

BENCHERS' DIGEST

January 2010

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I N D E X

Profile of the President	1
Highlights of the Meeting of Benchers	2
2009 Queen's Counsel Appointments	3
Saskatchewan Order of Merit	3
Jody Martin Joins the Law Society	4
Continuing Professional Development	4
Ethics Interactive –	
Clients Threatening Suicide	5
Library Update	5
Additions to the Members Desktop Library	6
New Judge Appointed to Provincial Court	6
Notices, Calls for Volunteers/Nominations	6
Pro Bono Law Saskatchewan	
Benchers' Digest Report	7
In Memory	8

www.lawsociety.sk.ca

Profile of the President

by: Eileen Libby, O.C.



Eileen Libby, O.C., of Regina was elected President of the Law Society of Saskatchewan by the Benchers of the Law Society at the December 2009 Convocation. She took office on January 1, 2010.

Ms. Libby was born and raised in rural Saskatchewan, near Truax. In 1978, she attended the University of Regina in the College of Arts for one year. Over the next 6 years, Ms. Libby joined the paid work force, teaching word processing and ultimately working in several Regina law firms. She resumed her post secondary studies at the University of Regina in 1986 and then attended the College of Law at the University of Saskatchewan. Ms. Libby obtained her Bachelor of Laws with

Distinction in 1990. In 1991, she received her Bachelor of Arts with Distinction from the University of Regina.

Ms. Libby served her articles of clerkship at the Court of Queen's Bench in Regina, articulated to Chief Justice D.K. MacPherson. Upon admission to the Bar in 1991, Ms. Libby joined MacPherson Leslie & Tyerman. Ms. Libby has practiced continuously with the firm since her articles and became a partner in the firm in 2000. She practices primarily in the areas of labour and employment, administrative law and civil litigation. Ms. Libby also sits as a hearing officer appointed under *The Police Act*.

Ms. Libby is a member of many professional organizations including the Regina Bar Association, the Canadian Bar Association, the Saskatchewan Trial Lawyers' Association, the Regina Chamber of Commerce and the Women Entrepreneurs of Saskatchewan. She has delivered articles and a number of presentations through SKLESI, PLEA, STLA and the CBA on a broad range of topics. In the wider community, she has been active as a board member of the Saskatchewan Literacy Foundation and the YWCA and has served as a volunteer for a variety of charitable organizations.

Ms. Libby was elected as a Bencher in November 2006. In 2009, she chaired the Strategic Planning Committee, which organized and conducted a strategic planning session of the Benchers in conjunction with the September 2009 Convocation. In addition to the Benchers and a number of Law Society staff, the strategic planning session included participants from the Law Societies of British Columbia and Alberta, addressing such issues as Law Society governance, independence of the profession, the role of Benchers, and discussion and consideration of a number of policy and planning initiatives. Ms. Libby has also served on the Ethics, Public Relations, Admissions & Education committees as well as the Library Review Task Force constituted to review and make recommendations with respect to the delivery of library services. Ms. Libby is a representative of the Law Society on the Queen's Bench Bar Judicial Council and the Federation of Law Societies of Canada.

Highlights of the Meeting of Benchers

held December 3rd & 4th, 2009



Left to right (back row): Evert Van Olst, Joel Hesje, O.C., Robert Heinrichs, Michael Megaw, Heather Laing, Reginald Watson, O.C., Paul Korpan, O.C.

Left to right (middle row): Toby Willis-Camp, Donna Sigmeth, Thomas Campbell, Stephen Orlowski, Melanie Hodges Neufeld, Gregory Walen, O.C., Andrea Johnston, Thomas Healey, Peggy Schmeiser, Lorraine St. Cyr, George Patterson, Peter Hryhorchuk, Sam Bergerman, Tim Huber.

Left to right (front row): Stephen McLellan, Darcia Schirr, O.C., Brent Cotter, O.C., Loreley Berra, Eileen Libby, O.C., Miguel Martinez, Thomas Schonhoffer, O.C. and John Allen, CA. (missing from the photo: Deb Schmidt)

Convocation was both a happy and a sad occasion. Because 2009 was our election year, we held a Bencher changeover dinner. We welcomed newly elected Benchers and said goodbye to many of the colleagues we have worked with over the last 6 years.

December is also election month for officers. Eileen Libby, O.C. was elected as President and Paul Korpan, O.C. was elected as Vice-President.

The Law Society made the following appointments:

1. Ron Kruzeniski, O.C. and Jay Watson were appointed to the Legal Aid board.

2. Tyla Olenchuk was appointed to the College of Law Endowment Fund.

3. Craig Zawada was reappointed to the CanLII Board.

Catherine Knox and Pat Quaroni, members of the Law Foundation, attended Convocation to provide a general state of the Law Foundation address. Low interest rates are affecting the Law Foundation's ability to fund many worthy causes.

With the election of new Benchers, it was an opportune time to amend the somewhat outdated Bencher Policy Manual. The manual was reviewed and approved by the Benchers.

The annual audited financial statements from Saskatchewan Lawyers' Insurance Association Inc. were received at Convocation.

At Convocation, the Benchers discussed a report from Toby Willis-Camp recommending the delivery of more library services online. Ms. Willis-Camp will proceed with implementation in the new year.

Rules 321 to 326 governing Professional Standards was amended to allow the Chair to require a practice audit.

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

2009 Queen's Counsel Appointments

Eighteen Saskatchewan lawyers were honoured with Queen's Counsel appointments on December 31, 2009. **Congratulations** are extended to:

Robert Ard is with the Ard Law Office in Kindersley. He was admitted to the bar in 1981.

Norman Bercovich is with the Saskatchewan Legal Aid Commission, Regina City Area Office. He was admitted to the bar in 1979.

Christopher Boychuk is with the McDougall Gauley law firm in Saskatoon. He was admitted to the bar in 1987.

David Brundige is with the McCrank Stewart law firm in Regina. He was admitted to the bar in 1984.

Sonja Hansen is a Regional Crown Prosecutor (Saskatoon Prosecutions) with the Saskatchewan Ministry of Justice and Attorney General. She was admitted to the bar in 1978.

Douglas Heinrichs is with the Heinrichs Law Office in Swift Current. He was admitted to the bar in 1975.

William Hood is with the Stevenson Hood Thornton Beaubier law firm in Saskatoon. He was admitted to the bar in 1974.

Terrence Kimpinski is with the Leland Kimpinski law firm in Saskatoon. He was admitted to the bar in 1991. He is also the President of the Canadian Bar Association, Saskatchewan Branch.

Richard Leland is with the Stamatinos Leland Campbell law firm in Yorkton. He was admitted to the bar in 1979.

Eileen Libby is with the MacPherson Leslie & Tyerman law firm in Regina. She was admitted to the bar in 1991. She is also the President of the Law Society of Saskatchewan.

Glen Luther is an Associate Professor at the University of Saskatchewan, College of Law. He was admitted to the bar in 1983.

Kenneth Noble is with the Noble, Johnston & Associates law firm in Regina. He was admitted to the bar in 1974.

Tiffany Paulsen is with the Robertson Stromberg Pedersen law firm in Saskatoon. She was admitted to the bar in 1999.

Madeleine Robertson is a Senior Crown Counsel with the Legislative Services Branch, Saskatchewan Ministry of Justice and Attorney General in Regina. She was admitted to the bar in 1983.

Bryan Salte is the Associate Registrar and Legal Counsel for the College of Physicians and Surgeons of Saskatchewan in Saskatoon. He was admitted to the bar in 1979.

Warren Sproule is with the Kanuka Thuringer law firm in Regina. He was admitted to the bar in 1982.

Gregory Thompson is with the McKercher law firm in Saskatoon. He was admitted to the bar in 1984.

Kevin Wilson is with the MacPherson Leslie & Tyerman law firm in Saskatoon. He was admitted to the bar in 1989.

Saskatchewan Order of Merit



Harold MacKay, O.C., S.O.M., Q.C., LL.D.
(photo provided by the Government of Saskatchewan)

Harold MacKay, Q.C. was one of twelve citizens to receive the 2009 Saskatchewan Order of Merit.

The Saskatchewan Order of Merit recognizes excellence, achievement and contributions to the social, cultural and economic well-being of the province and its residents. It is the province's highest honour and is recognized by the Government of Canada.

Mr. MacKay is of counsel to the MacPherson Leslie & Tyerman law firm in Regina. He is a commercial arbitrator, a corporate director and has been actively involved in public policy issues. He has served as the Chair and Director of many boards and organizations, such as the lead Director of the Bank of Canada, Chair of the corporate fundraising campaign to build the First Nations University of Canada, as well as Chair of the Saskatchewan Institute of Public Policy.

Mr. MacKay was admitted to the Law Society of Saskatchewan in 1964 and received a Queen's Counsel designation in 1980. He received the University of Saskatchewan Alumni Award of Achievement, Doctor of Laws (honoris causa), University of Regina, and the Sir James Dunn Award from Dalhousie University. He also received the Saskatchewan Centennial Medal and became an Officer of the Order of Canada in 2002. In 2006, he received the Distinguished Service Award from the Canadian Bar Association, Saskatchewan Branch.

Jody Martin Joins the Law Society



The Law Society of Saskatchewan is pleased to announce that Jody Martin has joined the Law Society in the role of Complaints Counsel.

Jody received a Bachelor of Human Justice in 2000 from the University of Regina and received her LLB in 2005 from the College of Law at the University of Saskatchewan. Prior to commencing studies in law, Jody's professional experience included complaints analysis and investigation in the public sector, as well as acting as coordinator at a community residential facility for federal parolees.

Jody completed her articles at Olive Waller Zinkhan & Waller in Regina and was called to the Bar in 2006. Jody continued to practice with Olive Waller Zinkhan & Waller as an associate in the general practice of law, most recently with a focus on Debtor/Creditor Law, Wills and Estates Law and Civil Litigation matters.

Continuing Professional Development

by: Andrea Johnston, Director of Education

The Law Society of Saskatchewan regulates the legal profession in the public interest by ensuring its members meet and maintain high standards of integrity and competency. In light of this, the Law Society has introduced a Continuing Professional Development Policy (the "CPD Policy") which took effect January 1, 2010. Under the CPD Policy, all active members are required to complete thirty-six (36) hours of "Accredited CPD Activities" in the three-year term commencing January 1, 2010 and ending December 31, 2012.

Not less than six (6) hours of the required thirty-six (36) hours must pertain primarily to any one or any combination of the following topics ("Ethics Hours"):

- Professional responsibility
- Ethics
- Practice standards
- The *Code of Professional Conduct*
- Conflict of Interest
- Rules of the Law Society
- Client care and relations
- Practice management

Credit hours for CPD activities will be approved by the Law Society by pre-approval of specific providers or upon application by a member or a provider for accreditation of specific CPD activities. For further information related to the

Continuing Professional Development Program or to apply to have a CPD activity accredited, refer to "Continuing Professional Development" on the Law Society website (www.lawsociety.sk.ca). Also on the Law Society website is the Member Profile Login where members are required to self-report their Accredited CPD Activities.

The Law Society welcomes your comments and suggestions on the Continuing Professional Development Program. Email your comments to Andrea Johnston, Director of Education (andrea@lawsociety.sk.ca).

Ethics Interactive – Clients Threatening Suicide

by: Melanie Hodges Neufeld, Complaints Counsel

Confidentiality is fundamental to the solicitor-client relationship. Under Chapter IV of the *Code of Professional Conduct*, this confidentiality can be breached in certain circumstances when disclosure is expressly or impliedly authorized by the client, required by law or otherwise permitted by the *Code*. While the guidance provided by the *Code* is quite beneficial for many ethical dilemmas, it is silent on how to deal with disclosure issues arising from a client's threat of suicide. The *Code* does permit the disclosure of client information to prevent a crime. However, suicide was decriminalized in 1972 and someone who now attempts suicide is not liable to sanction under the Criminal Code.

Therefore, a careful assessment of the situation is necessary before confidentiality can be breached. As stated above, disclosure is permitted when it is expressly or impliedly

authorized by the client. The first step is to discuss the matter with the client to determine whether the client authorizes the disclosure of their intent to commit suicide. If the client is in agreement, the next step is to determine to whom the disclosure can be made. It is important to note that only extraordinary circumstances will merit disclosure without the express authorization of the client. Also, only minimum information can be disclosed once authorization is granted.

If neither express nor implied authorization is established, the client's capacity to provide instructions may also be assessed. In April 2008, the *Code* was amended to include Commentary 13, Clients with Diminished Capacity, in Chapter III. In particular, where a lawyer reasonably believes that an incapable person has no other agent or representative and a failure to act could result in imminent

and irreparable harm, the lawyer may take action on behalf of the person lacking capacity only to the extent necessary to protect the person until a legal representative can be appointed. However, the lawyer should still be guided by the confidentiality provisions under Chapter IV.

This is a difficult situation for which there is no simple, straightforward answer. The matter becomes further complicated when the client is not explicitly threatening suicide. If you are faced with this situation or any ethical dilemma, we urge you to contact us for guidance and support. Please direct enquiries to either myself, Donna Sigmeth or Tim Huber at 569-8242 or to our respective email addresses: melanie@lawsociety.sk.ca, dsigmeth@lawsociety.sk.ca or tim@lawsociety.sk.ca.

Library Update

by: Toby Willis-Camp, Director of Libraries

2009 was a very busy year for everyone at the library. Several new software systems were adopted and many procedures have changed in order to streamline certain tasks and processes. We thank you for your continued support and patience during this time of change.

Library invoices: our accounts receivable procedure is one area that has seen great change. We will continue to send out notices for most library service requests and combine these notices into a quarterly invoice. However, self-service photocopying charges will now be billed on an annual basis in order to eliminate quarterly invoices for amounts smaller than \$10. Binders will be placed by the self-service

photocopiers in the Regina and Saskatoon libraries for members and runners to note the date, file number and number of copies made for future reference, if needed.

Research and document delivery services: we are working on a research and document delivery fee schedule, basing these fees on the types of resources used to get the right information to members in the most cost-effective way possible. Expect to see this new fee schedule later this spring. We are also working on e-delivery of documents where our licensing agreements permit us to do so.

Communicating with members: "I didn't know the library offered that service" was a major comment throughout the results of the 2009

members survey. Librarians are generally not good marketers, but we are going to change that. Included in this mail out is the first issue of **The Library Report**. This issue features ways to search our new Library Resources catalogue for books and CPD full-text articles. Future online issues will include research tips, new resource lists and other news from your librarians. Is there anything else you want to know about? Just ask. We are good at answering questions.

Regina Library 569-8020 or 1-877-989-4999
Saskatoon Library 933-5141 or 1-888-989-7499
reference@lawsociety.sk.ca

Additions to the Members Desktop Library

by: Toby Willis-Camp, Director of Libraries

The library is pleased to announce the expansion of electronic resources now available to all members through the Members Section. In January, we added subscriptions to the following Canada Law Book titles:

O'Brien's Forms and Precedents

DART: Western Decisions

Criminal Spectrum Essential Edition which includes Canadian Criminal Procedure by Salhany, Sentencing: *The Practitioner's Guide* by Clewley and McDermott, the *Youth Criminal Justice Act Manual* by Harris, *Drug Offences in Canada* by MacFarlane, *Canadian Criminal*

Evidence by McWilliams, *Martin's Criminal Code*, *Martin's Related Criminal Statutes*, the *Criminal Law Quarterly*, and fulltext of the CCCs back to 1898.

These new products join *Electronic Discovery in Canada*, 2nd ed., the *Canadian Family Law Guide*, the *Canadian Estate Planning and Administration Guide* (all from CCH), and *Hein Online* as part of your desktop library subscriptions.

The 2009 members survey results indicated a growing interest in using electronic resources. Here is your chance to try out a variety of

titles at your desktop. The library needs your feedback about these resources so we can make the right subscription decisions. While these items may have a higher convenience factor, providing them to the desktop of all members comes with a higher price tag. Spreading the cost over the entire membership may seem to be a good approach, however, if only one person uses the resource, that cost per use is not sustainable. We will be tracking the usage over the next year and will report on this in the fall.

New Judge Appointed to Provincial Court

Barbara Tomkins, Q.C. has been appointed a judge of the Provincial Court in Regina.

Judge Tomkins received her Bachelor of Laws from the University of Saskatchewan in 1975 and was admitted to the Law Society in 1976.

She received a Queen's Counsel designation in 2008.

Judge Tomkins worked as a lawyer and manager with the Saskatchewan Legal Aid Commission, as a member of the legal

department at SaskPower, as the province's Ombudsman and as Chair of the Automobile Injury Appeal Commission.

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.

Legal Aid Saskatchewan

Legal Aid Saskatchewan provides a range of legal services to low income individuals in Saskatchewan in the areas of family and criminal law. Lawyers on the panel are eligible to represent legal aid clients. If you are interested in assisting Legal Aid Saskatchewan, please visit their website at www.legalaid.sk.ca.





Pro Bono Law
Saskatchewan

Benchers' Digest Report

Pamela Kovacs, Executive Director
www.pblsask.ca

ANNIVERSARY & TRANSITIONS

www.pblsask.ca/staff.shtml

Pro Bono Law Saskatchewan is nearing its third anniversary! PBLs was incorporated on January 17, 2008 and we opened our doors in March 2008 with an official launch in June 2008. Since that time, through the support of the Saskatchewan Bar, PBLs has provided assistance to thousands of Saskatchewan residents. Our 2009 Annual Report will be available in June at our Annual General Meeting, however, it is clear that we have been able to continue to serve more and more low-income individuals as Saskatchewan lawyers generously donate their time and expertise.

As we move into our third year of operations, PBLs is welcoming a new Executive Director as I leave to pursue other opportunities. I am pleased to be able to introduce Kara-Dawn Jordan as the new Executive Director of PBLs!



Kara-Dawn earned her Bachelor of Laws with distinction from the University of Saskatchewan, College of Law, in 2002 and

was called to the Bar in 2003, articling and then practicing with McKercher LLP in Regina. Prior to entering law school, she studied sociology for three years at the University of Saskatchewan. During law school, Kara-Dawn volunteered with Campus Legal Services. As a practicing lawyer she continued her *pro bono* volunteer efforts as one of the first volunteers with the Regina Free Legal Clinic.

Kara-Dawn and I are former colleagues and I can attest to her abilities, leadership and commitment to helping others. She is an ideal candidate for this role and I look forward to seeing the future of PBLs under her capable leadership. Welcome Kara-Dawn!

2009 RECOGNITION

www.pblsask.ca/pdf/lawyerprofile.pdf

On January 29, 2010, PBLs and the Law Society will award the 2nd Annual Pro Bono Service Award at the Gown-To-Gown Lawyer's Charity Gala being held in Saskatoon. We will recognize one individual lawyer who has made outstanding *pro bono* contributions. There are so many lawyers who contribute countless hours to help individuals navigate the justice system – I extend a personal thank you for these efforts! As an insert in this issue of the Digest, you will find a list of the lawyers who have contributed to the success of PBLs during the past year. On the reverse of this insert, you will find a Volunteer Lawyer Profile. If your name does not appear on the 2009 Recognition List, please consider registering to volunteer in 2010!

I continue to be amazed at the gratitude of individuals who receive *pro bono* assistance through a free legal clinic or panel program. In late December, PBLs received a \$25 donation from an individual with a simple note that read "thank you for the lawyer." Our *pro bono* efforts are deeply appreciated. Thank you!

PRO BONO SPOTLIGHT

www.pblsask.ca/spotlight.shtml



Deidre Aldcorn, Featured Lawyer

Deidre is a lawyer at Scharfstein Gibbings Walen Fisher in Saskatoon and currently a volunteer with PBLs's General Panel Program as well as the specialized Child & Youth Panel. Deidre has represented a number of children and youth and recently appeared as *pro bono* counsel at the Court of Appeal and successfully argued a complex child welfare matter. Deidre attended the University of Alberta and obtained a Bachelor of Science in Agriculture in 1984. After graduation, Deidre worked at various universities and institutions in Canada and the United States on environmental and biotechnology research projects. Her interest in environmental law and the law associated with biological science led her to change careers. Deidre attended the College of Law at the University of Saskatchewan where she graduated with a Bachelor of Laws degree in 2005. Thank you Deidre!

In Memory

Ronald Bader of Moose Jaw passed away on November 1, 2009 and leaves behind Shelley, his wife of 34 years, and three children Melissa, Mathew and Kyle.

Ronald received his law degree and BA in Economics at the University of Saskatchewan. He married Shelley in 1974, began a career in law, and later moved to Swift Current. He also worked with his father at Gus Bader & Son Agri Products. In 1987, Ron and his family moved to Moose Jaw to fulfill his dream of building grain bins. His creation became widely known as the "Bader Bin."

He returned to practicing law full time, however, his love for the land led him back to agriculture and to the realty business where he established Farms of Canada Realty and sold farm land until he passed away.

Ajay Krishan, Q.C. of Prince Albert passed away November 21, 2009. He leaves behind his partner, Wendy, three children Amanda, Victoria and Nicholas and the mother of his children, Maria Lynn Freeland.

Ajay was born in Chandigarh, India and immigrated with his family to Saskatoon in 1967. Ajay was a successful lawyer and will be missed by legal partner Gord Balon, long-time legal assistant Lisa Balone and staff at the firm. Ajay will be remembered in his community for his constant involvement through fundraising projects, as well as *pro bono* and legal aid work. Ajay was honoured as Prince Albert citizen of the year in 1992 and the Governor General's Saskatchewan Volunteer Medal in 2009.

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, Q.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.

