western University accreditation.

The Secretary read the question for Convocation's decision:

Given that the Federation Approval Committee has provided preliminary approval to the Trinity Western University Law program in accordance with processes Convocation approved in 2010 respecting the national requirement and in 2011 respecting the approval of the law school academic requirements, should the Law Society of Upper Canada now accredit Trinity Western University pursuant to Section 7 of By-Law 4?

Mr. Bob Kuhn, J.D., President and Vice Chancellor of Trinity Western University addressed Convocation with reply submissions.

Convocation deliberated on the matter.

Convocation, upon voting on the question, answered "no" to the question.

ROLL-CALL VOTE

Anand	No	Leiper	No
Backhouse	No	Lerner	No
Boyd	No	Lippa	No
Braithwaite	No	MacKenzie	No
Bredt	Yes	MacLean	Yes
Burd	Yes	McDowell	Yes
Callaghan	Yes	McGrath	Yes
Campion	No	Mercer	No
Corsetti	Yes	Minor	No
Dickson	No	Murchie	Yes
Doyle	Yes	Porter	Yes
Earnshaw	No	Potter	No
Eustace	Yes	Pustina	Yes
Evans	Yes	Rabinovitch	No
Ferrier	No	Richardson	No
Festeryga	Yes	Richer	No
Go	No	Rothstein	No
Goldblatt	No	Scarfone	Abstain
Haigh	Yes	Schabas	No
Hare	No	Sheff	Yes
Hartman	Yes	Silverstein	Yes
Horvat	No	C. Strosberg	No
Hunter	Yes	Sullivan	Yes
Krishna	Yes	Symes	No
Lawrie	No	Wardle	No

Vote: 21 Yes; 28 No; 1 Abstention

MOTION – CONSENT AGENDA

It was moved by Mr. Silverstein, seconded by Mr. Eustace, that Convocation approve the consent agenda set out under Tab 8 of the Convocation Materials.

Carried

DRAFT MINUTES OF CONVOCATION – Tab 8.1

The draft minutes of Convocation of February 27, 2014, and Special Convocations of March 4, 2014 and April 10, 2014 were confirmed.

MOTION – APPOINTMENTS – Tab 8.2

THAT Cathy Corsetti be appointed to the Appeal Division of the Law Society Tribunal for a two year term.

THAT W. Paul Dray, a licensee, be appointed to the Appeal Division of the Law Society Tribunal for a two year term.

THAT Robert Burd, John E. Callaghan and Cathy Corsetti be appointed to the Hearing Division of the Law Society Tribunal for a two year term.

THAT W. Paul Dray, a licensee, be appointed to the Hearing Division of the Law Society Tribunal for a two year term.

THAT Cathy Corsetti be appointed to the committee of benchers established under section 37 of By-Law 7 [Business Entities].

THAT Brian Lawrie be appointed to the Alternative Business Structures Working Group.

THAT Cathy Corsetti be appointed to the Audit & Finance Committee.

THAT Michelle Haigh be appointed to the Mentoring and Advisory Services Proposal Task Force.

THAT Kenneth Mitchell be removed from the Professional Regulation Committee.

Carried

REPORT OF THE DIRECTOR OF PROFESSIONAL DEVELOPMENT AND COMPETENCE – Tab 8.3

THAT the Report of the Director of Professional Development and Competence listing the names of the call to the bar candidates be adopted.

Carried

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IN CAMERA MATERIAL*

.....  
IN PUBLIC  
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SECRETARY'S REPORT TO CONVOCATION – Tab 8.5

Re: Effective Date of Paralegal Rule of Conduct Amendments

THAT Convocation make October 1, 2014 the effective date for the amendments to the Paralegal Rules of Conduct approved by Convocation on February 27, 2014.

Carried

TREASURER'S REPORT TO CONVOCATION – Tab 8.6

Re: LawPRO Annual Meeting

THAT Convocation authorize the Treasurer to sign the proxy in favour of the proposed shareholder resolutions set out at Tab 8.6.1 of the Report.

Carried

Re: LibraryCo Inc. Annual Meeting

THAT Convocation authorize the Treasurer to sign the proxy in favour of the proposed shareholder resolutions set out at Tab 8.6.6 of the Report.

Carried

AUDIT & FINANCE COMMITTEE REPORT

Mr. Bredt presented the Report.

Re: Law Society of Upper Canada Draft Audited Financial Statements for the Year Ended December 31, 2013

It was moved by Mr. Bredt, seconded by Ms. Leiper, that Convocation approve the audited Annual Financial Statements for the Law Society for the financial year ended December 31, 2013, including the transfers to and from the restricted funds which are listed in Note 15 of the Notes to the Annual Financial Statements.

Carried

Re: Law Society Auditor

It was moved by Mr. Bredt, seconded by Ms. Leiper, that Convocation appoint Deloitte LLP as the Law Society of Upper Canada and LibraryCo Inc. auditor for the 2014 financial year.

Carried

Re: LAWPRO Annual Report 2013

Ms. McGrath presented the Report for information.

*For Information*

- In Camera Item
- LAWPRO Annual Financial Statements for the Year Ended December 31, 2013
- LibraryCo Inc. Annual Financial Statements for the Year Ended December 31, 2013
- Investment Compliance Reporting for the Year Ended December 31, 2013
- Other Committee Work
- LawPRO Annual Report 2013

EQUITY AND ABORIGINAL ISSUES COMMITTEE/COMITÉ SUR L'ÉQUITÉ ET LES  
AFFAIRES AUTOCHTONES REPORT

Mr. Schabas presented the Report.

Re: Human Rights Monitoring Group Requests for Intervention

It was moved by Mr. Schabas, seconded by Mr. Anand, that Convocation approve the letters and public statements in the cases set out at paragraph 3 subparagraphs a) through e) of the Report.

Carried

ACCESS TO JUSTICE COMMITTEE REPORT

Ms. Boyd presented the Report for information.

*REPORTS FOR INFORMATION*

ACCESS TO JUSTICE COMMITTEE REPORT

- Report on Next Steps for Development and Implementation of the Law Society's Access to Justice Strategy

PARALEGAL STANDING COMMITTEE REPORT

- Election of Paralegal Standing Committee Chair



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CONVOCATION ROSE AT 5:35 P.M.

**THE LAW SOCIETY OF UPPER CANADA**

MOTION TO BE MOVED AT CONVOCATION ON MAY 22, 2014

MOVED BY:

SECONDED BY:

THAT Robert P. Armstrong and Lee K. Ferrier be appointed to the Appeal and Hearing Divisions of the Law Society Tribunal for a term ending May 28, 2015.

THAT Marian Lippa be appointed to the Hearing Division of the Law Society Tribunal for a term of two years.

THAT the term of appointment of John E. Callaghan to the Hearing Division of the Law Society Tribunal made by Convocation on April 24, 2014 for two years be amended to a term ending on May 28, 2015.

**THE LAW SOCIETY OF UPPER CANADA**

MOTION TO BE MOVED AT CONVOCATION ON MAY 22, 2014

MOVED BY:

SECONDED BY:

THAT the Law Society Distinguished Paralegal Award be renamed the William J. Simpson Distinguished Paralegal Award, in honour of Mr. Simpson's outstanding contribution to the implementation of paralegal regulation by the Law Society of Upper Canada.

To the Benchers of the Law Society of Upper Canada Assembled in Convocation

The Director of Professional Development and Competence reports as follows:

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CALL TO THE BAR AND CERTIFICATE OF FITNESS

Licensing Process and Transfer from another Province – By-Law 4

Attached is a list of candidates who have successfully completed the Licensing Process and have met the requirements in accordance with section 9.

All candidates now apply to be called to the bar and to be granted a Certificate of Fitness on Thursday, May 22<sup>nd</sup>, 2014

ALL OF WHICH is respectfully submitted

DATED this 22<sup>nd</sup> day of May, 2014

**CANDIDATES FOR CALL TO THE BAR**  
**May 22<sup>nd</sup>, 2014**

**Transfer from another province (Mobility)**

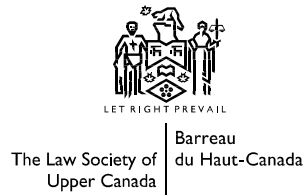
Ethan David James Sinclair  
Alexander-Vincent Toolsie

**Transfer from another province (Quebec)**

Randi Lauren Korzinstone  
Daniel Philip Bornstein

**Licensing Process**

**L3**



**TAB 1.5**

**Report to Convocation  
May 22, 2014**

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**Tribunal Committee**

**Committee Members**

**Raj Anand (Chair)**  
**Adriana Doyle (Vice-Chair)**  
**Larry Banack**  
**Jack Braithwaite**  
**Christopher Brecht**  
**Lee Ferrier**  
**Alan Gold**  
**Howard Goldblatt**  
**Jennifer Halajian**  
**Linda Rothstein**  
**Virginia MacLean**  
**Dow Marmur**  
**Mark Sandler**  
**James Scarfone**

**Purposes of Report: Decision**

**Prepared by the Policy Secretariat  
(Sophia Sperdakos 416-947-5209)**

**COMMITTEE PROCESS**

1. The Committee met on May 8, 2014. Committee members Raj Anand (Chair), Jack Braithwaite, Lee Ferrier, Howard Goldblatt, Dow Marmor, and Linda Rothstein attended. Staff members Grace Knakowski, Lisa Mallia and Sophia Sperdakos and Tribunals Chair David Wright also attended.



**DECISION**

**HOUSEKEEPING AMENDMENTS TO IMPLEMENT TRIBUNAL-RELATED PROVISIONS OF THE *MODERNIZING REGULATION OF THE LEGAL PROFESSION ACT, 2013 (BILL 111)***

**Motion**

2. **That Convocation approve housekeeping amendments to the Hearing Division Rules of Practice and Procedure and Forms and the Appeal Division Rules and Forms, as set out in the Motion at [TAB 1.5.1](#).**

**Background**

3. On December 12, 2013 Bill 111, *Modernizing Regulation of the Legal Profession Act, 2013*, received Royal Assent. A number of provisions in the Bill address the Tribunal Committee's Hearings Process Report ("2012 Report") recommendations that Convocation approved in June 2012.
4. In February 2014 Convocation approved housekeeping amendments to By-Law 3, the Rules of Practice and Procedure, Forms and Tariff, the Appeal Rules and Forms, the Adjudicator Code of Conduct and the Practice Direction on Adjournments.
5. Additional minor housekeeping amendments to the Hearing Division Rules of Practice and Procedure and Forms and the Appeal Division Rules and Forms are necessary to,
  - a. properly reflect the name of the Tribunal; and
  - b. correct incorrect section numbering and other minor inaccuracies.
6. The blackline-version of the Rules and Forms setting out the proposed housekeeping amendments is set out at [TAB 1.5.2: Black-lined HD and AD Amendments](#).

TAB 1.5.1

THE LAW SOCIETY OF UPPER CANADA  
**LAW SOCIETY TRIBUNAL  
RULES OF PRACTICE AND PROCEDURE**

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON MAY 22, 2014

MOVED BY

SECONDED BY

THAT the Law Society Tribunal Hearing Division Rules of Practice and Procedure, made by Convocation on February 26, 2009 and amended by Convocation on June 25, 2009, June 29, 2010, January 27, 2011, April 28, 2011, February 28, 2013, April 25, 2013, and March 12, 2014, be further amended as follows:

- 1. Subrule 17.01 of the English version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out “the offices of” where it appears in each subsection (1) – (5).**
  
- 2. Subrule 17.01 of the French version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out “dans les bureaux” where it appears in each subsection (1) – (5).**
  
- 3. Subrule 17.01 of the English version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out “Society” and substituting “Law Society Tribunal” where it appears in each subsection (1) – (5).**
  
- 4. Subrule 17.01 of the French version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out “Barreau” and substituting “Tribunal de Barreau” where it appears in each subsection (1) – (5).**
  
- 5. Subrule 22.06(5) of the English version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out “(5)” in the subrule number and substituting “(4)”.**

6. **Subrule 22.06(5) of the English version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out the reference to “subrule (4)” within the subrule and substituting “subrule (3)”.**
7. **Subrule 22.06(4) of the French version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out the reference to “paragraphe (4)” within the subrule and substituting “paragraphe (3)”.**
8. **Subrule 23.05 of the English version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out “.05” and substituting “.04”.**
9. **Subrule 23.05 of the French version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out “.05” and substituting “.04”.**
10. **Subrule 23.06 of the English version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out “.06” and substituting “.05”.**
11. **Subrule 23.06 of the French version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out “.06” and substituting “.05”.**
12. **Form 26A of the English version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out the words “AND APPLICATION” in the second paragraph of the preamble.**
13. **Form 26A of the French version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out the words “ET LA REQUÊTE” in the second paragraph of the preamble.**
14. **Form 26B of the English version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out the words “AND APPLICATION” in the second paragraph of the preamble.**
15. **Form 26B of the French version of the Law Society Tribunal Hearing Division Rules of Practice and Procedure is amended by striking out the words “ET LA REQUÊTE” in the second paragraph of the preamble.**

THAT the Law Society Tribunal Appeal Division Rules of Practice and Procedure, made by Convocation on February 23, 2012 and amended by Convocation on March 12, 2014, be further amended as follows:

- 1. Subrule 6.4(5) of the English version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure is amended by striking out “5.1” and “5.3” and substituting “6.1” and “6.3”.**
  
- 2. Subrule 6.4(5) of the French version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure is amended by striking out “5.1” and “5.3” and substituting “6.1” and “6.3”.**
  
- 3. The forms in the English version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure are amended by adding “in appeal” following “respondent” in the address portion of the forms.**
  
- 4. The forms in the French version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure are amended by adding “en appel” following “l’intimé” in the address portion of the forms.**
  
- 5. Form 5A in the English version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure is amended by adding “IN APPEAL” following “RESPONDENT”.**
  
- 6. Form 5A in the French version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure is amended by adding “EN APPEL” following “L’INTIMÉ”.**
  
- 5. Form 5B in the English version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure is amended by adding “in appeal” following “respondent”.**
  
- 6. Form 5B in the French version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure is amended by adding “en appel” following “l’intimé”.**
  
- 7. Form 10A in the English version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure is amended by adding “in appeal” following “respondent”.**

**8. Form 10A in the French version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure is amended by adding “en appel” following “l’intimé”.**

**9. Form 10B in the English version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure is amended by adding “in appeal” following “respondent”.**

**10. Form 10B in the French version of the Law Society Tribunal Appeal Division Rules of Practice and Procedure is amended by adding “en appel” following “l’intimé”.**

## RULE 17

### LOCATION OF HEARING

#### Location of Hearings

17.01 (1) Subject to subrules (2) and (3), every hearing shall be held at the offices of the Law Society Tribunal in Toronto.

(2) Where all parties consent to a hearing being held at a place other than the offices of the Law Society Tribunal in Toronto, the hearing shall be held at that place.

(3) On the motion of a party, an order may be made that a hearing be held at a place other than the offices of the Law Society Tribunal in Toronto.

(4) In deciding whether to order that a hearing be held at a place other than the offices of the Law Society Tribunal in Toronto, a panel may consider,

- (a) the convenience of the parties;
- (b) the cost, efficiency and timeliness of the proceeding in which the hearing is being held;
- (c) the avoidance of delay or unnecessary length;
- (d) the fairness of the process;
- (e) public accessibility to the hearing;
- (f) the fulfilment of the Society's statutory mandate; and
- (g) any other matter relevant in order to secure the just and expeditious determination of the subject matter of the hearing or of the proceeding in which the hearing is being held.

(5) An order that a hearing be held at a place other than the offices of the Law Society Tribunal in Toronto shall be made only after consultation with the Tribunal Office.

## **RULE 22**

### **PRE-HEARING CONFERENCES**

#### **Purpose of pre-hearing conference**

**22.01 (1) The purpose of a pre-hearing conference is to facilitate the just and most expeditious disposition of a proceeding.**

**(2) Without limiting the generality of subrule (1), in a pre-hearing conference, the panelist or other person conducting the pre-hearing conference may discuss with the parties,**

- (a) the identification, limitation or simplification of the issues in the proceeding;**
- (b) the identification and limitation of evidence and witnesses;**
- (c) the possibility of settlement of any or all of the issues in the proceeding;**
- (d) the possibility of the parties entering into an agreed statement of facts with respect to all or part of the facts in issue in the proceeding; and**
- (e) directions to be given to the parties with respect to the conduct of the proceeding or a motion in the proceeding.**

#### **Pre-hearing conference to be conducted**

**22.02 A pre-hearing conference shall be conducted in a proceeding where,**

- (a) one party to the proceeding estimates that the hearing on the merits of the proceeding will be longer than two days;**
- (b) a panelist or panel directs the parties to a proceeding to attend at a pre-hearing conference; or**
- (c) the parties agree to attend at a pre-hearing conference.**

#### **Who presides at pre-hearing conference**

**22.03 A pre-hearing conference shall be conducted by a panelist or another person assigned by the Chair or Vice-Chair.**

#### **Timing of pre-hearing conferences**

**22.04 All pre-hearing conferences in a proceeding shall be conducted prior to the completion of the hearing on the merits of the proceeding and, unless otherwise directed , shall be conducted prior to the commencement of the hearing on the merits of the proceeding.**

**Method of conducting pre-hearing conference**

22.05 (1) Subject to subrule (2), a pre-hearing conference shall be conducted in person.

**Pre-hearing conference by telephone conference**

- (2) A pre-hearing conference may be conducted by telephone conference,
- (a) if the parties consent; or
  - (b) the panelist or other person conducting the pre-hearing conference permits it.

**Scheduling of pre-hearing conference: by panelist**

22.06 (1) A pre-hearing conference may be scheduled by a panelist or by the Tribunal Office,

**Endorsement**

(2) An endorsement of every scheduled pre-hearing conference shall be made on the originating process by the panelist, if the pre-hearing conference is scheduled by a panelist, or by the Tribunal Office, if the pre-hearing is scheduled by the Tribunal Office.

**Notice of pre-hearing conference**

(3) The Tribunal shall send to all parties a notice of the date and time of every pre-hearing conference in the proceeding, including the name of the panelist or other person conducting the pre-hearing conference.

**Notice not required**

- (4) Subrule (34) does not apply if,
- (a) a panel directs the parties to a proceeding to attend at a pre-hearing conference,
  - (b) a member of the panel that gave the direction will conduct the pre-hearing conference, and
  - (c) the pre-hearing conference will be conducted immediately after the direction has been given.

**Preparation for pre-hearing conference**

22.07 (1) The Law Society shall prepare a pre-hearing conference memorandum and provide a copy of the memorandum to the other parties and to the panelist or other person conducting the pre-hearing conference at least seven days before the pre-hearing



conference.

**Non-application of subrule (1)**

(2) Subrule (1) does not apply if,

- (a) a panel directs the parties to a proceeding to attend at a pre-hearing conference,
- (b) a member of the panel that gave the direction will conduct the pre-hearing conference, and
- (c) the pre-hearing conference will be conducted immediately after the direction has been given.

**Attendance at pre-hearing conference**

22.08 Unless otherwise directed by the panelist or other person conducting the pre-hearing conference, all parties to the proceeding, or their representatives, are required to attend at or participate in the pre-hearing conference.

**Results of pre-hearing conference**

22.09 (1) At the conclusion of the pre-hearing conference, the panelist or other person conducting the pre-hearing conference shall endorse on the originating process,

- (a) who attended at or participated in, and who did not attend at or participate in, the pre-hearing conference;
- (b) any agreement reached; and
- (c) any directions given to the parties with respect to the conduct of the proceeding or a motion in the proceeding.

(2) Any agreement reached at the pre-hearing conference, as endorsed on the originating process, is binding on the parties.

**No disclosure to panel**

22.10 (1) No communication shall be made to the panel presiding at the hearing on the merits of the proceeding or at the hearing of a motion in the proceeding with respect to any statement made at the pre-hearing conference, except as disclosed in the endorsement made under rule 22.09.

**Pre-hearing conference panelist cannot preside at hearing**

(2) A panelist conducting a pre-hearing conference in a proceeding shall not preside at the hearing on the merits of the proceeding, except with the consent of the parties to the proceeding.

## **RULE 23**

### **CONDUCT OF HEARING**

#### **Consent to hearing by one panelist**

**23.01** For the purposes of paragraph 2 of subsection 2 (1) of Ontario Regulation 167/07, the parties to a conduct proceeding may consent to having one panelist preside at the hearing on the merits of the proceeding by filing a consent (Form 23A),

- (a) sent to the Tribunal, as early as possible but not later than three days before the hearing on the merits of the proceeding; or
- (b) with the panelist, immediately prior to the commencement of the hearing on the merits of the proceeding.

#### **Transcripts**

##### **Production of transcript**

**23.02 (1)** The Tribunal shall cause every oral and electronic hearing to be recorded by a reporting service to permit the production of a transcript of the hearing.

##### **Ordering transcript**

(2) A person wishing to have a copy of the transcript of a hearing shall order it from the reporting service that recorded the hearing.

##### **Costs of transcript**

(3) The costs of acquiring a transcript of a hearing shall be borne solely by the person wishing to have a copy of the transcript of the hearing.

##### **Requirement to file transcript**

(4) The first party to obtain a transcript of a hearing shall file a copy of the transcript with the Tribunal.

#### **Interpreter**

**23.03 (1)** Where a witness does not understand the language or languages in which an examination at a hearing is to be conducted, the Tribunal shall provide an interpreter.

#### **Notice to Tribunal**

- (2) A person intending to call a witness who will require interpretation shall notify

the Tribunal of the witness' requirement for an interpreter as early as possible and, in any event, not later than five days before the hearing at which the witness will be examined.

**Interpreter to be competent**

(3) An interpreter shall be competent and independent.

**Interpreter to take oath or affirmation**

(4) Where an interpreter is required under subrule (1), before the witness is called, the interpreter shall take an oath or make an affirmation to interpret accurately the administration of the oath or affirmation to the witness, the questions put to the witness and the witness' answers.

**Accommodation required**

j 23.045A party or a non-party participant shall notify the Tribunal as early as possible of any needs of the party or the non-party participant or his, her or its witnesses that may require accommodation.

**Limitation on examination of witness**

| 23.056A panel may reasonably limit further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

## FORM 26A - FORMAL ORDER

(Law Society Tribunal file no.)

### LAW SOCIETY TRIBUNAL HEARING DIVISION

(Names of panelists comprising

the panel)

(Day and date order made)

(Title of proceeding)

#### ORDER

(Order after hearing of application)

**THIS APPLICATION** was heard on (date(\$)), (at name place OR electronically), (in the presence of the representatives for all parties (and non-party participants) OR in the presence of the representative(s) for (name party(ies) and non-party participant(s)), (add as applicable: (name party(ies) and non-party participant(s)) appearing in person; no one appearing for (name party(ies) and non-party participant(s)) although properly notified as appears from (indicate proof of notice of hearing on the merits of the application)).

**ON READING** (THE NOTICE OF APPLICATION AND ~~APPLICATION~~ -OR THE NOTICE OF REFERRAL FOR HEARING) AND THE EVIDENCE FILED BY THE PARTIES (and non-party participants), (on hearing the oral evidence presented by the parties (and non-party participants), and on hearing the submissions of (the representatives of the parties (and non-party participants) OR the representative(s) for (name party(ies) and non-party participant(s)) and (name party(ies) and non-party participant(s) appearing in person)),

(AND HAVING DETERMINED THAT (specify determination made giving rising to authority to make order),

(Order after hearing of motion)

**THIS MOTION**, made by (name moving party) for (state the relief sought in the notice of motion) was heard on (date(s), (at name place OR electronically OR in writing).

**ON READING** (give particulars of the material filed on the motion) and on hearing the submissions of representative^ for (name parties and non-party participants), (add as applicable: (name parties and non-party participants) appearing in person; no one

*appearing for .(name parties and non-party participants), although properly served as appears from (indicate proof of service)),*

**IT IS ORDERED THAT:**

- 1.
- 2.

*(Signature of chair of panel that made order)*

# FORM 26B - FORMAL DECISION AND ORDER

*(Law Society Tribunal file no.)*

## LAW SOCIETY TRIBUNAL

### HEARING DIVISION

*(Names of panelists comprising the panel)*

*(Day and date order made)*

*(Title of proceeding)*

### DECISION AND ORDER

**THIS APPLICATION** was heard on *(date(s))*, *(at name place OR electronically)*, *(in the presence of the representatives for all parties (and non-party participants) OR in the presence of the representative(s) for (name party(ies) and non-party participant(s)), (add as applicable: (name party(ies) and non-party participant(s)) appearing in person; no one appearing for (name party(ies) and non-party participant(s)) although properly notified as appears from (indicate proof of notice of hearing on the merits of the application))*.

**ON READING** ~~(THE NOTICE OF APPLICATION AND APPLICATION OR THE NOTICE OF REFERRAL FOR HEARING)~~ **AND THE EVIDENCE FILED BY THE PARTIES** *(and non-party participants)*, *(on hearing the oral evidence presented by the parties (and non-party participants)*, *and on hearing the submissions of (the representatives of the parties (and non-party participants) OR the representative(s) for (name party(ies) and non-party participant(s)) and (name party(ies) and non-party participant(s) appearing in person))*,

**IT IS DETERMINED THAT** *(specify determination made giving rising to authority to make order)*.

**AND IT IS ORDERED THAT:**

- 1.
- 2.

*(Signature of chair of panel that made order)*

## **RULE 6**

### **APPELLANT'S MATERIALS**

#### **Appeal book**

**6.1 (1) Subject to subrule (2), the appellant's appeal book shall be titled "Appellant's Appeal Book" and shall contain, in consecutively numbered pages with numbered tabs arranged in the following order,**

- (a) a table of contents, listing each document contained in the appeal book and describing each document by its nature and date;**
- (b) a copy of the notice of appeal and of any supplementary notice of appeal;**
- (c) a copy of the formal decision and order, containing the decision or order appealed from, or a copy of the formal order, containing the order or disposition appealed from;**
- (d) a copy of the reasons of the Hearing Division for the decision, order or disposition appealed from;**
- (e) a copy of the notice of application or of any other document that initiated the proceeding before the Hearing Division;**
- (f) a copy of any exhibits that are referred to in the appellant's factum;**
- (g) a copy of any other documents relevant to the hearing of the appeal that were filed with the Tribunal that are referred to in the appellant's factum;**
- (h) a copy of any directions given by a panelist at an appeal management conference in respect of the conduct of the appeal;**
- (i) a copy of any order of the Appeal Division made in respect of the conduct of the appeal; and**
- (j) where any of the materials mentioned in this subrule are subject to a non-publication order made by the Hearing Division, a copy of the non-publication order.**

#### **Appeal book: two volumes**

**(2) Where the appellant's appeal book, if prepared in compliance with subrule (1), will include a document that is not available for public inspection under subrule 27.01 (4) of the Hearing Division Rules, the appellant's appeal book shall be divided into two volumes titled**

“Appellant’s Appeal Book: Public Volume” and “Appellant’s Appeal Book: Non-Public Volume”, with “Appellant’s Appeal Book: Public Volume” prepared in compliance with subrule (1) but excluding the documents that are not available for public inspection and “Appellant’s Appeal Book: Non-Public Volume” prepared in compliance with subrule (1) but containing only the documents that are excluded from “Appellant’s Appeal Book: Public Volume” and, at the end, a copy of the order of the Hearing Division resulting in documents contained in the appeal book being unavailable for public inspection.

**Form of appeal book: binding**

- (3) The appellant’s appeal book shall be bound front and back in blue cover stock.

**Factum**

**Content**

- 6.2 (1) The appellant’s factum shall be titled “Appellant’s Factum” and shall consist of,
- (a) Part I, titled “Statement of the Case”, containing a statement identifying the appellant, the nature of the proceeding before the Hearing Division, the disposition of the proceeding by the Hearing Division and whether the appeal is from a decision, a decision and order, an order or another disposition of the Hearing Division;
  - (b) Part II, titled “Overview of the Case”, containing a concise overview statement describing the nature of the case and of the issues;
  - (c) Part III, titled “Summary of the Facts”, containing a concise summary of the facts relevant to the issues on the appeal, with such reference to the transcript of the proceeding before the Hearing Division and the exhibits as is necessary;
  - (d) Part IV, titled “issues and the Law”, containing a statement of each issue raised, immediately followed by a concise argument with reference to the law and authorities relating to that issue;
  - (e) Part V, titled “Order Requested”, containing a statement of the order that the Appeal Division will be asked to make;
  - (f) Schedule A, titled “Authorities to be Cited”, containing a list of the authorities referred to, with citations, in the order in which they appear in Part IV or in alphabetical order; and
  - (g) Schedule B, titled “Relevant Legislative Provisions”, containing the text of all relevant provisions of statutes, regulations, by-laws, rules of practice and procedure and rules of conduct.



**References to transcript**

(2) References to the transcript of the proceeding before the Hearing Division shall be by date, page number and line and references to exhibits shall be by tab and page number in the appeal book.

**Arrangement of Parts I to V**

(3) Parts I to V shall be arranged in paragraphs numbered consecutively throughout the factum.

**Length of factum**

(4) The appellant's factum, excluding the schedules, shall not exceed thirty pages in length.

**Form of factum: binding**

(5) The appellant's factum shall be bound front and back in blue coverstock.

**Form of factum: printing details**

(6) The appellant's factum shall be printed on white paper 8 1/2 inches by 11 inches in size and the text shall be printed, typewritten, written or reproduced legibly, using characters of at least 12 point or 10 pitch size, on one side only double spaced, except for quotations which may be single spaced, with margins of 1 1/2 inches on the left-hand side.

**Book of Authorities**

6.3 (1) The appellant's book of authorities shall be titled "Appellant's Book of Authorities" and shall contain only those authorities intended to be referred to in oral argument.

(2) The authorities contained in the appellant's book of authorities shall be marked to indicate those passages intended to be referred to in oral argument.

(3) The appellant's book of authorities shall be bound front and back in blue cover stock.

**Factum, supplementary appeal book and supplementary book of authorities: cross-appeal**

6.4 (1) Where a respondent has served a notice of cross-appeal, the appellant shall prepare a factum as a respondent by cross-appeal.

(2) Subrules 8.2 (1) to (4) and (6) apply, with necessary modifications, to the appellant's factum as a respondent by cross-appeal.

(3) The appellant's factum as a respondent by cross-appeal shall be bound front and back in blue cover stock.

{4} The appellant as a respondent by cross-appeal may prepare a supplementary appeal book and a supplementary book of authorities if documents relevant to the hearing of the cross-appeal that are referred to in the appellant's factum as a respondent by cross-appeal are not already included in the appellant's or respondent's appeal book and authorities intended to be referred to in oral argument of the cross-appeal are not already included in the appellant's or respondent's book of authorities.

(5) Rules 6J§r4 and 6.3 5r3-applv. with necessary modifications, to the appellant's supplementary appeal book and supplementary book of authorities, respectively.

#### **Tribunal Office may refuse documents**

6.5 (1) Subject to subrule (2), the TribunalOffice may refuse to accept for filing an appellant's appeal book, an appellant's factum, an appellant's book of authorities, an appellant's factum as a respondent by cross-appeal, an appellant's supplementary appeal book or an appellant's supplementary book of authorities that does not comply with this Rule.

#### **Relief from compliance**

(2) If it is in the interest of justice, a panelist may give special directions and vary the rules governing the appellant's appeal book, the appellant's factum, the appellant's book of authorities, the appellant's factum as a respondent by cross-appeal, the appellant's supplementary appeal book and the appellant's supplementary book of authorities.

#### **Date for filing appellant's materials as respondent by cross-appeal**

6.6 (1) Where a respondent has commenced a cross-appeal, the appellant shall, by not later than fourteen days before the date on which the appeal is to be heard,

- (a) serve on the respondent one copy of the appellant's supplementary appeal book, one copy of the appellant's factum as a respondent by cross-appeal and one copy of the appellant's supplementary book of authorities; and
- (b) file with the Tribunal, with proof of service,
  - (i) in appeals to be heard by five panelists, six copies of the appellant's supplementary appeal book, factum as a respondent by cross-appeal and supplementary book of authorities; and
  - (ii) in appeals to be heard by three panelists, four copies of the appellant's supplementary appeal book, factum as a respondent and supplementary book of authorities.

**Confirmation of or update to estimated length of time for oral argument**

(2) Where a respondent has commenced a cross-appeal, the appellant shall, by not later than ten days after being served with the respondent's materials, file with the Tribunal, a certificate,

- (a) confirming that the estimated total length of time for the oral argument of the appellant stated in the certificate of perfection remains the same; or
- (b) stating the new estimated total length of time for the oral argument of the appellant.

## FORM 3A - NOTICE OF APPEAL

*(General heading)*

### NOTICE OF APPEAL

THE *(identify party)* APPEALS to the Appeal Division from the *(decision/order/decision and order/order/dispositionj* of the Hearing Division dated *(date)*.

THE APPELLANT ASKS that the *(decision/order/decision and order/order/disposition)* be set aside and a *(decision/order/decision and order/order/dispositionj* be made as follows *(or that the (decision/order/decision and order/order/dispositionj be varied as follows: (Set out briefly the relief sought.)*

THE GROUNDS OF APPEAL are as follows: *(Set out briefly the grounds of appeal.)*

THE BASIS OF THE APPEAL DIVISION'S JURISDICTION IS: *(State the basis for the Appeal Division's jurisdiction, including (i) any legislative provision establishing jurisdiction, (ii) whether the order appealed from is final or interlocutory and (Hi) any other facts relevant to establishing jurisdiction.)*

*(Date)*

*(Name, address, telephone number, fax number and e-mail address of appellant or appellant's representative)*

TO: *(Name and address of respondent in appeal or respondent's representative)*

## FORM 3B - SUPPLEMENTARY NOTICE OF APPEAL

*(General heading)*

### SUPPLEMENTARY NOTICE OF APPEAL

The appellant amends the notice of appeal dated *(date)* in the following manner:  
*(Give particulars of the amendment.)*

*(Date)*

*(Name, address, telephone number, fax number  
and e-mail address of appellant  
or appellant's representative)*

TO: *(Name and address of respondent in appeal  
or respondent in appeal's representative)*

## FORM 5A - NOTICE OF CROSS-APPEAL

*(General heading)*

### NOTICE OF CROSS-APPEAL

THE RESPONDENT IN APPEAL CROSS-APPEALS in this appeal and asks that the (decision/order/decision and order/order/disposition) be set aside and a (decision/order/decision and order/order/disposition) be made as follows (or that the (decision/order/decision and order/order/disposition) be varied as follows:  
*(Set out briefly the relief sought.)*

THE GROUNDS FOR THIS CROSS-APPEAL are as follows: *(Set out briefly the grounds of cross-appeal.)*

*(Date)*

*(Name, address, telephone number, fax number  
and e-mail address of respondent in appeal  
or respondent in appeal's representative)*

TO: *(Name and address of appellant  
or appellant's representative)*

# FORM SB - SUPPLEMENTARY NOTICE OF CROSS- APPEAL

*(General heading)*

## SUPPLEMENTARY NOTICE OF CROSS-APPEAL

The respondent in appeal amends the notice of cross-appeal dated *(date)* in the following manner: *(Give particulars of the amendment.)*

*(Date)*

*(Name, address, telephone number, fax number  
and e-mail address of respondent in appeal  
or respondent in appeal's representative)*

TO: *(Name and address of appellant  
or appellant's representative)*

# FORM 10A - NOTICE OF ABANDONMENT OF APPEAL OR CROSS-APPEAL

*(General heading)*

## NOTICE OF ABANDONMENT

The appellant *(or respondent in appeal)* abandons this appeal *(or cross-appeal)*.

*(Date)*

*(Name, address, telephone number, fax number  
and e-mail address of party serving notice or  
or of party's representative)*

**TO:** *(Name and address of party on whom notice served  
or party's representative)*



# FORM 10B - NOTICE OF ELECTION TO PROCEED WITH CROSS-APPEAL

*(General heading)*

## NOTICE OF ELECTION TO PROCEED

| The respondent in appeal elects to proceed with the cross-appeal

*(Date)*

*(Name, address, telephone number, fax number*

| *and e-mail address of respondent in appeal  
or respondent's representative)*

**TO:** *(Name and address of appellant  
or appellant's representative)*