

ONTARIO LAWYERS GAZETTE

LA REVUE DES JURISTES DE L'ONTARIO

Member Resource Centre



LET RIGHT PREVAIL

The Law Society of
Upper Canada

Barreau
du Haut-Canada

FOCUS

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DE L'ONTARIO

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Notice to the Profession

Annual General Meeting

Notice is hereby given that the Annual General Meeting of The Law Society of Upper Canada will be held at Osgoode Hall, 130 Queen Street West, Toronto, on Wednesday, May 10, 2006 beginning at 5:15 in the afternoon. All members of the Society are invited to attend.

Osgoode Hall
March 31, 2006

Katherine Corrick
Secretary

Avis à la profession

Assemblée générale annuelle

Nous donnons, par la présente, avis de la prochaine assemblée générale annuelle qui se tiendra à Osgoode Hall, 130, rue Queen Ouest, à Toronto le mercredi 10 mai 2006 à 17 h 15. Tous les membres du Barreau sont invités à y participer.

Osgoode Hall
Le 31 mars 2005

Katherine Corrick
Secrétaire

**2005
e-MAR**

2005

Member's Annual Report

Turn to page 14 to learn how to e-file the 2005 Member's Annual Report (MAR) via the Law Society's website.

TREASURER'S MESSAGE

I AM DEEPLY HONOURED TO BE ELECTED TO SERVE AS Treasurer of the Law Society of Upper Canada. This is an exciting time to lead the profession as the landscape in which the Law Society must regulate in the public interest continues to evolve and present new challenges and opportunities.

I have been a bencher for the last 11 years, and been privileged to serve this profession in many capacities including as Chair of the Law Society's Professional Regulation Committee, Chair of the board of LibraryCo., and Co-Chair of the Society's Strategic Planning Committee and its Task Force on the Reform of the *Rules of Professional Conduct*.

I am grateful to my fellow benchers for their support in electing me to serve as Treasurer, particularly at this time when there are so many access to justice issues before us that affect both the profession and the public.

From supporting the continued viability of sole and small firm practitioners across Ontario, to the implementation of paralegal regulation and continued enhancements to our complaints and discipline process, the priority for Convocation remains to ensure the Law Society is well positioned to fulfill its mandate to regulate in the public interest.

MESSAGE DU TRÉSORIER

J'AI LE GRAND HONNEUR D'AVOIR ÉTÉ ÉLU À TITRE DE trésorier du Barreau du Haut-Canada en cette période passionnante pour diriger la profession, alors que l'environnement dans lequel le Barreau doit défendre l'intérêt public continue d'évoluer et de poser de nouveaux défis.

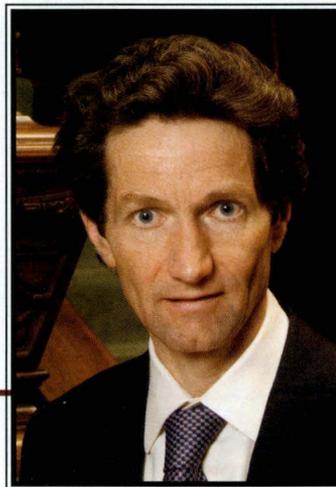
Au cours des 11 dernières années, j'ai été conseiller et j'ai eu le privilège de servir cette profession à divers titres, y compris celui de président du comité de réglementation professionnelle du Barreau, de président du conseil de LibraryCo., et de vice-président du comité de planification stratégique et de son groupe de travail sur la réforme du *Code de déontologie*.

Je remercie mes collègues conseillers et conseillères d'avoir appuyé ma candidature, durant une période où tant de questions d'accès à la justice se posent à nous, touchant tant la profession que le public.

Qu'il s'agisse d'assurer la viabilité des juristes autonomes et des petits cabinets en Ontario, de mettre en branle la réglementation parajuridique ou de constamment améliorer notre processus de plaintes et de discipline, la priorité pour le

Sole practitioners and small firms have an integral and valuable role in ensuring that the people of Ontario have access to legal services and access to justice. It is therefore an enormously important access to justice issue and priority for Convocation over the months to come.

The majority of our members are sole practitioners or small firm lawyers, and they perform the vast majority of legal services for members of the public in Ontario – largely in small and mid-size communities across the province - and particularly for individuals from lower income levels. Unless the sole practitioners and small firm lawyers across the province thrive, and unless we are able to continue to attract articling students who become lawyers in those communities, the public is not going to be adequately served.



Treasurer
Gavin MacKenzie

We are fortunate to have the benefit of an excellent report of the Task Force on Sole Practitioners and Small Firm Lawyers, chaired by benchers Judith Potter and Abraham Feinstein. Over the last several months we have had the opportunity to consult with the profession

Conseil demeure d'assurer que le Barreau est en bonne position pour remplir son mandat de réglementation dans l'intérêt public.

Les juristes autonomes et les petits cabinets jouent un rôle intégral et précieux dans la prestation de services juridiques et d'accès à la justice à la population ontarienne. Par conséquent, leur rôle constituera un enjeu majeur d'accès à la justice et une priorité pour le Conseil au cours des mois à venir.

La majorité de nos membres sont des juristes autonomes ou en petits cabinets, qui fournissent la majeure partie des services juridiques au public de l'Ontario – généralement dans les petites et les moyennes communautés de la province – et surtout aux particuliers à faibles revenus. Le public ne sera bien servi que si les juristes autonomes et les avocats des petits cabinets de la province prospèrent, et que si nous continuons d'encourager les stagiaires à exercer le droit dans ces communautés.

Le groupe de travail sur les juristes autonomes et les petits cabinets, présidé par les conseillers Judith Potter et Abraham Feinstein, a produit un excellent rapport dont nous avons la chance de bénéficier. Au cours des derniers mois, nous avons

and various legal organizations. The task force has done a tremendous job and the report will be coming back before Convocation this spring so that we can move forward on this issue.

With the anticipated enactment of *Bill 14, the Access to Justice Act*, paralegal regulation will be another of Convocation's main priorities. Once passed the *Act* will expand the public interest mandate of the Law Society to regulate all legal service providers including paralegals.

Bill 14 has now received second reading in the Legislature and will be referred to committee soon. During the course of the debate, members from all three parties spoke in favour of the aspects of the *Act* dealing with paralegal regulation.

In moving second reading, Attorney General Michael Bryant said, "the regulation of paralegals will protect people who get legal advice from non-lawyers and increase access to justice by giving consumers a choice in the qualified legal services that they use."

Once the legislation is passed, there will still be much work to be done and the Law Society's expanded mandate will have a transformative effect on the way we do business. We look forward to our continuing discussions with government about what is required to make paralegal regulation a reality in Ontario.

Our legislated role is what drives us in our regulation of the profession and service to the public. Regulators are charged with significant responsibilities in protecting the public interest. It is the public interest to which all regulators must account.

Over the last year, the Law Society has implemented a number of enhancements to its tribunals and professional regulation processes to improve the timeliness and transparency of complaints and discipline. This is important to ensuring public confidence in our regulatory ability and access to justice for consumers of legal services. We will continue to seek ways to improve the way we deal with public complaints and discipline to fulfill our mandate and maintain public confidence in our ability to govern the profession.

The challenges and opportunities that lie ahead for Convocation and our profession are numerous and I look forward to working with my fellow benchers, Law Society staff, legal partners and colleagues in the profession as we move forward. ■

Gavin MacKenzie

eu l'occasion de consulter la profession et les divers organismes juridiques. Le groupe a accompli un travail extraordinaire et le rapport sera présenté au Conseil au printemps pour que nous puissions faire progresser ce dossier.

Avec la promulgation prévue du projet de loi 14, la *Loi sur l'accès à la justice*, la réglementation des parajuristes sera une autre priorité du Conseil. Une fois que la loi sera adoptée, elle élargira le mandat d'intérêt public du Barreau pour réglementer tous les fournisseurs de services juridiques, y compris les parajuristes.

Le projet de loi 14 a maintenant reçu une deuxième lecture à l'Assemblée et sera renvoyé en comité sous peu. Durant le débat, les députés des trois partis ont parlé en faveur des aspects de la loi qui portent sur la réglementation parajuridique.

Avant la deuxième lecture, le procureur général Michael Bryant a dit, « la réglementation des parajuristes protégera les gens qui obtiennent des conseils de non-juristes et élargira l'accès à la justice en donnant aux consommateurs un choix de services juridiques autorisés. »

Une fois que la loi sera adoptée, il restera beaucoup de travail à faire et le mandat élargi du Barreau transformera la façon dont nous menons nos affaires. Nous serons heureux de discuter avec le gouvernement de ce qui sera nécessaire pour

que la réglementation des parajuristes devienne une réalité en Ontario.

Notre rôle, prévu par la loi, motive notre réglementation de la profession et des services au public. Les autorités de réglementation ont des responsabilités importantes dans la protection du public à qui ils sont tous imputables.

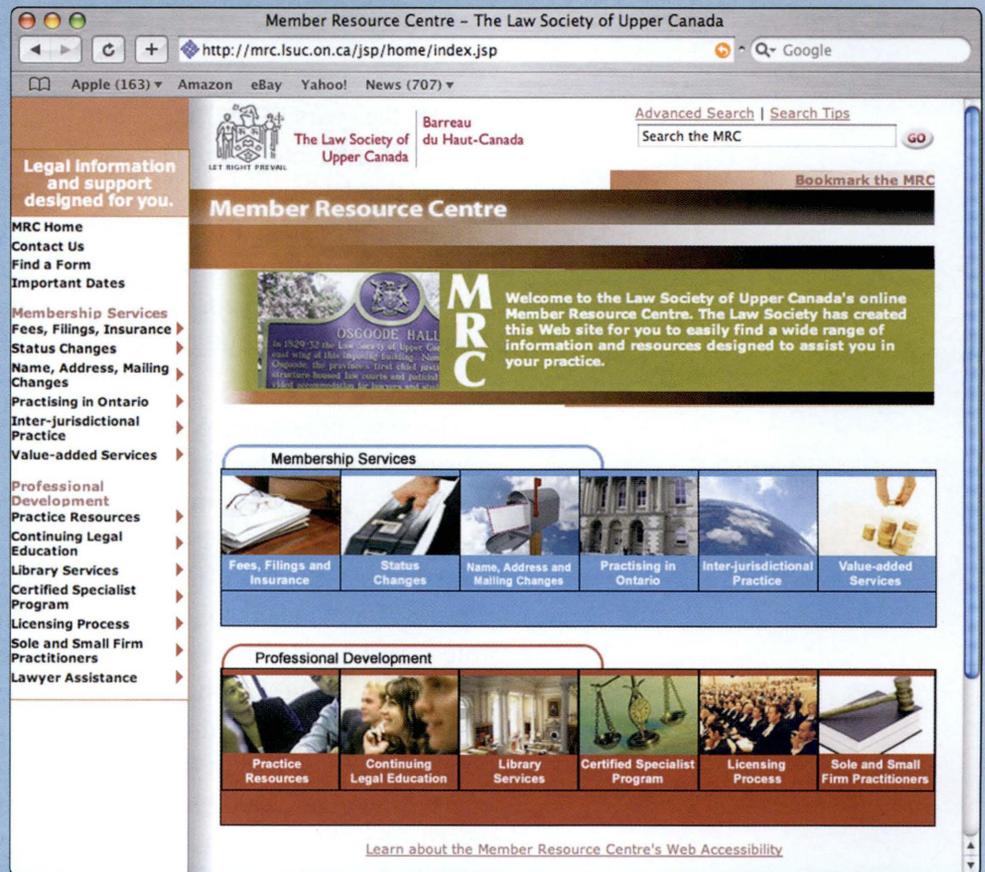
Au cours de la dernière année, le Barreau a mis en œuvre plusieurs améliorations à ses processus de tribunaux et de réglementation professionnelle pour améliorer les échéances et la transparence des plaintes et des décisions disciplinaires. Cela compte beaucoup pour s'assurer que le public a confiance dans nos habiletés de réglementation et pour l'accès à la justice des consommateurs de services juridiques. Nous continuerons à chercher des moyens d'améliorer la façon dont nous traitons les plaintes du public et les sanctions disciplinaires afin de remplir notre mandat et de garder la confiance du public dans notre habileté à gouverner la profession.

Le Conseil et notre profession auront de nombreux autres défis à relever et je serai heureux d'y travailler avec mes collègues du Conseil et de la profession, ainsi qu'avec le personnel du Barreau et nos partenaires juridiques. ■

Internet makes it easy to keep legal practice skills SHARP

WHEN IT COMES TO CLIENT COMPLAINTS ABOUT LAWYERS, THE MAJORITY OF ISSUES INVOLVE POOR PRACTICE MANAGEMENT SKILLS, ACCORDING TO THE LAW SOCIETY OF UPPER CANADA.

HOWEVER, IT DOESN'T HAVE TO BE THAT WAY. THAT'S BECAUSE HELP TO SOLVE MANY OF THE DAILY MANAGEMENT ISSUES THAT LAWYERS FACE IS ONLY A MOUSE CLICK AWAY THANKS TO THE INTERNET.



The Professional Development & Competence (PD&C) Department, which is responsible for helping educate lawyers and assisting members in meeting their competence obligations, has developed a number of cutting-edge tools to help lawyers better manage their practice.

“Lawyers always need to be very concerned about the maintenance of client relationships,” says Diana Miles, Director

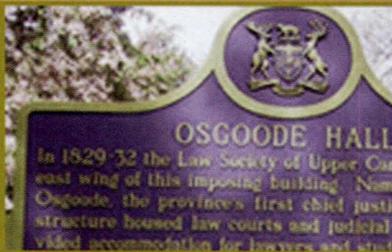
of Professional Development and Competence. “It’s those client relationships that can get them into trouble. It’s the client who doesn’t like the service of a lawyer who calls the Society.”

To address these concerns, the PD&C Department started seriously using the Internet in the late 1990s to begin delivering resources to lawyers to help them manage their practice and keep abreast of legal changes.



Diana Miles,
Director of Professional Development and Competence

continued on page 6



MRC

Welcome to the Law Society of Upper Canada's online Member Resource Centre. The Law Society has created this Web site for you to easily find a wide range of information and resources designed to assist you in your practice.

Over the years PD&C has built a comprehensive, integrated package of services that lawyers can call on to keep their skills sharp. PD&C recently branded the member-focussed portal of the Law Society's website as the Member Resource Centre (MRC). (See sidebar on page 7).

The new content-rich MRC website allows members to easily find a wide range of information and resources designed to assist them in their practice. The MRC is a one-stop shop for members to access professional development resources and conduct business with the Law Society, including filing their Member's Annual Report (MAR) online. More than 18,000 lawyers now file their MAR electronically, which is about 50% of members who are required to file.

However, it's the practice management resources that are capturing the attention of lawyers. A recent survey of members suggests that PD&C is on track and lawyers find the tools helpful. One lawyer noted, "Overall, your resources have greatly improved since 1999 when I first started gathering up my info to open my practice." Another added, "You are making a great effort in providing significant resources to practitioners."

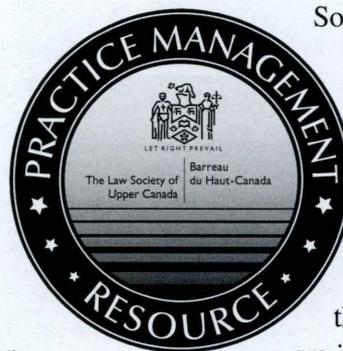
The survey asked lawyers to provide a qualitative assessment of the value they derived from the different products and services offered by PD&C. Miles says the approval ratings were "tremendous." Ninety-five percent of Law Society resources received member approval ratings over 70%. The majority of Law Society resources have approval ratings higher than 80%.

The survey also showed that sole practitioners and lawyers in small and mid-sized firms are benefiting the most, Miles says, noting that these lawyers often don't have the same infrastructure support as large law firms. "They're using the tools frequently."

As it is vital that the Law Society fulfill its mandate to support lawyer competence and professionalism, PD&C has developed resources to address the learning needs of lawyers at all stages of their career, whether they are in sole practice or working in a law firm.

So what are the practice tools of choice? There is a range of options. One of the most popular, Miles says, is the Practice Management Guidelines.

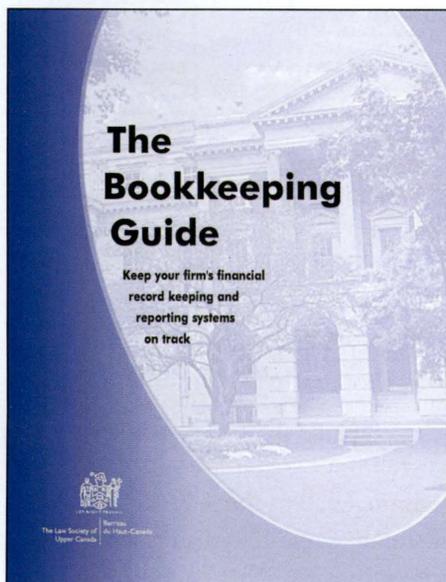
The guidelines cover everything from client service and communication



to file management, technology and professional and personal time management.

One lawyer surveyed noted that after referring to the Guidelines, "I made some concrete changes in my practice."

The Bookkeeping Guide is another popular feature, says Miles. "It's extremely popular with small firm and sole practitioners."



It is a comprehensive, easy to follow document that walks lawyers through the whole financial spectrum of running a law business, from managing and disbursing trusts funds to accepting payments by debit and credit cards. One lawyer described it as "a complete guide to everything you need to know."

The Best Practices Self-assessment Tool is an interactive, do-it-yourself online survey that assesses how your practice and processes stack up in comparison to other lawyers in Ontario in areas such as client communications, professional behaviour and development, practice management and technology.

Member Resource Centre grows its knowledge tree

Lawyers looking for one-stop interaction with the Law Society of Upper Canada need look no further than the Member Resource Center (MRC).

In addition to being able to speak to live agents, the MRC has a growing Internet presence that is perfect for lawyers who want to serve themselves.

Bev Langill, Marketing and Administration Advisor for the Professional Development and Competence Department says the MRC Web presence has been updated and streamlined to make it easier for lawyers to find information and conduct business.

She says the new site is "very clean and defined" and is designed so that lawyers can get to the information they are seeking with no more than two clicks of a mouse.

There are new menus and improved navigation features and a section has been created that is devoted entirely to sole practitioners and small firm lawyers. As well, the search engine at the MRC page, located at <http://mrc.lsuc.on.ca>, means that lawyers can scan the entire MRC portal, making it easier to unearth relevant information that addresses problems or queries.

One of the key lawyer competence elements is The Knowledge Tree, which is a comprehensive list of the most frequently asked questions. "It's a great self-help tool" and a good

place to start for any lawyer who has questions about practice issues.

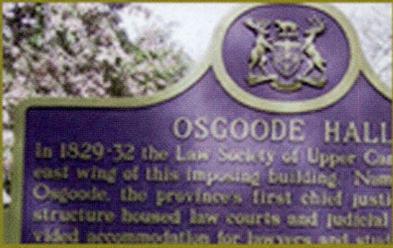
Lawyers can access The Knowledge Tree in both the Practice Resources and the Sole and Small Firm Practitioners sections of the MRC.

The Knowledge Tree breaks down items alphabetically and groups information under key headings. Got a practice question about trust accounts? Simply click on the trust account link and you're taken to frequently asked questions about trust accounts. From there, lawyers can delve deeper into the topic by clicking on links, where they are taken to pages within the website that provide comprehensive discussion about trust accounts.

If you are puzzled over a possible conflict of interest, there is a series of topics that provide easy-to-find answers to complex questions. Lawyers can quickly find information about acting against former clients and when business interests collide with legal duties.

There are more than 17 limbs to The Knowledge Tree, each of which branches out further into the topics, covering everything from advocacy to books and records, communicating with clients and managing the difficult ones, accepting retainers and providing undertakings.

Says Langill, "It provides quick and easy access to those everyday questions lawyers face in their practice." ■



MRC

Welcome to the Law Society of Upper Canada's online Member Resource Centre. The Law Society has created this Web site for you to easily find a wide range of information and resources designed to assist you in your practice.

Members also receive the *e-Bulletin Resources for Lawyers*, an electronic newsletter that alerts them to need-to-know developments and deadlines. One survey participant says the *e-Bulletin* is timely and "it helps me stay informed in a rapidly changing environment."

Those lawyers who are looking for sage advice from a seasoned colleague can sign on for the Mentorship Program, which is a powerful resource for young lawyers and those embarking on their own practice.

There are also a number of flexible continuing legal education options, designed to cater to the changing needs of lawyers by using a blend of technologies and traditional education delivery methods.

Lawyers can use the MRC website to register for webcasts. Webcasts are electronically delivered seminars that are

particularly helpful for lawyers outside of major urban centres. One lawyer noted, "It's great to stay current and not have to travel 900 miles."

There are also a number of research tools that lawyers can call on, such as the AdvoCAT Catalogue and Stay Informed, the Great Library's current awareness service. ■



Interjurisdictional issues for the legal profession

The implementation of the *National Mobility Agreement* has helped open borders and made it easier for lawyers to serve clients with legal needs that cross jurisdictions. It has also led to unprecedented collaboration between law societies on regulatory public interest issues that cross geographic lines.

Much of this work is done under the umbrella of the Federation of Law Societies of Canada, the national coordinating body for the 14 legal organizations in Canada who have responsibility to regulate Canada's 88,500 lawyers and 3,500 notaries in Quebec in the public interest.

The Federation works on issues ranging from the protection of solicitor-client privilege to mobility and the regulation of lawyers in Canada and internationally. It also intervenes in cases where the protection of the public is of national concern.

The Federation played a lead role in the creation and implementation of the *National Mobility Agreement*. It also adopted a model rule for law societies to implement as part of the efforts to fight money laundering.

This issue of the *Ontario Lawyers Gazette* includes important information for lawyers to help fight money laundering and for those interested in practising inter-jurisdictionally.

Learn more about the work of the Federation on these and other issues by visiting its website at: www.flsc.ca. Additional information about interjurisdictional practice and the prevention of money laundering can also be found on the Law Society of Upper Canada's website at: www.lsuc.on.ca.

Taking steps to fight money laundering

TO ASSIST IN THE FIGHT AGAINST MONEY LAUNDERING AND FULFILL ITS MANDATE TO GOVERN THE LEGAL PROFESSION IN THE PUBLIC INTEREST, THE LAW SOCIETY AMENDED ITS *RULES OF PROFESSIONAL CONDUCT* AND *BY-LAWS 18 AND 19*.

The amendments, which became effective on January 27, 2005, include:

- ▶ New record-keeping provisions regarding the receipt of cash that require lawyers to document the method by which money is received and to maintain a duplicate cash receipt book;
- ▶ A prohibition on the receipt of cash in an aggregate amount of \$7,500 or more for any one client file, with certain specific exceptions outlined under By-Law 19, Handling of Money and Other Property, sections 1.1 through 1.4; and

- ▶ New commentary to rule 2.02(5) (Dishonesty, Fraud, etc. by a Client) on lawyers' responsibilities when their suspicions are raised about the legality of a transaction for which the lawyer receives instructions.

As part of the 2005 Member's Annual Report, Ontario lawyers are required to advise the Law Society if they have received cash, and if so, whether its receipt was in compliance with the by-laws.

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Continued from page 9

The amendments are based on a model rule adopted by the Federation of Law Societies of Canada.

The model rule was adopted in the course of ongoing discussions with the Government of Canada arising from the Federation's constitutional challenge to money laundering legislation. The Federation's position is that the application of

the legislation to lawyers violates solicitor-client confidentiality and the independence of legal counsel.

Recognizing that lawyers support efforts to eradicate money laundering, the Federation proposed that each law society in Canada adopt regulations that would assist in preventing money laundering. Similar rules have been adopted by law societies across the country. ■

PRACTICE TIP ► Protect yourself and your practice – Cash handling requirements

You are a progressive practitioner who embraces technology. You are comfortable utilizing all of the available tools to help manage the operation of your practice and better serve your clients such as electronic registration, e-mail and document imaging. You accept retainers by credit card, debit card and direct deposit. It is understandable that you become concerned when a new, or relatively unfamiliar client brings you a large amount of cash for a particular matter.

Depending on the nature of your practice, and the preferences of your clients, you may be likely to receive large amounts of cash for retainers, payment of fees or to fund a client's transaction. Anytime you receive cash, you must review your professional obligations and ensure that you properly document and record the transaction to prevent your firm from assisting in the laundering of money.

As indicated in the revised commentary to subrule 2.02 (5) of the *Rules of Professional Conduct*, lawyers should be proactive to avoid unwittingly becoming involved with a client engaged in criminal activity such as money laundering. Money launderers target lawyers as they commonly provide services such as: purchasing or selling business entities and real estate and arranging financing for those activities.

Under section 2.1, the most recent amendment to By-Law 18, you must record all receipts of cash (domestic and/or foreign coin or notes) from clients in a duplicate cash receipts book, whether the funds are received in trust or as payment for fees billed or disbursements made. You must issue one copy of the receipt to the client and retain one copy for your records. Each receipt slip must include:

- the date on which the cash is received
- the name of the person from whom the cash is received
- the amount of cash received
- the client for whom the cash is received
- any related file number(s)
- signature of the person who received cash
- signature of the person who provided cash

As long as you have made reasonable efforts to obtain the signature of the person who provided the cash, you would not be in breach of the by-law.

It would also be beneficial to obtain identification from the person providing you with the cash.

In addition to maintaining the cash receipt document, you are also required to record the method of payment (i.e. cash, cheque, credit card) for each

amount of funds received in your trust and general receipts journals.

You are prohibited from receiving cash in respect of any one client matter totalling \$7,500.00 or more as set out in section 1.2 of By-Law 19. However, under section 1.4, you are permitted to receive amounts of cash of \$7,500.00 or more only if the cash is received:

- for fees, disbursements, expenses or bail (provided that any refund out of such receipts is also made in cash);
- from a public body or financial institution as set out in subsection 1.4(a);
- from a peace officer, law enforcement agency or other agent of the Crown acting in an official capacity;
- pursuant to an order of a tribunal or to pay a fine or penalty.

It is critical that you keep yourself informed of all requirements regarding the handling of cash in your practice to avoid being the tool or dupe of an unscrupulous client. Please review By-Laws 18 and 19 and Rule 2 of the *Rules of Professional Conduct* for the complete requirements.

Additional information is also available on the Law Society's website at: www.lsuc.on.ca under Hot Topics. You may also contact the Practice Management Helpline at 416-947-3315 or 1-800-668-7385 extension 3315.



Mobility: Are you eligible?

It's your responsibility to know before you go.

THE NATIONAL MOBILITY AGREEMENT HAS MADE INTERJURISDICTIONAL PRACTICE AND TRANSFER EASIER. BUT ALL LAWYERS WHO ARE THINKING OF PRACTISING INTERJURISDICTIONALLY – EITHER ON A PERMANENT OR TEMPORARY BASIS – NEED TO DO THEIR HOMEWORK TO ENSURE THEY ARE ACTING WITHIN THE RULES.

THERE ARE CRITERIA THAT MUST BE MET BEFORE YOU CAN PROVIDE LEGAL SERVICES IN OR REGARDING THE LAW OF ANOTHER JURISDICTION UNDER THE TERMS OF THE NATIONAL MOBILITY AGREEMENT.

In December 2002, a number of Canadian law societies signed a breakthrough agreement that gives lawyers the ability to provide legal services in another jurisdiction with very little impediment.

Signatories to the *National Mobility Agreement* (NMA) are Alberta, British Columbia, Manitoba, Newfoundland, Nova Scotia, Ontario, Quebec and Saskatchewan. New Brunswick, Prince Edward Island, Yukon, the Northwest Territories and Nunavut have not yet signed it.

All of the signatory jurisdictions except Quebec have implemented the agreement by changing their by-laws and rules to make mobility a reality on July 1, 2003. The signatories that have implemented the necessary rules are referred to as “reciprocal jurisdictions”.

The NMA affects rules and requirements for both permanent membership and temporary mobility among reciprocal jurisdictions. Lawyers in those jurisdictions may be eligible to practise interjurisdictionally if they meet the requirements under the rules.

Mobility: The basics

Thinking of temporary practice in another jurisdiction?

To be eligible to practise on a temporary basis in a reciprocating jurisdiction you must first be “entitled to practise” or “authorized to practise” in your home jurisdiction and your law society must be one of the reciprocating jurisdictions that has signed and implemented the *National Mobility Agreement*.

However, **there are instances where you would be required to get a permit first.**

You cannot practise interjurisdictionally on a temporary basis without a permit if you:

- are the subject of a criminal proceeding or a conduct, competence or capacity hearing in any jurisdiction.
- are the subject of or have a record of an order against you by the governing body in any jurisdiction revoking your membership, disbarring you or permitting you to resign or suspending or limiting your rights and privileges

(other than for failure to pay fees, insolvency, bankruptcy or another administrative matter).

- have terms, conditions, limitations or restrictions on your authorization to practise law.
- establish an economic nexus with the province you are visiting.

If any of the above applies, you must submit an application for a permit for temporary mobility and will be required to confirm and fulfill the specific jurisdiction’s requirements.

Lawyers from reciprocating jurisdictions who meet the criteria laid out in each jurisdiction’s rules may practise on a temporary basis in or respecting the law of those jurisdictions without prior permission for a maximum of 100 days annually.

Lawyers are responsible for docketing time spent on their out-of-jurisdiction files as this information may be requested by the host jurisdiction. Calculation of time is for any time that work is done on these files, whether lawyers are physically in the host jurisdiction **or** in

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their home jurisdiction. Any part of a day, whether several hours in court or a 20-minute telephone conversation relevant to the file counts as a whole day in the accumulation of the 100-day maximum.

Thinking of permanent membership in another jurisdiction?

Lawyers interested in becoming members of the bar of reciprocating jurisdictions are no longer obliged to write transfer examinations. **Each jurisdiction, however, has its own regime respecting incoming lawyers.**

In general, to make an application you must have a Canadian common law degree or NCA certificate, be a member of the bar of a reciprocal jurisdiction and your certificate of standing must state that you are "entitled to practise" or

"authorized to practise". A reading requirement replaces examinations.

If you want to join the bar of a reciprocating jurisdiction, you should seek information from that law society's website. Links are available on the Federation of Law Societies website at: www.flsc.ca.

Similarly, if you want to join the bar of a non-reciprocating jurisdiction, you should check its requirements. At a minimum you will be required to write transfer examinations.

What about occasional appearances in non-reciprocating jurisdictions?

If you wish to appear occasionally in a non-reciprocating jurisdiction you also need to **do your homework**. The 100-day regime will not apply and you will need to **learn the rules and**

requirements of the jurisdiction in which you want to appear.

Lawyers from non-reciprocating jurisdictions that have signed the Inter-jurisdictional Practice Protocol may appear occasionally in Ontario for a total of 20 days on a total of ten files in a year.

By-law 33, Parts II and III, outline the requirements for occasional practice in Ontario for lawyers from reciprocating and non-reciprocating provinces, respectively. ■

Looking for more information?

Frequently asked questions about mobility are accessible on the Law Society's website at: www.lsuc.on.ca in the **Member Resource Centre**.

Review the Law Society of Upper Canada's *Rules of Professional Conduct* and by-laws at: www.lsuc.on.ca under the tab **Lawyer Regulation**.

For information about the rules and requirements of other law societies you should contact them directly or visit their websites. Links can be found on the Federation of Law Societies website at: www.flsc.ca.

Contact us

If you want to practise in Ontario and have questions, contact the Law Society's Administrative Compliance Processes department at:

Toll free: 1-800-668-7380 ext. 3932

General line: 416-947-3932

Fax: 416-947-5260

E-mail: lsforms@lsuc.on.ca

If you want to practise outside Ontario, and need to check your own history, contact the Law Society's Membership Services department at:

Toll free: 1-800-668-7380 ext. 3315

General line: 416-947-3315 or 3318

Fax: 416-947-5263

E-mail: records@lsuc.on.ca

TRUST ACCOUNTS:

What gets a lawyer into trouble

The Law Society has to intervene from time to time when it appears that there are irregularities in a member's trust account and bookkeeping practices. Here are a couple of examples where lawyers had serious problems because of poor office management practices:

Scenario 1: A bookkeeper experiencing health problems fails to maintain a lawyer's financial records. The lawyer does not review the bookkeeper's work regularly. The Law Society does a routine spot audit and the deficiencies in the books and records are discovered. The lawyer's trust account is immediately frozen until the Law Society investigation is complete and the extent of the problem is confirmed.

Scenario 2: A lawyer leaves pre-signed trust cheques in her drawer for the use of a trusted employee. The lawyer does this so that the employee can make payments while she is out of the office and to facilitate clients and others receiving payment in a timely way. The employee uses her access to these cheques to misappropriate trust funds. When the member discovers this, she immediately dismisses the employee and contacts the Law Society. Where there is an issue of theft, the police must also be called.

The consequences in both scenarios can be devastating for the lawyer.

In both cases client funds are potentially missing, and it is the lawyer's responsibility to repay the clients. There is a loss of credibility and confidence in the lawyer among those in his or her community. In addition to this financial consequence for the lawyer, his or her failure to supervise staff properly also leads to Law Society regulatory response. The Law Society response includes oversight to ensure that the harm has stopped, and also investigation to determine if the lawyer should face discipline.

It is all too easy to fall into poor habits that can lead to this type of loss, which can be catastrophic.

Lawyers have special obligations under the Law Society's *Rules of Professional Conduct* and By-laws concerning the handling of monies received in trust. These regulatory obligations are made all the more important because it is money held in trust for the public. Lawyers must therefore take exceptional care to ensure they handle trust monies in full compliance.

Working with trust accounts

When a lawyer receives money in trust, the lawyer must immediately deposit the money into an account at a designated institution (e.g. a bank). The account must be kept in the lawyer's name, and designated as a trust account. It is important to note that a "client" means a person or group of persons from whom or on whose behalf a member receives money or other property. Accordingly the trust obligation applies to all property received in the member's capacity as a lawyer, whether or not the traditional solicitor-client relationship exists.

A lawyer is permitted to use his or her trust account only to:

- Deposit money received from a client to be paid to other parties.
- Deposit money received from other parties on behalf of a client.
- Deposit money received from a client for future legal services and disbursements.
- Disburse money as directed by a client.
- Reimburse his or her firm for proper expenses made on behalf of a client.

- Transfer money to his or her general account for fees after having sent a bill to the client for completed legal services.

Restrictions in using trust accounts

There are significant restrictions on the use of a lawyer's trust account. For example, a lawyer cannot:

- Withdraw more money from trust than the amount of funds held in trust on behalf of a client.
- Transfer money from the trust account to the general account on account of fees **unless** the lawyer has completed the work relating to the amount transferred **and unless** a fee billing has been issued to the client.
- Use trust funds of one client to the lawyer's personal benefit or to the benefit of another client.
- Mix personal funds with client trust funds, for example, to avoid tax or support obligations or garnishment obligations.

- Withdraw trust funds in cash or disburse trust funds from an automated teller machine as these methods do not leave an adequate audit trail.
- Transfer money out of the trust account contrary to client instructions.
- Operate a trust account if bankrupt within the meaning of the *Bankruptcy and Insolvency Act (Canada)* (By-law 35).
- **A lawyer is not permitted to “borrow” money from trust – this will generally be considered misappropriation of trust funds, whether or not the funds are repaid.**

The basic obligations for the handling of trust accounts are found in the *Rules of Professional Conduct* and the By-laws (particularly By-law 19).

The lawyer’s responsibility

The lawyer is responsible for any shortages that occur in the trust account and must immediately rectify any

shortages by paying amounts into the trust account from his/her own funds. It doesn’t matter if the lawyer or the lawyer’s bookkeeper caused the shortage – it is the lawyer who is responsible.

A lawyer often delegates important tasks to a trusted employee. For a small firm or sole practitioner this may be a necessity. What all lawyers must remember is that certain functions cannot be delegated and that **ultimately the lawyer is responsible for reviewing his or her books and records and ensuring proper handling of trust funds.**

The Law Society requires lawyers to keep accounting records. Failure to maintain current books and records can result in disciplinary action. This requirement stems from the fact that the funds do not belong to the lawyer and the lawyer must account for them. By-law 18 outlines the Law Society’s minimum requirements regarding the books and records to be maintained.

The Law Society takes these requirements very seriously as part of its mandate to regulate in the public interest, and a number of disciplinary proceedings commenced by the Law Society involve lawyers’ failure to maintain financial records. The importance of these requirements has been emphasized with the creation of a fast-track hearings process that applies to lawyers who fail to maintain financial records as required by the by-laws.

More information

The Law Society’s website contains a number of practice management resources for practitioners on working with trust accounts and maintaining proper books and records. Visit the **Member Resource Centre** at: <http://mrc.lsuc.on.ca>.

Review the *Rules of Professional Conduct* and By-laws 18 and 19 online at: www.lsuc.on.ca. Select the **Lawyer Regulation** tab. ■

Lawyers e-file in record numbers

With the ease and convenience of filing the Member’s Annual Report (MAR) online, Ontario lawyers are making use of the service in record numbers.



“The number of e-filings now far surpasses the number of paper filings by lawyers,” notes Terry Knott, Director of the Society’s Complaints and Membership Services. Electronic filings save time and effort, help to conserve our environment and reduce costs for the Law Society.

When the Law Society first launched its online filing service in 2002, just over 2,000 lawyers e-filed. Last year 17,972 lawyers e-filed their MAR.

By the end of February 2006, more than 7,850 lawyers had already filed their MAR online. “At this pace, we’re on track to surpass last year’s e-filings,” says Knott.

“We’ve made significant changes to the online form over the years to make it easier to complete,” says

Knott. This includes the addition of “how-to” information to help demonstrate how to fill out the form.

How does it work?

Visit the Law Society’s website (<https://eforms.lsuc.on.ca>)

To apply for access, you need your member number and year of call. The “application for access” must be completed **even if you e-filed the previous year.**

Use the “log-in” button to begin entering information. Your responses will move you effortlessly to the questions that apply to you and there’s no need to mail in attachments.

The form does not need to be completed all at once. You can start and stop, save

it and return to complete it later. While information for each section is saved automatically, be sure to use the log-out button to exit the form.

Save a PDF copy of the form to maintain an electronic record for your files.

Questions?

If you have questions or need assistance in completing the form, contact the Member Resource Centre at: lsforms@lsuc.on.ca, 416-947-3315 or 1-800-7668-7380, ext.3315.

As part of the 2005 Member’s Annual Report, Ontario lawyers are required to advise the Law Society if they have received cash, and if so, whether its receipt was in compliance with the by-laws. Turn to page 9 to review cash handling requirements under the *Rules of Professional Conduct* and By-laws 18 and 19.

Certified Specialist Program launches new specialty areas and seeks committee members

THE LAW SOCIETY'S CERTIFIED SPECIALIST PROGRAM HAS NOW OFFICIALLY LAUNCHED TWO NEW SPECIALTY AREAS: **HEALTH LAW** AND **MUNICIPAL LAW**. ALSO, THE **WORKPLACE SAFETY & INSURANCE LAW** SPECIALTY HAS BEEN REDESIGNED. LAW SOCIETY MEMBERS CAN NOW BECOME CERTIFIED SPECIALISTS IN 15 AREAS OF LAW.

At this time, the Certified Specialist Board invites practitioners to apply for membership on the following Specialty Committees:

- ▶ Civil Litigation
- ▶ Construction Law
- ▶ Corporate and Commercial Law
- ▶ Estates and Trusts Law
- ▶ Family Law
- ▶ Health Law
- ▶ Intellectual Property Law
- ▶ Labour Law

Specialty Committees evaluate applications for certification and

recommend to the Board those who are qualified for certification as Specialists. Specialty Committees are also responsible for maintaining the standards for certification in their area.

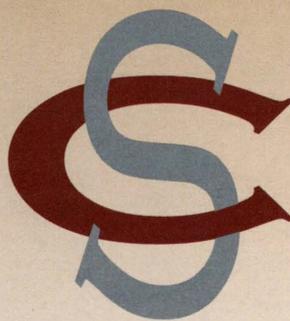
Qualifications for committee membership and how to apply

Committee members must be Certified Specialists in the specialty area or undertake to obtain the designation prior to appointment. Members across the province are encouraged to apply. Members are appointed for a term not exceeding three years and are eligible for

reappointment.

Interested practitioners should submit a detailed description of the nature of their practice in relation to the specialty area and the applicable Standards for Certification, along with a curriculum vitae and cover letter addressed to the Certified Specialist Board, The Law Society of Upper Canada, Osgoode Hall, 130 Queen Street West M5H 2N6. Fax to 416-947-3370 or e-mail to certspec@lsuc.on.ca. If you have any questions, please contact the Member Resource Centre at 416-947-3315 or 1-800-668-7380, ext. 3315.

Congratulations to our newest Certified Specialists



The entire list of Certified Specialists can be found in the online Directory of Certified Specialists at: www.lsuc.on.ca.

Visit the Member Resource Centre at: www.lsuc.on.ca to learn more about the Certified Specialist Program, or phone us at 416-947-3315 or 1-800-668-7380, ext. 3315.

The Law Society of Upper Canada is pleased to announce the following lawyers have achieved the Certified Specialist designation. Certified Specialists have met established standards of experience and knowledge requirements in designated areas of law and maintained exemplary standards of professional practice.

Bankruptcy and Insolvency Law

Jeffrey C. Carhart, Toronto

Citizenship and Immigration Law

Robert Israel Blanshay, Toronto (Immigration/Refugee Protection)
Warren Leonard Creates, Ottawa (Immigration/Refugee Protection)

Civil Litigation

Timothy Martin Lowman, Toronto
Allen J. Wynperle, Hamilton

Real Estate Law

Sally Heather Burks, Ottawa
Craig R. Carter, Toronto

Deadline for submissions is April 7, 2006. Applications received after the deadline will be considered for future vacancies.

Qualifications to become a Certified Specialist

You may submit an application for certification when you have:

- Practised for a minimum of seven years prior to the date of the application;

- Had substantive involvement in the specialist area during five of the seven years, i.e.,
 - Mastery of substantive law, practices and procedures, and
 - Concentration of practice in the specialty area;
- Complied with the professional development requirements; and
- Complied with the professional standards requirements.

Information on the Certified Specialist Program, including the application form and detailed standards and qualifications, is available on the Member Resource Centre website at: www.lsuc.on.ca or by contacting the Member Resource Centre at (416) 947-3315, toll-free at 1-800-668-7380, ext. 3315, or by e-mail at: certspec@lsuc.on.ca. ■

ONTARIO BAR ASSISTANCE PROGRAM

The Ontario Bar Assistance Program (OBAP) assists lawyers and their families in dealing with issues such as addiction, stress/burnout, work and family pressures and mental or physical health. Assistance is provided through one-on-one peer support, assessment, referrals to services, counselling, and links with related services, education and information. More information online at: www.obap.ca.

Even lawyers need help sometimes

Depression. Drug or alcohol dependency. Stress or burnout. Family problems. Job loss. Financial pressures. Lawyers are not immune to the realities of life. No matter what the issue, if you – or someone you know – is in difficulty, **OBAP is here to help.**

We live in a world of rapid change. Law practice is an exacting profession. In this competitive, stress-filled world of rapid change, practising law carries many challenges. The result? The pressures can take a toll on your personal and professional life. Illness, burnout, chronic stress, marital conflicts, alcohol or drug dependency and other difficulties may affect you.

Getting help early can prevent small problems from becoming large problems.

OBAP is a network of lawyers who help lawyers. When you call OBAP directly we listen to your concerns, assess, make suggestions for action, refer you to appropriate resources and maintain contact to determine that you get the help required.

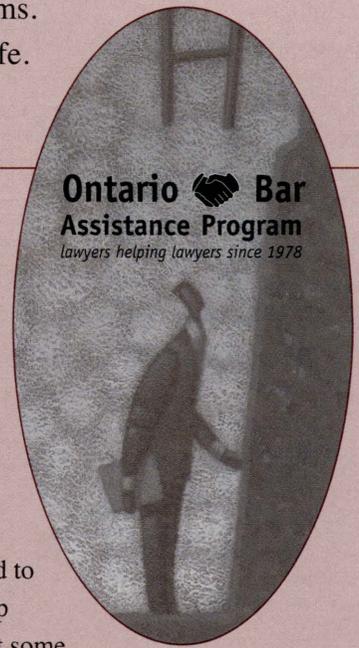
OBAP does not act as or replace doctors, counsellors or medical practitioners. OBAP knows what help is available, and can refer people to resources that can be very helpful to someone feeling isolated. In appropriate cases where there is

an OBAP peer support volunteer with the same kind of problem, “one on one” help can be set up.

The 24-hour helpline is a link to OBAP and will make sure that you get in touch with a person who can help. If you need to talk to someone, need help finding a resource or want some help, please call the Ontario Bar Assistance Program.

To contact the Program Manager, Leota Embleton, please call 1-877-576-6227. To contact the Volunteer Executive Director, John Starzynski, please call 1-877-584-6227.

You may also visit the website at www.OBAP.ca



Carrières en justice

M^e SONIA OUELLET, LA DIRECTRICE GÉNÉRALE DE L'ASSOCIATION DES JURISTES D'EXPRESSION FRANÇAISE DE L'ONTARIO, PEUT PARLER PENDANT DES HEURES DE SON NOUVEAU PROJET QUI L'ENTHOUSIASME BEAUCOUP. IL S'AGIT DE *CARRIÈRES EN JUSTICE*, UNE CAMPAGNE DE TROIS ANS VISANT À INFORMER LES JEUNES D'EXPRESSION FRANÇAISE SUR LES CARRIÈRES ET LE SYSTÈME JUDICIAIRE DANS SON ENSEMBLE.

Lorsque l'AJEFO et ses partenaires ont pris conscience qu'une importante partie de la fonction publique et du personnel des tribunaux judiciaires prendrait sa retraite dans un avenir rapproché, ils ont décidé de prendre le taureau par les cornes et de mettre sur pied une initiative d'accès à la justice dans le but d'éviter que les services juridiques en français viennent à manquer. Ils se sont donc mis à analyser des initiatives qui ont connu de beaux succès, tel que *Carrières en santé et en services sociaux*, du Regroupement des intervenantes et intervenants francophones en santé et en services sociaux de l'Ontario, et *Educaloi*, un carrefour d'accès au droit au Québec. Le programme à créer devait amener une relève dans les secteurs traditionnels et non traditionnels et mettre en valeur les professions d'avocat, de traducteur, de greffier, de procureur et de juge et de commis bilingue, d'auxiliaire de justice, de travailleur social, d'intervenant à l'Aide à l'enfance, de personnel administratif dans un palais de justice, d'interprète, de policier provincial et d'autres intervenants essentiels aux services juridiques.

Cette entreprise d'envergure a obligé divers groupes professionnels à s'associer pour faire connaître les possibilités que leur profession offrent aux jeunes, et les y intéresser. Les jeunes voyant un si grand nombre d'ouvertures peuvent y trouver un avenir et partager l'optimisme qui anime M^e Ouellet. « Il

fallait établir une stratégie provinciale de sensibilisation pour assurer la survie du français dans l'ensemble du système judiciaire ontarien. On prévoit même que le modèle ontarien pourrait être utilisé dans les autres provinces où le français est une langue minoritaire », affirme-t-elle.

On veut recruter des jeunes de 11 à 18 ans et les encourager à utiliser les services judiciaires en français et les informer de leurs droits, et de là, faire connaître les droits linguistiques des résidents de l'Ontario et les procédures judiciaires dans notre province. *Carrières en justice* se servira de nouvelles technologies pour arriver à ses fins. Par exemple, on mettra sur pied un site Internet interactif illustrant le déroulement de certaines procédures judiciaires. TFO appuiera le projet en produisant des capsules télévisuelles sur les carrières et des outils pédagogiques pour susciter l'intérêt des jeunes sur le

fonctionnement de nos institutions judiciaires et de leurs protagonistes. On espère d'ailleurs adapter ces outils pour en faire profiter le reste de la population canadienne en travaillant avec les barreaux des autres provinces. On verra aussi avec *Carrières en justice* la création d'un réseau de professionnels régionaux (bénévoles) du secteur de la justice qui travailleront avec les jeunes.

Plus concrètement, on offrira, en avril, aux écoles francophones de l'Ontario de trois régions (Ottawa, Toronto et Thunder Bay) les services d'un regroupement de spécialistes qui pourront offrir des activités d'animation lors de la Journée du droit. De plus, on distribuera des fiches de travail éducatives et des trousseaux d'orientation, et on offrira des séances de formation aux enseignant(e)s.

Le projet *Carrières en justice*, qui bénéficie de l'appui financier du gouvernement fédéral et provincial, compte la participation entre autres, de TFO, d'Éducaloi, d'Aide juridique Ontario et du Barreau du Haut-Canada.

Ce projet contribuera à l'amélioration de la planification et de la prestation des services judiciaires en français en Ontario. M^e Ouellet et son équipe espèrent une grande participation de la part des jeunes des écoles et ainsi, une vraie sensibilisation aux questions d'accès à la justice en français en Ontario. ■

Congrès annuel de l'AJEFO

Le 27^e Congrès annuel de l'AJEFO aura lieu cette année au centre de villégiature de Deerhurst, à Huntsville du 22 au 25 juin 2006. Le thème en sera « Hors des sentiers battus » pour illustrer la diversité des entreprises de l'AJEFO avec *Carrières en justice*, la Journée du droit et les ateliers de formation professionnelle offerts dans le cadre de l'Institut de développement professionnel en langue française. Pour vous inscrire au Congrès, visitez www.ajefo.ca

Nouvelle adresse de l'AJEFO

Le 6 mars 2006, l'AJEFO a emménagé au 201-214, Chemin Montréal, à Ottawa K1L 8L8. Le nouveau numéro de téléphone est le (613) 842-7462. Le courriel demeure bureau@ajefo.ca

POUR LA BONNE CAUSE

La femme et le droit

Vingt ans, l'oeil fier

LA REVUE JURIDIQUE *FEMMES ET droit* célébrait récemment son vingtième anniversaire. Vingt ans à chercher à transformer, par des articles thématiques, la tradition normative, et, comme le suggère le tout premier éditorial, à sensibiliser son lectorat à l'oppression qu'exercent le contenu des lois et les idées de la communauté juridique sur les femmes.

Une des pionnières de la Revue, Monique Charlebois, aujourd'hui conseillère juridique au bureau du Tuteur et curateur public, et alors membre du comité de direction de l'Association nationale des femmes et du droit, se souvient de l'enthousiasme régnant en 1983-1984. Elle a participé à la formulation des premières propositions de travail pour la nouvelle publication, rencontrant les étudiantes et les professeurs féministes pour trouver le moyen de donner la perspective des femmes sur le droit et l'égalité. Elles ont su convaincre, non sans difficultés, les sources de subventions de la nécessité du projet. Monique Charlebois se souvient : « J'étais responsable des demandes de subventions, de l'administration, de l'élaboration des brochures, du personnel. Je faisais du bénévolat pendant que je travaillais au gouvernement fédéral. J'ai été membre du comité de rédaction jusqu'en 1990-1991. »

La 1^{re} édition est sortie en 1985. Elle coïncidait avec la promulgation de l'article 15 de la *Charte des droits et libertés*. Elle suivait également de trois ans l'adoption de l'article 28 qui stipule que « les droits et libertés [...] sont garantis également aux personnes des deux sexes », adoption qui ne s'est faite que par la lutte des groupes féministes de l'époque.

La Revue devait avoir un pendant français constitué d'articles originaux et non traduits. A-t-elle servi à quelque chose? « On peut voir que la Revue a fait avancer la société : À preuve, il arrive que les articles publiés dans la Revue soient cités dans les plaidoiries devant les tribunaux supérieurs, y compris la Cour suprême du Canada. Et pour cause : la Revue a traité de thèmes majeurs comme les droits des gais et lesbiennes, la garde d'enfants et l'égalité des femmes au travail et encore bien d'autres. »



De gauche à droite : Edith Deleury de Laval (première co-éditrice section française), Kathleen Lahey de Queen's (première co-éditrice section anglaise), Emily Carasco de Windsor, Monique Charlebois et Bev Baines de Queen's (trois anciens membres du premier comité de rédaction).

Monique Charlebois se dit heureuse que la réflexion que la Revue propose à la société reçoive maintenant l'appui de la communauté universitaire et juridique au sens plus large et continue ainsi de faire avancer les principes d'égalité. ■

Les bienfaits du radicalisme

M^{re} Jackman est professeure à l'Université d'Ottawa et compte parmi un groupe actif de juristes féministes qui ont œuvré au sein de la Revue *Femmes et droit*.

Elle soutient que la Revue a fait évoluer la jurisprudence pour les femmes, que ce soit en droit de la famille, sur la reconnaissance du racisme ou de la violence conjugale. À l'époque, on n'abordait pas ces thèmes dans une perspective féministe. Aujourd'hui, on publie de très bons textes féministes dans diverses revues de droit et c'est sûrement en partie attribuable à l'ouverture qu'a entraînée la Revue *Femmes et droit*. Elle a permis d'augmenter la visibilité de l'analyse féministe dans les milieux juridiques et sociaux. Selon Martha Jackman, le caractère radical de la Revue est

essentiel pour l'évolution de l'esprit de la communauté juridique. En effet, il pourrait être difficile de publier certains articles sans restriction dans les publications généralistes, malgré leur ouverture progressive.

« La Revue a permis de faire une avancée très importante dans des domaines majeurs. Par exemple, le numéro sur le racisme en 1993, intitulé 'Racisme, si nous en parlions', portait sur les femmes de minorité visible qui devaient choisir entre femme et minorité. À ce moment, l'intersectionnalité n'était pas reconnue juridiquement et une revue généraliste aurait hésité à faire état de la difficile situation des femmes de minorité visible devant la loi. C'est la Revue qui a permis d'illustrer ce concept. Le traitement de sujets radicaux a laissé une

marque certaine. Le droit a subi une réforme qui n'aurait pas eu lieu sans cette analyse féministe, » affirme M^e Jackman.

Le Canada est un des seuls pays de common law, avec les États-Unis, à publier une revue de droit entièrement consacrée à des écrits féministes. Et le seul à publier une revue bilingue et bijuridique, engagée à refléter la diversité. « Quand j'y pense, je trouve encore extraordinaire que nous l'ayons fondée, financée et

gardée en vie. C'est un forum précieux d'expression féministe juridique et j'en suis fière », ajoute-t-elle.

Martha Jackman a quitté la Revue en 2002, mais continue d'y publier. Elle prépare d'ailleurs un article sur l'arrêt Gosselin en Cour suprême du Canada. Encore une fois, son analyse reflétera son honnête opinion sur la pauvreté et le droit à la dignité des femmes, un sujet qui l'intéresse particulièrement. « *Femmes*

et droit accepte mon opinion sans hésitation. Elle y a sa place pour faire son chemin. Dans une revue généraliste, elle serait sans doute qualifiée de trop radicale. » La preuve que la Revue *Femmes et droit* est toujours nécessaire.

Pour M^e Jackman, l'avenir de la Revue est entre bonnes mains. La relève est prête et solide. ■

Un travail de bénédictine

M^e JOSÉE BOUCHARD A FAIT UN énorme travail pour produire l'ouvrage intitulé *Recherches féministes en droit au Canada : une bibliographie annotée*, publié par la Revue *Femmes et droit*. Une bibliographie annotée en anglais répertoriait déjà les ouvrages de 1980 à 1988 et il était temps de faire une mise à jour pour inclure les années suivantes jusqu'à 1998. Devant la lacune d'un tel ouvrage en français, on a demandé à Martha Jackman de couvrir la littérature juridique de langue française. M^e Jackman a amorcé le processus de recherche, mais c'est Josée Bouchard qui a complété le travail en couvrant la période de 1980 à 1989. Pour ce faire, elle a épluché des centaines de textes du gouvernement, d'universitaires, de juristes, touchant la question des femmes en droit pour déterminer lesquels avaient une perspective féministe.

Elle a lu notamment des textes du domaine des Autochtones, constitutionnels et d'autres sur les oppressions multiples. Ces lectures parfois ardues, souvent passionnantes, lui ont permis de suivre l'avant-garde de la littérature de notre système bijuridique. Après avoir tout lu,

elle a produit, avec l'aide d'étudiantes, des sommaires de chaque ouvrage retenu. Durant tout le processus, M^e Bouchard a passé deux de ses congés de maternité plongée dans la production de cet ouvrage important.

C'est un ouvrage important parce qu'on le consulte. C'est une ressource indispensable pour faire des recherches dans tous les domaines juridiques. M^e Bouchard précise aussi que cette bibliographie annotée est présentée dans un format réellement bilingue où les ouvrages sont d'abord répertoriés par domaine et ensuite, par nom d'auteurs, indépendamment de la langue.

Ce projet a bénéficié de subventions de la Fondation du droit et grâce à elles, cette bibliographie se trouve dans toutes les bibliothèques de comtés et de districts en Ontario. On peut même la trouver dans d'autres provinces. Toutefois, pendant que les années passent, M^e Bouchard fait remarquer que la littérature juridique féministe continue de se développer et qu'il serait peut-être temps de penser à mettre à jour ce document. L'appel est lancé ! ■

Maîtriser la traduction juridique

Un bon traducteur juridique doit allier les habiletés liées à l'étude du droit et la connaissance profonde des mécanismes des deux langues officielles. C'est dans cet esprit que l'Université d'Ottawa a mis en place un nouveau programme de maîtrise, destiné spécifiquement aux juristes.

Le programme s'étale sur quatre sessions et vise à former des traducteurs ou des réviseurs principalement pour le marché canadien où cohabitent la common law et le droit civil. Cette maîtrise mènera à des postes de traducteur ou d'avocat-réviseur dans des services publics de traduction juridique, des grandes entreprises ou des cabinets d'avocats, sans toutefois conduire à l'exercice du droit ni à l'admission aux barreaux.

Les juristes intéressés doivent détenir un diplôme de premier cycle en droit, ou l'équivalent, et réussir un examen d'admission. Les cours porteront sur les principes de la traduction professionnelle et présenteront, notamment, des difficultés récurrentes liées au transfert interlinguistique.

Il est révolu le temps où l'on demandait aux premiers avocats qui enseignaient la common law en français à l'Université d'Ottawa d'élaborer la terminologie française au fur et à mesure des besoins.

On pourra obtenir plus de renseignements sur le contenu des cours et les formalités d'admission en s'adressant au secrétariat de l'École de traduction et d'interprétation ou en consultant le site Web de l'Université, service du registraire au www.traduction.uottawa.ca ■

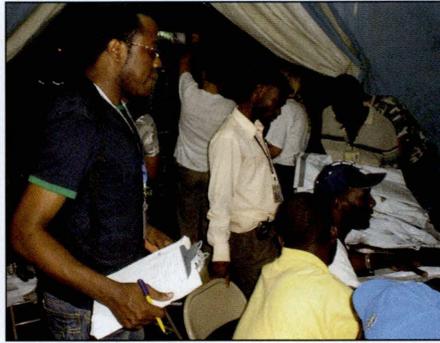
Histoire des Noirs à Haïti

DEPUIS 2004, M^e OLYDE-NESTER Munihiri vit et travaille à Port-au-prince en Haïti, à titre de chef de bureau de la commission d'enquête de la Mission des Nations Unies pour la Stabilisation en Haïti (MINUSTAH).

La Revue des juristes l'a joint par téléphone : le climat politique est agité, les communications sont difficiles et le son est mauvais, mais on y arrive.

Revue des juristes : Que faites-vous en Haïti ?

M^e Olyde-Nester Munihiri : Je travaille avec une équipe pour enquêter sur les allégations mettant en cause l'ONU, ses employés et casques bleus en Haïti. Il arrive qu'il y ait altercations entre les casques bleus de l'ONU et la population ou qu'il y ait carrément des morts. Dans ces cas, nous déterminons la source de l'incident et établissons les responsabilités. Un comité d'enquête constitué pour chaque cas compte quatre ou cinq membres non juristes, et fait des recommandations pour éviter ce genre de situation au sein des missions de l'ONU. J'agis à titre de chef, mais aussi comme avocat-conseil. Nous rédigeons les rapports et formulons les recommandations. Nos rapports sont



M^e Munihiri aux élections en Haïti

ensuite acheminés au siège social de l'ONU à New York.

RDJ : S'agit-il pour vous d'une question d'accès à la justice?

ONM : Tout à fait. Les Haïtiens savent que les bavures des étrangers vont faire l'objet d'enquêtes, et que la commission demeure neutre et rend des rapports impartiaux.

Haïti n'est pas un État de droit. Il n'y a pas de recours juste et impartial, mais grâce à ces enquêtes, les gens ordinaires peuvent espérer obtenir justice, même si l'ONU et ses employés sont protégés par l'immunité internationale.

RDJ : Février était le mois de l'histoire des Noirs. Vous sentez-vous concerné?

ONM : Bien sûr. Haïti, c'est la première nation noire antillaise qui s'est libérée du colonisateur et qui est devenue indépendante en 1804. Le processus d'indépendance a été difficile et on en voit les résultats aujourd'hui. Restés seuls et sans appui, les habitants ont essayé de poursuivre selon le même système qu'avant, ouvrant la porte aux dictatures, et à des inégalités sans précédent. Aujourd'hui, tout est instinct de survie.

Malgré les difficultés extrêmes, Olyde-Nester Munihiri demeure optimiste. D'après lui, la volonté des Haïtiens et l'aide de jeunes juristes d'autres pays finiront bien par porter fruit. ■

En bref

Nouveau trésorier

Gavin MacKenzie a été élu trésorier le 23 février 2006.

Mandat et libellé

Les règlements administratifs 9 (Comités), 38 (Programme d'agrément des spécialistes) et 4 (Le secrétaire) ont été modifiés. Le Conseil a adopté le règlement administratif 20 (Divulgateur obligatoire), et abrogé le règlement administratif 20 (Révision des plaintes).

DISCIPLINE

Le comité d'audition du Barreau a ordonné des sanctions disciplinaires contre 24 avocats. Il a réprimandé **M^e Kathryn Shaun Naumetz**, et suspendu **George Nelson Carter, Sundeep Chhabra, John Denis Dickson, Zygmunt John Fenik, Charles William Fleming, George Flumian, John Karol Pistor, Evita Mary Roche, Tapishar Singh, Michael James Taylor, John Sergio Tucciarone, Simon Van Duffelen, Gordon Ernest Watkin et Barry Sheldon Small**. Il a permis à **M^e Lisa Edna Reiten** de démissionner, et radié **M^{es} Gordon Donald Campbell, Marcello Di Francesco, Paul Magnus Feldman, Vishnu Eseaspersaud Misir et James Victor Shaw**. Le comité d'appel a examiné l'appel de **M^e Thomas Michel Hicks**. Le comité d'audition a ajourné l'appel de **M^e Albert Chukwemeka Nwoko** qui est sous le coup d'une suspension provisoire, et imposé des conditions à **M^e William Morley Joseph Myers**. Pour plus de détails, consultez les pages 29 à 36 ou le site Internet en français à www.lsuc.on.ca.

Une chance à ne pas laisser passer

Cette année, l'ABO organise des activités de procès simulés et des ateliers sur les carrières juridiques durant la semaine du 3 avril à Ottawa, Toronto, Sudbury et Thunder Bay culminant avec la Journée du droit, en partenariat avec l'AJEFO et TFO. Il faut des bénévoles pour assurer le succès et la continuité de l'événement. Engagez-vous en contactant David Leitch à dleitch@fso.gov.on.ca ou au 416-590-8496.

CONVOCATION



February Highlights

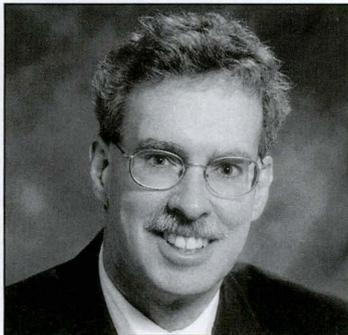
Gavin MacKenzie elected Treasurer of the Law Society of Upper Canada

LAWYER GAVIN MACKENZIE WAS ELECTED to lead the Law Society of Upper Canada as its Treasurer.

Turn to page 23 for more information about the Law Society's new Treasurer.



Gavin MacKenzie



Paul J. Henderson



Janet E. Minor

New benchers elected

New benchers, Paul J. Henderson and Janet E. Minor, were elected by Convocation.

Mr. Henderson, from the Central West electoral region, was elected to fill the vacancy created by Peter Bourque's appointment as a judge of the Ontario Court of Justice.

Ms. Minor, from the City of Toronto region, was elected to fill the vacancy created by Gavin MacKenzie's election as Treasurer.

By-Law 4 (Office of Secretary) amended

By-Law 4 (Office of Secretary) was amended to change the Secretary's delegate for certain functions under the By-Law from Senior

Counsel, Discipline to Professional Regulation Counsel.

Go to the website for full Convocation reports

All reports and materials noted in Convocation Highlights are available through the Law Society's website at: www.lsuc.on.ca.

Rules of Professional Conduct to be amended

Convocation approved amendments to the *Rules of Professional Conduct* to include the member's reporting obligations in By-Law 20 (Reporting Requirements). By-Law 20, adopted in December 2005, requires members and student members to report to

the Law Society criminal and other charges and the disposition of those charges. The Professional Regulation Committee will present a draft rule to Convocation for its approval at a future date. ■

Law Society now able to publish decisions during appeal period

CONVOCATION APPROVED CHANGES TO THE PROCESS FOR PUBLICIZING Hearing and Appeal Panel decisions, increasing the transparency of Law Society regulatory processes. The Law Society is no longer prohibited from publishing Hearing and Appeal Panel dispositions during the appeal period.

Criteria for conduct eligible for regulatory meeting approved

In connection with initiatives approved in June 2005 to enhance regulatory effectiveness, Convocation adopted criteria for conduct that would be eligible for a regulatory meeting. A regulatory meeting may be authorized in circumstances where certain conduct must be addressed but formal discipline proceedings are not warranted.

Committees

Convocation approved Robert Topp's request to step down from the Audit sub-committee.

Benchers Constance Backhouse, Paul Copeland, Allan Gotlib and William Simpson were appointed to the Law Society Medal/Lincoln Alexander Award Committee.

Benchers Andrea Alexander, Constance Backhouse, Neil Finkelstein, Vern Krishna and Beth Symes were appointed to the LL.D. Advisory Committee.

By-Law 9 (Committees) amended

The Tribunals Committee mandate was added to By-Law 9.

The mandate of the Tribunals Committee is to develop for Convocation's approval policy options on all matters relating to the operation and administration of the Hearing and Appeal Panels, including the development or preparation of practice directions, an adjudicator code of conduct, publication protocols for tribunal decisions and adjudicator professional development. In addition, subject to the approval of Convocation, the Tribunals Committee may prepare rules of practice and procedure.

By-Law 38 (Certified Specialist Program) amended

Convocation amended By-Law 38 (Certified Specialist Program). The amendment adopts language that more generally addresses both the qualifications and number of referees required to provide references so that by-law amendments are not necessary as program policy is updated. ■

Law Society to develop resources designed to increase access to the legal profession for law students and lawyers with disabilities

THE LAW SOCIETY IS SET TO DEVELOP A mentoring and peer support program, online resources and a series of other initiatives to increase access to the legal profession for law students and lawyers with disabilities. In support of its mandate, the Law Society works

to advance the goals of equity and diversity within the legal profession.

Turn to page 28 to learn more about the Law Society's Disability Working Group and the recommendations approved by Convocation.

December Highlights *(continued)*

New by-law requires members to report criminal and other charges to the Law Society

Convocation adopted By-Law 20 (Reporting Requirements), which requires members and student members to report to the Law Society indictable charges under the *Criminal Code* and charges under other federal and provincial laws that allege dishonesty or relate to the member's practice of law or the student's conduct. This information will permit the Law Society to respond, if appropriate, to ensure that the public interest is protected. Former By-Law 20 (Review of Complaints) was revoked.

Appointments

Benchers Beth Symes and Marshall Crowe were appointed Vice-Chairs of the Finance & Audit Committee. ■

Roll-call votes

December 9, 2005

Professional Regulation Committee Report – By-law 20 Amendment

It was moved by Ms. Curtis, seconded by Ms. Dickson that By-Law 20, as amended by the Campion/Swaye motion be approved.

Carried. Vote: For – 33; Against – 4.

January 26, 2006

Report of the Tribunals Committee – Re: Publication of Panel Decisions

It was moved by Mr. Banack, seconded by Dr. Eber, that Convocation:

- revokes its January 2002 policy respecting the publishing of the finding of a Hearing Panel; and
- provides instead that the Law Society is not prohibited from publishing a Hearing Panel or Appeal Panel disposition during the appeal period.

Carried. Vote: For – 36; Against – 1.

Report of the Professional Development, Competence & Admissions Committee Re: Amendments to By-Law 38 (Certified Specialists)

It was moved by Mr. Simpson, seconded by Mr. MacKenzie, that

Convocation approves the following amendment to By-law 38:

That By-Law 38 [Certified Specialist Program], made by Convocation on April 25, 2003 and amended by Convocation on June 26, 2003 and October 28, 2004, be further amended as follows:

1. Clause 17 (3) (b) of By-Law 38 [Certified Specialist Program] is deleted and the following substituted:

- written references from such persons and such number of persons as determined by the Committee from time to time, not one of whom is,
 - a person whose membership is in abeyance under subsection 31 (1) of the Act,
 - a partner, an associate, a co-worker, an employer or an employee of the applicant,
 - an individual who is counsel to the applicant, to the applicant's employer or to the applicant's firm or company;
 - a relative of the applicant,
 - a member of a specialty committee established in respect of the area of law in which the applicant wishes to be certified as a specialist;
 - a member of the Board,
 - a bencher, or
 - an employee of the Society; and

Carried. Vote: For – 34; Against – 2; 1 Abstention. ■

CONVOCATION ATTENDANCE AND ROLL-CALL VOTES

	Attendance			Motions*		
	Dec 9	Jan 26	Feb 23	Dec 9	Jan 26	Jan 26
Aaron, Robert	✓	✓	✓	F	F	A
Alexander, Andrea	✓	✓	✓	F		
Backhouse, Constance	✓	✓	✓	F	F	F
Banack, Larry	✓	✓	✓		F	F
Bobesich, Gordon	✓		✓	A		
Bourque, Peter	✓	✓		F	F	F
Campion, John	✓	✓	✓	F	F	F
Carpenter-Gunn, Kim	✓	✓	✓		F	F
Caskey, James	✓	✓	✓		F	F
Chahbar, Abdul Ali	✓		✓	F		
Cherniak, Earl	✓	✓	✓	F		
Chilcott, W. Dan						
Coffey, Andrew			✓			
Copeland, Paul	✓	✓	✓	F		F
Crowe, Marshall	✓	✓	✓	F	F	F
Curtis, Carole	✓	✓	✓	F	F	Ab
Dickson, Mary Louise	✓	✓	✓	F	F	F
Doyle, Anne Marie		✓			F	F
Dray, Paul	✓	✓	✓	F	F	F
Eber, Sy	✓	✓	✓	F	F	F
Elliott, Susan	✓	✓	✓			
Feinstein, Abraham	✓	✓	✓		F	F
Filion, Richard	✓	✓	✓	F	F	F
Finkelstein, Neil	✓		✓			
Finlayson, George D.	✓	✓	✓	F	F	F
Gold, Alan	✓		✓	F		
Gotlib, Allan	✓	✓	✓	F	F	F
Gottlieb, Gary L.	✓	✓	✓	A	A	A
Harris, Holly	✓	✓	✓	F	F	F
Heintzman, Thomas G.		✓	✓		F	F
Henderson, Paul			✓			
Hunter, George						
Krishna, Vern	✓		✓	F		
Legge, Laura	✓	✓	✓		F	F
MacKenzie, Gavin†	✓	✓	✓	F	F	F
Manes, Ronald	✓	✓		F	F	F
Martin, Robert	✓		✓	F		
Millar, Derry	✓			F		
Minor, Janet			✓			
Murray, Ross	✓	✓	✓		F	F
O'Brien, Brendan						
O'Donnell, Tracey	✓	✓		F	F	
Pattillo, Laurie	✓	✓	✓	F	F	F
Pawlitza, Laurie	✓	✓	✓	F	F	F
Porter, Julian	✓		✓			
Potter, Judith	✓	✓	✓		F	F
Robins, Sydney	✓	✓	✓		F	F
Rock, Allan						
Ross, Heather	✓	✓	✓		F	F
St. Lewis, Joanne	✓	✓	✓	F	F	F
Sandler, Mark	✓			F		
Scace, Arthur						
Silverstein, Alan	✓	✓	✓	A	F	F
Simpson, William	✓	✓	✓	F	F	F
Strosberg, Harvey						
Swaye, Gerald	✓	✓	✓	F	F	F
Symes, Beth	✓	✓	✓	F	F	F
Topp, Robert	✓			A		
Warkentin, Bonnie	✓	✓	✓	F	F	F
Wright, Bradley	✓	✓	✓	F	F	F
Ruby, Clayton (Acting Treas.)	✓	✓	✓			

Non-voting benchers in attendance:

December 9, 2005 – M. Boyd, A. Lawrence, D. Murphy.
 January 26, 2006 – P. Furlong, A. Lawrence, D. Murphy, J. Wardlaw.
 February 23, 2006 – M. Boyd, P. Furlong, A. Lawrence.

† Mr. MacKenzie was elected Treasurer at the Feb. 23 Convocation

*Motions A=against F=for Ab=abstain

New Treasurer elected for Law Society of Upper Canada

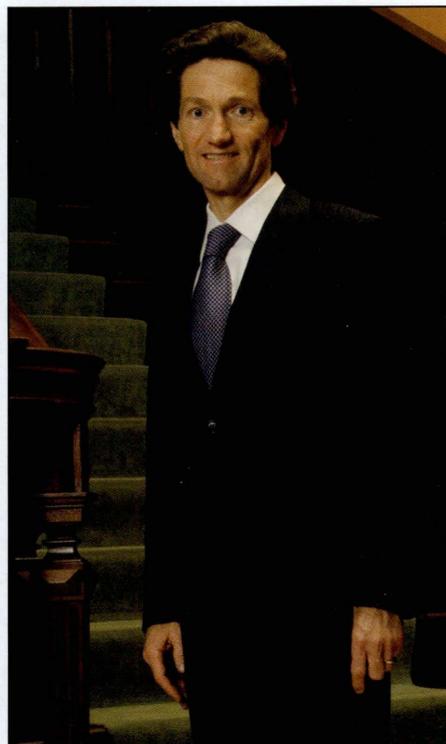
TORONTO LAWYER GAVIN MACKENZIE HAS BEEN ELECTED TO LEAD THE LAW SOCIETY OF UPPER CANADA AS ITS TREASURER.

A partner in the Toronto office of Heenan Blaikie LLP, Treasurer MacKenzie graduated from Osgoode Hall Law School at York University. He was called to the Ontario bar in 1977. He has been certified by the Law Society of Upper Canada as a Specialist in Civil Litigation and has been honoured by induction as a Fellow of the American College of Trial Lawyers. He is the author of *Lawyers and Ethics*, a leading text on professional responsibility.

Treasurer MacKenzie has served as Chair of LibraryCo Inc., the library system of Ontario Law Associations and

as a director of the Canadian Institute for the Administration of Justice. He is also a former director of The Advocates' Society and of LINK – The Lawyers' Assistance Program.

He was first elected a bencher of the Law Society in 1995. Since then, he has held a number of high-profile positions including Chair of the Professional Regulation Committee (which is responsible for professional conduct and discipline), the Task Force on the Reform of the *Rules of Professional Conduct*, the Strategic Planning Committee and the Proceedings Authorization Committee. Treasurer MacKenzie has also served as a Vice-Chair of the Professional Development, Competence and Admissions Committee.



Gavin MacKenzie, 61st Treasurer of The Law Society of Upper Canada

Turn to page 3 to read Treasurer MacKenzie's inaugural message. ■

LAWPRO® awarded sixth annual A (Excellent) financial strength rating

Lawyers' Professional Indemnity Company (LAWPRO) was awarded an "A (Excellent)" financial strength rating for the sixth year in a row from A.M. Best Co., a leading rating agency.

LAWPRO was commended for its underwriting and operating strength, excellent capitalization, skilled management team and ability to manage risks on its insurance program.

LAWPRO is a wholly Canadian-owned insurer providing a diverse range of insurance-related programs, services and resources to support the legal community across Canada. For more about LAWPRO, visit: www.lawpro.ca.

Attorney General announces new Law Commission of Ontario

A new Law Commission of Ontario will be established by the McGuinty government, Attorney General Michael Bryant announced at the Opening of the Courts ceremony on January 4, 2006.

Mr. Bryant said his office would discuss the new initiative with the Law Society of Upper Canada, the Law Foundation of Ontario, Ontario's law schools and the legal community.

The commission's mandate will be to work with government and its legal partners to examine issues of significant interest and importance, recommend improvements to the administration of Ontario's justice system, and enhance access to justice for the public.

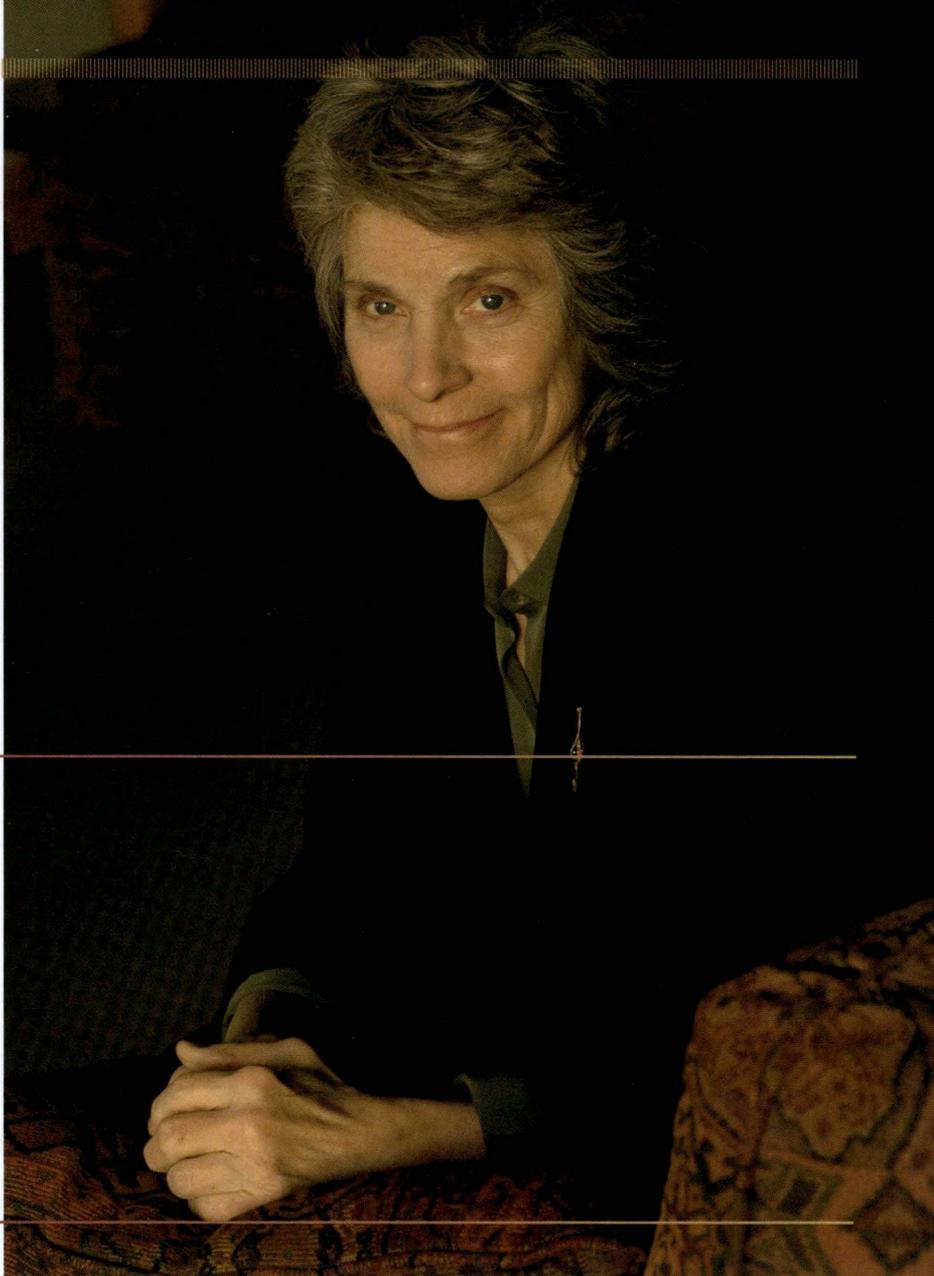
Ontario has not had a law reform commission since 1995, and the goal is to have it in place in 2006.

"For many years, the previous Law Reform Commission was an important instrument of change in our province's legal system," said Bryant. "It was known to forward progressive ideas, ask tough questions and engage in creative, innovative, critical thinking. Our justice system needs the same capacity today."

For more information, visit the Ministry of the Attorney General website at: <http://www.attorneygeneral.jus.gov.on.ca>.

Feminist academia toasts 20 years of persistence

FLASHBACK: CIRCA LATE SEVENTIES. THEN UNIVERSITY OF WINDSOR LAW PROFESSOR KATHLEEN LAHEY SUGGESTS TO PEERS THEY INTRODUCE A COURSE ON WOMEN'S JURISPRUDENCE.



Kathleen Lahey, professor of law at Queen's University and one of the original editors of the *Canadian Journal for Women and the Law*.

The course, Lahey explains, would endeavor academic, scholastic analysis of modern-day legal applications affecting women in a meaningful context, and examine their preceding evolution.

The response she receives is frank: "A very senior male academic sneeringly said something to the effect of 'what would it mean even if Carl Marx did beat his wife?'" recalls Lahey.

While a course about philosophers and their relationships wasn't quite what Lahey had in mind, it was evident a

women's law journal would be out of the question.

Yet it wouldn't be long before the *Canadian Journal of Women and the Law/Revue Femmes et Droit* would make its debut after much resolute determination.

Now celebrating its 20th year, and thriving, the *Canadian Journal of Women and the Law (CJWL)* has become a legal institution – in Canada and beyond.

According to Kathleen Lahey, now professor of law at Queen's University, the CJWL's articles have been cited in at

least 20 Supreme Court of Canada and appellate decisions over the years, which alone is testament to its significance.

But the voice of feminist jurisprudence – which includes original articles in French – didn't come about easily.

Launched in 1985 at the University of Windsor with Lahey as English co-editor, initial production costs were covered by modest grants from the National Association of Women and the Law, along with law foundations in Ontario and British Columbia.

A year later Queen's University in Kingston began providing office space for it when Lahey moved to the university's law faculty.

The move to Queen's set a precedent for the Journal's nomadic assemblage, which would happen at institutions able to provide support.

"This moving around was born of necessity," explains Lahey of the CJWL's many homes over the years. After Queen's, the Journal moved to Ottawa then to British Columbia before returning to Ontario.

By 2000, production costs became difficult to sustain and the University of Toronto Press Journals Division took on the printing responsibilities.

The French editorship, which started off in Laval and moved to Ottawa for a number of years, also returned to Quebec City in 2000.

The English editorship continues to move from institution to institution as academics take turns at the helm; their contributions are, after all, voluntary.

The moving about, however, has served to augment the CJWL's flagship diversity. It is hailed not only for bridging the differences between civil and common law, but also for including original contributions in French and for attracting insightfully original contributions from across Canada and around the globe.

Osgoode Hall Law School Dean Patrick Monahan remembers being impressed with the Journal as a young academic.

"I've always had a particular interest in issues relating to Quebec and Canada, so I saw it as an example of something that doesn't often happen in Canada, which is reaching across the common law/civil law divide in this country," says Monahan. "We often have civilian lawyers and common law lawyers talking about issues in separate silos but with this Journal, they are bridging that divide."

In spring 2003, Professor Kate Sutherland at York University's Osgoode Hall Law School assumed the reins of the CJWL's English editorship. She is sharing the role with Professor Louise Langevin of Laval, who is managing the Journal's French editorship.

Monahan suggests there's a sense of privilege in hosting the publication; for students, it generates discussion.

Yet mere years ago as the CJWL was establishing itself as a viable and popular editorial forum, its funding began perilously diminishing. By the mid 1990s, it was pretty much scrounging to sustain its operational costs, says Martha Jackman, professor of law at the University of Ottawa.

"It was an interesting experience in and of itself," remembers Jackman, who managed the Journal's fundraising between 1989 and 2002. Access to funds "paralleled some of the challenges that all women's organizations started running into in the mid to late 1990s."

Law foundations once again came to the rescue and the move to U of T Press was made to trim costs. Most of the Journal's current funding is provided by a grant from the Social Sciences and Humanities Research Council of Canada.

In all, the CJWL has overcome many struggles to prevail despite its critically acclaimed content.

Its debut coincided with the coming into force of Section 15 of the *Charter of Rights and Freedoms* recognizing equality rights. Published quarterly at the beginning, the first several issues focused on a theme – such as new Charter laws – which was discussed by a panel of academic contributors. Theme issues have included women and crime, racism, family law and judicial inequities, to name a few. The Journal once dedicated an issue to the Honourable Madam Justice Claire L'Heureux-Dubé. It also released the *Canadian Feminist Literature on Law Annotated Bibliography* in English from 1988 to 1998, and in French from 1980 to 1998. The Ontario Law Foundation purchased the works for each County and District Law Association throughout the province, which thankfully helped pay for the project, says Jackman.

Over the years it has morphed to cast a somewhat broader net but still with a focus on women's jurisprudence.

The 20th anniversary issue celebrates feminist legal jurisprudence with "defining moments." Contributor Dr. Fiona Sampson describes the articles as "a bit like life preservers that we can hang on to as we weather the storm." The storm, she says, is representative of a general malaise about women's issues in the general conservative climate.



Martha Jackman, professor of law at the University of Ottawa

But so far entrenched is the CJWL as a resource, its relevance is irrefutable.

As litigation director of the Women's Legal Education and Action Fund (LEAF), Sampson says the CJWL is a main source for research.

"Without that background work and voice of authority, I can't imagine how diminished our litigation work would be."

The 20th anniversary issue also includes a reprint of the editorial written by founder Professor Lahey for the Journal's inaugural issue. "The goals we spelled out at that time remain just as pressing as ever," she says, particularly around the representation of women in government, getting women's issues onto party platforms and "the continuing

difficulty in obtaining favourable Charter rulings regarding women's issues."

Twenty years after launching the first issue, however, Lahey couldn't be more pleased.

"I think the Journal's relevance and impact will certainly continue," she foresees. "Of all the things that I've done, it's probably one of the most gratifying." ■

Do you know of a lawyer or firm making a difference?

Please let us know – we need your feedback to prepare future profiles. Send us your suggestions by:

E-mail: gazette@lsuc.on.ca Mail: Managing Editor, Ontario Lawyers Gazette
 Fax: 416-947-3335 Law Society of Upper Canada
 Osgoode Hall, 130 Queen St. West
 Toronto, ON M5H 2N6

Call for contributors

The Canadian Journal of Women and the Law/Revue Femmes et Droit is seeking contributors for future editions. Visit the website: www.utpjournals.com/cjwl for more information.

2005 Life Memberships

Law Society staff and members salute the following who became Life Members in 2005.

Life membership is granted to members of the Society who have been entitled to practise law in Ontario for a period of fifty years.

ARCHIBALD, Malcolm Stockton	Toronto	McBRIDE, Joseph Michael William	Toronto
ARNOLD, Marvin Selwyn	Toronto	MECONI, Norando	Belle River
AULT, William Allan	Brampton	MEUNIER, Richard George	Kitchener
BRAIDA, Aldo	Guelph	MURRAY, Robert Elmo	Ottawa
BRODEY, Peter Edmund	Toronto	NIXON, John Donald	Sault Ste Marie
BURTON, Bernard	Toronto	OUTERBRIDGE, Ian Worrall	Toronto
CASS, Irwin	Toronto	PARKINSON, John Goulding	Thornhill
CHAMBERS, George Donald	Dunnville	POLLOCK, John Henry	Toronto
CHARTERS, Dalton Edward	Windsor	PRINCE, Walter Harry	Windsor
DALES, Bernard Samuel	Toronto	RACICOT, Gilles Leo	Timmons
DAVIS, The Honourable William Grenville	Toronto	SCROGGIE, George Donald	Toronto
DESLAURIERS, William James	Toronto	SEABROOK, Victor Melville	Toronto
DINGWALL, William Gray	Toronto	SHERWELL, Brian	Windsor
FILIPOVIC, John Paul	Thunder Bay	SHERWOOD, William Robert	Pickering
FOURIEZOS, Charles	Sudbury	SMITH, Jeffery K.	Toronto
HALL, Robert Rusen	Toronto	STANBURY, Robert Douglas George	Burlington
HANEY, Reginald Arthur	Waterloo	STEVENS, Noreen Mary Charlebois	Newmarket
HASSARD, Richard James	Toronto	STEVENS, Sinclair Mcknight	Newmarket
HILDEBRAND, Jacob	St. Catharines	STEVENSON, John Daniel	Toronto
JONES, Robert Vernon Albert	Oakville	SUTHERLAND, Robert Murray	Toronto
KLOTZ, Sidney	Toronto	THAREN, Edward	Hamilton
KNIGHT, Stanley James	Niagara Falls	THOMSON, Thomas Hamilton	Toronto
LAWER, John Vincent	Toronto	WATEROUS, Richard Norman	Brantford
MacDONALD, The Honourable Donald Stovel	Toronto	WENGLE, Harvey Harold	Toronto
MacPHEE, Neil Johnson	Windsor	ZAFFIRO, Nicholas Joseph	Hamilton
MARCUS, Benjamin	Ottawa	ZENDER, Alan Bruce	Woodbridge
MARTIN, Thomas	Downsview		

Working group maps out strategy for lawyers with disabilities

THOMAS HEINTZMAN HAS SEEN A LOT OF CHANGE IN HIS ALMOST 40 YEARS OF PRACTISING LAW AS A LITIGATOR AT MCCARTHY TÉTRAULT LLP.

As past president of the Canadian Bar Association (CBA), he was instrumental in fighting for inclusiveness in CBA policies. Now as a bencher he once again finds himself spearheading an initiative to make the legal profession more inclusive and accessible for lawyers and students with disabilities.

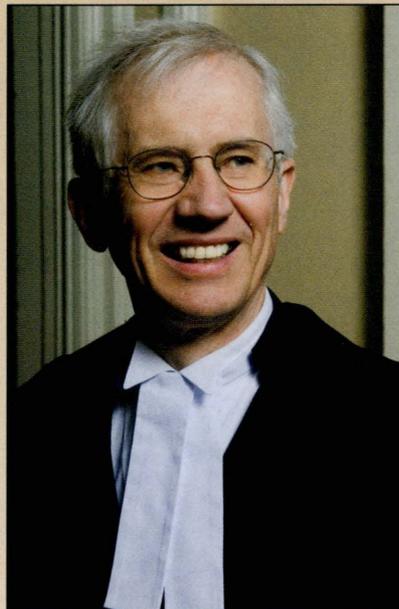
Heintzman is chair of the Disability Working Group, which has the task of developing policies and programs to enhance access of persons with disabilities into the profession, in line with recommendations of the *Bicentennial Report on Equity Issues in the Legal Profession*.

According to federal government figures, persons with disabilities make up about 12% of the population at large. About 51% of persons with disabilities are employed, compared to 82% of those without. The household income of a person with a disability is \$52,835, compared to \$72,951 for those without. The number of lawyers working with disabilities in Ontario is not known. However, about 1.2% of bar admission candidates in 2003 identified themselves as having a disability.

“The profession is under a real challenge,” says Heintzman, “to remove barriers that prevent persons with disabilities from fully participating in the legal profession.

The profession really needs to change and the regulator has to be involved. We need to influence this change, and to develop programs that promote the participation of lawyers with disabilities in the practice of law.”

The 13-member working group undertook a survey of members with



Bencher Thomas Heintzman,
Chair of the
Disability Working Group

disabilities to identify what programs and initiatives could help address the barriers they face in practising law.

The Strategic Counsel conducted an in-depth survey of 30 lawyers with disabilities for the working group and found that lawyers with disabilities face a number of challenges. Finding an articling position, for example, is more

difficult for students with disabilities. Most of the study participants indicated that they articulated with the government or the public sector instead of articling

The Disability Working Group came up with a six-point plan that was passed by Convocation in December 2005 including:

A mentoring program: Similar to the current mentoring program of the Law Society, this would provide mentoring and peer support to lawyers and students with disabilities by matching them with lawyers who have had similar experiences and who could provide advice and support.

Online networking: The Law Society will create online networking opportunities for lawyers and students with disabilities.

Better resources: The Law Society will centralize and make accessible information about contacts, resources and employment opportunities relevant to persons with disabilities.

Improved outreach: The Law Society will also develop tools to promote the recruitment of lawyers with disabilities in the profession. This could include drafting model policies tailored to the needs of persons with disabilities, establishing a business case for promoting, recruiting and retaining lawyers with disabilities and developing self-assessment tools for the profession to gauge how it is faring in meeting goals.

Publicize funding sources: The Law Society will identify and publicize funding sources to accommodate lawyers with disabilities.

in private law firms. Participants also indicated that it is more difficult for lawyers with disabilities to find full-time employment after articling. And, says Heintzman, “The higher you advance in your career, the more difficult it is.”

Armed with the study, the working group, which is representative of the

disability community, began to develop programs aimed at increasing access for persons with disabilities into the profession.

The working group was not looking for “handouts,” Heintzman says. Members of the group wanted “practical solutions.”

Heintzman says the “rubber starts to hit the road for the profession when we get into encouraging private law firms to invest in people with disabilities. There’s a profound desire to do it,” he believes. “If the Law Society can show some leadership in that area I think it’s going to be a huge accomplishment.”

*The Disability Working Group is composed of 13 lawyers and benchers of the Law Society. Three working group members – practitioner David Crocker, Department of Justice counsel Margherita Braccio and University of Ottawa law school student Christy Smith-Worthylake – shared their experiences and perspectives with the **Ontario Lawyers Gazette** on improving access and opportunities for persons with disabilities.*

Litigator’s stubbornness key to his success

WHEN DAVID CROCKER ATTENDED LAW SCHOOL IN THE 1970s, HE WAS FORTUNATE. OSGOODE HAD RECENTLY MOVED FROM DOWNTOWN TO THE YORK UNIVERSITY CAMPUS, SO CROCKER, WHO HAD POLIO AS A CHILD AND NOW USES CRUTCHES, HAD ACCESS TO A NEW AND MODERN BUILDING THAT WAS “PRETTY ACCESSIBLE” AND THE SCHOOL DID WHAT IT COULD TO ACCOMMODATE HIM, HE SAYS.

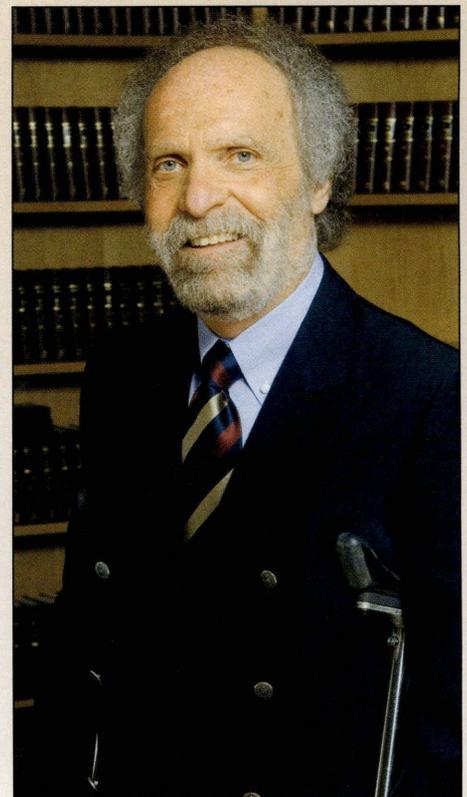
That welcoming atmosphere, however, wasn’t as present when he graduated from law school and started looking for an articling job. Despite lots of interviews, “I didn’t particularly find that law firms were accommodating” and willing to take a chance on a recent graduate whose ability to walk was impaired.

His job hunt reached a low point when Crocker – who first wanted to practise criminal law – met with the Crown attorney in Toronto. “He was not the least bit interested in hiring somebody with a disability and he was direct and unabashed in letting me

know that. He clearly had in his mind that physical barriers would prevent me from doing what I wanted to do.”

Crocker nevertheless sent his resume to the Ministry of the Attorney General and it caught the attention of Neil Mulvaney, then director of the legal services branch at the Ministry of the Environment, who was looking to staff an area of law that was in its infancy, but growing.

“He was prepared to let me struggle on to run around the province to do what I wanted to do.” That meant long days and often awkward trips in small planes hopping around the North



David Crocker, member of the Disability Working Group

conducting environmental prosecutions with little difficulty.

For the most part, he says, fellow counsel and judges were accommodating and courts were willing to waive requirements that he stand when presenting his case. But Crocker wanted no part of that, opting instead to honour the protocol, part of his “stubborn” streak.

Today, Crocker practises regulatory law with Davis & Company LLP in

Toronto, after stints with Power Budd, Blaney McMurtry and Holden Day Wilson. He also sits on the Disability Working Group, which is mapping out strategies to help lawyers with disabilities make it in the legal profession.

At the start, he says, the working group’s “objectives were great and lofty, but we realized we better do this slowly and carefully piece by piece. I think that is what we’ve done so far.”

He notes “disabilities are so diverse in our community today. People aren’t letting disabilities stop them as much as once was the case.”

The best thing the legal profession can do to advance the rights of people with disabilities, he says, is “not to prejudice and over compensate. Let that lawyer find his or her way and he or she will let you know whether he or she needs some help.”

Mentoring program helped lawyer enter profession

MARGHERITA BRACCIO KNOWS THE BENEFITS OF MENTORING. AFTER BEING CALLED TO THE BAR, BRACCIO, WHO IS BLIND, JOINED THE LAW SOCIETY’S MENTORING PROGRAM AND WAS MATCHED WITH MADAM JUSTICE THEA HERMAN PRIOR TO HER APPOINTMENT TO THE BENCH.

“The program allowed me to come into contact with other lawyers in the profession and also assisted me in trying to determine how to approach firms and other agencies in terms of employment and obtaining an interview and how to deal with interviews,” says Braccio.

“I also found it very helpful in that it allowed me to communicate my own personal experiences with my mentor.”

Braccio, who is a member of the Disability Working Group says overall, the law school experience was “very good.” But one of the biggest challenges she encountered at school “was obtaining materials in alternate format and in a timely way.” It meant

trying to find books on tape or scanning materials into electronic format.

She persevered and was called to the bar in 2002. After articling with a small litigation firm, it took her almost two years to find a permanent job. She now works as a litigator with the Department of Justice in Toronto in the immigration law section.

Her advice for lawyers in a similar position is simple. “Don’t give up. Sometimes it seems like you will never be able to obtain a position, but it will eventually happen.”



Margherita Braccio

As for employers, she says “they shouldn’t see a person with a disability as a liability. They should see them as an asset. They have experience they can bring to the position.”

Wheelchair no obstacle for studious student

UNIVERSITY OF OTTAWA LAW STUDENT CHRISTY SMITH-WORTHYLAKE IS LOOKING FOR AN ARTICLING JOB AND IS ENTHUSIASTIC ABOUT HER FUTURE CAREER AS A LAWYER.

But so far, Smith-Worthylake, who uses a wheelchair because of cerebral palsy, hasn't found the right employer. "They don't want to hire someone with a disability," she says of the law firms she interviewed with. In fact, despite one promising interview, she did not even hear back from the firm.

So now Smith-Worthylake, who has an undergraduate degree in legal studies and English literature from Carleton University, has set her sights on a court clerkship.

If that doesn't succeed, she will turn to the Legal Excellence Program, the articling system run by Department of Justice Canada. It's a three-year program that includes one year of articling. If the student performs well, then he or she is automatically hired back for two years as a junior counsel.

"Ideally, I'd like to go into public law and can see myself doing some litigation as well," she says.

Smith-Worthylake has also volunteered her time with the Law Society's Disability Working Group and brings her experience as a law student with a disability. It's been hard for the young Ottawa resident to get as far as she has in a legal world that relies heavily on the spoken word.

She says her first year was the most trying. "It was hell. I wasn't adequately prepared. The law school wasn't prepared to deal with someone with my disability. It wasn't good." But that was then and this is now. As

she prepares to graduate later this year she says the school "improved a lot."

The first equity officer at the University of Ottawa was Joanne St. Lewis, a bencher at the Law Society of Upper Canada and the Chair of the Equity and Aboriginal Issues Committee. St. Lewis has been instrumental in developing equity programs for law students in Ottawa since she was hired in 1989. And Smith-Worthylake says the school "has been really great in helping me secure what I need. They've done a lot of work with the law school staff to change attitudes."

She has help with taking class notes and when needed is granted an extension for deadlines or extra time to write her exams – accommodations that go a long way toward helping her achieve her goal.

"People just need to be educated," she says, adding that she's glad the Law Society has created the working group and is bringing forward programs for lawyers and law students with disabilities.

"The biggest thing that the Law Society can do is change people's attitudes. We need to get rid of this preconceived notion that people with disabilities aren't as productive as the average population. It just isn't true at all."

Alleviating misconceptions about the cost of accommodation

WHEN IT COMES TO HIRING PERSONS WITH DISABILITIES, LAW FIRMS CAN DO A LOT WITHOUT INCURRING EXTRAVAGANT COSTS.

The Ontario Human Rights Commission states in its *Policy and Guidelines on Disability and the Duty to Accommodate* that "[o]ver two-thirds of job accommodations cost under \$500; many cost nothing at all."

This is "a relatively small amount of money," notes Christy Smith-Worthylake, an Ottawa law student who has a disability and who sits on the Law Society's Disability Working Group.

She says law firms "need to take a chance on a person because they are going to get more than they bargained for. Hiring people with disabilities is a win-win situation for both parties."

When it comes to accommodating workers with disabilities, there's no one-size-fits-all list or chart of things to do, says Heidi Lazar Meyn, a staff lawyer at the ARCH Disability Law Centre in Toronto. "Making a list of specific accommodations would miss the point. The essence of accommodation is that it has to be individualized."

She notes that employers have a "legal duty to accommodate to the point of undue hardship."

Start by asking the person in question what accommodations would be helpful, says Lazar Meyn. It can be something as simple as making it a company policy to use black ink in documents to assist persons who need higher contrast because of a visual impairment. As well, there is technology today to assist persons with a hearing or visual impairment, she notes.

“Most accommodations are free or involve minimal costs and just take a little bit of thought,” says Lazar Meyn. “It should be possible to accommodate persons with disabilities in a way that they will be productive members of the law firm, and that’s good for everybody.”

The Law Society of Upper Canada has developed a model policy to assist lawyers and law firms to be

more accessible and to provide accommodations within employment and in the provision of services to clients. The *Guide to Developing a Law Firm Policy Regarding Accommodation Requirements* is available free of charge on the Law Society’s website at: www.lsuc.on.ca. ■

Law Society offers resources to help firms promote greater access

The Law Society of Upper Canada has developed a model policy to assist lawyers and law firms to be more accessible and to provide accommodations within employment and in the provision of services to clients. The *Guide to Developing a Law Firm Policy Regarding Accommodation Requirements* is available free of charge on the Law Society’s website at: www.lsuc.on.ca.

According to Josée Bouchard, the Law Society’s Equity Advisor, the model policy can be a very useful resource for lawyers and firms seeking to develop their own accommodations policy.

“The *Ontario Human Rights Code* holds all employers – including lawyers – regardless of size, to standards that promote a fair and equitable workplace,” notes Bouchard. “The Law Society’s model policies and training programs bring together best practices that help lawyers understand and meet their obligations under the *Code*, and fulfill their responsibilities as set out under the *Rules of Professional Conduct*.”

The duty to accommodate applies to all the grounds enumerated in the *Ontario Human Rights Code*. Accommodation means that law firms should adopt a proactive approach in undertaking systemic accessibility audits, developing action plans and

implementing the necessary changes to make facilities, procedures and services accessible to members, staff and clients with disabilities.

“Implementing an accommodations policy in a workplace clarifies what the expectations are for each individual employee and for the firm as an employer,” says Bouchard. “It also shows that the organization is committed to having a workplace where anything short of those expectations will not be tolerated.”

Other reasons for adopting written policies include:

- Many firms provide benefits over and above those mandated by law but do so on an *ad hoc* basis. Relying on a discretionary system often causes concern among individuals working at the firm about whether decisions are being made on an even-handed, consistent basis. A written policy

indicates a firm’s commitment to transparency in the provision of employment and social benefits.

- A written policy reflects the tenor of a firm’s culture. It can signal to those working at the firm that inquiries about its policies and benefits are encouraged and may be made without risk of embarrassment.
- The existence of written policies allows the law firm to communicate its commitment to equality principles to people outside of the law firm, such as prospective recruits and clients. Written policies may also have value as a recruitment tool that serves to signal the firm’s commitment to a discrimination and harassment-free workplace.

How to effectively implement and review a written policy in your firm

❖ *Establish a drafting committee*

The composition of the committee is critical to the credibility of the process and the policies that are produced. It should be composed of partners and employees of both sexes and of differing age, ability, ethnic origin, marital and partnership status, gender identity and sexual orientation. Include lawyers or staff with expertise in the relevant employment and discrimination law. The committee should also include respected individuals in the firm who appreciate the importance of the issues to be addressed and who will be able to communicate these matters to others within the law firm.

❖ *Develop a policy*

Committee members should educate themselves about the applicable law and become familiar with existing firm practices and policies. To make the process consultative, the committee should circulate a draft policy throughout the law firm for comments. This helps generate support and allows for useful insight. It also explains the

rationale for introducing a policy, as well as the effect of the proposed policy on existing arrangements.

❖ *Implement the policy*

The initial presentation of the policy and a clear statement of management support are critical to its success. It should be distributed to all staff with a covering letter emphasizing the strong support of management. It is essential that staff understand the negative impact that harassment and discrimination has on the dignity of employees as well as on workplace productivity and the importance of accommodating differences.

Factors that may cause opposition within the workplace should be identified and discussed frankly. Concerns should be recognized and addressed at the outset through discussion of the purposes and goals of workplace policies.

❖ *Communicate the policy*

If the law firm has a handbook of policies or if policies are available

online, the new accommodation policy should be included. Consider distributing copies of the policy directly to each staff member and/or post copies of the policy in a common area.

Provide a copy to all individuals who interview at the firm. This makes a strong statement about the firm's support for the policy and its objectives.

❖ *Review, evaluate and revise the policy*

The goal of the review process is to ensure that the policy meets the needs of the law firm and of its members, staff and clients. A committee should have the responsibility to review and revise the policy on a periodic basis. The committee should also maintain a confidential accommodation-related information collection process.

Individuals in the law firm should be encouraged to communicate their comments on the policy to the committee, either on an ongoing basis or during the course of the review.

Technology helps broaden delivery and access: Spotlight on Telejustice Project

RECENTLY, PRO BONO LAW ONTARIO (PBLO) announced a new project developed in partnership with Nishnawbe-Aski Legal Services Corporation (NALSC) in Thunder Bay and the Ministry of the Attorney General (MAG). The *Telejustice Project* enables Ministry lawyers throughout Ontario to improve access to justice for the Nishnawbe Aski Nations communities (NAN communities) in northwest Ontario. The

Ministry of the Attorney General is the first government ministry to commit to engaging in organized pro bono work in Ontario, taking active steps to promote pro bono to their staff lawyers.

The first phase of the Telejustice Project involves a web-based interface called *Ask-a-Lawyer*, which is housed on the NALSC website. The system uses an interactive question-and-answer format that enables Community Legal Workers

(CLWs) at NALSC to submit legal queries on behalf of NAN community members. These questions get dispatched to lawyers on the AG volunteer roster, who respond anonymously with their answers. The knowledge of these government lawyers leverages the CLWs' ability to serve their very large and remote client base.

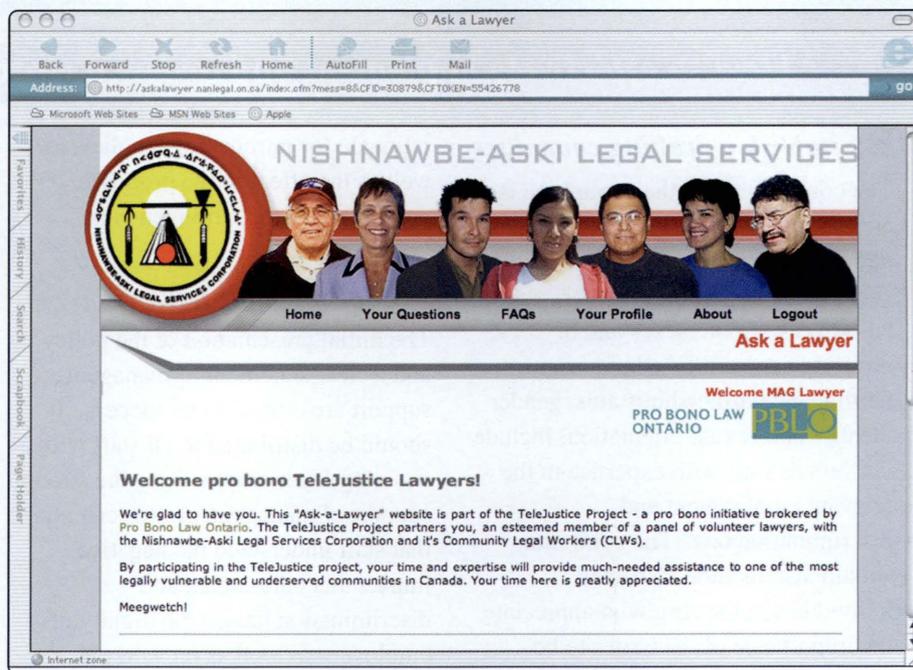
The Telejustice Project represents a shift in the way PBLO delivers pro bono

services to remote, rural communities in Ontario. An “urban-to-rural initiative,” this project model capitalizes on the concentration of legal resources available in urban centers. By using technology to bridge distances, PBLO can complement the local pro bono services provided by small firms and sole practitioners in rural Ontario.

“Lawyers throughout Ontario have told us that pro bono is an important part of the legal profession,” says Lynn Burns, Executive Director of PBLO. “However, we understand that rural practitioners face unique barriers in participating in organized pro bono. PBLO’s urban-to-rural projects will level the playing field of access to justice concerns without placing too much pressure on lawyers in rural areas.”

In the case of meeting legal needs for the Nishnawbe Aski Nation communities, the NALSC is an unusual legal clinic in that it not only delivers a wide range of legal services and alternative processes, but does so in ways that are culturally sensitive to the NAN communities’ unique values, customs and traditions. Crucial to the operation of this clinic are the staff of Community Legal Workers (CLWs).

These CLWs provide a wide range of paralegal and law-related services throughout the 49 remote NAN communities that extend from the Manitoba border on the west to James Bay on the east, occupying approximately two-thirds of Ontario. The CLWs work with justice personnel and the NAN communities to improve the administration of the Euro-Canadian legal system of justice and assist clients and their families in dealing with legal matters. Due in part to their remote geographical locations, many NAN communities struggle with challenges ranging from the effects of isolation and minimal employment opportunities to inadequate housing, community services, medical/dental services, and education. The goal of the Telejustice Project is to help lessen these geographical barriers to



justice by adding technology into the mix of the clinic’s service delivery methods.

Evelyn Baxter, Executive Director of NALSC, says, “Anything we can do to support our CLWs will have a wide impact on our communities’ ability to access justice. It’s not just the legal services being provided pro bono that is so great. This sends the message that government lawyers and the legal profession as a whole care about our community. There is tremendous value in that.”

In 2006, the second phase of the Telejustice Project will launch to include expanded legal education for the CLWs through the use of webcasts and video conferencing. These initiatives will be implemented in direct response to the CLWs’ assessment of the greatest legal need in the communities they serve. Phase two will once again tap into the pro bono resources at the Ministry of the Attorney General.

In his Opening of the Courts of Ontario for 2006 speech, Chief Justice Roy McMurtry recognized the Telejustice Project by saying, “I would also like to congratulate the Ministry of the Attorney General for Ontario...for

developing pro bono policies that provide opportunities for government lawyer pro bono participation.”

Government lawyers are some of the most highly skilled and civic-minded lawyers in the profession and the opportunity to make use of their skills will have a significant and long-term impact on access to justice. PBLO believes their active show of support in promoting a pro bono and public service culture is encouraging and sets a strong example for all lawyers. Projects such as Telejustice improve access to justice and the administration of justice for residents of these communities. ■

Pro Bono Law Ontario promotes access to justice in Ontario by creating and promoting opportunities for lawyers to provide pro bono (free) legal services to persons of limited means. To learn more, visit: www.pblo.org. The Telejustice Project was funded in part by the Ontario Trillium Foundation.

The Law Society regulates the legal profession in the public interest.

As part of this mandate, the Law Society's Hearing and Appeal Panels recently heard the following cases. Hearing and Appeal Panels are composed of Law Society benchers – lawyers and lay people who are responsible for determining the appropriate disposition of cases.

These cases and previous ones can be found on the Law Society's website at www.lsuc.on.ca. Reasons for decisions when provided by the panel are available on the Canadian Legal Information Institute website at www.canlii.org/on/cas/onlsdc.

The notation following a lawyer's name indicates year of call to the Bar and the lawyer's age.

Gordon Donald Campbell

(1963, 66) of the City of Erin, was found guilty of professional misconduct for: misappropriating a total of \$1,259,295.43, more or less, from 13 clients; borrowing a total of \$302,000, more or less, from 5 clients; acting for 5 clients when they loaned a total of \$378,000 to a trucking company in which he had a substantial interest, without ensuring that their interests were fully protected by independent legal representation; acting for a client when the client invested \$125,000 in a trucking company in which he had a substantial interest without disclosing and explaining the nature of his conflicting interests, explaining how and why a conflict may develop, recommending independent legal representation, requiring his client to obtain legal advice, or obtaining the client's consent in writing to act on the transaction; failing to maintain adequate trust balances and, as a result, not disbursing approximately \$385,000 in assets of the Estate of A.P.F.; and failing to maintain proper books and records.

By Decision and Order dated October 19, 2005, the Hearing Panel ordered that:

- the Member is disbarred.
- the Member shall repay the Lawyers Fund for Client Compensation the amount of \$1,012,829.44.
- the Member shall pay the costs of the Law Society in the amount of \$5,000.

(Counsel for the Society, Deborah McPhadden / Counsel for the Member, William M. Trudell)

George Nelson Carter (1979, 63) of the City of Toronto, was found guilty of professional misconduct for: sending to other lawyers and to the Law Society correspondence that was uncivil, abusive, offensive, or otherwise inconsistent with the proper tone of a professional communication from a lawyer; and failing to respond substantively to correspondence from the Law Society.

By Decision and Order dated October 6, 2005, the Hearing Panel ordered that:

- the Member is suspended from the practice of law from the 1st day of December 2005 for a definite period of 3 months and indefinitely after that until such time as he has satisfied the next two paragraphs.
- the Member shall provide, to the satisfaction of the Secretary of the Law Society, medical evidence that he is fit to practice law.
- the Member shall send written apologies that are to the satisfaction of the Secretary of the Law Society to 5 individuals
- the Member shall obtain and read the professional ethics material for the Bar Admission course.
- the Member shall, within 1 year from the date of this order, pay

costs to the Law Society in the amount of \$1,500.

(Counsel for the Society, William Holder and Jane Anweiler / Member not present and not represented)

Sundeep Chhabra (1996, 40) of the City of Toronto, was found guilty of professional misconduct for: failing to maintain books and records of his practice; practising law while under administrative suspension; in representing a client in a real estate purchase, misleading his client, mishandling \$1,550, more or less, of trust monies, failing to maintain sufficient balances in trust, failing to send a reporting letter and failing to account to his client; in relation to another client, failing to complete the work retained for, failing to return any of the \$1,000 retainer and failing to account for the retainer monies; failing to serve 3 other clients; failing to respond, or to provide a meaningful response, to 2 fellow solicitors; failing to report a potential claim to L.P.I.C.; failing to satisfy or comply with 2 Court judgments; failing to account to 2 clients for retainer monies received; and failing to fulfill 2 financial obligations.

By Decision and Order dated February 21, 2006, the Hearing Panel ordered that:

- the Member is forthwith relieved of the Undertaking not to Practise he signed on May 26, 2004.

- the Member be suspended for a period of 6 months, consecutive to his current administrative suspension.
- upon the resumption of his practice, should the Member operate as a sole practitioner, he shall participate in a review of his practice in accordance with s. 42 of the *Law Society Act*, co-operate with the practice reviewer, implement forthwith any recommendations made and participate in a second practice review 6 months after the date of the first review.
- the Member shall complete all modules of the Private Practice Refresher Program, at his own expense, to the satisfaction of the Secretary within 6 months of January 1, 2007.
- the Member make arrangements to reimburse monies owing pursuant to a Court Judgment.
- should the Member open one or more trust accounts, he shall provide monthly trust reconciliations to the Law Society for a period of 2 years from the date he opens his first trust account.
- for 5 years after resumption of his practice, while he is a practising lawyer, the Member shall be treated by a physician of his choice, licensed to practice in Ontario and competent in the treatment of epilepsy.
- prior to resuming practice, the Member authorize in writing the treating physician to provide information to the Law Society and shall provide a copy of the authorization to the Law Society prior to resuming practice;
- the Member shall deliver a report every 6 months for a period of 5 years authored by the treating physician confirming the Member's compliance with treatment, the first report to be delivered prior to the resumption of the Member's practice.

(Counsel for the Society, Lisa Freeman / Counsel for the Member, Nadia Liva)

John Denis Dickson 1991, 42), of the Town of Schomberg, was found guilty of professional misconduct for: failing to serve 3 clients in a conscientious, diligent and timely manner in relation to 2 family law matters; failing to account for clients' funds or to return retainer monies; misleading 2 clients; failing to honor a Small Claims Court judgment in the amount of \$1,469.96 which was obtained by 2 clients against him; and failing to respond to the Law Society's communications in relation to 2 complaints.

By Amended Decision and Order dated January 10, 2006, the Hearing Panel ordered that:

- the Member's rights and privileges are suspended for a definite period of 9 months, commencing immediately following the termination of the administrative suspension.
- the suspension referred to above shall continue indefinitely until the Member returns retainer monies in the amount of \$2,000 provided by a client.
- the suspension referred to above shall continue until the Member honours the judgment in the amount of \$1,469.96 plus post-judgment interest to the date of the satisfaction of the judgment at 4% rendered by the Small Claims Court.
- at the conclusion of the definite and indefinite suspension and within 6 months of the Member's return to the practice of law, the Member must enroll in and complete the Law Society's Practice Review Program under s.42 of the *Law Society Act* and complete any recommendations made by the program to the satisfaction of the Secretary.
- the Member shall pay to the Law Society prior to his return to the practice of law, costs in the amount of \$5,000.

(Counsel for the Society, Louise Hurteau / Member not present and not represented)

Marcello Di Francesco (1989, 45) of the City of Vaughan, was found guilty of professional misconduct for: failing to co-operate in an investigation by the Law Society; and attempting to mislead the Law Society.

By Decision and Order dated December 19, 2005 the Hearing Panel ordered that:

- the Member is disbarred.
- the Member shall pay the costs of the Law Society in the amount of \$5,000.

(Counsel for the Society, Lisa Freeman / Member present, assisted, in part, by duty counsel)

Paul Magnus Feldman (1975, 58) of the City of Toronto, was found guilty of professional misconduct for: failing to serve 2 clients; failing to act with integrity and in good faith by misleading a client's wife and the client's son regarding his client who was incarcerated; misleading or attempting to mislead the Court; misleading another solicitor on two occasions; failing to comply with provisions, which related to him personally, of 6 Court Orders; acting and continuing to act in a conflict of interest and failing to advise his client to seek independent legal advice; failing to give prompt notice to LAWPRO of a possible claim; attempting to mislead the Law Society; breaching his undertaking to the Law Society; misleading a client; breaching an Order of the Hearing Panel, dated April 25, 2003; failing to co-operate with a Law Society investigation; and attempting to mislead the Law Society during its investigation of 5 complaints.

By Decision and Order dated February 21, 2006, the Hearing Panel ordered that:

- the Member is disbarred as of the date of the Order as a barrister, the Member's name is struck off the roll of solicitors, the Member's membership in the Law Society is revoked and the Member

is prohibited from acting or practising as a barrister or solicitor and from holding himself out as a barrister or solicitor.

- the Member pay costs in the amount of \$7,500 to the Law Society.
- the Member reimburse the Lawyers Fund for Client Compensation ("Fund") for any amount paid out by the Fund in relation to the Fund Application made by a client.

(Counsel for the Society, Janice Duggan / Member not present and not represented)

Zygmunt John Fenik (1974, 58), of the Town of Bradford, was found guilty of professional misconduct for: failing to fulfill or to fulfill in a timely manner, an undertaking given to 5 other lawyers; failing to respond to communications from 4 other lawyers in a timely, conscientious and complete manner; failing to serve 20 clients (1 in relation to 3 separate matters); failing to co-operate with Law Society of Upper Canada investigations of 8 complaints by failing to respond in a timely, conscientious and complete manner; failing to meet or to promptly meet 4 financial obligations; failing to conduct himself in such a way as to maintain the integrity of the legal profession by failing to respond in a timely, conscientious and complete manner to numerous communications to him from a company and 2 other individuals; failing to reply or to reply in a timely and responsive fashion, to Law Society communications, including communications from Resolution and Compliance Counsel and from a Law Society Forensic Auditor; failing to fulfill his verbal undertaking to Resolution and Compliance Counsel of the Law Society; failing to maintain the books and records of his law practice; operating a trust account while bankrupt; failing to respond to numerous telephone messages from an individual in a timely, diligent and responsive manner; failing to account

to a client for retainer money; and failing to respond to the Law Society in a timely, diligent and complete manner regarding 9 complaints.

By Decision and Order dated October 13, 2005, the Hearing Panel ordered that:

- the Member is suspended for a period of 12 months, effective as of May 1, 2005.
- during the period of the Member's suspension and for a period of 2 years thereafter, the Member shall continue to attend such psychiatric, psychological and/or medical appointments for counseling and treatment, and take such prescribed medications, as recommended.
- prior to resuming the practice of law, the Member shall provide to the Law Society a written psychological or psychiatric report that the Member is fit to resume the practice of law. Such report must be satisfactory to the Law Society.
- the Member shall provide to the Society, 6 months after the Member resumes the practice of law and again twelve 12 months after the Member resumes the practice of law, a written psychological or psychiatric report confirming that the Member has continued to receive counselling and treatment, and has continued to take prescribed medications, in accordance with the recommendations of the Member's medical practitioners.
- the Member's practice shall be restricted for a period of 1 year after the resumption of the Member's practice to duty counsel work with the Ontario Legal Aid Plan, and thereafter, only to employment under the supervision of a practitioner approved by the Society, and under such terms and conditions approved by the Law Society.
- prior to the commencement of any supervised employment, the

Member's approved supervisor must have been provided with the Reasons and Order of this Hearing Panel and must have acknowledged to the Law Society, in writing, that he or she has done so and has accepted the terms of the supervision of the Member's employment.

- the Member shall fully and in a timely way co-operate with the Law Society's Trustee Services and/or Monitoring and Enforcement Unit. The Member shall also deliver up to the Law Society any documents or files in his possession as may be required by the Law Society.
- the Member shall not operate any trust accounts.
- in the event that the Law Society and the Member are unable to agree with respect to compliance with bullet points 3 and 5 above, a Hearing Panel may be convened with authority to resolve the said disagreement.

(Counsel for the Society, Janice Duggan / Member present, assisted by Duty Counsel)

Charles William Fleming (1979, 60) of the City of London, was found guilty of professional misconduct for: failing to serve 2 clients; failing to account to 2 clients for retainer monies; failing to respond to the Law Society in a timely, diligent and complete manner regarding 2 complaints; failing to deposit money received in trust from a client; and breaching an Undertaking given to the Law Society.

By Decision and Order dated November 3, 2005, the Hearing Panel ordered that:

- the Member shall be suspended for 3 weeks which shall commence on a date to be agreed on by the parties.
- the Member shall participate in the Law Society's Practice Review Program, the terms of which are to be agreed upon by the parties.
- should the parties not agree on the

terms pertaining to the two above-noted orders by November 30, 2005, this Panel remains seized for the determination of same and may be spoken to at any time if there are difficulties with regard to reaching agreement on the terms.

- the Member shall pay the costs of the Law Society in the amount of \$2,000.

(Counsel for the Society, Maureen Helt / Counsel for the Member, Gordon D. Cudmore)

(The Member's suspension commenced on December 14, 2005)

George Flumian (1982, 53) of the City of Ottawa, was found guilty of professional misconduct for: failing to serve 4 clients in a conscientious, diligent and efficient manner in relation to 2 real estate sales transactions; failing to promptly account for clients' funds to 4 clients; failing to maintain the books and records of his practice; and failing to fulfill his personal undertakings in a timely manner, or at all, given to 3 fellow solicitors.

By Decision and Order dated January 17, 2006, the Hearing Panel ordered that:

- the Member's rights and privileges are suspended for 1 month commencing February 1, 2006 and concluding February 28, 2006.
- the Member shall pay costs in the amount of \$1,500 by February 28, 2006.

(Counsel for the Society, Louise Hurteau / Member present, not represented)

Thomas Michel Hicks (1990, 42), of the City of Toronto

By Notice of Appeal, the Member appealed the Order of the Hearing Panel, dated October 6, 2004* which found the Member guilty of professional misconduct in relation to 11 particulars and ordered that the Member be disbarred.

By Amended Decision and Order dated January 10, 2006, the Appeal Panel ordered that:

- the findings respecting the contested particulars 2, 4, 6 and 7 are set aside.
- particulars 2, 4 and 6 (failing to serve 3 clients) are remitted to a differently constituted Hearing Panel for a new hearing, should the Law Society decide, in its discretion, to re-proceed on those particulars.
- particular 7 (failing to comply with two court Orders) is dismissed.
- the findings respecting the remaining 7 uncontested particulars (1, 3, 5, 8, 9, 10 and 11) are upheld. In relation to those particulars, the finding of ungovernability and the disbarment order are set aside.
- the Appellant is suspended from practising law for a period of 6 months. This suspension is in addition to the almost four months that the Appellant was precluded from practising law. The suspension shall commence on February 15, 2006 or such other date as may be agreed upon by the Appellant and the Law Society.
- thereafter, the following conditions will apply to the Appellant's practice:
 - the Appellant shall restrict his practice to criminal law (which shall include matters under the *Criminal Code* and such other federal statutes which impose penal sanctions similar to those found in the *Criminal Code*, and the *Ontario Highway Traffic Act* and *Liquor Licence Act*).
 - for a period of 5 years, the Appellant shall practise only as an employee of the firm Daley, Byers under the direct supervision of Kenneth R. Byers (the "Supervisor"), a member in good standing with the Law Society, and in accordance with a plan of supervision (the "Plan") to be agreed upon by the Appellant, the Supervisor and the

Law Society in writing. The Appellant shall also provide a written undertaking to the Law Society to practise in accordance with the Plan or such variation to the Plan as may be agreed upon by the Appellant, the Supervisor and the Law Society.

- the Plan shall accord with the terms of the Plan dated January 28, 2005, unless the Appellant, the Law Society, the Supervisor, and any Additional Supervisor named pursuant to the paragraph directly below agree upon a variation to the Plan in writing.
- the duties of supervision may be shared by another member of the firm of Daley, Byers (the "Additional Supervisor") if the Law Society, the Supervisor, the Additional Supervisor, and the Appellant agree that an Additional Supervisor be named, and as to the suitability of the proposed Additional Supervisor. The naming of an Additional Supervisor shall constitute a variation of the Plan.
- commencing forthwith and for a period of 2 years thereafter, the Appellant shall regularly attend for such psychiatric counseling, including psychotherapy, as may be recommended by Dr. H. or his designee. On or before December 20, 2006 and December 20, 2007, the Appellant shall provide proof of such attendances to the Law Society, in a form acceptable to the Law Society.
- no order is made as to costs.

(Counsel for the Society, Deborah McPhadden / Counsel for the Member, Gregory Lafontaine)

*Previously summarized on the Law Society's website at www.lsuc.on.ca/regulation/a/discipline/december-2004 and in the *Ontario Lawyers Gazette*, November/December 2004, Vol. 8, No. 6)

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(1992, 52) of the City of Toronto, was found guilty of professional misconduct for: failing to keep the Law Society apprised with respect to his contact information; holding himself out improperly as a barrister and solicitor subsequent to his suspension; failing to reply to communications from the Law Society; failing to serve his clients subsequent to his suspension; failing to care for the property of his clients as a careful and prudent owner would, subsequent to his suspension; misleading the Law Society by filing a false, misleading, or substantively incomplete 2003 Member's Annual Report; failing to maintain proper books and records in 2003; in relation to his representation of a client, failing to serve and to account to the client, failing to deposit trust monies received from the client and failing to act with courtesy toward the Court and Crown counsel in relation to the client's matter; with respect to the complaint of another client, failing to deposit retainer monies into his trust account; misappropriating \$12,450, failing to charge an amount for fees and disbursements that was fair and reasonable, and failing to meet a financial obligation related to his practice; with respect to the complaint of another client, failing to deposit retainer monies into his trust account, failing to charge an amount for fees and disbursements that was fair and reasonable, failing to respond to communications from the client's successor lawyer and failing to meet a financial obligation related to his practice; failing to co-operate with the Law Society's investigation by failing to respond substantively to written investigative inquiries; and making false representations to LAWPRO.

By Decision and Order dated August 25, 2005, the Hearing Panel ordered that:

- the Member is disbarred effective August 25, 2005.

- the Member shall pay to a former client the sum of \$939.46 on or before November 30, 2005.
- the Member shall refund \$3,000 in retainer monies to another former client on or before May 31, 2006.
- the Member shall pay the costs of the Law Society in the sum of \$15,000 on or before August 31, 2006.

(Counsel for the Society, William Holder and Elizabeth Parenteau / Member present but not represented)

William Morley Joseph Myers

(1951, 77), of the City of Chatham, was found guilty of professional misconduct for: failing to serve Estate client A, the trustees of Estate client B and two other clients; failing to safeguard an original signed will; failing to communicate with the beneficiaries of Estate client A; failing to safeguard the value of the assets of Estate client A; failing to report a claim made by a former client to LAWPRO in a timely fashion; loaning a total of \$57,700, more or less, from Estate B's monies without the knowledge or consent of the estate trustees; failing to report to the trustees of Estate client B regarding the loans; acting in a conflict of interest in arranging the loans/mortgages of money from Estate client B to other clients of his firm; failing to maintain proper estate accounting regarding Estate client B; taking fees totalling \$5,824.26 regarding Estate client B before delivering a bill; preferring the interest of a mortgagor over those of Estate client B, the mortgagee; misapplying \$10,000 from Estate client B to another estate; failing to respond to correspondence from another solicitor; improperly allowing staff who were non-Members to sign cheques on his mixed trust account; and failing to communicate with two clients.

By Decision and Order dated December 21, 2005, the Hearing Panel ordered that:

- the Member shall submit accounts in Estate client B to the estate trustees in a form that is acceptable to the Secretary of the Law Society ("Secretary") or to any successor of such office.
- the Member shall submit accounts and report to two clients in a form that is considered to be satisfactory by the Secretary or to any successor of such office.
- the Member shall obtain the written approval of the Secretary, or to any successor of such office, of a plan of supervision to last not less than 1 year.
- all of the above orders are to be completed by March 31, 2006, failing which the Member is to be suspended for 3 months.
- the Member shall pay costs in the amount of \$5,000 to the Law Society by June 30, 2006.

(Counsel for the Society, Maureen Helt / Counsel for the Member, William Trudell and Mark Lapowich)

Kathryn Shaun Naumetz (1984, 53) of the Town of Oakville, was found guilty of professional misconduct for: appearing in court on October 4, 2001, unable to serve her client due to the enduring effect of excessive alcohol consumption on the night of October 3, 2001 into the early hours of October 4, 2001.

By Amended Decision and Order dated November 29, 2005, the Hearing Panel ordered that:

- the member be reprimanded.
- the member will co-operate in a review of her practice pursuant to s.42 of the Law Society Act, shall co-operate with the practice reviewer and implement forthwith any recommendations made as a result of the practice review and shall also participate in a second practice review 6 months after the date of the first practice review.

- the member pay the costs of the Law Society in this matter in the amount of \$3,500 on or before November 29, 2006.

(Counsel for the Society, Lisa Freeman / Counsel for the Member, David M. Humphrey)

Albert Chukwuemeka Nwoko

(1998, 47) of the City of Mississauga.

By Interim Interim Order dated February 1, 2006, the Hearing Panel ordered that:

- the Law Society's motion for an interlocutory order suspending the rights and privileges of the Member (the "Motion") is adjourned to a date to be set by the Hearings Management Tribunal, peremptory to the Member.
- the rights and privileges of the Member are suspended on an interim interim basis from 5:00 p.m., February 1, 2006 until the return of the Motion.
- the Member contact all his clients for whom he has court or tribunal appearances, or real estate closings in the period between February 1, 2006 and the return of the Motion, and refer them to other lawyers.
- the Member co-operate fully with Trustee Services, which will monitor the Member's compliance with the 2 paragraphs directly above.
- any material that the Member may wish to file be delivered to the Law Society at least 3 days before the return of the Motion; and
- the costs of the February 1, 2006 proceedings shall be reserved to the Hearing Panel that hears the Motion.

(Counsel for the Society, Tanus Rutherford / Member present but not represented)

John Karol Pistor (1983, 52), of the City of Toronto, was found guilty of professional misconduct for: failing to serve a client; failing to account for retainer monies provided by 2 clients;

failing to release a file as directed by a client; failing to respond on a regular and consistent basis to Law Society communications; failing to fully co-operate with the Law Society's investigation in a timely manner; and failing to produce the books and records of his practice to the Spot Audit and Investigations Departments.

By Decision and Order dated January 10, 2006, the Hearing Panel ordered that:

- the Member's rights and privileges are suspended for a definite period of 3 months, commencing immediately following the termination of the administrative suspension;
- the definite period of suspension is to continue indefinitely until (i) the Member produces the books and records of his practice to the satisfaction of the Secretary of the Law Society and (ii) the Member produces an account to J.R. and provides his file to J.R.
- at the conclusion of the definite and indefinite suspension and within 6 months of the Member's return to the practice of law, the Member must enroll in and complete the Law Society's Practice Review Program under s. 42 of the *Law Society Act* and complete any recommendations made by the program to the satisfaction of the Secretary.
- the Member shall pay to the Law Society, within 12 months of the date of this Order, costs in the amount of \$1,000.

(Counsel for the Society, Louise Hurteau / Counsel for the Member, Louis Strezos)

Lisa Edna Reiten (1997, 40) of the City of Windsor, was found guilty of professional misconduct for: misappropriating a total of \$44,135.72, more or less from the funds which she held in trust on behalf of Stewart Title and \$600, more or less, of trust monies she received for GST remittances and Law Society transaction levies;

permitting 2 trust shortages, of \$3,000 and \$2,000, more or less; failing to maintain the books and records of her practice for 7 trust accounts; failing to serve 4 clients in relation to 3 matters; failing to fulfill 3 Undertakings to 3 purchasers and their solicitors to obtain and register discharges of mortgages; failing to fulfill a financial obligation incurred in the course of her practice.

By Decision and Order dated December 6, 2005, the Hearing Panel ordered that:

- the Member be given permission to resign her membership in the Law Society. If the Member fails to submit her letter of resignation to the Law Society within 30 days of the date of the Order (December 6, 2005), it is ordered that she be disbarred.

(Counsel for the Society, Lisa Freeman / Counsel for the Member, Stephen E. Triviss and Thomas A. Costaris)

(The Member's resignation became effective December 6, 2005)

Evita Mary Roche (1979, 51), of the City of Ottawa, was found guilty of professional misconduct for: practising law while under administrative suspension; failing to maintain the books and records of her practice; and failing to serve two of her clients.

By Decision and Order dated January 6, 2006, the Hearing Panel ordered that:

- the Member is suspended for a period of 2 months on the Member's return to practice.
- if the Member does return to practice, she shall enter into the Practice Review Programme, and shall implement the recommendations made by the Practice Review Assessment.
- the Member shall pay the costs of the Law Society in the amount of \$1,500.

(Counsel for the Society, Maureen Helt / Counsel for the Member, William Trudell and Jennifer Cooper)

James Victor Shaw (1975, 58) of the Town of Grafton, was found guilty of professional misconduct and conduct unbecoming a barrister and solicitor for: while acting as the solicitor and Estate Trustee for two Estates, misappropriating a total of \$393,055.55 from the two Estates, misapplying \$111,900 from one of the Estates and pre-taking legal fees in the amount of \$42,350 prior to rendering a legal account from the other Estate; while acting as the solicitor for the executor for another Estate, pre-taking legal fees in the amount of \$19,623.10 without rendering a fee billing, misapplying \$31,921.90 from the Estate and misapplying \$1,500 to the benefit of the executor; pre-taking legal fees from another Estate and another client without rendering fee billings; while acting as the Estate trustee for two Estates, failing to serve the beneficiaries of the Estates in a conscientious, diligent and efficient manner; failing to maintain proper books and records for his Estate trust accounts and mixed trust accounts; failing to disclose that he acted as sole Estate trustee for two Estates on his 2001, 2002 and 2003 Member's Annual Reports; making Automatic Bank Machine withdrawals and point-of-purchase withdrawals from his mixed trust account; and commingling personal funds with trust funds.

By Decision and Order dated September 20, 2005, the Hearing Panel ordered that:

- the Member is disbarred;
- the Member shall pay costs to the Law Society in the amount of \$10,000 within 30 days of the date of this order.
- the Member shall pay the Lawyers Fund for Client Compensation ("the Fund") the amount of \$285,914, paid by the Fund with respect to one of the Estates.
- the Member shall pay to the Fund amounts paid out by the Fund with respect to another Estate.

(*Counsel for the Society, Jane Anweiler / Counsel for the Member, Malgorzata Bojanowska*)

Tapishar Singh (1985, 56) of the City of Guelph, was found guilty of professional misconduct for: failing to maintain accurate books and records with respect to 2 clients; failing to fully co-operate with the Law Society's investigation; failing to properly account to 2 clients with respect to trust monies received on their behalf; failing to adhere to legislated requirements in the manner in which he withdrew trust funds on account of legal fees and disbursements in relation to 2 clients; and failing to serve a client.

By Decision and Order dated November 11, 2005, the Hearing Panel ordered that:

- the Member is suspended for 1 month, commencing on November 19, 2005, which is to continue indefinitely until the Member provides accurate books and records relating to a client's file to the satisfaction of the Secretary of the Law Society.
- upon resumption of his practice the Member will co-operate in a review of his practice pursuant to s.42 of the *Law Society Act* at his own expense up to a maximum of \$1,500. The Member shall co-operate with the practice reviewer, implement forthwith any recommendations made as a result of the practice review and participate in a second practice review 6 months after the date of the first practice review.
- the Member will agree to being audited by the spot audit department within the first 12 months after resumption of his practice.
- the Member shall reimburse \$4,000 forthwith to a client.
- the Member shall pay the costs of the Law Society in the amount of

\$2,000 on or before November 11, 2006.

(*Counsel for the Society, Lisa Freeman / Counsel for the Member, Ryszart G. Litkowski*)

Barry Sheldon Small (1967, 64), of the City of Toronto, was found guilty of professional misconduct for: failing to serve 3 clients; withdrawing trust monies of \$1,800, more or less, without first sending a fee billing; failing to properly maintain his books and records; failing to respond, or to respond with reasonable promptness, to communications from 3 other lawyers; failing to account to a client for retainer monies; failing to act with courtesy and in good faith with respect to a beneficiary of an estate; failing to co-operate with a spot audit of his practice; failing to co-operate with a Law Society investigation; failing to act with courtesy when you cancelled or failed to show up for meetings scheduled with another lawyer; and failing to respond to written and telephone communications from the Law Society's Intake and Complaints Resolution departments in a prompt and complete fashion.

By Decision and Order dated December 20, 2005, the Hearing Panel ordered that:

- the Member shall be suspended for 3 months, commencing after the Member's administrative suspension ends.
- before the Member is allowed to return to the practice of law, medical evidence must be produced to the satisfaction of the Secretary of the Law Society or a successor position (the "Secretary"), that he is fit to practice.
- the Member shall be subject to a supervising Order to be approved by the Secretary, with the plan of supervision and the supervisor to be approved by the Secretary, all of this prior to the Member returning to practice.

- the Member shall be indefinitely suspended until books and records are produced to the satisfaction of the Secretary.
- two outstanding files will be transferred, through Mr. Gavrilovic's office, to an appropriately qualified successor lawyer unless the clients decide otherwise.
- the Member shall pay costs in the amount of \$1,000 to the Law Society within 6 months of the Member's return to practice.

(Counsel for the Society, Janice Duggan / Counsel for the Member, Dagan Gavrilovic)

Michael James Taylor (1986, 50) of the City of Woodbridge, was found guilty of professional misconduct for: failing to communicate with two other lawyers with reasonable promptness; failing to fulfil an undertaking; failing to reply promptly to communications from the Law Society regarding 3 complaints; and failing to serve a client and co-operate with a successor lawyer.

By Decision and Order dated October 5, 2005, the Hearing Panel ordered that:

- the Member is suspended for 1 month, commencing on January 1, 2006;
- the Member shall pay costs to the Law Society in the amount of \$3,000 within 6 months of the final termination of his suspension pursuant to the paragraph above.

(Counsel for the Society, William Holder / Counsel for the Member, William M. Trudell)

John Sergio Tucciarone (1996, 38) of the Town of Richmond Hill, was found guilty of professional misconduct for: failing to serve his client, Royal Bank of Canada; acting for all parties in several real estate transactions, including the vendors, purchasers/mortgagors and the lender/mortgagee, without providing adequate disclosure of the conflict of interest and without the consent of the lender/mortgagee; while

acting for both the purchaser/mortgagor and the lender/mortgagee in several real estate transactions, preferring the interests of the purchaser/mortgagor over the interests of the lender mortgagee; commissioning an Affidavit of Residence and of Value of the Consideration made under the *Land Transfer Tax Act* in a real estate transaction knowing that information in the affidavit was false; and registering a Transfer/Deed of Land for real property which he knew or ought to have known was incorrect.

By Amended Decision and Order dated December 28, 2005 the Hearing Panel ordered that:

- the Member's rights and privileges are suspended for a period of 6 months, commencing on February 1, 2006 and concluding on July 31, 2006.
- the Member shall pay the costs of these proceedings, in the amount of \$10,000, on or before his return to practice.

(Counsel for the Society, Deborah McPhadden / Counsel for the Member, William Trudell and Mark A. Lapowich)

Simon Van Duffelen (1984, 64) of the City of Toronto, was found guilty of professional misconduct for: misappropriating \$2,500, more or less, in trust monies; and acting in a conflict of interest in his purchase of property owned by a client.

By Decision and Order dated December 19, 2005 and by Order dated December 20, 2005, the Hearing Panel ordered that:

- the Member's rights and privileges are suspended for 1 month to commence on December 22, 2005, and to conclude on January 22, 2006.
- the Member shall pay costs in the amount of \$1,500. These costs may be paid over a period of six months.

(Counsel for the Society, Maureen Helt / Counsel for the Member, Michael Gulycz)

Gordon Ernest Watkin (1980, 62) of the Town of Richmond Hill, was found guilty of professional misconduct for: improperly commissioning an Affidavit purportedly sworn by M.F. and D.M. when it was not M.F. or D.M. who signed the Affidavit; and misleading the court by filing an Affidavit which he knew to be false.

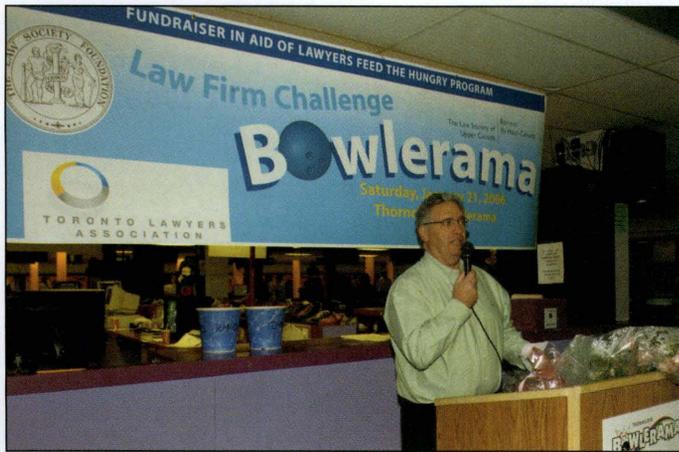
By Decision and Order dated November 29, 2005, the Hearing Panel ordered that:

- the Member's rights and privileges be suspended for a definite period of 1 month commencing on February 1, 2006.
- the Member shall enter into the Law Society's Practice Review Program pursuant to s. 42 of the *Law Society Act*, at his own expense, and fix a date for the attendance by the practice reviewer within 2 months of his return to the practice of law. The Member shall implement forthwith any recommendations made as a result of the practice review and shall also participate in a second practice review six 6 months after the date of the first practice review.
- the Member shall pay the costs of the Law Society in the amount of \$1,500 within 6 months of the completion of the suspension ordered above.

(Counsel for the Society, Maureen Helt / Member present, not represented) ■

Legal community raises \$150,000 to help feed the hungry in Toronto

OVER 350 MEMBERS OF THE LEGAL COMMUNITY TOOK TO THE LANES IN THE FIRST EVER LAW FIRM BOWLERAMA CHALLENGE AND RAISED \$150,000 FOR THE LAWYERS FEED THE HUNGRY PROGRAM.



More than 50 teams of bowlers, including lawyers and staff from numerous Toronto law firms, as well as judges, Ministry of the Attorney General staff, volunteers with the Lawyers Feed the Hungry Program and other organizations that support the program participated in the challenge.

The Lawyers Feed the Hungry Program provides more than 1,300 meals each week to Toronto's poor and hungry. Three times each week, meals are prepared and served by volunteers including lawyers, judges, legal staff and law students out of the Law Society of Upper Canada's cafeteria. The program was created in 1998 under the leadership of Toronto lawyer Martin Teplitsky.

Each year the Law Society Foundation hosts a fundraiser to support this important program. This year's event was held at Thorncliffe Bowlerama.

"The Lawyers Feed the Hungry Program provides a vital service in our community. The legal community has shown a high level of support for this very important cause, and this event is a wonderful start to our fundraising efforts for 2006," said Malcolm Heins, Chief Executive Officer for the Law Society of Upper Canada.

Heins cautioned, however, that ongoing support is needed to continue to help fund the program. "Unfortunately we have

seen the need for the program continue to increase each year and that requires ongoing financial support and volunteer assistance throughout the year."

The program is funded primarily by contributions from lawyers, law firms, clients and other organizations that work closely with the legal community.

"We extend a special thanks to all the participants and sponsors of the Law Firm Bowlerama Challenge whose support helps ensure the Lawyers Feed the Hungry Program can continue to meet this ongoing need in our community," said Heins.

For more information on the Lawyers Feed the Hungry Program, please visit the Law Society's website at: www.lsuc.on.ca.

To make a financial contribution (a tax receipt will be issued), please send cheques made payable to:

The Law Society Foundation
130 Queen Street West, Toronto, ON M5H 2N6

To volunteer for the program, please contact:

Alison Rose	(Wednesday dinner)	(416) 928-0422
Justice Ormston	(Thursday breakfast)	(416) 327-5907
David Bronskill	(Sunday brunch)	(416) 979-2211 ■



LibraryCo announces launch of advoCHAT, a virtual reference service

LibraryCo recently announced the launch of advoCHAT, a virtual reference service. This service will allow librarians in the LibraryCo system and in the Law Society of Upper Canada's Great Library to engage in a live interactive reference interview with a lawyer anywhere in Ontario.

AdvoCHAT is the first such program in Canada, and it was made possible through generous funding from the Law Foundation of Ontario.

The service is available to Ontario lawyers and articling students during regular business hours. Lawyers can click on the advoCHAT icon on the website and chat with a law librarian for reference and research assistance.

Learn more by visiting the LibraryCo website at: www.libraryco.ca.



Mark your calendar for these upcoming events

Law Day 2006

- April 6, 2006

Law Day is a national event celebrating the signing of Canada's *Charter of Rights and Freedoms*. It aims to educate and inform the public about the role and importance of the law and the justice system in people's lives.

Law Day is scheduled for Thursday, April 6, with activities planned across the province throughout the week of April 3 - 7. To find out what activities are taking place and how you can get involved, visit these websites:

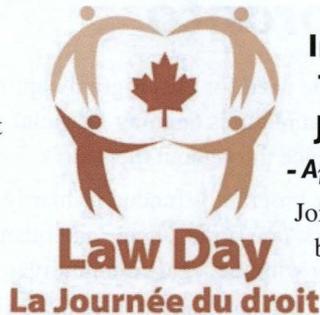
- Ontario Bar Association: www.oba.org
- Ontario Justice Education Network: www.ojen.ca
- Legal Aid Ontario: www.legalaid.on.ca
- Law Society of Upper Canada: www.lsuc.on.ca

**Special Lectures 2006:
Family Law**

- April 3 & 4, 2006

The Law Society of Upper Canada is pleased to present the first Special Lectures devoted exclusively to family law since 1999. This program will explore groundbreaking developments in child support, spousal support, domestic contracts, faith-based tribunals, resulting trusts and numerous other topics. Experienced faculty will provide thought provoking yet pragmatic observations to current issues in family law. Panels of family law judges will also present judicial insights and reflections on these matters.

Register online and view the complete agenda for this program at: <http://ecom.lsuc.on.ca/cle/calendar.jsp>.



**Into the Future:
The Agenda for Civil
Justice Reform**

- April 30 to May 2, 2006

Join members of the bench, bar and government this spring when the Canadian Forum on Civil Justice presents the conference

Into the Future: The Agenda for Civil Justice Reform in Montreal.

Ten years after the release of the Canadian Bar Association's *Systems of Civil Justice Task Force Report*, civil justice reforms implemented throughout Canada will be examined and national directions for future reform will be considered. Speakers from Canada and abroad will provide expert advice on ways to make the civil justice system more accessible, effective, fair and efficient. Focusing on the needs of users, the conference will consider such issues as:

- What has worked and what hasn't over the past 10 years?
- Do the assumptions underlying our civil justice system prevent effective reform?
- How can the litigation process best respond to what users want?
- What role should courts and lawyers play in managing civil litigation and its costs?
- Where is ADR in the litigation process?
- Who is evaluating the success of civil reforms?

Visit www.cfcj-fcjc.org/index.htm for program and registration information.



**International Law Association
Conference: ILA 2006**

- June 4 to 8, 2006

Toronto is hosting the 72nd Biennial International Law Association Conference this spring. Titled *The World is Here*, ILA 2006 will present an exciting series of lectures and panel discussions and ILA committee sessions, covering a wide range of current and emerging issues of global significance in private and public international law.

The conference will feature special guest speakers including Lech Walesa (former President of the Republic of Poland and winner of the Nobel Prize for Peace), an Indigenous Law Program (on the Indigenous experience in Canada, organized by and featuring Indigenous lawyers and political leaders), Young Lawyers Program and International Arbitration Program, and receptions hosted by the Lieutenant Governor of Ontario and by the Law Society of Upper Canada and the Court of Appeal for Ontario.

For full conference information, visit: www.ila2006.org. ■

Black History Month celebrations at the Law Society of Upper Canada – Lawyers and communities working together to empower youth



(Left to right) The panel included Chief Justice Roy McMurtry, lawyers Denise Dwyer and Roger Rowe, Justice Kofi Barnes and Counsel Sandy Thomas.

MORE THAN 300 MEMBERS OF THE PUBLIC and profession attended a forum at the Law Society on how lawyers and communities can work together to assist at-risk youth.

The forum, featuring panelists Ontario Chief Justice Roy McMurtry, Justice Kofi Barnes of the Ontario Court of Justice and lawyers Roger Rowe and Denise Dwyer, addressed issues and challenges faced by youth at home, at school and in the community. Sandy Thomas, from the Department of Justice, chaired the discussion.

Panelists discussed initiatives in the justice system that promote community engagement and help young people who are at-risk. The panel also provided mentoring advice to the students in attendance and discussed resources in the community available to youth, parents, teachers, lawyers and youth advocates, and how these resources can help and be accessed.

The forum was a joint presentation of the Law Society and the Canadian Association of Black Lawyers (CABL) as part of annual Black History Month celebrations. It is one in a series of public legal education forums the Law Society hosts throughout the year in partnership with community and legal organizations to encourage the exchange of information, ideas and action on issues relating to the rights and needs of equality-seeking communities.

Workshops were also held for lawyers, community service providers and youth to examine community-based programs and their effectiveness at empowering and supporting youth in schools, at home and in the community.

A webcast of the panel discussion is accessible on the Law Society's website at: www.lsuc.on.ca. ■

Upcoming equity and diversity public education series includes:

South Asian Heritage Month
May 3, 2006

Topic: How the law recognizes culturally diverse family structures

Access Awareness Week
May 17, 2006

Topic: Disability issues as they relate to Federal laws (telecommunications, transportation and immigration laws)

National Aboriginal Day
June 7, 2006

Topic: Aboriginal perspectives on access to justice

For more information on the Law Society's public education events, please visit: www.lsuc.on.ca

Justice Harry LaForme presented with Talking Stick

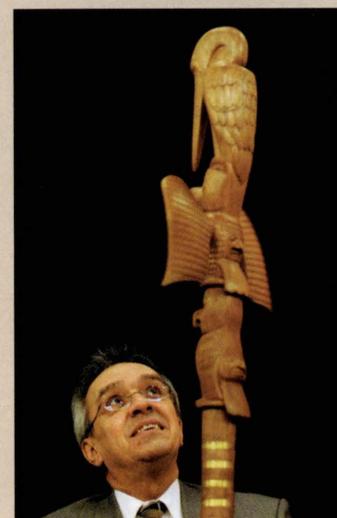
JUSTICE HARRY LAFORME OF THE ONTARIO Court of Appeal was presented with a hand carved Talking Stick in a special honouring ceremony at the Law Society.

The Talking Stick is a traditional Aboriginal symbol common to many of the Aboriginal nations in North America, and was used specifically to introduce leaders as they entered the longhouse. It was then passed from leader to leader as they spoke during the ceremony or meeting. For Justice LaForme,

a Mississauga from the New Credit Ojibwe First Nation, the Talking Stick plays a similar role in the rituals and ceremonies of his community.

The Talking Stick was carved by Gitsxan artist, YaYa Chuck Heit, who described the process of designing the stick and the meaning of each section at the ceremony. ■

Justice LaForme with the Talking Stick





Bernd Christmas holds his 2006 National Aboriginal Achievement Award for Business & Commerce at the gala celebration in Vancouver.

Photo credit:
Photo by La Vitra Photography and courtesy of the National Aboriginal Achievement Foundation.

Lawyer among National Aboriginal Achievement Award recipients

BERND CHRISTMAS, A MEMBER OF THE MEMBERTOU FIRST NATION IN NOVA SCOTIA AND OF THE ONTARIO AND NOVA SCOTIA BARS IS ONE OF THE RECIPIENTS OF THE 2006 NATIONAL ABORIGINAL ACHIEVEMENT AWARDS.

The National Aboriginal Achievement Awards are recognized throughout Canada as the highest honour the Aboriginal community bestows upon its own members. Christmas was presented with the award for his achievements in business and commerce.

Christmas is the Chief Executive Officer for the Membertou Corporate Division (MCD) and the Membertou Band of Nova Scotia. He is also a negotiator for several First Nation bands.

A graduate from Osgoode Hall Law School, Christmas was the first Mi'kmaw to become a lawyer in Canada.

The awards are a special project of the National Aboriginal Achievement Foundation, which provides financial assistance to First Nation, Métis, and Inuit Aboriginal students to realize their educational goals and dreams.

Learn more about the National Aboriginal Achievement Foundation online at: www.naaf.ca. ■

Administrative Suspensions & Reinstatements

The list below which is current as of March 3, 2006 at 11:59 p.m., indicates Law Society members who have recently been reinstated following administrative suspensions or have been suspended for administrative reasons. The date shown is the member's year of Call to the Ontario Bar.

Administrative suspensions are made by summary order for non-payment of annual fees, errors and omissions insurance levies or surcharges, or failure to complete or file required forms, certificates or reports with the Law Society or LAWPRO.

Pursuant to the *Law Society Act* and By-laws 15, 16, 17 and 27, a summary order of suspension may be made where a required payment is not made or a required filing not completed

or filed within 120 days after it is due. A summary suspension, ordered by a summary disposition bench, continues until the member makes the required payment or filing to the satisfaction of the Secretary, together with any reinstatement fee that may apply. A member subject to a summary order may appeal. If a suspension order for default of a payment or filing to the Society remains outstanding for more than 12 months, a summary disposition bench may issue another order summarily revoking membership.

Members recently suspended by summary order, or now in default of a payment or filing obligation should contact the Society's Member Resource Centre. Phone (416) 947-3315; toll-free 1-800-668-7380; fax (416) 947-5263; e-mail to records@lsuc.on.ca.

REINSTATEMENTS

NOVA SCOTIA

ROBICHAUD ALLAIN DENIS PATRICE 1995 HALIFAX NS

ONTARIO

GREEN ROBERT MICHAEL 1994 BELLEVILLE ON
DENTON FRANK EDWIN 1991 HAMILTON ON
KOMINAR ROBERT ANDREW 1982 MILLGROVE ON
MARPLES IAN ROBERT 1979 MISSISSAUGA ON
ALLPORT JOHN NEWELL 1982 OAKVILLE ON
SHILLER KAREN MAIA 1983 ROCKCLIFFE PARK ON
ANDERSON AARON RUSSELL BARCLAY 2001 TORONTO ON
BRUNER DAVID ALLEN 1986 TORONTO ON
CHA YEON YI 2004 TORONTO ON
COPELAND MICHAEL GEORGE 1995 TORONTO ON
JORGENSEN DEBORAH LEE 2004 TORONTO ON
TAMAN LARRY THOMAS 1976 TORONTO ON
YEARWOOD MARK AVERELL 1999 TORONTO ON

REINSTATEMENTS

USA

SOLWAY STEVEN RANDY 1988 UNITED STATES
SUTTON HOLLY JEAN 1997 UNITED STATES

INTERNATIONAL

LUCAS ELINOR MARGUERITE LUXTON 2000 BERMUDA
KOO CHARMAINE CHIA MING 1996 HONG KONG

SUSPENSIONS

ONTARIO

KHALIFA ABUL AZIZ 1971 ETOBICOKE ON

INTERNATIONAL

KENNEDY GLEN ELDON 2001 CAYMAN ISLANDS ■

The opinions expressed in this page are those of Legal Aid Ontario and do not necessarily represent the views of the Law Society of Upper Canada.

Legal Aid Ontario

Legal Aid Ontario Gets A+ for Meeting Client Needs

ACCORDING TO A RECENT CLIENT SATISFACTION survey, Legal Aid Ontario (LAO) is meeting the needs of more than 93 per cent of clients, private lawyers, partners, and employees. Nearly 2,300 respondents, who participated in the survey last fall, were asked to provide feedback on satisfaction, timeliness, knowledgeable staff and meeting client needs.

The results from the survey, a first for Legal Aid Ontario, are being used to identify areas where service levels are optimal and others where there is room for improvement. Although 92 per cent of certificate lawyers feel LAO is meeting their needs, only 71 per cent were satisfied with the overall service they were receiving.

“LAO is working hard to improve lawyer services,” says Rob Buchanan, Vice President, Client Legal Services. “In the last two years, services for lawyers have improved with the introduction of online billing, a new lawyer service center and increased resources for lawyers on the LAO Law website, but there is always room for improvement.”

Legal Aid Ontario will use the feedback from the annual survey to continue to find other ways of improving services for lawyers. “Overall we are very pleased with the results,” says Sherry Cameron-Stobie, Director of the LAO Quality Services Office. “The results showcase what we are doing well and we now have reliable data to focus our attention on areas where we can do better.”

The survey was developed in partnership with the Institute for Citizen Centred Service (ICCS), a publicly funded organization that promotes high levels of client satisfaction with public-sector service delivery. The survey, the first of its kind for a legal aid provider in Canada, will establish a benchmark for future surveys and provide comparative results for legal aid programs in other provinces that are expected to begin surveying clients next year.

Survey highlights:

Meeting the Needs of Clients and Partners: 92% of certificate lawyers and per diem duty counsel and 97% of area office client respondents indicated that LAO was meeting their needs.

Overall Satisfaction: 95% of our legal aid clients and 71% of panel lawyers and per diem duty counsel are satisfied with LAO services.

The survey questions and results are available on the Legal Aid Ontario website at: www.legalaid.on.ca ■



LAO LAW
online services

- > Providing high quality and accessible legal research and resources to legal aid certificate lawyers.
- > LAO LAW online services are available to lawyers working on legal aid certificates. Go to www.research.legalaid.on.ca and follow the registration instructions.

LEGAL AID ONTARIO
AIDE JURIDIQUE ONTARIO

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May 2006

SUN	MON	TUES	WED	THUR	FRI	SAT
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Register today at <http://ecom.lsuc.on.ca/cle>

Legal information and support designed for you.

CLE PROGRAMS

- May 3 **The New Post DAC Regime: A Practical Guide to the Changes** (9:00 a.m. - 12:30 p.m.)
- May 8 **Case File Series in Business Law Session III: Mergers & Acquisitions** (9:00 a.m. - 11:30 a.m.)
- May 9 **Practice Gems: Conduct of the Wrongful Dismissal File** (9:00 a.m. - 11:00 a.m.)
- May 10 **The Oatley-McLeish Guide to Motor Vehicle Litigation: New Challenges - New Strategies** (9:00 a.m. - 1:00 p.m.)
- May 12 **Solo and Small Firm Conference and Expo** (9:00 a.m. - 4:30 p.m.)
- May 16 **Professionalism: The Tool-Kit Session V: Ethical Advocacy in Both the Courtroom and the Boardroom** (9:00 a.m. - 11:30 a.m.)
- May 16 **Advanced Roundtable in Administrative Law - Part II** (5:00 p.m. - 7:00 p.m.)
- May 17 **Case File Series in Employment Law Session III: Human Rights in the Workplace** (9:00 a.m. - 11:30 a.m.)
- May 18 **Running a Successful Legal Aid Practice** (9:00 a.m. - 12:30 p.m.)
- May 24 **Elder Law** (9:00 a.m. - 4:30 p.m.)
- May 29/30 **IT Law Spring Training** (9:00 a.m. - 4:30 p.m.)
- May 31 **Twelve Minute Securities Lawyer** (9:00 a.m. - 4:00 p.m.)
- May 31 **The Missing Client - Teleseminar** (12:00 p.m. - 1:30 p.m.)



The Law Society of Upper Canada | Barreau du Haut-Canada

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Toronto, Ontario
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