

Banack's Bencher News #62

Volume 3
Issue 17

February 23, 2006

*Larry Banack, Certified by the Law Society as a Specialist in Civil Litigation
Member of the Arbitration and Mediation Institute of Ontario*

GEORGE HUNTER: In December, Convocation declined to act upon Mr. Hunter's letter of resignation, deciding that he should be accommodated for family and personal reasons. In January, Mr. Hunter advised Convocation that he would not be able to resume his duties as Treasurer. Throughout, Clayton Ruby fulfilled those duties as Acting Treasurer. Convocation determined that an election for Treasurer was to be conducted on February 23, 2006. Benchers Clayton Ruby and Gavin MacKenzie were subsequently nominated to stand for election.

TREASURER: Gavin MacKenzie was elected as the Law Society's 61st Treasurer by a vote of Convocation. He comes to the position with a long history as an elected Bencher since 1995 and he previously was Law Society discipline counsel. He is a frequent speaker and a well read author in areas of professional regulation and ethics. In his opening comments, Treasurer MacKenzie identified important issues to be dealt with in the next sixteen months such as forthcoming paralegal regulation and the needs of sole practitioners and small firms. On behalf of the profession, he also congratulated and thanked Mr. Ruby for his diligent work as acting Treasurer since last December.

BENCHER VACANCIES: As a result of the appointment of Peter Bourque as a Judge of the Ontario Court of Justice and upon the election of Treasurer MacKenzie, Convocation addressed the vacancies thus created. In accordance with the applicable By-Law, Mr. Paul J. Henderson and Ms. Janet Minor were elected to fill the vacancies.

FRAUD ALERT: It has been reported that criminals have fraudulently acquired lawyers' trust cheques and have presented them for payment. You should alert your Bank to ensure that trust cheques are negotiated only with appropriate signatures. It is prudent that your trust (and other) accounts be promptly reconciled upon receipt of bank statements. We are also becoming aware of large frauds in other provinces involving real estate developments. Lawyers must be very diligent.

PUBLICATION OF DISCIPLINE DECISIONS: Convocation has reversed a 2002 policy which automatically delayed release of a decision of the Hearing Panel where a lawyer applied to the Appeal Panel for a non-publication order. That policy was inconsistent with the importance of the transparency of the Law Society regulatory process. The change in policy removes the automatic ban on publication. However, a Hearing Panel may be asked by a lawyer to consider in its disposition, that an order be granted banning publication in the event of an appeal. Jurisprudence will develop the circumstances in which such an Order may be granted.

LEGAL AID: During his speech at the opening of Courts in January, 2006, the Attorney General, Michael Bryant, described Legal Aid Ontario as a "mature" organization saying that "Legal Aid in Ontario is ready for the next step". Without any other information or explanation, the comments appear to indicate that the Attorney General may have a vision and/or desire to change the structure of Legal Aid. The Government's commitment and supervisory authority on issues such as the tariff and eligibility rates must be carefully monitored.

NEW LAW SCHOOL: Lakehead University in Thunder Bay is developing plans for a new law school to be based at its University. It is understood that the school would have a particular emphasis on serving northern and aboriginal communities and might increase the number of lawyers willing to stay in northern communities to practice law. There has been no examination of the implications a new law school will have for the number of lawyers called to the bar each year or the government's view of funding such a new educational initiative in the north.

GOVERNANCE TASK FORCE: Convocation finally received this Task Force Report. There is considerable controversy with respect to the recommendations made by the Task Force comprised of three former Treasurers, then current Treasurer George Hunter and five other Benchers. The Report has been criticized for failing to address obvious governance deficiencies and essentially taking a position that "things aren't so bad". Hopefully, with the election of a new Treasurer, the timely, cost-effective and efficient regulation of the profession may be reconsidered by an appropriately constituted group.

NEW LAWYERS: The new licensing process for admission to the bar begins in May, 2006. Licensing candidates have been provided with a number of bulletins and notices outlining the nature of the process and expectations. This is obviously a time of great concern and anxiety for students who are trying to determine whether it is necessary or appropriate to enroll with a private provider of educational programming. The Law Society asserts that no preparatory courses are necessary in order to embark on any components of the learning process. The licensing examinations have been developed as a self-directed study model with no formal instruction required. It is anticipated that students will be provided with all of the information and study reports needed to successfully write the examinations. The study materials for the open book licensing examinations will not be available until on or about May 1, 2006. The most recent Law Society notice can be found at <http://education.lsuc.on.ca/Assets/PDF/lp/memApplicants2005.pdf>.

For back issues of this Newsletter, please visit www.koskieminsky.com

IF YOU WOULD LIKE TO RECEIVE THIS NEWSLETTER VIA E-MAIL, SEND A MESSAGE TO: subscribe@koskieminsky.com.
PLEASE INCLUDE THE NAME OF THIS NEWSLETTER AND YOUR E-MAIL ADDRESS.

IF YOU HAVE ANY TRANSMISSION DIFFICULTIES WITH RESPECT TO THIS NEWSLETTER OR WISH NAMES ADDED OR DELETED,
PLEASE RETURN THIS PAGE BY FAX TO (416) 204-2824.