

**National Pro Bono Conference
Closing Session
September 17, 2010
Speech delivered by
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President of the Law Society of Alberta**

Good afternoon, it is my privilege and a distinct honour to speak today and offer the closing remarks to this Conference after what has been a truly inspiring two days. My remarks will focus on how and why the regulator of the legal profession is interested in the delivery of legal services pro bono.

First, I will describe to you the role that the Law Society of Alberta (LSA) has taken to enhance the culture of pro bono service within the Alberta Legal Profession, and perhaps more importantly, to articulate why we have done so. As you know, the Law Society of Alberta is responsible to regulate and govern the Legal Profession in the public interest.

Here is a summary of what we have done:

Pro Bono Law Alberta (PBLA) is the most visible demonstration of the LSA's commitment to pro bono...but it really is a culmination of ten years of involvement by the LSA working to foster a culture of pro bono in the legal profession in Alberta. Our starting place has been to recognize that there is, and I think has always been a robust pro bono culture in the legal profession in Alberta. Our task has been made easier because we have not had to create something - we have only had to facilitate, encourage, and enhance it.

Over the last decade, we have accomplished much to foster the culture of pro bono legal service.

In the early days, the LSA's chief goal was to expand a "made in Alberta" initiative that already existed, namely the pro bono legal clinic model. This model is in essence a full service inter-disciplinary pro bono law firm with employed staff lawyers and managed by professional staff. When the Law Society's pro bono initiative started in 1998 under the Chair of Terry Clackson, QC (as he then was) the committee's mandate was recognized as an access to justice initiative with a focus on the expansion of the pro bono clinic model throughout the Province. At that time, there was one

formal pro bono legal clinic using volunteer lawyers operating in Alberta, Calgary Legal Guidance; and one pro bono program, the Volunteer Lawyers Service. The Law Society pro bono committee focused on outreach and worked with local lawyers.

As a result, with encouragement and support of the Law Society, and the hard work of local lawyers, five new clinics have opened throughout Alberta:

- the Edmonton Community Legal Centre (2001)- formerly Edmonton Centre for Equal Justice;
- the Children’s Legal and Educational Resource Centre (2002);
- the Central Alberta Community Legal Clinic (2006);
- Lethbridge Legal Guidance (2007);
- Grande Prairie Legal Guidance (2008)

Our second major accomplishment was the development of an extensive analysis of the LSA’s policy rationale for promoting pro bono legal services. The report, *Pro Bono Publico: In the Public Interest*, was completed in 2003 and contains recommendations for the LSA’s approach to pro bono legal services. The four recommendations in this report were adopted by the Benchers in 2003 and provided a renewed mandate and directed the work of the Law Society’s Pro Bono Committee going forward.

This report is extensively referenced in the recent textbook *Lawyers Ethics and Professional Regulation* (Markham: Lexis Nexus) Canada 2008.

Other major accomplishments include:

Errors and Omissions Insurance - Following the Report’s recommendation, errors and omissions insurance through the Alberta Lawyers Insurance Association was extended to two categories of members to facilitate and encourage the provision of pro bono services by a wider proportion of the profession; 1) to insurance exempt (government and in-house lawyers) volunteering for an approved pro bono provider; and 2) to a new category of membership “active for pro bono legal services only” to accommodate retiring and inactive lawyers to provide pro bono legal services through an approved pro bono provider.

Pro Bono Award - Also flowing from the Report, the LSA together with the CBA (Alberta Branch) extended the annual Distinguished Service Awards in 2006 to include a category for pro bono legal service.

Pro Bono Stakeholder Consultations – The biggest result coming from the Report began when consultations were undertaken with pro bono stakeholders throughout the Province in 2006. The consultation process resulted in two further reports: *Stakeholder Consultation on the proposed Pro Bono Alberta Network (June 2006)*; and *Building the Vision-Stakeholders Roundtable on Pro Bono Legal Services in Alberta (October 2006)*. At the October 2006 Roundtable, which I had the privilege to chair, the stakeholders agreed to form a provincial pro bono organization with a representative from each pro bono clinic and the Volunteer Lawyers Service to serve on the Board of Directors.

Pro Bono Law Alberta: the Legacy Project celebrating the 100th Anniversary of the Law Society of Alberta – In 2007, the Law Society of Alberta celebrated its 100th Anniversary. Because of the successful outcome of the pro bono stakeholders' consultations, the Directors of the LSA, known as Benchers, adopted the formation of a provincial pro bono organization to be named Pro Bono Law Alberta, as the Legal Profession's Legacy project for the Alberta public and in celebration of the Law Society's 100th Anniversary. I was privileged to be named the founding President of PBLA and Susan Billington, QC became its founding Executive Director.

The freshly minted Board of Directors knew that the first priority was to develop clarity around the question of what PBLA's objectives were so that we could move forward and develop programs and initiatives which accomplished those objectives. In our first strategic planning session, we adopted this mission statement:

Mission: To improve access to justice by increasing the scope and availability of pro bono legal services for Albertans of limited means. Pro bono legal services are intended to complement, not to replace a properly funded legal aid system.

Of course, this mission statement incorporates some very high-level and well thought out policy principles.

We also developed clearly stated goals as follows:

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To promote access to the justice system in Alberta by creating and promoting opportunities for lawyers to provide pro bono legal services to persons of limited means by:

1. creating opportunities for Alberta lawyers to discharge their professional responsibilities to provide pro bono legal services;
2. improving the overall delivery of pro bono legal services by facilitating the integration and co-ordination of services provided by pro bono organizations throughout the province of Alberta;
3. ensuring province-wide access to high-quality pro bono legal services to persons of limited means by: (i) supporting and improving the quality of existing pro bono programs;(ii) working with existing pro bono legal clinics to assist them in providing pro bono services; and (iii) fostering the development of new pro bono programs where needed;
4. enhancing the growth of a pro bono culture within the Alberta bar;
5. raising general public awareness of pro bono legal services to community organizations and persons of limited means who require legal services; and
6. raising the awareness of Alberta lawyers of the need for pro bono services and of the resources available to lawyers who are prepared to provide pro bono services.

The Board of Directors of PBLA also took the time to dream the dream, and articulate our vision for this newly created pro bono organization. The new PBLA Board was not satisfied with just looking at the here and now. The Board envisioned what this newly formed organization would be. Here's part of the picture that we envisioned.

- In five years, Pro Bono Law Alberta is the model of a pro bono organization that enables a significant number of lawyers to provide access to justice through pro bono projects and programs.
- The organization has carved out its slice of the “access to justice pie” alongside other organizations such as Legal Aid.

- Pro Bono Law Alberta provides support to the pro bono clinics which have become a model nationally.
- The programs outlined in the strategic plan are in full operation and some have expanded.
- Pro Bono Law Alberta has developed satellite clinics in smaller urban areas.
- Pro Bono Law Alberta has secured sustainable operational funding.
- There is an active involved Board; the Advisory Board is engaged.
- Lawyers and law firms are involved and engaged in pro bono work facilitated through our projects and programs.
- There are active law firm pro bono projects.
- The government and the public have taken notice of the pro bono work of lawyers.
- Pro Bono Law Alberta has co-sponsored the National Pro Bono Conference in Vancouver with Pro Bono Law Ontario and Pro Bono Law of British Columbia in September 2008; and hosted the National Pro Bono Conference in Alberta (scheduled for 2010).

I could spend considerable time describing how PBLA has fulfilled and is fulfilling its vision, but we don't need to go any further than to say - here we are at the 3rd National Pro Bono Conference hosted in Alberta, with well over 200 attendees from all across the Country, and including a welcoming address by Alberta's Minister of Justice. We have, in just three years, come a long way toward making our vision a reality.

The relationship between the Law Society of Alberta and Pro Bono Law Alberta is an important aspect of the LSA fulfilling its access to justice mandate.

As I mentioned earlier, the Law Society adopted the formation of this Provincial Pro Bono Organization as its 100th Anniversary Legacy Project.

That was done with more than just words. The Benchers of the Law Society committed \$200,000 and significant in-kind services, including major staff support including the secondment of Ms. Bilington, to create and launch Pro Bono Law Alberta, but that support has not ended with the establishment of the Organization.

The Benchers have made a commitment to ensure that Pro Bono Law Alberta is an enduring legacy and continues its important work. In 2007, the Benchers passed a Motion that committed the LSA to participate in and provide ongoing sustainable operational core funding and resource support for PBLA. Early this year, the Benchers renewed this commitment.

Funding has been provided by the Law Society to PBLA since 2007 to support the organized delivery of legal services pro bono and that will continue into the future.

All of this, of course, gives rise to the key question which we have heard a bit about from various of our speakers over the last two days, and that is - Why did the Law Society of Alberta do this work and why should the regulators of the legal profession support organized pro bono here and across the country?

The first reason is something I talked about yesterday, namely, self-governance and the rule of law. Yesterday, I said that the legal profession demonstrates its very best qualities through pro bono service delivery – by delivering services free of charge to low income individuals in need of our help. We characterize this as a professional responsibility; a responsibility rooted in the privilege of independent regulation. Independent regulation is essential for an independent legal profession; and an independent legal profession is one of the fundamental underpinnings of the rule of law which stands at the foundation of Canadian democracy. As Mr. Scott mentioned, in Alberta, this professional responsibility is reflected in our Code of Professional Conduct.

The second reason relates to our role as regulator. The Law Society is the regulator of the Legal Profession. Because of that, we have a unique persuasive ability over our members. In the 2003 *Pro Bono Publico report* – before PBLA was envisioned, we stated that the LSA itself as regulator can not be in the business of delivering legal services by way of direct delivery of legal services by the law society to clients. The Benchers are in

the position of standing in judgment of lawyers who deliver legal services – therefore, we can never put ourselves in the position of judging the delivery of our own services – that is an inherent conflict....and would jeopardize self-governance of the Legal Profession.

We also recognize that the Law Society has a more informal leadership role concerning the lawyers. It is not a role of compulsion, but rather a role of governance. An ability to think big and act in a way that helps the Profession go where it needs to go.

When we put all of those factors together, we came to the conclusion that the best role for the Law Society was to support “organized pro bono delivery” through a separate not-for profit entity with the purpose of facilitating the legal profession’s professional responsibility and commitment to access to justice.

In Alberta we were lucky because the Legal Profession and the Law Society had experienced first hand the power and merit of the “organized delivery” of pro bono legal services through the establishment of the pro bono clinics, and because of our stakeholder consultations, and the example of PBLO and PBLBC, we knew there was a willingness to do more – a willingness to create a separate not-for-profit entity in Alberta with the mission, vision and objectives I talked about earlier.

Well, we heard lots of examples in the last two days about the advantages to organized Pro Bono delivery. From the regulator’s perspective the main advantages are that it:

- Demonstrates our commitment to facilitate access to justice
- Becomes the vehicle for the legal profession and thereby the Law Society to meet this responsibility
- Develops expertise in pro bono legal service delivery and develops various models based on need
- Leverages resources across the province
- Bring various pro bono stakeholders together
- Matches the needs of low income Albertans with the availability of lawyers willing to meet their professional responsibility through the organized delivery of pro bono legal services.

Of course, it’s not enough to say what we’ve done so far and why we did it. A big question is how the Law Society should, using the authority it has to

allocate resources obtained from its members (the very lawyers who provide the legal services pro bono), continue to demonstrate commitment to access to justice through the delivery of pro bono legal services? Here are some things I think we can do:

- Legal Profession regulators need to have clearly articulated principles and goals that need to be accomplished within the Law Society's mandate. It costs money to accomplish goals and so the Law Society needs to articulate those principles and goals, even as it directs members' resources to organized pro bono delivery. In Alberta, we have found that this is not a hard sell to our members. Lawyers understand and accept the funding needs within reasonable limits.
- We need to continue to underscore the importance of pro bono legal service delivery by participating in events just like this conference.
- We need to accept that not all access to justice initiatives are within the mandate of the Law Society to solve, and that pro bono legal service delivery is just a slice of the access to justice pie.
- We need to ensure that lawyers stepping up to the plate to provide legal services on pro bono basis to low income Albertans does not erode the government's responsibility to ensure a properly funded legal aid system. In that regard, law societies should not fund or support programs in areas of law that are properly covered by legal aid. There are many other areas of the civil law not covered by legal aid in which low income Albertans have need where pro bono legal services should focus. Pro bono legal services are intended to complement, not to replace a properly funded legal aid system.
- We need to maintain strong relationships with PBLA and the pro bono legal community
- And finally, the Law Society of Alberta needs to continue to demonstrate its commitment by participating in the provision of ongoing sustainable funding for PBLA. We all know that resources are limited particularly in this economic climate and that we are all accountable – PBLA to its funders and the Law Society to the lawyers of Alberta for the financial resources – their member fees - that are directed to PBLA on their behalf to meet the self-governance and access to justice mandate.

If we can do all of that, PBLA will be able to achieve its vision to be the model of a pro bono organization that enables a significant number of lawyers to provide access to justice through pro bono projects and programs. At the same time, the Law Society will go a long way to achieve its vision as a model for protecting the public interest and preserving the fundamental principles of justice through a self-regulated, independent, and trusted legal profession.

One last point in closing. I have talked about PBLA's vision and objectives. It has been my experience over the last two days that this National Conference is a significant component of PBLA's fulfillment of a number of its goals.

- fostering a culture of pro bono locally and nationally
- networking
- creating and generating new ideas
- learning from each other's successes and challenges
- celebrating the pro bono accomplishments of the legal profession;
- celebrating the accomplishments of non-lawyers who provide self-less support to the pro bono delivery by lawyers

And so we can all see that when vision and principles are met with creativity, hard work, dedication, and commitment, the public is served, people are enabled, and our community is changed for the better. This National Pro Bono Conference has been an example of just that. We are very proud and grateful that Alberta has been able to host this Conference.

In closing, I would like to thank each of you for coming to Calgary and participating in this Conference. I would like to commend you for your efforts to serve the public interest through the provision of legal services pro bono, and I admire you for your leadership and hard work.

I think we all owe a debt of gratitude to the organizing committee - please join me in giving them a round of applause.