

CHAIR'S REPORT – MAY 2019

Since becoming Chair last November, I have put thought and energy into how FOLA can play a role in helping the members of the bar succeed in the practice of law. By “succeed”, I do not mean just by way of financial viability (although that is included). I also mean succeed in providing excellent service to our clients, succeed from a best practice management perspective, succeed in staying mentally and physically healthy and succeed in continuing to be valued leaders within our respective communities.

Along these lines, I have had a number of meetings and interactions with the Law Society because, in my view, it is absolutely within the statutory mandate of the Law Society to regulate the profession in a way that allows lawyers to provide the best service possible to the public. Simply put: a practicing bar that is properly supported by its regulator is in the public interest.

Along these lines, I was very much encouraged in seeing that LSO Treasurer Malcom Mercer was quoted in the December 18th, 2018 edition of the Lawyer's Daily as saying: “If our members are well supported and better able to do their job, the public will be better served”. I completely agree with Treasurer Mercer and I have been, and will continue, to work with the Law Society on ways in which it can best support the practicing bar.

Along these lines, after the bencher election, I understand that the Law Society will embark on some strategic planning to set its goals and priorities for the upcoming four years. I have been invited to participate in a focus group, along with other key stakeholders, to discuss the Law Society's regulatory policy and organizational objectives. That meeting will have taken place by the time of the FOLA May Plenary, but timing dictates that I prepare this report prior to the meeting. I intend to use my opportunity to convey to the Law Society that it should prioritize its support of the practicing Bar as one of its strategic objectives of the next four years. An example would be setting a goal to reduce client complaints against sole practitioners and lawyers in small firms by, say, 20%. We are continually being told that lawyers in sole and small firms receive the highest number of client complaints. The Law Society has the data relative to the nature of the complaints. There is no doubt commonality in many of the complaints, such that the Law Society should be able to identify the problem areas and provide supportive measures to those lawyers to assist them in providing the best service possible to their clients.

Those who attended the November Plenary in Waterloo will recall that it included a number of sessions on mental health. Within a week of becoming Chair, I was informed that on November 1, 2018, Nicole Cardin, a 38 year old lawyer from St. Catharines, had taken her life. Nicole had only been practicing law for three years. Nicole was working on her own, trying to make it as a sole practitioner doing matrimonial law, some solicitor's work and general litigation. A spot audit of her books by the Law Society indicated that Nicole was struggling. She was unable to cope with what was required to allow her to get her practice into shape and continue working and she ultimately ended her life.

Nicole's tragedy acts as a reminder that mental health is not a topic that can be discussed and then put on a shelf to collect dust. Mental health is an issue that has to be at the front of our minds on an ongoing basis. It is for that reason that we have asked Dr. Susan Farrell to act as our Thursday lunch keynote speaker on the topic of mental health and wellness in the legal profession.

Over the past six months, we have had ongoing engagement with the Provincial Government, particularly with the Department of the Attorney General. I have had a number of meetings with Joseph Hillier and Michael Wilson, the Senior Policy Advisor and Chief of Staff respectively to Attorney General Caroline Mulroney. Our discussions have primarily focused on the Attorney General's initiative to find ways to improve Ontario's justice system.

One matter that was never raised during any of those conversations was what the government's intentions were with respect to funding Legal Aid Ontario. The recently released budget came as a shock to just about everyone in the justice community. While the Law Society is currently engaging the profession and other justice stakeholders on ways in which it can improve its access to justice initiatives, the government has sent a strong signal that it does not take the issue seriously. The cuts to legal aid put the most vulnerable of Ontarians at risk. FOLA will continue to work with the Law Society and other justice stakeholders, particularly the Alliance for Sustainable Legal Aid (ASLA), to advocate strongly for appropriate funding and service so that the people of modest means in this province have access to legal representation.

On January 31st, I attended a meeting at Osgoode Hall with Chief Justice George Strathy, Attorney General Caroline Mulroney and a number of other legal stakeholders to discuss means by which improvements could be made to Ontario's justice system. From that meeting, a number of themes emerged, including better use of technology including e-filing, use of video, electronic searchable documents, etc., more funding for legal aid (so much for that idea), province wide Unified Family Court, process simplification and consistency throughout the entire province, increases to Small Claims and Simplified Procedure jurisdiction and more effective means to deal with self-represented litigants.

I am told that the meeting was just the first step in what is hoped to be an ongoing process with broader consultation with the bar and justice stakeholders. Hopefully this process will continue as some very innovative ideas to improve Ontario's justice system were put forward by the participants.

Lastly, I am dictating this report before the results of the benchers election are known. I look forward to continuing to work with the Law Society and the compliment of new benchers to find ways that our regulator can best support the practicing lawyers of Ontario.