

# Law Society of Saskatchewan



## ANNUAL REPORT

# 2013

For the year ended  
December 31<sup>st</sup>, 2013

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***The Benchers will review processes in place with a view to improving, streamlining, clarifying and ultimately codifying the governance processes of the Law Society ...***

*by: Robert Heinrichs*

It is my privilege to provide the Annual Report of the Law Society of Saskatchewan for 2013. Upon reviewing the accomplishments over the past year, I wish to acknowledge and thank our 2013 President, Heather Laing, Q.C., for her outstanding contributions in expertise and time. I would also like to acknowledge Miguel Martinez, now Judge Martinez of the Provincial Court, for his time and energy as Bencher and as Vice President in 2013.

The Law Society was governed in 2013 by 23 Benchers, including 18 elected Benchers, the Dean of the College of Law at the University of Saskatchewan and four Public Representative Benchers appointed by the Minister of Justice. In April, the Law Society worked closely with the Department of Justice in selecting a new Public Representative Bencher to replace Laura Lacoursiere. Laura's contributions both at the committee level and the Bencher table were valuable and she will be missed. Her replacement, Judy McCuskee, has proven to be a very capable replacement.

*The Legal Profession Act, 1990* requires that the Law Society of Saskatchewan regulate the legal profession in the public interest. Carrying out this work requires establishment and operation of a

number of different departments within the Law Society. Administrative staff receive and investigate complaints; admit new students and lawyers; plan and provide educational opportunities; provide legal information; respond to insurance claims and perform audits, all in addition to the support they provide to the volunteer Benchers for the work accomplished at and between Convocations. On behalf of the Benchers, I acknowledge and thank the Executive Director, Tom Schonhoffer, Q.C. and all the Law Society staff for their hard work.

Due to 2012 being an election year, 2013 was the first full year for many new Benchers. It started in February with an orientation session which proved to be very effective since the new Benchers have, without exception, risen to the challenge of climbing the steep learning curve that presents itself to every new volunteer. That session naturally led to discussions beginning in April 2013 concerning the need for a comprehensive governance review of our Bencher Board. Planning in furtherance of that review continued through 2013 with the first stage of the governance review being completed at our most recent Convocation. The Benchers will review processes in place with a view to improving, streamlining, clarifying and ultimately codifying the governance processes of the Law Society. This review will include items such as the role of the Benchers, Executive Director and Law Society staff, as well as policies and procedures for communication and reporting and ultimately

providing a framework for "how the work gets done." This work, although difficult and sometimes tedious, will ultimately be a great legacy for the Law Society and for future generations of staff and Benchers to come.

Since much of the Law Society's work is completed by committees, following is a summary of work done by the various committees in 2013.

**ADMISSIONS & EDUCATION**

This committee has seen a marked increase in responsibility over the last few years. In 2013, President Heather Laing, Q.C. signed the amendment to the National Mobility Agreement to allow for full permanent mobility with Quebec. The National Mobility Agreement had previously been signed between all the common law provinces. Increased mobility both nationally and internationally has resulted in numerous applications for waivers at each Convocation and new policy must be developed to maintain consistency in decision-making and reporting.

The Admissions Committee was also involved in significant policy development nationally as they reviewed and made recommendations to the Benchers on the new national admissions competency standards and the new fitness to practice standards.

On the education side, Continuing Professional Development continued to grow and diversify in the number and selection of courses offered to members in 2013.

## President's Report

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### DISCIPLINE

I served as Discipline Chair in 2013 and have reported on those activities elsewhere in this Annual Report and refer readers to that report. One significant accomplishment worth mentioning twice was that the last large group Benchers Penalty Hearing was conducted in 2013. Legislative amendments relegated that cumbersome and outdated process to the past and empowered the smaller hearing committees to impose penalties in situations where there is a finding of conduct unbecoming. Saskatchewan was the last jurisdiction in Canada in which the hearing committee did not also impose the penalty.

### ETHICS

The Ethics Committee is mandated to consider ethical issues raised either through complaints or at the request of individual members to provide rulings for the guidance of the legal profession. They also review and make recommendations for amendments to the *Code of Professional Conduct*. This year in context of the *Code*, the committee reviewed and considered limited scope provisions; conflict of interest and transferring lawyers' provisions; and conflict of interest and incriminating physical evidence proposed amendments.

### PROFESSIONAL STANDARDS

This is one of the more proactive committees and it attempts to fulfill the Law Society's public protection mandate by focusing on membership competence and practice management. The Practice Advisor program is becoming better known to our members and is available to new lawyers and sole practitioners to assist with practice management. The committee also worked on rule amendments to supplement legislative amendments in the areas of mandatory practice audits for new solo practitioners and mandatory succession planning. Our experienced team of practice advisors

made up of Victor Dietz, Q.C., Brent Gough, Q.C. and Jeff Scott continued in their roles in 2013. I applaud them for their efforts both in the field and providing input from the field at the policy table. The committee also studied paperless office initiatives, developing and sending out a member survey in August 2013, which received a strong response, with many members providing extensive comments in relation to this issue.

### ACCESS TO LEGAL SERVICES

The Access Committee continued to conduct town hall meetings in the rural areas of the province in 2013, holding meetings in Nipawin, Swift Current and Yorkton. These meetings were well attended by the local members and provided important opportunities to assess the needs in rural Saskatchewan. Additionally, this committee decided to focus on the issue of alternate business structures as an access issue and will be working closely with our neighbouring western provinces on initiatives in this area.

### LIBRARY

This is the largest single department within the Law Society consuming the most in monetary resources each year. The closure of the Saskatoon library during court house renovations was one of the major library projects in 2013, involving the negotiation of an agreement with the College of Law to provide services to the Saskatoon Bar. The second major project in 2013 was revision of the Annotated Queen's Bench Rules to reflect the changes that occurred effective July 1, 2013.

In addition, the Library Review Committee and Law Society staff developed a strategic plan for libraries going forward. The plan places less emphasis on the physical library and an increased emphasis on providing digital information to individual lawyer's offices. An example of the strategic plan being

put into action is the work now being done with CanLII to digitize all Saskatchewan cases dating back to 1909.

### FINANCE

The Executive Committee operates as the Finance Committee for the Law Society. As in previous years, the Law Society continues to maintain a solid financial basis and boasts some of the lowest fees for membership and insurance across Canada.

### CONCLUSION

It is impossible to include with appropriate detail every project worked on by the Benchers, volunteers and staff during 2013. Other important initiatives include the endorsement of the Justicia Project, a partnership between Law Societies and law firms to voluntarily commit to work collaboratively to share best practices, develop resources and adopt programs to support female lawyers in the private sector. There is an alarming attrition rate from that sector after the five year mark and this program looks to address that issue. Launched by the Law Society of Upper Canada, by the end of 2013 it had expanded to Quebec and the four western provinces.

Other significant work was accomplished on the insurance side with significant changes being proposed in the governance of Canadian Legal Insurance Association and the amendment of the subscriber agreement. Credit for these unsung but significant efforts again must be given to our Executive Director, Tom Schonhoffer, Q.C., who dedicated a tremendous amount of time and expertise to the matter.

Thanks to all those who have given their talents throughout the year, ensuring that the Law Society continues to effectively carry out its mandate.



### ***This is not your father's Oldsmobile ...***

*by: Thomas Schonhoffer, Q.C.*

In 1988, Oldsmobile marketed to a younger driver with the phrase, "this is not your father's Oldsmobile." The phrase is now part of pop-culture, used to express change through modernization. Although the phrase is popular, the advertising campaign was a flop and Oldsmobile closed its doors several years later. The ad campaign has become a lesson in the perils of re-branding.

In present context, the Law Society is modernizing and this is not your father's Law Society.

Why the change? *The Legal Profession Act* requires the Law Society to regulate the legal profession in the public interest. The ever-evolving definition of the public interest is the catalyst.

Historically, the public interest was served by high standards in the legal profession. Traditional Law Society work emphasized competency standards including admissions, professional education and libraries; regulated behavior standards through a code of conduct, with enforcement through discipline, and consumer protection through insurance and assurance funds. These duties are still core administrative functions and continue to drive innovation. Examples in the last year are the adoption of national competency

standards for admission and national standards for discipline process.

Increasingly we see the public interest driven by access to legal services. Please note that the term "legal services" is deliberate. The term "access to justice," although an important idea, often narrowly deals with unrepresented litigants appearing before courts and tribunals. The term "legal services" encompasses a broad range of services potentially delivered by a broad range of providers.

There are current issues debated across Canada that go to the fundamental nature of Law Societies.

Law Societies are considering alternatives in legal education. Can colleges provide effective paralegal training? Can Universities prepare students for a call to the Bar in three years? Is articling required or should students attend a training course?

Does public protection require delivery of legal services by lawyers, or are there other lower cost alternatives, such as paralegals or multidisciplinary firms?

Are there non-lawyer owned entities that can deliver innovative legal services through alternate business structures? How can they be regulated?

I don't have the answers to these questions, but I do know that the Law Society must ask how regulation inhibits or enhances access to legal services.

Circling back to the opening paragraph, the legal services market is changing. Traditional law has largely abandoned providing legal services to the middle income market and innovation will be required to provide those services. Lawyers are re-branding and will be an essential part of this process. Lawyers will not go the way of the Oldsmobile.

**Membership Statistics as of January 15, 2014**

<b>STATUS</b>	<b>Male</b>	<b>Female</b>	<b>TOTAL</b>
Active Practicing Members residing IN and OUT of Saskatchewan	1128	616	<b>1744</b>
Active Practicing Members residing IN Saskatchewan	1047	584	<b>1631</b>
Regina Practicing Lawyers	390	213	<b>603</b>
Saskatoon Practicing Lawyers	399	263	<b>662</b>
Saskatchewan Practicing Lawyers Outside of Regina and Saskatoon	258	108	<b>366</b>
Inactive Members IN and OUT of Saskatchewan	273	222	<b>495</b>
Inactive Members IN Saskatchewan	91	114	<b>205</b>

<b>CHANGES IN STATUS SINCE JANUARY 1, 2013:</b>	<b>Male</b>	<b>Female</b>	<b>TOTAL</b>
New Enrolled Lawyers (admitted from student-at-law status)	42	31	<b>73</b>
Transfer Lawyers	15	15	<b>30</b>
Deaths	8	1	<b>9</b>
Judges Appointed	6	2	<b>8</b>

**Allocation of Practitioners in Saskatchewan  
By Type of Practice**

<b>Type of Practice</b>	<b>Number of Practitioners (not including students-at-law)</b>
Courts	3
Federal Government	42
Federal Prosecution	15
In-House Corporate Counsel	123
Legal Aid	78
Private Practice	1052
Provincial Crown Corporation	51
Provincial Government	113
Provincial Prosecution	116
University	16
Unclassified in Alinity	22
<b>TOTAL:</b>	<b>1631</b>

**Law Firms in Saskatchewan by Number of Practitioners**

<b>Number of Practitioners Per Firm (Private Practice Only)</b>	<b>Number of Firms</b>	<b>Number of Practitioners (including students-at-law)</b>
1	197	197
2	50	100
3	16	48
4	24	96
5	5	25
6	4	24
7	4	28
8	5	40
9	4	36
10	1	10
15	2	30
16	1	16
17	1	17
20	1	20
21	1	21
28	1	28
30	1	30
36	1	36
61	1	61
85	1	85
86	1	86
<b>TOTAL:</b>	<b>322</b>	<b>1034</b>

*NOTE:* These numbers include students-at-law who are working in private firms, which accounts for the discrepancy between the total number of private practitioners in this table (1034) and the total number of private practitioners in the “Type of Practice” Table (1052).

**Practicing Lawyers in Saskatchewan by Age  
(not including students-at-law)**

*The age of practitioners in the province is of interest because it shows a bulge in the age groups of 51 and up. 45% of practitioners fall within this range.*

<b>Between Ages:</b>	<b>24 to 30</b>	<b>31 to 40</b>	<b>41 to 50</b>	<b>51 to 60</b>	<b>60 &amp; Up</b>	<b>TOTALS:</b>
Male	87	204	178	357	221	1047
Female	81	190	161	120	32	584
<b>TOTAL:</b>	<b>168</b>	<b>394</b>	<b>339</b>	<b>477</b>	<b>253</b>	<b>1631</b>

*The statistics were prepared from the Law Society database and represent a reasonable representation of the demographics. Statisticians should be cautioned that the final numbers are not always in agreement.*



I am pleased to report on matters of professional regulation for 2013. As Deputy Director, I assist Tom Schonhoffer, Q.C. in his role as Executive Director. I also continue in my role as Complaints Counsel, overseeing all areas of professional regulation. During the year, I worked on policy and other issues, including a pilot project to implement National Standards for Law Society Complaints and Discipline processes and a National Discipline Administrator's Steering Committee.

We were pleased that Valerie Payne, after covering a leave in 2012, accepted a permanent position as Complaints Counsel. Gord Mayer acted as Complaints Counsel for 2013, also covering a leave. Melinda Daradics acted as Complaints Intake for the first full year in 2013. Melinda is a former 911 operator and calmly handled many initial calls from complainants in 2013.

There were 753 complaints received in 2013, as opposed to 722 in 2012. Of the total number of complaints received, 192 actual complaint investigation files were opened in 2013 as compared to 224 in 2012 (the decrease of almost 15% in actual complaint investigation files is attributable, in my view, to the early resolution efforts of the new Complaints Intake). The balance of the complaints were reviewed and dismissed as non-jurisdictional,

### ***Professional Regulation ...***

*by: Donna Sigmeth, Q.C.*

without merit or resolved via telephone conciliation. The highest number of complaints alleged delay, quality of service and lack of communication on the part of the member. Complaints in the areas of family law, real estate and estates continue to be highest, although we received an unusually high number of complaints in the area of criminal law in 2013.

Administrative support was provided by Dee Dee Holt (who left in mid-2013 after 6 years of exceptional service) and Pam Slessor-Hay. Cherie Young joined Pam to assist us in our day-to-day work and in attempting to meet new national standards for processing complaints.

Tim Huber, as Counsel, has very capably dealt with many hearings for both the Discipline and Education & Admissions committees, appeals to all levels of court, judicial review applications, unauthorized practice prosecutions and obtaining and discharging trusteeship orders.

The work done on the Professional Standards Committee Practice Management Advisor Project merits mention. This is a very proactive and positive program which provides "hands on" assistance to members; prevents further complaints and dissatisfaction on the part of clients and prevents insurance claims, which is of benefit to SLIA (which also supports this program). The "Practice Review Program" automatically provides solo or small firm practitioners with a mentoring visit from a Practice Advisor, assistance which has been received with appreciation from many members. The Practice Advisors have been popular speakers on issues of practice management and have

also contributed articles to the Benchers' Digest. The Practice Advisors contracted by the Law Society are Brent Gough, Q.C., Jeff Scott and Victor Dietz, Q.C.

Staff worked with the Benchers on developing a "wish list" of potential amendments to *The Legal Profession Act, 1990*, for review by Legislative Services. We look forward to the amendments to the *Act* coming into force in 2014. The amendments relating to discipline will assist the Benchers in moving hearing matters forward more quickly by adding volunteers to hearing panels. Although still intended to be non-disciplinary and proactive, the Practice Advisor law office management reviews for "quality assurance" will be made mandatory by the amendments to the *Act*.

Our professional regulation team continues to cultivate awareness among members on issues of concern and has spoken at various CBA and local Bar meetings, as well as the Law School and CPLED Bar Course. In 2013, we participated in various CPD "webinars" on ethical issues for Continuing Professional Development credits. We took approximately 168 calls in 2013 from members seeking "informal ethics opinions" and welcome the opportunity to assist in a proactive way.

I thank our staff for their teamwork and the Benchers for their work and their support. I thank the membership for their cooperation and assistance in dealing with complaints. I invite members to contact us if they are involved in a complaint matter or if they have questions about a conduct or ethical issue or the complaints process.





### ***Mobility and trade agreements have altered the regulatory landscape for lawyers in Canada ....***

*By: Darcia Schirr, Q.C.*

It is my privilege to report on the activities of the Admissions & Education Committee (A & E). The mandate of A & E is a broad one, as this committee is tasked with ensuring that those who practice law in Saskatchewan are qualified. This is achieved through the development and application of admissions standards for those entering the profession and continuing professional development and education for members once they are admitted.

Mobility and trade agreements have altered the regulatory landscape for lawyers in Canada. As a result, nationwide consistency in admission standards is a priority of the Federation of Law Societies of Canada. To that end, the Federation has developed National Admission Standards which consist of two projects. The first project was the development of a *National Competency Profile* and the second a *National Suitability to Practice Standard*. The Law Society approved the National Competency Profile at Convocation in April 2013. The next step for the Federation and all Law Societies is the development of an implementation plan for the National Competency Profile.

The second project is suitability to practice. Applicants for admission to the profession are required to possess “good character.” However, there is no consistency across jurisdictions as

to the meaning of that standard. A working group of the Federation has developed a common standard that replaces the concept of “good character” with “suitability to practice.” The focus will be on conduct or behavior under four broad categories, being respect for the administration of justice, honesty, governability and financial responsibility. A & E changed the admission application form to reflect the new standards.

On the admissions front, A & E continues to see an increase in the number of applications for Rule waivers by individuals who received their legal education outside of Canada or who practiced law outside of Canada. Economic growth in Saskatchewan has impacted the legal profession as more individuals seek to practice here.

The A & E Committee conducted three admissions hearings in 2013. In one case, the applicant applied to be a student-at-law and the issues focused on the applicant’s criminal record and experience as a legal assistant in another jurisdiction. Two hearings were required when two students failed the CPLED course after the Director of Bar Admissions determined both of them had plagiarized a particular module.

On the education front, the committee developed written Guidelines for the Education and Guidance of Articling Students. While the articling program has undergone significant change in some jurisdictions, in Saskatchewan the articling experience remains an important cornerstone in the development of competent lawyers. To that end, the Guidelines are intended to increase the effectiveness of articles.

The CPD Program continues to roll along smoothly with high participation by the membership. The seminars and webinars are consistently excellent and 2013 was no exception.

A sub-committee has also undertaken the task of rewriting Part 7 of the Law Society Rules which deal with admissions and education. This has been a significant task and it is expected that the proposed amendments will be considered at Convocation in the fall of 2014.

It has been my privilege to Chair the committee and I am grateful for the significant time, effort and wisdom provided by fellow committee members: Dr. Sanjeev Anand, Q.C., David Chow, Brenda Hildebrandt, Q.C., Laura Lacoursiere, Judy McCuskee, Sean Sinclair, Dr. Greg Stevens and Patrick Reis, Q.C. (now Judge Patrick Reis).

The committee also recognizes those who served on the CPD Planning Committee: Richard Gibbons, Brian Hendrickson, Q.C., Lynn Hnatick, Erin Kleisinger, Jeff Scott and Evert Van Olst, Q.C. Public recognition must also be given to the many members who volunteer their time and share their expertise with the membership by presenting at seminars and webinars. The Law Society is fortunate to have an active and engaged membership who contribute to the success of the CPD program.

The exemplary work of Law Society staff must also be recognized. The committee greatly benefited from the work of Andrea Johnston, Jody Martin, Samuel Bergerman and Barbra Bailey.





The Discipline Executive Committee in 2013 was comprised of the following individuals:

- Robert Heinrichs (Chair)
- Dr. Sanjeev Anand, Q.C.
- Brenda Hildebrandt, Q.C.
- Ronald Parchomchuk
- Jay Watson
- Lorne Mysko
- Sean Sinclair

President Heather Laing, Q.C. and Vice-President Miguel Martinez (now Judge Martinez) were *ex officio* committee members.

The following is a statistical summary of the various discipline matters dealt with in 2013:

- 13 referrals to Discipline (regarding 11 members)
- 14 referrals to CIC
- 2 hearings and preliminary motions
- 2 hearings and sentencings before all the Benchers (old *Act*)
- 9 hearings and sentencings before the Hearing Committee (new *Act*)
- 3 sentencing hearings before all the Benchers (old *Act*) (hearings held in 2012)
- 1 resignation in the face of discipline equivalent to disbarment

### **2013 also saw the adoption of a Bencher Conflict of Interest Policy ....**

*By: Robert Heinrichs*

- 2 Conduct Review Appointments
- 2 Trusteeships
- 0 Special Fund Payments
- 1 to Saskatchewan Court of Appeal
- 3 interim suspensions

Dedicated readers of this committee's Annual Report will recall that in 2010, amendments to *The Legal Profession Act, 1990* were implemented to change the process for imposing penalties in situations where charges of "conduct unbecoming a lawyer" were determined to be well founded at the hearing stage of the process. Essentially, these amendments removed the requirement that penalties be imposed by a Discipline Committee comprised of all Benchers (where suspension or disbarment were possible). It was replaced with a process that allowed the smaller Hearing Committees to impose penalties in all discipline matters. All discipline matters that commenced prior to the 2010 amendments are still governed by the pre-amendment legislation. Accordingly, four large group penalty hearings were conducted in 2013:

1. One member was ordered to pay a fine and costs and to practice under the supervision of another lawyer;
2. Two members were suspended with orders of costs against them; and
3. One member was disbarred with costs.

Two of these decisions are presently under appeal by the respective members. All pre-2010 amendment matters requiring the large group

penalty hearing process have now been completed.

The Discipline Executive Committee is responsible for developing discipline-related policy for presentation to and action by the Benchers as a whole. Policy development often takes up the majority of the committee's time during the year and 2013 was no exception.

To begin with, the committee implemented a policy to expedite the scheduling of hearings in furtherance of the National Discipline Standards pilot project. This project is facilitated by the Federation of Law Societies of Canada and was described in this committee's annual report last year. As a brief review, the two year pilot project ran from April 2012 to April 2014 and identified 24 standards regarding timeliness, public participation, openness, accessibility and quality of professional discipline proceedings. The Discipline Executive Committee's new policy, developed in 2013, provides that a date for a prescheduled case management conference between the member, Discipline Counsel and Chair of the Hearing Committee will be provided to the member at the time of the Formal Complaint being served upon the member. It is incumbent upon the Hearing Committee Chair to ensure the matter is moved forward in a timely manner through the use of the case management conferences. This allows for more efficient hearings since the parties involved can address various procedural matters in advance of the hearing. The use of regular case management conferences to date has proven to be beneficial in regards to timeliness and quality in professional discipline proceedings.

2013 also saw the adoption of a Bencher Conflict of Interest Policy. The impetus for the policy came from recognition of a need for guidance in situations where Benchers are the subject of a complaint made to the Law Society and to guard against conflicts of interests generally. The policy is divided into four main sections:

1. Defining conflict of interest and providing guidelines for the avoidance of any apparent or real personal conflicts of interest.
2. Outlining Bencher duties and setting limits on Bencher participation both in policy making functions and adjudicative functions in situations where the Bencher has a conflict of interest.
3. Outlining the process involved when a complaint is made to the Law Society against a Bencher; and
4. Outlining the process for determining whether a conflict of interest exists where there may be uncertainty.

Having a policy and process in place in the event that a Bencher becomes the subject of a Formal Complaint promotes consistency and avoids “arbitrary” decision-making.

A number of rule amendments were also dealt with during 2013, including reciprocal suspension and disbarment amendments in Rule 149A(4) – (6). With increased mobility, the possibility of a lawyer being suspended in one jurisdiction but being able to practice in another jurisdiction was problematic. These amendments generated a lively debate prior to adoption. Concern was raised about inconsistent treatment. For example, in rare circumstances, conduct that might constitute disbarment in one jurisdiction may only constitute suspension in another, so it could be argued that disbarment in the other jurisdiction should not be taken at

face value in the home jurisdiction. Balanced against that argument was the concern that the Law Society’s primary mandate, namely public protection, could be at risk if a member suspended in another jurisdiction was allowed to practice locally. Ultimately, the motion to amend the rule was carried, allowing for reciprocal suspension and disbarment.

A further rule amendment was made to Rule 400, clarifying the authority of Conduct Investigation Committees to amend the formal complaint at any time prior to the formal commencement of the hearing. Of course, the Hearing Committee retains the authority to amend the formal complaint upon commencement of the hearing, pursuant to Section 48 of *The Legal Profession Act, 1990*.

Approved in 2012 but implemented in 2013, hearing decisions dating back to 1994 (when discipline became public) are now published online. Additionally, a database was begun to list anonymous “conduct review” reports.

As always, the work of the Discipline Executive Committee cannot be accomplished through the efforts of its volunteers alone, as significant as these efforts are. Credit must be given to Law Society administration staff who provide significant support and resources to assist with the committee’s work throughout the year.



I was pleased to chair the 2013 Ethics Committee. Joining me on the committee were Michael Megaw, Q.C., Vice Chair (now Justice Megaw), Bruce Bauer, Q.C., David Chow, Ronni Nordal, Darcia Schirr, Q.C. and Dr. Greg Stevens.

Pursuant to *The Legal Profession Act, 1990*, the Ethics Committee makes rulings on questions of professional ethics and provides guidance for the individuals and for the profession as a whole. The Ethics Committee is also responsible for reviewing and developing recommendations for any changes to the Law Society of Saskatchewan's *Code of Professional Conduct*.

Most matters appear on the Ethics Committee agenda in one of two ways:

- by way of complaints through Complaints Counsel, or
- by way of a voluntary Request for Ruling by members.

The complaints are dealt with by Complaints Counsel who, after an initial investigation, will determine whether the matter is something that does not appear to raise conduct issues but rather ethical issues that may be open to interpretation and require discussion by the committee.

After the committee has considered a particular matter that has been

### ***In addition to the rulings function, the Ethics Committee continues to review additions to the Code of Professional Conduct ....***

*By: Lorraine St. Cyr*

referred, it will provide its ruling. The ruling is the consensus of the committee members, often after considerable debate. It is important to emphasize that a ruling of the committee is not binding. In a general sense, a ruling is provided for guidance to the particular members in question and to the profession as a whole. After considering a matter, however, the committee does have discretion to refer the matter to either the Professional Standards Committee or the Discipline Committee. All rulings are available for review via the Law Society's Professional Conduct Ruling database.

In addition to the rulings function, the Ethics Committee continues to review amendments to the *Code of Professional Conduct* that was rolled out in 2012. This year, the committee was called upon to consider proposed provisions regarding:

- limited retainers
- unbundling of legal services
- conflict of interest and transferring lawyers
- property relevant to a crime or possession of physical evidence of a crime

The committee also reviewed and approved an amendment to Rule 1602.1, which clarified and tightened the rules relating to contact with prospective clients in a weakened state.

This work would not be possible if not for the assistance provided by Law Society staff. I thank them for their hard work in preparing materials for review by the Ethics

Committee and for their general assistance in reviewing and considering the legal issues that arise before the committee. Their experience and assistance is invaluable to the committee.

Finally, I also take this opportunity to thank my fellow members of the committee. The volume of material that must be reviewed and considered by the Ethics Committee tends to be quite heavy. It is a pleasure to work with individuals who are well prepared for each meeting and provide input to assist with the resolutions which are ultimately achieved. The spirited debate around these many issues is a strong indicator of a continuing need for this committee and the insight that each member brings to the discussion.



### ***Errors and Omissions Insurance ...***

*by: Joel Hesje, Q.C.*

As past-Chair of the Law Society's Insurance Committee, I am pleased to provide my report to you.

By now you will have received notice of your 2014 - 2015 errors and omissions insurance levy and you will have noted that the levy is unchanged from last year and continues to be one of the lowest in Canada.

In May 2014, the Benchers approved the levy of \$1,560. Once again we were able to subsidize the levy by using our surplus to reduce the levy from the amount recommended by our actuaries.

Attached are the financial statements for the fiscal year ending June 30, 2013. The unfortunate timing of issuing the Law Society Annual Report in early June and a SLIA year end of June 30<sup>th</sup> make it such that the audited financial statements are almost one year out of date by the time we report to you.

The June 30, 2013 financial statements show that we have a surplus of \$11,455,318, which exceeds our surplus last year and the minimum surplus recommended by our actuary.

We expect the surplus will decrease over time as the insurance levy subsidy reduces it and because there has been an increase in the size of

claims over the past year. Reasons for the increase are difficult to empirically identify, but the buoyant Saskatchewan economy, higher real estate prices and increasing legal costs are all likely contributors.

We are fortunate to have had stable, affordable insurance coverage for the past 25 years through a reciprocal insurance company called Canadian Lawyers Insurance Association (CLIA). Our own insurance company, Saskatchewan Lawyers' Insurance Association Inc., along with 8 other provinces and territories, is a subscriber to this reciprocal. Unlike commercial insurers, the broad coverage provided by CLIA is balanced to protect both risk to the members' financial security and to indemnify members of the public who have suffered a loss.

I want to take this opportunity to thank the members of the 2013 Insurance Committee and SLIA's staff for their work during the past year:

Benchers Ronald Parchomchuk, David Rusnak and Judy McCuskee. Joining them was Michael Milani, Q.C. (CLIA Chair) and Patrick Kelly, Q.C. (past CLIA board member).

The committee is responsible for oversight of SLIA management, including Brad Hunter, Q.C., Insurance Director, and Tim Brown, Counsel.



**... in order to survive, we must continue to move beyond the traditional brick and mortar library, and redefine the terms “library” and “librarian” ...**

*by: Melanie Hodges Neufeld, Director of Legal Resources*

2013 was spent revitalizing and reinventing the role of the Law Society in the management of legal information. We believe the library is a key component for maintaining member competency and the administration of justice by collecting, creating and distributing legal information to the profession, the judiciary and members of the public. However, we also understand that in order to survive, we must continue to move beyond the traditional brick and mortar library, and redefine the terms “library” and “librarian.”

We have been reviewing our library structure to determine the most effective and cost-efficient means of managing legal information. This includes opening a dialogue with stakeholders and strengthening relationships to work towards mutually beneficial arrangements. A prime example is our arrangement with the College of Law Library to allow our Saskatoon members borrowing privileges during the temporary closure of our Saskatoon branch.

Saskatchewan remains the only Law Society that provides several online subscription services to all members’ desktops. Surveys conducted in 2009 and 2013 confirm that our members are increasingly relying on the physical library space less and online resources more. In response, we

continue to increase the online resources available in the Members’ Section of our website. New acquisitions in 2013 included Rangefindr, a tool to help lawyers find criminal sentencing ranges. Our long-term goal is to facilitate access to adequate legal resources for all our members, no matter the location. The best way to accomplish this goal is to convert to even more online resources.

To further increase our members’ online research capabilities, we also began a project in 2013 to digitize Saskatchewan case law and include it on the CanLII website. With the support of the Law Foundation, approximately 15,000 to 20,000 cases will be added to CanLII by the end of 2014. This will provide as nearly a complete record as possible of Saskatchewan decisions back to 1909.

The Law Society Library also offers several useful publications and databases, but unfortunately many of our publications are woefully out of date. We began the process of updating all our publications in 2013 and this project should be completed by the fall of 2014. We have also established an updating schedule to ensure each publication is updated at least yearly. Some of our publications, such as *The Limitations Manual*, *Queen’s Bench Practice Manual* and *Saskatchewan Practice Checklists*, are already available online. In 2013, we began exploring how best to offer all our publications in ebook/online formats and are certain some, if not all, will be available in both print and ebook format by the end of 2014.

The most significant publication release of 2013 was the *Queen’s Bench Rules Annotated*, 4<sup>th</sup> Edition (QBRA). The drastic updating of the Queen’s Bench Rules in July 2013 necessitated a complete overhaul of the QBRA. This was a huge undertaking involving the expertise of several annotators and we are exceptionally proud of the end result.

As for our physical branches, both the Saskatoon and Moose Jaw branches were temporarily closed in the fall of 2013 due to renovations/repairs and remain so in 2014. Both branches will be reduced in size upon reopening; the Saskatoon branch by approximately 40% and the Moose Jaw branch will be a barristers’ lounge with a core textbook collection. We are confident that the remaining materials will adequately meet our members’ needs in both locations.

Last but certainly not least, one of the most noteworthy changes at the Library in 2013 was the retirement of Maxine Seeley from our Regina branch after 26 years of service. Maxine’s vast legal research experience will be sorely missed. To help fill the gap, we hired a new Reference Librarian, Alan Kilpatrick. We also hired Kelly Laycock as our Publications Coordinator to assist in the updating of our current publications and the creation of future projects.

We invite our members to rediscover what the library has to offer. Please visit our website at [www.lawsociety.sk.ca/library](http://www.lawsociety.sk.ca/library) to explore our resources and reference services.





I would like to thank each of the members of the Professional Standards Committee for their diligent effort throughout the past year:

- Perry Erhardt, Q.C., Vice-Chair
- Joel Hesje, Q.C., Vice-Chair
- Jay Watson, Vice-Chair
- Lorne Mysko, Vice-Chair
- Ronald Parchomchuk, Vice-Chair
- David Rusnak, Vice-Chair

The Professional Standards Committee attempts to protect clients and the public by reviewing trends and issues and attempting to ensure that the Law Society of Saskatchewan has the rules, policies and best practices in place to proactively assist the membership in preventing complaints and insurance claims. The Professional Standards Committee is charged with a due diligence and oversight role to ensure that the appropriate matters are being referred to Practice Advisors and that those matters are being dealt with in a timely and meaningful manner.

The Practice Review Program was designed to protect the public by identifying a problem or deficiency in a member's practice before a complaint arises. Once a problem or deficiency has been identified, the goal of the Professional Standards Committee is to provide the member

***... the committee considered ways to encourage members to ensure that they have a contingency plan in place ...***

*by: Thomas Healey*

with the resources needed to address the underlying concerns or issues. In the past few years, the value of the services provided by our Practice Advisors has become increasingly apparent.

The committee wishes to acknowledge and thank the Law Society's Practice Advisors, Victor Dietz Q.C., Brent Gough, Q.C. and Jeff Scott for their tireless and invaluable efforts. During 2013, the Professional Standards Committee noted that the Practice Review Program was limited in that, when concerns did not arise as a result of a complaint, the Program was voluntary. As a result, the committee encouraged the development of a revised rule which would allow the Law Society to make participation in the program mandatory. A revised Practice Review Program which is mandatory in a broader range of circumstances is expected to be in effect in 2014.

Aside from issues involving the Practice Review Program, during 2013, the Professional Standards Committee considered ways to encourage members to ensure that they have a contingency plan in place. The committee also looked into issues and possible pitfalls that lawyers may face when setting up and operating a "paperless office." The possibility of attempting to establish a "locum" Practitioner Program for sole practitioners was also considered.

At the end of 2013, there were 39 total referrals to the Professional Standards Committee: 25 were "complaints driven" referrals and 14

members participated in the Practice Review Program for new sole practitioners. The feedback from members regarding the Practice Advisor Program has been very positive.

The committee wishes to acknowledge and thank the following members of the Law Society staff for their hard work as well as their ongoing support and assistance. On behalf of the Professional Standards Committee, their assistance has been exemplary throughout 2013.

- Donna Sigmeth, Q.C., Deputy Director
- Valerie Payne, Complaints Counsel
- Barbra Bailey, Policy Counsel
- Gordon Mayer, Complaints Counsel

I would also like to thank the Executive, President Heather Laing, Q.C., Vice-President Miguel Martinez (now Judge Martinez) and Tom Schonhoffer, Q.C.



### *Benchers*

<i>Dr. Sanjeev Anand, Q.C.</i>	<i>Michael Megaw, Q.C.</i>
<i>Bruce Bauer, Q.C.</i>	<i>Lorne Mysko</i>
<i>David Chow</i>	<i>Ronalda Nordal</i>
<i>Perry Erhardt, Q.C.</i>	<i>Ronald Parchomchuk</i>
<i>Thomas Healey</i>	<i>Patrick Reis, Q.C. (until Nov 29, 2013)</i>
<i>Robert Heinrichs</i>	<i>David Rusnak</i>
<i>Joel Hesje, Q.C.</i>	<i>Darcia Schirr, Q.C.</i>
<i>Brenda Hildebrandt, Q.C.</i>	<i>Sean Sinclair</i>
<i>Laura Lacoursiere (until May 5, 2013)</i>	<i>Lorraine St. Cyr</i>
<i>Heather Laing, Q.C. (President)</i>	<i>Dr. Greg Stevens</i>
<i>Miguel Martinez (Vice-President)</i>	<i>Della Stumborg</i>
<i>Judy McCuskee</i>	<i>Jay Watson</i>



### *Professional Staff*

*Thomas Schonhoffer, Q.C. – Executive Director*

*Donna Sigmeth, Q.C. – Deputy Director/Complaints Counsel*

*Timothy Huber – Counsel*

*Barbra Bailey – Policy Counsel*

*Valerie Payne, Complaints Counsel*

*Gordon Mayer, Complaints Counsel*

*Brad Hunter, Q.C. – Counsel, SLIA*

*Timothy Brown – Counsel, SLIA*

*John Allen, CA – Auditor/Inspector*

*Stephanie Kievits, CA – Senior Auditor*

*Andrea Johnston – Director of Admissions & Education (on leave)*

*Jody Martin – Acting Director of Admissions & Education*

*Lana Vindevoghel – CPD Program Specialist*

*Sam Bergerman – Director of Bar Admissions*

*Melanie Hodges Neufeld – Director of Legal Resources*



# LAW SOCIETY OF SASKATCHEWAN

## *Mission Statement*

To govern the legal profession  
by upholding high standards of competence and integrity;  
ensuring the independence of the profession;  
advancing the administration of justice,  
the profession and the rule of law;  
all in the public interest.

