

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(DIVISIONAL COURT)**

**B E T W E E N:**

**TRINITY WESTERN UNIVERSITY and BRAYDEN VOLKENANT**

Applicants

-and-

**THE LAW SOCIETY OF UPPER CANADA**

Respondent

-and-

**ATTORNEY GENERAL OF CANADA, THE CHRISTIAN LEGAL FELLOWSHIP, THE  
JUSTICE CENTRE FOR CONSTITUTIONAL FREEDOMS, THE EVANGELICAL  
FELLOWSHIP OF CANADA AND CHRISTIAN HIGHER EDUCATION CANADA,  
OUT ON BAY STREET AND OUTLAWS, THE ADVOCATES' SOCIETY and  
THE CRIMINAL LAWYERS' ASSOCIATION**

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## PART I – OVERVIEW

1. The Criminal Lawyers' Association ("CLA") makes three arguments in support of the Law Society of Upper Canada's ("LSUC") decision refusing to accredit Trinity Western University's ("TWU") proposed law school.
2. First, the CLA submits that the decision of the LSUC to deny accreditation to TWU must be reviewed on a reasonableness standard based on the framework created by the Supreme Court of Canada in *Doré v. Barreau du Québec*.<sup>1</sup> The decision does not involve any legal issue of general importance or any issue beyond the expertise of the LSUC that would justify applying a correctness standard of review.
3. Second, the CLA submits that the public interest mandate in s. 4.2 of the *Law Society Act*<sup>2</sup> is broad and requires the LSUC to consider factors beyond the adequacy of the proposed curriculum in deciding whether to accredit TWU. In particular, the LSUC was required to consider any limitation non-accreditation would have on the religious freedoms of TWU or its future students and to balance those limits against competing *Charter* values of equality, human dignity and diversity, having regard to its broad statutory mandate to act in the public interest.<sup>3</sup>
4. Finally, the CLA submits that the LSUC's decision reflects a proportionate balancing of the competing *Charter* values and is, therefore, reasonable. Contrary to the Applicant's contention, this case is distinct from *Trinity Western University v. British*

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<sup>1</sup> 2012 SCC 12, [2012] 1 S.C.R. 368 [*Doré*].

<sup>2</sup> R.S.O. 1990, c. L.8, s. 4.2.

<sup>3</sup> *Doré*, *supra* note 1 at paras. 55 – 56.

*Columbia College of Teachers*, in which the College of Teachers had a much narrower public interest mandate.<sup>4</sup>

## PART II – THE FACTS

5. The CLA is a non-profit organization founded in 1971. One of the largest specialty legal organizations in Canada, the CLA is comprised of over 1,000 criminal defence lawyers practising primarily in the Province of Ontario. The objects of the CLA are to educate, promote and represent the membership on issues relating to criminal and constitutional law. The CLA is considered the voice of the criminal defence bar in Ontario. The CLA made submissions to the LSUC for consideration in the debate on whether to accredit TWU. In its submissions, the CLA urged the LSUC to deny TWU accreditation.

6. The CLA adopt the facts as set out by the Respondent.

## PART III – ISSUES AND THE LAW

### A. The Standard of Review is Reasonableness

#### i. *Doré v. Barreau du Québec* Governs the Standard of Review

7. *Doré* involved an allegation that the *Barreau du Québec*'s decision to sanction a lawyer for writing a letter of complaint to a judge violated his right to freedom of expression under s. 2(b) of the *Charter*. The Supreme Court held that while challenges to the constitutionality of laws are generally reviewed on a correctness standard, challenges to administrative decision making, even in cases where *Charter* violations are alleged, are presumptively reviewed on a standard of reasonableness. The Applicants have not

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<sup>4</sup> *Trinity Western University v. British Columbia College of Teachers*, [2001] 1 S.C.R. 772 [BCCTA].



challenged the constitutionality of the public interest mandate of the LSUC. Instead, this application focuses on the exercise of the LSUC's discretion to make accreditation decisions in keeping with its public interest mandate.

8. In *Mouvement laïque québécois v. Saguenay (City)*, the Supreme Court of Canada confirmed that, in the ordinary course, deference is owed to administrative decision-makers when they act within their area of expertise and when they apply *Charter* rights and values to the facts of a particular matter. The presumption in favour of a reasonableness standard can only be rebutted if “general questions of law are raised that are of importance to the legal system and fall outside the specialize administrative tribunal’s area of expertise.”<sup>5</sup>

9. This case does not involve any “general questions of law of importance to the legal system” or any issues that are beyond the expertise of the Law Society. Deference is, therefore, owed to the LSUC’s decision. As the Supreme Court confirmed in *Saguenay*, “it is important to resist the temptation to apply the correctness standard to all questions of law of general interest.”<sup>6</sup> Not all legal issues, even those with some broader application, are “of central importance to the legal system” or fall outside the expertise of the tribunal.

10. The scope and meaning of “public interest” under the *Law Society Act* is not a general question of law that is of central importance to the legal system. While the

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<sup>5</sup> *Mouvement laïque québécois v. Saguenay (City)* 2015 SCC 16, [2015] S.C.J. No. 16, at paras. 46 – 51, per Gascon J [*Saguenay*]. In *Saguenay*, the SCC held that the Tribunal’s interpretation to the term “state neutrality” should be reviewed on a correctness standard. One important factor in the Court’s determination of the standard of review was the fact that the jurisdiction of the Human Rights Tribunal is non-exclusive. The courts have concurrently jurisdiction over claims under the *Quebec Charter* and the *Canadian Charter of Rights and Freedoms*. The LSUC, on the other hand, has exclusive jurisdiction over the accreditation and licensing process for lawyers in Ontario.

<sup>6</sup> *Saguenay*, *ibid* at paras. 47 – 48.

concept of the public interest does arise in other legal contexts, it is a flexible concept that must be understood in the specific statutory and factual context in which it arises. Unlike the issue of the scope of state neutrality in *Saguenay*, which was held to be a question of law of general importance, the term “public interest” does not demand a uniform and consistent definition.<sup>7</sup> Indeed, it has been found to mean different things depending on the statutory context in which it arises. As a result, it is within the expertise of the LSUC to determine the application and scope of the public interest under the *Law Society Act*, and to exercise its discretion accordingly.

11. As the Supreme Court has recognized, administrative decisions-makers are generally in the best position to consider “the impact of the relevant *Charter* values on the specific facts of the case.”<sup>8</sup> As a result, the LSUC’s decision is owed deference and must be reviewed on a reasonableness standard.

*ii. Doré provides the proper framework for analyzing the LSUC decision*

12. Since *Baker v. Canada (Minister of Citizenship and Immigration)*, it has been settled law that administrative decision-makers, like the LSUC, must consider fundamental Canadian values, including those enshrined in the *Charter*, when exercising their discretion.<sup>9</sup> In *Multani v. Commission scolaire Marguerite-Bourgeoys*, the Court held that discretionary decisions must be made “in light of constitutional guarantees and the values they reflect.”<sup>10</sup> Similarly, in *Doré*, the Court held that *Charter* values must

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<sup>7</sup> *Saguenay*, *ibid* at para. 15.

<sup>8</sup> *Doré*, *supra* note 1 at para. 54.

<sup>9</sup> [1999] 2 S.C.R. 817, at paras. 53 – 56, per L’Heureux-Dubé; see also *Doré*, *ibid* at para. 28.

<sup>10</sup> 2006 SCC 6, [2006] 1 S.C.R. 256, at para. 152, per Charron J.

infuse administrative decision-making and that administrative bodies are required to consider *Charter* values within the scope of their expertise.<sup>11</sup>

13. In *Doré*, the Supreme Court of Canada provided the following guidance to administrative decision-makers on how to consider and apply *Charter* values in the exercise of statutory discretion:

He or she balances the *Charter* values with the statutory objectives. In effecting this balancing, the decision maker should first consider the statutory objectives....

Then the decision-maker should ask how the *Charter* value at issue will be best protected in view of the statutory objectives. This is the core of the proportionality exercise, and requires the decision-maker to balance the severity of the interference of the *Charter* protection with the statutory objectives.<sup>12</sup>

On review, the Court must, therefore, consider whether “the decision-maker disproportionately, and therefore unreasonably, limited a *Charter* right.”<sup>13</sup>

14. Most recently, the Supreme Court confirmed the approach to be taken on review of a discretionary decisions in *Loyola High School v. Quebec (Attorney General)*:

The primary issue is whether the decision engages the *Charter* by limiting its protections. If such a limitation has occurred, then ‘the question becomes whether, in assessing the impact of the relevant *Charter* protection and given the nature of the decision and the statutory and factual contexts, the decision reflects a proportionate balancing of the *Charter* protections at play’: *Doré*, at para. 57. A proportionate balancing is one that gives effect, as fully as possible to the *Charter* protections at stake given the particular statutory mandate. Such a balancing will be found to be reasonable on judicial review.<sup>14</sup>

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<sup>11</sup> *Doré*, *supra* note 1 at para. 29.

<sup>12</sup> *Doré*, *ibid* at paras. 55 – 56.

<sup>13</sup> *Doré*, *ibid* at para. 6; see also *Divito v. Canada (Minister of Public Safety and Emergency Preparedness)* 2013 SCC 47, [2013] 3 S.C.R. 157, at paras. 48 – 49, per Abella J. and *R. v. N.S.* 2012 SCC 72, [2012] 3 S.C.R. 726, at paras. 30 – 34 where the SCC held that where conflicting *Charter* rights are at play in a particular decision, “a just and proportionate balance” must be found between them based on the particular facts of the case.

<sup>14</sup> *Loyola High School v. Québec (Attorney General)* 2015 SCC 12, [2015] S.C.J. No. 12, para. 39, per Abella J. [*Loyola*].

The Court went on to find that the *Doré* analysis is “a highly contextual exercise.”<sup>15</sup> The Court recognized that there “may be more than one proportionate outcome that protects values as fully as possible in light of the applicable statutory objective and mandate.”<sup>16</sup>

15. In reviewing the LSUC decision then, this Court must consider the unique statutory and procedural context in which accreditation decisions are made. The LSUC’s expertise in making these decisions and balancing competing values against its broad statutory mandate to protect the public interest requires that its decision be granted deference. The question for this Court to decide is whether the balance struck by the LSUC between the religious freedoms of TWU and the competing *Charter* values of equality and human dignity was “proportionate” in light of the LSUC’s statutory mandate to “maintain and advance the cause of justice and the rule of law” and to “protect the public interest”.

16. A similar balancing was at play in *Loyola*, a case that dealt with the Quebec Minister of Education’s decision on a request for exemption from part of the provincial religious education requirements. The Supreme Court of Canada made it clear that in a secular state, religious differences cannot trump core national values:

These shared values – equality, human rights and democracy – are values the state always has a legitimate interest in promoting and protecting....This is what makes pluralism work...Religious freedom must therefore be understood in the context of a secular, multicultural and democratic society with a strong interest in protecting dignity and diversity, promoting equality, and ensuring the vitality of a common belief in human rights.<sup>17</sup>

17. As a starting point, the LSUC was required to consider whether and to what extent its decision to deny TWU accreditation limited or restricted the religious freedoms (and freedom of association as asserted in the Applicant’s factum) of TWU or its students. It

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<sup>15</sup> *Loyola, ibid* at para. 41.

<sup>16</sup> *Loyola, ibid* at para. 41.

<sup>17</sup> *Loyola, ibid* at para. 47.

was then required to balance any limitation on religious freedom against the competing *Charter* values of equality and dignity. In this balancing, the LSUC was entitled to consider the discriminatory effect of the Community Covenant and was required to consider its public interest mandate.

**B. LSUC’s public interest mandate extends beyond issues of competence**

18. The LSUC is statutorily mandated to consider whether a particular decision – in this case, accreditation – would be contrary to the public interest, even if it might be in the interests of some current or prospective members. As with any complex decision, individual interests and the broader public interest may come into conflict with one another. In *Edwards v. Law Society of Upper Canada*, the SCC held that decisions made by the Law Society “require the exercise of legislatively delegated discretion and involve pursuing a myriad of objectives consistent with public rather than private law duties.”<sup>18</sup>

19. In order to determine whether the LSUC decision was reasonable, this Court must determine the scope of the LSUC’s mandate to “protect the public interest.” The “public interest” mandate of the LSUC is not restricted to issues of learning, professional competence and professional conduct, as the Applicants suggest.<sup>19</sup> The legal profession has been granted the privilege of self-regulation, and in so doing enjoys a large measure of independence and broad discretion to set its own standards. However, in recognition of this regulative bargain, in exchange for the privilege of overseeing professional self-regulation, the LSUC must do so in the public interest:

A notion of professionalism that does not acknowledge [...] that a “primary concern” of the profession is “the protection of the public interest,” will not be

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<sup>18</sup> 2001 SCC 80, [2001] 3 S.C.R. 562, at para. 14.

<sup>19</sup> *Applicant’s Factum*, para. 79.

sustainable on any calculus that makes good on the bargain with society to protect the public interest in return for the privilege of self-regulation.<sup>20</sup>

20. The LSUC was, therefore, entitled to consider issues beyond the adequacy of the proposed curriculum of the law school. In particular, the LSUC was entitled to consider the discriminatory effects of the “Community Covenant” and whether it was contrary to the broader public interest to accredit a law school that clearly and openly discriminates against LGBTQ people, women and members of other religions. This approach is consistent with the language of the *Act*, the Rules of Professional Conduct and the Barrister’s Oath.

*i) The Language of the Act*

21. Section 4.2 of the *Law Society Act* imposes an overarching duty on the LSUC to “maintain and advance the cause of justice and the rule of law” and to “protect the public interest” in carrying out all of its functions, duties and powers. These provisions are broadly worded and clearly do not limit the LSUC to considering the suitability or competence of law school graduates to be licensed to practice in Ontario. Instead, these terms requires the LSUC to consider a broad range of public policy considerations, including the integrity of and public confidence in the legal profession, the integrity of the legal system and the administration of justice, the importance of the rule of law (including the supremacy of the *Constitution* and the enshrined *Charter*), the protection of *Charter* values and ensuring the quality of legal services in the province.

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<sup>20</sup> Trevor C.W. Farrow, “Sustainable Professionalism” (2008) 46 Osgoode Hall L.J. 51, in Alice Woolley et al, *Lawyers’ Ethics and Professional Regulation*, 2d ed (Markham, ON: LexisNexis Canada Inc, 2012) at 60.

22. The concept of the “public interest” is necessarily broad and varies with the context of its application. It must adapt and evolve as society changes. The public interest must be understood from the perspective of the collective or aggregate: it looks at what will promote the well-being of society. The concept of the public interest must be broad enough to accommodate a host of often competing interests. It is axiomatic that promoting and protecting *Charter* values, to the extent possible in a free and democratic society, is in the public interest. While the public interest must, of course, involve consideration of public protection, including protecting the members of the public in the solicitor-client relationship, it is not limited to considerations about public protection. It must also relate to safeguarding fundamental values of the rules of law and the *Charter*.

23. In the context of the LSUC legislative mandate, the “public interest” certainly requires the profession to be regulated in a manner that ensures the competence of lawyers and protects clients who entrust their rights to lawyers.<sup>21</sup> While the competence of future members is *one* factor in the accreditation decision, which weighed in favour of accreditation in this case, it is not the only issue as the Applicants suggest. The LSUC is required to consider other issues, including the integrity of, public confidence in and fair access to the legal profession, all of which weighed against accreditation in this case. In that context, the public interest mandate requires the LSUC to make decisions that balances all the competing interests and *Charter* values at stake.

***ii) Rules of Professional Conduct and the Barrister’s Oath***

24. In assessing the scope of the LSUC’s “public interest” mandate, consideration must be given to the Rules and Regulations, which reflect the values that the public

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<sup>21</sup> *Fortin v. Chretien* 2001 SCC 45, [2001] 2 S.C.R. 500, at para. 17.

expects the LSUC to promote and protect. Rule 5.04(1) of the Rules of Professional Conduct and the associated commentary states:

A lawyer has a special responsibility to respect the requirements of human rights laws in force in Ontario and, specifically, to honour the obligation not to discriminate on the grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identify, gender expression, age, record of offences (as defined in the Ontario Human Rights Code), marital status, family status, or disability with respect to professional employment of other lawyers, articulated students, or any other person or in professional dealings with other licensees or any other person.

Commentary:

*The Society acknowledges the diversity of the community of Ontario in which lawyers serve and expects them to respect the dignity and worth of all persons and to treat all persons equally without discrimination.*

*This rule sets out the special role of the profession to recognize and protect the dignity of individuals and the diversity of the community in Ontario.*

Rule 5.04 will be interpreted according to the provisions of the Ontario Human Rights Code and related case law.

This Rule demonstrates that the public has an interest in the LSUC, as the regulator of the profession, and its members, promoting the dignity and worth of all persons and treating everyone without discrimination.

25. Similarly, all new lawyers in Ontario are required to take the Barristers Oath, which states as follows:

I accept the honour and privilege, duty and responsibility of practising law as a barrister and solicitor in the Province of Ontario. I shall protect and defend the rights and interests of such persons as may employ me. I shall conduct all cases faithfully and to the best of my ability. I shall neglect no one's interest and shall faithfully serve and diligently represent the best interests of my client. I shall not refuse causes of complaint reasonably founded, nor shall I promote suits upon frivolous pretences. I shall not pervert the law to favour or prejudice any one, but in all things I shall conduct myself honestly and with integrity and civility. I shall seek to ensure access to justice and access to legal services. I shall seek to improve the administration of justice. **I shall champion the rule of law and safeguard the rights and freedoms of all persons.** I shall strictly observe and



uphold the ethical standards that govern my profession. All this I do swear or affirm to observe and perform to the best of my knowledge and ability.<sup>22</sup>

Again, this oath reflects and operationalizes the broad public interest mandate of the LSUC. It is a reflection of the public interest in the LSUC regulating the profession, and access to the profession, in a manner that safeguards the rights and freedoms of all persons to be free from discrimination.

26. Matters of professional conduct implicate a wide variety of circumstances. With reference to the societal role that lawyers fulfill, the Rules attempt to reconcile the work of lawyers with the broader goals of the public interest. Indeed, courts have often commented on the public interest in ensuring that lawyers comply with the rules of professional conduct. For example, in *R. v. S&V Service Centre*, where the Crown brought an application to remove counsel of record because of a potential conflict, the Court held

There is a very high public interest in seeing that the rules are complied with. To fail to comply with the rules is to risk the reputation of the legal profession and the integrity of our legal system.<sup>23</sup>

Given the value placed on public confidence in the administration of justice and the integrity of the legal profession, the LSUC was entitled, indeed required, to consider factors beyond the adequacy of the proposed TWU curriculum in deciding whether accreditation of a law school that discriminates against historically disadvantaged groups is consistent with the public interest. It would undermine the integrity of and public confidence in the legal profession if the LSUC accredited a law school that does not

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<sup>22</sup> By-Law 4, Part II, s. 21.

<sup>23</sup> *R. v. S&V Service Centre*, [2012] O.J. No. 3634 (OCJ), per Woolcott J. at para. 29.

respect and promote the principles of human dignity, equality and diversity that must guide the conduct of lawyers in the province.

**C. Reasonableness of the Decision**

*i) The LSUC's Decision was not Unreasonable*

27. The CLA adopts the submissions of TAS in respect of the reasonableness of the LSUC decision. The decision to deny accreditation does not significantly restrain religious beliefs or the meaningful exercise of religious freedoms of prospective law students or staff.

28. The CLA also adopts the submissions of the Respondent, TAS and Out on Bay Street/OUTLaws that the Community Covenant is discriminatory on the basis of sexual orientation, marital status, gender and religion. The effect of the Covenant is to undermine the equality and human dignity of LGBTQ individuals and common law couples, to deny women freedom of choice over their reproductive health and to exclude member of other religious faiths. The fact that TWU may be entitled, as a private institution, to engage in discrimination, does not require the LSUC to ignore the discriminatory effects when deciding whether to grant the institution unqualified access to the LSUC licensing process.

*ii) Trinity Western University v. British Columbia College of Teachers does not Mandate Accreditation in this Case*

29. While it is true that the Supreme Court of Canada's decision in *BCCT* addressed the accreditation of a professional faculty at Trinity Western University, the decision is not

determinative of the issues before this Honourable Court because the statutory framework is entirely different.

30. Under s. 4 of the former *Teaching Professions Act*, the object of the college was defined as follows:

4. It is the object of the college to establish, having regard to the public interest, standards for the education, professional responsibility and competence of its members, persons who hold certificates of qualification and applicants for membership and, consistent with that object, to encourage the professional interest of its members in those matters.<sup>24</sup>

The public interest mandate of the B.C. College of Teachers was legislatively restricted to issues of competence and professional standards. In other words, the public interest mandate of the B.C. College of Teachers was limited to ensuring that students receive a quality education consistent with fundamental values of tolerance, equality and acceptance.

31. Thus, the focus of the Supreme Court decision was on the competence of graduates from TWU's education program. The BCCT essentially argued that TWU's discriminatory admissions policy would necessarily result in incompetent future teachers, whose duties would include promoting and respecting diversity and human rights in the classroom.

32. In terms of jurisdiction, the Supreme Court was clear that BCCT "had jurisdiction to consider discriminatory practices in dealing with the TWU application" for accreditation.<sup>25</sup> Similarly, the Supreme Court also held that BCCT was entitled to consider equality concerns under its public interest jurisdiction.<sup>26</sup> The Court also found

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<sup>24</sup> *B.C. Teaching Professions Act*, R.S.B.C. 1996, c. 449, s. 4.

<sup>25</sup> *BCCT*, *supra* note 4 at para. 14.

<sup>26</sup> *BCCT*, *ibid* at para. 26.

that the BCCT was entitled to consider *Charter* values of equality and human dignity and must balance those against issues of religious freedoms.<sup>27</sup>

33. What BCCT was not permitted to do, and the basis upon which it was found to have been incorrect,<sup>28</sup> was to base its accreditation decision on speculation or perceptions about the effect of the discriminatory practice on competence of future graduates in the absence of evidence:

TWU's Community Standards, which are limited to prescribing conduct of members while at TWU, are not sufficient to support the conclusion that the BCCT should anticipate intolerant behavior in the public schools.<sup>29</sup>

In addition, the Court found that the BCCT did not weigh the various rights involved and did not take into account the religious freedom of the members of TWU in making its accreditation decision.<sup>30</sup>

34. Competence is not the issue here. There is no suggestion that the graduate of TWU's law school will be unable to fulfill the Barrister's oath to "safeguard the rights and freedoms of all persons." Nor, as has already been argued, is the LSUC limited to considerations of competence in exercising its statutory mandate. Instead, the issue is whether the LSUC should provide the public benefit of accreditation, which guarantees automatic admission into the licensing process in Ontario, to an institution that has discriminatory policies in respect of admissions, attendance and student discipline.<sup>31</sup>

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<sup>27</sup> *BCCT*, *ibid* at paras. 27 – 29.

<sup>28</sup> The parties in *BCCT* agreed that the standard of review was correctness; see para. 14. The decision in *BCCT* pre-dates the Supreme Court's decision in *Doré*, which clarified the approach to be taken by administrative decision-makers when exercising their discretion in areas that engage *Charter* rights and values and the standard of review to be applied in those cases.

<sup>29</sup> *BCCT*, *ibid* at paras. 33 and 38.

<sup>30</sup> *BCCT*, *ibid* at para. 33

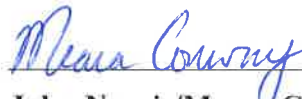
<sup>31</sup> The LSUC decision to deny accreditation to TWU as an institution does not necessarily mean that individual graduates of TWU could never be admitted to the LSUC licensing program. Under its

35. The LSUC's decision was not based on speculation about the competence of TWU graduates. Rather, the LSUC balanced the limited effect of its decision on religious freedoms against the significant discriminatory effects the Covenant has on a variety of historically marginalized groups. Given the broad public interest mandate of the LSUC to promote *Charter* values, to protect against discrimination and to maintain public confidence in the profession, the decision to deny accreditation was proportionate and reasonable.

#### **PART IV – ORDER REQUESTED**

36. The CLA respectfully requests that the Court dismiss the application. Pursuant to the order of Justice Nordheimer dated September 24, 2014, the CLA does not seek costs and no costs are to be ordered against the CLA.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 4<sup>th</sup> day of May, 2015.



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**John Norris/Meara Conway**  
JOHN NORRIS BARRISTER

**Breese Davies**  
BREESE DAVIES LAW

Counsel for the Intervener, Criminal  
Lawyers' Association

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current mandate, the National Committee on Accreditation ("NAC"), a standing committee of the Federal of Law Societies of Canada, assesses the legal education and professional experience of individuals who obtained their credentials outside of Canada or in a Canadian civil law program. The NCA determines what further legal education, if any, is required to ensure that the applicant's legal education meets Canadian standards. Once an applicant has successfully completed the NCA requirements, the applicant receives a Certificate of Qualification, which is normally sufficient for admission into the LSUC's licensing process. If TWU's law school is not accredited, the NAC mandate could be expanded to include an assessment of the educational and professional experience of individuals who obtain their credentials from a non-accredited law school in Canada.

## SCHEDULE “A” – LIST OF AUTHORITIES

*Mouvement laïque québécois v. Sanguenay (City)* [2015] S.C.J. No. 16

*Multani v. Commission scolaire Marguerite-Bourgeoys*, [2006] 1 S.C.R. 256

*Divito v. Canada (Minister of Public Safety and Emergency Preparedness)* [2013] 3 S.C.R. 157

Trevor C.W. Farrow, “Sustainable Professionalism” (2008) 46 Osgoode Hall L.J. 51, in Alice Woolley et al, *Lawyers’ Ethics and Professional Regulation*, 2d ed (Markham, ON: LexisNexis Canada Inc, 2012)

*Fortin v. Chretien* 2001 SCC 45, [2001] 2 S.C.R. 500

*R. v. S&V Service Centre*, [2012] O.J. No. 3634 (OCJ)

**SCHEDULE “B” – TEXT OF STATUTES, REGULATIONS  
AND BY-LAWS**

***Law Society Act, R.S.O. 1990, c. L.8:***

Principles to be applied by the Society

4.2 In carrying out its functions, duties and powers under this Act, the Society shall have regard to the following principles:

1. The Society has a duty to maintain and advance the cause of justice and the rule of law.
2. The Society has a duty to act so as to facilitate access to justice for the people of Ontario.
3. The Society has a duty to protect the public interest.
4. The Society has a duty to act in a timely, open and efficient manner.
5. Standards of learning, professional competence and professional conduct for licensees and restrictions on who may provide particular legal services should be proportionate to the significance of the regulatory objectives sought to be realized. 2006, c. 21, Sched. C, s. 7.

**B.C. Teaching Professions Act, R.S.B.C. 1996, c. 449:**

4. It is the object of the college to establish, having regard to the public interest, standards for the education, professional responsibility and competence of its members, persons who hold certificates of qualification and applicants for membership and, consistent with that object, to encourage the professional interest of its members in those matters.

**TRINITY WESTERN  
UNIVERSITY and  
BRAYDEN VOLKENANT**  
Applicants

**THE LAW SOCIETY OF  
UPPER CANADA**  
Respondent

- and -

Court File No. 250/14

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE  
DIVISIONAL COURT**  
(Proceeding commenced at Toronto)

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