BENCHERS' DIGEST

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REDEFINING "SPOUSE": The Saskatchewan Response to M. v. H.

By Donna Wilson

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On July 6, 2001, the Saskatchewan Legislative Assembly passed *The Miscellaneous Statutes (Domestic Relations) Amendment Act, 2001 and The Miscellaneous Statutes (Domestic Relations) Amendment Act, 2001 (No. 2)*, resulting in amendments to 22 Acts. Of those 22 Acts, 14 were amended to extend benefits and obligations already in place as regards common-law couples to same sex couples. The remaining eight Acts were amended to extend benefits and obligations to unmarried couples (both opposite sex and same sex) where they were previously provided only to married couples. The amendments are the Saskatchewan response to the May, 1999 Supreme Court of Canada decision in *M.v. H.* where the Court held that prohibiting same sex couples from obtaining spousal support violated Section 15 of *The Canadian Charter of Rights and Freedoms*. The amendments go much further, however, than changing the spousal support provisions of *The Family Maintenance Act*. Property rights of cohabiting couples are now substantially altered as are the rights of cohabiting couples upon death.

This article is not intended to provide practitioners with a full analysis of each of the recently amended Acts. Instead, it is written to provide practitioners dealing with Wills and Estates, Real Estate Conveyancing, and, most significantly, Family Law matters, with an overview of the more significant changes.

FAMILY LAW

The Family Property Act

The Matrimonial Property Act is now *The Family Property Act*. Prior to the recent amendments only a legally married spouse could apply for a division of the home and property under the Act. The definition of spouse has been expanded to include two persons who are cohabiting, or who have cohabited with another person, "as spouses continuously for a period of not less than two years". There is, however, a time limit on the application. Pursuant to Section 3.1, applications brought by these "spouses", as opposed to legally married spouses, must be made within two years after the cohabitation ceases.

Family Law practitioners have not previously worried about limitation periods but must do so now. If you meet with a separated "cohabiting" spouse prior to the expiration of the two year period but fail to file the Petition requesting relief under *The Family Property Act* before the two year period expires,

the rights of your client may be seriously affected. Missing a limitation period will not, however, mean that your client has no avenue to pursue relief. Your client can still utilize the common-law doctrines of unjust enrichment, constructive/-resulting trust and *quantum meruit* in pursuing a claim. Application of the common-law doctrines may, however, lead to an entirely different result for your client, and liability for the lawyer who has missed the limitation period.

The new *Family Property Act* applies retroactively. Pursuant to Section 3, the Act applies to spouses who were in a "spousal relationship" before the Act was proclaimed and, further, has application where a proceeding to determine the rights between spouses with respect to property was already commenced.

There are some additional amendments of note, as follows:

Section 23 – Previously, the fair market value of property (except for the matrimonial home and household goods) owned by a spouse at the date of marriage was exempt from distribution. Now, the fair market value of property (other than the family home and household goods), owned at the commencement of the spousal relationship is exempt. This amendment raises a significant question – do we use the date the parties started cohabiting as the appropriate date, or do we use the two year mark which is when, according to the amended definition of spouse, a cohabiting person becomes a spouse? Judicial interpretation will be required before the answer is known.

Section 38 – An Interspousal Contract can now be an agreement entered into by two persons in contemplation of their commencing to cohabit in a spousal relationship. However, Cohabitation Agreements executed prior to July 6, 2001, will not, pursuant to Section 41(2), be "Interspousal Contacts" unless the parties had independent legal advice and all other requirements of Section 38 are met. This causes problems as regards Cohabitation Agreements previously prepared without independent legals. Depending on the circumstances, Section 40 may be utilized to validate these agreements.

Section 51 – This Section deals with the issue of multiple spouses. If a legally married couple separates but there is no finalization of their division of property and one of the parties then cohabits with another person for two years, there are two "spouses" with entitlement under the Act. Section 51 provides that the rights of the subsequent spouse are subject to the rights of the prior spouse.

The Family Maintenance Act

The Family Maintenance Act has been amended so that the Court may order a person to pay spousal maintenance to his or her former same sex partner. Previously, opposite sex cohabitants could make a claim for spousal support if they lived together continuously for a period of not less than three years, or were in a relationship of some permanence if they were the parents of a child. Now, both opposite sex and same sex cohabitants can apply for support if they have cohabited continuously for a period of not less than two years or, again, in a relationship of some permanence if they are the parents of a child.

The Adoption Act

The Adoption Act was previously amended in 1989 to allow same sex partners to apply to the Court to adopt an unrelated child. However, it was not possible for a person to adopt, through a step-parent adoption, the child of his or her same sex partner. The definition of "spouse" in the Act has now been amended to include a person with whom a person is cohabiting as spouses.

WILLS AND ESTATES

The Dependants' Relief Act

Previously, a person of the opposite sex with whom a deceased cohabited as husband or wife for a continuous period of not less than three years, or in a relationship of some permanence if they were the parents of a child could qualify as a "dependant" under the Act. As a result of the recent amendments, only two years of continuous cohabitation is required and, further, same sex cohabitants have the same rights as opposite sex cohabitants. Thus, it is now possible for a Court to make an order requiring reasonable maintenance to be paid to a person out of the estate of his or her deceased same sex partner.

The Intestate Succession Act

The Intestate Succession Act, 1996 did not include a definition of spouse, however, opposite sex common-law partners were successfully pursuing claims under the Act as a result of the Courts willingness to recognize their rights despite the silence of the statute. The Act now includes a detailed definition of spouse. Pursuant to Section 2 a "spouse" is the legally married spouse of the intestate or, if there is no legally married spouse, a person who has cohabited with the intestate for not less than two years and was, when the intestate died, continuing to cohabit with the intestate or had ceased to cohabit with the intestate within two years before the intestate's death. Section 20 of the Act has also been

amended. Previously, a spouse was not entitled to any portion of the intestate's estate if at the time of the intestate's death the spouse had separated from the intestate and was "living in adultery". The words "living in adultery" have been changed to "cohabiting with another person in a spousal relationship".

The Wills Act

The amendments to *The Wills Act* (which will come into force on November 1, 2001) may cause practitioners the most difficulty. Although we have always advised our clients that getting married revokes a Will, we have not previously had to advise clients that cohabiting with someone has the same effect. Section 17 of the amended *Wills Act* now specifies that a Will is revoked if the testator has cohabited in a spousal relationship continuously for two years. The Act applies to Wills executed before November 1, 2001. Thus, there will be many clients who currently believe they have a valid Will but are unaware that their Will has been revoked because at some time subsequent to executing their Will they lived with someone in a spousal relationship for two years. As a precaution, practitioners should provide clients for whom they have prepared a Will with notification of the amendment to *The Wills Act*.

REAL ESTATE

The Homesteads Act

The protections in *The Homestead Act, 1989,* have been extended to unmarried couples who have cohabited as spouses for at least two years which protection continues for two years after cohabitation ends. A "homestead" is now a property that is or has been occupied by "spouses" at any time during their spousal relationship. In light of the amendments to the Act, practitioners must ask clients not only if they are married but also whether or not they are currently cohabiting with another person or have cohabited with another person within the last two years.

DEFINING "COHABITING CONTINUOUSLY"

Rights and obligations now exist for persons "cohabiting as spouses continually for a period of not less than two years". This raises two critical questions, what does "cohabiting as spouses" look like, and what does "continuously" mean?

Canadian Courts have already tried to identify the key components of a cohabitation relationship. The decision of the Ontario District Court in *Molodowich* v. *Penttinen* (1980), 17 R.F.L. (2d) 376 is often cited. In *Molodowich* the Court identified seven descriptive components of marriage-like cohabitation: arrangements concerning shelter, sexual and personal behaviour; domestic services; social activities; societal attitudes; arrangements concerning financial affairs; and conduct respecting children. Similarly, Madam Justice Hunter of our Court of Queen's Bench in *Tanouye* v. *Tanouye* (1994) 117 Sask. R. 196 sets out a list of characteristics generally associated with cohabitation. Both decisions should be reviewed if there is any dispute as to whether or not your client has, in fact, been cohabiting as a spouse.

With respect to the qualifier "continuously", the following cases may be of some assistance: *Roch* v. *Payne* [2000] B.C.J. No. 1160, *Sullivan* v. *Letnik* (1994), 5 R.F.L. (4th) 313 (Ont. U.F.C.) and, again the *Tanouye* case previously cited. In each of the above cases the Court held that temporary interruptions in continuous cohabitation may be allowed depending on the intentions of the parties.

In addition to the Acts referred to above, *The Miscellaneous Statutes (Domestic Relations) Amendment Act* amends a number of other Acts, to provide for same sex couples to be treated the same way as common-law couples and to extend benefits and obligations to unmarried couples. A full listing of all statutes amended was provided to members of the Law Society of Saskatchewan by the Minister of Justice in July, 2001.

NOTICE

The Queen's Bench Bar Judicial Council is made up of members of the Law Society Executive, two members of the Canadian Bar Association, the Chief Justice of the Court of Queen's Bench and one other Queen's Bench Judge. The Council meets regularly on an informal basis to discuss matters of concern or possible friction as between the Bar and the Bench. Confidentiality and anonymity is maintained.

Any members who have issues they wish to raise regarding the conduct of lawyers or judges, or generally with respect to matters involving the Bar and the Bench, may contact the Law Society office, or any of the following persons:

Marty Popescul, Q.C. Michael Milani James Ehman Reg Watson

Highlights of the Meeting of the Benchers Held September 12, 13 and 14, 2001

Equity/Diversity Ombudsperson

The Equity/Diversity Committee had proposed that the Law Society consider the position of an equity/diversity ombudsperson. The Law Society has had Safe Counsel for several years, but there has been a little uptake on their services. The experience in the three jurisdictions which have an equity/diversity ombudsperson is that the services are widely used.

Alberta, British Columbia and Ontario have prepared reports on the position. Manitoba expects to have an ombudsperson in place shortly. The Law Society staff has been directed to review the reports from the other jurisdictions, and report back with recommendations and terms of reference for this contract position.

Incorporation and Limited Liability Partnerships

The Benchers, in anticipation of the passage of regulations for incorporation and limited liability partnerships, passed Rules which will set up the administrative framework for lawyers to practice via incorporated companies. The Rules, which will be found under Part 17, will provide that members may apply to the Executive Director for consent to incorporation. Professional corporations will require a permit to practice law in Saskatchewan.

The consent will be provided as long as the proposed name of the corporation complies with the marketing rules and is not so similar to other professional corporation names as to be misleading or confusing; the voting shares will be owned by practicing members and the directors will be members of the Law Society. Annually, the professional incorporations will be required to apply a permit fee in the amount of $50. The Law Society will be maintaining a corporate register of members practicing through corporations.

The limited liability partnership Rules are similar in that firms which intend to practice as a limited liability partnership are to provide material to the Law Society for approval. The Executive Director is to certify whether or not partners of the firm are entitled to practice law in Saskatchewan. The Rules make provision for interjurisdictional firms to be registered as limited liability partnerships in Saskatchewan.

The Benchers also approved the Forms necessary to support the Rules.

Rule 605A

The Benchers approved an amendment to Rule 605A, which will give members an opportunity to obtain up to one loss prevention credit for non-SKLESI continuing legal education. The grant of such credits will be made in the discretion of the Chair of the Insurance Committee, who will require details of the seminars, including content and presenters.

Guidelines on Ethics and the New Technology

The Ethics Committee approved Guidelines on Ethics and the New Technology. These Guidelines are a reproduction, with some minor amendments, of those produced by the Federation of Law Societies in November, 1999. While the ethical principals, particularly with respect to confidentiality, remain of prime importance, it is helpful to have some specific reference points on technological matters not anticipated when the *Code of Professional Conduct* was adopted. These guidelines should be read as a part of the *Code*, and in the same spirit.

Annual Fees

The Finance Committee reviewed the first draft of the budget for 2002. Although the budget has not been finalized, the Finance Committee has resolved that the annual practicing fee for 2002 will not increase. The Benchers will be approving the budget and formally setting the annual fee at the October Convocation. Members will have the option of paying the fees quarterly by electronic debit or in full by December 1, 2001.

Federation of Law Societies of Canada

Following the lead set by the Law Societies of Western Canada, delegates to the Federation of Law Societies of Canada meeting held in August in Saskatoon displayed a new sense of co-operation. Committees have been struck to deal with mobility, restructuring of the Federation, and a challenge to the money laundering legislation as it attacks solicitor/client privilege.

The Law Societies of Western Canada are continuing their work on mobility. Study on the education initiative continues while the delegates discussed issues regarding

standardizing defalcation plans. Accounting staff in the various Law Societies are working on standardizing trust account rules.

Daniel Lamontagne

The Discipline Executive Committee reviewed an interim report regarding the Daniel Lamontagne defalcation. Additional defalcation claims were approved. It would appear that the total will be close to the initial estimate. The Benchers will have a special session on the Lamontagne issue at the October Convocation to discuss preventative measures. A report will be sent to the membership prior to the end of the year.

Estate Trust Funds

At the most recent Convocation, the Professional Standards Committee considered a question that arose as to estate bookkeeping duties where the lawyer acts for an executor or administrator in performing the usual legal services for an estate. In particular, one point of view expressed was that since personal representatives are ultimately responsible for carrying out the trustee duties, perhaps it would be preferable to have executors/administrators maintain estate funds in an account which is solely under their control, pay estate liabilities by cheque from such account, and ultimately prepare an accounting of estate receipts and disbursements for approval by beneficiaries, as opposed to the above being conducted via the lawyer's trust account.

The Committee is of the view that where the lawyer is acting as solicitor for the executor/administrator of an estate, it is appropriate to advise him or her that, whereas the estate assets and debts can be dealt with through the lawyer's trust account. The executor/administrator also has the option of opening and maintaining an "estate account" for calling in the assets and paying the liabilities. Hand in hand with that information, however, goes the lawyer's obligation to advise the executor/administrator of the full scope and precise nature of the duties which as personal representatives they will be personally liable for carrying out, including the added responsibilities which may flow from them actually having practical control over when and to whom funds are disbursed.

Most lawyers who have done estate work will be familiar with cases where the executors have maintained the estate account themselves, and, for example:

- have turned out to be poor record keepers, such that it ultimately falls to the lawyer to try to reconstruct what was received and what was disbursed so that an accurate accounting can be provided to the beneficiaries; or
- executors/administrators who feel that a minimal holdback for income tax and other liabilities is sufficient, and that they should pay to the beneficiaries the bulk of their share even before all liabilities are known.

These are only a couple of examples of unfortunate situations that can arise in these circumstances. Of course, it is always incumbent upon the lawyer for the executor/administrator to clearly explain all of the trustee responsibilities and all of the considerations to be taken into account. However, extra care may need to be taken in explaining those duties and the fact that the trustee is ultimately liable for properly carrying out those duties in the situation where the personal representative is maintaining control of the estate assets, and is thereby carrying out functions which would otherwise have been handled by the law firm on the trustee's behalf.

2002 Convocation Dates of the Benchers of The Law Society of Saskatchewan

February 6, 7 and 8 – Regina
April 17, 18 and 19 – Saskatoon
June 5, 6 and 7 – Swift Current
September 11, 12 and 13 – Greenwater
October 23, 24 and 25 – Regina
December 4, 5 and 6 - Saskatoon

Donations to the Coalition against No-Fault will be gratefully accepted. Please send any donations to:

Daniel Shapiro, Q.C.
c/o Brayford Shapiro
311 – 21st Street East
Saskatoon, Saskatchewan
S7K 0C1

Money Laundering

This is a reminder that the new *Proceeds of Crime (Money Laundering) Act* will be coming into effect on November 1, 2001. Lawyers will be subject to reporting requirements as outlined in the August, 2001 issue. The Law Society of British Columbia and the Law Society of Upper Canada have guides to assist lawyers and staff to comply with the legislation. The British Columbia guide is available at www.lawsociety.bc.ca/services/frame_pcmla.html.

The Federation of Law Societies of Canada, while opposed to money laundering, is opposed to the legislation. A constitutional challenge will be launched.

Professional Conduct Rulings

Chapter XIX, "Avoiding Questionable Conduct"

Failure to pay account incurred in the course of Practice – April 2001

FACTS:

Dr. Z complained against Lawyer A for failure to pay her account for a medical opinion, as incurred in the course of practice, contrary to Chapter XIX, Commentary 7 of the *Code of Professional Conduct*, and for failure to communicate with her on the issue. Lawyer A disagreed with the suggestion that he failed to honour his financial obligations and that he failed to respond or communicate in a timely manner. Lawyer A acted on behalf of an elderly female client. One of the client's sons had apparently utilized a Power of Attorney to remove substantial assets belonging to his mother, obtained an ExParte Order declaring her incompetent, and appointed himself as Personal Property Guardian. Lawyer A was acting on behalf of the elderly woman and her daughters to have the guardianship order suspended and the matter set for a trial of the issues. Dr. Z was retained to do a competency/psychological assessment. The daughters of the elderly client contacted Dr. Z to make arrangements for the assessment. Dr. Z contacted Lawyer A on a number of occasions to request additional information. Lawyer A asked Dr. Z to submit the report directly to him, and indicated that he would be responsible for payment of her account. These arrangements were made in the summer of 2000. Dr. Z's report declared the elderly client to be incompetent. Lawyer A was now in a position that he was no longer able to act for the daughters, and for the elderly client as their positions differed. The Public Trustee's Office was handling the elderly client's affairs, and Lawyer A requested that his account and Dr. Z's account be paid by letter of October 2000. The Public Trustee's Office would not pay Dr. Z's account without a court order. The trial was set for early 2001. It does not appear that Lawyer A advised Dr. Z of the difficulty in having the Public Trustee's Office pay her account, and, Dr. Z continued to send monthly account reminders to Lawyer A asking that her account be paid.

Lawyer A took the position that he pursued payment of the doctor's account through the Public Trustee's Office, and that he did not read Dr. Z's account reminders as requesting communication or a response, but, they were in fact, merely standard account reminders. Dr. Z took the position that Lawyer A should have explained his reasons for not paying her account, and, in any event, that Lawyer A simply should have paid

the account when due, as he had undertaken to pay same, rather than waiting for the Public Trustee's Office to pay Dr. Z's account directly.

RULING:

The Ethics Committee ruled that Lawyer A should have paid Dr. Z's account up front, and then followed-up with the Public Trustee for payment of his account and disbursements such as fees for medical reports paid out by his office. The Ethics Committee would like to remind Lawyer A of Chapter XIX, Commentary 7 of *The Code of Professional Conduct*;

> "the lawyer has a professional duty, apart from any legal liability, to meet financial obligations incurred or assumed in the course of practice when called upon to do so. Examples are agency accounts, obligations to members of the profession, trade accounts directly related to the lawyer's practice, fees or charges of witnesses, Sheriffs, Special Examiners, Registrars, reporters and public officials, as well as the deductible under a governing bodies' errors and omissions insurance policy."

Chapter XII "Withdrawal"

File Transfer Dispute– April 2001

FACTS:

A complaint was received from the Client A, complaining that Lawyer A would not transfer their files to Lawyer B as they had authorized him to do. They indicated that Lawyer A had been asked to transfer the files six months prior. Lawyer A was taking the position that the file transfer could occur on the following trust conditions.

1. Acknowledgement of a Doctor's Accounts and an undertaking to pay same.
2. Acknowledgement and undertaking to pay Lawyer A's outstanding accounts.
3. Proof that persons representing themselves as the Board of Directors of Client A were duly appointed and authorized as directors of this body.
4. Acknowledgement that the Board of Directors of Client A are authorized to act, and that the previous Board of Directors of Client A were terminated.
5. Authorization to Lawyer A to release a particular file to Lawyer B's office.
6. Asking Lawyer B to provide a letter to Client A advising of Lawyer A's legitimate right to maintain a solicitor's lien on the file until the outstanding account obligations were paid.

Lawyer B refused to accept the trust conditions as set out by Lawyer A, and indicated that he would only deal with paying the doctor's accounts and Lawyer A's account, and would not accept any of the other conditions Lawyer A was requesting. The two lawyers wrote voluminous correspondence to each other and forwarded same to The Law Society. The tone of Lawyer B's correspondence was critical of Lawyer A's position referring to same as "utter nonsense" that his trust conditions made "no sense", and indicated that "counsel's judgment is sometimes clouded" among other comments in a similar tone. The two lawyers had reached such a stalemate that the file had not been transferred for almost one year. The Ethics Committee was asked to rule on the matter.

RULING:

The Committee was of the opinion that it was unreasonable for Lawyer A to continue to hold these files while requesting confirmation that the Board of Directors of Client A was constituted properly. The Committee was of the opinion that if Lawyer A continued to hold the files, the matter would be much more serious, and would likely be ruled as unethical. The Committee ruled that once Lawyer B had given his word to Lawyer A that the Board is properly constituted, and has produced an authorization to transfer the file signed by someone representing the Board, then Lawyer A could not possibly be "in trouble" for transferring the file on this basis. Unless Lawyer A had clear evidence that the individual providing the authorization was not a Board Member or representative of Client A, he should hand the files over upon receipt of an undertaking that his accounts and the doctors' accounts would be taken care of.

The Committee was of the opinion that some of the comments in Lawyer B' correspondence with Lawyer A were inappropriate and discourteous, and exacerbated the situation rather than assisting in resolving same.

Chapter VI – Conflict of Interest between lawyer and clients; Chapter IV - Confidential Information; Chapter VII – Outside Interests and the Practice of Law.

Breach of Confidentiality and Conflict of Interest - (Use of Information obtained via solicitor/client relationship in role as elected official) – April 2001

FACTS:

Client A complained about his former lawyer, Lawyer A, on the basis that Lawyer A, as a city counsellor, sat on an Ad Hoc Committee which was reviewing an application by Client A for a half-way house, and did not withdraw from this committee due to a conflict of interest. As well, Client A complained that Lawyer A wrote a letter, as a committee member, to

the Commissioner of Corrections advising of Client A's prior charges, that Lawyer A was his lawyer at the time of the charges, the outcome of the court case, and Lawyer A's opinion that Client A and his wife had a "rather checkered past". When he received the complaint, Lawyer A's response to The Law Society was that he was "at something of a loss" as to what rules he may have breached. Lawyer A was asked to respond to the allegations of conflict of interest, and breach of solicitor/client privilege or confidentiality. Lawyer A stated that he "was absolutely astounded" that the confidentiality issue should arise, and indicated to the Complaints Officer "if you persist, I can assure you that I will be going public with my position, both as a counsellor and as a lawyer."

RULING:

The Ethics Committee ruled that there was clearly a conflict of interest as Lawyer A was promoting his own interest by divulging the information he obtained as solicitor in the context of his role as city council person. The Ethics Committee was of the opinion that it was unethical for Lawyer A to have revealed the fact to the Commissioner of Corrections or City Council that he had previously acted for Client A in the context of the conflict of interest which existed between his roles as City Counsellor, as resident of the city, and his role as former counsel for Client A. In this context, it was not appropriate for Lawyer A to utilize information he had at his disposal as the former lawyer for Client A in his current role as city counsellor in order to advance a personal interest. Chapter IV of *The Code of Professional Conduct* states that the lawyer should not disclose having been consulted or retained unless the nature of the matter requires such disclosure, and Commentary 4 of that Chapter indicates that a lawyer owes a duty of secrecy to every client without exception regardless if the client is continuing or casual, or a former client, whether or not differences have arisen between lawyer and client.

The Committee also wished to comment on the disrespectful tone of the letters to the Law Society utilizing "veiled threats". The Ethics Committee was concerned with the lack of civility in these letters and wished to advise Lawyer A that they considered referring this matter to Discipline for the tone of his letters to The Law Society of Saskatchewan.

Chapter V – "Impartiality and Conflict of Interest Between Clients"

Taxation of Plaintiffs' Contingency Fee Agreements as a Term of Settlement – April 2001

FACTS:

Defendant wishes to include as a mandatory term in all Agreements for Settlement of Plaintiff's claims, a clause requiring that Plaintiff's counsel's fees be reviewed by taxation, or by other methods, to ensure that they are fair and reasonable.

RULING:

The Ethics Committee was of the opinion that the Plaintiff in this situation has the right to tax their lawyer's bill under *The Legal Profession Act*. The Committee was of the opinion that lawyers should not accept instructions from a client to accept a "blanket" condition of this type requiring their clients to avail themselves of that right. The Ethics Committee indicated that it was not speaking to specific files, but could not imagine circumstances where this type of condition would be reasonable.

The Committee was of the view that this was an inappropriate condition of settlement, as it was clearly being used to obtain an advantage, in that a client would be forced to accept the condition or the matter would go to litigation, as it would not be able to settle.

The Committee ruled that this type of interference goes to the heart of the solicitor/client relationship, and it would be highly inappropriate for an outside party to inquire about this subject, interfere with it or impose conditions on it.

Chapter VIII "Preservation of Client's Property"

Release of Monies in Trust Account - April 2001

FACTS:

Lawyer A acted for a Client A and requested a retainer. The next day a woman and a man arrived and dropped off a cheque on behalf of Client A from Person C in the amount of $400.00 which was paid into Lawyer A's firm's trust account. Approximately one month later, the firm received a message from Woman B indicating that the $400.00 cheque which was received in the name of Person C, was fraudulent. She indicated that Person C was her father, that her father's signature had been forged by Client A and demanded the return of the money. Lawyer A's firm took the position that while the cheque may well have been forged, they did not have a court order or finding of fact to prove same, and as they were unable to contact Client A, they were not in a position to release the funds to Woman B.

RULING:

The Ethics Committee was of the opinion that if Lawyer A could obtain an indemnity from Woman B to release her and her firm from any liability, that they would be able to release the money to her. If she did

not receive such an indemnity, she would be doing nothing wrong by holding the monies until she received further proof that the monies should be released.

Chapter XV "Responsibility to the Profession Generally

Unprofessional Correspondence – April 2001

FACTS:

Client A complained about his former wife's lawyer, Lawyer B. There were some access disputes between Client A and his former spouse, Client B. There were some serious concerns on the part of Lawyer B's client, Client B, such that the lawyer wrote Client A's lawyer indicating that unless there was some affirmation that the conduct would not occur again, that Client B would be withholding access. The correspondence Lawyer B provided to Lawyer A made remarks such as "Client A has an uncannny habit of causing unneeded stress to his son", was a father who had "little interest in his son", that he was "belittling" his son, and that he was not properly considering "his own flesh and blood".

RULING:

The Ethics Committee ruled that the language Lawyer A utilized in this letter was excessive, and inappropriate. Such language sets a tone which exacerbates the situation rather than attempting to resolve matters on behalf of the client. The Ethics Committee wished to warn Lawyer A not to blur the distinction between his position as advocate and his personal opinion, or that of his client. Lawyer A should not state "I believe" when making comments, but should put forth the client's position, as her advocate.

Chapter V "Impartiality and Conflict of Interest Between Clients"

Delay in claiming Conflict of Interest may Waive that claim – April 2001

FACTS:

Client A requested advice regarding a potential conflict of interest with opposing counsel, Lawyer B.

- In 1991 Lawyer B drafted an Interspousal Contract on behalf of Client A in settlement with her estranged husband, Person B. Client A was to get the matrimonial home and a small payment was to be made to Person B in exchange.
- Client A and her boyfriend, Client C moved into the house which was previously the matrimonial home of Person B and Client A. Subsequent to a fire which destroyed the home, Client C made an insurance claim and advised the insurance company that he had a beneficial interest in the home which resulted in a payment.
- In 1995, Client C purchased a restaurant under an Agreement for Sale and Client A was to run the restaurant. Client A and Client C subsequently separated.
- In 1996, Client C instructed Lawyer A to commence an application for possession of the restaurant, and a declaration that he had an interest in the home previously owned by Client A and Person B.
- In 1998, Client A was examined for discovery, and her lawyer, Lawyer A took the position that the 1991 Interspousal Contract was not at all relevant to the litigation between Client C and Client A. Client A and her lawyer were aware at that time that Lawyer B and Client C took the position that the Interspousal Contract of 1991 was indeed relevant, and that he had prepared this Interspousal Contract on behalf of Client A.
- Lawyer B stated that at no time from the beginning of the dispute in 1995 to March 2000 was the issue of conflict of interest raised by Client A or Lawyer A. At trial, Client C received a judgment which was more than double the amount he indicated he was prepared to settle for prior to trial. Client A raised the conflict issue for the first time two months after filing a Notice of Appeal.
- Approximately 50 months (over 4 years) lapsed between the time the action was commenced and the date of trial. The Committee reviewed the cases of Kjartanson v. Rutley (1995) 38 C.P.C (3rd) 392 [Manitoba Q.B.], and TransCanada Pipelines Ltd. v. Nova Scotia (Attorney General) (1999) 39 C.P.C. (4th) 390, which indicate that delay in claiming Conflict of Interest may amount to a waiver of same.

RULING:

The Ethics Committee ruled that even if there was an appearance of conflict, it was not raised within a reasonable time, and thus the conflict of interest was waived by Client A. The Ethics Committee would not ask Lawyer B to withdraw.

Chapter IX "The Lawyer as Advocate"

Failure to Comply with Court Orders – June 2001

FACTS:

Lawyer N acted for the Husband, Mr. F in the matter of his divorce from Ms. F, who was represented by Lawyer X. A fiat of the Court dealing with spousal maintenance stated:

"Finally, any amounts paid by the respondent husband to the petitioner wife during the month of August are to be offset against his obligation pursuant to this order."

Lawyer N and the husband, Mr. F took the position that he should be able to reduce maintenance owing for both August and September by the amount he claimed as expenses, which effectively cancelled out any maintenance payable to Ms. F for both August and September. Ms. F and her lawyer took the position that a much smaller amount of money should be set off and garnisheed the balance they perceived as owing. Lawyer N and the husband, Mr. F made application to the Court during October for clarification as to whose position was correct with respect to the monies to be set off. The Court set aside the garnishee and the monies paid into Court were returned. The Court stated that the issue of the set off would be held over to trial. Lawyer X and his client, Ms. F continued to enforce the arrears based on their calculations resulting in a complaint to the Law Society by Mr. F. The Complaints Officer suggested the parties speak to the Court for clarification or make a further application for direction. The parties appeared before the same judge in February for a review of the matter. The Judge stated in his fiat:

"The October fiat clearly indicates that adjustment to arrears, if any, may be made at trial. Accordingly, it is hereby ordered that enforcement of arrears, if any, is hereby stayed until further order."

Costs were reserved to the trial Judge. After the dismissal of his March application for an order citing Ms. F with contempt, Mr. F still requested the Ruling of the Ethics Committee with respect to Lawyer X's conduct in pursuing enforcement of arrears.

RULING:

The Ethics Committee declined to rule on this particular matter as the matter was before the Court several times, and the Court had every opportunity to disapprove of the conduct of Lawyer X, and did not do so.

Chapter XIX "Avoiding Questionable Conduct"

Dispute re: Assignment of Insurance Proceeds – June 2001

FACTS:

Client X complained to the Law Society that her previous lawyer, Lawyer A had not released her file to her new lawyer, Lawyer B. Client X had a personal injury claim which had been settled with an insurer, and Lawyer A had held back certain monies to pay back separate disability insurance payments she had received to date. Lawyer B did not accept this holdback and questioned the obligation of Lawyer A to hold back said monies. Lawyer A's argument was that Client X had signed an irrevocable assignment served on the disability insurance company regarding the settlement monies, and thus, Lawyer A's law firm was obligated to hold back said monies. Lawyer A stated that if Lawyer B would execute an indemnification agreement agreeing to indemnify Lawyer A and his firm from any liability with respect to the irrevocable assignment signed by Client X, the funds would be forwarded. Lawyer A indicated willingness to receive direction on the matter from the Law Society. Lawyer B took the position that the insurance company paying out the settlement had indicated that it was not bound by the terms of the irrevocable assignment, and that the assignment was not binding on Lawyer A or his law firm because they were not party to the assignment. Lawyer B suggested that the monies should be released or a motion launched seeking directions from the Court, and if such an option was necessary, Lawyer B suggested he would be seeking costs against Lawyer A for the unnecessary application.

RULING:

The Ethics Committee stated that there was a legitimate legal question in this situation, thus, Lawyer A's refusal to hand over monies without some protection was not unethical.

Chapter III "Advising Clients"

Threatening Criminal Proceedings – June 2001

FACTS:

Lawyer A's clients, Mr. and Mrs. A were subdividing a large lot into two small ones. One lot had a house on it, and this was the lot Lawyer A was to convey to Lawyer B's clients, Mr. and Mrs. B. Lawyer A had no instructions from her clients as to the subdivision as Mr. and Mrs. A handled the subdivision themselves. Mr. and Mrs. A advised at the time of signing the transfer that the subdivision had been completed, and Lawyer A proceeded on that basis. Some weeks later, Lawyer A was alerted that the transfer had preceded the subdivision plan to the Land Titles Office, and therefore, the extra parcel of land which should have been carved out had actually been transferred to Mr. and Mrs. B. Lawyer B advised Mr. and Mrs. B to refuse to sign back the transfer of the extra lot and requested further concessions from Mr. and Mrs. A before they would agree to rectify the error. Litigation was commenced by Lawyer A and her clients to recover the lands mistakenly transferred. Lawyer A complained to the Law Society that

Lawyer B was being unreasonable, provided bad legal advice to his clients, and had threatened criminal action in a civil dispute to gain an advantage as the letter to her stated,

> "My clients are prepared to defend their legal rights to the property, and if the purchaser and his agents persist in their efforts to enter the property, they may be charged with assault under section 41 of *The Criminal Code of Canada*, which will be considered to be unprovoked and unjustified. They may also be liable in damages for civil trespass."

RULING:

The Ethics Committee was of the opinion that the dispute between Lawyer A and Lawyer B was a litigation issue, and thus, the Committee declined to rule on either party's position in an ongoing civil matter. With respect to Lawyer B's letter of April 16, 2001, as quoted, the Committee was of the opinion that Lawyer B was stating that criminal consequences may flow from particular actions, which does not constitute a threat of criminal action for civil advantage as prohibited by the Code.

Chapter XI "Fees"

Contingency Fee Arrangements with Expert Witnesses – June 2001

FACTS:

Lawyer Z requested a ruling on the payment of contingency fees to expert witnesses. Lawyer Z stated that, particularly in Residential School cases, experts may be called to testify on behalf of the Plaintiff on a contingency basis. The Plaintiff's experts may need to be paid a percentage of the recovery due to the inability of Plaintiffs' and their lawyers to fund ordinary fee arrangements.

RULING:

The Committee ruled that in certain circumstances contingency fee arrangements with experts may assist litigants who could not otherwise afford an expert witness. The payment of a contingency fee to an expert based on the clients' damages is not improper if the contingency agreement involved and the amount payable under that arrangement is reasonable.

Chapter XII "Withdrawal"

Not following Client's Instructions – June 2001

FACTS:

Lawyer Z was acting on behalf of Client A, who was a very difficult and litigious client. Lawyer Z had difficulty in dealing with Client A in order to move the estate matter to conclusion, and was ready to withdraw. Lawyer Z stayed on the file at the urging of the Court through the Local Registrar, and opposing counsel. Lawyer Z did what was likely necessary and proper to conclude the estate, however, he did not act in accordance with Client A's instructions, and without Client A's knowledge in some instances. In particular, the drilling of a safety deposit box was directly in opposition to Client A's instructions.

RULING:

The Ethics Committee cannot condone a lawyer's conduct in acting without a client's instructions. The Ethics Committee suggests that the wiser course of action in this mater would have been to withdraw as counsel. However, in the circumstances, the Committee is of the opinion that no further action is required.

Chapter V "Conflict of Interest"

Lawyer siblings on opposing sides – June 2001

FACTS:

Lawyer F requested a ruling on a conflict of interest involving a situation where the prosecutor and opposing defence counsel on the same case were siblings.

RULING:

The Ethics Committee ruled that the presumption in Martin and Grey does not apply with respect to shared information, as counsel in this situation are not in the same office, and are under an ethical obligation not to share confidential information. It would be up to Legal Aid Commission and/or the Crown to put another lawyer on the file if the perception of conflict is of concern.

Chapter IX "The Lawyer As Advocate"

Failure to Comply with Court Orders – September 2001

FACTS:

- This matter was before the Ethics Committee in June 2001. The complainant Husband, Mr. F complained about Lawyer X for pursuing enforcement of arrears in the face of a court order stating that the issue of arrears should be dealt with at trial. The parties returned to Court, and the Judge clarified that collecting enforcement was stayed until trial. The Ethics Committee declined to rule in June as the matter had been before the Court several times for clarification, and the Court had every opportunity to disapprove of Lawyer X's conduct and did not do so.
- After receiving the June ruling, Mr. F wrote to the Law Society to report that despite a clarified order of the court which clearly

indicated that the matter of enforcement of arrears should be stayed until the time of trial, the Sheriff had just seized certain of Mr. F's assets. When contacted by the Law Society, Lawyer X stated that advising the Sheriff was the responsibility of Mr. F's lawyer, as much as his own, and that it was simply an oversight.

RULING:

- The Committee indicated that they did not believe there was any unethical conduct on the part of Lawyer X, but ruled that he clearly had an obligation to advise the Sheriff not to continue with enforcement of arrears when he was the one pursuing enforcement. The Committee accepts that this was an oversight and would encourage the parties to continue efforts to conclude this matter through the civil process.

Chapter VI – Conflict of Interest between lawyer and clients; Chapter IV - Confidential Information; Chapter VII – Outside Interests and the Practice of Law.

Breach of Confidentiality and Conflict of Interest - (Use of Information obtained via solicitor/client relationship in role as elected official) – September 2001

FACTS:

- The Committee reviewed this matter in April 2001, and ruled that there was a conflict of interest between the role played by Lawyer A as city councilor, and his role as lawyer, in that he should not have revealed the fact that he had previously acted for Client A, or commented on their character and record. Lawyer A wrote many letters to the Ethics Committee asking it to reconsider.

RULING:

- The Ethics Committee ruled that Lawyer A had misconstrued the ruling. The Ethics Committee is not saying that Lawyer A could not sit as city councilor on this matter. What it is saying is that Lawyer A cannot disclose information obtained through solicitor/client relationship, including the fact that he had represented the former clients.

Chapter IX "The Lawyer As Advocate"

Communicating Directly with Witness Represented by Lawyer – September 2001

FACTS:

- The Law Society received a complaint from Lawyer C, a lawyer in Calgary, against Lawyer D, lawyer for the Plaintiff in a lawsuit. Lawyer C represents agents of the defendant, and an individual auditor from one of the defendant's agent accounting firms. Lawyer C asked Lawyer D not to contact his auditor client directly, and asked that Lawyer D make contact through him.
- Lawyer D continued to contact the client directly indicating that *The Code of Professional Conduct* allows lawyers to seek information from potential witnesses, and that lawyers cannot approach or deal with an opposing party who is professionally represented. Lawyer D stresses that the auditor/client is not an opposing party, but rather a material witness, and there is no property in a material witness. Lawyer D continues to contact Lawyer C's client directly despite communications from Lawyer C that Client E does not wish to submit to such an interview with Lawyer D. The Committee ruled as follows:

RULING:

1. Lawyer D's conduct thus far is not unethical.
2. It is discourteous for a lawyer not to acknowledge the request of another lawyer even if the response is to refuse that request and provide reasons why.
3. The ultimate obligation of a lawyer is to one's own client, and there is no property in a witness.
4. However, it would be unethical conduct for a lawyer to harass a witness who has refused to speak with that lawyer by repeatedly contacting the witness after such refusal.

Chapter XVI "Responsibility to Lawyer Individually"

Trust Conditions/Crown Disclosure – September 2001

FACTS:

- The Department of Public Prosecutions requested a ruling in a situation where Lawyer G transferred his file, including Crown disclosure received on the criminal case, to a lawyer representing the accused on a separate civil action dealing with wrongful dismissal and re-instatement. Lawyer G refused to return the disclosure to the Crown or to attempt to obtain the Crown disclosure materials back from the other lawyer. At the time Lawyer G received the Crown disclosure, he accepted the then standard trust conditions of the Crown, which required the return of such materials. Lawyer G was under the understanding that the new Crown trust conditions replaced the former Crown trust conditions and believed that the change in policy would make previously imposed trust conditions inapplicable.

RULING:

1. The Ethics Committee ruled that Lawyer G is bound by the original trust conditions he accepted which accompanied the Crown disclosure originally.
2. Lawyer G is not in technical breach, however, he cannot choose more favourable trust conditions than those he accepted. The Law Society did not rule the previous Crown trust conditions "invalid", the Department of Justice voluntarily modified their former trust conditions after the Law Society of Saskatchewan expressed concerns about them. Lawyer G should return the disclosure as per the trust conditions he had accepted.

Chapter XVI "Responsibility to Lawyers Individually"

Communication with another lawyer's client – September 2001

FACTS:

- Lawyer J met and had discussions with a municipal body on behalf of his employer corporation when the municipal body and the member's employer corporation were involved in litigation. Lawyer J indicated that he was acting in his capacity as officer of the Corporation, and was not acting as a lawyer. He disclosed to the municipal body the fact that he was a lawyer. The corporation had hired outside counsel to represent it in the matter. The Committee ruled as follows:

RULING:

The corporation had retained outside counsel to represent it. The Committee accepted Lawyer J's assertion that he was acting as officer of the corporation and not as counsel. The Committee noted that Lawyer J disclosed to municipal body that he was a lawyer. In these limited circumstances, it was permissible for Lawyer J to speak directly with the municipal body. The Committee emphasized that corporate counsel must be very cautious in such circumstances.

Chapter VIII "Preservation of Clients' Property"

Unclaimed Monies Held in Trust for Client - September 2001

FACTS:

- Lawyer M requested the assistance of the Ethics Committee. Several years ago, Lawyer M acted for an individual on a real estate matter and still holds approximately $46,000 of proceeds in trust. The vendor, who appears to be somewhat unstable, has disappeared and the last instructions Lawyer M received was to invest the money on the vendor's behalf. The money has been invested since November 1995. The T-5's had previously been forwarded to the realtor who forwarded them to the vendor. The realtor has now told Lawyer M she no longer knows where the vendor is and returned the T-5's. Lawyer M wants to know what she should do with the T-5's and the money.

RULING:

The Committee ruled that assuming Lawyer M has made all reasonable inquiries, and cannot locate the client, she should put the money in an interest-bearing trust account and wait for further instructions. With respect to the T-5's, if Lawyer M does not have the proper mailing address she should hold the T-5's on her file and await further instructions.

Chapter XVI "Responsibility to Lawyers Individually"

Requesting input into Draft Orders prior to Issuance – September 2001

- Lawyer N requested a ruling with respect to circumstances where a lawyer requests opposing counsel to provide a draft order for review prior to issuing same. Lawyer N gave two different examples, one in which the lawyer attempted to do what was asked, and the Court would not issue the Order as amended, and secondly, where the lawyer did not respond to the request at all, and issued the Order.

RULING:

The Ethics Committee ruled that in general, there is a professional obligation to respond to communications of other lawyers. If a lawyer requested of opposing counsel that they send a draft order for review, counsel should either provide the draft order for review, or respond with reasons why they are refusing to do so. In the example set out by Lawyer N, wherein the lawyer did what he was asked, and the Court would not issue the revised order, there was no breach. As for the second example where the lawyer ignored the request, the Committee is of the opinion that, when a response is requested, the lawyer is professionally obligated to respond.

SKLESI Wins Prestigious International Award

SKLESI received the Award of Professional Excellence in Programs at the 2001 Annual Conference of the Association for Continuing Legal Education (ACLEA) held this summer in Chicago. ACLEA is an international association comprised of over 315 continuing legal education organizations in 12 countries. The Award of Professional Excellence, the highest award category, is particularly significant for CLE because it is judged and awarded by our peers, professionals in legal education. It is given for the development of a product or service that is innovative and uses appropriate and cost-effective technology to meet the educational needs of lawyers.

This award was presented to SKLESI, the CLE Society of British Columbia, the Legal Education Society of Alberta and the Legal Studies Department of the Law Society of Manitoba for their seminars on the Western Law Societies Conveyancing Protocol. Our seminar was called *Quick and Efficient Real Estate Closings* and was televised on February 16 to over 350 real estate lawyers and support staff around the province.

The Western Law Societies Conveyancing Protocol seminars set a wonderful example of how the four primary CLE providers in each jurisdiction worked together to develop common learning objectives, shared written materials, and co-ordinated their resources to respond quickly and successfully to alerting the profession of an initiative that could impact significantly on the way lawyers practice real estate law.

Kudos to our volunteer faculty for *Quick and Efficient Real Estate Closings*

Randall Baker, QC - Kanuka Thuringer

Randall Rooke - McDougall Gauley

Randall Sandbeck - Olive Waller Zinkhan & Waller

Tom Schonhoffer - The Law Society of Saskatchewan

SKLESI has previously received an Award for Outstanding Achievement in Programs from ACLEA.

Submitted by Abena Buahene, Executive Director

Annual Password Change to Members' Section

The password and user id for the members' section changes every year with membership renewals. The new user id and password to be members' section will be activated on December 1, 2001 and the old year user id and password will be disabled on January 15, 2002. The Law Society office will issue the new password with your Annual Certificate. Non-practicing or inactive members may still access the members' section for an annual fee of $250. All information will be included with the Law Society membership renewal invoices.

Rural Lawyer Training Program

The Library will be conducting computer training for lawyers in rural centres this winter. The training will focus on using the Law Society's web site and databases. It will also cover basic training on the CanLII site, and if time permits, the statutes and regulations on the new Queen's Printer Freelaw site. The library will be looking for facilities to conduct hands-on training in at least 12 areas of the province. Those areas include Moose Jaw, Swift Current, Prince Albert, Battleford, Estevan, Yorkton, Humboldt, Meadow Lake, La Ronge, Kindersley, Lloydminster, and Melfort.

Included in this mailing of the Benchers' Digest is a survey to solicit interest in the different areas in order to find the most appropriate location to service as many rural lawyers as possible. The survey is directed to lawyers in areas other than Regina and Saskatoon. Library staff will locate an appropriate facility in a rural centre, with help from local lawyers. We will also

coordinate the dates and times of training sessions. The library committee suggested timing the training with Chamber days in the different areas. We would conduct the training later in the day or in the evening and not to conflict with Chambers' appearances.

The hands-on training will be the equivalent of a half-day training session. There will be no charge for the training, as the Law Foundation has provided funding for the program. The library will begin training in early 2002. Notices of training and registration forms will be mailed in advance. Rural lawyers should watch for advertisements in their areas. If you have suggestions or concerns about the training, please contact Susan Baer, the Director of Libraries, at 1-877-989-4999 or via email at sbaer@lawsociety.sk.ca.

Legal Web Cites

By Peta Bates

On October 1, 2001 Saskatchewan finally joined all the other jurisdictions in Canada in providing free electronic access to its legislation when the Saskatchewan Queen's Printer web site changed from a subscription service to a free site. The new service called Freelaw® provides current electronic versions of statutes, regulations, tables, court rules and the Saskatchewan Gazette. And earlier this year Saskatchewan justice was made more accessible to the public when the Saskatchewan Court of Appeal launched its own web site.

Saskatchewan Queen's Printer (Freelaw®)
http://www.qp.gov.sk.ca/

The redesigned Queen's Printer web site is streamlined and easy to use. Links to all legislative material are up front on the home page. Simply click on the appropriate category to see an alphabetical list of legislation. Statute links provide the citation and amendment history along with links to "related documents", usually the regulations made pursuant to the statute. In future the related documents may also include policy papers. Regulation links provide citation and amendment history along with links to related statutes. The "view document" link opens a .PDF version of the document. To view the documents you will need to have free Adobe Acrobat Reader software loaded on your computer. The Queen's Printer provides a link to download the Adobe software. You can also order paper copies of the legislation online from the Queen's Printer and pay online with a credit card.

Keyword searching of legislative documents has been simplified. The yellow "Search Freelaw®" button pulls up a search query box in which to enter the search terms. Combine the search terms with "and" "or" "not" connectors, select the publications to search and click the "search" button. Search results are listed alphabetically.

The Queen's Printer's guarantee of "up-to-date" electronic versions means that statutes will be updated within 10 days of proclamation and regulations will be updated weekly. Compared to other provinces who offer annual updates to their electronic legislation this is excellent service. Of course, 24-hour updating would be even better!

The new "free unlimited access" to legislative material does not mean unlimited copying and distribution. The Queen's Printer retains copyright in all legislation and the provisions of the federal Copyright Act apply. The electronic version is still unofficial and the bound print publications remain the only official version.

At the time of writing there were some links to older material which were still only available on the subscription service. These links should be completed on Freelaw® by November 2001 at which time the subscription service will end. Current subscribers will be contacted by the Queen's Printer about a refund to their subscription.

Future developments on the Queen's Printer web site include the new land titles legislation and forms and, as

part of the Saskatchewan government's online initiative, interactive government forms.

Court of Appeal for Saskatchewan
http://www.sasklawcourts.ca/IE5default.htm

The Saskatchewan Court of Appeal launched its web site in the summer of 2001. It contains an interesting combination of historical facts and current information.

The current Court of Appeal justices are listed along with a delightful portrait gallery of past justices complete with biographies. Information about the court administration is accompanied by a history of the court house. Hearing schedules are available for the current month, past month and next month. The schedules contain the date, time, court room, parties and file number. There are a links to the Court of Appeal Rules, forms and fees in four different file formats and to the Practice Directives in .PDF format. The "Rules & Directives" link also links to an online form for contacting the Court of Appeal Registrar.

The "Judgment Listings" link connects to the "New Judgments – Court of Appeal" chart on the Law Society web site. This chart, arranged by neutral citation number, contains links to .PDF versions of judgments for the past 3 months only. Earlier judgments are available in the Fulltext Judgments database on the Law Society web site.

The excellent Court of Appeal web site would be further enhanced by a searchable, cumulative database of case dockets similar to the "Supreme Court of Canada Case Information" database on the Supreme Court web site. Such a database would provide a permanent record of the history and disposal of cases before the Court.

You are cordially invited
to join the library
in celebrating the holiday season
at our annual Christmas reception
to be held
on Friday, November 30, 2001.

Refreshments will be served
from 4:00 - 7:00 pm.

Law Society Library
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BENCHERS' DIGEST

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