



January 27, 2012

The Law Society of Upper Canada  
130 Queen Street West  
Toronto, Ontario  
M5H 2N6  
Attn: Paralegal Standing Committee

**Re: Paralegal 5 Year Review**

This letter is on behalf of the Toronto Lawyers Association.

The TLA has been pleased to assist and support the Law Society in preparing for the regulation of paralegals. It is our position that the LSUC is the appropriate organization to govern paralegals, given its mandate to protect the public in their dealings with anyone providing any type of legal service.

The TLA acknowledges that the first 5 years has been a learning process for the Law Society. We note that discipline matters are being dealt with on a regular basis, and appropriate dispositions have been published.

That said, there remain issues in the governance of paralegals that must be addressed immediately.

Advertising:

Our members have noted that paralegals regularly advertise in print and also in window or building displays that they are members of the Law Society. Most of the time, the fact that they are paralegals is missing from this advertising.

It is submitted that this is an attempt to mislead the public. The public generally believes that members of the Law Society are lawyers. Paralegals are attempting to take advantage of the fact that the public does not know that they are separate licensees.

Our members who practice criminal law have noted signs stating "criminal lawyers available" even though the sign is for a paralegal. It is impossible for the client to actually determine whether they are retaining a paralegal or a lawyer.

It is submitted that this is again an attempt to mislead the public. It is submitted that any suggestion that a referral can be made to a criminal lawyer should not appear in any advertising.

Paralegals have been noted to advertise in the non-English speaking community as “avocat” or other similar words in other languages, misleading the public to believe that they are lawyers.

It must be asked why they are not proud to be paralegals, and why they wish to mislead the public to believe that they are lawyers.

It is proposed that the proper regulation of paralegals should require them to specifically note that they are paralegals in any advertising.

#### Solicitors Work:

There is a general belief, particularly in immigrant communities that paralegals are involved in the preparation of wills, incorporations and other solicitors work.

The Law Society relies on complaints and then investigates a specific paralegal.

It is proposed that the Law Society should take a more proactive approach by contacting various communities, specifically noting the difference between a lawyer and a paralegal, specifically noting the restricted work that a paralegal can do, and ask those members of the public to identify paralegals who have acted improperly.

#### Complaints Procedure:

We understand that judges have a method of noting complaints about lawyers to the Law Society.

Mediators and arbitrators at FSCO have asked that we help facilitate a complaint procedure. The mediators and arbitrators have stated that they have on occasion been concerned by the actions of a representative. It should be noted that this may include lawyers, although most complaints of which we are aware involve paralegals.

It is proposed that the Law Society make arrangements for mediators and arbitrators, not only at FSCO, but at other regulatory bodies, to have a method of registering complaints.

It is proposed that the Law Society contact FSCO and the various regulatory agencies to make the method of such a complaint process known.

It has also been noted that Justices of the Peace may not know of any method of noting complaints to the Law Society. Again, the Law Society should notify Justices of the Peace of this process.

Summary:

The Toronto Lawyers Association believes that the Law Society is well qualified to regulate paralegals, and should continue to do so.

As noted in this paper, there are various concerns with the activities of some paralegals, particularly in their advertising and actions which may tend to mislead the public.

It is noted that the Law Society should be proactive in attempting to monitor the activities of paralegals, particularly in immigrant and non-English speaking communities, and continue to make its best efforts to protect the public.

Regards,

A handwritten signature in black ink, appearing to read "N. Kostyniuk". The signature is fluid and cursive, with a prominent horizontal stroke across the top.

Nestor E. Kostyniuk  
Past President