

CAVALLUZZO

Please refer to: Managing Partners & Student Committee
Direct Line: 416-964-1115
Email: pdheureux@cavalluzzo.com
pabbink@cavalluzzo.com
dbisnar@cavalluzzo.com
ahanif@cavalluzzo.com
Assistant: Jenelle Francis
Assistant's Email: jfrancis@cavalluzzo.com

March 15, 2022

BY E-MAIL: POLICYCONSULTATION@LSO.CA

Law Society of Ontario
130 Queen Street West
Toronto, ON M5H 2N6

Dear Law Society of Ontario Benchers :

RE: Mandatory Minimum Compensation for Articling Students

We write as employers and principals of articling students at [Cavalluzzo LLP](#), a labour, employment and public law firm in Toronto. Each year we hire approximately four articling students and four summer students. We support a living wage and other benefits for students through collective bargaining with their union, CUPE 1281. Based on our experience recruiting, mentoring and transitioning articling students into associate lawyer roles, we strongly believe that well-paid articling placements are essential to establishing conditions for successful experiential learning, mitigating the power imbalance between articling students and employers and to embodying the statutory principles that bind the Law Society of Ontario as out in s. 4.2 of the *Law Society Act*. In particular, mandatory minimum compensation in the lawyer licensing process promotes access to justice and advances the rule of law. Further, it protects the public interest by minimizing the potential for harmful and discriminatory working conditions and promoting the affordability of experiential learning opportunities in a broad range of geographical and substantive practice areas to socio-economically diverse articling students.

The LSO recognized the inherent power imbalance that characterizes articling students' employment relationships and their corollary vulnerability to exploitation and abuse in its [May 2018 report](#): "The power imbalance inherent in articling can lead to abuses. The Articling Survey revealed that some candidates are subject to sexual harassment, as well

CAVALLUZZO LLP BARRISTERS & SOLICITORS

474 Bathurst Street, Suite 300, Toronto, Ontario M5T 2S6 T. 416.964.1115 F. 416.964.5895 cavalluzzo.com



as racial and gender discrimination.” This same report found that 13% of articling students earned less than the statutory minimum wage or were unpaid.

Despite this evident power imbalance, the LSO and other legal organizations have historically opposed inclusion of articling students within the statutory minimum standards framework of the *Employment Standards Act*, arguing that as professionals-in-training articling students are relatively privileged within the labour market and do not require statutory minimum protections.¹ Having now recognized the power imbalance inherent to the articling student employment relationship, it is incumbent on the LSO to correct its historical opposition to minimum standards by implementing mandatory minimum compensation for articling students to regulate the profession in a manner consistent with the principles set out in s. 4.2 of the *Law Society Act*.

The legal profession already has many barriers that impede both entry and retention, especially for articling students who are racialized, who have care-giving and dependent responsibilities, and/or who come from marginalized socio-economic communities.² Continuing to deny articling students the statutory minimum wage (which does not even equate to a living wage in any part of the province) will compound and exacerbate these issues.³

As such, we strongly urge Convocation to follow through with the LSO’s 2018 commitment to implement mandatory minimum compensation. We support the [views of the members of the Professional Development and Competence Committee](#) that:

- The financial burden and often six-figure debt load of articling students is exacerbated by unpaid placements; and
- The LSO’s statutory duty to facilitate access to justice and to protect the public interest requires it to ensure that the entry process is equitable and that it has a diverse body of members who reflect the broader public. Consistent with its statutory duties, the LSO is in a position to provide leadership to the profession by reducing the potential for exploitative working conditions. The LSO has a key role to play as regulator to promote equitable working and training conditions and

¹ Louis Century, Claire Mumme and Ryan White, “Cruel ironies’ at heart of pay for articling debate” (March 9, 2022), *The Lawyer’s Daily*, online at: <https://www.thelawyersdaily.ca/articles/34383/-cruel-ironies-at-heart-of-pay-for-articling-debate-louis-century-claire-mumme-and-ryan-white>

² Stratcom, “Challenges Facing Racialized Licensees: Final Report” (March 11, 2014), online at: <https://www.stratcom.ca/wp-content/uploads/manual/Racialized-Licensees-Full-Report.pdf>; Law Society of Upper Canada, “Working Together for Change: Strategies to Address Issues of Systemic Racism in the Legal Profession”, online at: <https://lawsocietyontario.azureedge.net/media/iso/media/legacy/pdf/w/working-together-for-change-strategies-to-address-issues-of-systemic-racism.-in-the-legal-professions-final-report.pdf>; Canadian Bar Association, “Law Grads’ Student Loan Burden is an Access-to-Justice Issue” (April 11, 2019), online at: <https://www.cba.org/News-Media/Press-Releases/2019/student-loan-burden> .

³ Ontario Living Wage Network, “Living Wage by Region”, online at: https://www.ontariolivingwage.ca/living_wage_by_region.

to facilitate accessible and affordable placements that promote a diverse lawyer population being able to access paid experiential learning opportunities in order to practise in underserved geographic and substantive practice areas.

We further note that the concerns expressed by some members of the Professional Development and Competence Committee regarding the possible reduction of available positions are hypothetical and do nothing to account for the significant and documented power imbalance between articling students and employers. Furthermore, these hypothetical concerns do not consider the power of the regulator to address any actual impact that might materialize, including, for example, the possibility of subsidies to small firms and sole practitioners in underserved areas in order to allow them to offer minimum compensation to articling students.

As members of the LSO, we are also concerned that the LSO would risk its credibility with members and the broader public by failing to follow through on its 2018 commitment to implement mandatory minimum compensation. This would be especially troubling and unprincipled in the face of the LSO acknowledging the power imbalance and vulnerability inherent to the articling student employment relationship and yet failing to address its own contribution to this vulnerability by using this opportunity to correct its historical opposition to minimum employment standards for articling students.

In conclusion, we submit that mandatory minimum compensation would support fairness in the licensing process and promote the rule of law and access to justice. We hope to see Convocation vote to implement mandatory minimum compensation.

Sincerely,

CAVALLUZZO LLP



Patricia D'Heureux, Co-Managing Partner



Philip Abbink, Co-Managing Partner



Danielle Bisnar, Student Committee Chair



Aminah Hanif, Student Committee