

BENCHERS' DIGEST

April 2010

Volume 23, Issue Number 2

I N D E X

Law Society Joins PLEA in Celebrating.....	1
Highlights of the Meeting of Benchers.....	2
Quebec Mobility Signing.....	2
Queen's Counsel Ceremony.....	3
CDIC Annual Reporting Requirements.....	3
Cheque Images.....	4
Continuing Professional Development.....	4
Client Identification and Verification.....	4
Client Identification.....	5
Ethics Interactive –	
Clients Threatening Suicide.....	5
Irwin Law e-Library.....	5
Pro Bono Law Saskatchewan	
Benchers' Digest Report.....	6
Notices.....	7
In Memory.....	8

www.lawsociety.sk.ca

Law Society Joins PLEA in Celebrating 30 Years of Access to Justice

by: Joel Janow,

Executive Director, PLEA



This year marks thirty years of Public Legal Education Association of Saskatchewan making justice and the law more accessible to the citizens of Saskatchewan. PLEA's new positioning statement "Legal Information for Everyone" (L.I.F.E.) reflects its commitment to providing people with the information they need in every stage and circumstance of their lives.

The public's great need and desire for justice education and information will always be strong. The cornerstones of PLEA's information delivery services are its printed materials, speakers bureau, and telephone and e-mail information lines. In the past year, PLEA's website was re-engineered, resulting in a substantial increase in visits to plea.org. PLEA

produces over 60 publications for the general public, plus a variety of information in new and innovative formats to empower target audiences.

Young people and school communities are also learning more about how the law affects their lives through PLEA's dynamic Youth and Schools Program - one of only a few and one of the finest programs of its kind in Canada. PLEA is entering the electronic teaching resource field, helping meet the Ministry of Education's objectives in using electronic resources to support new curricula.

PLEA began operation as a non-profit, non-government, provincial organization in June of 1980 after much support within the Saskatchewan legal community for the concept of a legal education and information program for the public. In late 1979, the Law Foundation of Saskatchewan awarded a grant to PLEA, and has supported the organization with annual core funding ever since. PLEA also receives core funding support from Justice Canada and the Saskatchewan Ministry of Justice. Other support comes from the Law Society, the Canadian Bar Association, the College of Law, the Legal Aid Commission, the Ministry of Education, the Saskatoon Public Library, and public libraries throughout the province.

Crucial to PLEA's work is the support of the Saskatchewan legal community. Thousands of lawyers, judges, other professionals, and government personnel have volunteered their time and expertise over the past thirty years through such efforts as speaking engagements, reviewing or writing publications, and serving on the PLEA Board of Directors. PLEA could not meet its mission without this volunteer support. Volunteering for PLEA also helps communities learn about the legal system and serves to increase positive public exposure for the legal profession.

PLEA is extremely grateful for the support of its partners and funders, its volunteers, and the public over the past three decades. As always, special thanks are given to the Law Foundation. PLEA looks forward to providing public legal education and information to the people of Saskatchewan for decades to come.

Highlights of the Meeting of Benchers

held February 10th, 11th and 12th, 2010

This was the first meeting for many of the new Benchers elected in November 2009. On Wednesday evening, there was an orientation session for the new Benchers.

The Benchers received a report from Graeme Mitchell, O.C., council member of the Federation of Law Societies of Canada. Mr. Mitchell spoke primarily with respect to the reorganization of CanLII. After 10 years of development, CanLII has become one of the leading providers of information to the legal profession. Its continued development depends on providing the appropriate leadership from its board of directors.

The Benchers approved the recommendations of the Task Force on the Common Law Degree. Applicants can be admitted as students-at-law

with a degree from any Canadian Common Law University. The report articulated the minimum requirements in terms of skills and substantive knowledge that a student must possess on graduation. The report may be found on the Federation website at www.flsc.ca.

Senior Life Members are those with 50 years of continuous membership in the Law Society. This year's Senior Life Memberships were awarded to:

Gerald Averback • Samuel Goldstein, O.C.

Marcel Simonot, O.C. • Stanislaus Kyba

Willis Wellman, O.C. • Robert Mitchell, O.C.

Dorothy Dempsey

Marcel de la Gorgendiere, O.C.

Designated Complaints Counsel review complaints when Law Society staff have a conflict. The following Designated Complaints Counsel were appointed:

- Michael Fisher, O.C.
- John McIntosh, O.C.
- Leslie Sullivan
- Larry Zatllyn, O.C.
- Bob Kennedy, O.C.
- Catherine Zuck, O.C.
- Reché McKeague

Due to an increase in the use of Corporations, the fee was increased from \$100 to \$125 to reflect administration costs.

Quebec Mobility Signing Agreement Ceremony

March 19, 2010

The Quebec Mobility Signing Agreement Ceremony took place during the Federation's semi-annual conference in Toronto at Osgoode Hall. CEO's and officers from Law Societies across Canada were in attendance and the historic event was captured in the photos depicted below.



Left to right:

Eileen Libby, O.C., Jeff Hirsch (Law Society of Manitoba) and Derry Millar (LSUC)



Back Row, left to right:

Glenn Ridgeway (BC), Eileen Libby, O.C. (SK), David Ames, O.C. (NB), Rod Jerke, O.C. (AB), John Campion (President of Federation), Pierre Chagnon (Barreau du Québec), Derry Millar (LSUC), Susanne Boucher (NU), Susan Dennehy (YT)

Front Row, Left to Right:

Shirley Walsh (NT), Jeff Hirsch (MB), Kim McNeil (PE), Irene Muzychka (NL), Ronald Creighton, O.C. (NS)

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

Queen's Counsel Ceremony

February 7, 2010 - Saskatoon



Left to right:

Back row: Eileen Libby, O.C., David Brundige, O.C., Kevin Wilson, O.C., Bryan Salte, O.C., Honourable Don Morgan, O.C., Christopher Boychuk, O.C., Kenneth Noble, O.C., Norman Bercovich, O.C., William Hood, O.C., Madeleine Robertson, O.C.

Front row: Robert Ard, O.C., Terrence Kimpinski, O.C., Douglas Heinrichs, O.C., Tiffany Paulsen, O.C., Glen Luther, O.C., Gregory Thompson, O.C., Warren Sproule, O.C.

Missing: Sonja Hansen, O.C., Richard Leland, O.C.

CDIC Annual Reporting Requirements

by: John Allen, CA

This is a reminder to all members with trust accounts that trust account information as at April 30th must be provided to your bank in May so that your account is insured. If the appropriate information is not provided to your financial institution by May 31st, the Law Society may require that you **close the trust account** which will be time consuming and expensive for the member/firm.

Each bank has their own form which must be completed, so please contact your bank to obtain this form. The branch of the bank you deal with may not be aware that they have a form, but they do, so please persevere.

A brief summary of annual reporting requirements is set out as follows.

1. The required information must be filed with your financial institution (other than Credit Unions) no later than May 31st each year or individual trust balances will not be insured by CDIC. This reporting requires a client trust listing as at April 30th of the current year be provided as part of the May report.
2. Client names must **not** be included as part of the report due to confidentiality, however, a client reference **must** be provided which will facilitate client identification, if required.
3. If the required information is not filed by May 31st each year, the Law Society may require that you close the trust account.

This could be expensive and time consuming to the member/firm.

4. A record should be retained on file as confirmation that the document has been provided to the financial institution within the specified time. A copy of the document, which has been date-stamped and signed by the financial institution, is preferable.

For more information on CDIC reporting requirements, please refer to the Law Society website under Publications/Law Office Management. If you have any questions, please contact John Allen, CA at 569-8242.

Cheque Images

by: John Allen, CA

A number of enquiries have been received recently regarding the return of cheque images with monthly bank statements by financial institutions in place of original cancelled (cashed) cheques.

If you receive notification from your financial institution that you will receive cheque images rather than original cancelled cheques, please contact that financial institution to see if there is any way that you can continue to receive original cancelled cheques. This may involve contacting the Branch Manager.

If you are unable to make arrangements to receive original cancelled cheques and have no alternative but to accept cheque images, Rule 911 (1) provides the required approval. Rule 911 (1) also states that cheque images must be obtained and retained

in a form approved by the Law Society of Saskatchewan.

The Law Society requires cheque images for both **trust** and **general** accounts:

- i. To be retained in hardcopy (paper) form.
If images are received other than in hardcopy form, they must be printed and retained in hardcopy form.
- ii. To be readable.
This means that each image of each cheque (front and back) must be reviewed for readability (clarity) **immediately** upon receipt of the images from the financial institution. If any images are not clear, new images must be requested and obtained from your financial institution **immediately**, as your financial institution will be destroying the original cancelled cheques.

iii. Of the front **and** corresponding back of each cheque.

- iv. To be printed with no more than 8 images (4 front and 4 back) per 8.5 x 11 sheet of paper. I have noted that certain financial institutions are following this rule, but the images are tiny and not readable because they are leaving large white borders or spaces between each image. This is not acceptable, as images must be readable.

Please note that if the above requirements will not be met by your financial institution, you will be required to move your account(s) to another financial institution that will meet your requirements.

Continuing Professional Development

by: Andrea Johnston, Director of Education

The Law Society is pleased to offer the following upcoming Continuing Professional Development activities:

Family Law Seminar:

Update on Custody and Access Issues

Thursday, May 6, 2010 (Regina)

Friday, May 7, 2010 (Saskatoon)

5.5 CPD Hours (0.5 qualifies as "Ethics Hours")

1 Loss Prevention Credit

Death Bed Wills

Speaker: John Poyser

Tuesday, May 18, 2010

– afternoon only (Saskatoon)

Wednesday, May 19, 2010

– morning only (Regina)

3 CPD Hours

1 Loss Prevention Credit

CLE Select Dinner – "Civility"

Speaker: to be determined

Wednesday, June 9, 2010 (Saskatoon)

Thursday, June 10, 2010 (Regina)

1 CPD Hour

1 Loss Prevention Credit (for every 2 CLE Select

Dinners attended between July 1, 2007 and June 30, 2010)

Ethics Seminar for Commercial Lawyers

Chair: Nancy Hopkins, Q.C.

Thursday, September 16, 2010 (Regina)

Friday, September 17, 2010 (Saskatoon)

3.5 CPD Hours

Trial Advocacy Workshop

November 18-20, 2010 (Saskatoon)

18 CPD Hours

For further information about upcoming CPD activities, please refer to "Continuing Professional Development" on the Law Society website (www.lawsociety.sk.ca).

Client Identification and Verification Requirements

by: John Allen, CA

Client identification and verification requirements outlined in Rules 1020 to 1029 became effective July 1, 2009.

These Rules are part of the national anti-money laundering initiative and all Law Societies in Canada have been entrusted to ensure these requirements are followed by members. Accordingly, in **all** instances where members have not implemented or failed to comply with these Rules, the matter will be reported to Complaints Counsel.

If you have any questions, please contact the Law Society immediately.

Client Identification

by: Thomas Schonhoffer, O.C.

Congratulations to the membership for the fantastic job in complying with the Client Identification Rules. Instances of non-compliance are rare and serious breaches are being referred to the complaints process for review.

Gary Dickson, O.C., the Saskatchewan Information and Privacy Commissioner, has reminded the Law Society that pursuant to Sections 11 and 64 of *The Health Information Protection Act*, it may be an offence to require

anyone to produce a Saskatchewan Health Services Card as part of the Client Identification process. However, if the client voluntarily produces the Health Services Card, it may be used.

Ethics Interactive Clients Threatening Suicide - Update

by: Melanie Hodges Neufeld, Complaints Counsel

In response to my last article, we received a letter from Ron Dumonceaux, who acts as *Brydges* duty counsel for Saskatchewan, Alberta, British Columbia and the Northwest Territories. As Mr. Dumonceaux explains, this is a relatively specialized practice dealing with the right of a detained person to contact a lawyer immediately upon their detention. The service is available 24 hours a day, 365 days a year.

In Mr. Dumonceaux's experience, approximately once or twice a year a detainee will threaten to commit suicide while in custody. Occasionally, Mr. Dumonceaux believes the threat is real. Worse still, detainees have attempted to commit suicide, and on rare occasions, are successful. As a result, Mr. Dumonceaux has had to testify at a coroner's inquest into the death of a detainee who committed suicide while in custody.

The practice Mr. Dumonceaux maintains and has instructed others to maintain is that if a lawyer who takes a call from a detainee believes that a threat of suicide is real, the lawyer is obligated to tell the detaining officers of the threat so that the detainee will be put under a suicide watch while in detention. Threats are handled in this manner for two reasons. First, when a detainee is making such a threat, they are typically either so heavily intoxicated so as to diminish their capacity to make a rational decision, or they are not acting rationally so as to bring their ability to make a rational decision into question. Second, as a lawyer, Mr. Dumonceaux believes he is not simply a bystander but, in fact, owes a duty to the detainee. Mr. Dumonceaux adds that if he believes a detainee was actually going to commit suicide and he did nothing in the face of owing such a duty, he could be prosecuted

as having aided in the suicide, which is still a crime under the Criminal Code.

As well, Mr. Dumonceaux believes this relieves him from the duty of confidentiality to the client. Mr. Dumonceaux appreciates the requirements of confidentiality, but feels that humanity requires him to intervene if he believes the threat is real. The requirement to intervene arises particularly in light of the fact that his disclosure will result in the detainee being put under heightened observation and does not materially affect other rights the detainee enjoys.

Both Mr. Dumonceaux and staff at the Law Society are interested in comments from the membership with respect to this issue. Please direct your comments to myself at 569-8242 or melanie@lawsociety.sk.ca.

Irwin Law e-Library

by: Ken Fox, Reference Librarian, Regina

The Library is pleased to announce another new electronic research product to add to the suite of services now available through the Members Section. The Irwin Law e-Library includes over 100 textbooks including the entire *Essentials of Canadian Law* series and the *Law Society of Upper Canada Special Lectures*. Popular titles such as *Fodden's Family Law*, *Boivin's Insurance Law*, and *McCamus's Law of Contracts*, new editions of standards such as *Roach's Criminal Law* and *Bala's Youth Criminal Justice Law* and many others are now available for full-text viewing and printing.

The Irwin Law e-Library is not only a collection of texts, but also functions as a searchable full-text database. Thus, the user can search to find out which five texts in the e-Library use the word "replevin" and quickly link to the pages where the search term (or terms) appears.

The Irwin Law e-Library can be accessed from the Members Section along with O'Brien's *Encyclopedia of Forms & Precedents*, *Criminal Spectrum*, *The Canadian Family Law Guide*, *The Canadian Estate Planning & Administration Guide*, *HeinOnline*, and other electronic products. Accessing the Irwin collection will require a username and

password, which are also displayed in the Members Section.

For best results using the e-Library, download the eLibrary Reader. This free software will enable features such as voice reader, printing, and various display settings. When you access a text, look for the blue "eLibrary Reader" button. Expect a short download time the first time you use the reader.

For more information or to provide feedback on the Irwin Law e-Library or other online products, please contact the Library at 1-877-989-4999 / 569-8020 (Regina) or 1-888-989-7499 / 933-5141 (Saskatoon).



3RD NATIONAL PRO BONO CONFERENCE

Pro Bono Law Saskatchewan is pleased to announce that the 3rd National Pro Bono Conference will take place September 16 & 17, 2010 in Calgary. The conference is a bi-annual event co-hosted by Pro Bono Law Saskatchewan, Pro Bono Law British Columbia, Pro Bono Law Alberta, Pro Bono Law Ontario and Pro Bono Quebec. The 3rd National Pro Bono Conference, **The Power of Pro Bono: Stepping Up**, will provide a national forum for the exchange of knowledge and ideas concerning pro bono legal services provision. This year's conference will bring together legal practitioners, members of the judiciary, the volunteer community and academia to share ideas and best practices in pro bono legal services, to forge new pro bono partnerships and to explore challenging issues on the pro bono front. Special events include a welcome reception on Wednesday, September 15, 2010 and a National Pro Bono Conference Banquet and Awards Ceremony on Thursday, September 16, 2010 featuring Key Note Speaker, Mr. Stephen Lewis. Stephen Lewis is a Professor in Global Health in the Faculty of Social Sciences at McMaster University and is the former UN Secretary-General's Special Envoy for HIV/AIDS in Africa. To register for the conference online, please visit www.probonoconference.ca. For more information, contact Kara-Dawn Jordan at 569-3098 or email info@pblsask.ca.

PRO BONO SPOTLIGHT

www.pblsask.ca/spotlight.shtml



Terry Zakreski, Featured Lawyer

Terry is a partner with Stevenson Hood Thornton Beaubier LLP in Saskatoon. He was admitted to the bar in 1989 and has been a partner since 1999. He is a litigator with extensive experience and has appeared before numerous tribunals. He has trial experience before the Provincial Court of Saskatchewan, the Court of Queen's Bench of Saskatchewan and the Federal Court of Canada. Terry has appeal experience before the Saskatchewan Court of Appeal, the Federal Court of Appeal and the Supreme

Court of Canada. His current litigation focus is in commercial and agricultural law, product liability, personal injury, class actions, and intellectual property. He is also a trade mark agent and a long time volunteer at the Legal Advice Clinic in Saskatoon which is administered by Community Legal Assistance Services for Saskatoon Inner City Inc. (CLASSIC). Terry provides free legal advice to low income clients in civil law matters. In addition to his work with the free legal clinic, through the PBLs Panel Program, Terry has taken on two pro bono litigation files where he provides full pro bono representation. The files Terry has taken on are complex and have substantial ramifications for the clients involved.

Terry is the recipient of the 2009 Pro Bono Service Award, an annual award presented by the Law Society and PBLs in recognition of the contribution of lawyers in supporting access to justice for persons of limited means. Terry graciously accepted the award at the Gown to Gown Lawyers' Charity Gala held to benefit CLASSIC in January 2010. When asked about the award, Terry is modest and quickly shifts the focus to the importance of pro bono legal services and to all those who are working to make a difference.

Thank you Terry for your remarkable contribution!

REMINDER

The **Member Profile** has been on the Law Society website for approximately 6 months. In order for you to receive updates, announcements and general communications from the Law Society, you must keep your email address current. This email address should be your direct work email, not your home email. If it is incorrect, you can go into your **Member Profile** to change it. Remember that you always have control over the ability to make your email available to the public via the "Find a lawyer" function. The option to publish your email can be toggled on or off via your **Member Profile**.

Wynyard Court House to Re-Open

The major renovations undertaken at the Queen's Bench Court House in Wynyard will be completed and the Court House will re-open effective Monday, May 10, 2010.

To facilitate the movement of staff, files and equipment back to the Court House, the temporary office location will be closed during the afternoon of Friday, May 7, 2010. Regular Queen's Bench Chambers sittings will resume at the Wynyard Court House on Tuesday, May 18, 2010 at 1:30 p.m. and on Tuesday, June 15, 2010 at 1:30 p.m.

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 2010 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 7th, 2010.

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

Senior Life Members

The Law Society is pleased to announce our 2010 Senior Life Members. Certificates will be presented at our Annual General Meeting in Saskatoon scheduled for the evening of Thursday, June 17th, 2010.

Gerald Averback • Samuel Goldstein, Q.C.

Marcel Simonot, Q.C. • Stanislaus Kyba

Willis Wellman, Q.C. • Robert Mitchell, Q.C.

Dorothy Dempsey • Marcel de la Gorgendiere, Q.C.

Provincial Court Bar Judicial Council

The Provincial Court Bar Judicial Council is a forum for members of the Bar to bring forward any concerns to the Bench. A meeting of the committee is scheduled for mid-May and members are invited to bring forward items for the Agenda. Members are not required to participate in the meeting, however, your issues or concerns will be discussed by committee members. Please email your Agenda items by May 6th to reception@lawsociety.sk.ca.

Lawyer Referral Service Discontinued

Please be advised that the lawyer referral service at the Law Society has been discontinued and we ask that lawyers and other law related organizations do not refer clients to our office in this regard.

In Memory

The Honourable Edward Bayda, former Chief Justice of Saskatchewan, passed away on April 2, 2010. He leaves behind his wife Lorraine Bethell and 5 children.

Edward Bayda was born in Alvena, a small town in Saskatchewan, and was proud of his Ukrainian heritage. Not only was he the first judge of Ukrainian descent to be appointed as Chief Justice, he was also the longest serving Chief Justice. He was a well respected judge and a friend to many. He had a keen interest in people and enjoyed conversing with those from all walks of life.

He enjoyed a successful career in private practice for 20 years and was then appointed to the Court of Queen's Bench in 1972. In 1974, he was appointed to the Court of Appeal and in 1981 he became Chief Justice of the Court of Appeal. He presided for the next 25 years, maintaining a high standard of excellence in the administration of justice. He will be remembered for his dedication to the law and the legal profession, as well as the local community organizations that he served.

Marjorie Benson passed away on January 4, 2010 after a courageous battle with cancer. She leaves behind her mother, Margaret Benson, and six siblings.

Professor Benson received her law degree from the U of S in 1988 and her doctorate from Harvard. She began teaching at the College of Law in 1992. She was a remarkable teacher and an accomplished scholar, collaborating on several books in Agricultural Law, Property Law and Negotiation. She also developed a course on multi-party negotiation which was unique to Canadian law schools.

Professor Benson's leadership in the area of dispute resolution at the College of Law was recognized nationally in 2009. The College of Law received the Louise Otis Award for the law school in Canada with the most outstanding program in the area of mediation and dispute resolution.

EQUITY OMBUDSPERSON

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

If you are a support staff, articling student or lawyer within a law firm, you can contact the Equity Ombudsperson, Kathryn Ford, O.C., 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

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.

BENCHERS' DIGEST

Published by:

The Law Society of Saskatchewan
1100 - 2002 Victoria Avenue
Regina, Saskatchewan
Canada S4P 0R7

Telephone (306) 569-8242

Fax (306) 352-2989

e-mail: reception@lawsociety.sk.ca

