

# GRAVES · RICHARD · HARRIS

LLP

## PERSONAL INJURY LAWYERS

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THE HON. DONALD J. TALIANO

December 4, 2014

Malcolm Mercer  
McCarthy Tetrault LLP  
TD Bank Tower  
66 Wellington Street West, Suite 5300  
Toronto, ON M5K 1E6

Dear Mr. Mercer:

### **RE: Alternative Business Structures- LSUC Committee**

I am writing with respect to the issue of Alternative Business Structures that your committee is reviewing.

I have been considering this issue at length. I have, frankly, had great difficulty understanding the need for such changes, at least within my practice area. We have no access to justice issues.

In fact, I take great pride in telling my new clients, when I first meet them, that I do not care if my client is Galen Weston, or a homeless man from downtown Kitchener. I only care if they have a good case. If the prospective client has a good case, I would be honoured to be their lawyer. The example I constantly give is, "A homeless man could be crossing King Street, on a green light, in a crosswalk, with the walk signal on, and some idiot driving a Porsche could be turning left while texting, and slam in to the homeless man in the crosswalk, breaking both of his legs. That homeless man could be wheeled in to my office, and retain me, because he has a great case. It doesn't matter that he doesn't have a dime to retain me with."

\*CERTIFIED BY THE LAW SOCIETY AS A SPECIALIST IN CIVIL LITIGATION  
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My area of practice is robust. There is competition. There is advertising. Too much advertising, and much of it breaching the Rules of Professional Conduct, if one were to look at it carefully, but at least it is clear that there are many lawyers prepared to offer contingent fee arrangements, and provide access to justice to all with worthy claims to litigate.

So, my question to the committee is: what problem exists that A.B.S. is intended to solve? I have not been able to figure out what that is. If A.B.S. is a solution, the question is begged: a solution to what?

I am proud that we are self-regulated. I am concerned that this is a first step down a road that will reduce our independence, and cause us to lose the ability to self-regulate.

I am proud that my area of practice is competitive. My research in to the personal injury practice in the U.K. and Australia has shown me that competition has been stymied and reduced, and the firms that remain often use clerks where we would hire young lawyers, provide them with employment, and help them blossom in to experienced litigators. Right now I have 3 lawyers of 4 years experience or less in my Kitchener office, and an articling student. Do the examples in the U.K. and Australia show small offices like mine?

I am proud that I am a professional, and that I make decisions made on my client's best interests, and not the desires of non-professional investors, or non-lawyers. I enjoy telling insurers that I will choose helping my client in the short term, over profit. Why are some so quick to lose what bits and pieces of professionalism that remain in the practice of law? Has that not been derided enough on its own in the last 25 years? Why would we not choose to take steps to buttress the 'walls' of professionalism, that help make us unique in society?

Although I understand that some may break the Rules (I would welcome investigation of the personal injury bar in this area), I do not want to pay referral fees to non-lawyers. Please do not allow this Rule to change through A.B.S., or otherwise.

I would welcome any efforts by the committee, as individuals, or as a whole, to explain to me why these changes are needed. Calls or any other form of communication would be welcome.

Yours truly,

**GRAVES · RICHARD · HARRIS LLP**

Per:

**Gordon W. Harris**

GWH/jm

CC: All Benchers