



**ONTARIO
BAR ASSOCIATION**
A Branch of the CANADIAN BAR ASSOCIATION

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November 3, 2008

Sophia Sperdakos
Policy Counsel
Law Society of Upper Canada
Osgoode Hall
130 Queen Street W.
Toronto, Ontario M5H 2N6

Dear Ms. Sperdakos:

On behalf of the Ontario Bar Association (OBA) I am pleased to provide you with our submission on the Law Society of Upper Canada's Proposed Rules of Practice.

The OBA represents more than 18,000 lawyers from every region across Ontario making us well positioned to offer advice on this important issue.

I trust you will find the enclosed submission both informative and helpful.

Yours truly,

Jamie Trimble
President
Ontario Bar Association



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Proposed Rules of Practice

Submitted on *November 3, 2008*

Submitted by:

Jamie Trimble
President
Ontario Bar Association

James Morton
Chair
OBA Working Group on
Proposed Rules of Practice

Submitted to:

Sophia Sperdakos
Policy Counsel
Law Society of Upper Canada
Osgoode Hall
130 Queen Street W.
Toronto, Ontario M5H 2N6

The proposed Rules of Practice of the Law Society have been carefully reviewed by the Ontario Bar Association.

The Rules have to ensure that natural justice and fairness is provided to those attending before the Law Society. With the recent expansion of the Law Society's jurisdiction the need to ensure those before the Law Society have a full and complete hearing is essential.

The OBA is particularly pleased at the broad scope of disclosure provisions in the proposed Rules of Practice. We are particularly pleased at the sanction provisions of 18.03 which, in our view, strike a balance between avoiding trial by ambush and ensuring all facts are properly before the panel.

Evidence may not be introduced

18.03 Evidence that is not disclosed as required under rule 18.01 or 18.02 may not be introduced as evidence in a proceeding, except with leave of the panel.

We are also glad to see the requirement for a pre-hearing conference memorandum from the Law Society

Preparation for pre-hearing conference

20.07 (1) The Law Society shall prepare a pre-hearing conference memorandum and provide a copy of the memorandum to the other parties and to the panelist or other person conducting the pre-hearing conference at least seven days before the pre-hearing conference.

While we recognize that proceedings before the Law Society are quasi-criminal in nature, we believe that mediation can provide a useful opportunity for narrowing and clarifying issues and, in appropriate circumstances, lead to a discussion of alternative options for disposition, akin to the approaches taken in criminal diversion and alternative measures programs.

We are concerned that service by e-mail under 9.01(4) may not be as certain as it should be but have some confidence that the safeguards in 9.01(2) are sufficient.

Overall then the OBA is pleased to endorse and support the proposed Rules of Practice.

Working Group Members

James Morton, Chair

Derek Freeman

Kevin Fisher

Marina Mussani

Shari Novick

Audrey Ramsey