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CONVOCATION

IN PUBLIC SESSION

FRIDAY, DECEMBER 2, 2016 - 9:30 a.m.

OSGOODE HALL, TORONTO

1 be measured primarily by numeric yardstick as to
2 whether there are ten or more professionals or
3 licensees engaged in practice in that environment.

4 So these recommendations by the working
5 group step boldly into areas where the Compliance-Based
6 Entity Regulation Task Force, based on its
7 consultations with the professions, was hesitant to go.
8 If accepted, they will establish a precedent in these
9 areas where the task force is quite likely to follow.
10 These are not -- my comments today are not an
11 exhaustive or comprehensive review of the overlap
12 between the two reports. There are many other issues
13 that are before my task force that also will be
14 impacted by acceptance of the report of this working
15 group and voting in favour of the motion.

16 I really wanted to remind or alert
17 Benchers to the work of the task force and the impact
18 of this motion on its work as they deliberate on the
19 motion. Thank you, Treasurer.

20 TREASURER SCHABAS: Thank you,
21 Mr. Earnshaw. Ms. Papageorgiou.

22 MS. PAPAGEORGIU: I'm very proud to be
23 here today to speak in favour of the recommendations of
24 the Challenges Report, and I also speak against the
25 motion to sever the recommendations.

1 There has been a long history of racism,
2 sexism and discrimination in the law and the legal
3 profession and the exclusion of the other from
4 positions of power, leadership and privilege. The
5 academic research is incontrovertible.

6 Indeed, historically the law has been
7 used as a tool of oppression and we still feel the
8 effects of this today. All you have to do is look at
9 the Truth and Reconciliation Report or even just walk
10 around this beautiful building. The walls are covered
11 with large portraits of white men. There are hardly
12 any portraits of women or racialized lawyers. I notice
13 it every time I come here and I often wonder how
14 members of the public or younger lawyers with diverse
15 backgrounds feel. I know it bothers me tremendously.

16 The Challenges Report is an important
17 first step to address this long-standing inequity, and
18 I'm not going to repeat all the arguments here today or
19 all of the reasons that are already in the report, but
20 I do want to emphasize that in considering the report,
21 and here I disagree with Mr. Troister, I think that the
22 legal profession's failure to address these inequities
23 has had a very strong impact on its ability to fulfill
24 its statutory mandate to facilitate access to justice.

25 Again, the academic research shows this

1 and, you know, we had an Access to Justice Week a
2 couple of weeks ago and I was there and members of the
3 public came to share some of their views as to why they
4 don't get great access to justice. I was struck by the
5 number of people who stood up and spoke about how the
6 reason they don't get access to justice is because of
7 the legal profession's sexism, racism, ableism and
8 other aspects of its discrimination.

9 So when we consider this report, I think
10 we need to do an evidence-based assessment and, in my
11 view, the evidence all leads to the conclusion that we
12 support the recommendations. There's evidence of a
13 widespread and long-standing problem. There's
14 precedent for each of the recommendations in other
15 jurisdictions or in the academic literature without any
16 reported giant issues that have arisen because of the
17 recommendations.

18 There's overwhelming support from people
19 and legal organizations who have made submissions,
20 including organizations who are made up of
21 equality-seeking groups. I was actually really moved
22 by all of the expressions of support from all the legal
23 organizations.

24 You know, I -- for a profession that has
25 a history of all of these problems, I really think that

1 we are now at the point where people do really care
2 about this issue and want to do something and take
3 action, and this is a way to begin that.

4 I see no -- I'm deeply troubled by Mr.
5 Galati's comments. I have a great deal of respect for
6 both Mr. Galati and Mr. Troister. In my view, the
7 committee has, in good faith, set out to honestly study
8 these issues and arrive at the recommendations. Will
9 the recommendations solve the problem? Probably not,
10 to be honest, because no one yet in this world has
11 figured out a way to solve racism or all the other isms
12 out there, but these recommendations find significant
13 support in all the ways that I have said and I actually
14 think that compiling information and statistics and
15 inclusions -- an inclusion index for firms will be
16 particularly effective because people within the legal
17 community, clients, there is this growing concern about
18 diversity and I think shining a light is actually going
19 to make people step up.

20 I also see no reason to sever the
21 report, and I don't think that the failure to sever the
22 report has somehow dampened dialogue or debate. We had
23 the report for many months. We had an informal
24 information system where it was informally presented
25 and discussed; we then had it presented to us again at

1 Convocation and now we're here and we're having a
2 debate. I don't see that there has been any stifling
3 of any conversation whatsoever.

4 I think we have everything we need to
5 know, including a supported legal opinion with respect
6 to the statement of principles that Mr. Troister finds
7 offensive. And the legal opinion is, frankly,
8 supportive of it and it states that the statement of
9 principles is simply a restatement of the obligations
10 already imposed on licensees.

11 This is not analogous to Trinity; in
12 fact, it is the opposite of Trinity, where students
13 were prohibited from engaging in homosexual acts,
14 which is actually discriminatory. While there might be
15 some precedent; one example raised for separating out
16 the recommendations, this is not the usual course and I
17 don't think that this is the time to do that. This is
18 not the time to nitpick or tinker around the edges or
19 speculate.

20 I agree it's a historic opportunity to
21 take a stand against racism, and it's especially
22 important today when we see the rise of hatred and more
23 racism in other parts of the world. We might think
24 that we have come so far and our intentions are so good
25 that surely we could never lose ground and will

1 continue to evolve towards more equity, but I think we
2 all know now that that is not true. Things can change
3 in the blink of an eye or with a vote that goes the
4 wrong way.

5 TREASURER SCHABAS: Thank you, Ms.
6 Papageorgiou. Ms. Walker.

7 MS. WALKER: Thank you, Treasurer.
8 Treasurer, and through you to Convocation, in a world
9 seeking justice and fair opportunity for all, our body
10 politic has become unhinged by politics south of the
11 border. There has been conversations and debate has
12 turned away from elevating and encourages all citizens,
13 to attacks on race, sex, country of origin and
14 language.

15 I am a black woman and a child of
16 Jamaican immigrants and I continue to face racism and
17 discrimination, and it's not right or fair.

18 It is my belief that we must resist the
19 easy route to diminish standards of conversation and
20 action in the public square. The action that we take
21 has inclusiveness at its centre and adds a step of
22 confidence to those who seek to elevate and encourage.
23 I didn't know this would get me emotional.

24 TREASURER SCHABAS: Take your time.

25 MS. WALKER: Today's motion of 13 points