

BENCHERS' DIGEST



Volume 21, Issue Number 1

January, 2008

Profile of the President

by Richard Danyliuk, Q.C.



It is my honour to have been elected President for 2008, the first year of a new century of integrity for our profession. In addition to the celebration of our Centennial, 2007 saw many changes to your Law Society. There has been a restructuring of our administration, with Tom Schonhoffer, Q.C., named Director and Donna Sigmeth, Deputy Director. There have also been the additions of new Insurance Counsel to replace Tom (Steve McLellan), Assistant Complaints Counsel (Reché McKeague), and Discipline Counsel (Tim Huber). I look forward to working closely with this energized and enthusiastic staff.

As well, the committee structure of the Society has been redone, with some less active committees eliminated and other duties reassigned. This new format should result in the Benchers spending more time on broad policy issues of concern to the public and our members, and less time on administrative tasks for which we hire a competent and dedicated staff.

While there has been a very modest increase in annual fees for this year, Saskatchewan's total fees remain among the lowest in the country. The fee increase will allow the Society to better fulfill its primary mandate to protect the public and to deliver improved (and more) services to the members. A primary focus this year will be the improvement of our system of discipline, shortening the time frame from complaint to disposition and making the process more responsive to those involved.

Also included among the initiatives being examined this year and in years to come are the following: finalization and implementation of the restructuring; a new, quicker and nimbler approach to issues of equity and diversity; involvement in addressing the concerns of the public and the bench in "access to justice" including provision of pro bono services; institu-

tion of an email system that will deliver instant and broad-based messaging to our members; assistance to rural lawyers and small-shop counsel in terms of mentorship and succession planning; a study on the role of the so-called "lay benchers" or public representatives appointed to the Society; a re-examination of our priorities as to continuing legal education, including the issue of mandatory C.L.E.; further enhancing of our relationship with the College of Law; and open and transparent Convocations and meetings of the Benchers to ensure that our members and the public have ready access to their Benchers.

While I would love to take the credit for all of this work, that would be untrue. I was fortunate to serve on last year's Executive with Alma Wiebe, Q.C. and Victor Dietz, Q.C., and this year the addition of Karl Bazin, Q.C. as Vice-President makes us leaner if not meaner. As members, you should feel free to contact any Benchers with questions or concerns. I am privileged to serve with a group of Benchers that are smart, hard-working, thoughtful, always respectful and quick to point out the foibles of the President. This year, they should have a bonanza.



www.lawsociety.sk.ca

Profile of the Vice-President

by Karl Bazin, Q.C.



Firstly, I would like to thank the Benchers for allowing me the opportunity to work with the Executive towards implementing a number of initiatives that the Benchers have been working on over the past years. It has also become a recent practice of the President to task the Vice President with a project for their term. Our President, Rick Danyiuk, Q.C., has asked that I look specifically at the Discipline and Professional Standards role of the Society. This, in effect, will be an extension of the preliminary work that the Benchers have already been doing. The Benchers have

expressed their views that the present system requires modification to continue to be meaningful to the public and the members of the Society.

An issue that has been highlighted by the Benchers is the expediency of the discipline process, both from the public perspective as well as the members' perspective. Both the public and the members require the results of the discipline process to be done in a timely manner. I have often mused that the ultimate decision in disciplinary matters seems minor in comparison to the angst incurred by the members going through the sometimes lengthy discipline process. Equally, the public will perceive the process more favorably if they see a timely resolution to their concerns.

An aspect of the discipline process that will be looked at, and has already commenced, is the building of a body of quality jurisprudence. At present, our jurisprudence on discipline matters has been more focused on outlining the decision. The formalizing of the reasons for the Bencher decisions will allow the decisions to be of greater value in determining the appropriate sentence in future cases. It

will also allow the Saskatchewan matters to be reviewed and commented on by other jurisdictions in much the same manner that we rely on case law in our practices. This will bring a degree of peer review to the decisions.

The "kinder and gentler" aspect of the discipline process is the Professional Standards role of the Law Society. Again, I will be looking at how this aspect of the Law Society will play in the overall discipline process. The past years have seen the Law Society increasingly focusing on proactive measures, particularly through the use of a practice adviser. The result is that members are given guidance and assistance in their practice, which ultimately reduces loss to the public and damage to the image of all lawyers in the public eye.

At the end of the day, I hope to be able to say that the Law Society has evolved over my term as a Bencher to be able to continue to be seen by the public as the most effective governance model to ensure the protection of the public. When I attend the Bencher Convocations, and see the pool of talent at the table, I am confident that this will occur.

WILLY HODGSON AWARD

Congratulations are extended to

Community Legal Assistance Services for Saskatchewan Inner City Inc. (CLASSIC)
as the recipient of the 2008 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.

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

Highlights of the Meeting of the Benchers held December 6th and 7th, 2007

The highlight of the last Benchers' meeting was the election of new officers for the Law Society. Richard Danyliuk, Q.C. of Saskatoon was elected President and Karl Bazin, Q.C. of Swift Current was elected as Vice-President commencing January 1, 2008.

Substantial Rule amendments were passed at Convocation. These Rule amendments are not included in the mailout and members should go to the Law Society website for more information. Members may wish to rely on the website for an up-to-date copy of the Rules or may download the amendments for insertion into their handbook.

With respect to trust accounting, Rules 1203 and 1204 were amended. In the past years, the Law Society has required lengthy and onerous reporting requirements for all firms and we are pleased to advise that there has been a substantial improvement by many firms. The policy has now changed so that firms with minimal errors will be exempt from filing a TA5 or TA5S. Each firm will be notified of the reporting requirements.

The governance of the Law Society also went through a restructuring in 2007 and required numerous Rule changes. The point of the restructuring was to make Bencher meetings

more efficient by delegating some duties previously performed by the Benchers to administrative staff and by reducing the number of committees which meet at Convocation. The changes are too lengthy to discuss in this report but may be reviewed on the Law Society website.

The Lawyer Referral Service will be terminated in 2008. The Benchers were of the opinion that there was very little service provided to the public and it did not justify the cost.

The Benchers also discussed opening Convocations to the public. A new policy will be implemented early in 2008.

Annual Reporting Requirements

by John Allen, CA

At December Convocation, the Benchers approved implementation of a process to recognize past achievements of law firms in reducing their number of accounting/financial issues. This recognition will be achieved by removing the requirement of firms which meet certain strict criteria to file an Accountant's Report (TA5 or TA5S) for a particular year. All firms will still be required to complete and submit a Practice Declaration (TA3), along with the required attachments. Increased attention by firms to financial/accounting requirements over the last 5 years has resulted in a reduction in the total number of issues noted annually by approximately two thirds and has made it feasible for the Benchers to consider relaxing the requirements on firms to file an Accountant's Report in certain cases.

Criteria being used to identify the firms which will not be required to file an Accountant's Report for the coming year include:

- The number of financial/accounting issues noted during previous year(s).
- The number of complaints received during the previous 3 years.
- Firms meeting the criteria may still be required to file the Accountant's Report based on random selection.

It should be noted that:

- Firms exempt from filing the annual Accountant's Report (TA5 or TA5S) should advise their year-end accountant of this change immediately.

- All firms are still required to file the Annual Practice Declaration (TA3), along with the required attachments.
- Exemption is provided on a year-by-year basis. If your firm is exempt from filing an Accountant's Report in year one, it may or may not be exempt in year two.

The above change has necessitated a number of changes to the reports and internal processes of the Law Society and has delayed mailing of the annual reporting package and notification of exemption to members to approximately January 15, 2008. If you have any questions upon receiving your package, please contact the Law Society office.

PRO BONO COUNSEL – MEMBER DISCIPLINE

The Law Society of Saskatchewan is looking for volunteers to act as pro bono counsel to members facing discipline.

If you are prepared to volunteer time to represent a member in this situation, please contact Donna Sigmeth, Complaints Counsel at:

dsigmeth@lawsociety.sk.ca

New Insurance Counsel



The Law Society of Saskatchewan is pleased to announce that Stephen McLellan has assumed the role of Counsel for Saskatchewan Lawyers' Insurance Association Inc., a position that became vacant when Tom Schonhoffer, Q.C., became the Executive Director of the Law Society.

After graduating from Acadia University, Stephen decided to follow in his father's footsteps by entering law school. In 1999, he graduated from the University of Saskatchewan and articulated with Gerrand Rath Johnson under the tutelage of David Gerrand, Q.C. and the mentorship of Rod Rath. Stephen was called to the Bar in 2000 and has since worked mainly as insurance defence counsel.

In 2004, Stephen was the president of the Regina Bar Association, and later that same year, moved in-house with Saskatchewan Government Insurance. While at SGI, he spent a considerable amount of his time appearing before the Automobile Injury Appeal Commission. He also acted as defence counsel on various general and auto insurance matters.

Stephen is excited to meet the challenges of his new position and is looking forward to serving the lawyers of Saskatchewan. He is also an avid golfer and welcomes the opportunity to meet lawyers from around the province in a "less formal setting!"

2007 Queen's Counsel Appointments

Fifteen Saskatchewan lawyers were honoured with Queen's Counsel (Q.C.) appointments on December 28, 2007. *Congratulations* are extended to:

Roderick Donlevy is a lawyer with the firm of McKercher, McKercher & Whitmore in Saskatoon and was admitted to the bar in 1974.

Richard Elson is a lawyer with the firm of McKercher, McKercher & Whitmore in Saskatoon and was admitted to the bar in 1982.

Glen Herman is a Senior Crown Prosecutor with the Saskatchewan Ministry of Justice in Swift Current and was admitted to the bar in 1981.

Douglas Hodson is a lawyer with the firm of MacPherson Leslie & Tyerman in Saskatoon and was admitted to the bar in 1985.

Bradley Hunter is a lawyer with the firm of Hunter Miller in Regina and was admitted to the bar in 1981.

Lorne Jamieson is a lawyer in Saskatoon and was admitted to the bar in 1969.

Timothy Keene is a lawyer with the firm of Anderson & Company in Swift Current and was admitted to the bar in 1981.

Ajay Krishan is a lawyer with the Balon Krishan Law Firm in Prince Albert and was admitted to the bar in 1985.

Roderick MacDonald is a lawyer with Solve-it Project Consultants in Radville and was admitted to the bar in 1974.

Michelle Ouellette is a lawyer with the firm of McKercher, McKercher & Whitmore in Saskatoon and was admitted to the bar in 1993. She is the President of the Canadian Bar Association, Saskatchewan Branch.

Kenneth Ring is the Law Clerk and Parliamentary Counsel for the Legislative Assembly. He was admitted to the bar in 1990.

Reynold Robertson is a lawyer with the firm of Robertson Stromberg Pedersen in Saskatoon and was admitted to the bar in 1973.

Lian Schwann is the Registrar of the Court of Appeal and was admitted to the Bar in 1981.

Mervyn Shaw is Legal Director of the Moose Jaw Area Office of the Saskatchewan Legal Aid Commission in Moose Jaw and was admitted to the bar in 1975.

Gary Zabos is a lawyer with the firm of McDougall Gauley in Saskatoon and was admitted to the bar in 1979.

Centennial Year Highlights

by Ronald Kruzeniski, Q.C.

Thank you, thank you, thank you.

So, our Centennial year has come and gone. It is hard to believe that 2007 is behind us. We had a fantastic celebration and I want to thank all of the members (and former members) who participated in the activities.

The Centennial Series receptions hosted by the local bar associations were well attended and enjoyed by one and all. Events included luncheons, dinners, golf tourneys and even paintballing. A lot of people were involved but we would like to mention the 'volunteers' that were recruited to host these events. In chronological order: Nicholas Cann (Regina), Bill Selnes (Northeast), Lorraine St. Cyr and Dawn McBride (Saskatoon), Erin Tilley Bolton (Southeast), John Will (Humboldt), Andrea Argue (Southwest), David Chow (Moose Jaw), Trevor Klassen and Heather Sherdahl (Prince Albert), Kevin Bell (Melville), Darren Grindle (Yorkton), Suzanne Jeanson (Kerrobert) and Brenda Korchinski (Battlefords). We had participation from the judiciary at all events and would like to recognize Chief Justice Laing for his attendance at several events. Representatives included Justice Rothery, Justice Dawson, Judge Morin, Justice Mills, Judge Green and Justice Konkin.

Some annual events were 'Centennialized' and we included an anniversary message wherever we could. We had our press launch at the Queen's Counsel ceremony in January.

The C. Willy Hodgson Award presentation to Judge Gerald Morin was hosted this Centennial year at the Prince Albert Grand Council. Thanks to Jan-Marie Butler and Victoria Elliott-Erickson for organizing the reception.

Events which were initiated because of the Centennial year included plaques being installed in all 26 Court Houses in the province

(Queen's Bench, Provincial and Circuit points). Local members volunteered their time to ensure the plaques were installed and that the judiciary and local court house staff were included. These members include James Taylor, Lyle Cundall, Q.C., John Will, Bill Selnes, George Patterson, Peter Hryhorchuk, Vic Dietz, Q.C., Rick Danyliuk, Q.C., Karl Bazin, Q.C., Bill Holliday, Bill Klebeck, Thomas Campbell, Wayne Buckle, Bruce Knight, George Thurlow, Q.C., Paul Lewans, Q.C., Louis Stringer and Judge Marg Gordon. Some communities hosted events and invited local media to attend. At the plaque unveiling event in Yorkton we also invited some new members to attend and sign the 'roll book'. The roll book does not usually leave the administration office – so, this in itself made this a 'historical' event. John Stamatinos, Q.C. (former Law Foundation Chairman) acted as the Master of Ceremonies. Justice Pritchard and Rod Crook (Department of Justice) participated in the ceremony. It was nice to acknowledge Justice Lynn MacDonald (first woman president of the Law Society) in attendance.

The week of September 9th was recognized as 'Law Society Centennial Week' and proclaimed by the province and our 13 cities. Lawyers were encouraged to visit schools and introduce the essay contest. Special thanks to Jan Cowie for developing the essay topic and guidelines. And thanks to the judges of the contest, Beth Bilson, Q.C., Val MacDonald, Justice Tallis (retired) and Jan Cowie. New members (those who signed during the Centennial year) were invited to participate in a 'welcome page' in the Leader Post and Star Phoenix (photos were also forwarded to the Saskatchewan Weekly Newspaper Association). The Canada Post stamp commemorating our Centennial was introduced during Law Society Centennial week too!

Joint Bencher Meetings with Alberta were attended in Cypress Hills. A chance for the two Law Societies that were once joined as the Law Society of the North West Territories got together to discuss and analyze present situations and challenges.

Our year of festivities culminated with the gala held in Regina at the Conexus Arts Centre. A well attended evening (nearly 500) to cap off our celebratory year.

So, a busy year of activities with lots of opportunity to participate. On behalf of the membership, I would like to thank the Centennial Subcommittee – this group has been involved since March of 2004 – Sue Baer, Beth Bilson, Q.C., Dave Conroy, John McIntosh, Q.C., and Bill Selnes. And, of course during this Centennial year, Vic Dietz, Q.C. It has been a pleasure to chair this group and I want to recognize the time and energy each member committed to the projects. A big thank you also goes out to Lori Boesch, the Centennial Co-ordinator, for her expertise in organizing the events and activities planned throughout the year.

A Century of Integrity: The Law Society of Saskatchewan 1907 to 2007 was launched in December. Iain Mentiplay, Q.C., has been busy with book signings in Regina and Saskatoon. I hope you have ordered your copy; it is a spectacular production. Thanks to Iain and to the Library staff in Regina and Saskatoon who put in a lot of time and research.

Centennial information and photographs will be indexed and filed at the library. The website will remain in place and will be added to for promotional and research purposes. Merchandise and memorabilia is still available for sale; fleece vests, book bags, etc.

Thanks to one and all, hope you enjoyed our Centennial year!

Centennial Essay Contest

by Susan Baer, Director of Libraries

The Centennial Subcommittee asked high school students from Grades 10 to 12 to wrestle with the difficult question “do you believe that open and equal access to justice still exists or is it a thing of the past?” Over 65 students from around the province entered the contest. The panel of judges reviewed articles for content and originality, grammar and spelling, and structure and organization. If the topic was not challenging enough, the students were limited to 750 to 1500 words. The Centennial

Subcommittee would like to thank Jan Cowie for coordinating and organizing the essay contest, and her fellow judges, the Honourable Mr. Justice C. F. Tallis (retired), Professor Beth Bilson, Q.C., University of Saskatchewan College of Law, and Val MacDonald from Farm Credit Canada.

The winning essay, written by Mitchell Anderson who is a Grade 12 student attending Carpenter High School in Meadow Lake, is repro-

duced below. First prize of \$1,000 to Mitchell and a matching \$1,000 prize for Carpenter’s school library was presented by George Thurlow, Q.C., on December 18, 2007.

The second place prize goes to Dylan Hardy who is a Grade 12 student at Bishop James Mahoney High School in Saskatoon. Dylan’s essay will appear in the next issue of the Benchers’ Digest. Dylan and his school received \$500 each as the second place award.

“Do you believe that open and equal access to justice still exists or is it a thing of the past?”

By Mitchell Anderson

Carpenter High School – Meadow Lake

Society prizes justice as the highest goal and standard, by which all else is judged. Therefore, open and equal access to justice is an important aim of any society which wishes to be just. Saskatchewan was created by white settlers who entered into an asymmetrical relationship with the First Nations. The effects of the lingering systemic racism created at this time are still evident today. Further, the colonist-settlers who entered Saskatchewan carried with them a deeply ingrained cultural sexism, which devalues women and privileges men. The economic system created is, while tremendously efficient at creating wealth, often unable to produce an equitable distribution of the wealth it creates. Open and equal access to justice does not exist in Saskatchewan and never has, despite the best efforts of many both within and outside of the justice system, as race, gender and class serve as barriers that prevent marginalised groups from accessing justice.

Saskatchewan strives to be a multicultural society, however, tremendous

efforts to end white-privilege and racialised marginalisation have not yet been completely successful. The effects of white-privilege are evident in our justice system. Aboriginal peoples and other visible minorities are disproportionately represented in correctional facilities and other aspects of the justice system. Evidently, this is not due to any innate inferiority or inborn differences in Aboriginal peoples. Rather, the cumulative effects of intergenerational poverty and systemic racism have resulted in the economic and social marginalisation of Aboriginal peoples and other visible minorities. The sense of desperation cultivated by these forces, outside of individual control, is believed by many critical sociologists to be a strong factor in the creation of crime.

When speaking of race, it cannot be ignored that race and class are closely linked. When speaking of any form of oppression, an intersectional analysis is necessary, that is, it must be recognised that the various forms of oppression interact with one another.

Centuries of exclusion from the economic systems of Saskatchewan have resulted in Aboriginal peoples being more likely to live in poverty. Given that class is a factor in academic and other forms of success, Aboriginal people in poverty are far less likely to succeed in their lives, furthering the cycle of poverty. However, it must be emphasised that the barriers to justice which exist are not created by conscious choices of racist individuals within the justice system; rather one must recognise that many in the justice system are agents of social change. Despite this, the systemic racism excludes many from open and equal access to justice.

Another important and powerful system of domination that exists in Saskatchewan society is male-privilege. Analogous to white-privilege, male-privilege serves to delineate social roles and status based on gender. Violence against women, sexual violence and the feminisation of poverty serve as powerful examples of how male-privilege hinders women’s open and equal access to justice. Once

again, however, it must be stressed that in many times visionary members of the justice system itself have been dissenting voices, while at the same time they have often been barriers. The Persons Case is testament to this, where the Supreme Court of Canada ruled that women were not persons, whereas the Judicial Committee of the Privy Council ruled that they were. Male-privilege will only come to an end in Saskatchewan and Canada with the assistance of the members of the justice system.

With an entirely gender-blind way of seeing the world, the law does not recognise the sheer enormity of the problem of violence against women. In fact, the Criminal Code, while treating assault as a crime, does not recognise domestic violence as a specific problem, and thus domestic violence issue does not receive due notice. Violence against women must be looked at contextually; male-privilege and innate biological differences make men able to physically, emotionally and economically dominate women. Furthermore, the justice system is predominantly male, making it an uncomfortable and at times exclusionary system for women to be engaged with. Once again, it must be stressed that this is not due to the consciously chosen sexism of the members of the justice system, but rather an effect of male-privilege and the heavy numerical male-dominance of the justice system.

The feminisation of poverty became a particularly serious issue after the liberalisation of divorce laws in Canada. With an increase in the number of divorces and, in accordance to traditional patriarchal gender-roles, more often than not cus-

tody is being awarded to women. However, at the same time, equal work for work of equal value continues to be a distant dream, not a present reality. Furthermore, erosion of traditional familial ties has also contributed to deepening poverty in woman-headed and single-party households. Once again, this can be rectified by reforms through the justice system. Should the justice system begin to award custody in a manner that does not take gender into paramount consideration, a significant element of the feminisation of poverty could be eliminated. Further, in instances where custody of children is awarded to women measures should be in place to ensure that their ex-partners are, insofar as it is financially possible, supporting her and her dependent children. Finally, equal pay for work of equal value needs to be realised, to eliminate male-privilege in economic issues.

An analysis of sexual violence must take into consideration the intersection of class and gender. Pornography and prostitution both are ways in which people, predominantly women, experience economic violence. However, instead of targeting those that victimise women and men sex-workers, the law frequently targets sex-workers themselves. Once empowered to do so by appropriate legislation, the justice system needs to tackle the tremendous marginalisation and victimisation that sex-workers, predominantly women, experience.

Throughout an analysis of open and equal access to justice, the concept of class continually emerges and intersects with other concepts. The simple and sad fact is that access to the legal system often costs money,

and not everyone is privileged enough to have access to money. The Legal Aid system, while nobly intended, has slowly atrophied and is no longer sufficient, in and of itself, to sustain open and equal access to justice. The Federal Government has recently abolished the Court Challenges Program, designed to aid marginalised communities in using the justice system to advance liberation, as well as drastically reduced the funding to a number of organisations that sought the liberation of women through the use of the justice system. While society treats health-care as a right, as it properly should, it does not treat access to justice as a right. The restoration of the Court Challenges Program, and a massive increase in Legal Aid, are necessary for the creation of open and equal access to justice. Members of the justice system itself must be the leading advocates if open and equal access to justice will ever become a present reality.

Race, gender, and especially class, all serve as barriers inhibiting the open and equal access of justice. The record of recent history is mixed, with liberalisation of laws themselves, and the atrophy of social programs designed to ameliorate the situation of members of marginalised communities. However, there are many reasons to be hopeful about the future of access to justice, as many impassioned people, including those within the justice system, are advocating for open and equal access to justice. Someday, certainly, open and equal access to justice, including for members of marginalised communities, will be a present reality, and no longer simply a future dream.

Appointments to Committees

The Law Society of Saskatchewan requires representatives to serve on boards of various organizations to represent its interests. At December Convocation, the Benchers nominated 3 individuals and we are pleased to announce them as follows:

- Heather Jensen was appointed to PLEA
- Pat Quaroni was appointed to the Law Foundation of Saskatchewan
- Craig Zawada was appointed to CanLII

Legal WebCites

By Peta Bates

This month we'll look at how to search for statutes judicially considered in the *Saskatchewan Case Digests* in the Members' Section of the Law Society website now that the "browse" buttons are no longer available.

Saskatchewan Case Digests

(Members' Section > Databases > Case Digests)

<http://www.lawsociety.sk.ca/newlook/Members/Digest2002.htm>

Saskatchewan Case Digests provides the quickest access to recent Saskatchewan case law of any website. The fulltext of Saskatchewan cases are available here before they appear on CanLII. A short digest is then prepared for each case. If the case has

considered other cases, statutes, regulations or court rules, these are also noted.

For precise searching for statutes considered, enter the search query in the "Statutes Considered" search box and use the following search strategies.

- statute section including all subsections:
agricultural implements & 36
- exact statute subsection:
agricultural implements & "36(2)"
criminal code & "753.1(3)"
- statute with punctuation (ignore punctuation):
builders lien & 55
- former and current statute title:
matrimonial property & 23 / family property & 23

- previous statute revision (eg. R.S.S. 1965):

land titles & 1965 & 159

There is no easy way to search for multiple sections of a particular statute except to repeat the statute name:

controlled drugs & "5(1)" / controlled drugs & "5(2)"

Now with over 20 years of case digests linked to fulltext judgments, Saskatchewan Case Digests is the first source for Saskatchewan law.

For more information about *Case Digests* or any of the other legal databases produced by the Law Society Libraries for the Members' Section, contact the reference staff at the Law Society of Saskatchewan Libraries.

The Regina Library

by Susan Baer, Director of Libraries

2008 CALL Conference in Saskatoon

Saskatoon will host the Canadian Association of Law Libraries (CALL) annual conference in May 2008. The CALL conference is a national conference with international attendance. It is the largest Canadian

continuing education event for law librarians. The Conference Planning Committee, chaired by Peta Bates, is assembling a world-class conference with educational sessions, demonstrations by publishers on new products, and simultaneous sessions that are directly related to the work of law librarians.

We are grateful to our talented members who have agreed to be guest speakers and session lecturers. We expect an excellent conference, to showcase our province, facilities, legal institutions, law firms, and personnel. Mark your calendar for May 25 to 28, 2008!

Rule Amendments

by Thomas Schonhoffer, Q.C.

The Law Society routinely mails out Rule amendments to the membership and most lawyers try to keep an up-to-date copy of the Rules in their handbook.

Please be advised that the Law Society will no longer mail Rule

amendments to the membership. Notice will be provided via email broadcast. Members can then go on-line and download the amendments for filing. In the alternative, members may wish to simply rely on the on-line version, which will be kept current.

The benefits of this change are to reduce costs at the Law Society and to provide members with up-to-date notice on Rule changes, rather than waiting for mail outs. Members are encouraged to rely on the on-line version, which will always be up-to-date.

A Century of Integrity: The Law Society of Saskatchewan 1907 to 2007

The “boook” has finally arrived and book signings in December were the final events to mark the 100th anniversary year of the monthly celebrations. The history book which chronicles the significant events of the Law Society’s development over the past 100 years is now available!

A Century of Integrity: The Law Society of Saskatchewan 1907 to 2007 is being shipped to those who pre-ordered. Copies are available for purchase through the Law Society libraries in Regina or Saskatoon, the Queen’s Printer website, Book and Briar Patch in Regina, McNally Robinson in Saskatoon and the University of Saskatchewan bookstore.

Author Iain A. Mentiplay, Q.C. was in Saskatoon for the first book signing on December 12th. The Saskatoon Bar Association hosted the event at the Top of the Inn at the Sheraton Hotel where incoming President Rick Danyliuk, Q.C., thanked Iain and all those involved in the project. The Regina Bar Association hosted the second event on December 13th where President Vic Dietz, Q.C. spoke of Iain’s dedication and commitment to completing the work, thanked Maurice Laprairie, Q.C. for his vision, and thanked the team responsible for creating a historical keepsake for members in the Centennial year, including the Law Society library staff and Bradbury Design.

A Century of Integrity is fully illustrated with over 500 images that were acquired from libraries, archives and individual members. The Law Society is grateful to law firms, members and their families for lending their photographs.



**Book signing at the Regina Bar Association meeting
December 13, 2007**

*Left to right: Victor Dietz, Q.C. President of the Law Society, 2007
and Iain Mentiplay, Q.C., author.*

The library is in the process of returning photographs now that the book has been released and the Christmas rush is over.

Limited quantities are available.

Retention, Storage and Destruction of Client Files

by Rod MacDonald, Q.C., Practice Advisor

In the October issue of the Benchers’ Digest, we announced a three part article series where we would be asking members to work through a problem solving and planning exercise relating to the subject matter.

In the first segment, we asked that you identify problems and/or considerations relating to the issues around retention/storage/destruction of files.

In this first segment, we wanted to identify only the problems and considerations; not answers or solutions (that is the next step.)

We would like to hear from you regarding any questions/issues you have about retention, storage and destruction of closed files. We would appreciate your response by February 28, 2008.

Please send your responses to:

Rod MacDonald, Q.C.
Practice Advisor
c/o Solve-it Project Consultants Inc.
P.O. Box 70, Radville, Saskatchewan
S0C 2G0
email: solvit@sasktel.net

***Many thanks to those who have
already responded!***

Rulings – September and December, 2007

Chapter V, Impartiality and Conflict of Interest between Clients, Acting against a Former Client, Waiver of Conflict, September 2007 and December 2007

Facts:

General Counsel of a commercial real estate company (the Co.) complained that Lawyer C was acting against the Co. when Lawyer C's firm, (the Firm), had previously acted for the Co. General Counsel indicated that the Firm previously represented the Co. and, therefore, now should not be able to act against them. The current issue involves adversarial proceedings between the Co. and a tenant. Lawyer C acts for the tenant. General Counsel for the Co. indicates that the Co. is an existing client of the Firm and it is a conflict of interest for Lawyer C to continue acting for the tenant. Lawyer C indicates that it is his Firm's view that they are not in a conflict of interest. Lawyer C indicates that the Firm is not presently on retainer for the Co. nor is anyone in the Firm acting for the Co. on any current matters. The last invoice to the Co. was October 2004. Lawyer C indicates that the Co. has used the services of other law firms in the city since 2004. In 2005, the Firm acted for the same tenant when the Co. attempted to terminate the subject lease. The Co. retained another firm

in the city to act on that matter. In the current matter, from October 2006, Lawyer C acted for the tenant with respect to the lease and dealing with negotiations in January 2007. General Counsel for the Co. didn't raise any conflict of interest until the current time.

Ruling:

The Ethics Committee was of the opinion that General Counsel for the Co. waived any conflict of interest because of the course of dealings with Lawyer C prior to this point on the same matter without raising conflict of interest.

Chapter V, Impartiality and Conflict of Interest Between Clients, Conflict Search prior to Cold Calls – December 2007

Facts:

A lawyer was engaged in a telephone conversation with a client/lawyer and they were discussing, in a general way, that the client/lawyer's firm would be pursuing a special kind of seizure of a special kind of asset. Another member of the client/lawyer's firm contacted the lawyer to inquire generally about the special kind of seizure with respect to the special assets.

The lawyer asked the client/lawyer to identify who the debtor/client was so that a conflict search could be con-

ducted before they went beyond a general discussion. The client/lawyer identified Client X who the lawyer realized was a client of his firm. Once the client/lawyer identified Client X the lawyer indicated that he had a conflict of interest and could not advise further. The lawyer had not been consulted by Client X with respect to any litigation or debt collection. The lawyer in question was trying to ascertain his obligation to disclose to Client X the fact that he took the phone call and was, in a very general way, aware that some party might be contemplating seizure of Client X's special assets.

Ruling:

The Ethics Committee was of the view that the lawyer could not advise Client X that his assets may be seized. Information exchanged with the client/lawyer's law firm who called for generic advice had a right to privilege. If the lawyer is consulted regarding an actual debt collection by either side, he will not be able to act. The Committee would like to caution the membership that when consulted for advice by anyone, including a lawyer or law firm client, he/she must ask immediately if it relates to an actual client or matter. As a matter of course, a lawyer should conduct a conflict search before even providing "general" advice.

DESIGNATED COMPLAINTS COUNSEL

Looking for Volunteers

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

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

If you can be of assistance in this regard, please advise Tom Schonhoffer at tom@lawsociety.sk.ca.

Many Thanks

by Donna Sigmeth, Complaints Counsel

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 sit 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 who have contributed their time as members of various Law Society Committees and as Law Society repre-

sentatives 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 2007

Investigations/Hearings (2006/2007)

Catherine Knox
Sharon Ludlow
Miguel Martinez
Darien Moore

Geoff Dufour
Randy Rooke, Q.C.
Morris Bodnar, Q.C.
D. Neil Robertson, Q.C.

Reg Watson, Q.C.
Dawn McBride
Holly Ann Knott, Q.C.
Lee Anne Schienbein

Complaints Officer Designates

John McIntosh, Q.C.

Larry Zatlyn, Q.C.

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Tyla Vodon
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The Hon. Mr. Justice W.F. Gerein
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Brent Gough, Q.C.
Dana Brulé

E.M. Culliton Scholarship Endowment

As a tribute to the former Chief Justice E. M. Culliton, an endowment was established by The Law Society of Saskatchewan to provide that in perpetuity a special scholarship is to be awarded for the pursuit of post-graduate studies in criminal law.

The value of the scholarship to be awarded in 2008 has not yet been finally determined, but the maximum amount available is expected to be \$10,000. **The deadline for receipt of applications is May 12th, 2008.**

Application forms are available on our website at www.lawsociety.sk.ca

2008 Convocation Dates of the Benchers of The Law Society of Saskatchewan

February 7th and 8th – Regina
April 16th, 17th and 18th – Weyburn
June 18th, 19th and 20th – Saskatoon
(Annual meeting the evening of Thursday, June 19th)
October 29th, 30th and 31st – Saskatoon
December 3rd, 4th and 5th – Regina

CANLII SURVEY

Canadian Legal Information Institute (CanLII) is a non-profit organization managed by the Federation of Law Societies of Canada. CanLII's goal is to provide a free source of Canadian law over the internet for both the profession and the public.

CanLII, now in its 6th year, wants to better understand its users' needs and will be conducting a survey of approximately 150 Saskatchewan practitioners by e-mail.

The survey is short, approximately 20 questions, and the result will be of great assistance in providing better service to lawyers. If you are selected for the survey, your participation would be greatly appreciated.

In Memory of

Catherine Hearn of Saskatoon who passed away on December 25, 2007, at the age of 41 years. She is survived by her husband Joe Piontek.

Catherine graduated from the University of Saskatchewan, College of Law, in 1991 and practiced with the McKercher Law Firm until her illness.

Equity Ombudsperson

The Office of the Equity Ombudsperson is committed to eliminating both discrimination and harassment in the legal profession.

If you are support staff, an articling student or a 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.

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Regina 352-0680 or Saskatoon 956-5738 or 956-5735

BENCHERS' DIGEST



Published by:
The Law Society of Saskatchewan
1100 - 2002 Victoria Avenue
Regina, Saskatchewan
Canada S4P 0R7
Telephone (306) 569-8242
Fax (306) 352-2989
e-mail: reception@lawsociety.sk.ca