

BENCHERS' DIGEST

April 2011

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www.lawsociety.sk.ca

CPD Policy Changes

By: Evert Van Olst



The Law Society of Saskatchewan (LSS) regulates the legal profession in the public interest by striving to ensure its members meet and maintain high standards of integrity and competency. To promote this goal, the Law Society introduced a Continuing Professional Development Program (the Program) which took effect on January 1, 2010. Under the Program, 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.

Upon completion of our first year of the CPD Program, we conducted a review

of the CPD Policy. Overall, the Program was well received by our members. At the time of our review, the LSS had approved over 1,200 CPD activities (delivered by over 200 different providers). This tells us that, in addition to high attendance at CPD activities delivered by the LSS, our members are attending activities offered by a wide variety of providers. There appears to be adequate educational programming to meet demand.

Based on our experience with the Program over the past year, and based on the suggestions, inquiries and complaints received, we have identified and considered a number of issues. As a result of this review, the Program has been revised as follows:

1. Inactive members (ie. those members who have submitted a Declaration of Non-Practice) will receive an exemption at the rate of 1 CPD hour for each full month they are inactive in the current three-year term. We will not review or assess the reasons for the member being inactive.
2. For members who are inactive at the end of a three-year term and who failed to meet the minimum CPD requirements for that term, reinstatement to active status may be conditional on additional CPD requirements at the discretion of the Director of Admissions & Education.
3. Approved Providers:
 - a. Approved providers are now required to make all CPD activities open to all members of the LSS. If an approved provider wishes to have a closed session, it is required to complete and submit a separate application form for that particular CPD activity.

Continued on page 2...

CPD Policy Changes

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- b. The LSS will be strictly enforcing the requirement that approved providers must demonstrate substantial recent experience in offering high quality CPD activities for lawyers. Any applicant that does not meet that requirement will not be granted approved provider status. This does not prevent such applicants from having their CPD activities approved on an individual basis.
- c. In order to maintain an ongoing role in supervising and reviewing approved providers, all approved providers will be required to complete and submit a year-end report (in a form prepared by the LSS). The report will also serve as an application to be renewed as an approved provider for the subsequent year.
- d. Approved providers will be required to enter their own CPD activities in the Law Society CPD database.
4. Individual review of recorded versions of CPD activities will be accredited CPD activities in their own right (under "self-study") rather than requiring members to watch the activity in a "study group." In order to qualify for CPD hours, the recorded version must be a recording of a CPD activity that would qualify for CPD hours in its live form.
5. A "writing project" is now defined in the CPD Policy to mean a legal paper, book or article that is intended for publication or to be included in course materials, and which contains substantive new content. This means that a substantial review and update of legal materials will qualify for CPD hours, but simple editing will not.
6. A new category of CPD activity has been added to distinguish teachers/presenters from faculty and panel members. Members who serve as a faculty member at a skills workshop or a panel member for a panel discussion will be entitled to report two (2) CPD hours for each hour spent performing such role. The workshop or panel must be part of an Accredited CPD activity.
7. The term to complete the minimum CPD requirements will become a three-year rolling term as opposed to our current three-year fixed term. The relevant term at any given point in time will consist of the most recent three calendar years ending on December 31st of the current calendar year. At the beginning of each new year, the calendar year that is four years prior to the current year will no longer be included in the current term.

We would like to thank all of our members for their cooperation and support throughout the first year of the Program. We will continue to review and improve the Program on an annual basis.

We would also like to remind our members to look at the CPD portion of the LSS website, as it is a useful resource for all matters related to the Program.

Highlights of the Meeting of Benchers

held February 10th and 11th, 2011

The Benchers conferred Senior Life Memberships on 11 members. Eligibility for the appointment requires membership with the Law Society for over 50 years. Please see the notice on page 7, which outlines this year's recipients.

Benchers volunteer significant time, beginning with a minimum of 12 days in Convocation each year, plus committee work, hearings, investigations and other

miscellaneous duties. There is no attempt to compensate Benchers for time away from the office, but there is a policy in place for honorariums as token payments to indicate appreciation of public service. The amount of the honorariums have not been reviewed since 1990 for Benchers and since 1992 for Public Representatives. The Benchers approved increasing the rates according to the consumer price

index. For example, this increases the daily rate for Public Representatives from \$125/day to \$175/day.

Jonathan Goby was suspended for one year and ordered to pay Information Services Corp. \$18,000. Particulars can be found in the Lawyer Regulation section 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

Highlights of the Meeting of Benchers

held April 14th and 15th, 2011

The Benchers received a Federation of Law Societies update on the Model Code of Professional Conduct, National Admissions Standards Project, National Discipline Standards Project, Common Law Degree requirements and the standing committee on Access to Legal Services.

Admissions & Education recommended amendments to the Continuing Professional Development Policy, as reported on the cover page. The committee also recommended extending time for Daniel DeMaria to complete his Articles of Clerkship.

The Benchers passed amended resignation Rules to create three types of resignation: simple Resignation, Resignation in the Face of Continued Proceedings and Resignation in the Face of Discipline that is equivalent to disbarment.

Reinstatement Rules to restore any person to active practice have also been amended. The test is public protection, and more specifically, whether the applicant has the competence and character to be admitted as a lawyer. In addition, reinstatement after disbarment will not require approval of 2/3's of the Benchers.

Kevin Rogers' application to Resign in the Face of Discipline was accepted by the Benchers. More information can be located on the Law Society website.

The Benchers concluded Convocation by participating in a discussion of principles and approaches to passing Sentence.

Queen's Counsel Ceremony

January 30, 2011 – Regina



Left to right:

Back row: Patricia J. F. Warsaba, Q.C., Neil B. Fisher, Q.C., Michael T. Megaw, Q.C., Kevin A. Lang, Q.C., Mitchell J. Holash, Q.C., Douglas G. Curliss, Q.C., Allan M. Haubrich, Q.C., Paul Favel, Q.C., Randy P. Kachur, Q.C., Dennis R. Cann, Q.C.

Front row: R. Neil MacKay, Q.C., Maria Pappas, Q.C., Honourable Don Morgan, Q.C., Sheila G. Denysiuk, Q.C., Perry D. Erhardt, Q.C.

Missing: Richard G. Hischebett, Q.C. and Jerry Katz, Q.C.

(Photo provided by the Department of Justice)

Lana Vindevoghel Joins the Law Society



Lana Vindevoghel

The Law Society of Saskatchewan is pleased to announce that Lana Vindevoghel has assumed the role of Continuing Professional Development Program Specialist. Lana will work in conjunction with Andrea Johnston, Direction of Education, on the development and coordination of upcoming CPD events.

Lana's academic background involves a Bachelor of Adult Education and Training Degree with distinction from the University of Regina. After receiving her degree, Lana pursued a career with the Saskatchewan Institute of Applied Science and Technology.

During her time with SIAST, Lana worked in a number of roles including Instructor, Facilitator, Curriculum Designer and Program Development Consultant. Outside of work, Lana continues her passion for facilitation and public speaking through participation in a variety of teaching, fund-raising and non-profit events.

Lana joined the team at the Law Society on February 8, 2011. She is very excited about her new position and looks forward to the future endeavours that lay ahead.

Fraud Alert – Scammers Take Advantage of Slow Clearing System for US Cheques

by: John Allen, CA

Deposit of Trust Cheques written on U.S. (Foreign) Accounts

Lawyers should be aware that cheques written on United States bank accounts (including cashier's cheques) can take one or two months or even longer to clear, particularly if they are drawn on a smaller U.S. bank. If the cheque is found to be fraudulent (2 or 3 months later), the system will automatically withdraw the funds from your trust account, leaving a deficiency in your trust account and you will be responsible for making up the shortfall.

The key here is that the clearing system for cheques in the U.S., and no doubt in some other foreign countries, is much slower than here in Canada and scammers use this to their advantage.

Scammers recently tried to use this delay in an unsuccessful scam attempt in Saskatchewan. Thanks to the alertness of a couple of our members and their staff, this scam did not work, but be aware of the M.O. as the names, amounts and remitters will change in the future, but the M.O. will be similar.

This scam was similar to previous scams in that:

- The member was approached via email or phone;
- The member was to collect monies owing to the scammer;
- Once monies were received and deposited to trust, the member was to wire part of the funds to the client's bank account (either inside Canada or in a foreign country) - in this case, Japan.

In this case, the scammer was "owed monies for an injury and disability resulting from an accident on the job" in Canada. The scammer had signed a Settlement Agreement and General Release prior to contacting the member. According to the scammer, 2 payments had been received, but the rest was overdue and the member's services were required to collect the remainder.

Sounds familiar so far. Now the wrinkle.

The company involved and owing the funds is from the U.S. Monies received by the member were in the form of a "Cashier's Check" drawn on a U.S. bank (Chase).

These Cashier's Checks were deposited to the member's trust account on February 14, 2011, but the member was not advised until

March 16, 2011 (over a month later) that the cheques had "bounced." Bottom-line, the cheque was fraudulent.

Defence in Addition to Standard Procedures

- Make sure you receive independent verification that the company writing the cheque is legitimate.
- Check with the company that wrote the cheque to make sure the cheque is legitimate.

Copies of the Cashier's Checks and the scammer's passport relating to this particular scam can be viewed on our website and are summarized as follows:

Scammer	Sandra Christine Jumonville
Passport Number.....	21 1869451
Remitter	Patterson Electrical
Amounts.....	\$89,700
	\$3,000
Cashier's Cheque #'s	186504366
	186504365
Bank.....	Chase (J.P. Morgan Chase Bank N.A.)
Cheque Date.....	02/08/2011

Continuing Professional Development

by: Andrea Johnston, Director of Education

The Law Society is pleased to offer the following upcoming CPD activities:

- **Webinar – Ethical Issues for In-house Counsel**
Speakers: Law Society Staff
Thursday, May 12, 2011
- **Advanced Cross-examination Techniques** (delivered in partnership with Seminar Partners)
Speakers: Larry Pozner and Roger Dodd
Tuesday, May 17, 2011 (Saskatoon)
- **Webinar – Labour Relations and First Nations Enterprises: Does Federal or Provincial Law Apply?**
Speaker: James Fyfe, Ministry of Justice & Attorney General
Wednesday, June 8, 2011
- **Bootcamp for Sole Practitioners/ Small Firms**
Friday, June 10, 2011 (Regina)
Monday, June 13 (Saskatoon)

- **Webinar - Recent Jurisprudence Respecting Police Interrogation and the Charter**

Speaker: Alan Jacobson, Ministry of Justice & Attorney General
Wednesday, June 15, 2011

We are constantly planning additional CPD activities. For the most up-to-date information about upcoming CPD activities and for further information about the CPD Policy, refer to "Continuing Professional Development" on the Law Society website (www.lawsociety.sk.ca).

REMINDER: CPD Activity Application Form

With the implementation of the Continuing Professional Development Policy on January 1, 2010, members are required to self-report their CPD hours online through their Member Profile on the Law Society website. In order to report CPD hours for an activity, the activity must be accredited by the Law

Society. An activity can be accredited in one of two ways:

- 1) The activity has been specifically approved by the Law Society as an Accredited CPD Activity; or
- 2) The activity is delivered by an Approved Provider as set out in the CPD Policy.

We have developed a CPD Activity Application Form to be completed and submitted to the Law Society by email, together with the activity agenda/schedule. **All applications for approval of an Accredited CPD Activity are to be submitted using the Application Form.** The Application Form is available on our website at: <http://www.lawsociety.sk.ca/cpd/forms/cpdactivityre.pdf>.

Please direct all questions about the Application Form to Linda Euteneier (CPD Administrative Assistant) at linda@lawsociety.sk.ca or 306-569-8242.

Mediation Moot Team Wins in London

by: Katherine Blau, Communications/Alumni Relations, College of Law

The U of S Mediation Advocacy Moot Team has won three awards in London, England at the International Academy of Dispute Resolution's Tenth Annual International Law School Mediation Tournament, March 25 - 26, 2011.

Six U of S College of Law students and their two coaches won an award for Outstanding New International Mediation Program, given to those selected as the best new programs at the competition.

The team is composed of: Gillian Gough, John Sanche, Kelly Canham, Luciella Longo, Markel Chernenkoff, Sabina Arulampalam, coach Kathryn Ford, Q.C., and assistant coach Glen Gardner.

Team members Gough, Sanche and Arulampalam were one of 10 teams to win Overall Outstanding Advocate/Client Team, and Arulampalam won one of 10 Overall Outstanding Individual Mediator awards. A total of 34 teams from 23 universities around the world, covering four continents, joined the competition, which was held at



Left to right: John Sanche, Luciella Longo, Gillian Gough, coach Kathy Ford, Q.C., Markel Chernenkoff, Kelly Canham, assistant coach Glen Gardner and Sabina Arulampalam (Photo provided by U of S, College of Law)

BPP Law School in London. Teams compete in groups of three students and the U of S was represented by two teams.

These results cap off a successful year for U of S College of Law moot teams. The Jessup Moot Team won the much-coveted Spirit of the Jessup Award in Calgary in early March, distinguishing them as the

team that best represents the true spirit of the competition. The Western Canada Moot Team won the national Sopinka Cup in Ottawa earlier this month, after winning the MacIntyre Cup at the western Canada regional level in Edmonton in February.

Congratulations to all the team members and coaches!

Judicial Appointments

The Honourable Karl P. Bazin, O.C. has been appointed a Provincial Court Judge for Estevan. Judge Bazin is replacing Judge Jeffrey Kalmakoff, who is transferring to the Provincial Court in Regina.

Judge Bazin joined the MacBean Tessem law firm in Swift Current in 1985 and then became partner two years later. His practice included civil, criminal and family law.

Judge Bazin is active in his community, volunteering his time to Big Brothers and Sisters, the Swift Current Separate School Board and the Canadian Bomber Command Museum, to name a few. In 2005, he was awarded the Saskatchewan Centennial Medal. Judge Bazin also served as a Bencher of the Law Society from 2004 – 2009, serving his final year as President in 2009.

The Honourable Maurice J. Herauf has been appointed a Judge of the Court of Appeal of Saskatchewan (Regina) to replace Mr. Justice J.G. Lane, who became a supernumerary judge on January 1, 2011.

Mr. Justice Herauf was formerly a judge of the Court of Queen's Bench in Moosejaw. Prior to his appointment to the Queen's Bench in 2007, his main practice areas were bankruptcy and insolvency, secured transactions, agricultural law and civil procedure.

He also wrote several articles that can be located in the *Saskatchewan Law Review*, the *Saskatchewan Advocate*, the *Canadian Bankruptcy Reports* and the *Western Weekly Reports*. Various textbooks on bankruptcy and insolvency law have made reference to his decisions.

The Honourable Brian J. Scherman, O.C. has been appointed a judge of the Court of Queen's Bench of Saskatchewan (Saskatoon) to replace Mr. Justice J.D. Koch, who became a supernumerary judge on January 1, 2011.

Mr. Justice Scherman had been a partner with Miller Thomson LLP (formerly Balfour Moss) since 1975. His areas of practice were civil litigation, with an emphasis on corporate/commercial law, professional negligence, discipline and administrative law. He is a presenter for various Continuing Legal Education seminars.

The Honourable Lian M. Schwann, O.C. was appointed a judge of the Court of Queen's Bench of Saskatchewan (Moose Jaw) to replace Mr. Justice M.J. Herauf, who was appointed to the Court of Appeal in Regina.

Madam Justice Schwann was formerly the Registrar of the Court of Appeal and Registrar in Bankruptcy in Regina since 2007. She has appeared before all levels of court in Saskatchewan, including several boards and tribunals. Bankruptcy and insolvency, health, environmental, natural resource, privacy and governmental law were her main areas of practice. She was a sessional lecturer at the First Nations University of Canada at the University of Regina from 2003 – 2006 and has been a presenter at seminars and workshops, as well as a lecturer and panellist at various conferences.

More Resources to Your Desktop

by: Toby Willis-Camp, Director of Libraries

Did you know that no matter where you are in Saskatchewan, you can use your public library card to access legal, business and news resources at your desktop for free? Thanks to the Multitype Libraries Database Licensing Program (MDLP), everyone in Saskatchewan has access to a variety of e-resources via their public library website.

If you have not already done so, you will need to visit your local public library to switch your library card to the new Saskatchewan Information and Library Services Consortium (SILS) card and establish a PIN number. Your public library website

will feature a page listing the various databases. You will need to use your library card's barcode and PIN number or last name to log on to the database. Resources of particular use to the legal profession include:

- *LegalTrac*
- *Index to Canadian Legal Literature (ICLL)*
- *Business and Company Resource Centre*
- *Canadian Points of View Reference Centre*
- *Canadian Research Index*

- *Encyclopedia Britannica Online*
- *Financial Services Canada*
- *Canadian Almanac and Directory*
- *PressDisplay*
- *Canadian Newsstand*
- *Consumer Reports Online*

For more information, contact your Law Society librarians in Regina or Saskatoon, or the librarians at your local public library. The Law Society is an MDLP member and pays just under \$1,200 per year as its share in supporting this program. Take advantage of what's available through this service.



Pro Bono Law
Saskatchewan

Benchers' Digest Report

Kara-Dawn Jordan, Executive Director

www.pblsask.ca

2011 Lawyers' Charity Gala



Dorion Brady, Executive Director of CLASSIC and **Kara-Dawn Jordan**, Executive Director of PBLs, at the 2nd Annual Lawyers' Charity Gala.

PBLs would like to thank everyone who supported the 2nd Annual Lawyers' Charity Gala. Over \$20,000 was raised for PBLs which will go a long way to improving access to justice across the province!

The event was sponsored by the Canadian Bar Association, Saskatchewan Branch, the Law Society of Saskatchewan, the College of Law and Meyers Norris Penny LLP. The evening provided a great opportunity for members of the legal community to come together to have some fun. There was good food and great entertainment with a surprise appearance by Rory Allan and a dance featuring the Jack Semple Band. It was also a great opportunity to celebrate the dedication of Saskatchewan lawyers for assisting those of limited means.

The 2010 Pro Bono Service Award was presented at the Gala to Jill Drennan, a partner with Kanuka Thuringer LLP in Regina. The Pro Bono Service Award is presented jointly by the Law Society and PBLs to recognize outstanding *pro bono* service. Jill has tirelessly dedicated herself to assisting less fortunate members of her community and it was wonderful to see her work recognized.



Jill Drennan, 2010 Pro Bono Service Award Recipient

Pro Bono Law Saskatchewan Annual General Meeting

The PBLs Annual General meeting will be held in conjunction with the Law Society's Annual General meeting on **Thursday, June 23, 2011** at the Hotel Saskatchewan, Regency Ballroom, Regina. Cocktails will begin at 6:30 pm with Dinner to follow at 7 pm. If you would like to reserve a seat, please RSVP to Liz at llynchuk@lawsociety.sk.ca. The cost of the meal is \$35 and is payable at the door.

Senior Life Members

The Law Society is pleased to announce our 2011 Senior Life Members. Certificates will be presented at our Annual General Meeting in Regina scheduled for the evening of Thursday, June 23rd, 2011.

Joseph Dierker, O.C.
Ronald Price-Jones
Robert Bertram
John Beke, O.C.

Robert Emigh, O.C.
Allan Beke
William Tufts
Ernest Gaudet

Gordon Neill, O.C.
Barry Collins, O.C.
Edwin Tollefson, O.C.

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 2011 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 6th, 2011. Application forms are available on the Law Society website.

In Memory

Ernest Boychuk, former Chief Judge of the Provincial Court, passed away on March 11, 2011. He leaves behind five children - sons Chris, Daryl, Philip, Terry and daughter Marianne.

Ernest Boychuk was born in Saskatoon and attended the University of Saskatchewan to obtain his Bachelor of Arts and Law Degrees. He joined the Sea Cadets and went to England in 1951 for training. At 29 years of age, he became Commander of the HMCS Unicorn, the youngest Commanding Officer in Canada at the time.

He began practicing law with Rees, Smigelski and Shmeiser law firm and eventually moved on to the City of Saskatoon's legal department. He was appointed as a Magistrate and later a Provincial Court Judge. He was Saskatchewan's first Ombudsman and first Chief Judge of the Provincial Court.

** Excerpts rendered from obituaries printed in local newspapers.*

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.

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