

## **FINAL CONSULTATION FINDINGS**

# **RETENTION OF WOMEN IN PRIVATE PRACTICE WORKING GROUP**

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**May 22, 2008**

**Working Group Members**  
**Laurie Pawlitza, Co-Chair**  
**Bonnie Warkentin, Co-Chair**  
**Nathalie Boutet**  
**Marion Boyd**  
**James Caskey**  
**Soma Choudhury**  
**Paul Copeland**  
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**For information**

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## FINAL CONSULTATION REPORT

### Background

1. On February 21, 2008, Convocation approved a province-wide consultation to seek comments from the profession on the *Report of the Retention of Women in Private Practice Working Group* and the Working Group's proposed recommendations.
2. The following provides an outline of,
  - a. the communication strategy;
  - b. the consultation methodology;
  - c. general consultation findings;
  - d. summary of regional and Toronto Town Hall meetings;
  - e. comments about each recommendation.
3. Written submissions received are also available on request by contacting the Equity Initiatives Department.

### A - Communication Strategy

4. The Law Society developed a communication strategy and promoted the final consultation through the following methods:
  - a. the report, executive summary (in French and English) and consultation questions were posted on the public website, inviting comments;
  - b. advertisements in French and English about the final consultation were placed in the Ontario Reports;
  - c. an overview of the project appeared in the Ontario Lawyers' Gazette;
  - d. a press release was issued on February 22, 2008 highlighting details of the initiative;
  - e. discussion groups and face-to-face meetings were organized in collaboration with the presidents and librarians of regional law associations and regional benchers;
  - f. an email account for electronic comments was created;

- g. the responses were collected and compiled for a report to Convocation in May.
5. The project was featured and/or articles are expected to appear in the following:
- a. Ontario Lawyers Gazette;
  - b. The Globe & Mail;
  - c. CBC Radio;
  - d. Lawyers Weekly;
  - e. Law Times;
  - f. Macleans;
  - g. Precedent; and
  - h. Toronto Star.

**B - The Consultation Methodology**

6. The province-wide consultation was held between March and May 2008. During that period, the Law Society held meetings in Toronto, Ottawa, Sudbury, Oakville, Kingston, Windsor, Thunder Bay, Orillia, Ajax and London with lawyers, including law firm managing partners and presidents of legal associations. Approximately 900 lawyers and students attended the meetings and the Law Society received more than 55 written submissions from individuals and organizations, including the following:
- a. Ontario Bar Association ("OBA");
  - b. the Equity Advisory Group of the Law Society of Upper Canada ("EAG");
  - c. the County and District Law President's Association ("CDLPA");
  - d. the County of Carleton Law Association ("CCLA");
  - e. the Thunder Bay Law Association;
  - f. the Advisory Committee on Women at Justice;
  - g. the Ontario Crown Attorney's Association; and
  - h. the Advocates' Society.

7. The Law Society is grateful to the legal profession for engaging in this process by taking the time to attend meetings and/or by sending written submissions. The consultation process proved to be overwhelmingly positive.
8. The following provides an outline of the meetings, their location and date, the number of attendees and which benchers were in attendance. While the Law Society met on request with some law firms, it is also arranging additional meetings with firms that have expressed an interest in discussing the project further.

<b>Location</b>	<b>Date</b>	<b>Number of participants (approximate)</b>	<b>Benchers and support staff in attendance</b>
CDLPA Executive Committee – At the Law Society	March 6, 2008	9	Bonnie Warkentin (Co-Chair) Janet Minor Josée Bouchard (Equity Advisor)
Advocates' Society Executive Committee	March 19, 2008	27	Bonnie Warkentin (Co-Chair) Laurie Pawlitzka (Co-Chair) Janet Minor Josée Bouchard (Equity Advisor)
Equity Advisory Group	March 26, 2008	13	Bonnie Warkentin (Co-Chair) Laurie Pawlitzka (Co-Chair) Janet Minor Josée Bouchard (Equity Advisor)
Women's Law Association of Ontario – Board of Directors	April 3, 2008	10	Bonnie Warkentin (Co-Chair) Laurie Pawlitzka (Co-Chair) Josée Bouchard (Equity Advisor)
Feminist Legal Analysis Committee	April 9, 2008	7	Bonnie Warkentin (Co-Chair)

of the OBA			Laurie Pawlitza (Co-Chair) Josée Bouchard (Equity Advisor)
Kingston	April 14, 2008	13	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Josée Bouchard (Equity Advisor)
Ottawa	April 15, 2008	60	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Thomas Conway Bradley Wright Josée Bouchard (Equity Advisor)
OBA Executive Committee	April 17, 2008	18	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Josée Bouchard (Equity Advisor)
London	April 18, 2008	17	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) James Caskey Heather Ross Judith Potter Josée Bouchard (Equity Advisor)
Ajax Central East Region Advocacy Conference	April 19, 2008	20	Laurie Pawlitza (Co-Chair) Janet Minor Douglas Lewis Josée Bouchard (Equity Advisor)
Sudbury	April 21, 2008	9	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Susan Hare Carol Hartman

			Josée Bouchard (Equity Advisor)
Oakville	April 22, 2008	8	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Paul Henderson Alan Silverstein Josée Bouchard (Equity Advisor)
Toronto Town Hall April 23, 2008	April 23, 2008	165	Treasurer MacKenzie Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Janet Minor Derry Millar Josée Bouchard (Equity Advisor)
Meeting with GTA Managing Partners	April 23, 2008	23	Treasurer MacKenzie Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Janet Minor Josée Bouchard (Equity Advisor)
Toronto Town Hall	April 24, 2008	200	Treasurer MacKenzie Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Janet Minor Derry Millar Mary Louise Dickson Paul Schabas Josée Bouchard (Equity Advisor)
Orillia	April 25, 2008	8	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair)

			Douglas Lewis Josée Bouchard (Equity Advisor)
South West Region Women's Law Association	April 25 – 26, 2008	20	Heather Ross Judith Potter
McCarthy Tetrault LLP National Board of Managing Partners	April 28, 2008	10	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Josée Bouchard (Equity Advisor)
McCarthy Tetrault, town hall	April 28, 2008	40	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Josée Bouchard (Equity Advisor)
Meeting with GTA Managing Partners	April 29, 2008	19	Treasurer MacKenzie Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Janet Minor Josée Bouchard (Equity Advisor)
Blake Cassels & Graydon LLP	April 29, 2008	90	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Josée Bouchard (Equity Advisor)
Fraser Milner Casgrain LLP Diversity Committee	April 29, 2008	8 lawyers and 1 baby	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair) Josée Bouchard (Equity Advisor)
Ontario government and crown attorneys	April 30, 2008	6	Janet Minor Josée Bouchard (Equity Advisor)
Thunder Bay	May 1, 2008	18	Bonnie Warkentin (Co-Chair) Laurie Pawlitza

			(Co-Chair) Ross Murray Josée Bouchard (Equity Advisor)
Ontario government and crown attorneys	May 6, 2008	7	Janet Minor
Windsor Essex Law Association	May 8, 2008	15	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair)
CDLPA plenary	May 8, 2008	60	Bonnie Warkentin (Co-Chair) Laurie Pawlitza (Co-Chair)

9. The final consultation attracted a broad spectrum of lawyers, men and women, from all types of practice settings and firm sizes, the government, in-house counsel and articling and law students. Participants included both men and women who are associates, partners and managing partners of various levels of experience and practising in a wide range of areas.
  
10. The experiences and views of lawyers varied by region. The interest of the legal profession in talking about this issue and developing effective strategies is extremely high and it is clear that the project is timely. We provide a general overview of the views of lawyers about the project. Because the legal profession attended meetings in significant numbers and the views and general comments varied in each region, we also present the diverse perspectives by summarizing comments that were made in town hall meetings in each region. Comments that are specific to each recommendation are presented under each recommendation.

**C – General Consultation Findings**

11. Comments and submissions were very positive and supportive of the proposed recommendations, and a number of women lawyers noted that they felt inspired by the project. Some said that they would have likely made different career choices had the recommendations been in place when they were making these choices. However, some participants noted that the recommendations do not go



far enough. Those lawyers generally agreed that the recommendations are an excellent first step and that the Law Society should identify further initiatives once the recommendations have been implemented.

12. There was general agreement that the Law Society should be a leader in working to enhance the retention of women in private practice. Numerous law firms, legal organizations and lawyers commended the Law Society for studying the issue of retaining women in private practice and, in particular, for proposing practical solutions. Associations such as CDLPA, the Advisory Committee on Women at Justice and EAG wrote to indicate their general support for the findings and endorsement of the recommendations. The Ontario Crown Attorney's Association generally agreed with the recommendations and concluded that they are a first step in the right direction.
13. The acceptance by the profession of part-time and flexible work arrangements are seen as important to achieve the reality of balance between professional and personal lives, and to provide flexibility for women who wish to reintegrate private practice after extended leaves of absences.
14. EAG noted the importance of creating awareness and programs to address the unique situation of racialized women in private practice. It is anticipated that the Women's Equity Advisory Group, created as a result of the recommendations, will assist to identify the unique needs of racialized women and to develop initiatives to address those needs.
15. EAG also indicated that it would like to be involved in the implementation stage of the project. The EAG is an advisory group consisting of expert lawyers and organizations in the area of equality rights. It includes representation from the Advocates' Society, the Arab Canadian Lawyers' Association, ARCH – Disability Law Centre, the Association des juristes d'expression française de l'Ontario, the Canadian Association of Black Lawyers, the Hispanic Ontario Lawyers

Association, the Nishnawbe-Aski Legal Services, the South Asian Bar Association and the Women's Law Association of Ontario. The expertise of EAG will be a great asset to the implementation of the recommendations and to assist in developing networking opportunities for women.

16. Other associations also suggested that the Law Society meet on a regular basis with representatives of organizations such as the Advocates' Society, the OBA and the Canadian Bar Association ("CBA") to ensure a coordinated and efficient effort to establishing and carrying out programs designed to educate and provide mentoring to women in the practice of law. Such collaboration would also be an asset to the effective implementation of the recommendations.
17. The increasing influence of technology in lawyers' professional and personal lives was noted in written submissions and at consultation meetings. Although some lawyers noted that technology increases the expectation that lawyers should be available 24/7, most lawyers emphasized the positive impact that technology has on their work. For example, a number of lawyers indicated that technology has provided greater flexibility to work from home through remote access, and through access to emails and phone messages. This has allowed women lawyers to work flexible hours, sharing their time at work between the office and home. Some noted that colleagues had initial negative reactions to this change, but soon found that such arrangements can increase productivity and be conducive to high performance.
18. Some lawyers noted that the cost of technology can be prohibitive and most often disproportionately affects those in sole practice and small firms. In some areas of law, technology has become a necessary component of the practice and has resulted in high financial costs. For example, a real estate practice requires access to on-line registry systems that can be expensive and require extensive training. This issue could be discussed in the implementation stage of the project.

19. In a number of regions, criminal defence lawyers noted the uniqueness of their challenges. The difficulties they face to sustain viable practices along with the nature of their practices, which often requires them to be available on short notice or at times when institutions have visiting hours, would make it difficult for women in criminal defence sole practices to take advantage of the parental funding program and locum arrangements. Representatives of the Criminal Lawyers' Association suggested that the Law Society consult more fully with them to try and address their challenges. This is an area that, we suggest, the Law Society study further.
20. In-house counsel also noted that the recommendations do not address their needs. Although it was not within the mandate of the Working Group to develop recommendations to address the needs of in-house counsel, this is an area that the Law Society may wish to study further.
21. Meetings with lawyers in small and medium size firms provided interesting information about alternate law firm models. For example, law firms that have adopted a team approach seem to be more conducive to the type of work environment in which women wish to work. It is anticipated that the Justicia Think Tank will provide an opportunity to exchange information about successful alternate firm models and identify best practices in this area.
22. Lawyers in firms of 6 to 25 lawyers noted that the recommendations should also address their needs. This point was also noted in written submissions by associations such as the CCLA, which stated that “the recommendation may assist in alleviating some of the challenges faced by those in smaller and large firms, they leave out those who are facing many of the same challenges in their firms of 6 to 25.” The Justicia Think Tank was designed for firms of 25 or more, and the two larger firms in each region while the parental leave program is available for lawyers in firms of 5 lawyers or less. The Working Group notes, however, that other recommendations are meant to address the needs of women in private

- practice in general and would include women lawyers in firms of 6 to 25 lawyers. The on-line Women's Resource Centre and the Women's Leadership and Professional Development Institute are examples of such initiatives. Also, firms of 6 to 25 that wish to participate in the Think Tank will be welcome to do so.
23. It became apparent that firms of over 100 lawyers, firms between 25 and 100 lawyers and firms of 6 to 25 lawyers have quite different needs given the varying stages of development they have on the issues raised by women. It is anticipated that the Think Tank may well break into working groups depending upon the focus of each group's needs.
  24. Some lawyers and associations were of the view that there are proposed programs that do not have to be gender specific, and that the Law Society and law firms should take into account the generational differences in the way lawyers manage their work and life experiences. The Advocates' Society noted, for example, that even though the report focuses on the parental leave period, it might be helpful to address current and future trends and to recognize that many of the law school graduates who have recently entered or will continue to enter the profession have anticipated that they will have two income families. The need to address child bearing and child rearing should increasingly apply to men and women.
  25. The Law Society also met with the Managing Partners of firms of over 25 lawyers in the GTA region. The Managing Partners were overwhelmingly aware that they are losing women in disproportionate numbers, and are committed to trying to find solutions to retain them in their firms. They are generally very supportive of the recommendations and a number of firms have specifically indicated their intention to commit to the Justicia Think Tank. A number of firms have initiated processes and programs to support the recruitment, retention and career advancement of women. The Law Society commends those firms and hopes that they will participate in this project and share best practices.

26. In conclusion, the final consultation confirmed that the legal profession is supportive of the proposed recommendations. Comments on each specific recommendation are presented below.

#### **D – Summary of Regional and Toronto Town Hall Meetings**

27. We provide a summary of the views expressed in each region and at the Toronto town hall meetings. Minutes of meetings are presented in chronological order based on when the meetings took place. At each meeting, the Co-Chairs presented an overview of the project, including the background about the project, the methodology of the research and original consultation leading to the proposed recommendations, an overview of the recommendations and next steps.

#### Kingston

28. Participants in Kingston were very interested in the proposed parental leave benefit program, indicating that the Ontario Medical Association has set up a similar program a number of years ago. Some suggested that insurance companies, such as the Canadian Bar Insurance Association or LawPRO, may be interested in administering such a program.
29. Participants also suggested that flexibility should be integrated into the parental leave program. For example, it was noted that some lawyers might wish to gradually reintegrate the profession from a parental leave by working on a part-time basis. Receiving some parental leave benefits during the reintegration period would be helpful.
30. Participants also noted that it might be advisable, when implementing the program, to allow lawyers to receive the benefits weekly as opposed to monthly. It was also noted that some lawyers would wish to continue to supervise their practice while on leave and this would require some flexibility in the way the program is implemented.

31. Participants indicated that \$3000 per month for three months is a good start, but there appeared to be general consensus that the amount should be increased to \$5000. Participants were of the view that \$5000 would more adequately reflect their overhead costs per month.
32. Participants noted that networking and mentoring are critical and that such opportunities should be developed on a regional basis. They indicated that lawyers in region often do not have the time or money to attend Toronto events. The uniqueness of regional networks was also noted. Participants also expressed a wish to see more professional development programs in regions. Regional associations are, to various degrees, developing such programs either formally or informally. It was suggested that associations could work in partnership with the Law Society to develop programming. Participants commended associations in the Kingston area that have begun very successful mentoring programs and workshops.
33. Participants noted the value of technology support and indicated that assistance from the Law Society, either financial or technical, in this area would be welcome. Participants would find it helpful to have access to information about topics such as how to set up on-line remote access.
34. Participants were also very supportive of the recommended practice locum program and thought that if such a program were to be set up, accessibility to resources such as draft contract agreements, how to address conflict issues and issues related to LawPRO coverage would be important.

#### Ottawa

35. Participants in the Ottawa region noted that the report is very helpful and some commended the Law Society for its work in this area. Women were of the view that the report is timely and that the momentum created by this project should be maintained.

36. Some participants were of the view that the recommendations that focus on medium and large firms should address the issue of billable hours. There appeared to be a general view that, until the profession, and more particularly senior partners of law firms, decide to rethink and redesign the structure of the business of law and the billable hour model, systemic change will not happen.
37. Participants noted that law is becoming a feminine profession and it is critical that the legal profession address the issue of parental leaves. The challenges women face because of the billable hours model is one part of the equation. This has to be considered in combination with the way partnership decisions are made and attitudinal and cultural issues.
38. Lawyers noted that the parental leave program is a good start. The \$3000 per month would allow women and men to keep their obligations to clients and allow women to feel less isolated. The locum program would also allow lawyers to take a leave while maintaining good relationships with their clients. Some participants noted that for retired lawyers, the practice locum program would allow them to continue to practice part-time while maintaining a flexible life style.
39. Members of the criminal defense bar noted that the parental leave and the practice locum programs would likely not work in that area of law, largely because of the unpredictability of the schedule of their practice.
40. Some lawyers in private practice in small firms noted that mentoring is critical and should begin at the law school level. Lawyers at the Department of Justice noted that the Department of Justice has implemented effective mentoring programs. A representative of the Young Lawyers' Division of the OBA also noted that the OBA is working to build a mentoring program for women and men.

41. Some participants also indicated the gap that the recommendations do not provide programs for firms of 6 to 25 lawyers. Others also thought that education of the business of law, and the expectations of the practice of law, should begin at law school.

#### London

42. Participants in London commended the Law Society for a well-researched report and good recommendations. The only concern raised was that the recommendations are a first step and could go further.
43. The locum program was particularly well received in the London area. It was seen as not only a good program for women, but also for sole practitioners and small firms. There were some concerns raised about the lack of lawyers who may be interested in offering contract lawyering services in regions. Participants suggested that the Law Society consider the idea of hiring two to three lawyers paid by the Law Society to deliver locum services.
44. One participant indicated that she works on contract from her house. She noted that attitudes have changed regarding locum lawyers and clients are more accepting of the concept. Her practice has been very successful and she has maintained the flexibility to balance her work and family life.
45. The recommendation to set up a leadership institute for women was also well received, and it was noted that such programming should be available to all women in private practice.
46. Participants noted the active local bar associations in setting up mentoring dinners and programs and professional development opportunities. This is an area where the Law Society and local associations could work in partnership.



### Central East Region Advocacy Conference

47. Participants at the Central East Region Advocacy Conference were very supportive of the proposed parental leave and practice locum programs. Some noted that three months might be a short period and issues such as LawPRO and Law Society fees should be considered. For example, women and men may wish to come back to practice on a part-time basis, but the Law Society fees may be prohibitive.

### Sudbury

48. The concept of a practice locum program was well received in Sudbury, with some participants noting that retired judges or lawyers in regions may be interested in continuing to practice through locum arrangements.
49. It was also noted that the practice of law in Northern Ontario is quite different than elsewhere in the province. The Law Society could consider creating two locum positions that would be paid by the Law Society to provide the services across the province as required. Others suggested that the locum program be set up with the assistance of local bar associations.
50. It was noted that in Sudbury, a law firm of 25 lawyers is not a medium firm but a large firm. Some indicated that programs should be set up to address the needs of firms of 6 to 25 lawyers and to ensure that the uniqueness of regional firms is taken into account.
51. The Parental Leave Program was also well received. Some wondered if \$3000 per month for 3 months was sufficient. There appeared to be a consensus that such an amount and time are reasonable. Participants were of the view that LawPRO and Law Society fees should be reviewed.

## Oakville

52. Participants noted the importance to work with law schools in developing programs to prepare students for the business of law.
53. A participant recounted her experience with taking a leave of absence from her sole practice to travel. She hired a lawyer on contract to replace her during that time. The arrangement was extremely successful. Her clients were pleased that there was a replacement lawyer in the office to handle the files, the locum lawyer did not take clients away from the practice, and the lawyer who took a leave made a profit while away and managed to maintain a healthy practice. She is in favour of the proposed locum program.
54. A number of participants were in favour of the parental leave program but noted that \$3000 would not be enough to cover the overhead of a practice. Some also noted that the program could be expanded to compensate lawyers if they have to take care of aging parents.

## Toronto Town Hall April 23, 2008

55. The comments during both Toronto town hall meetings were overwhelmingly positive and in support of the report and its recommendations.
56. Encouraging firms to create policies about flexible work arrangements, ramp down and ramp up periods and other types of policies were seen as important. Participants were of the view that students are interested in knowing, at the interview stage and when they are choosing their firms, what policies are in place at each firm.
57. The president of the Criminal Lawyers' Association noted the uniqueness of criminal law and the need to consider this when developing strategies and implementing recommendations. It was noted that the association is interested in working with the Law Society on this issue.

58. The parental leave program was very well received, with a few participants noting that a higher amount would more likely cover overhead expenses.
59. Lawyers in large and medium firms were very receptive of the Justicia Think Tank recommendation. Some noted that they are in successful alternative type of arrangements and that it will be critical to educate senior partners through the Think Tank project.
60. Participants were also in favour of the development of a women's leadership institute, noting that the program should be affordable and accessible.
61. Some participants also noted that the impact of technology on women's lives is not discussed fully in the report and may be something to consider when implementing the project.

Toronto Town Hall April 24, 2008

62. During the second Toronto town hall meeting, women told us their stories. Some of the stories are presented below.
63. D. was 33 when she started practising. At the age of 37, she had a child. She worked in a boutique litigation law firm. She never thought seriously about the issue of balancing family and professional responsibilities, but she knew that she had to be profitable. She had a very supportive male partner who allowed her to take her full maternity leave with top up. She eventually began working a 4-day week and was also made partner. This was possible because of a supportive managing partner.
64. L. has three children and has been in practice for 21 years. She has always worked full time. She is in favour of the recommendations, noting that women often bear

- the family responsibilities in part because of the lack of available support at home. Childcare assistance is important.
65. F. began in a very supportive small firm. She has a 9-month-old daughter and recently decided to set up a three-partner firm with women who have young children. It is a very child friendly environment and as the women bring their children to the office. The parental leave and practice locum programs are very important and would make a huge difference.
  66. F. has been practising corporate litigation for 25 years. She had a child when she was 36 years old. She is in a law firm. She is supportive of parental pay and locums.
  67. L. is in a medium size firm and has been practising for 21 years. She is a single parent of 3 1/2 year old twins. She believes that beginning the education at the law school level is a critical component. Also, she notes that child responsibilities are long-term commitments and firms will have to be more attuned to this reality.
  68. Z. has been practicing for 23 years. She has been in government, in-house, in private practice in large firms and medium firms. She was approached by two male founders of the firm who wanted a woman with children to provide advice to the younger lawyers. Women acting as role models and resources make valuable contributions to private practice.
  69. J. had a baby while at law school. She worked for a professor from home at the time. She articulated and had a second child. She believes that flexible arrangements are important.
  70. C. was called in 2005. She believes that the practice locum program is a very good idea. She set up her sole practice because her previous small firm was not accommodating her needs when her father was sick. She believes that the practice

- locum program would assist new calls and allow for the development of mentoring relationships to develop. She is also in favour of the parental leave program.
71. K. has four children. She works at a large firm and believes that she, and her family life, suffered as a consequence of working through her maternity leaves. She believes that a marketing program to make the profession aware of the benefits of retaining women would be beneficial.
  72. M. has two children and is a partner at a large firm. She was a partner when she had her two children. She is very excited about the recommendations and believes that it is essential that the Law Society take a lead with firms, including large firms. She is of the view that if the Law Society does not lead, law firms will not address the issue effectively.
  73. C. was called in 1991. She was in private practice for 7 years and left to go in-house in corporate practice. She notes that she might have made different decisions if she felt there was support. She practised in medium size firms and thinks that getting policies in place is a good step. She also suggests that the firms should compete with each other and publicize their policies.
  74. R. noted that the Law Society is not really present at law school. Students do not know what the Law Society does. Some of the reasons women leave have to do with the fact they are not prepared to enter private practice. Law students only begin to think about the actual practice of law during the on campus interview process. The Law Society should try to increase its presence within law schools. The issue of debt load is also a reality that impacts on career choices.
  75. F. has been called for 10 years and is on a part-time arrangement in a large firm. She notes that women would like information from other women. She believes

that networking is very important for women. Mentoring in a group environment is also valuable.

### Orillia

76. Participants in Orillia noted that technology is making private practice easier. A participant lawyer noted that she has made an arrangement with her firm to work on a very flexible schedule while having a target budget. Some colleagues found it difficult to accept such a model but soon found that she was more productive because she had control over her schedule.
77. One lawyer noted that she had a first child while Employment Insurance covered her leave. She took a 10-month leave. With her second child, she had no income replacement and was back at work in 8 weeks, largely because of the economic pressure. She admitted that she went back to work but was not as productive, she was tired and felt that she was not doing the best job.
78. S. was the first woman at her firm and has been there for 14 years. During her fifth year she became pregnant. She wound down her practice entirely for 6 months. She went back to work and, two years later had another child. She decided she was not coming back. She was asked to go back to practice and work as many hours as she wanted with a senior partner whose practice was booming. The firm paid her on an hourly basis. She did that for 3 years and worked when she wanted to. She had no client contact and did not have to carry her own files. When she returned to work full time, she started a personal injury practice. The firm carried her for 2 years. She now works on a contingency basis and she makes a lot more money.
79. There was general agreement that the Law Society recommendations are on the right track. One benefit to the project is that the discussion continues after the recommendations are approved.

## Thunder Bay

80. Participants noted that, although the practice locum program is a good recommendation, it might be difficult to set up in smaller communities. Some suggested that the Law Society set up a bank of practice locum lawyers, paid by the Society, to offer the services.
81. One participant noted that, with her second child, she hired a lawyer on contract to take on her practice. The experience was wonderful. She believes that retired lawyers would be pleased to be able to provide locum services.
82. Participants noted that it might be difficult to ensure that services in the French language continue to be offered through locum practitioners.
83. Some firms with more than 5 lawyers noted that their firms would not qualify for the parental leave program. It was also suggested that the government be lobbied to provide the parental leave program.
84. Although participants were in agreement that \$3000 per month for three months would be helpful, some found that the amount of the parental leave program was too low. Some suggested that an interest free loan program at a higher level would be more helpful.
85. One participant noted that she was a sole practitioner when she had children. She is of the view that \$3000 may not be enough but could have assisted her in taking more than 2 weeks of maternity leave.
86. It was suggested that the Law Society also consider the issues of partnership track and different levels of partnerships.
87. Participants noted that it is the role of the Law Society to take on this issue. The Law Society and law firms have realized that women are dropping out of private

practice and firms do not know what to do about it. The Law Society as the governing body is responsible to make sure that there are competent lawyers in private practice.

88. Participants also noted that they would benefit from resources such as a precedent pool for part-time arrangements.

#### Windsor

89. One participant, a 2002 call, noted that she was treated well when she took a maternity leave but she suffered financially. It was easier for her because there had been an associate a few years before her who had taken a maternity leave and thus had been the pioneer.
90. Another participant suggested that the Law Society provide a top up grant for those in small firms who get Employment Insurance. She also suggested disclosure of wage arrangements between individuals in same firms.
91. There were a number of first and second year law students in attendance. One commented that the Law Society should ensure that programs, in particular the locum program, are not monopolized by medium and large firms.
92. There were comments about expanding the parental leave benefits program to assist lawyers who are supporting aging parents.

#### **E – Comments about each Recommendation**

##### Recommendation 1 – Justicia Think Tank - Law Firm Commitment To Women’s Advancement

93. **That the Law Society implement a three-year pilot project (the “Justicia Think Tank”) for firms of more than 25 lawyers and the two largest firms in each region, in which firms commit to adopting programs for the retention**



**and advancement of women, as described in this report and in the Law Firm Commitment.**

*Findings of Final Consultation on the Justicia Think Tank*

94. Most law firms and associations that participated in the consultation indicated that they are supportive of the Justicia Think Tank for medium and large firms. Some firms sent written submissions indicating that they commend the Law Society for taking an active role in trying to address the issue of the retention of women in private practice and that they will participate in the Justicia Think Tank. A number of medium and large firms have also expressed their interest in participating directly either to the Treasurer, the Co-Chairs or to the Equity Advisor.
95. A number of representatives from firms of 6 to 25 lawyers, in Toronto and in regions, indicated that they wish to participate in the Justicia Think Tank. Lawyers in regions noted the unique and distinct business reality of regional firms. As a result, the Law Society will welcome the participation in the Justicia Think Tank of firms of 6 to 25 lawyers.
96. Some, including the OBA and the Advocates' Society, noted that the issues for lawyers in firms of 100 or more in the GTA are likely to be different than the issues for lawyers in the largest firms in regions that often have between 10 and 15 lawyers. The resources available are different and the Justicia Think Tank will have to take that into account. It is anticipated that firms in the Justicia Think Tank will develop programs based on their own culture and workforce.
97. Although it is critical that private practice address the issue of parental leaves, participants noted that law firms should address the billable hour business model along with the way partnership and compensation decisions are made before real change will happen. Although it is easy to look at tangible elements, such as maternity leave, the Law Society should take on a more holistic approach and consider whether there are alternative ways of doing business. Some, including

the Advocates' Society, noted that lawyers in private practice provide client-driven services. In the age of computers and globalization, the provision of services in some areas of the law requires around the clock attention to clients, and business models would have to change to fully address the issue of retention. It is anticipated that partnership and compensation decision making processes, and alternative business models will be included in the discussions of the Justicia Think Tank, or in the next step of the project.

98. Most firms were supportive of the proposal to gather gender based demographic information, but were resistant to the proposal of gathering demographic information based on other grounds such as race, disability, creed and sexual orientation. They generally voiced privacy concerns and they worried that asking such questions would be disrespectful to lawyers. As a result, the Justicia commitment pledge was modified so that participating law firms agree to maintain demographic information about gender, and use the Think Tank to discuss whether they wish to also gather other demographic data.
99. Many firms already have strategies and programs in place to enhance the retention of women, and they are continuously building on those programs. The initiatives encompass leadership and business development programs for women as well as policies and programs to support family obligations and work-life balance. We hope that these firms will share information about their best practices by participating in the Justicia Think Tank. We expect that, through their participation in the Justicia Think Tank, they will also build on initiatives in place and develop further programs based on the needs of their lawyers and the culture of their firm.
100. Some firms also indicated that they would like to have some control, when joining the Justicia Think Tank, over the timing of the implementation of their programs. This would ensure that their programs meet the needs of their lawyers and that

they have the full support of associates and partners. It is anticipated that the pledge could be slightly adapted based on consultations with interested firms.

### Recommendation 2 – Direct Support for Women

101. **That the Law Society, in collaboration with legal associations where appropriate, provide direct support to women through programs such as a leadership and professional development institute and on-line resources, as described in this report.**

#### *Final Consultation Findings*

102. Written submissions and comments made by participants in the final consultation meetings showed overwhelming support for this recommendation and indicated that this is a recommendation that would benefit women in firms of all sizes and in sole practice, women returning to practice and women in other practice settings.
103. Most participants noted the value of mentoring. Associations such as the CCLA and the OBA noted that mentoring and professional development programs directed to women are “critical to allow the development of professional confidence in women [...] While informal support networks may be in place in smaller centers, more formal support networks and associations that foster contact and learning would be of benefit to women practitioners. At the same time, it is important to facilitate women’s access to traditional networking opportunities from which, at present, they are excluded.” The Thunder Bay Law Association recognized that although there are informal support networks in place in the region, there is a need for a more formal support network. It was generally felt that associations in small centers that fostered contact and learning environments would be of benefit to women practitioners.

104. Regional and GTA legal association were in favour of working with the Law Society to develop structured mentoring programs. For example, the Feminist Legal Analysis Committee of the OBA and the CCLA noted the success of mentoring programs as being the most powerful tool for helping young lawyers while the Advocates' Society suggests that the Law Society meet regularly with associations to ensure a coordinated approach with education and mentoring. Some suggested that associations create mentoring committees and that structured mentoring programs be established. Mentoring circles were noted as a successful model of mentoring. Some associations such as the CCLA have begun offering such programs, for example by hosting breakfast or dinner meetings with experienced and newly called lawyers, which have proven very successful. On-line mentoring relationships were also suggested. Mentoring programs were seen as valuable to connect women lawyers with women role models, but also to provide them with access to experienced men and women lawyers. The Advocates' Society also suggested that education and mentoring for women be provided based on practice areas, noting that the requirements to carry on a litigation practice differs from the requirement to carry on a solicitor's practice.
105. Resources to welcome women back into the profession and to assist in ramping up a practice were also mentioned as important and could be included in the on-line Women's Resource Centre and as a component of the Women's Leadership and Professional Development Institute. Some lawyers suggested that the Law Society could include as part of its on-line Women's Resource Centre information to assist lawyers who return from an extended leave.
106. A number of lawyers, including members of the EAG, noted the value of including as part of the on-line resources, resources to assist with family responsibilities. Examples of such resources could include availability of childcare services in various regions of the province. Also important is the idea of providing resources that could be effectively implemented in regions, for example regional continuing legal education programs and networking opportunities. The

idea of developing networking opportunities was also seen as critical, particularly in regions where isolation can be an important factor in the departure of women from private practice.

107. The proposal to develop a Women's Leadership and Professional Development Institute was well received. CDLPA, the Advisory Committee of the Department of Justice, the OBA and the CCLA support this recommendation. The OBA supports the recommendation but notes that programs must be affordable and practical. Lawyers also encouraged the Law Society to provide its programming in regions. Some lawyers suggested that the Law Society fund the Institute through sponsors in order to make attendance fees more affordable and others proposed that fees be waived entirely. It was noted that practice management workshops and workshops on the business of law should be designed to meet the needs of the audience and, as noted by the OBA, be accessible to women from all types of law firms across the province. For example, women lawyers in Toronto face unique and different challenges than women lawyers in regions. Challenges also differ from one region to another. Participants also encouraged the Law Society to develop joint programs with law schools and often noted the lack of training about the business of law at the law school level.
  
108. A number of women lawyers also noted the importance of workshops on the business of law. Women indicated that they practice differently than men and gender based professional development programs would be beneficial to them. Managing partners were generally of the view that the newly established partnership initiative between the Joseph L. Rotman School of Management and the Faculty of Law at the University of Toronto is a strong model that could be adopted by the Law Society.<sup>1</sup>

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<sup>1</sup> In particular, the law firms Blakes, Cassels & Graydon LLP, McCarthy Tétrault LLP, and Osler, Hoskin & Harcourt LLP are program sponsors who have provided financial support and industry expertise for the development of the program.

109. There appeared to be widespread support for the development of on-line resources and for a change of status survey.

Recommendation 3– Practice Locums

110. **That the Law Society develop a five-year pilot project to promote and support practice locums, as described in this report.**

*Final Consultation Findings*

111. This recommendation was met with great enthusiasm and lawyers noted that it is timely. For example, the Feminist Legal Association of the Ontario Bar Association considered that a locum program, combined with mentoring and coaching, is key to the retention and advancement of women in private practice. Associations such as the OBA, the CCLA, CDLPA, the Assistant Crown Attorney’s Association and the Thunder Bay Law Association indicated through written submissions that they support the recommendation. This program would allow lawyers to make a smooth transition from work to leave of absence and back, allow firms to avoid disruptions in work flow, allow clients to be served while their usual lawyer is unavailable and allow lawyers to take leaves for reasons other than new parenthood.
112. Some women lawyers also saw great benefits in becoming a locum. They believe that contract lawyering would provide them with opportunities to work part-time or on flexible schedules, to work from other locations such as the cottage and/or to gradually return to the practice of law. It was also suggested that retired lawyers would likely be interested in working as contract lawyers. A number of participants in the consultation meetings talked about their positive experiences, in regions and in Toronto, with practice locums either working as contract lawyers or retaining contract lawyers to replace them while on leave.

113. Most of the questions and comments about the practice locum program related to its implementation, such as how to address issues of conflict, insurance and liability issues and issues of competency of the lawyers offering their services on contract. Those issues would all be addressed during the implementation stage of the project.
114. Some regional lawyers noted that clients might be reluctant at first to embrace this concept. However, those who had worked as contract lawyers all indicated that such programs work and provide flexibility to lawyers who do not wish to practise full-time. Some women lawyers noted that they had been successfully working as contract lawyers from their house and their clients' attitudes in accepting contract lawyers have changed over the years. Clients are now more accepting of that type of arrangement, especially in cases of planned parental leave where women have had a chance to introduce the contract lawyer to the clients. Women who work as contract lawyers appear to have the flexibility to take leaves of absences, including parental leaves.
115. Because of the small number of lawyers in some regions, some noted the difficulties that may be faced with developing pools of contract lawyers in those regions. Bilingual French/English lawyers also noted the difficulty in finding bilingual lawyers to replace them. They suggested that the Law Society consider retaining a pool of lawyers, and cover their legal service fees, to act as contract lawyers for regional sole practices and small firms, particularly in the initial stages of the implementation of the locum project.
116. Although the recommendation was generally very well received, some lawyers warned that a practice locum might not be effective for all practice areas. Some areas of law are so specialized, such as Aboriginal law, and it would be difficult to temporarily transfer such practices.

117. The Advocates' Society suggested that the Law Society move quickly to establish a website related to the practice locum recommendation, which would allow the Working Group to determine the level of interest and how to best implement the recommendation at a practical level.

Recommendation 4 – Funding for Leaves

118. **That That the Law Society implement a three year Parental Leave Benefit Pilot Program, effective in 2009, as follows:**
- a. **benefits are available to lawyers in firms of five lawyers or less, including sole practitioners, who have no access to other maternity/parental/adoption financial benefit programs under public or private plans;**
  - b. **provide a fixed sum of \$3,000 a month for three months (maximum \$9,000 per leave per family unit) to cover among other things expenses associated with maintaining their practice during a maternity, parental or adoption leave.**

*Final Consultation Findings*

119. There is very strong support for the parental funding program. The vast majority of lawyers who participated in meetings in regions and in Toronto voiced their support for the program and written submissions are generally in favour of this recommendation. Several lawyers otherwise supportive of the program, expressed concern that the amount of the benefits should be higher or that the benefit period should be provided for a longer period. Associations such as CDLPA, the Ontario Crown Attorney's Association and a large majority of the CCLA members indicated their support for the leave. The Advocates' Society found the recommendation laudable, noting that it should be recognized that the difficulties faced by women with children in sole practice and small firms are not limited in time to the first three months after their child is born. The OBA received mixed reactions, with members indicating that the proposal is useful and should be carried out because it will alleviate a genuine problem in the profession. The



- proposal was also seen by some as a good start but the benefits could be higher, should be set up to also assist employees of small firms who often do not receive top up and should also include benefits for those who wish to take a leave because of bereavement, separation or to care for older members of the family.
120. A number of lawyers indicated that, although they support the program, the amount of the benefit, along with the length of time of three months, are insufficient. The amount that was most often quoted as appropriate was \$5,000 per month for three months. Some also commented that lawyers are typically called to the bar with tremendous debt loads, which would have an impact on the viability of their practice and the usefulness of the program.
121. The program as presently structured requires that lawyers must show that they are not working in order to be eligible for benefits. Some lawyers indicated that those on parental leave often have to maintain some degree of supervision of their practice, which would make them ineligible for the benefits. It was suggested that the Law Society allow for some flexibility in administering this program. There were also suggestions about splitting the month into weeks or allowing lawyers to continue to undertake some professional activities to maintain their practice during a leave. These issues have merits and ought to be considered prior to implementation.
122. Some lawyers also noted that those trying to care for aging or ailing parents or children with long term illnesses ought also be eligible for the benefit. There were also suggestions, but very few, that the parental benefit should not be limited to firms of 5 or fewer.
123. A number of lawyers noted that the Law Society should review its fees to make it easier for women to take a parental leave of absence or to work part-time. Some were of the view that the twenty-five percent fee category does not provide enough relief to lawyers on parental leave. Also, the lack of part-time fee category

appears to have adverse impacts on women who are trying to gradually re-enter private practice. It was suggested that the Law Society seriously consider revisiting the fee structure for part-time work and for parental leaves.

#### Recommendation 5- Direct Resources

124. **That the Law Society provide access, in collaboration with legal associations where appropriate, to resources for women in sole practices and small firms through programs such as on-line resources and practice management and career development advice, as described in this report.**

#### Recommendation 6– Beginning at Law School

125. **That the Law Society work with law schools to provide access to information and education opportunities about the practice of law, the business of law, types of practices, practising in diverse work settings and available resources.**

#### *Final Consultation Findings*

126. There was general support for this recommendation. A number of lawyers commented that they were unprepared to take on the business of law, and that they had little information about the realities of practising law after law school. Some lawyers noted that it is important for the Law Society to increase its presence at the law schools.

#### Recommendation 7– Creation of Advisory Group

127. **That the Law Society create an advisory group of women lawyers from Aboriginal, Francophone and/or equality-seeking communities to assist with the implementation of the recommendations outlined in this report.**

#### *Final Consultation Findings*

128. Those who commented on this recommendation voiced their support for the proposal.

Recommendation 8– Networking

129. **That the Equity and Aboriginal Issues Committee facilitate the development of networking strategies focused on the needs of women from Aboriginal, Francophone and/or equality-seeking communities in firms of all sizes.**

*Final Consultation Findings*

130. Those who commented on this recommendation voiced their support for the proposal.

Recommendation 9 Review Programs and Next Steps

131. **That, after a period of three years of implementation of programs, and after a period of five years of implementation of the Practice Locum program, the Law Society assess the effectiveness of each program and identify further strategies for the retention and advancement of women in private practice.**