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President's Message

by Karl Bazin, Q.C.



It is my honour to have been elected President for 2009 and I thank the Benchers for their support.

2009 will be a year for the Benchers to focus on furthering the projects which have been largely implemented over the past few years. Of note is the continuing legal education project, requiring the profession to further enhance its competence through an ongoing educational program. The development of the continuing legal education program benefited greatly by the many members replying to the Admissions & Education Committee's request for feedback through the email listserve system.

In 2009, we anticipate changes to the discipline structure. New procedures are being developed

and will be implemented to ensure that the discipline process is more effective for complainants, most often members of the public, as well as for the members who find themselves unfortunately before the discipline process.

The Benchers have been attentive to the discipline process, ensuring that sentencing decisions are principle-based and that the reasons for decisions and the resulting sentences are detailed to further develop a body of jurisprudence based on Saskatchewan matters. This process will assist the profession as well as future Benchers and members in the discipline process.

Over the past few years, there has been a shift in the Benchers' philosophy from a reactive response to a pro-active approach. In 2009, the Benchers will continue to look at pro-active measures to assist members so that involvement with the discipline process of the Law Society can be avoided. These measures will continue to reduce insurance claims.

The Benchers are mindful that one of the better ways to protect the public is to assist lawyers in improving their practice, therefore, you can anticipate further initiatives from the Law Society to follow through with this approach.

Saskatchewan will continue to be an active participant in the Federation of Law Societies, as we need to stay in tune with issues on a national level. Federation issues will play an increasing role on the Benchers' agenda, as our membership requires national standards in a time of increased mobility. The public, being equally mobile, have questioned the rationale for a governance that is different from province to province.

With increased demands on the Law Society will come increased demands for funding. Saskatchewan has been fortunate to be able to pursue its goals without significant fee increases, staying within the national average.

Projects are always viewed from a cost-effective basis, and particularly over the past few years, the Law Society has approached the review of budget items from the perspective that there are no "sacred cows." All budget items have been or will be reviewed. The review is simply part of the due diligence process to ensure that budget items are effective financially for the Law Society.

(article continued on page 2...)

Profile of the Vice President

Eileen Libby



At December Convocation, the Benchers of the Law Society of Saskatchewan elected Eileen Libby as Vice President for 2009.

Eileen was born and raised in Saskatchewan. In 1978, she attended the University of Regina for one year, and for the next 6 years, worked in various capacities in several Regina law firms prior to resuming her post secondary education. Returning to undergraduate studies at the University of Regina in 1986, she was admitted into the College of Law at the University of Saskatchewan that same year. Eileen obtained her Bachelor of Laws with Distinction in 1990 and a Bachelor of Arts with Distinction in 1991.

Eileen served her articles as a clerk to the Court of Queen's Bench, and upon admission to

the Bar in 1991, joined MacPherson Leslie & Tyerman, becoming a partner in 2000. Eileen practices primarily in the areas of labour and employment, administrative law and civil litigation. She also sits as a hearing officer appointed under the Police Act.

Since becoming a Bencher, Eileen has had the opportunity to serve on the Ethics, Public Relations and Admissions & Education committees. Throughout her term as Vice President in 2009, in addition to varied committee roles, she will continue to work on special projects for the Law Society, including succession planning for practitioners and strategic planning initiatives.

Highlights of the Meeting of Benchers

held December 3rd, 4th and 5th, 2008

Karl Bazin, Q.C. of MacBean Tessem in Swift Current was elected President of the Law Society commencing January 1, 2009. Eileen Libby of MacPherson Leslie & Tyerman in Regina was elected Vice President of the Law Society.

The Law Society received reports of interest to the profession from several sources as follows:

Graeme Mitchell, Q.C. reported on the work of the Federation of Law Societies of Canada and there was discussion around increasing the Federation fee. An increase in the fee from \$15/member to \$20/member was approved for 2009.

Greystone Investments reported on the state of investments under management for the Law Society of Saskatchewan and Saskatchewan Lawyers' Insurance Association Inc. Our investments are governed by a very conservative investment policy which has not been dramatically affected by the downturn in the markets.

Dean Brent Cotter, Q.C. reported on events at the College of Law, including the Law College renovations, faculty hires and the College's involvement with interdisciplinary departments. Dean Cotter's appointment has been renewed for a further 3 years.

The Law Society made two appointments during Convocation. Graeme Mitchell, Q.C. was appointed for a further 2 year term to the Council of the Federation of Law Societies of Canada. Robert Gibbings, Q.C. was appointed to the Law Foundation for a 2 year term.

A subcommittee of the Education & Admissions Committee considered a report by the Federation of Law Societies entitled "Task Force on the Common Law Degree." The committee made recommendations for a Law Society response to the Federation.

There were insufficient nominations received for the 2008 Willy Hodgson Award, therefore, the Benchers declined to make the award.

Both William Z. Brown and Kim Stinson were Sentenced on charges of conduct unbecoming a solicitor. Further information on the disposition can be found on the Law Society website.

BENCHERS' DIGEST

The Benchers' Digest is published by the Law Society of Saskatchewan to update Saskatchewan lawyers on policy and regulatory decisions made by the Benchers after each Convocation, to inform members about Society programs and activities, and to provide news and announcements of interest to the legal profession. Members are encouraged to send in articles and photos of interest, however, publication rests with the Editor. Articles and photos can be submitted to llynchuk@lawsociety.sk.ca.

Current and archived issues may be viewed on the Law Society Website – see www.lawsociety.sk.ca, "Publications/Benchers' Digest."

Editor Liz Lynchuk

President's Message cont'd...

The Benchers will continue to focus on the longer-term policy driven initiatives. These will include areas that may be potentially financially advantageous to the Law Society and its members in the future. One only has to look at the self-insurance program brought into being in the mid 1980's, now known as the Saskatchewan Lawyers' Insurance Association Inc., to see the substantial benefits that the members of the Law Society continue to enjoy. This forward-looking initiative has resulted in the subsidization of insurance costs.

In conclusion, I wish to thank the Benchers for their work on behalf of all the members of the Society. The twenty-two Benchers are a unique blend of people with legal and non-legal backgrounds whose diverse talent pool effectively and creatively governs the Society. I also look forward to working with the vibrant and energetic staff who conduct the day-to-day tasks of the Law Society. I will be drawing upon this group of talented Benchers and staff in 2009 to carry out the Society's mandate.

2008 Queen's Counsel Appointments

Fifteen Saskatchewan lawyers were honoured with Queen's Counsel appointments on December 31, 2008. *Congratulations* are extended to:

Susan Barber is with the firm of McDougall Gauley in Regina. She was admitted to the bar in 1988. She is currently a Bencher of the Law Society.

Denise Batters is the Chief of Staff to the Minister of Justice and Attorney General. She was admitted to the bar in 1995.

Darin Chow is with Chow McLeod in Moose Jaw. He was admitted to the bar in 1995.

Brian Hendrickson is a Senior Crown Prosecutor with the Saskatchewan Ministry of Justice and Attorney General in Moose Jaw. He was admitted to the bar in 1982.

Tony Koschinsky is a Senior Crown Counsel with the Civil Law Division of the Saskatchewan Ministry of Justice and Attorney General. He was admitted to the bar in 1977.

Richard Mayer is a lawyer with the Regina City Area Office of the Saskatchewan Legal Aid Commission. He was admitted to the bar in 1976.

Gary Meschishnick is with the firm of Wallace Meschishnick Clackson Zawada in Saskatoon. He was admitted to the bar in 1984.

Shaunt Parthev is with the firm of MacPherson Leslie & Tyerman in Saskatoon. He was admitted to the bar in 1988.

Bill Preston is with the firm of Robertson Stromberg Pedersen in Saskatoon. He was admitted to the bar in 1966.

Patrick Reis is with the Regina Rural Area office of the Saskatchewan Legal Aid Commission. He was admitted to the bar in 1984.

James Rybchuk is with the firm of McDougall Gauley in Regina. He was admitted to the bar in 1995.

Murray Sawatzky is with the firm of McDougall Gauley in Regina. He was admitted to the bar in 1986. He is the President of the Canadian Bar Association, Saskatchewan Branch.

Barbara Tomkins is the Chair of the Automobile Injury Appeal Commission and the former Ombudsman for Saskatchewan. She was admitted to the bar in 1976.

Gordon Wyant is with the firm of McKercher LLP in Saskatoon. He was admitted to the bar in 1987.

Lyle Zuk is with the firm of Wilcox Zuk Chovin in Prince Albert. He was admitted to the bar in 1981.

New Judges Appointed to Provincial Court

Brenton Myles Klause, O.C. has been appointed a judge of the Provincial Court for Yorkton.

Judge Klause received his Bachelor of Laws from the University of Saskatchewan in 1978 and was admitted to the Law Society of Saskatchewan in 1980. He enjoyed a successful career as a Crown Prosecutor with the Saskatchewan Ministry of Justice. He received a Queen's Counsel designation in 2005. Judge Klause has lectured on many topics related to criminal law.

Quentin Douglas Agnew has been appointed a judge of the Provincial Court for Saskatoon.

Judge Agnew received his Bachelor of Laws from the University of Saskatchewan in 1983 and was called to the Bar in 1984. He enjoyed a successful career in general practice, specializing in litigation. His experience ranges from family law to corporate litigation.

Judge Agnew has lectured on legal issues for the Public Legal Education Association and other education and community groups.

Employee Fraud – Don't Rule It Out

by John Allen, CA

Recently, a number of law offices have experienced employee thefts of both trust and general funds. The firms varied greatly in size, but in all cases, the employees (now former employees) took advantage of the employer's trust. In one case, the guilty party had been an exemplary employee for more than 10 years.

In many cases, the time and cost involved in determining the extent of the fraud and corrective action required was significantly greater than the fraud itself.

Control procedures can be put in place to assist in preventing fraud or to facilitate early detection. Since controls depend largely on the proper segregation of duties between employees, available controls vary greatly by the size of the firm. The larger the firm, the greater the possibilities of dividing duties to ensure one person does not have complete control of an entire transaction.

Although thefts can take place in a multitude of ways, the main targets are:

Receipts

Cash receipts and/or unanticipated or unique receipts are particularly vulnerable (ie. refunds/overpayments, etc.).

Disbursements

Thefts usually involve forged signatures or having a member sign a cheque in a hurry (ie. no time to review supporting documents). Another popular routine is for the employee to request a lawyer who is not responsible for the file to sign the cheque because the responsible lawyer is "not available."

One of the best ways to prevent and/or detect fraud early is to ensure the bank reconciliation process is properly controlled. To that end,

please refer to the Law Society website Publications/Law Office Management/Control Procedures - Bank Reconciliations, Receipts and Disbursements for some control tips relating to the areas of receipts, disbursements and bank reconciliations.

Payroll

This includes payments such as expense claims.

In addition, members would be well advised to:

- 1. Perform employment history checks, and for sensitive areas, criminal background checks before hiring employees. Also, "google" the prospective employee or perform other computer searches.
- 2. Always check references and contact former employers before hiring new employees. Pay particular attention to "gaps" in employment history and verify those gaps through discussions with former employers. Wage garnishments can be a "red flag" for possible employee fraud.
- 3. Appropriately segregate duties assigned to employees and then monitor tasks assigned to key employees.
- 4. Implement a system whereby two members must sign each cheque. I would also recommend that before the cheque is submitted for signatures, that the chief accounting person "initial" each cheque as confirmation that the payment is "properly supported."
- 5. Press criminal charges against any employee who has defrauded your firm. Do not just "settle" and let the employee "walk." If the person is convicted, then other members can be advised and this factor taken into account in the hiring process by other firms.

- 6. Require approval of at least one member (preferably two) to write-off an account. In addition, all accounts written-off during a specific time period (ie. monthly or yearly) should be reviewed and approved in total to ensure only member approved write-offs have been entered into the accounting system.
- 7. Never, ever pre-sign cheques! Pre-signing trust cheques is against Law Society Rules, but never pre-sign any cheque. This opportunity may be too tempting for an employee who is "flirting" with performing a fraud.
- 8. Insist on examining original source documents (not copies) when signing cheques. Rarely accept copies as substitutes. This helps prevent duplicate payments where the employee converts the payment to personal benefit in some way.
- 9. Be aware of fraud perpetuated by outsiders as well as insiders. I expect this to become more prevalent in the future, given the number and quality of scams we have seen recently. Computers and peripheral equipment available today allow fraudsters to produce high quality fake documents, including cheques which could be cashed through your account(s). Therefore, maintain control over bank account numbers, blank cheque stock (these should always be under lock and key with access limited to only those persons requiring access), bank statements and cashed cheques.

If you have any questions or would like to discuss any of the above points in more detail, please contact John Allen, CA at the Law Society office at 569-8242.

Changes at the Regina Library



Sue Baer has resigned her position as Director of Libraries with the Law Society of Saskatchewan and began her new duties with the Regina Qu'Appelle Health District on January 5, 2009. The library was modernized under Sue's guidance, including the development of the website and online services. We thank Sue for ten years of hard work and commitment to the Law Society of Saskatchewan.



Benchers' Digest Report

www.pblsask.ca

CHARITABLE STATUS

www.pblsask.ca/supportus.shtml

Pro Bono Law Saskatchewan is pleased to announce that it is now a registered Canadian charity. Our success and viability rely partly on the financial support of the community we serve. Donated funds enable us to develop additional *pro bono* programs that help serve the unmet legal needs of low-income individuals and organizations in Saskatchewan. Donations can be made online through CanadaHelps or by a cheque made payable to "Pro Bono Law Saskatchewan." A charitable receipt will be issued promptly. Pro Bono Law Saskatchewan expresses its sincere gratitude to donors who give to support our mission to advance access to justice.

NEW PRO BONO PLEDGE SIGNATORIES

www.pblsask.ca/probonopledge.shtml

The Pro Bono Pledge is a voluntary *pro bono* commitment by Saskatchewan law firms which encourages and recognizes *pro bono* work through Pro Bono Law Saskatchewan programs as billable, to a ceiling of fifty hours annually. New signatories to the Pledge are Saskatoon law firms **Amirzadeh Law** and **Allan C. Hjelte Law Office**. These firms join inaugural signatories MacPherson Leslie & Tyerman LLP, McDougall Gauley LLP and McKercher LLP.

QUEEN'S COUNSEL DESIGNATION FUND

www.pblsask.ca/pdf/queenscounselfund.pdf

Achieving a Queen's Counsel designation can be a significant milestone in a legal career. At the initiative of the Past President of the Canadian Bar Association, Saskatchewan Branch, Michelle Ouellette, Q.C., and other 2007 Queen's Counsel recipients, lawyers in Saskatchewan who have received or are receiving their O.C. designations are commemorating this honour by making a charitable donation in the amount of \$500.00 to Pro Bono Law Saskatchewan. This is a recent tradition of the Saskatchewan bar and a similar practice in other jurisdictions. A current list of past and present donors can be viewed on the Pro Bono Law Saskatchewan website. Thank you to all of these donors!

Donations received through the Queen's Counsel Designation Fund are directed to disbursement coverage for the benefit of clients served by lawyers who provide *probono* litigation services through Pro Bono Law Saskatchewan programs and who might not otherwise be able to pursue litigation. This fund provides assistance for members of the public as well as the many lawyers who volunteer to assist with *probono* files. The fund is available due to a significant start-up contribution from the Canadian Bar Association, Saskatchewan Branch. Further

information on this and other Pro Bono Law Saskatchewan programs is available on our website, including further information on applying to the Disbursement Fund.

PRO BONO SPOTLIGHT

www.pblsask.ca/spotlight.shtml

McDougall Gauley LLP, Featured Firm



McDougall Gauley LLP is one of Saskatchewan's largest law firms, with more than 65 legal professionals located in four cities. As an inaugural signatory to the Pro Bono Pledge, McDougall Gauley LLP has also demonstrated tremendous leadership in volunteering with Pro Bono Law Saskatchewan programs. To date, over a quarter of the firm's lawyers have registered with Pro Bono Law Saskatchewan and are providing *pro bono* legal services to persons of limited means. As a signatory to the Pledge, McDougall Gauley LLP recognizes the *pro bono* hours lawyers give to Pro Bono Law Saskatchewan programs as billable, to a ceiling of fifty hours annually.

Kudos and thank you McDougall Gauley LLP!

New Legal Research Guides

by Ken Fox, Reference Librarian, Regina

Have you ever wanted to see a complete list of research sources for your area of practice? The Law Society of Saskatchewan Libraries are pleased to announce a new series of Legal Research Guides organized by topic. Each guide will be a single source containing comprehensive lists of key texts, journals, forms, encyclopedia and sources of case law.

Publication of the guides will begin in January with Criminal Law and new titles will be issued throughout 2009.

The topical research guides will be published in printable PDF format on the Law Society website on a new page devoted to legal research. This page will also host some of our existing research guides, such as the Legal Research Checklist and guides on how to find and cite statutes, regulations and case law.

Each topical research guide will include the following sections:

- Standard Texts
- Journals
- Practice/Forms
- Encyclopedia
- Case Law
- Legislation

Standard texts and Journals will include all major titles (print and electronic) in each area, with their call number in the Law Society libraries. The lists will be updated as new texts are added to the collection.

The Practice/Forms sections will provide relevant volumes in sets such as Carswell's

Forms & Precedents, O'Brien's Encyclopedia of Forms, and Butterworths' Encyclopedia of Forms & Precedents, as well as any legal texts that contain substantial collections of forms and/or precedents.

Encyclopedia will contain relevant volumes from the Canadian Encyclopedic Digest, as well as any other legal encyclopedias that cover the area in question. The Case Law and Legislation sections will include major print and online sources with hyperlinks to free web services such as Queen's Printer and CanLII.

If you have any suggestions for topics to be covered in the Legal Research Guides, please call the Law Society Library staff at 569-8020 (1-877-989-4999) in Regina or at 933-5141 (1-888-989-7499) in Saskatoon, or email us at reference@lawsociety.sk.ca.

Many Thanks

By Donna Sigmeth, Deputy Director/Complaints Counsel

The Benchers and professional staff of the Law Society of Saskatchewan wish to express their sincere gratitude to members of the profession who volunteered their time to act as pro bono counsel to members facing discipline, to those who sat on Hearing Committees and to those who acted as "alternate" Complaints Counsel to review complaints against staff, Benchers or Bencher firms.

We would also like to extend thanks to Law Society members and members of the judiciary who have contributed their time as members of various Law Society Committees and as Law Society representatives to other organizations. We recognize that the vocation of law is demanding and greatly appreciate the invaluable contribution of the time of Law Society members and members of the judiciary.

Many thanks to the following people...

Non-Bencher Volunteers for 2008

Law Society Committee Members and Representatives to Other Organizations:

Michael Milani, Q.C. Randall Rooke, Q.C. Kenneth Neil Lana Krogan-Stevely Tyla Vodon Ken Koshgarian Norma Sim, Q.C. Donna Taylor Chief Justice J.M. Klebuc Brian Hendrickson, Q.C. Mitchell Holash Marilyn Penner Karen Prisciak, Q.C. Mary Ellen Wellsch Chief Justice R.D. Laing Heather Jensen **Professor Tim Quigley** Patricia Quaroni Christine Glazer, Q.C. Jeffrey Baldwin Craig Zawada John McIntosh, Q.C. Bruce Wirth Tami Hackl Graeme Mitchell, Q.C. John Stamatinos, Q.C. Marusia Kobrynsky Erin Kleisinger Catherine Knox Alan McIntyre Patrick Kelly, Q.C. Scott Hopley Marianne Kramchynsky Brent Gough, Q.C. Gary Young, Q.C. Donald Phillips, Q.C. Randall Sandbeck Pamela Kovacs Reginald Watson, Q.C.

Designated Complaints Counsel:

Michael Fisher, Q.C.

John McIntosh, Q.C.

Rick Van Beselaere
Lawrence Zatlyn, Q.C.

George Thurlow, Q.C.

Leslie Sullivan

Mary Ellen Wellsch

Volunteers for Discipline Hearing Committees:

ALGONOUIN HOTEL

Kevin Bell Lee Anne Schienbein Murray Walter, Q.C. Karen Jones Keely Bytheway Sharon Ludlow Douglas Schmeiser, Q.C. Gail Wartman Nicholas Cann Sharon Martin Jeffrey Scott Mary Ellen Wellsch Henri Chabanole Miguel Martinez Michael Ryan, Q.C. Cliff Wheatley David Flett Dawn McBride Neil Robertson Colleen Wiegers Darien Moore Jeffery Galbraith Karen Prisciak, Q.C. Catherine Zuck, Q.C. Brenda Hildebrandt, Q.C. Joanne Moser Ronalda Nordal

2009 Convocation Dates of the Benchers of the Law Society of Saskatchewan

February 12th and 13th - Regina

April 29th, 30th and May 1st - Good Spirit Lake

June 11th and 12th – Regina (annual meeting set for evening of Thursday, June 11th)

September 17th and 18th - Swift Current

December 3rd and 4th - Saskatoon

Volunteers Needed

Call for Non-Bencher Volunteers to Sit on Discipline Hearing Committees

If you are prepared to volunteer to sit as a "non-Bencher" member of a Hearing Committee to hear and determine whether charges of conduct unbecoming against a member are founded (and potentially sentence in cases where sentence will not be disbarrment or a suspension), please provide your contact information and year of call via email to:

Donna Sigmeth at dsigmeth@lawsociety.sk.ca.

Pro Bono Counsel – Member Discipline

The Law Society of Saskatchewan is looking for volunteers to act as pro bono counsel to members facing discipline. If you are prepared to volunteer time to represent a member in this situation, please contact Donna Sigmeth, Complaints Counsel at:

dsiameth@lawsocietv.sk.ca

E.M. Culliton Scholarship Endowment

As a tribute to the former Chief Justice E. M. Culliton, an endowment was established by the Law Society of Saskatchewan to provide that in perpetuity a special scholarship is to be awarded for the pursuit of post-graduate studies in criminal law.

The value of the scholarship to be awarded in 2009 has not yet been finally determined, but the maximum amount available is expected to be \$10,000. Up to two scholarships may be awarded in any one year. The deadline date for receipt of applications is May 12th, 2009.

Application forms are available on our website at www.lawsociety.sk.ca.

In Memory

Barrett Douglas Halderman passed away January 2, 2009 after a long battle with cancer. He is survived by his wife, Betty, of 31 years; his daughter Amy and his son Jeffrey.

Judge Halderman received a Bachelor of Arts from the University of Saskatchewan and obtained his law degree at Dalhousie University. He was an instructor with the Co-op College from 1966-67, was Woodrow Lloyd's assistant from 1967 – 1968, was an assistant to T.C. Douglas from 1971 – 1972 and was the legal secretary for the Crown Corporations from 1973 – 1976. He worked with Legal Aid from 1976 – 1978 in both Weyburn and Saskatoon then moved to Humboldt where he practiced law for 20 years with Holt, Munkler and Halderman. He was appointed to the Provincial Court in 1999 and served as a Provincial Court Judge for 8 years in Melfort.

Lawrence Edgar Leslie passed away November 27, 2008 after a lengthy struggle with diabetes and kidney failure. Larry leaves behind his wife, Ronda, of 47 years and three sons – Bill, Don and Mike.

Lawrence attended Luther College, Acadia University, the University of Regina and the University of Saskatchewan. He practiced law in Regina, was an acting Magistrate and prosecuted until 1998.

Gerald Peter McLellan, Q.C. passed away January 5, 2009 due to complications related to his battle with cancer. He is survived by his wife, Wanda, of 43 years; and two daughters Carol Anne and Lesley.

Gerald graduated from the University of Saskatchewan with degrees in law and commerce. He articled with Noonan, Embury and Heald and then practiced law as in-house counsel for Co-operators Insurance in Regina. He then moved to Estevan and practiced law for many years with Hill McLellan Ball Cundall & Bridges. From 1987 - 1993 he was appointed Ombudsman for the Province of Saskatchewan. Gerald was also a Bencher for the Law Society from 1976 – 1982.

EQUITY OMBUDSPERSON

The Office of the Equity Ombudsperson is committed to eliminating both discrimination and harassment in the legal profession.

If you are support staff, an articling student or lawyer within a law firm, you can contact the Equity Ombudsperson, Judy Anderson, for advice, information and assistance. All information is confidential.

This office is not a lawyer referral service and cannot provide legal advice. Call toll free: 1-866-444-4885.

This office is funded by The Law Society of Saskatchewan.

LAWYERS CONCERNED FOR LAWYERS

Provides to Saskatchewan lawyers and their family members:

- CONFIDENTIAL assistance in effectively dealing with problems;
- the services of an INDEPENDENT professional consultant;
- services provided without charge.

For confidential information and assistance call 1-800-780-5256.

