



Women's Legal
Education and
Action Fund

Fonds d'action et
d'éducation juridiques
pour les femmes

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Malcolm M. Mercer
Treasurer
Law Society of Ontario
Osgoode Hall
130 Queen Street West
Toronto, Ontario M5H 2N6

DELIVERED BY E-MAIL

February 25, 2020

Dear Mr. Mercer:

I am writing in my capacity as the Executive Director and General Counsel at LEAF to express our disappointment and concern about the two recent notices of motion proposed by Benchers John Fagan and Jared Brown regarding the role of the Equity Advisory Group (EAG) of the Law Society of Ontario (LSO). The first motion, dated February 5, 2020, seeks to limit the role of non-benchers and "unelected advisors such as the EAG"; and the second calls on Convocation to censure an EAG representative and Discrimination and Harassment Counsel (DHC) for their tweets on Twitter. Both motions risk seriously undermining the important role of equality-seeking groups and individuals in the work of the LSO and seem entirely inconsistent with the public interest, which is the LSO's core responsibility.

Indeed, as you are well aware, the LSO is responsible for governing Ontario's lawyers and paralegals "in the public interest". As clearly stated on the "about LSO" section of your website:

The Law Society has a duty to protect the public interest, to maintain and advance the cause of justice and the rule of law, to facilitate access to justice for the people of Ontario, and to act in a timely, open and efficient manner.¹

The duty to protect the public interest, to maintain and advance the cause of justice and the rule of law, and to facilitate access to justice for the people of Ontario requires meaningful participation and input from the broader public, not just the elected Benchers. Equality-seeking organizations have an essential role to play in ensuring that the unique concerns and challenges facing the diverse communities they represent are brought to the attention of the LSO, including the elected benchers. The LSO must prioritize voices that are often excluded or marginalized in the legal profession. The first motion is entirely dismissive of the equality-seeking voices, in the legal profession and in the general public. Indeed, it explicitly seeks to exclude the attendance of "unelected persons" from the Equity & Indigenous Affairs Committee, apparently before the issue has even be "studied".

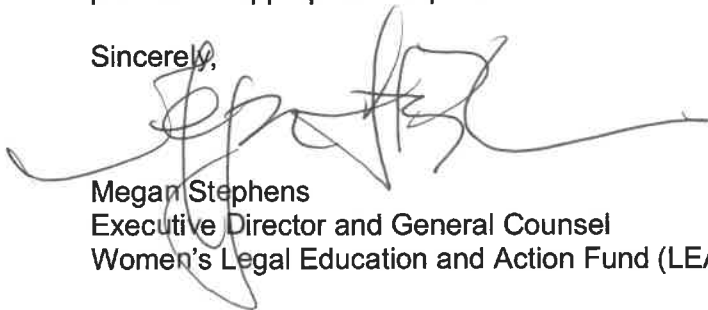
¹ See LSO Website: <https://lso.ca/about-lso>

The second motion calls on Convocation to express its censure for the “serious and highly damaging Twitter allegation” made by an EAG representative and then retweeted by DHC. We fail to understand how a motion of this sort is consistent with the LSO’s duty to protect the public interest or to act in an open manner. As you and I have recently discussed, elected Benchers have posted degrading and offensive content from their Twitter accounts, without public censure from Convocation. Although this motion is framed as necessary in part because the tweets are said to have “seriously impugn[ed] the integrity of all benchers and Convocation”, the same is certainly true of the tweet posted by Mr. Goldstein in the fall. If this motion were to pass, it would suggest that Benchers are subject to one standard in their social media posts, but those outside of Convocation who call their conduct into question on their social media accounts are subject to another.

Furthermore, we are troubled by the short timeline of the motion, which undermines procedural fairness underlying LSO’s governance. We only learned about this motion during the weekend of February 22-23, which we understand is also true of many LSO members outside of Convocation. Given that this is scheduled to be discussed at Convocation on February 27th, this does not provide equality-seeking groups a meaningful opportunity to respond or provide feedback on a motion that could profoundly impact their ability to participate in LSO governance.

As LSO’s Treasurer, you are responsible for strategic leadership of the LSO and chairing Convocation.² We urge you to exercise your leadership in fulfilling the LSO’s mandate of protecting the public interest by speaking out against these motions, inviting feedback from equality-seeking groups, and ensuring that there is sufficient time provided for these groups to provide an appropriate response.

Sincerely,



Megan Stephens
Executive Director and General Counsel
Women’s Legal Education and Action Fund (LEAF)

cc. Diana Miles, CEO, LSO

² *Bencher Code of Conduct*, ss. 24-25.