

## Candidate Details

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- Year of call: 2003
- Practice area; Solicitor: Wills, Estates, Family

Q2: How is your lived experience relevant to regulating the diverse population of the Ontario legal profession in the public interest?

Laws are the bones that structure and the sinews that hold together our society. From this come three reasons I believe my experience relevant: the chiropractic, the martial and the artistic.

The chiropractic sees Canadian society as in need of adjustment. I have had first-hand experience of racism, sexism, ableism and homophobia from a position at ground zero. Over time I moved from fearing that racial slurs meant there was something wrong with me, to thinking there was something wrong with those whose sexism excluded me, and then to understanding that race, gender, (dis)ability and sexual orientation are all interchangeable tools used to reinforce social walls between “us”=good, and “them”=bad. The Canadian justice system has changed for the better. Yet my community activism, my work as a solicitor, and my teaching have shown me a society in need of further adjustment to ensure the justice system continues to change and to become more helpful to those in need.

The martial motivation comes from a different reaction to similar experiences. Societal change is a long-term solution; it is also a slow solution. Decisions the Law Society is making today will have effect for years to come. In typical legal methodology one starts by “narrowing the issues” prior to discussion, or argument in Court; this clarifies the extent of the battlefield and the target that must be reached to declare victory. Yet the debates currently facing the Law Society cannot be resolved in isolation. Each issue affects the others, and rather than winning one skirmish only to realize that it has opened several new battle-fronts, it is better to start with Benchers whose vision can encompass the whole battlefield and who are committed to discovering areas where problems intersect and solutions can be crafted in ways to make other battles easier.

The artistic motivation is entirely different. I have been an avid reader since age four, a writer since age five, and an editor since seventeen. As part of the group producing and editing *Rites Magazine*, I began to understand how writing can be a barrier to information transfer. Most of our contributors were academics and professionals, not journalists. It became our responsibility as editors to translate the facts from their articles into language that would inform and entertain our general audience.

I first thought of law as a career after listening to lawyer Charles Campbell argue that Toronto's refusal to proclaim Pride Day was discriminatory. The case was lost on a technicality, and I found myself unable to bring the beauty of the debate into everyday terms. Neither the Court nor the law was the “bad guy”; the circumstances of the case just were not good. When the public

misunderstands the law, or legal professionals misunderstand and work at cross purposes to the Law Society, access to justice suffers. I believe there to be a need for people who can understand the strengths and limitations of the Law Society, and who can relay that understanding to those who need it. Being a Bencher will enable me to be a better resource person for those who are working as social chiropractors, to be a stronger defender for those under attack, and finally, to be a more clear sighted artist, reporter or translator for the public and for other solicitors and soles who often see the Society only as an adversary.

Q3: For those who have been historically under-represented in the legal profession, the notions of "equity" and "diversity" are important considerations. What is your definition of "equity" and "diversity" and how would you ensure that these principles are realized and promoted throughout the legal profession? What are some concrete examples that you have personally implemented to ensure greater equity and diversity and more inclusiveness in the legal profession?

I've been chewing over the meaning of the word "diversity." Does it mean anything at all without context? For some it appears almost a self-serving admonition: "Your group is homogenous, you need to include (people who look like) me or it will be bad." For others it is used as a smokescreen for the status quo: "They' see us as homogenous – we need to hire someone who looks different, but is otherwise as much as possible like us, or it will be bad."

I would like to hope that the proper definition of "diversity" arises from the theory that groups that contain people with a diversity of experiences, ideas, and opinions will be more robust at adapting, surviving, and planning for change. Although it is but a hope, that definition fits better with my belief in a level playing field for all of us, however abled or gendered, however we look or sound or dress or mate or express our cultural values, or how or whether we worship (as long as our ways of being do not harm or arbitrarily constrain the lives of those around us).

It may not be logistically possible to implement diversity and equity policies and plans in a sole practice that has no staff. That said, when I was in law school, I worked with a group of fellow students in managing and running a project to create a digital library for students with vision or print disabilities. In the late 1990s, texts were not available as e-books so we had to negotiate with publishers for their pre-print digital copy or obtain their permission to scan the text and reproduce it digitally for our users. Accommodation for people with disabilities is now built into my practice, as I ensure that meeting spaces are accessible, or if that is not possible I meet clients in their homes. As an instructor working with students who intend to become licensees, I am frequently asked questions about how the welcoming the profession is to students from different backgrounds. I am pleased to be able to tell students that the Law Society's statistics show that the diversity in the Paralegal profession comes close to reflecting the racial diversity of Ontario. Based on personal observation, Paralegal students also show a far greater breadth of economic or class backgrounds than was apparent in law school. My goal is to give students a truthful answer that does not deny the possibility of discrimination, but that also encourages them to move into the profession and to be aware of and use resources such as Discrimination and Harassment Counsel if needed.

Q4: Have you mentored licensees from diverse backgrounds? In your view, what are the most effective mentoring and/or advisory services models for licensees from diverse backgrounds?

In mentoring a variety of students and new licensees my view is that the differences between individuals are greater than the differences between groups. As an example, common wisdom would have it that small towns are bastions of conservatism and racial inequity, while Toronto's multi-culturalism makes it the obvious destination for racialized or other equality-seeking licensees. Yet a Middle Eastern student of mine suggested the opposite. It might be easier to blend in, in Toronto, yet if he could not live in Ottawa he would pick an even smaller town. At my quizzical look, he explained that racism is simple. He knows what to expect from being identified by white people as someone from the Middle East. Inter-faith and intra-regional conflicts, on the other hand, meant that visiting Toronto was about as much fun for him as playing hopscotch on a mine field.

So the most effective mentoring model for any licensee/mentee is to discuss, clearly, and in detail, ahead of time, what the mentee wants or needs and what the mentor can give. Build in timelines to check-in with each other to make sure neither need nor availability has changed. Be sure to make it clear why those questions are being asked. A mentor will not get good feedback from a mentee who believes that the tiniest expression of dissatisfaction might lead to their being cast out into the cold to work without support. The mentee should know that there are other options, and that their mentor will help as much as possible in the transition.

Q5: How can the Law Society better ensure that the existing and any future pathways to licensing are accessible to candidates from diverse backgrounds? What should the Law Society do to ensure that all licensing candidates have equitable access to practical training and career opportunities?

Since 1970, the Supreme Court of Canada has recognized, with approval, the U.S. Supreme Court's decision in *Brown v. Board of Education*. It strikes me as bewildering that in creating the LPP program and running it as an equivalent alternative to articles, the Law Society did not consider the ratio from *Brown*, specifically: "We conclude that, in the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal." The LPP is accessible, and can be made more so by either including it into the curriculum as is done at Lakehead, or by working with the government to ensure that the period during the LPP is covered by OSAP. Finally, the Society needs to consult with the government and with senior and retiring lawyers from smaller firms or sole practices –especially in rural or northern areas that are already under-served– to set up a plan that will ensure that students who graduate with high debt loads can benefit from choosing to work in under-served areas or smaller practices.

Q6: What role should the Law Society play in enhancing the capacity of law firms and in-house legal departments to ensure the recruitment, retention, and career advancement of licensees from diverse backgrounds?

One of the main challenges to the recruitment issue is clarifying whether there is actually an oversupply of graduates seeking work; a general under supply of work; or a problem with distribution such that the jobs are not where the job-seekers are, and vice-versa. If it is a distribution problem, then the Law Society needs to work with the provincial government to encourage recent graduates to move to where the work is. The Society needs to investigate whether that encouragement is best provided by government student-loan forgiveness plans, reduced membership fees, or improved communication regarding the availability of challenging and interesting work in rural and northern towns. An over-supply problem is harder for the Law Society to address. In the 1950s the Law Society of Upper Canada was one of the last in Canada to give up their monopoly on educating future lawyers. Did the Society retain any power to rule regarding how law schools teach? It's not clear. Currently the Society regulates class size and student intake for schools teaching paralegals. If that is within their power, then presumably they could put a limit on the number of students admitted to law schools, at least in Ontario. Putting a cap on enrolment in Ontario, and suggesting that only students from out-of-province schools that had also capped enrolment would be allowed entry to the Ontario Bar until 2025, would be one solution. When employers no longer have the luxury of choice within an overabundance of excellent employees, they are less likely to allow irrelevant considerations such as race to influence their decisions. Unfortunately, conversations with law professors incline me to believe that universities would not voluntarily agree to such a proposal, and would fight if the Society attempted to call on regulatory power. Perhaps once the Trinity Western suits have all been settled the balance of power between law societies and universities will be clearer, and along with it the possibility of encouraging –or demanding– reduced university enrolment.

Q7: How should the Law Society ensure that the public of Ontario receives quality legal services from diverse practitioners?

The Society must ensure that current licensing standards are equitable, and then continue to set and enforce standards in education, training, and continuing education for all licensees. It would also be useful to include cultural competence in the curriculum for all licensees and as a part of continuing legal education.

Q8: What initiatives/strategies should the Law Society adopt to develop a more diverse public image, a more equitable and representative governance and decision-making structure, and more inclusive culture in all aspects of its operations?

The Society needs to start with an internal audit to ensure that it is accommodating the diversity of already existing licensees. Attempting to develop a diverse public image without real internal diversity risks breaking the Rules of Conduct regarding truth in advertising. A simple, but telling, example of this need for internal review is the current phrasing of the “Religion” question in the Licensees Annual Report. The question offers various choices that show both under-inclusivity (Christians are given three options Catholic, Protestant, or Ukrainian Orthodox, leaving out a myriad other groups from Adventists to Zion’s Church with multiple alphabets between) and over-generalization (despite other religions also including many denominations,

licensees are only given the choice to identify as generically Jewish, Muslim, Buddhist, or Hindu).

The Treasurer and Benchers need to set standards for appropriate behaviour and uphold those standards. If a CLE presenter makes prejudiced comments at an event where the Treasurer is present, it should not be up to an individual lawyer to complain; it should be an obligation that comes with the position of Treasurer (or Bencher) to make it clear that the Law Society does not support prejudice in any form. Finally, members of the Law Society must participate in the strategies the Law Society develops to address challenges faced by racialized licensees. If Cultural Competence CLE is offered, Benchers and staff of the Law Society need to attend. If law offices of a certain size are required to have Diversity and Inclusivity policies in place, then the Society must have one as well, and must publish –as, ideally, firms would be required to– ongoing data regarding how the Society has met its targets. It is clear that there is a gap between anti-discriminatory ideals and actual decision making. Transparency, including so-called “Naming and Shaming” can work to ensure that even those whose commitment to the ideal of inclusivity is weak, will up their game. With the sole exception of votes that the By-Laws require to be held in camera, the Society needs to make voting records public and easy to find. Then during the 2019 Bencher Elections the question of who deserves re-election will be clearer.

Q9: Please provide any additional relevant information about yourself or your position on key issues regarding the governance of the Law Society or the regulation of the legal profession in Ontario.

An issue that is not addressed above but is much discussed in the current election, is that of Alternate Business Structures (ABS). Watching Convocation’s discussion of the TWU accreditation last year made it clear that Benchers are not to make decisions based on the interests of those who voted for them. The position requires each Bencher to set aside preconceptions, listen to evidence, and make decisions that are –in their opinion– in the best interests of the public, and of the Rule of Law. I have read much argument regarding ABS, and as yet have not seen evidence of clear benefits that could not be obtained by less intrusive means. If ABS is the solution to cash flow or capital investment questions for large firms, can they not write business proposals and convince a bank to lend? If ABS is the solution to access to justice (by encouraging non-lawyers to be more involved in the provision of legal services) why not begin by broadening the Paralegal scope of practice? If ABS is touted as both streamlining business practice to make it more affordable and creating a source of new jobs for recent graduates seeking entry into the profession, how do streamlining and hiring go together? It is my understanding that Convocation does not need to vote to keep the status quo. Rather the introduction of a new policy requires a majority vote for change. I would vote for ABS if I were convinced that it would improve a system that I acknowledge could use improvement. Nothing I have seen to date leads me to believe that the introduction of ABS will benefit anyone but a few already at the financial top of the legal profession. If no further evidence is provided and no better arguments are made, I do not see how, in good conscience I could vote for that change.