



2017-18
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Report of the November 2017 FOLA Plenary

Links in this Document:

Most of the Plenary was video-taped and recorded and those recordings are provided by clicking on the links that are **embedded in the title/heading** of each section for which we have video. The entire package of video's can be accessed at: <https://www.cpdonline.ca/foia-2017>

Thanks to our partners CPD Online and Streaming Inc. for their help in putting together this video package

If you have trouble with any of the links, please contact mike.ras@foia.ca or call 647-228-2339.

Report from the Chair

The November 2017 Plenary was all about “doing it right” and “doing it better”.

In terms of “doing it right”, we focused on building a consensus for our position in the next round of discussions related to the future of the county law library system. I believe we came out of the meeting more unified in what we want to see to improve the system. Our discussions on licensing also



Jaye Hooper, Chair

laid the ground work for the important upcoming debate on this enormous topic and all of its practical effects. We need to continue to ensure we only support changes that reflect the best interest of the practicing bar and protect our professional standards. We also spent time getting feedback on important topics related to real estate law, family law, contingency fees and advertising.

In terms of “doing things better” we had a constructive debate on FOLA fees resulting in a modest fee increase to allow us to continue to advocate on your behalf. I want to thank all of the attendees who voiced their support on our efforts over the past few years. For those who see areas of improvement, we heard you and have been actively discussing your concerns. Our fundraising committee was formed and we hope to report on some of their ideas very soon. We heard from partners about ways they want to work with FOLA and local associations across Ontario to add more value to membership. One hopeful partner, the Canadian Federation of Independent Business, has been following up with suggestions on we can work together to advocate for change on important issues affecting solo and small practitioners. Most importantly, we [spent considerable time consulting with presidents on how to improve the two-way flow of information and communication on important issues.](#)

So, once again, the November plenary agenda was jam packed and full of information. The conversation in the formal plenary program was robust, and only eclipsed

by the vigour of the debate and discussion held informally each evening.

I want to thank all the speakers and presenters who contributed to such a great agenda. Their contributions are reflected in the following pages. I also need to acknowledge someone who was not on the agenda for this Plenary, **Rob Lapper**, the former CEO of the Law Society. Just before Plenary Rob announced he was leaving the Law Society to pursue new opportunities. Rob was always open and candid with FOLA and we appreciated that candour especially during difficult discussions. We think he appreciated our frankness as well. We look forward to working with whomever is named the new CEO in the coming months and were pleased that Interim CEO, **Diana Miles**, was able to join us and give another important briefing on the numerous undertakings of the Law Society.

Finally, I want to thank and pay special tribute to **Sonya Jain**, our outgoing Family Law Committee Chair. Sonya has held this position for the past three years during a very challenging period. The Bonkalo report on paralegal scope of practice expansion, many proposed rules changes in the family court and the never-ending pressure being applied to the family bar were met with Sonya’s grace, humour and level-headedness. We reluctantly accepted her resignation given the demands of her busy practice and the addition of her new role as a member of the Personal Rights Panel of the Office of the Children’s Lawyer. She assures us that she remains available for advice and counsel and we will certainly be taking her up on that! We thank Sonya for her volunteer service to the practising bar in Ontario. Following Plenary, I appointed **Valerie Brown**, a past President of the York Region Law Association and a respected family law practitioner, to fill the position. Welcome Valerie.

We hope that the report you find on the following pages is informative and useful. We look forward to your feedback.

A handwritten signature in blue ink, appearing to be 'J. Hooper'.

Executive Director's Report



Executive Director,
Michael Ras

In each of my Executive Director Reports to Plenary, I identify the progress being made in each of the three main aspects of my mandate. Those being:

1. To represent FOLA to government, the Law Society and other stakeholders and advise the Executive on ways to improve relations and maximize influence with key partners;
2. To build the capacity of FOLA by:
 - a. Improving financial resources
 - b. Improving communication and demonstrating value to members
 - c. Improving efficiency of operations
 - d. Increasing capacity and ability to take on more issues
 - e. Building partnerships;
3. To support the work of local associations.

Representing FOLA and Extending Influence

FOLA is regularly engaged on a range of issues with the Law Society, Attorney General and with stakeholders across Ontario. Just a few of the “issues” and initiatives we have dealt with in the past month include:

- Family law
- Paralegal scope of practice
- The new proposed Halton Region courthouse
- Ontario’s judicial complement
- Advertising and contingency fee rules
- Civil e-Filing and other modernization initiatives
- Legal Aid
- Challenges facing the real estate bar
- The future of our county law libraries
- The “Dialogue on Licensing”
- Proposed Law Society name change
- ... and many more ...

I encourage you to visit the FOLA web-site – www.fola.ca – and especially our “Issues and Positions” tab - for a full run down of all the issues and what we

are engaged with. We welcome your feedback on our submissions and input on any issue.

Advocacy & Government Relations

My report to Plenary focused mostly on the work that I believe the practising bar must do in the run up to the next Provincial election in June of 2018 to put justice-related issues onto the agenda.

So far, justice issues such as the adequacy of our court infrastructure, the judicial complement, legal aid or technology to support our justice system (among dozens of other issues) are receiving next to no attention as election issues. FOLA believes that our local law associations and the practising bar, spread across every community in Ontario, are uniquely positioned to raise these issues and lay the groundwork for effective advocacy after the next election. Whether a new government is elected or not, an election campaign is an excellent time for the local associations to get involved and to educate the candidates – and future MPPs and Ministers – on the issues. It’s a time to build relationships and build a foundation for the next four years.

Specifically, we are encouraging all local law associations to:

- 1) Strike a committee or appoint a member of your Board to be a point-person and liaison with candidates from all the parties.
- 2) Reach out to local candidates – of all parties – and offer to host opportunities to meet your members. Give candidates a platform to make their pitch.
- 3) Offer courthouse tours and issue briefings to help local candidates understand the justice-system landscape in your community from the perspective of the private bar.
- 4) During the campaign, or immediately before the “writ period”, offer to host an all-candidates meeting/forum/debate focused on justice-related issues. (Some candidates may refuse to participate, but that shouldn’t stop local associations from offering.)

If any of your members are inclined to support a particular candidate or party, encourage them to volunteer, donate and get involved. And keep in mind, most campaign teams welcome a lawyer on the volunteer team to help candidates, the campaign manager and the campaign CFO stay within the rules. If you have members with an inclination to a particular candidate or party, this is a great way to get involved and build lasting relationships.

All of this work takes a bit of planning, and the election is fast approaching. Election day is June 7, 2018, but a lot of these ideas need to be implemented and executed well in advance. We encourage you to start planning now. Throughout the remainder of the winter and spring, I will be preparing briefing notes, talking points and “tips and tricks” and distributing them to local associations to help you build these relationships and convey a consistent message.

Please keep me in the loop on activities being undertaken by local associations so I can track these interactions and assist you to maximize impact.

Supporting Membership Growth

I also reported to Plenary that I believe there is room and opportunity to grow our membership in many parts of Ontario and that I want to support local efforts to do so. Overall, our collective membership is steady at around 8,500 (not including the membership of the Toronto Lawyers’ Association), but this number is growing at less than 1% a year while the number of lawyers licensed to practice in Ontario is growing at between 1.8% and 2%/year. My analysis also shows that there are opportunities to grow the membership in just about every jurisdiction in Ontario.

As the following chart shows, there is room to grow. In some jurisdictions, this opportunity is limited by external factors (e.g. the large proportion of federal government lawyers who reside in the National Capital Region would not likely join the CCLA, which skews the numbers in this chart), but in many jurisdictions, there is opportunity to grow if the right value proposition can be presented to potential or lapsed members and I think FOLA’s advocacy and other services can be a large part of that “value proposition”.

	2016 Association Membership (self reported and invoiced by FOLA)	Fee Paying Lawyers (Per LSUC 2016 #'s)	% of available members
ALGOMA	58	110	53%
BRANT	100	136	74%
BRUCE	38	68	56%
CARLETON	1,245	4,923	25%
COCHRANE	45	105	43%
DUFFERIN	48	63	76%
DURHAM	334	557	60%
ELGIN	57	68	84%
ESSEX	469	658	71%
FRONTENAC	190	317	60%
GREY	70	100	70%
HALDIMAND	19	68	91%
NORFOLK	43		
HALTON	281	905	31%
HAMILTON	639	918	70%
HASTINGS	124	154	81%
HURON	50	57	88%
KENORA	52	71	73%
KENT	81	97	84%
LAMBTON	79	124	64%
LANARK	57	70	81%
LEEDS-GRENVILLE	69	79	87%
LENNOX-ADDINGTON	18	32	56%
LINCOLN	222	467	48%
WELLAND	141		
MIDDLESEX	916	1,096	84%
MUSKOKA	62	89	70%
NIPISSING	60	87	69%
NORTHUMBERLAND	51	77	66%
OXFORD	58	76	76%
PARRY SOUND	20	35	57%
PEEL	410	2,177	19%
PERTH	57	69	83%
PETERBOROUGH	115	150	77%
PRESCOTT-RUSSELL	44	71	62%
RAINY RIVER	13	21	62%
RENFREW	66	92	72%
SIMCOE	418	561	75%
STORMONT-DUNDAS	116	113	103%
SUDBURY	168	224	75%
TEMISKAMING	30	26	115%
THUNDER BAY	197	237	83%
VICTORIA-HALIBURTON	47	65	72%
WATERLOO	579	834	69%
WELLINGTON	150	237	63%
YORK REGION	493	2,091	24%
	8,599	18,575	46%
TORONTO		23,064	13%
Total Fee-Paying LSUC members		41,639	

**Note Haldimand & Norfolk and Lincoln & Welland are merged in the above chart because Law Society membership numbers are reported to us this way, despite the fact these are distinct associations.*

To that end, I am working with the FOLA Executive on a two-pronged strategy. The first is to develop communication products that local associations can use – at their discretion – which highlight the value

provided by FOLA, particularly in advocacy. The second is to identify more partnerships and sponsorships with aligned service providers that can, in turn, partner with local associations – at the discretion of these local associations who may or not wish to participate – and offer value-added services as part of their membership in a local law association.

Watch for more detail on both of these initiatives in the coming weeks as we roll them out.

Raising Funds and Supporting the work of FOLA

I would also remind members of the various partnerships we have formed that can help FOLA and local associations meet its goals. At this Plenary, we announced on-going partnerships with [CPDOnline](#), [Lawyers Financial](#), formerly known as Canadian Bar Insurance Association and [Structured Settlements](#). We welcomed a new partnership with [vLex](#) – a new entrant to the market providing legal information resources. Last, but certainly not least, we acknowledge the ongoing and generous sponsorship of our premier sponsor, [LAWPRO](#). Please support these companies who support FOLA and the practising bar.

We are always looking for new and exciting marketing partnerships that can help enhance the value of being a member of a local law association and help those members with discounts and excellent experiences.

And don't forget our [Kenya Wildlife Safari](#) departing November 16, 2018!



PS: I remain available to join any meeting of a local law association, schedule permitting, and would be pleased to join you to provide a briefing to your members. Just let me know!

Treasurer's Report



*Mike Winward,
First Vice Chair
and Treasurer*

Our Treasurer, **Mike Winward**, reported once again that FOLA is on solid financial ground, though we are limited in our ability to do more without finding new sources of funds. Financial statements up to month-end of October 2017 were provided to Plenary delegates.

Mike's report noted that FOLA generates funds from four sources:

- 1) A Law Society grant of up to \$257,000/year for eligible expenses related to costs associated with Plenary and for travel of our Executive to meetings;
- 2) From dues charged through member associations, and it was noted that there is some room for the membership to grow, which would have a positive impact on FOLA's revenues as well;
- 3) From non-dues revenue sources, such as sponsorships of our Plenary meetings, the FOLA travel program, some minor sources related to some partnership agreements; and,
- 4) From a partnership with the Toronto Lawyers Association.

Within these sources of funds, there is limited opportunity to grow revenue except in incremental ways. It was further noted that the current per/lawyer fee of \$25/lawyer took effect in 2010 and has not been adjusted for inflation since then. Since 2010, FOLA has added a Director of Public Affairs (now Executive Director) and is involved in many more advocacy initiatives, incurring more costs. FOLA's Executive believes we can do even more in advocacy, communication and promotion of the profession while at the same time meet an ever-increasing list of challenges to the practising bar, if we are able to grow our financial base.

To meet these challenges, the FOLA executive presented a four part plan:

- 1) Secure the Law Society grant for an additional period (the current funding agreement expires at the end of 2018);

- 2) Help local associations grow their membership (particularly in the GTA where the greatest opportunity to grow membership exists – see Executive Director’s Report for more on that);
- 3) Grow non-dues revenue through more sponsorships and partnerships;
- 4) Raise fees a modest amount.

On point #4, a proposal was put forward and passed by Plenary, which raised the FOLA dues by \$2.50/member – from \$25/lawyer to \$27.50 – effective for the 2018 year. In this proposal, the base fee remains the same. Based on 2017 membership levels, this should contribute an additional approximately \$22,000 to FOLA in 2018. These funds will be dedicated to advocacy efforts and improving the communication of FOLA to its members.

Since Plenary we have learned that the Toronto Lawyers Association has increased its contribution to FOLA by \$6,000 to \$41,000/year.

The FOLA Executive pledges to the presidents and all the lawyers across Ontario who join their local law association that these funds will continue to be used judiciously and focused on efforts that help the practising bar.

Address by Law Society Treasurer, Paul Schabas

Treasurer Schabas welcomed the Plenary delegates to Convocation Hall for the customary “Treasurer’s Reception” and dinner. His excellent address can be accessed at this [link](#).

Report from Diana Miles, Acting CEO, Law Society of Upper Canada



Diana Miles, Acting CEO

FOLA was pleased to welcome Interim CEO, Diana Miles to address Plenary. Her presentation can be found at this [link](#). Most of the issues she addressed are discussed in greater detail in other parts of this presentation.

Reports on Major Issues & Initiatives

Contingency Fees

The Law Society has been under considerable pressure from the Province and media to “do something” about perceived excessive contingency fees charged by some lawyers, particularly by the personal injury bar. A series of negative articles in the Toronto Star and other publications, which was followed by [Private Members Legislation](#) and statements from the provincial government that they were inclined to regulate pushed the Law Society to act and strike a [working group](#) to study the issue.

At Plenary, Bencher Malcolm Mercer gave us a sneak-peak at a [report](#) which was scheduled to be reviewed by Convocation in the following days. This “Seventh Report of the Advertising and Fee Arrangements Issues Working Group”. The recommended reforms include:

- The introduction of a mandatory standard contingency fee agreement.
- A ‘Know Your Rights’ guide for the public.
- Disclosure requirements on completion of an agreement, which provide the consumer with the following:
 - a clear breakdown of the final settlement or award, the net amount going to the client, disbursements costs, legal fees and taxes;
 - a statement explaining the reasonableness of the fee in light of factors such as legal complexity, the results achieved and the risk assumed, including the risk that the matter would not have been successful; and
 - a statement that the client has the right to assess the account.
- A requirement for legal professionals to publicly disclose the maximum contingency fee percentage they charge by practice area, allowing increased transparency, and the ability for individuals to shop around for representation; and
- New reporting information required on lawyers’ and paralegals’ annual reports to the Law Society. Aggregate data will be shared with the public and policy makers to better inform future consumer choice and policy decisions.

At the time, FOLA expressed some concerns with aspects of this report and recommended that some aspects of the report be deferred to give the Bar more time to offer commentary. Our submission on these issues can be found at this [link](#). At the January 25th, 2018 Convocation, most of our recommendations (which mirrored the input of other legal associations such as OTLA) was adopted. That report can be found here.

The Law Society also accepted our recommendation that an “expert panel” be set up to develop the mandatory standard form CFA. FOLA’s Mike Winward has been asked to join this panel.

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Real Estate

(Adapted from the report presented by Merredith MacLennan, FOLA Real Estate Committee Chair)

Next Generation Teraview®

FOLA has received and circulated confirmation from the Director of Titles that a pilot project for the new web-based version of Teraview®



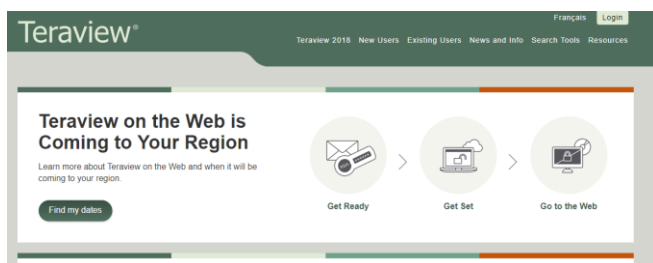
Merredith MacLennan, Real Estate Committee Chair

was launched in the Simcoe and Niagara Land Registry Offices and the new version is being rolled out regionally across the province beginning January 8, 2018. The new version will have exactly the same functionality as

the existing version, but is not stored locally on the user's computer. Instead, it is a web-

based platform accessible anywhere the user has internet access.

This new version requires a different two-factor authentication than currently used. Previously, users accessed Teraview® on their local computer by inserting a flash drive or disk containing their personal information and entering a password. With this next generation software, a token (to be provided by Teranet) that provides a unique code every sixty seconds is required along with the user's password in order to log-in and sign instruments. The token is either a key-chain type token or an app for a smart phone. With the new version of Teraview®, both the code from the token and the user's password are used to login or sign an instrument.



The look and feel of the new version of Teraview® is different, but the basic functions of the program are the same, with one notable exception – the new

version has the capacity for preparing and registering documents in French. Because the functionality is not being upgraded, do not expect to see changes to any of the annoying features of Teraview®. The error messages are still cryptic algorithms; messages are still a means of giving access and are not email messages; and no alert or email is sent when documents are returned. However, we understand that by moving to a web-based platform, future changes will be easier for Teranet to complete and small changes will not need to wait for a new software version.

We have been working with the Ministry and Teranet to facilitate demonstrations of the new version of Teraview® throughout the province.

Standard Closing Documents

We strongly believe that the real estate bar benefits greatly from working with a set of [standardized closing documents for residential real estate transactions](#). At the May 2017, a unanimous resolution was passed approving and endorsing the use of the standard closing documents prepared by the Working Group on Real Estate & Lawyers.

The idea is to end the repetitions in the old forms and to eliminate any statements, warranties or declarations that were not required to be provided in the agreement. Vendors, and their lawyers, should not be delivering anything that is not required under the agreement of purchase and sale, as doing so creates liabilities that are not required under the agreement. In addition, the use of standard closing documents can reduce the time a lawyer spends reviewing, revising and negotiating closing documents.

The following additional benefits are noted by the Working Group in the Rationale Document for the standard closing documents:

1. Less paper, no repetition and more efficiencies, as the content of the documents can easily be confirmed as being either unamended or modified;
2. Less time needed to negotiate the content of closing documents;
3. Adherence to province-wide standards;

4. Client's rights and obligations are protected based on the agreement of purchase and sale;
5. Either party can easily prepare the documents for the other side; and
6. No need to delete inapplicable paragraphs as they are worded conditionally.

These documents are available in English and French on the [FOLA](#) website.

Notwithstanding their clear utility to the lawyer and the clients, the standard closing documents have not been fully adopted across the province, and FOLA continues to promote their use by lawyers in all counties and districts in the province.

We are calling on the local real estate representatives of each county and district to encourage the use of the standard closing documents within their association and to notify us once the real estate bar in your association has pledged to adopt the documents for use.

Three Party Document Registration Agreement (DRA)

When electronic registration was first introduced in Ontario, an escrow closing procedure was developed to deal with the delivery of purchase funds, keys and off title documents. The Joint Committee on Electronic Registration of Title Documents adopted a form of Document Registration Agreement (DRA) that has been published on the Law Society website and referenced in the Law Society's Practice Guidelines for Electronic Registration of Title Documents.

This DRA has routinely been amended for use when there are three or more lawyers involved (when there is a private mortgage or when there is a separate lawyer representing the lender), and we requested that the standard form of Three Party DRA be endorsed and published by the Law Society in the same way the DRA has been.

We are pleased to report that following a review by LawPRO and the other members of the Real Estate Liaison Group, the Law Society recently confirmed that it has approved a standard form of Three Party DRA and

following translation into French, the document will be posted on the Law Society website and communication will be sent to all members regarding its availability for use.

New Law Society Advertising Rules for Residential Real Estate

On September 29, 2017, the Law Society amended the rules regarding residential real estate advertising to "support transparency and ensure consumers may easily compare prices". The new rules require all advertising of prices for residential real estate transactions to be all-inclusive, subject to certain allowable disbursements that can be in addition to the all-inclusive price. Other than these specified disbursements, if you advertise a price, you cannot charge anything more than the advertised price, regardless of what may have transpired during the course of the transaction. These new rules do not apply to fee quotes given to a client on a particular transaction, so if a potential client calls you for a fee quote, the quote does not have to be all inclusive.

The new rules apply to advertisements available to the public, which includes any mention of fees on your website. If your website has an "input your purchase price and we'll calculate the fees and estimated disbursements" function – then this falls within the new advertising rules. New rule 4.2-2.1 states:

A lawyer may advertise a price to act on a residential real estate transaction if:

a) the price is inclusive of all fees for legal services, disbursements, third party charges and other amounts except for the harmonized sales tax and the following permitted disbursements: land transfer tax, government document registration fees, fees charged by government, Teranet fees, the cost of a condominium status certificate, payment for letters from creditors' lawyers regarding similar name executions and any title insurance premium;

b) the advertisement states that harmonized sales tax and the permitted disbursements mentioned in paragraph (a) of this Rule are not included in the price;

c) the lawyer strictly adheres to the price for every transaction;

d) in the case of a purchase transaction, the price includes the price for acting on both the purchase and on one mortgage; and,

e) in the case of a sale transaction, the price includes the price of acting on the discharge of the first mortgage.

New commentary to the rule and to rule 3.6 (Reasonable Fees and Disbursements) was also approved. Further details can be found on the Law Society website.

Electronic Funds Transfers

FOLA has been advocating that a reliable, accessible, timely and irrevocable system of moving funds between lawyers is desirable and necessary for a more efficient operation of the real estate transaction market, but have been disappointed by the response of the financial services industry to this market need.

Canadian Payments Association

FOLA was pleased to learn that the Law Society has written a comprehensive submission to the Canadian Payments Association (CPA) requesting improvements to allow for real time, irrevocable funds transfers to accommodate residential real estate transactions. The CPA is made up of the major financial institutions in Canada involved in funds transfer. These submissions are still confidential and we are not permitted to share them, but we are permitted to let our members know that submissions have been made and we are generally pleased with the direction and recommendations given by the Law Society.

The CPA is looking at modernizing its entire system, and while the real estate bar and the Law Society were not originally consulted, the Law Society reports that the CPA is taking the suggestions of the real estate bar seriously and that there seems to be a genuine desire to develop an electronic funds transfer system for real estate that involves large sums of money. It appears that this modernization process will be a multi-year project, and it is driven entirely by the banks and other payment companies who are responding to market

demand, so it would be premature to expect immediate or short-term changes, but we are pleased that our ideas are being heard and that progress is being made.

We continue to work with the Law Society and LawPRO with respect to this issue.

Family Law

Since our report at Plenary, the Law Society has



Sonya Jain, Family Law Committee Chair

released its response to the Bonkalo report rendering our update at Plenary somewhat obsolete. In it's place, here is our analysis of the Law Society's response to Bonkalo:

The December 1, 2017 Convocation met and received a report from the "Extended Access to Justice Committee" on the topic of the Family Legal Services Review (commonly known as the Bonkalo Report).

The report recommends (*emphasis and analysis added is that of FOLA*):

1. (The Law Society will) develop a licence for licensed paralegals and others with appropriate training to offer some family law legal services, following resource-related discussions with government. Recognising the urgency of the need, this licence will support training in process navigation, form completion, investigating forms such as financial, motions to change, and uncontested divorces, and possibly other areas outside the courtroom context.
- *A few notes to consider:*
 - *Note the declaration that the Law Society will develop the license with "appropriate training". The Law Society is affirming that this*

will be an extensive and rigorous process and have stated that this will take as many as 14 months to complete the development. After that, there will be a period of implementation involving training and testing that would also presumably take many months.

- *Note the comment about “resource-related discussions with government”. The Law Society is negotiating with the Province to fund this development work. (This was a key part of our submission and it is heartening to see that this cost will not be borne out of lawyers’ fees.)*
 - *Note “process navigation, form completion”, etc. – the Law Society will lead a review that will involve “experts” from the judiciary, the Bar and the Law Society to determine which forms could, after appropriate training, be handled by a paralegal. The Superior Court Judges submission on this topic identified that some “form filling” would be acceptable to the SCJs. The submission of many of the Bar, including FOLA, was that many “forms”, if they are not completed properly, could be prejudicial to a case and advised against this, but with the SCJ submission as it stands, this is not an argument we are going to win at this time.*
 - *On the subject of “uncontested divorces”, many of our members have pointed out the peril of considering these matters to be “simple” and we will continue to emphasize this point.*
 - *Note the comment, “outside the courtroom context” – the Law Society is stating that the scope will stay outside the courts for now (see #2 below).*
2. At the same time, (the Law Society will) assess what additional family legal services by providers other than lawyers, and including advocacy, are in the public interest, and consider how to develop a further expanded licence, following resource-related discussions with government.
 - *Following up on the recommendation from Bonkalo which was to move forward immediately, the Law Society is basically saying*

here that they will set aside Justice Bonkalo’s recommendation for now and conduct their own assessment whether and how to expand the paralegal license beyond “forms”. This review could take place over many years.

3. Engage in a robust evaluation of the success of the family law legal services licence for providers other than lawyers, and make any adjustments that are in the public interest.
 - *Justice Bonkalo called for a review at the five year mark. The Law Society is agreeing.*
4. As part of its priorities, consider experiential training for lawyer candidates in the licensing process, including how they may provide supports for the delivery of family law legal services under appropriate supervision.
 - *This echoes the recommendation of FOLA and others which encourage articling students to offer family law services as part of their “experiential training”.*
5. Review its rules relating to the unauthorized practice of law and ensure that the rules are as clear as possible concerning the difference between legal information that might be provided by court staff to unrepresented litigants, and legal advice.
 - *This reflects the submissions by some that recommended court staff be given more latitude to help self-represented litigants navigate the family law process. Most see this as a common-sense change, though some have pointed out that this could be a slippery slope. We will watch this one carefully.*
6. Continue to support the expanded use of unbundled services and legal coaching, including offering continuing legal education opportunities and tools to address liability concerns.
 - *This recommendation reflects the submission of FOLA and others which identified existing Law Society and LawPRO rules as being barriers to the*

expansion of these “lawyer-centric” family law reforms.

- *Notably, the Law Society has also redoubled their lobbying efforts, in cooperation with the bar, to encourage the Federal and Provincial government to accelerate the implementation of Unified Family Courts to all jurisdictions in Ontario.*

Our conclusion is that while FOLA is disappointed with any toward expansion of paralegal scope of practice, the decision to move in that direction was effectively made more than two years ago when Justice Bonkalo was given a mandate to determine how non-lawyers could serve family law clients. While that decision was pre-determined, it has taken more than two years to reach the point we are today, which is still many months (if not years) away from implementation. Furthermore, all signals point to a fairly limited implementation. We are heartened by the fact that so many of our recommendations are reflected in this short report and that the Law Society is committed to engaging the Bar in the process up to this point and going forward. We will hold them to that promise.

The fact remains, the Attorney General and the Law Society could have received the Bonkalo report in February of 2017 and immediately set out to implement the recommendations, but they did not. They have taken a step back and determined that expanding the scope of practice for paralegals is extremely complicated and fraught with potential danger ... as we identified in our submissions.

Since Convocation, we have been assured that FOLA will have representation on the “expert panel” (title of which is still to be determined) that will review forms and education/training requirements. The first meeting of that group has not yet been called, but is expected in February.

The County & District Law Library System – “LIRN”

This session was conducted in camera, but a summary of the discussion is provided here.

At the May Plenary, [a comprehensive proposal](#) – known as [LIRN \(Legal Information Resources Network\)](#) – was presented for the consideration of the Presidents. At that meeting and consultations following, the [Presidents objected strongly](#) to a number of provisions, particularly around proposals to shift existing association staff to the new LIRN. The Presidents – and FOLA – told the Law Society that this a non-negotiable item and that it required more information on other fronts before proceeding.

At Plenary, the FOLA Executive presented an update on the status of negotiations and identified the risks and “political realities” facing the negotiators. The Executive was pleased to also inform the Presidents that the Law Society had agreed that implementing the full scope of LIRN was not possible, but that certain interim reforms were needed. As a result, a scaled-down version, “LIRN 3.0”, was presented. It featured:

- Reiteration that an opportunity exists to re-set and revitalize “LibraryCO”
- Explicit focus on “competence”
- A re-set for the governance of the entity with a “skills-based nominated board” with accountability to the shareholders
- A mandate to the new Board to hire a Director/Senior Manager with a mandate to build and revitalize the system.
- Reiteration that the existing association staff relationship should remain with no change to their status.
- A guarantee of funding for five years and an opportunity to make the case for growth
- Making the “Library Levy” a “Competence” levy.

With the support of the Presidents, FOLA agreed to endorse a move forward with the next steps which is to retain a consultant to develop criteria for the skills matrix needed by the new Board of Directors and endorse the shareholders moving forward to recruit

that new Board based on the criteria. It is expected this will take a number of months to complete and in the meantime, nothing else changes to the day-to-day operations of LibraryCo.

Dialogue on Licensing

A spirited and interesting discussion on the future of law licensing in Ontario was held at Plenary. The speakers included **Jill Alexander** of the CCLA, who presented the [CCLA's submission](#) on this topic; **Brigid Wilkinson** of FOLA, who presented the [high-level principles that FOLA](#) is operating from with respect to this topic; and **Gina Alexandris** and **Andre Bacchus** of the [Ryerson University LPP program](#).

The debate was comprehensive and wide ranging, but did not reach a decision or consensus so we have chosen not to attempt to summarize it here.

To view the debate, click [here](#).

Federal Tax Code Changes

In the Fall, in the weeks leading up to Plenary, FOLA joined the Coalition for Small Business Tax Fairness to call on the federal government to slow down and carefully consider the proposed changes to small business taxation. Many of our members – particularly practitioners in solo and small firms – had expressed concern that these changes would have a significant negative affect on their business and income.

At Plenary, we received briefings from **Debbie Pearl-Weinberg**, Executive Director & General Tax Counsel with the Tax & Estate Planning division of CIBC Financial Planning and Advice Group and from **Dan Kelly**, President of the Canadian Federation of Independent Business.

Ms. Pearl-Weinberg offered a great technical summary of the proposed tax changes and what they mean to legal businesses in Ontario. From Mr. Kelly, we received a terrific brief on the lobbying efforts by the small business coalition to encourage greater consultation with small business, including lawyers, and modify some of the proposed changes to mitigate negative affects.

Obviously, on an issue such as tax policy, there are many perspectives to offer, and FOLA has done our best to reflect those perspectives and advocate in the best interests of the legal profession. To view more about FOLA's position, click [here](#).

For those interested in this topic, we urge you to click here.



LAWPRO

Kathleen Waters, CEO of LAWPRO gave her customary (terrific) update to Plenary on the latest news arising from the Lawyers' Professional Indemnity Corporation. She also announced in her speech that she is soon planning to retire and that this presentation is her last to FOLA Plenary. We thank Kathleen for her excellent presentation and for her partnership over the years. Best wishes in whatever comes next, Kathleen!

To view her presentation, click [here](#):



We also sincerely thank LAWPRO for their ongoing and generous sponsorship of our Plenary meetings.



FOLA Partners

FOLA is committed to finding and working with partners that can work with local associations and the practicing bar across Ontario to enhance the value of membership for lawyers thinking of joining their local law association. To that end, we are excited to have partnerships with CPD Online, vLex Canada and Lawyers Financial. Their offering and value proposition to your members are described below and in the attached video presentations.

CPD Online

CPD Online once again joined our Plenary meeting as a sponsor and spoke about an innovative – and valuable - partnership they are offering to local associations and your members.



A recent survey of Ontario lawyers found that a typical lawyer spends between \$1,200 and \$1,500 a year on their annual CPD. CPD Online is a continuing professional development video on demand site that has content from all practice areas of law and generates this content from other Ontario law associations. They post approximately 125 hours per year of accredited, professionalism and substantive content.

Through our partnership, **CPD Online will offer an unlimited subscription to this content for \$200/year – available only to members of local law associations.**

To learn more, please watch the following two videos:

<https://www.cpdonline.ca/foia-2017-200> - This video describes how a member can access this offer.

A second video (5 min) describes how our practice resource centres can offer CPD in our practice resource centres without having to collect fees, pay invoices, create completion certificates, etc.

<https://www.cpdonline.ca/foia-2017-librarians>

Please note that CPDOnline is also interested in providing content and purchasing advertising space in your association publications.

To follow-up, please contact Paula Puddy (CPD Director of the Middlesex Law Association and Business Development Director of CPDOnline. Paula can be reached at: Paula.Puddy@CPDOnline.ca or 1-519-851-4832

vLex Canada

vLex Canada is a legal research tool used around the world. Colin Lachance joined Plenary to make an offer to FOLA and local association members across Ontario. To learn more, click on this [video](#) (starting at 1:40) or visit vLex at this [link](#).

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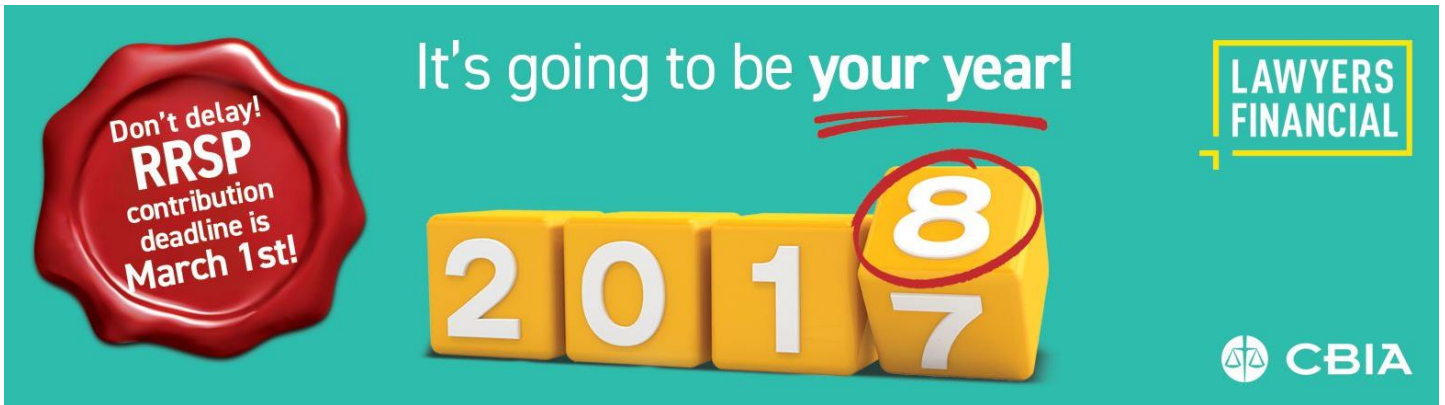
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Lawyers Financial

Dawn Marchand of [Lawyers Financial](#), formerly known as the Canadian Bar Insurance Association (CBIA) joined Plenary to offer a partnership with local associations and your members to bring insurance and investment products tailored to lawyers, their families and employees.

Dawn's presentation can be accessed at this [link](#).



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Please distribute this report to your members!

We encourage you to share this newsletter with all members of your association. If you wish for us to e-mail this document directly to anyone, please let us know.



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OF THE NOVEMBER 2017 PLENARY PROGRAM



THANK YOU TO THE LAW SOCIETY OF UPPER CANADA FOR ITS ONGOING FINANCIAL SUPPORT OF FOLA



The Law Society
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THANK YOU TO OUR HOST ASSOCIATION, THE TORONTO LAWYERS' ASSOCIATION

