

# BENCHERS' DIGEST



Volume 19, Issue Number 1

January, 2006

## *Profile of the President*



Alma Wiebe, Q.C. was elected as the President of the Law Society by the Benchers at their December meeting in Saskatoon. Victor P. Dietz was elected as the Vice-President. Mr. Dietz served as the Chair of the Professional Standards Committee in 2005 and is currently chairing the Future Planning Committee of the Law Society.

Alma Wiebe received her Bachelor of Laws Degree in 1978 from the University of Saskatchewan. She articulated with the Legal Aid Commission and

was a staff lawyer for four years before entering private practice. She practiced in the Walker, Plaxton law firm in Saskatoon until 2004 when she and her current law partners established the A.S.K. Law Firm in the warehouse district of Saskatoon.

Ms. Wiebe's primary practice is as a labour arbitrator, a workplace and harassment investigator and a coroner. She is a hearing officer for the Saskatchewan Police Commission and the College of Physicians and Surgeons. She received her Queen's Counsel designation in 1998.

Ms. Wiebe was appointed as a Bencher of the Law Society in 2003, replacing Madam Justice Donna Wilson upon her appointment to the Bench and was elected as a Bencher later that year. She has served as Chair of the Professional Standards Committee, the Ethics Committee and the Finance Committee for the Law Society. She is currently a representative on the Queen's Bench Bar Judicial Council, the Saskatchewan Judicial Council, the Council of the Canadian Bar Association (Saskatchewan Branch), the Federa-

tion of Law Societies of Canada, the Bayda Retirement Celebration Committee and the Round Table on Criminal Justice.

Ms. Wiebe has been a member of the Board of Directors for the Law Foundation of Saskatchewan since 1995, is the Past Chair of the Canadian Bar Association International Development Section and the Family Law North Section, Past Chair of the Educational Relations Board for the Province of Saskatchewan, former member of the Council of the Saskatchewan College of Physicians and Surgeons and Past President of both the Saskatoon Bar Association and the Public Legal Education Association of Saskatchewan. She has served on numerous community boards including the Y.W.C.A., Saskatchewan Council on Children, Saskatoon Planned Parenthood Centre and the University of Saskatchewan Biomedical Research Ethics Board.

Alma was raised on a farm near Saskatoon, the youngest of a family of 15. She is married to a health policy consultant, Steven Lewis.

[www.lawsociety.sk.ca](http://www.lawsociety.sk.ca)

---

## *President's Report*

*by Alma Wiebe, Q.C.*

I have the great fortune to be able to work with a group of very talented, responsible and dedicated Benchers. Although they are free-thinking, opinionated individuals, my job as President is not at all like herding cats, largely because they are also bent on building consensus no matter how long it takes and on reaching conclusions that are fair and intelligent.

Your elected Benchers in alphabetical order are: Susan Barber (Regina), Karl Bazin (Swift Current), Richard Danyliuk (Saskatoon), Victor Dietz (Regina), Michael Fisher (Melville), W. Brent Gough (Saskatoon), Hugh Harradence (Prince Albert), Brian Hendrickson (Moose Jaw), William Holliday (Weyburn), Robert Kennedy (Saskatoon), Lana Krogan (Regina), Ronald Kruzeniski (Regina), Graeme Mitchell (Regina), George Thurlow (Meadow Lake), Greg Walen (appointed to replace Justice Daniel Konkin in Saskatoon), John Will (Humboldt). Thank you to the membership of the Law Society for electing such a fine group of representatives.

A special thanks to Michael Fisher, Q.C. for his service to the Law Society as President in 2005.

We also have four highly qualified public representatives, namely Ron Barsi, an engineer with Golder Associates Ltd. in Saskatoon, Effie Kuszniir, a correctional worker from Prince Albert, Karen Topolinski, a mediator with the Saskatchewan Human Rights Commission in Saskatoon and Janice Wall, a project manager at SaskTel in Saskatoon. They bring a fresh perspective to our discussions and keep reminding us that our primary mandate is to govern the profession in the interests of the public.

Dean Brent Cotter is also an unelected member of the Benchers. His contribution as the Dean of the Law College and as a professor of professional responsibility and ethics is invaluable. Although I have to say we won't be sorry to see the end of his

very persistent capital campaign for the new College of Law building!

As Benchers we have both a provincial and a national agenda for 2006. Nationally we are very ably represented on the Council of the Federation of Law Societies by one of the Past Presidents of the Law Society, Mike Milani. As well, our Executive Directors, Allan Snell and Kirsten Logan, play a vital role at the national table. The Federation consists of the 14 Law Societies in Canada who have responsibility to regulate Canada's 88,500 lawyers and Quebec's 3,500 notaries. Some of the issues confronting the Federation relate to the National Mobility Agreement, specifically implementation of the Agreement with respect to such matters as discipline, insurance and education. Another of the many issues being dealt with by the Federation is a request to intervene in Nova Scotia litigation regarding the ability of Law Societies to subpoena records of a law firm dealing with matters that are subject to client privilege.

At the local level, I am pleased to report that the Law Society of Saskatchewan is financially in good shape. This is reflected in the fact that our fees have remained the same as they were last year.

We are preparing for the Centennial year of the Law Society of Saskatchewan which will occur in 2007. The celebration is being organized by a committee of volunteer lawyers from around the province, chaired by Ron Kruzeniski with the assistance of Susan Baer, the Law Society Director of Libraries. The committee is planning an exciting agenda of events to celebrate the history of our profession in this province and to profile lawyers and the important role they play in society.

While planning to celebrate our history, we are also looking to the future. For that purpose, the Benchers have agreed that our meeting dates in June 2006 will be used for reflection

and future planning. One of our responsibilities as the governing body of the legal profession is to read the horizon and think about what it means for us and how we can shape it for the profession and the public we serve. In very broad strokes, that is what we hope to do in our future planning sessions.

There are a few Law Society agenda items for 2006 that are near and dear to my heart. First, it seems to me very important that as a governing body we continue to find ways to include our members in the work of the Law Society and to be transparent in what we do. To that end, I would very much appreciate and welcome your expressions of interest and also of concern. The governance of our profession in the interests of the public is the responsibility of all of us. Second, I am committed to continuing the Practice Advisor Program. The setting and maintenance of professional standards is of great importance to all of us and sometimes is a matter of office procedures, managing our clients and finances and generally running our practices. So far, the Practice Advisor Program has been successful in assisting lawyers with the practical, day-to-day practice and competence issues they face and we look forward to continued success with this program.

None of the work of the Law Society could be accomplished without the efficiency, competence and intelligence of the Executive Directors of the Law Society, Kirsten Logan and Allan Snell, the Complaints Counsel, Donna Sigmeth, Insurance Counsel, Tom Schonhoffer, Director of Libraries, Susan Baer, and the very able support staff who assist them. Thank you all and I look forward to working with you throughout the year.

---

## ***Highlights of the Meeting of the Benchers Held December 7th, 8th, 9th, 2005***

### **ELECTION OF PRESIDENT AND VICE-PRESIDENT**

The Benchers elected Alma Wiebe, Q.C. of the firm A.S.K. Law in Saskatoon as President of the Law Society of Saskatchewan for the year 2006. The Benchers also elected Victor Dietz of Olive Waller Zinkhan & Waller in Regina as Vice-President.

### **EQUITY/DIVERSITY PRESENTATION**

Judy Anderson, the Law Society of Saskatchewan Equity Ombudsperson, spoke to the Benchers about her background and the role of the Equity Ombudsperson over the last two years. She suggested that the Law Society of Saskatchewan should determine where it wants itself and the members to be in 10 years and determine how it wants to move forward. The Benchers will continue to have this on the agenda, as will the Equity/Diversity Committee.

### **THE LEGAL PROFESSION ACT, 1990**

The amendments to *The Legal Profession Act, 1990* were passed prior to

the end of the fall sitting of the Legislature. The amendments covered virtually all of the issues outlined in the May 2005 edition of the Benchers' Digest. The Act has not yet been proclaimed. The Rules of the Law Society of Saskatchewan will require a number of consequential amendments and the Law Society will work with the Department of Justice to select an appropriate date for proclamation.

### **CANADIAN CENTRE FOR PROFESSIONAL LEGAL EDUCATION (CPLED)**

The Admissions & Education Committee received letters from 10 students expressing concern about the evaluation policy for the CPLED (Bar Admission course) Competency Evaluations (read exams) given at the end of each of the modules. While students are given feedback on the assignments required during each module, the Competency Evaluations are considered to be final examinations and feedback is not provided. Some students who were not successful in the Competency Evaluation, module 2, complained to the Committee about the policy. While the Committee was not prepared to direct

SKLESI that the policy be amended immediately, a review of the policy will be undertaken.

### **LIBRARY SPACE**

The plans to renovate the Court House in Regina continue. The result is that the Library space on the 2nd floor of the Court House will be reduced by approximately half, with the remaining space in the basement. The Benchers are concerned that the newly configured space is not conducive to a well-run Library and the Building Committee continues to look at other options.

### **TRUST ACCOUNT FORMS**

The Benchers approved amendments to Forms TA-3 and TA-5S, with the result that the short form Accountants' Report (TA-5S) is significantly less complex than in previous years. Form TA-3 (Practice Declaration) has questions relating to the "no cash" Rule (Rule 910). The forms have been sent to firms with a December 31st year end and have been posted to the website.

## ***Foreclosure Update***

*by A. Kirsten Logan, Q.C.*

The Queen's Bench Bar Judicial Council was established in 1984 by the Law Society of Saskatchewan and the Saskatchewan Branch of the CBA to provide a forum for exchange of concerns and ideas concerning practice in the Court of Queen's Bench. The Council is composed of two representatives from the Law Society, two from the Canadian Bar Association Saskatchewan Branch, the Chief Justice of the Court of Queen's Bench and one other Judge of the Court of

Queen's Bench. In December, the Queen's Bench Bar Judicial Council consisted of Chief Justice Gerein, Madam Justice Hunter, Michael Fisher, Alma Wiebe, Reg Watson, Michelle Ouellette, Russell Hart, Allan Snell and the writer.

Recently, the Council dealt with the issue of the utility of Writ Registry searches in foreclosure actions. As explained by Randy Sandbeck of Olive Waller Zinkhan and Waller:

*As a result of the transition to the electronic registry, involving the Saskatchewan Land Registry and the Saskatchewan Writ Registry, the former General Record was eliminated in June 2001. In a foreclosure action it had always been common to file "GR searches" during the stages of a foreclosure action. In the "old" system, when a title was being dealt with, the General Record would be consulted as to the name of an existing owner, and as to the name of a*

prospective owner. In those circumstances where a property was to be transferred or mortgaged, and there was a prior encumbrance on the General Record, it would appear on a title (prior to any subsequent mortgage) unless the submitting party had made a request for permissible encumbrances only. In the current system, the Saskatchewan Writ Registry is only consulted as to the name of a prospective purchaser for an “auto attach” when dealing with the Land Registry. The Saskatchewan Land Registry does not consult the Saskatchewan Writ Registry when an application for interest registration is submitted. The “auto attach” in the Land Registry can only take place if there is a character for character match in relation to the name on the Writ Registry, and the name of the prospective purchaser, and if there are no conditions on submission that would prevent the auto attach.

The Saskatchewan Land Registry does allow for very comprehensive search features in relation to names of owners for titled lands, and names of the holders of interests, throughout the province. The Saskatchewan Land Registry allows for a “specific” or “request” attach function. Therefore, a creditor conducting a search can specifically identify lands which may be owned

by a debtor, and then specifically register the Writ as an interest in relation to those lands.

The transition between the two systems has caused significant confusion and misunderstanding. The purpose of a General Record search has always been to identify parties who may have had an interest in the equity of redemption. However, following conversion to the Saskatchewan Land Registry and the Writ Registry, the concern of many practitioners is that parties with an interest in the equity redemption may or may not be identified, depending upon the criteria identified in the search requested from the Saskatchewan Writ Registry. If a search is done using the exact name from the title, and if the exact name includes a middle name, the Writ Registry will post a result “no results found.” The problem can also be identified in conducting a search of “John Smith,” instead of “Jack Smith.” A search of “John Smith” will not identify any writs held against “Jack Smith.” If the search criteria is broadened, using wild card capabilities, each individual with an interest in the equity of redemption may be found, but it places counsel in an extremely difficult position trying to identify those parties with a possible interest in the equity of redemption, while not identifying too

many individuals, thereby increasing the costs of notice and service by unduly broadening the search.

There is concern that the practice of filing a search of the Saskatchewan Writ Registry in the exact name of the title owner, is an exercise that produces a potentially incorrect impression that parties with an interest in the equity of redemption may have been identified.

Once the then Chief Justice had additional information regarding the workings of the electronic registry, he advised the Court now believes that since it is now easier for execution creditors to register writs against actual property, the onus should be on the writ holder to file against specific lands rather than generally against the name of the debtor. The Court will not expect the mortgagee to do extensive research to determine those who may have potential interests in the equity of redemption. Chief Justice Gerein (as he then was) advised that if there is an exact name match, the Court may ask that further enquiries be made. If the Court is satisfied that the person on the writ registry search has an interest in the equity of redemption, the Court may require notice to be served. If a writ has been registered against the particular land, the Court will require that notice be provided.

# Volunteers Needed

## ***Call for Non-Bencher Volunteers to Sit on Discipline Hearing Committees***

You may have noted that from time to time Law Society discipline decisions are included in Law Society member mailouts. The discipline decision is the result of a conviction by a Hearing Committee and a sentencing either by that Hearing Committee or, alternatively, by all Benchers.

If you are prepared to volunteer to sit as a “non-Bencher” member of a Hearing Committee to hear and determine whether charges of conduct unbecoming against a member are founded (and potentially sentence in cases where sentence will not be disbarment or a suspension), please contact:

**Donna Sigmeth** at (306) 569-8242 or email at [dsigmeth@lawsociety.sk.ca](mailto:dsigmeth@lawsociety.sk.ca).



---

## *Centennial Logo*

by Susan Baer, Director of Libraries

In every issue of the Benchers' Digest for the past two years, we have been including information about the Centennial to encourage you to volunteer and participate in any of the upcoming events. One year before our Centennial year begins, the subcommittee is pleased to launch the Centennial logo which is the official representation of the anniversary. Included in this mailing of the Benchers' Digest is a flyer with a colour image of the Centennial logo. The design of the logo incorporates the themes of integrity, literacy, and Saskatchewan into a modern, energetic design. Deriving inspiration from the historical courthouses in Saskatchewan, the column, an image of stability, represents our Centennial

message of 100 years of integrity. The open book represents the profession's reliance on words, respectful communication and the importance of literacy. The wheat is a common symbol of Saskatchewan and is presented in a swooping futuristic design. As the legal profession is now, the wheat is well-rooted in society, standing firmly in the Saskatchewan wind and pointing to the future. The circular shape apart from the wheat sheaves reaching for the sky is a holistic, spiritual symbol for many cultures, including First Nations' cultures. The meaning of the heraldry colours is quite appropriate for the legal profession. Blue represents truth, loyalty, piety and strength. Gold represents generosity and elevation of the mind.

Omni Studios of Regina took the ideas of the subcommittee and crafted this unique, professional design.

The subcommittee will be encouraging broad use of the logo. You will begin to see its use in 2006 in written communication and on the website. Master reproductions of the logo will be made available to all members for download through the members' section of the website. Conditions for use will accompany the downloadable files so the integrity of the design and its appearance are assured in any authorized use. The imagery of the logo will become the visual identity for the Law Society of Saskatchewan during the Centennial. We are very proud of our profession and the design representing us for our anniversary.

---

## *Rulings – December 2005*

### *Chapter XVI, "Responsibility to Lawyers Individually," Filing Brief of Law containing inappropriate statement about another Lawyer, December 2005*

#### **Facts:**

The prosecuting lawyer complained about Lawyer D, defence counsel, on a criminal matter. Lawyer D filed two Briefs of Law, one of which was signed by himself and written by himself and a second brief which was unsigned and held out by Lawyer D to have originated from him. Lawyer D made no statement at the filing of this brief that the brief was written by his client and Lawyer D, before the Court, indicated that he would assume full responsibility for the filing of this brief. The prosecutor telephoned Lawyer D and asked if Lawyer D read the brief filed and Lawyer D indicated that he had not read it in its entirety. The prosecutor raised many passages he found objectionable, one in partic-

ular accused the prosecutor of having fabricated evidence and committing perjury; "There are numerous instances in this case where (the government agency) has shown a belief that is beyond the law with a willingness to create fraudulent and deceptive paperwork, commit perjury, and obstruct disclosure. The Crown Prosecutor has also demonstrated a tolerance to accept and participate in this covert and deceptive practice." Lawyer D responded to the prosecutor's complaint to the Law Society indicating that the brief was "secondary to a brief authored by me alone" and indicated that part of the argument on behalf of his client was a non-disclosure issue and indicated that "the brief by his client addressed the non-disclosure issue in the strongest language possible to reflect the seriousness of the argument."

#### **Issues:**

1. Is Lawyer D responsible for the contents of the brief he filed before the Court, despite the fact that it was written by his client and he admitted that he had not read all of it?
2. Is the language/content in the impugned paragraphs of the brief inappropriate?

#### **Ruling:**

The Committee was of the opinion that Lawyer D was responsible for what he filed with the Court and had an obligation to read and know what he had filed. The impugned statement in the brief filed with the Court was inappropriate and Lawyer D was the one responsible for the inappropriate statement. The Ethics Committee wished to caution Lawyer D against making such comments about opposing parties, witnesses and counsel in materials to be filed with the Court.

---

---

**Chapter XV, "Responsibility to the Profession Generally" – Altering Signed Document – December 2005**

**Facts:**

Lawyer Z submitted to the Court an Application for Divorce and Corollary Relief. Attached to the Application for Judgment was an Interspousal Contract. The draft Judgment contained a request for the issuance of an Order enforcing such terms of the Interspousal Contract as the Court deemed appropriate. The draft Judgment bore the consent signature of Lawyer Z, as well as opposing counsel. The Judge rejected the application indicating that it was not appropriate to simply append the entire Interspousal Contract and that paragraph should be removed, however, if there were specific provisions of the Interspousal Contract that were appropriate to form part of a Judgment, a revised form of Judgment may be submitted for review. Lawyer Z simply filed a new Application for Judgment removing paragraph 2 and reattached his own and opposing counsel's previous consent signatures.

The next Judge who reviewed this matter was concerned that appropriate procedure was not followed and had the Registrar contact opposing counsel to see if she had consented to the revised Judgment. Opposing counsel responded indicating that Lawyer Z had not contacted her to consent to the revised judgment and that it would not be her practice to consent without having seen the new Order or without having her client instruct her to consent. Lawyer Z responded to the complaint and indicated that he believed it was not necessary to ask for opposing counsel's consent to the second draft as it was his view that "the change is immaterial as the Interspousal Contract is binding and enforceable." Lawyer Z indicated that he amended the draft Judgment "precisely as directed by the Court" and simply resubmitted the same formal consent he had obtained previously from opposing counsel, that he made no attempt to mislead and was simply attempting to follow the directions of the Court. Lawyer Z then apologized to the Court and to the Registrar for any inconvenience or confusion.

**Ruling:**

The Ethics Committee was of the opinion that once Lawyer Z obtained opposing counsel's consent he had a positive obligation to advise her of any changes to the document and could not simply append her previously signed page to an amended document. The Ethics Committee wishes to remind Lawyer Z that lawyers cannot change a document that has previously been signed by another person and append the signed page without further consent of the individual previously signing. The Court Order, in this matter, was not equivalent to "consent." The Judge offered to include sections of the Interspousal Contract if the parties wished and Lawyer Z did not provide this information to opposing counsel nor did he advise her of the changes he made to the document. It is not specific to family law alone, but is of general application in all areas of law, that a lawyer must request consent to append a previously signed sign page to a changed document. Lawyer Z would be well advised to apologize to opposing counsel, as well, in addition to the apologies he has provided to the Court and to the Registrar.

## ***Renovations to the Regina Library***

*by Susan Baer, Director of Libraries*

The government is renovating the Queen's Bench Court House in Regina to create additional judges' offices. As a result, the Law Society library is under construction, which began January 23, 2006. The first phase of the renovation prepares the basement to house a large part of the collection. The library will not be closed during this phase. When the basement is ready to be occupied, all law reports and statutes presently on the second floor will move to the basement permanently. The basement collection will require members to use a key. The door will remain locked since library staff will not be in that area at all times. Members of the public are not permitted in the basement collection. There will be five tables for

research or study. An historical reading room is being established in the basement and will have an additional two tables for research.

Once the law reports and statutes move to the basement, construction on the second floor will begin. The library will remain open during the construction phase. The textbook collection, journal collection and most of the reference collection will be temporarily relocated to Court Room number 5. The public computers and some reference materials will remain in the existing space while construction proceeds. The books housed in the Court Room will not be accessible after hours during this phase (if this changes, we will post signs). Once the library and staff

areas are constructed on the second floor, another move will occur to relocate the remaining collection and staff into the new space. The library will close during the actual move. We anticipate the move into the new space to take approximately one week.

Remaining on the second floor will be:

- Two public computers
  - Reference collection (Canadian Abridgment, CED, Halsbury's, etc.)
  - Textbook collection
  - Journal collection
  - Saskatchewan statutes, regulations and Saskatchewan Reports
  - Part of the Statutes of Canada
  - Three study tables
  - The library staff area
-

---

As of this writing, the schedule for any of the construction or moving has not yet been finalized. We will try to keep our members informed of the dates and anticipated time-frames of the construction and moves so you can plan any research around those dates. As a general rule of thumb, the construction phases will take two to three months; the moving phases will

take one week each time. We also do not anticipate any downtime of the website, however, updating may not occur as per our usual schedule.

The Barristers' Lounge and the change rooms will also be affected during the renovation. The washrooms in the basement will be the temporary change rooms during construction. They will have locks keyed

with the library door key. If you are presently having problems with your library door key, please see the sheriff's office who issues the keys. The Barristers' Lounge will not be available until after the first phase of construction.

We thank you for your patience and support.

## *Law Society Libraries*

*by Sarah Sutherland, Saskatoon Librarian*

# Legal WebCites

*The Free Access to the Law Movement* has led to the creation of many useful online resources. One of importance to practitioners in Canada is BAILII (British and Irish Legal Information Institute). BAILII provides access to case law and some legislation from England and Wales, Ireland, Northern Ireland, Scotland, the United Kingdom, and the European Union.

BAILII (British and Irish Legal Information Institute)  
<http://www.bailii.org/>

BAILII was incorporated as a charity in 2000. It was developed with the assistance of AustLII (Australasian Legal Information Institute). In the development stages, the staff at AustLII shared their expertise and technological infrastructure with BAILII and hosted the site temporarily. BAILII continues to use the SINO search software created by AustLII.

BAILII provides access to the statutes from the United Kingdom, Scotland, Northern Ireland, and Ireland, as well as statutory instruments from Wales, Ireland, Scotland, and the United Kingdom. Decisions are available from the Privy Council, House of Lords, Irish Supreme Court, and the high courts in Scotland, Northern Ireland, Ireland, and Eng-

land and Wales. BAILII also publishes the decisions from several administrative tribunals, with a focus on cases relating to child welfare. BAILII also includes decisions from the Court of Justice of the European Communities since 1954; the Court of Justice is the court that administers the interpretation and enforcement of treaties establishing the European Community and the provisions established by competent European Community institutions.

The date ranges available from BAILII are similar to the date ranges available from both CanLII and AustLII, with most of the collections including materials dating from the late 1990's and since 2000 to the present. However, due to the longer date ranges in the legal system in Britain, there are a few very impressive date ranges: Irish statutes passed by the Oireachtas (the Irish Parliament) are available from 1922 to the present and statutes from Northern Ireland are available from 1495 to the present.

BAILII has extended its collections to include the recent Scottish, English and Welsh Law Commissions' publications and the Irish Law Reform Commission's papers and reports. The Scottish Law Commission's publica-

tions have a very short date range on BAILII, but the English and Welsh Law Commission's publications are available selectively from the 1960's to the present. The Irish Law Reform Commission's papers and reports are available starting from 1976.

An issue particular to BAILII among the legal information institutes is the state of copyright law in England and Wales relating to copyrights in transcribed versions of oral decisions. The short-hand writers who transcribe the decisions own copyright, which means they cannot be made available on BAILII without permission, and as BAILII is a non-profit group, it does not have funds to purchase publication rights to these judgments. However, BAILII is actively pressing to have the copyright laws changed to facilitate access. Decisions that are unavailable on BAILII may be obtained from the Mechanical Recording Department of the High Court at [HighCourt.NeutralCitation@courtservice.gsi.gov.uk](mailto:HighCourt.NeutralCitation@courtservice.gsi.gov.uk).

BAILII's privacy policy regarding decisions and reports from royal commissions of a sensitive nature, such as judgments relating to family law, sexual assault, and incest, is that it is the responsibility of the public body supplying the judgments to BAILII to

---

apply the laws relating to privacy. A quick look at some of the included judgments indicates that some judgments that contain sensitive information are included in the databases without being edited, some are initialized, and, presumably, some are excluded.

Like CanLII and AustLII, BAILII actively promotes the neutral citation standard and provides information

relating to its application to British materials linked as "Citing Cases on BAILII" from the bottom of the homepage under "Help." All the organizations involved with the *Free Access to the Law Movement* believe the neutral citation standard to be important as an unbiased way to make materials available regardless of access to fee-based computer services.

According to BAILII's website, the

future goals for the organization are to increase coverage of High Court decisions, administrative tribunals, and law commission materials, and to improve the technical aspects of the service.

BAILII has developed very quickly, and, as everyone involved achieves more of its goals, this service will continue to improve in usefulness and importance as a legal research tool.

## 2005 Queen's Counsel Appointments

Fourteen Saskatchewan lawyers were honoured with Queen's Counsel (QC) appointments on December 28, 2005. **Congratulations** are extended to:

**Gordon Balon** is a lawyer with the firm of Balon Krishan Law in Prince Albert and was admitted to the bar in 1974.

**Karl Bazin** is a lawyer with the firm of MacBean Tessem in Swift Current and was admitted to the bar in 1986.

**Kevin Fenwick** is the Ombudsman for the Province of Saskatchewan and was admitted to the bar in 1981.

**David Gerrand** is a lawyer with the firm of Gerrand Rath Johnson in Regina and was admitted to the bar in 1977.

**Brent Klause** is a Senior Crown Prosecutor with the Saskatchewan

Department of Justice in Saskatoon. Mr. Klause was admitted to the bar in 1980.

**Paul Korpan** is a lawyer with the firm of Kanuka Thuringer in Regina and was admitted to the bar in 1980.

**Donald Layh** is a lawyer with the Layh Law Office in Langenburg and was admitted to the bar in 1987. He is also an Associate Professor with the College of Law at the University of Saskatchewan.

**Paul Lewans** is a lawyer with the firm of Lewans & Ford in Assiniboia and was admitted to the bar in 1967.

**Ray Petrich** is Crown Counsel with the Civil Law Division of the Saskatchewan Department of Justice in Regina. Mr. Petrich was admitted to the bar in 1976.

**Sharon Pratchler** is the Registrar of the Court of Queen's Bench and

Provincial Court. Ms. Pratchler was admitted to the bar in 1993.

**Thomas Schonhoffer** is Counsel for the Saskatchewan Lawyers' Insurance Association and was admitted to the bar in 1984.

**Lynn Smith** is a lawyer with the firm of McDougall Gauley in Regina and was admitted to the bar in 1974. Mr. Smith is also President of the Canadian Bar Association, Saskatchewan.

**James Struthers** is a Legal Director of the South East Area Office of the Saskatchewan Legal Aid Commission in Estevan. Mr. Struthers was admitted to the bar in 1985.

**Catherine Zuck** is the staff lawyer for the Saskatchewan Union of Nurses in Saskatoon and was admitted to the bar in 1979.

## New Chief Justice for Court of Queen's Bench

**Chief Justice R.D. Laing** served as a judge of the Court of Queen's Bench for Saskatchewan since 1994. His appointment is effective January 1, 2006.

### Notice to Potential Principals

This is a reminder that pursuant to Rule 152(1), all members planning to take an articling student for the 2006 - 2007 year must be approved to act as a principal.

---



---

## *Judicial Appointments – Court of Queen’s Bench*

**The Honourable Janet E. McMurtry** of Regina was appointed a judge of the Saskatchewan Court of Queen’s Bench, replacing Mr. Justice W.R. Matheson who has retired. She was appointed to the Provincial Court of Saskatchewan in 1994.

**Neil G. Gabrielson** of Saskatoon was appointed a judge of the Court of Queen’s Bench of Saskatchewan, replacing Madam Justice G.A. Smith who was appointed to the Court of Appeal of Saskatchewan. At the time of his appointment, Mr. Justice Gabrielson was a partner with the McKercher McKercher & Whitmore law firm.

**Ronald C. Mills, Q.C.** of Birch Hills was appointed a judge of the Court of Queen’s Bench of Saskatchewan, replacing Mr. Justice G.W. Baynton who has elected to become a supernumerary judge. At the time of his appointment, Mr. Justice Mills was a partner with the Mills Wilcox Zuk law firm.

## *Judicial Appointments – Provincial Court*

**Douglas John Kovatch, Q.C.** was appointed a judge of the Provincial Court of Moose Jaw. Since 2004, Judge Kovatch had been with the firm of Olive, Waller, Zinkhan and Waller.

**Barry George Morgan, Q.C.** was appointed a judge of the Provincial Court of Melfort. Until recently, Judge Morgan was practicing with the law firm of Morgan Theberge in Saskatoon.

## *Equity/Diversity*

*by Judy Anderson, Equity Ombudsperson*

At the December convocation I was invited to speak to the Benchers. The focus of my presentation was twofold; (1) to update the activities of the Equity Ombudsperson office and (2) to encourage the Benchers to consider a strategic plan regarding equity and diversity issues.

Over the past two years this office has seen an increase in activity. The number of inquires and complaints have increased along with speaking engagements and direct committee work with lawyers. However, despite an increase in business, research continues to show minimal overall improvement in regards to equity and diversity issues across Canada.

Clearly there is much work that needs to be done and the issues that need to be addressed are often complex. However, I strongly suggested to the Benchers that we need to develop a strategic plan that includes our common values, goals and outcomes for the next five years. I recognize that work in this area requires patience and perseverance. However, without a clearly defined action plan, we will find ourselves in the same place we are today.

## *Lawyers Selling Real Estate*

*by Allan T. Snell, Q.C.*

After a discussion lasting some two years, the Law Society has concluded a Memorandum of Understanding amongst the Saskatchewan Real Estate Association, the Saskatchewan Real Estate Commission and the Superintendent of Real Estate dealing with guidelines for lawyers selling real

estate. Pursuant to clause 3(1)(f) of *The Real Estate Act*, lawyers are exempt from the provisions of that Act while trading in real estate in the course of their legal practice. This exemption has been maintained and the memorandum serves to clarify, for the most part, the functions and limi-

tations on the actions of legal assistants in this field. It was drafted such that the general requirements pertaining to legal assistants are maintained.

Anyone wishing to read the memorandum can find it on the Law Society website or contact the Law Society of Saskatchewan for a copy.

---

## Many Thanks

By Donna Sigmeth, Complaints Officer

The Benchers and professional staff of the Law Society of Saskatchewan wish to express their sincere thanks to members of the profession who volunteered their time to investigate complaints for the Professional Standards Committee and the Discipline Committee and for preparing the necessary reports for the Committees'

consideration. As well, our thanks to those who sat on Hearing Committees and to those who act as "alternate" Complaints Officers 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 of Law Society members and members of the judiciary.

Chapter XV of *The Code of Professional Conduct* states that:

*"The lawyer should assist in maintaining the integrity of the profession and should participate in its activities."*

**... these volunteers have done just that!!**

**Many thanks to the following:**

### NON-BENCHER VOLUNTEERS FOR 2005

#### **Investigations/Hearings**

Barry Morgan, Q.C. (now Judge)

Marilyn Gray, Q.C.

Michael W. Milani, Q.C.

Grant Mitchell Currie (now Justice)

Marilyn Scott, Q.C.

R. Lorne Jamieson

Linda Zarzeczny

Alan Thomas Logue, Q.C.

Kathryn Ford, Q.C.

Donald H. Layh, Q.C.

Brian Scherman, Q.C.

#### **Complaints Officer Designates**

John McIntosh, Q.C.

Larry Zatlyn, Q.C.

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

Randy Baker, Q.C.

Lyle Jones

A. Kirsten Logan, Q.C.

George Patterson

Daryl Shirkey

Patrick Zawislak

Hon. Madam Justice Wright

Betty Ann Pottruff, Q.C.

Pat Kelly, Q.C.

Christine Glazer, Q.C.

Norma Sim, Q.C.

Karen Prisciak, Q.C.

Catherine Zuck, Q.C.

Tamara Prince

Gordon Balon, Q.C.

Randy Katzman

Lee Mountain

Randy Rooke, Q.C.

John Stamatinos, Q.C.

Hon. Justice Bekolay

Anil Pandila, Q.C.

David Kowalishen

Don Phillips, Q.C.

David McKeague, Q.C.

Reg Watson

Mitchell Holash

Donna Driedger

Richard Carlson

David Leland

Robert Munkler

Randy Sandbeck

Greg Willows

Hon. Madam Justice Jackson

Jane Lancaster, Q.C.

Rachelle Verret Morphy

Neil Gabrielson, Q.C. (now Justice)

Ken Neill

Darcia Schirr, Q.C.

Sharon Pratchler, Q.C.

Jeff Baldwin

## In Memory Of

**The Honourable Thomas Clarkson Wakeling** who passed away in Regina on November 19, 2005. He became a judge of the Court of Appeal of Saskatchewan in 1984, a position he held until he retired at the age of 75 in May 1999. He is survived by his wife of almost 60 years, 3 children and their spouses and 8 grandchildren.

**Wilbur Roy Jackett**, retired Chief Justice of the Federal Court of Canada, who passed away in Ottawa on September 10, 2005 at the age of 93. He is survived by his sister, Audrey Reusch.

## BENCHER ELECTIONS

2006 is an election year for Benchers of the Law Society of Saskatchewan.

Members are encouraged to put their names forward or convince good candidates to stand for election.

Female and Aboriginal lawyers are under-represented as Benchers.

## 2006 Convocation Dates of the Benchers of the Law Society of Saskatchewan

February 22nd, 23rd and 24th - Regina

April 26th, 27th and 28th - Saskatoon

June 21st, 22nd and 23rd - Waskesiu  
(in conjunction with Annual Meeting set for the evening of Thursday, June 22nd)

September 6th, 7th and 8th - Regina

November 29th, 30th and Dec. 1st - Saskatoon  
(President's Dinner set for evening of Dec. 1st)

## Retirement Celebration

A retirement celebration for Chief Justice E.D. Bayda will be held in Regina on Saturday, September 9, 2006.

*Please mark your calendars. Details to follow ...*

## Willy Hodgson Award



*Congratulations are extended to ...*

**JUDGE MARY ELLEN TURPEL-LAFOND**  
*as the recipient of the Willy Hodgson Award*

The award is presented to individuals or organizations who exemplify integrity, leadership and character and have made or are making outstanding contributions to advancing equity and diversity, legal education, the legal profession and/or the administration of justice in Saskatchewan or Canada.

**JUDGE TURPEL-LAFOND** was selected because of her work as lawyer, activist and judge in increasing the quality of the dialogue between First Nations and the justice community.

*Presentation of the award will take place at a later date.*

---

## 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, Judy Anderson, for advice, information and assistance. All information is confidential.

This office is not a lawyer referral service and cannot provide legal advice. Call **toll free: 1-866-444-4885**.

This office is funded by The Law Society of Saskatchewan.

## Lawyers Concerned for Lawyers

Provides to Saskatchewan lawyers and their family members:

- ◆ CONFIDENTIAL assistance in effectively dealing with problems;
- ◆ the services of an INDEPENDENT professional consultant;
- ◆ services provided without charge

For confidential information and assistance call 1-800-780-5256,  
Regina 352-0680 or Saskatoon 978-4466



## Legal Research

To receive help with your legal research, contact the Law

Society of Saskatchewan Libraries.

We provide a confidential reference service using a variety of sources.

### Regina Library:

569-8020 or 1-877-989-4999

Fax: 569-0155

### Saskatoon Library:

933-5141 or 1-888-989-7499

Fax: 933-5166

## BENCHERS' DIGEST



Published by:  
The Law Society of Saskatchewan  
1100, 2500 Victoria Avenue  
Regina, Saskatchewan  
Canada S4P 3X2  
Telephone (306) 569-8242  
Fax (306) 352-2989  
e-mail: [reception@lawsociety.sk.ca](mailto:reception@lawsociety.sk.ca)

---