

# BENCHERS' DIGEST

November 2011

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## The Business of the Law Society

By: Thomas Schonhoffer, Q.C.



It's that time of year again, and no, I don't mean Christmas. It's time to pay your annual fees. For those who don't keep track or those that have their fee notice whisked away to the accounting department, the 2012 assessment of \$1,615 is the same amount that you paid five years ago in 2008. The fee notice also explains that the combined insurance and membership rates in Saskatchewan are among the lowest in Canada.

From my chair, I often see the Law Society as operating different lines of business necessary to fulfill our clear statutory

to protect the public by assuring the integrity, knowledge, proficiency and competency of members. In a world where self-regulation of the legal profession is under critical scrutiny, the Law Society aspires to be a model regulator. This requires the Law Society to provide a large number of services to both the public and members of the profession.

The libraries are the biggest department. We operate 17 branches across the province, providing legal information to our members, the judiciary and the public. We also deliver an ever-expanding choice of online products to our members' desks. We publish the Queen's Bench Annotated Rules, the Practice Checklist, the Queen's Bench Practice Manual and other effective practice aids for the profession. It's a big job that keeps nine employees busy and consumes just under \$1.5 million each year. This essential service costs each member slightly over \$300 each year. The cost has actually decreased in the last five years, without any noticeable loss in service, through careful management of the book budget.

Our education division is also important. It monitors the new CPD policy and provides educational programming that is intended to fill gaps left by other providers. This line of business is operated essentially on a break-even basis, in that fees should pay for staff time and the direct costs such as facilities, speakers, expenses, etc. Once again, the costs have decreased over the last five years by bringing the work in-house.

The Bar Course continues to be located in Saskatoon at the College of Law. It provides entry-level training through both online and face-to-face modules to about 60 students each year. The program operates with 2 dedicated staff and

*Continued on page 2...*

## The Business of the Law Society

Continued...

costs each lawyer about \$50 dollars each year, which is also a significant reduction from five years ago.

The audit department manages the profession's risk exposure for the millions of dollars that pass through lawyers' trust accounts. Any loss through poor practice or misappropriation is passed on to the profession. The potential is significant. Anomalies such as the *Wirick* deflection in British Columbia cost their lawyers in excess of \$30 million. The audit department now uses two Chartered Accountants to establish and monitor reporting requirements, to conduct spot audits and to maintain insurance for large losses. This line of business costs each member \$160 per year.

Insurance is one of the cornerstones of public protection. The Law Society, through its subscription to Canadian Lawyers Insurance Association, provides a cost effective, public-spirited insurance plan. This line is funded through a separate assessment.

We lump the balance of our work into a department that has historically been labeled administration, although it covers much more.

It covers membership requirements to track over two thousand members and control those entering or leaving the profession each year. It keeps member histories for certificates of standing and judicial checks. It is now the registrar for over 500 professional corporations.

Administration also provides funding for Lawyers Concerned for Lawyers, CanLII, legal scholarship, equity projects and other important initiatives.

Most notably, administration regulates the conduct of lawyers.

The Law Society has placed more emphasis on lawyer regulation in recognition that it forms the core of our duty to protect the public. There is more emphasis on practice management, including Practice Advisors to assist anyone opening an office and helping those with competency issues before they

escalate to discipline. There is also more emphasis on investigating and resolving public complaints in an expeditious and timely fashion.

The spin-off for lawyers is that effective regulation protects the lawyers 'brand' as a competent and ethical profession. In addition, it controls costs related to claims against insurance and the special fund.

Perhaps pushing the business analogy too far, we are also metaphorically a franchise operation, in that with national mobility of lawyers, we continue to look for national standards in admission, training and regulation of lawyers. National work increasingly occupies more resources.

We are conscious of both the financial

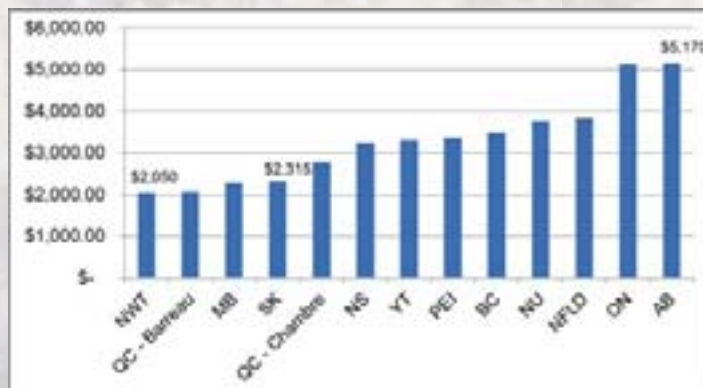
and regulatory burden that we place on the profession. We are maintaining fees, in spite of increasing costs, through good management and creating efficiencies within the Law Society. Managing costs in libraries, education, the Bar Course and counsel work has created savings and they have been applied towards increasing our regulatory capabilities. The result is that we regulate the profession more effectively for the same amount of money. Maintaining high standards through effective regulation is both in the public interest and in the interest of the profession.

The chart below outlines some of the initiatives that your fees support and how these funds have been reallocated.

	2008	2012
Administration	\$707	\$934
Libraries	\$384	\$303
Lawyers Concerned for Lawyers	\$28	\$30
Saskatchewan Law Review	\$0	\$24
Special Fund Assessment	\$145	\$160
CPD – Education (formerly SKLESI)	\$200	\$32
CPLIED – Bar Course	\$105	\$50
Federation of Law Societies	\$0	\$27
Equity Ombudsperson (Contract and education)	\$16	\$6
CanLII (Virtual library)	\$30	\$34
Pro Bono Law Saskatchewan	\$0	\$15
<b>TOTAL:</b>	<b>\$1,615</b>	<b>\$1,615</b>

Although the fees charged by other provinces are not always directly comparable, there is some comfort in noting that your Law Society fees are about average for all Canadian provinces and territories. With insurance, your combined fees are among the lowest in Canada.

Comparison of Annual Fees and Insurance Across Canadian Law Societies - 2011





# Highlights of the Meeting of Benchers

September 9, 2011

The Benchers considered three applications for Rule waivers from the Admissions & Education Committee. Two of the applicants requested a reduction of either the Articling term or the CPLED requirements because of previous experience. In both cases, the Benchers ruled that the applicants had not proved that their education, skills or competencies were sufficient to justify waiving the Rules.

The third application for a waiver of the Rules admitted the applicant as a student-at-law prior to the completion of his National Committee on Accreditation exams.

The Benchers also considered Rule 1903, which requires any amendment to the Rules be passed by a 2/3's majority of all Benchers. The practice of requiring all Benchers approval is not in keeping with the current practice of delegating decisions to smaller committees. For example, changes to legislation allow

Sentence and Discipline matters to be passed by a Hearing Committee of three.

The Benchers approved Rule 264, which allows the Admissions & Education Committee to approve all applications for Rule Waivers as they pertain to admissions.

Dean Sanjeev Anand was introduced as a Bencher and attended his first Convocation. Dean Anand is also a member of the Admissions & Education and Ethics Committees.

The Federation of Law Societies has been working on a *Model Code* for many years. The Ethics Committee had a lengthy meeting dealing with some aspects of the *Code* which do not reflect current Saskatchewan practices and they will be recommending changes so that the *Model Code* can be implemented this year.

The library reported that online access to LexisNexis Quicklaw has been extended to firms of 10 and under.

Leanne Johnson from Lawyers Concerned for Lawyers attended to speak to their annual budget request. A grant in the sum of \$73,320.01 was approved.

The Law Society of Saskatchewan approved execution of the Quebec Mobility Agreement in 2010. This Agreement created the category of a Canadian Legal Advisor that allows members of the Barreau du Québec to practice the law of Quebec and federal law in Saskatchewan.

Amendments to the Quebec Mobility Agreement proposed extending the same privileges to members of the Chambre des notaires du Québec. The Benchers approved execution of the amended Agreement.

Grant Scharfstein, O.C., Colin Clackson and Michael Segu were all recommended to the Minister of Justice for the Judicial Advisory Committee. The committee will select one applicant.

## President's Dinner

October 21, 2011

The Law Society's Annual President's Dinner took place in Regina at the Hotel Saskatchewan on the evening of October 21st. There were 138 guests in attendance at the Regency Ballroom. Guests were entertained by *DownBeat*, a local group of fiddlers, accompanied by Ray Bell on guitar.

Special guests in attendance were Ron MacDonald, O.C., President of the Federation; Douglas Mah, O.C., President of the Law Society

of Alberta; Stephen Raby, O.C., President-Elect of the Law Society of Alberta; Helga Van Iderstine, President of the Law Society of Manitoba; and Laurie Pawlitz, Treasurer of the Law Society of Upper Canada.

Paul Korpan, O.C. is depicted accepting the President's Certificate from Gregory Walen, O.C., for his term as President in 2011.



(left to right) Paul Korpan, O.C. accepts the President's Certificate from Gregory Walen, O.C., Vice-President

# Highlights of the Meeting of Benchers

October 20th and 21st, 2011

October Convocation often coincides with the President's Dinner and the attendance of special guests. This year's guests included Ron MacDonald, Q.C., President of the Federation of Law Societies; Douglas Mah, Q.C., President of the Law Society of Alberta; Stephen Raby, Q.C., President-Elect of the Law Society of Alberta; Helga Van Iderstine, President of the Law Society of Manitoba; and Laurie Pawlitza, Treasurer of the Law Society of Upper Canada.

Each of the Presidents addressed the Benchers on items of current interest for their respective Law Societies, including equity, libraries and licensing of paralegals. An Honorary Membership in the Law Society of Saskatchewan was granted to each guest.

October is also budget month. The Benchers were asked to approve a budget for 2012 and to establish the annual practice

fee. This year, the practice fee was once again set at \$1,615.

National mobility of lawyers is dependent upon 3 agreements, being the National Mobility Agreement, the Territorial Mobility Agreement and the Quebec Mobility Agreement. The Territories have special consideration out of concern that mobility will allow too many non-resident lawyers. This has implications for both access to legal services and the viability of the Law Societies. There continues to be discussion over the Territorial Mobility Agreement, so the Benchers approved a one year extension.

William Nickel was appointed as a representative on the ISC Land Liaison Committee.

There were two small Rule changes. The first changed the name "Informal Conduct

Review" to Conduct Review to reflect that it does create a disciplinary record and is a serious form of reprimand.

The second Rule revision amended the term "Resident" found in Rules 600 and 605 to be consistent with the term "Resident" in the National Mobility Agreement.

The Benchers contemplate passing the *Model Code of Conduct* by the end of 2011 or in early 2012. The Benchers, in principle, support mandatory training for all lawyers and have referred this matter back to administration for recommendations.

Daniel Tapp was sentenced on two related matters to suspension of 45 days and 15 days concurrently. The suspension commences December 15, 2011. More information is available on the Law Society website.



(left to right) Ronald MacDonald, Q.C., President of the Federation, accepts an Honorary Membership Certificate from Paul Korpan, Q.C., President of the Law Society



(left to right) Paul Korpan, Q.C., presents Laurie Pawlitza, Treasurer of the Law Society of Upper Canada, with an Honorary Membership Certificate. Standing next to her is good friend Darcia Schirr, Q.C., Benchers of the Law Society and Eileen Libby, Q.C., Past President of the Law Society

# Judicial Appointments

**The Honourable Richard Danyliuk, Q.C.** has been appointed Judge of the Court of Queen's Bench in Saskatoon, replacing Mr. Justice P. Foley, who elected to become a supernumerary judge on September 1, 2011.

Mr. Justice Danyliuk received his Bachelor of Laws in 1983 from the University of Saskatchewan, was admitted to the Bar in 1984 and received a Queen's Counsel designation in 2006.

Mr. Justice Danyliuk was a Bencher of the Law Society of Saskatchewan from 2004 – 2009 and served as its President in 2008. He was a sessional lecturer at the College of Law, University of Saskatchewan, from 1997 – 2002, a guest lecturer from 2007 – 2009, as well as an instructor of the Bar Admission Course from 2006 – 2009. He was also a founding board member of Pro Bono Law Saskatchewan Inc. (PBLIS). Mr. Justice Danyliuk has been a presenter,

facilitator and speaker at many Law Society and Canadian Bar Association conferences and seminars.

Mr. Justice Danyliuk had been a partner with McDougall Gauley LLP since 2001, practicing mainly in general civil litigation, but also in family and criminal law. He has appeared before all courts of Saskatchewan, trial courts in Alberta, the Federal Court, the Federal Court of Appeal and the Supreme Court of Canada.

## Law Professor Earns National Award

The recipient of the 2011 *Ramon John Hnatyshyn Award for Law* is Ronald Cuming, law professor at the University of Saskatchewan. The Canadian Bar Association gives out the award annually to recognize individuals who have made an exceptional contribution to the law or legal scholarship in Canada.

Professor Cuming taught commercial law for 43 years and also served as an international consultant with expertise in secured financing, leasing and insolvency law for 26 years. Other markers of his achievements are the USSU Teaching Excellence Award he received in 1992-93, the Distinguished Researcher Award he received in 1998 from

the U of S and the College of Law Teaching Award he received in 2007. His research concentrates on national and international secured financing law, leasing law, judgment enforcement law, leasing law and insolvency (bankruptcy) law.

After receiving the award, Professor Cuming stated "I am very honoured to receive an award from the Canadian Bar Association initiated by the late Right Honourable Ramon John Hnatyshyn, a fellow Saskatchewanian and friend" (*U of S Law Professor Earns Top National Award*, by Kate Blau, College of Law, University of Saskatchewan).



Ronald Cuming, Law Professor at U of S

Photographer: David Stobbe

### 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](mailto:llynchuk@lawsociety.sk.ca).

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

### EDITOR

Liz Lynchuk





Pro Bono Law  
Saskatchewan

# Benchers' Digest Report

Kara-Dawn Jordan, Executive Director

[www.pblsask.ca](http://www.pblsask.ca)

## PRO BONO SERVICE AWARD 2011

Nominations are now open for the 2011 Pro Bono Service Award, an award presented annually by the Law Society of Saskatchewan and Pro Bono Law Saskatchewan in recognition of outstanding *pro bono* service. The award will be presented at the **3rd Annual Lawyers' Charity Gala** which will take place on January 27, 2012 at TCU Place in Saskatoon to benefit CLASSIC.

To be eligible for the Pro Bono Service Award, an individual must:

- Be a resident of Saskatchewan;
- Be a member in good standing of the Law Society of Saskatchewan;
- Have demonstrated outstanding contributions in the area of *pro bono work*, including any or all of the following activities:
  - delivering *pro bono* legal services;
  - assisting with the establishment of *pro bono* programs;
  - coordinating *pro bono* services;
  - education and advocacy to promote a *pro bono* culture.

The deadline for nominations is **January 3, 2012**. Nomination forms can be accessed on the PBLs website at [pblsask.ca/pdf/pb-serviceaward-nom.pdf](http://pblsask.ca/pdf/pb-serviceaward-nom.pdf) or by contacting Julia Bewcyk at PBLs.

Every nomination must be supported by the signatures of three members in good standing of the Law Society of Saskatchewan. Completed nominations should be submitted to:

Pro Bono Law Saskatchewan  
Avord Tower  
1110 – 2002 Victoria Avenue  
Regina, SK S4P 0R7  
t: (306) 569-3098  
f: (306) 352-2989  
e: [info@pblsask.ca](mailto:info@pblsask.ca)

## Many Thanks

by: Donna Sigmeth, Complaints Counsel/Deputy Director

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 given by Law Society members and members of the judiciary.

*Many thanks to the following people ...*

### Non-Bencher Volunteers for 2011

#### Law Society Committee Members and Representatives to Other Organizations:

Michael Milani, Q.C.	Eric Neufeld, Q.C.	Professor Tim Quigley	Brian Hendrickson, Q.C.
Randy Sandbeck	Patricia Quaroni	Lana Krogan-Stevely	Jay Watson
Gary Young, Q.C.	Norma Sim, Q.C.	Robert Kasian	William Roe, Q.C.
Hon. Judge Karl Bazin	Hon. Chief Justice J.M. Klebuc	Graeme Mitchell, Q.C.	Marianne Kramchynsky
Randy Rooke, Q.C.	John McIntosh, Q.C.	Brent Gough, Q.C.	Christine Glazer, Q.C.
Marusia Kobrynsky	Heather Jensen	Greg (George) Willows	Ken Koshgarian
Tyla Olenchuk	Hon. Chief Justice R.D. Laing	Scott Hopley	Alan McIntyre
Catherine Knox	Robert Gibbings, Q.C.	Ron Kruzeniski, Q.C.	Patrick Kelly, Q.C.
Ken Neil	Robert Kennedy, Q.C.	Donna Taylor	Bruce Wirth

#### Designated Complaints Counsel:

Michael Fisher, Q.C.	Reché McKeague	Robert Kennedy, Q.C.	Catherine Zuck, Q.C.
Leslie Sullivan	John McIntosh, Q.C.	Lawrence Zatlyn, Q.C.	

**Volunteers for Discipline Hearing Committees:**

Kevin Bell	John Krowina	Harvey Walker	Estes Fonkalsrud
Brian Hendrickson, Q.C.	Janet Stevens	William Davern	Neil Robertson, Q.C.
Lee Anne Schienbein	Darin Chow, Q.C.	Ronalda Nordal	Catherine Zuck, Q.C.
Dave Brundige, Q.C.	Sharon Martin	Murray Walter, Q.C.	Janna Gates
Brenda Hildebrandt, Q.C.	Nicholas Stooshinoff	Amanda Doucette	Nikki Rudachyk
Evan Sorestad	George Combe	Ron Parchomchuk	David Gerecke
Nicholas Cann	Tim McLeod	Mary Ellen Wellsch	Bryan Salte, Q.C.
Collin Hirschfeld	Sheila Urzada	David Flett	
Marcel St. Onge	April Cook	Karen Prisciak, Q.C.	
Greg Chovin	Eric Neufeld, Q.C.	Cliff Wheatley	

**Volunteers for Education:**

Randi J. Arnot	Nicholas Cann	Perry Erhardt, Q.C.	Glen Gardner
Judy Halyk Maathuis	Tom Irvine	Hon. Judge D.E. Labach	Alan McIntyre
Doug Osborn	Hon. Justice M.D. Popescul	Nicole Sawchuk	Brenda Walper-Bossence, Q.C.
Jeff Baldwin	James Casey, Q.C.	Ruth Fafard	Christine Glazer, Q.C.
Russell Hart	Alan Jacobson	Richard Leland, Q.C.	Hon. Madam Justice J.E. McMurtry
Hon. Justice R.K. Ottenbreit	Karen Prisciak, Q.C.	Jeff Scott	Nadine Wightman
Brent D. Barilla	Hon. Justice G.M. Currie	Sherry Fitzsimmons	Brent Gough, Q.C.
Tim Hawryluk	Deryk Kendall	Sharon Ludlow	Richard Molaro
Michelle Ouellette, Q.C.	Sharon Pratchler, Q.C.	Sean M. Sinclair	Hon. Madam Justice D.L. Wilson
Chris Boychuk, Q.C.	Sherri Cybulski	Jacqueline Francis	Tammi D. Hackl
Brian Hendrickson, Q.C.	Erin Kleisinger	Andrew Mason	Eric Neufeld, Q.C.
Charmaine Panko	Michel Riou	Katrina Swan	Robert Hale
Barry Bridges	Lori Dunford	Aaron Friedman	Hon. Judge J.A. Nightingale
Brenda Hildebrandt, Q.C.	Ken Koshgarian	Rod MacDonald, Q.C.	
W. Robert Pelton, Q.C.	William Roe, Q.C.	R. Keith Thomson	
Kirby Burningham	Richard Elson, Q.C.	James Fyfe	
R. Bradley Hunter, Q.C.	David Kowalishen	Robert H. McDonald	
Kathleen A. Peterson	Bryan Salte, Q.C.	Michael Tochor, Q.C.	

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## Volunteers Needed

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**PRO BONO COUNSEL FOR MEMBERS FACING 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 at [dsigmeth@lawsociety.sk.ca](mailto:dsigmeth@lawsociety.sk.ca).

**DESIGNATED COMPLAINTS COUNSEL**

Occasionally, the Law Society receives complaints against Benchers or staff. These complaints do not follow the usual procedure, but are referred to Designated Complaints Counsel.

In the past, we have looked to former Benchers to fill this role because of their experience and expertise in the complaints process.

If you can be of assistance in this regard, please advise Donna Sigmeth at [dsigmeth@lawsociety.sk.ca](mailto:dsigmeth@lawsociety.sk.ca).

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## Bar Admissions Program

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Samuel J. Bergerman, Director of Bar Admissions, would like to congratulate Barbara Herder and Ryan Lepage for their exemplary performance in the 2010 - 2011 CPLED Bar Admissions Program. Barbara and Ryan each received the Law Society's Award of Distinction for displaying the highest levels of academic achievement in the CPLED Program.

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# 2012 Convocation Dates of the Benchers of the Law Society of Saskatchewan

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February 9th and 10th – Regina

April 25th, 26th and 27th – North Battleford

June 20th, 21st and 22nd – Saskatoon  
(annual meeting set for evening of Thursday, June 21st)

September 27th and 28th – Saskatoon

October 18th – Conference Call to Approve Budget

November 29th and 30th – Regina

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## EQUITY OMBUDSPERSON

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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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## LAWYERS CONCERNED FOR LAWYERS

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### BENCHERS' DIGEST

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